

**LITIGATION  
ASSOCIATION  
OF NGOS AGAINST  
DISCRIMINATION**

ANNUAL REPORT 2013





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## **FOREWORD**



Dieter Schindlauer

Dear Readers,

Looking back, the year 2013 turned out to be quite exciting. And yet once again, federal lawmakers failed to achieve a “breakthrough” in implementing the long overdue standardization of safeguards against all forms of discrimination, commonly referred to as “leveling up”. An amendment to the Equal Treatment Act was passed, but again in such a way that clear-cut cases of discrimination due to age, sexual orientation, or religion that take place outside of the workplace can still not be prosecuted. I can only hope that I will not be repeating myself on this matter in the years to come. After all, next year is the tenth anniversary of both Klagsverband and the new Equal Treatment Act. The perfect opportunity to take yet another giant leap forward!

At least for us, the previous year brought several positive clarifications. The administrative penalty proceedings for allegedly practicing law without a license that were brought against me in March 2012 in my role as president of Klagsverband were dropped in the summer of 2013. It has thus been clarified before the bar association as well that Klagsverband is allowed to do what it, in fact, does. In addition, the right to pursue actions in the general interest of a group, which was granted to Klagsverband through the Insurance Law Amendment Act as of January 2013, has already enabled us to take on one case.

Unfortunately, we also witnessed less favorable developments over the course of the year. On repeated occasions we regrettably had to acknowledge just how narrow and disheartening the limits of our prevailing legal norms are. It is, for example, disheartening when a clear-cut case of discrimination during a job application process is legally unassailable once damages to the amount of 500 euros are paid without further ado. It is equally disheartening when, after being determined that a certain barrier represents a form of discrimination, a cash payment can be made instead of requiring the removal of the barrier, which does nothing but leave the original form of discrimination in place.

It is likewise unfortunate that in some workplace discrimination cases Klagsverband quickly reaches the end of its rather limited budget. Court costs then tend to deter the victims of discrimination, though not the accused parties. Thus, one never-ending issue that continued to trouble us in 2013 was the wholly inconsistent and opaque practices and criteria regarding the assessment of immaterial damages. As you see, we at Klagsverband still have our work cut out for us. Keep the faith!

Best regards,

*Dieter Schindlauer, President*

## **KLAGSVERBAND**

Klagsverband was founded in 2004 – simultaneously with the ratification of the expanded Equal Treatment Act. The associations that established Klagsverband – ZARA (Civil Courage and Anti-Racism Work), BIZEPS (Independent Living Center Vienna), and HOSI Vienna (Homosexual Initiative Vienna) – all desired to create a service center that provides legal assistance in discrimination cases and which could thereby demonstrate the legal avenues made available by the Equal Treatment Act.

There has been an Equal Treatment Act in effect in Austria since 1979. For 25 years, however, it governed solely the equal treatment of women and men at the workplace. Through the 2004 amendment, the law was broadly expanded. Since then, discrimination on account of ethnicity, religion and beliefs, sexual orientation, and age is also illegal at the workplace. Furthermore, paragraphs safeguarding against discrimination outside of the workplace were also introduced. Now, anyone has recourse to courts of law who, on account of their ethnicity or gender, is a victim of discrimination or treated worse than someone else in a similar situation while trying to gain access to goods or services.

The final piece to the legal framework that defines Klagsverband's work came with the 2006 ratification of the Disability Equality Act, which safeguards people with disabilities from discrimination both at the workplace as well as in accessing goods and services.

Klagsverband is an organization headquartered in Vienna. It is the only organization in Austria that provides legal assistance in cases that fall under any of Austria's anti-discrimination laws.

### **GOALS**

The work of Klagsverband is focused on several goals:

- To provide legal representation of victims of discrimination and to enforce their rights.
- To establish, through the help of these court cases, the legal framework that interprets the right to equal opportunity in Austria for the protection of all involved parties.
- To provide information and training seminars regarding the contents, possible applications, and limits and deficits to Austria's equal opportunity law.
- To promote the ongoing development of and improvement to the discrimination safeguards in Austria through written opinions, shadow reports, and participation in expert committees (such as the state monitoring commissions).
- To collect and document all relevant laws, judicial decisions, and other information regarding equal opportunity and anti-discrimination law in Austria.

Klagsverband has developed its services and scope of activities based on these goals. These will be discussed in detail in the following pages.



Team

## TEAM

Three employees worked part-time at Klagsverband in 2013: a secretary general, a lawyer in charge of judicial process, and a public relations consultant.

In addition to the three employees, several other people volunteer their services to Klagsverband: members of the board and of an internal committee, as well as interns who work for a specified period of time at Klagsverband.

Many thanks to all the volunteers for your valuable support!

## MEMBERS

Klagsverband's work is significantly influenced by its member organizations. They are the ones who have the know-how in all areas of discrimination covered by law (gender, ethnicity, religion and beliefs, disability, sexual orientation, and age) and who provide comprehensive counseling to all persons prior to a court case regarding their legal and out-of-court options.

In 2013 four new member organizations joined Klagsverband, while one organization resigned. Klagsverband now has a total of 35 members.

### New members in 2013

- ETC Graz (European Training and Research Centre for Human Rights and Democracy)
- Integration Tyrol
- ÖZIV Tyrol
- Uniability (Consortium for the Equal Rights of People with Disabilities and Chronic Diseases at Austrian Universities and Colleges)

### Full members

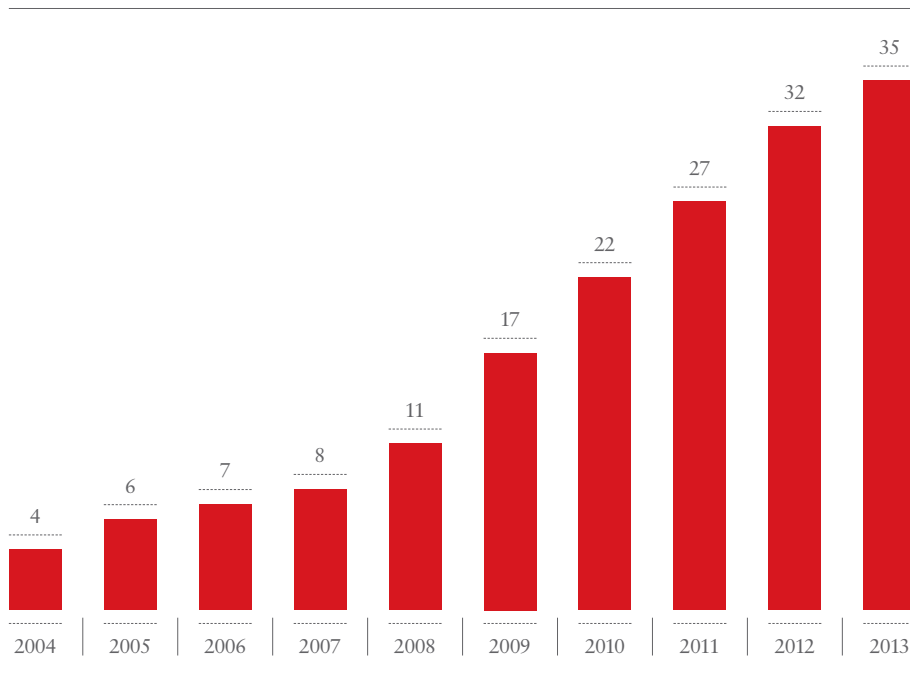
- AIDS Hilfe Wien
- Amnesty International Austria
- Anti-discrimination Agency Salzburg
- Anti-discrimination Office Styria
- atempo
- BIZEPS – Independent Living Center Vienna
- dabei austria
- Institute for Age Competences (entschleunigung und orientierung – Institut für Alterskompetenzen)
- WOMEN'S SERVICE Graz
- Helping Hands Graz
- HOSI Vienna – Homosexual Initiative Vienna
- ISOP – Innovative social projects
- LEFÖ – Counseling and Education Centre for Migrant Women
- Ludwig Boltzmann Institute for Human Rights - Research Association (BIM-FV)
- maiz – organization by and for migrant women

- migrare – Center for migrants Upper Austria
- Austrian National Association of the Deaf
- ÖSB – Austrian Umbrella Organization for Hard-of-Hearing People
- Platform Human Rights Salzburg
- Peregrina – educational, counseling and therapy centre for immigrant women
- Reiz – Independent Living
- Romano Centro
- Independent Living Innsbruck
- Independent Living Upper Austria
- Independent Living Austria
- SOMM – Self-organization of migrants and Muslim women
- SOPHIE – Place of education for sex workers
- SOS Menschenrechte Österreich
- TransX – the Austrian Transgender Association
- Association of Austrian Female Lawyers
- ZARA – Civil Courage and Anti-Racism Work

#### Supporting member

- Tyrol Service Center for Equal Treatment and Anti-discrimination

#### Members from 2004 to 2013\*



\* This statistic has incorporated changes to the years 2004 and 2005, whose numbers have been revised.

**Klagsverband members receive the following services:**

- Legal counseling
- Support during arbitration proceedings and in appeals before commissions
- Legal representation in court, when legally possible
- Counselor training
- Networking and legal expertise for lobbying
- Opinions on legislation

NGO's and nonprofits that work to combat discrimination may become full members of Klagsverband.

For more information concerning membership, please contact [info@klagsverband.at](mailto:info@klagsverband.at) or by phone: 01/961 0585-13

Organizations also have the possibility of assisting Klagsverband as a supporting member. Supporting members receive all counseling services, but are not given a vote at the general assembly.

**FINANCING**

Klagsverband is financed by membership dues, projects, donations, and public subsidies.

**2013 Sponsors**

- Austrian Federal Ministry of Labour, Social Affairs and Consumer Protection
- Federal Chancellery of Austria : Ministry of Women's Affairs and Civil Service
- The State of Salzburg Bureau for Equal Opportunity, Anti-discrimination, and the Promotion of Women

**JUDICIAL PROCESS**

Klagsverband represents in court people who have been victims of discrimination. The aggrieved parties contact Klagsverband after they have been counseled by one of Klagsverband's member organizations and have decided to go to court. A firm understanding of discrimination is required by the member organizations so that they can recognize that the issues their clients have come to them for have to do with discrimination. Klagsverband provides the requisite knowledge to its members via training seminars and workshops.

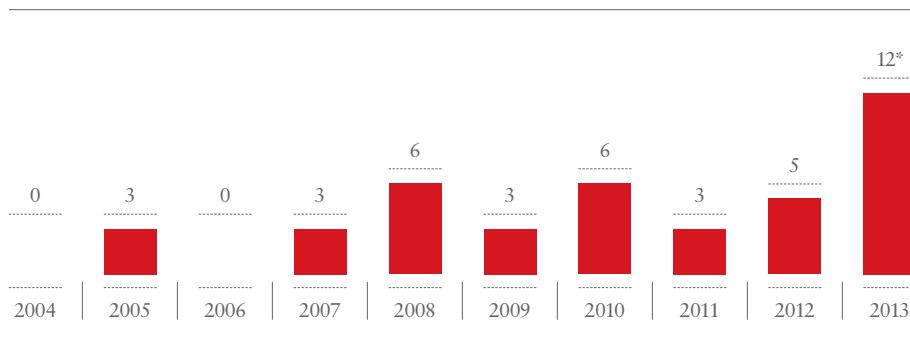
**INQUIRIES**

Klagsverband received approximately 90 inquiries in 2013, representing nearly a 30% increase from the previous year.



The first order of business for Klagsverband is to determine whether the problem at hand falls within the area of anti-discrimination and equal opportunity law. If this is not the case, the parties will be referred, if possible, to other organizations that may be able to help or supply counseling. The spectrum of issues that are brought before Klagsverband, yet lie outside of its scope, is considerable. These include family and labour law, social services, and tenancy law. One of the reasons for this is that discrimination is frequently understood in general and not in legal terms.

### Court cases from 2004 to 2013



\* Klagsverband filed four suits in 2013. One case, involving two plaintiffs who sued for being barred entrance into an establishment, was ruled on in court. Another case, involving discrimination during a job application process, was resolved prior to the first oral proceedings when the defendant paid damages. Klagsverband has also filed a suit for eight persons in one other case involving persons being barred entrance into an establishment on account of their race.

### A case for Klagsverband

If an issue has to do with anti-discrimination, it must first be determined whether the case is suitable for a lawsuit. During a personal consultation, Klagsverband determines if going to court will help the aggrieved person to reach a sense of closure with his or her experiences. Prior to legal proceedings, a series of questions must be answered: Which type of law is being dealt with? How high are the projected litigation costs? What does the aggrieved party expect from a trial? Above and beyond the particular case, will the verdict also be suitable for raising awareness of Klagsverband and its member organizations?

Such questions are examined by the Klagsverband lawyer, who then makes a recommendation whether it is worthwhile to go to court. An internal board has the final decision.

## 2013 Judgements



\* The case settled without a judgment refers to the lawsuit in which the defendant paid damages after the suit was filed. See page 14.

## COMPLETED PROCEEDINGS

### No commuter tax allowance due to Turkish citizenship

*“It wasn’t until this ruling that, as a Turkish citizen who has been making a living in Austria for 40 years, I can believe in democracy and social justice in the country of Austria,” states Mr. S.*

Represented by Klagsverband, the Turkish citizen Mr. S. sued the state of Lower Austria because he was not granted the commuter tax allowance. He was refused this state benefit on account of his nationality, although he has been living in Austria for 40 years and commutes more than 25 kilometers to work every day. The court of appeals now ruled that there is no objective justification for not granting Mr. S. the state benefit only because he is not an Austrian citizen. In its ruling, the Regional Court of St. Pölten determined that the unequal treatment was based on ethnic discrimination. The state of Lower Austria was unable to supply any factual justification for its actions.

The court awarded the plaintiff not only damages in the amount of the lost commuter tax allowance for one year (450 euros), but also immaterial damages for breach of dignity amounting to 300 euros. This sum is both disappointingly small and fails to conform to EU regulations since it does not act as a deterrent. As this example demonstrates, demands must again be made to raise the amount of damages for all forms of discrimination in Austria.

The ruling of the Regional Court of St. Pölten is the first judgement involving Klagsverband in an Austrian discrimination case that was handed down based on a state anti-discrimination law. However, Lower Austria is not the only state in Austria in which non-Austrian citizens are being barred from specific benefits.

#### **Bitter end to a Christmas party in Linz**

Mr. C. approached Klagsverband at the beginning of 2012. The man, who has a university degree in business administration and whose parents are Turkish, wanted to go to a dance club in Linz with three Austrian friends following a Christmas party. As the bouncer asked to see his I.D., he responded, "Do I look like I'm 17?" The bouncer then replied that he was not allowed to let in anybody with dark skin. As Mr. C. questioned him further, the bouncer said that he was not allowed to admit foreigners. Mr. C.'s friends were not stopped from entering the establishment.

Klagsverband filed a suit of ethnic discrimination on behalf of Mr. C. and received a ruling in November 2013 following a court case with two oral proceedings. The District Court of Linz awarded the plaintiff 1,000 euros in damages due to racist discrimination. It was the first ruling in which an Upper Austrian court determined there to be a racist motive behind barring a person's entrance into a building.

A lawsuit is currently pending against the owners of the club. The ruling cannot be predicted.

*"I wanted to send a signal with the ruling and show people that things like this can't continue happening. Even though it was a long road until the final ruling, I still want to encourage others to do the same. Because that's the only way to guarantee in the future that our children won't have to face such experiences," says Mr. C.*

#### **Entrance barred in St. Pölten because of ethnic origin**

Two Lower Austrians, both with Turkish parents, are barred entrance to a St. Pölten dance club by a bouncer, who gives the excuse that they do not have a VIP card. Other guests in line are not asked for their VIP card and are let inside without delay. Mr. F. has actually been in the club once already, at the grand opening, an event for invited guests only. Yet this time with his friend he is not as lucky. However, neither of them want to accept the fact that they are being discriminated against due to their family background, and so they turn to Klagsverband. In May 2013 Klagsverband files a suit with the Neulengbach District Court. The judgement is handed down soon thereafter, in October. Unfortunately, the court did not rule in their favor.

#### **No cellphone contract for a Turkish citizen**

The court case did not end in favor of a Turkish citizen who had not received a cellphone contract. In March 2012 Mrs. O. enters a cellphone store in Vienna in hopes of signing a new, low-cost cellphone contract. However, the shop assistant informs her that he cannot give her a contract because her visa will be expiring in three months. Mrs. O. is married to an Austrian and has had a "Family member" residency permit since 2006. This information does not change the assistant's mind. He still refuses to grant her a contract, stating that his company's credit department refuses to give her a contract for the same reasons.

Klagsverband filed an ethnic discrimination suit in September 2012. The Regional Court of Vienna found there to be no discrimination in the actions of the cellphone store in granting contracts only to people with visas that are valid for a minimum of six months. Klagsverband also lost its appeal.

#### **Those who cannot see want to hear**

We filed a lawsuit on behalf of Mr. F. with the District Court of Linz in 2012. Unfortunately, the court found there to be no discrimination due to disability. The suit failed in both the court of first and second instance.

Mr. F. uses Linz's public transit system to get to work. He is blind and dependent upon the voice output system to know which stop he is at. Although Linz's public transit system has equipped most of its stops with voice output technology, a new route that Mr. F. regularly takes does not have it. He feels discriminated against due to his disability and hampered in going about his daily life. He seeks a settlement with Linz's public transit system, but is unsuccessful. His case is defeated in court as well.

#### **Lost court cases: Insensitivity and loopholes in the law**

It is naturally unfortunate that the courts ruled against our plaintiffs in the cases described here. However, for our work at Klagsverband, it is necessary to see the rulings in another light. The rulings demonstrate very clearly that there are severe loopholes in Austria's laws – especially in cases of discrimination due to a lack of barrier-free access to facilities – and that the courts are largely insensitive to issues of discrimination.

#### **Settlements: Sometimes the better solution for victims**

It bears repeating that when damages are awarded in cases involving the removal of barriers, the victories are only pyrrhic. Unfortunately, Austria's equal opportunity law does not stipulate that the discriminatory barriers must be removed or that such discriminatory practices must be stopped. Yet according to the Disability Equality Act, a lawsuit can only be filed after a settlement has not been reached. The guidelines for a settlement stipulate that both sides must find a solution to the problem. The best-case scenario for Mr. F. above would thus have been that the Linz public transit system agree to equip the stops with voice output. However, a settlement can also result in a mere apology or the compulsory attendance to an anti-discrimination training session.

*“Court cases can take very long, something which often puts a great deal of strain on the plaintiffs. On the other hand, a successful settlement can bring quick and satisfactory results for both sides,” states Andrea Ludwig of Klagsverband.*

## Cases according to Grounds of Discrimination



After Klagsverband filed a lawsuit for the first time in which eight persons are suing for being barred entrance to an establishment because of their ethnic origin, the proportion of cases falling under discrimination due to “ethnicity” has risen accordingly.

### NEW LAWSUITS

#### Racism at a dance club entrance

For the first time, Klagsverband has filed a suit for eight persons at the same time. Once again it is a case involving the refusal to allow guests into an establishment because of their ethnic origin. This time the setting is a club in Vienna. Mr. M. is hoping to celebrate his birthday there with a group of friends. Two friends are already inside, and the rest of the group arrives later. Then, however, a problem arises at the entrance. The bouncer does not let two of the young men in who both have non-Austrian parents. The group refuses to accept that and begins discussing with the bouncer. The two friends who were already inside also come out to the entrance and join the discussion. The bouncer then tells the entire group to leave, including the two friends, who have to go back in to get their coats. Klagsverband has filed eight lawsuits.

#### Living with barriers

The G. Family approaches Klagsverband in the summer of 2013. The parents bought for their son, who is in a wheelchair, an apartment in a complex that was being built at the time. At the time of purchase they were assured that the building and the apartment would be barrier-free. Yet when construction is completed, the son is unable to move in because, for example, one of the elevators cannot be used. He is also unable to open the door to the building without assistance. Mr. G. seeks

a settlement with the construction company, but is unsuccessful. Klagsverband has filed a lawsuit. A ruling has not yet been made.

### **PROCEEDINGS PENDING FROM THE PREVIOUS YEARS**

#### **The first day of school, but without assistance**

This case raises the question of why persons with a permanent visa are not accorded the same rights as Austrian citizens regarding certain benefits and services offered by individual Austrian states. Mr. G. applied for the Tyrolean school assistance benefit for his 11-year-old son, a Croatian citizen. The benefit is a one-time payment made by the state of Tyrol each year in autumn. Parents must first apply for it, however. Mr. G.'s application was rejected due to citizenship. Klagsverband has filed a suit against the state of Tyrol. The case is still pending.

#### **Lawsuits that end prior to the first oral proceedings**

As described in the 2012 Annual Report, lawsuits are sometimes prepared by the Klagsverband lawyer, but then not filed because either the defendants pay damages first, or the plaintiffs suddenly decide not to go through with a court case. Sometimes, however, Klagsverband files a lawsuit, but the case closes even before the first oral proceedings. There was one such case in 2013. Ms. U., a 21-year-old from Salzburg, applies for a job as medical receptionist at a Viennese doctor's practice. She is certified as a medical-secretarial assistant and already has work experience. After calling to inquire whether the position was still available, she is invited to an interview by the doctor, a general practitioner. When she then meets the doctor, things suddenly change. Ms. U., whose parents come from Turkey, wears a headscarf for religious reasons. As far as the doctor is concerned, this rules her out as a candidate for the job. The doctor does not even want to look at her application dossier. Ms. U. feels deeply humiliated once she realizes that the only thing that counts is her appearance, not her qualifications. Klagsverband supports Ms. U. and files a lawsuit against the doctor, who, however, pays the requested damages of 500 euros before the first oral proceedings. The case is thus closed. For many Muslim women who wear a headscarf, however, work remains difficult to find.

## **ISSUES OF 2013**

### **U.N. Convention of the Rights of Persons with Disabilities (CRPD)**

In September 2013 the U.N. reviewed how the CRPD was being implemented in Austria. The Convention and the optional protocol were ratified by Austria in 2008. In 50 articles it defines the rights of persons with disabilities. Every four years U.N. member nations must submit a report on their implementation of the Convention.

The U.N. review resulted in a series of recommendations, which can be read in detail here: [www.klagsverband.at/archives/8223](http://www.klagsverband.at/archives/8223)

The most important recommendations pertain to the following areas:

- **Standardization of the laws:** It is considered a problem that persons with disabilities are confronted with different laws depending on which Austrian state they live in. The U.N. commission therefore recommends a standardization of the various legal norms. The various national and state laws should also be standardized.
- **Negligence and barrier removal:** The commission recommends that the Equality Acts be broadened to include the right to file lawsuits for negligence and for the removal of barriers. Persons with disabilities would thus have a possibility not only to file a lawsuit for damages for the discrimination incurred, but also to enforce the removal of barriers or to end any negligence resulting in discriminatory practices.
- **Monitoring commission in accord with the Paris Principles:** The CRPD stipulates that every signatory must create independent state and federal facilities that are responsible for monitoring the implementation of the Convention. In order to be in accord with the Paris Principles, these facilities must be adequately financed, composed in a pluralistic manner, and be accessible especially for disadvantaged groups. The commission recommends Austria to create such monitoring facilities in each of its states that meet these requirements.
- **Translation errors:** The German translation of the Convention, which is used in Austria, contains translation errors. Instead of “Inklusion”, the term “Integration” is used. “Independent living” is also translated incorrectly. The commission recommends that the translation errors be corrected.
- **Barrier-free facilities:** The commission recommends that construction norms for barrier-free access must apply to all public buildings, and that the deadlines for their step-by-step implementation be reduced.

- **Custodianship:** Persons with disabilities who are appointed a custodian or guardian no longer have the possibility to make their own decisions. The commission recommends Austria to replace its system of custodianship, which is viewed as outdated, with a system in which persons with disabilities are supported in their decision-making as is seen fit.
- **De-institutionalizing:** The commission recommends that the process of de-institutionalization be furthered. In other words, persons with disabilities should not automatically be institutionalized, but should rather be able to choose where and how they wish to live.
- **Inclusive education:** According to one further demand of the commission, persons with disabilities should have access to an inclusive education from kindergarten through secondary school.

Prior to the state-wide inspection, Klagsverband submitted a shadow report to the CRPD. The demands of the Klagsverband largely correspond to the recommendations of the U.N. [www.klagsverband.at/archives/8223](http://www.klagsverband.at/archives/8223)

#### **Practicing law without a license: Case dropped against Klagsverband**

In March 2012 charges were pressed against Klagsverband for practicing law without a license. In 2013 the administrative penalty proceedings were dropped.

The parameters defining legal support is stated clearly in the civil process order: Non-profit NGO's are not allowed to be paid for their services and may only represent clients where there is no statutory requirement to be represented by a lawyer. Klagsverband is not responsible for issues that do not fall under anti-discrimination or equal opportunity law. With the charges being dropped, Klagsverband actually sees itself confirmed in the work it does and continues to hope for productive collaboration with lawyers in order to protect victims of discrimination.

The type of support that NGO's like Klagsverband offer in cases involving human rights violations can oftentimes not be provided in the same way by attorneys who have private practices. The clients appreciate the accessible service as well as the mutual trust that is gained over years of working together.

#### **Amendment to the Equal Treatment Act**

It is a never-ending topic that Klagsverband has had to deal with for years – and it does not look like much is going to change in the near future. The Equal Treatment Act has been amended several times in recent years; however, the coalition government has continually refused to accept the standardization of safeguards against all forms of discrimination. A hierarchy of forms of discrimination outside of the workplace thus remains in place even after the latest amendment went into effect in the summer of 2013. Thus, persons who are victims of discrimination due to their



gender or ethnicity are protected by law both at the workplace and beyond. However, persons who are victims of discrimination due to sexual orientation, age, or religion and beliefs are not protected outside of the workplace.

#### **Actions in the general interest of a group**

The amendment to the Insurance Law Amendment Act has been in effect since January 1, 2013. It gives Klagsverband the right to actions in the general interest of a group against discriminatory clauses in insurance policies. In December 2013 Klagsverband filed for damages in a case of discriminatory insurance clauses. Should the settlement fail, Klagsverband will be able to pursue its first legal action in the general interest of a group.

#### **Criminal Code (StGB) 2015**

Within the scope of the reform project “StGB 2015” to modernize the criminal code, Klagsverband has introduced proposals for punitive measures in the fight against discrimination and incitement. Klagsverband has also offered its expertise of the criminal code to the U.N.’s Universal Periodic Review (UPR) process.

#### **Klagsverband lawyer is a member of the Lower Austrian Monitoring Commission**

The Lower Austrian Monitoring Commission was officially established in November 2013. This alone does not fulfill the so-called Paris Principles, which stipulate that such a committee must be readily accessible for especially underprivileged groups, have its own budget, and be politically independent. It is, however, the first step towards monitoring the implementation of the U.N. Convention of the Rights of Persons with Disabilities within Lower Austria. Andrea Ludwig is now a member of the Lower Austrian Monitoring Commission and hopes to be able to contribute to the equal treatment of persons with disabilities.

#### **Alternative financial sources: Respekt.net**

In order to be able to finance some of its more costly court cases in the future, Klagsverband has for the first time attempted to tap financial resources through the crowd funding platform Respekt.net. The financing project is still not complete, yet it already seems clear that this form of financing will not be an adequate model for Klagsverband.

## **TRAINING**

Most members of Klagsverband are first exposed to the organization's range training seminars through its introduction to anti-discrimination law, in which the principles of anti-discrimination law are discussed and examined by using specific examples that Klagsverband has encountered. This introductory seminar is a good opportunity for member organizations to learn how to recognize forms of discrimination while counseling their clients and to discover which kinds of support there are for such issues. The introductory workshop provides basic legal information on how to offer competent initial counseling services and discuss possibilities for out-of-court settlements.

A cooperation with the Amnesty Academy has existed since 2008. In 2013 a workshop on the topic "Islam – Living with prejudices – Strategies to confront them" was offered as part of Amnesty's continuing education series.

Equal rights experts from Klagsverband are also invited to attend lectures, podium discussions, and symposia.

The training seminars offered by Klagsverband are attended by member organizations and employees of other organizations. The basic knowledge of anti-discrimination law that seminar attendees take home with them has greatly improved the quality of counseling provided by many facilities and organizations. The numerous invitations to conferences that Klagsverband receives clearly demonstrate that Klagsverband's expertise in these areas continues to be in great demand.

## **PUBLIC RELATIONS**

A new parliament was elected in Austria in the autumn of 2013. Klagsverband used the opportunity to conduct a survey prior to the elections with the parties that were running. The heads of the parties from the SPÖ (Social Democratic Party of Austria), ÖVP (Austrian People's Party), FPÖ (Freedom Party of Austria), the Greens, BZÖ (Alliance for the Future of Austria), the Neos (The New Austria), and Team Stronach were all asked to answer the following questions:

### **The issue of anti-discrimination safeguards**

The current legal situation in Austria stipulates that in the workplace persons are safeguarded against all forms of discrimination as determined by law (gender, ethnicity, disability, age, sexual orientation, and religion and beliefs). Outside of the workplace, however, safeguards are in place only with regards to gender, ethnic, and disability discrimination. For a long time now, Klagsverband has been striving for the standardization of safeguards against all forms of discrimination, simply because there is no objective reason for the difference. In the course of the amendment process to the Equal Treatment Act, such a "leveling-up" standardization was repeatedly discussed. There was also a bill submitted and an agreement between

management, labour, and the government on the matter. However, “leveling-up” never came to pass.

*We ask you:* Will you support the issue of “leveling-up” in the next legislative period? If not, can you give us your reasons? In the past, what motivated you to either support or not support “leveling-up”?

#### **The issue of barrier-free facilities**

In Austria, barrier-free buildings and public transportation are available only rarely. Inclusive education for persons with disabilities is also sorely lacking. Meanwhile, step-by-step plans to bring about a barrier-free environment, especially regarding buildings, are repeatedly delayed or postponed. Citizens have no legal right to force barriers to be removed.

*We ask you:* In the next legislative period will you see to it that persons with disabilities have an equal share in all aspects of society, including access to buildings, the use of public transit, and access to education and information? How do you intend to do that? Will you support the legal right to force barriers to be removed?

#### **The issue of racism in the police force and in the courts**

In a democratic society, the police and the courts are required to treat all people with dignity, even if they are immigrants, refugees, or seeking asylum. Unfortunately, racist behavior routinely occurs within the police force and the courts as well. Examples include racist insults, disrespectful behavior, and even physical assault.

*We ask you:* What do you intend to do in the next legislative period to make the police force and the courts better aware of how they treat people considered to be “foreign”? How will you discipline such racist behavior? How do you intend to guarantee that police behavior is independently monitored?

The answers to these three questions were communicated through Klagsverband’s PR channels and website. They also served as the basis for a press briefing.  
[www.klagsverband.at/archives/8248](http://www.klagsverband.at/archives/8248)

#### **Press briefing prior to the parliamentary elections**

For the first time, Klagsverband invited representatives from the media to a briefing to learn more about the urgent issues regarding anti-discrimination law and the attendant political developments.

#### **2013 closed meeting**

The annual general assembly took place in Graz in September 2013. Numerous organizations and individuals from Styria came to the public portion of the assembly to learn more about the work Klagsverband does.

### **Inquiries**

Part of PR includes answering the many inquiries concerning issues of equal rights, anti-discrimination, and diversity. Klagsverband gladly offers its experience and expertise to students, researchers, employees of public institutions, political parties, and interested citizens. The dissemination of experience in judicial process for national and EU studies is especially important for the sustainability of verdicts and the political debates on improving the legal framework.

### **Documentation and commentar**

The services of Klagsverband include documenting and commenting on national and international legislature. Numerous documents can be downloaded at the website: [www.klagsverband.at](http://www.klagsverband.at). These include federal and state laws, courts rulings, decisions handed down by the Equal Treatment Commissions, as well as decisions by the European Court of Human Rights (ECHR) and the Court of Justice of the European Union. Out-of-court settlements in discrimination cases are also published and commented upon.

## **NETWORKING**

Klagsverband lives from the vitality of its member organizations and from contacts to other organizations and NGO's that work towards abolishing discrimination. There is an ongoing exchange with the National Equality Body, the National Disability Body, state anti-discrimination bureaus, federal ministries, and other social partners.

Within a European context, membership in the Fundamental Rights Platform of the European Fundamental Rights Agency (FRA) is of special importance. Since it has a central counseling function regarding human rights and anti-discrimination for the European Commission, experiences of Klagsverband can be relayed to relevant decision-making bodies.

## **OPINIONS**

In 2013 Klagsverband submitted four opinions and one shadow report, which can all be found online at: [www.klagsverband.at/politik/stellungnahmen-klav](http://www.klagsverband.at/politik/stellungnahmen-klav)

- **Shadow report on the U.N. Convention of the Rights of Persons with Disabilities (CRPD):** More on page 15.
- **Styria's Equal Treatment Act:** Discrimination does not just refer to cases in which an individual is personally discriminated against. Discrimination can also mean that a second person is at a disadvantage because he or she is with someone who is a victim of discrimination. If, for example, someone is accompanying to a dance club a person with dark skin, who is then not admitted because the club "does not desire such people", this companion is at a disadvantage and must decide whether to go into the club alone or not. In legal language, this relationship of the one individual to the other is called "discrimination by association". Thus, a person who is not given a lease to an apartment because their partner is from Africa is in such a "discrimination by association" and can take legal action against discrimination. Discrimination safeguards regarding discrimination by association has been introduced in the draft opinion to the amendment to the state Equal Treatment Act. The safeguards cover discrimination based on gender, origin, religion and beliefs, age, and sexual orientation. Only one of the legal grounds for discrimination was not considered: disability. Here, "family association" was deemed sufficient. That means, in order to be granted legal protection from discrimination due to disability, one must be a family member of the victim and not just a close associate. Persons with disabilities are thus at a massive disadvantage and in no way accorded equal rights. In its opinion, Klagsverband thus calls for close association to be expanded to cover all forms for discrimination, including disability.

## **PROJECTS**

### **Barrier-free residential buildings**

Whereas a discussion has been underway for some time now concerning how to guarantee barrier-free public buildings, there are still several unanswered questions regarding private residential buildings. And yet this is an issue that is becoming more and more important. Roughly between 1.7 and 1.8 million people in Austria have a disability, but the better part of Austrian residences are not barrier-free.

The questions pertain not just to construction, but to legal matters as well: What possibilities do renters and owners of apartments have in order to make their dwellings barrier-free? Who will pay the costs?

In order to find answers to these questions, Klagsverband took part in a project on barrier-free residential buildings together with WienWork (Vienna Work) and the Austrian National Council of Disabled Persons (ÖAR). Andrea Ludwig and Volker Frey authored a legal study which gathers all available information on the current legal situation and also references international legal positions and the U.N. Convention of the Rights of Persons with Disabilities.

The study has been presented to a wide variety of stakeholders in workshops in Vienna, Salzburg, and Tyrol and can be downloaded at: [www.klagsverband.at/ueber-uns/projekte](http://www.klagsverband.at/ueber-uns/projekte)

## **OUTLOOK FOR THE YEAR 2014**

Klagsverband will be celebrating two anniversaries in 2014. It has been ten years since the expanded Equal Treatment Act was passed in Austria. Whereas up until then, equal treatment at the workplace was only legally binding between men and women, the amendment to the act greatly expanded its scope. Since 2004 every person is protected by law who is treated differently than any other person in a similar situation at the workplace due to their ethnicity, religion and beliefs, sexual orientation, or age. The amendment also improved equal treatment outside of the workplace. It states that no one may be refused access to goods or services due to their gender or ethnicity. Unfortunately, the safeguards outside of the workplace have been limited to these two forms of discrimination and to discrimination due to disability.

The year 2004 was also an important year for Klagsverband. Ten years ago, a few dedicated representatives from NGO's were prompted by the amendment to the Equal Treatment Act to start an organization that would implement the law through concrete litigation and help to improve discrimination safeguards in Austria through legal work.

A lot has happened in the ensuing years. Klagsverband handled numerous test cases covering all areas of discrimination, contributed to improving legal safeguards against discrimination through its written opinions, and spread its knowledge of anti-discrimination law through workshops, training seminars, lectures, and professional articles.

In 2014 Klagsverband thus wants to take a look back at the past ten years – while also keeping an eye on the future. There are still many loopholes that need to be closed in anti-discrimination and equal opportunity law. We will be considering all of these issues at a conference in Vienna in May, as long as the financial resources are available.



## **IMPRINT**

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