



KLAGSVERBAND ZUR DURCHSETZUNG DER RECHTE VON DISKRIMINIERUNGSOPIERN
Luftbadgasse 14-16, A- 1060 Wien,
W: www.klagsverband.at
M: info@klagsverband.at
T: +43-1-961 05 85-24

Universal Periodic Review – Austria

Report by Klagsverband zur Durchsetzung der Rechte von
Diskriminierungsopfern
July 2010
10th Session, January 24 – February 4, 2011

Luftbadgasse 14-16
A-1060 Vienna
Email: info@klagsverband.at
Web: www.klagsverband.at

Key words: anti-discrimination, equality, legal remedies



About the Klagsverband

The *Klagsverband zur Durchsetzung der Rechte von Diskriminierungsopfern* (brief: Klagsverband; Litigation Association of NGOs against discrimination) is an umbrella organisation of 19 anti-discrimination organisations based in Vienna. Only NGOs can be ordinary members.

It was founded in 2004 to coordinate civil society activities and strategic litigation in the field of anti-discrimination on the grounds of gender, ethnic origin, religion and belief, age, sexual orientation and disability.

The main work of the *Klagsverband* focuses on

- Strategic litigation
- Documentation of the anti-discrimination legislation on international, EU, federal and provincial level
- Documentation of and commentaries on decisions
- Commentaries on draft legislation
- Counseling for the member organizations and
- Training on anti-discrimination law

1. Hierarchisation of the grounds of discrimination

The protection from discrimination and hate crimes is not consistent.

- 1.1 There is a broad protection from discrimination only in employment. With regard to access to and supply of goods and services there is no protection on the ground of religion and belief, age and sexual orientation on the federal level.
- 1.2 In criminal law – according to § 33/5 Criminal Code - the racist background of a crime is constituted as an aggravating factor. Gender, religion and belief, disability, age and sexual orientation are not mentioned explicitly. The Ministry of Justice does not document the number of judgements based on this provision. According to our regular search on the RIS there seem to be no such judgements at all.
- 1.3 Incitement to hate (Verhetzung) is laid down in § 283 Criminal Code and constitutes the only protection from hate crimes in Austrian law. There is protection only for members of churches, religious associations, races and ethnic groups. Again, age, disability, gender and sexual orientation are not mentioned.
- 1.4 At the moment, discrimination by association can only be combated on the ground of disability.



Therefore we ask the government to establish a consistent protection from discrimination and hate crimes for all grounds of discrimination.

2. Legal remedies in discrimination cases

Legal remedies against discrimination are not sufficient.

2.1 Generally, anti-discrimination law is designed as a system of strictly individual protection. In cases in which it is not just and reasonable to enter into a situation of discrimination - only to be entitled to take action - NGOs can not take class action in cases other than disability. Even in disability cases only one NGO is entitled to take class action. Still, the procedure is so complicated that there has not been a single action yet.

2.2 The involvement of NGOs in the protection of the rights of persons who have been discriminated against is only rudimentary.

2.3 Sanctions to infringements of anti-discrimination law are not effective, proportionate and dissuasive in Austria.

We urge the government to introduce

- class actions in all cases of discrimination,
- the possibility for NGOs to act for individuals and
- effective, proportionate and dissuasive sanctions in Austria.