

United Nations Independent Expert in the field of cultural rights

End of mission statement

Vienna, 15 April 2011

The United Nations Independent Expert in the field of cultural rights, Farida Shaheed, visited Austria from 5 to 15 April 2011, at the invitation of the Government. The mission was the first official visit to Austria by an expert appointed by the Human Rights Council. Visiting Vienna, Graz, Burgenland and Klagenfurt, Ms. Shaheed looked at initiatives to promote diversity, inclusion, and the protection and promotion of cultural rights, especially of various minorities and marginalized people. These include, in particular, national, ethnic, religious and linguistic minorities, migrants, as well as persons with disabilities and low income people.

During her mission, the Independent Expert met with senior officials at the federal, state and municipal levels in the areas of culture, education, science and technology, women's issues, minorities' issues, media, internal and foreign affairs, as well as institutions for equality and redress; she interacted with academics, civil society organizations, representatives of minority associations and religious groups, and visited a number of cultural projects and educational institutions.

The Independent Expert thanks the Government of Austria for this opportunity to examine the situation of cultural rights in Austria, extends her thanks to all stakeholders and interlocutors for their time, information and insights, and wishes to share the following preliminary conclusions and recommendations:

The official recognition of ethnic, linguistic and religious diversity in Austria provides an important base for promoting cultural diversity and cultural rights. The Independent Expert welcomes the rights to bilingual schooling and topographical signs and the usage of minority languages in judicial and administrative procedures in particular regions; and Government's initiatives such as the especially commendable codification of a Romani language, and the introduction in public media broadcasts of subtitles, sign language and transmissions in official minority languages in some public media broadcasts. The adoption of the National Action Plan on Integration and progress in preparing a national action plan on disabilities in consultation with experts and civil society is encouraging. Significant steps to increase access to culture include the National Agency for Intangible Cultural Heritage tasked with inventorying living cultures, actions to increase access for youth and persons with disabilities, and the on-going digitalization of cultural heritage. A number of excellent initiatives promoting cultural rights, cultural diversity and inclusiveness exist in Austria, usually supported by the government.

The Independent Expert appreciates progress and positive initiatives but considers that a number of steps are required to bolster cultural rights for all.

Currently, the approach is fragmented. Only recognized autochthonous minorities are granted particular rights which, however, they lose outside their specific territories. It is important to note that a strict application of the criteria of territoriality, notably with respect to rights in the field of education, could undermine efforts to safeguard the languages and identities of minorities. Despite efforts to comply with provisions of the Ethnic Groups Act, 'bilingual education' is actually rare; only a few genuinely bilingual kindergarten and primary level schools exist and are highly dependent on the personal efforts of individual teachers and principals; minority languages are mostly taught as elective courses with Hungarian and especially Romani facing considerable challenges. Bilingual primary schools opened in other areas, such as in Graz are welcomed. Authorities have shown some flexibility in financing cultural development, but further efforts are recommended to ensure consistency and a more inclusive application of the

rights granted to national minorities throughout the country. A number of impediments, such as the lack of bilingual forms and language proficiency amongst officials, impede the use of minority languages in local public offices in these regions. In addition, the fact that few public federal officials -including personnel in prisons and detention centers-speak languages other than German, impedes an adequate access to rights of the non-German speaking sectors of the population.

The Independent Expert encourages the Government of Austria to approach cultural diversity as an invaluable resource for the inclusion of all and to adopt measures to mainstream cultural diversity and the cultural heritage of Austria's diverse populations by, inter alia, incorporating minority cultures and histories in all public schooling curricula, media and cultural activities; promoting intercultural competencies in all official institutions, and encouraging competencies in minority languages amongst civil servants. Special efforts are required to ensure the full inclusion and rights of the Roma people.

Following previous recommendations by regional and international human rights bodies, the Independent Expert urges the Government to consider extending support to other linguistic and ethnic minorities in Austria and to improve the existing mechanisms for the disbursement of funds for activities of national minorities. Greater accountability and transparency is required for the European integration and refugees funds.

The security forces play a very important role in ensuring the respect and protection of human rights of all persons living in Austria. The Government should adopt all necessary measures to ensure the full respect of human rights and cultural diversity by all public officials and security forces, including by expanding its initiatives to include human rights and cultural diversity training in the mandatory curricula of public officials across the country. The Independent Expert commends the city of Vienna for proactively encouraging persons with migrant backgrounds to join the police, and urges the Government to adopt similar initiatives across the country. To ensure genuine equal opportunities for persons with migrant background, German language courses provided by public institutions should complement existing language exams.

The data collection system for the 2011 census is of concern. The need to be cost-effective is understandable, however the elimination of a survey impedes adequate statistical assessments of cultural diversity in terms of linguistic and ethnic minorities, religious communities and migrant backgrounds amongst Austrian nationals. While appreciating the sensitivity of the issue, the absence of a statistical basis will impede effective planning to protect and promote cultural diversity as well as cultural rights in Austrian society. Many of those met believe there is a need for such information. The Independent Expert encourages the Government to adopt a non-mandatory and anonymous information gathering system, where necessary engaging with concerned communities to strengthen trust and understanding of the purpose, that guarantees privacy but enable a data-base on cultural diversity in Austria, including internal and international migration.

Effective interventions to promote diversity and enhance the implementation of cultural rights remain scattered and poorly known; they lack secure financial support for longer-term planning, and an institutional framework that can facilitate up-scaling built on lessons and existing resources. It is therefore recommended to consider putting into place a unified framework and an institutional body to promote cultural diversity, oversee cultural heritage matters and promote the right to participate in cultural life. The Independent Expert would like to emphasize that ensuring cultural rights is about empowering individuals and communities to create culture as continuously evolving ways of life that are valorized on an equal footing. Measures are needed to encourage private media to avoid stigmatizing certain communities. Intercultural exchanges amongst diverse groups would help to overcome ghettoization according to attributes such as language, religion, ethnic backgrounds, and impairment. While Austria recognizes the value of cultural diversity, it is important that Government policies approach diversity as

a resource for building Austrian society as a whole, rather than as rights for particular groups. In this regard, it is of concern that integration affairs are placed within the Ministry of Interior that can suggest that 'integration' is a law and order problem rather than an opportunity to benefit from, and to enhance, the richness of Austria's diverse cultures and cultural traditions. It is recommended that the government considers placing 'integration' within either a new entity combining cultural diversity and integration, or the Federal Chancellery.

The Independent Expert is concerned that the parallel schooling system does not encourage intercultural understanding and recommends the adoption of an integrated system for compulsory public schools.

A number of legislative acts and bodies have been established to cover different human rights issues, e.g. the Austrian Ombud Board, Equal Treatment Commission and various Ombud offices for equal treatment, people with disabilities, children and youth, as well as the Human Rights Advisory Council, but there is no comprehensive institutional and legislative framework. Combined with the insufficient domestication of international human rights obligations, particularly in the field of economic, social and cultural rights, and highly restricted possibilities for collective action before courts, this weakens the protection and promotion of rights. It is therefore recommended that the Government of Austria, as a matter of priority, adopt an integrated national human rights action plan and a human rights institution in conformity with the Paris Principles, mandated to oversee all rights, including those in the field of culture, paying special attention to the needs of more marginalized groups such as persons with disabilities

Finally, it is strongly recommended that the Government of Austria give adequate follow up to the recommendations made by the United Nations human rights Treaty Bodies and in the context of Austria's Universal Periodic Review before the UN Human Rights Council.