

AUSTRIAN
OMBUDSMAN BOARD



**Written Submission of the Austrian
Ombudsman Board to the Human Rights
Council on the Occasion of 4th Cycle of the
Universal Periodic Review**

July 2025

I. GENERAL REMARKS/ COVER PAGE

1. The Austrian Ombudsman Board (AOB) is pleased to provide input for the 4th cycle of the UPR of Austria. This submission emphasizes key areas of concern, with particular attention to the recommendations from the previous cycle. Due to the word limit, the submission does not provide a comprehensive analysis of all UPR recommendations or a full account of the AOB's work.
2. In line with the Austrian Federal Constitution (B-VG), the AOB continues to carry out its mandate to investigate alleged maladministration of national, regional, and local administration (Art. 148a (1) B-VG) and to protect and promote human rights in line with the Paris Principles and Art. 148a (3) B-VG. Since 2012, the mandate of the AOB broadened with Austria's ratification of the Optional Protocol to the Convention against Torture (OPCAT) and the Convention on the Rights of Persons with Disabilities (CRPD). Consequently, Art. 148a (3) B-VG was amended to include a preventive monitoring mandate. The mandate permits the AOB and its special Commissions to visit and inspect places of deprivation of liberty (Art. 4 OPCAT), to monitor organs authorized to exert direct administrative power and coercive measures, such as the police, and to visit institutions for persons with disabilities (Art. 16(3) CRPD). The AOB makes use of this right as often as possible. Since the last UPR until the end of 2024, the total number of visits amounted to 2.014. A Human Rights Advisory Council (HRAC) comprised of representatives of NGOs, Federal Ministries and the *Laender* (provinces) supports the AOB as a consultative body.
3. In 2017, the constitutional provision "Pensions for Victims of Children's Home Act" further expanded the AOB's mandate. An independent Pension Commission was set up within the AOB to establish a pension for persons who suffered from violence in a home operated by the Federal Government, the *Laender*, or the church (Art. 15 Pensions for Victims of Children's Homes Act). In the period under review, the AOB continued this entrusted responsibility.
4. Since 2009, the AOB hosts the Secretariat of the International Ombudsman Institute, the only global organisation representing Ombudsman institutions. It currently has 218 members in over 100 countries.
5. The AOB places high value on its collaboration with the United Nations and other international organizations, and seeks exchange with fellow NHRI and NPM. In its role as A-accredited NHRI, the AOB actively engages with the UN Treaty Bodies. E.g. in February 2024 a member of the AOB presented the AOB's shadow report while attending a private hearing with the Committee against Torture in Geneva. In addition, the AOB consistently answers to calls of input that concern its work. Accordingly, the AOB drafted two statements on the implementation of UN Res.75/186 on the role of Ombudsman and mediator institutions in the promotion and protection of human rights in 2022 and Res. 78/204 on NHRI in 2025. In the reporting period, the AOB followed eight information requests of the OHCHR's NIRMS section.
6. Moreover, the AOB has various on-going initiatives to promote and protect human rights. For the last nine years, the AOB together with the Medical University of Vienna Department of Forensic Medicine organizes a yearly series of lectures on gender violence. The aim of the lectures is to sensitize medical students on the issue. The lectures connect the AOB with academics, representatives of NGOs, and students. Every year has a different thematic focus. The AOB also engages in human rights education for prospect prison guards and police officers. The obligatory training consist of lectures on the application of human rights and the preventive monitoring tasks of the AOB of. In 2024, the AOB trained 48 police officer classes and provided 15 trainings to prison guards.¹

¹ Austrian Ombudsman Board, 'Bericht der Volksanwaltschaft: Kontrolle der öffentlichen Verwaltung 2024' <[Bericht der Volksanwaltschaft an den Nationalrat und an den Bundesrat 2024: Band 1 - Kontrolle der öffentlichen Verwaltung](#)> 16

II. SUBMISSION

National Human Rights Institution

A-Status accreditation by GANHRI¹

1. In April 2022, the AOB was re-accredited by GANHRI and obtained A-status.
2. The AOB is an independent organ. Art. 148a (6) of the Austrian Federal Constitution (B-VG) safeguards the independence of the AOB. The three Ombudspersons are elected by parliament to represent the AOB independently and impartially. The members of the AOB need to have knowledge of the AOB and the functioning of public administration and human rights. Each Ombudsperson has a fixed tenure of six years that cannot be revoked (Art. 148g (1) B-VG). Re-election is possible once. The Constitutional Court can only decide on the loss of office in the event of a violation of the law (Art. 141 (e) B-VG).
3. Furthermore, the AOB continues to collaborate with CSOs on a regular basis. The AOB organises an annual NGO forum to bring together CSOs and provide a platform for the exchange on current issues. After each forum, the AOB publishes a conference transcript on its website.² With the NGO Sounding Board, the AOB maintains less formal contact with representatives of NGOs. The Sounding Board consists of approximately 10 to 15 NGOs that meet quarterly to explore potential overlaps in their work. The aim is to build or strengthen alliances between institutions, for example to cooperate in press relations.

Prohibition of torture & ill-treatment

Establishment of an investigation and complaints office for allegations of misconduct by the executive service³

4. Since 2015, the AOB has been recommending the establishment of an external police investigation body to investigate allegations of ill-treatment of law enforcement officers. During 2023, several meetings took place between the AOB and the Federal Ministry of the Interior (Mol) on current developments regarding a separate and independent authority. On 22 January 2024, the new “Investigation and Complaints Office for Allegations of Police Ill-treatment” (Ermittlungs- und Beschwerdestelle für Misshandlungsvorwürfe (EBM)) began its work. The AOB is critical of the fact that the EBM is anchored in the Federal Bureau of Anti-Corruption (BAK), which is in turn a department of the Mol. Since the police is also situated in the Mol, this organizational structure could suggest that investigations are conducted “in their own ranks”.
5. Although the EBM investigates and refers all cases to the public prosecutors' office, almost all proceedings are dismissed because they do not meet the threshold for criminal liability as defined in the Austrian Criminal Code (Strafgesetzbuch). Acts of inhuman or degrading treatment

¹ Relates to rec. 139.8, - 139.18, 139.20

² Kindly consult here for the publications: Austrian Ombudsman Board, ‘NGO Forum’ <[Volksanwaltschaft - NGO Forum - Conference proceedings](#)>

³ Relates to rec. 139.65 ff, in particular 139.67, 139.68, 139.70, 139.71, 139.72, 139.73, 139.74

seldom qualify as criminal offences under criminal law. Furthermore, disciplinary law largely mirrors the standards of criminal liability set out in the Criminal Code, which significantly limits the effectiveness of disciplinary proceedings against police misconduct. As a result, the AOB is concerned that the issue of impunity persists.

6. Nevertheless, the EBM and the AOB currently maintain a good cooperation. The EBM keeps the AOB informed of all cases of ill-treatment that come to its attention. In addition, the AOB continues to be in regular contact with the EBM and observes its development.

Conditions of detention

Overcrowding in correctional and forensic institutions⁴

7. Overcrowding continues to be a serious structural problem in penitentiary and forensic institutions in Austria.⁵ Nearly all facilities are overcrowded. For years the AOB has been calling for the extension of the electronically monitored house arrest using ankle bracelets to sentences of up to 24 months (currently only 12 months). This will be implemented in September 2025 and hopefully relieve the pressure on chronically overcrowded institutions. The house arrest also contributes more effectively to the resocialization of prisoners. Additionally, conditional releases should be promoted to tackle overcrowding.

- The AOB recommends legislative change for the increase of electronically monitored house arrest and conditional releases.
- Short and long-term measures must be taken to combat overcrowding in prisons.

Lack of staff in correctional and forensic institutions⁶

8. The nationwide staff shortage in the executive and non-executive service continues. Staff are confronted with massive work overload and are worried about suffering burnout. Due to staff shortage the lock-up times of prisoners increase, working premises that employ prisoners have to close more often and leisure activities cannot be organised. Deficits in medical, psychological, and social care are inevitable if these special services are understaffed.⁷
9. The recruitment of staff for special services (medical, psychological, and social) is increasingly challenging. The AOB considered the low starting salary in the federal civil service compared to other organisations to be one of the reasons for this.⁸

⁴ Relates to rec. 139.80-139.82

⁵ Austrian Ombudsman Board, 'Bericht der Volksanwaltschaft: Präventive Menschenrechts Kontrolle 2024' <[Bericht der Volksanwaltschaft an den Nationalrat und an den Bundesrat 2024, Band 2: Präventive Menschenrechtskontrolle](#)> 147-148

⁶ Relates to rec. 139.84

⁷ Austrian Ombudsman Board, 'Bericht der Volksanwaltschaft: Präventive Menschenrechts Kontrolle 2024' <[Bericht der Volksanwaltschaft an den Nationalrat und an den Bundesrat 2024, Band 2: Präventive Menschenrechtskontrolle](#)> 163-166

⁸ Austrian Ombudsman Board, 'Annual Report on the Activities of the Austrian NPM 2023' <[Annual Report 2023 - Protection & Promotion of Human Rights](#)> 148

10. The Federal Ministry of Justice (MoJ) must develop a long-term strategy to attract more people to work in law enforcement administration. This applies to all special services, but especially to medical practitioners (in particular psychiatrists). Intensive personnel recruitment and targeted advertising measures (posters, TV commercials) as well as participation in events and career fairs are required to attract more people.

- Human resources must be adapted to the real requirements of the everyday life in a modern correctional system.
- There is an urgent need to develop concrete measures to attract people to work in the penitentiary system.
- Working premises should not be closed due to staff shortages.
- A facility that focuses on the treatment and care of detainees with high therapeutic needs must have sufficient staff resources available in the relevant special services.

Preventive detention

Legal protection of detainees in preventive detention⁹

11. In 2022 an amendment to the legal framework of detention in forensic institutions entered into force.¹⁰ Changes included stricter criteria for the evaluation of dangerousness for less serious offences; decision on the necessity of further detention within one year of the last decision;¹¹ provisional placement¹² only in specialised institutions (“forensic therapeutic centres” or facilities for psychiatry) and not in regular correctional institutions; special provisions for adolescents and young adults regarding the imposition and enforcement of measures.¹³
12. Detainees in preventive detention still do not have a legal representative to ensure that their rights are respected.¹⁴ They cannot take complaints regarding their health care to court. Even in the case of coercive measures, e.g. fixation, there is no legal protection by a court.¹⁵ In comparison, persons in involuntary placement who have not yet committed an offence but are nevertheless deemed to be a “danger” to themselves or others, enjoy legal protection under the “Hospitalisation of Persons with Mental Illnesses Act” (Unterbringungsgesetz). This entails for example that coercive measures require an immediate court review. Moreover, each patient has *ex lege* a legal representative who represents their interest during coercive measures as well as

⁹ Relates to rec. 139.83

¹⁰ Preventive Detention Measure Act (Maßnahmenvollzugsanpassungsgesetz)

¹¹ Decision on the necessity of further detention must be taken within one year (in the case of offenders with substance use disorder within 6 months) of the last decision (instead of [start of] examination within this period)

¹² According to § 431 StPO (Austrian Criminal Procedure Code)

¹³ Only offenses with life sentence or at least 10 years (§ 5 Z 6b JGG) can result in a placement in preventive detention; if placement for a juvenile offense has already lasted ten years, a case conference must be convened (§ 17c. Abs 1 JGG); expert opinion = child and adolescent psychiatric expert, subsidiary also here psychologist;

¹⁴ Austrian Ombudsman Board, ‘Bericht der Volksanwaltschaft: Präventive Menschenrechts Kontrolle 2017’ <[Parlamentsbericht 2017 - Präventive Menschenrechts-kontrolle.pdf](#)> 115

¹⁵ Austrian Ombudsman Board, ‘Bericht der Volksanwaltschaft: Kontrolle der öffentlichen Verwaltung 2017’ <[Parlamentsbericht 2017 - Kontrolle der öffentlichen Verwaltung.pdf](#)> 169

the reassessment predicting “dangerousness”.

- Detainees in preventive detention should have access to the legal protection under the “Hospitalisation of Persons with Mental Illnesses Act”.

Suicides in detention

13. Unfortunately, the number of people who committed suicide while detained continues to rise. Further efforts are needed to prevent suicides and self-harm and to provide people in crises with continuous and professional psychological and psychiatric support.

14. The rising number of suicides in detention prompted the MoJ to set up a multidisciplinary working group on suicide prevention in 2022, in which the AOB also participated. The working group’s final report was presented in July 2023. It included 48 recommendations.¹⁶ The most important demands undoubtedly comprise reassessing the suicidal tendencies of inmates after a period of around eight weeks following their admission to a correctional institution. Additionally, minimum standards for the care of persons in solitary confinement were defined and criteria to ensure dedicated care as well as psychological and psychiatric support when needed. The majority of recommendations have still not been implemented.

- The AOB urges rapid implementation of the working group's recommendations on suicide prevention.

Adolescents in detention

15. In 2022, the AOB published the special report "Adolescents in detention" containing recommendations for improved care in juvenile detention.¹⁷ The AOB criticises that lack of specially trained staff and the often non-compliance with minimum standards for the detention of juveniles. Consequently, the MoJ established a multidisciplinary working group on modern, effective, and innovative juvenile detention in Austria.¹⁸ With the participation of the AOB, the establishment of an independent special facility in Vienna was agreed upon. The working group also developed recommendations for optimal care for adolescents at the new facility, which is scheduled to become fully operational in the fall of 2025.¹⁹

¹⁶ Austrian Ombudsman Board, ‘Annual Report on the Activities of the Austrian NPM 2023’ <[Annual Report 2023 - Protection & Promotion of Human Rights](#)> 138

¹⁷ Austrian Ombudsman Board, ‘Bericht der Volksanwaltschaft: Präventive Menschenrechts Kontrolle 2024’ <[Bericht der Volksanwaltschaft an den Nationalrat und an den Bundesrat 2024, Band 2: Präventive Menschenrechtskontrolle](#)> 136

¹⁸ Austrian Ombudsman Board, ‘Annual Report on the Activities of the Austrian NPM 2023’ <[Annual Report 2023 - Protection & Promotion of Human Rights](#)> 153

¹⁹ The AOB criticized the initial operation of the facility in January 2025 during ongoing construction work and without sufficient staff. Kindly consult: Austrian Ombudsman Board, ‘Ombudsperson Gaby Schwarz on abuse in juvenile detention centres’ (25 March 2025) <[Volksanwaltschaft - Ombudsperson Gaby Schwarz on abuses in juvenile detention centers](#)>

LGBTQI+ persons in detention²⁰

16. AOB findings showed that there are currently no relevant laws, regulations, or decrees in Austria that take into account the situation of the specific needs of LGBTQI+ persons in detention. This topic is also not addressed in the training and further education of persons working in the penitentiary system. It was recommended to elaborate specific guidelines for dealing with LGBTQI+ persons in the penitentiary system. LGBTQI+ persons should be involved in decisions during detention about whether the place of detention adequately takes into account the needs arising from their sexual orientation and gender identity.

- Special guidelines and directives must be issued for dealing with LGBTQI+ persons in penitentiary systems and in forensic institutions for inmates with mental health care needs.

Welfare of the child

Ratification of Optional Protocol to the Convention on the Rights of the Child (CRC)²¹

17. The AOB recommends the ratification of the Optional Protocol to the CRC regarding a communications procedure.

Child poverty²²

18. In Austria, around 21% of children and adolescents are affected by or at risk of poverty. This contradicts the constitutionally guaranteed rights of children and leads to an increased risk of marginalisation. Child poverty therefore becomes a risk factor for health, nutrition, education, and social inclusion. Families with multiple children are particularly at risk. The AOB recommends the implementation of effective measures to combat child poverty. A basic child benefit, to which every child would have a subjective right, and not a welfare benefit, could be a useful measure.

Psychiatric Care for children and adolescents²³

19. Based on its experience as NPM, the AOB regularly finds that child and adolescent psychiatric care in Austria is still inadequate. Even before the COVID-19 pandemic, care was already reaching its limits due to a lack of specialised medical staff. Since then, the demand has grown further. The situation in some rural areas is even more precarious than in urban ones. Therefore, and depending on the facility, sometimes only acute care is possible in both inpatient and outpatient settings, while longer-term therapy options are scarcely available or insufficiently provided.

- The AOB recommends the prompt implementation of measures to improve mental health care for children and adolescents.

²⁰ Relates to rec. 139.129

²¹ Relates to rec. 139.6, 140.1-140.8, 140.17

²² Relates to rec. 139.177, 139.180

²³ Relates to rec. 139.124

Discrimination of unaccompanied minor refugees and asylum seekers (UMR) in care²⁴

20. The AOB criticises the often inadequate care in many facilities for UMR, which is caused by insufficient daily rates. There is an obvious inequality between Austrian children who are cared for in child and youth welfare services and UMR, constituting a clear human rights concern. Adolescents who are no longer of compulsory school age and lack a developmentally supportive daily structure are particularly affected, as they are often left on their own. In the recent past, there have been state initiatives to increase financial resources, but disparities still exist.
21. Aggravating the situation, UMR are often placed far too long in federal facilities intended only for short stays of a few days. This prolonged placement is largely due to delays by the *Laender* in transferring them into the *Laender's* care system.
22. Finally, the *Laender* laws on basic reception conditions do not sufficiently take into account the needs of refugees with disabilities. As the disability laws that govern assistance and support do not apply to asylum seekers or displaced persons from Ukraine, necessary therapies or assistive devices are often unavailable or can only be financed privately.

- The AOB recommends adjusting daily rates for UMR.
- The *Laender* should make it possible for UMR to be quickly transferred into their care at any time.
- The AOB recommends providing all necessary funding to asylum seekers or displaced persons with disabilities.

Custody of UMR²⁵

23. Currently, there is no standardised system for assuming custody of UMR. The guardianship court must formally transfer custody. In order to initiate a custody proceeding, child and youth welfare services must first apply for the custody, which is necessary to safeguard the best interests of the child. In practice, child and youth welfare services refuse to assume responsibility, often relying solely on the length of stay and pre-emptively rejecting cases where the stay has been shorter than six months.
24. In practice, considerable shortcomings became evident particularly in the assumption of responsibility for minors over the age of 14. In this regard, it should also be noted that medical treatment of minors of age, involving serious interference in their physical integrity or personality, may only be carried out with the consent of a custodian. In addition to improvements in implementing the law, legal amendments are also necessary to ensure the timely assumption of responsibility for minor children in their best interests.

- The custody of UMR should be established as soon as possible after their arrival in

²⁴ Relates to rec. 139.178

²⁵ Relates to rec. 139.199

Persons with disabilities

Sexual self-determination²⁶

25. The AOB would like to draw attention to the right to sexual self-determination for persons with disabilities. Sexual self-determination is an integral part of the right to a self-determined life and also applies to persons living in facilities. An environment must be created that enables people with disabilities in institutions to access their right to sexual self-determination, which also includes protection from sexual violence and abuse. According to a study, around one in two persons with physical or mental disabilities have experienced sexual violence in their lifetime. Women with disabilities are affected significantly more often.

- The development and implementation of concepts and measures to protect sexual self-determination should be mandatory for facilities.

Participation and funding of a National Action Plan²⁷

26. The previous government adopted a NAP on Disability 2022-2030. Although the organisations representing the interests of persons with disabilities were involved from the outset, their demands were not sufficiently taken into account in the final document. Furthermore, the financing of the planned measures is still uncertain. The AOB recommends the swift implementation of the measures.

De-institutionalisation and community based structures²⁸

27. The NAP on Disability provides for the participatory development of de-institutionalisation strategies. It also contains a commitment to advance the deinstitutionalisation of residential facilities in all *Laender* without delay. The implementation of a comprehensive deinstitutionalisation strategy is the responsibility of the state. It is only possible through a joint effort by the legislatures of all regional authorities. However, at a political level, there are no concrete plans for a strategy or timetable, nor has funding been allocated for this purpose.

28. Among other things, sufficient barrier-free and community-based housing options and coverage of outpatient support services must be ensured. Targets, deadlines, and funding models need to be defined. Personal assistance is crucial for person-centred care. The necessary legislation should be harmonised throughout Austria.

- The AOB agrees with the UNCRPD Committee that the Federal Government and the *Laender* develop a comprehensive deinstitutionalisation strategy.
- All available resources should be redirected from institutional settings to inclusive community-based structures.

²⁶ Relates to rec. 139.126

²⁷ Relates to rec. 139.186-139.192

²⁸ Relates to rec. 139.185

Access to the labour market²⁹

29. An inclusive labour market in which all people of working age – including those with higher support needs – have access to paid employment, does not exist in Austria. The labour market participation rate of persons with disabilities is significantly lower than that of people without disabilities. There are numerous reasons for this. Besides the hostile attitude of many companies, unemployed persons with disabilities are also excluded from public employment service benefits if, based on a medically determined diagnosis that violates human rights, they are deemed to have less than 50% work capacity. This group typically only finds employment in occupational therapy workshops. In these workshops, those affected do not receive a wage but only pocket money. Furthermore, they have no entitlement to a pension and have little choice between facilities.
30. There are initial pilot projects to at least pay wages in occupational therapy workshops. However, the establishment of an inclusive labour market in Austria remains a distant goal. This results in persons with disabilities facing a particularly high risk of poverty, which is further exacerbated when intersecting factors are present.
31. Generally, barrier-free accessibility is lacking in virtually all areas of life in Austria. To guarantee this, the people affected must be entitled to have barriers removed. The lack of barrier-free accessibility prevents persons with disabilities from leading a self-determined life both at work and in their leisure time.

- Measures should be taken to guarantee an inclusive labour market.
- Medical performance assessments of persons with disabilities above the age of 25 need to be eliminated.
- All areas of life need to be barrier-free.

Intersex persons³⁰

32. In Austria, there is still no strict ban on non-medically necessary, externally imposed surgeries. The protection of intersex people and their families through a law that recognises diversity and promotes inclusion for all is long overdue. In 2021, the National Council's Equal Treatment Committee unanimously voted to strengthen the protection of intersex children against medically unnecessary interventions. However, no concrete draft law was produced. The AOB recommends the submission and adoption of a respective law.

Anti-discrimination³¹

33. In Austria, several equal treatment and anti-discrimination laws are in force at federal and *Laender* level. This fragmentation of protection mechanisms leads to a lack of clarity and to different levels of protection afforded depending on the different grounds for discrimination. The AOB therefore recommends a levelling-up of rights and a uniform level of protection for all

²⁹ Relates to rec. 139.103, 139.104, 139.193

³⁰ Relates to rec. 139.128, 139.130-139.131

³¹ Relates to rec. 141.31, 141.32, 141.34, 141.39

vulnerable groups in all areas of life.

National Action Plan against violence against women³²

34. The current government has started a process for the development of a NAP against violence against women. The AOB recommends concluding this process promptly and successfully, with meaningful involvement from civil society.

National Action Plan for human rights³³

35. Almost 10 years ago, the attempt to adopt a NAP for Human Rights failed. The current Governmental Programme again provides for the adoption of such a plan. The AOB recommends starting a respective process with the participatory involvement of civil society and stakeholders from the human rights sector.

Social rights

Constitutional Protection³⁴

36. Social human rights are only partially addressed in the Austrian constitution. A general, comprehensive guarantee of social human rights is not enshrined in the constitution.

Ratification of Optional Protocol to the ICESCR³⁵

37. The AOB recommends that the Federal Government ratifies the Optional Protocol to highlight the importance of the rights under the Covenant and to give individuals the possibility to lodge a complaint.

³² Relates to rec. 139.157

³³ Relates to rec. 140.9-140.15, 140.25

³⁴ Relates to rec. 140.25

³⁵ Relates to rec. 141.12, 141.15-141.21