RESPONSE OF THE GOVERNMENT OF AUSTRIA ¹
TO NOTE CU 2011/26

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Working translation:
Statement by the Federal Ministry of Justice of Austria
(BMJ-V60501/0004-III-1/2011) of May 29 2011

The Resolution emphasizes in op. 48 to 52 that the prison regime is one of the key components of the criminal justice system. Treatment of women prisoners, alternatives to imprisonment as well as the topic of custody (especially its prevention) are mentioned as areas of priority for the future.

The Austrian Prison Act was established in 1969 and has been revised several times since then, lately in 2010. When establishing the Prison Act, the “United Nations standard minimum rules for the treatment of prisoners” of 31 July 1957 were well taken into account. Further developments with regard to the standard minimum rules, such as the relevant recommendations of the Council of Europe, and here in particular the recommendation on the European Prison Rules, were fully incorporated in all amendments to the Austrian Prison Act.

The Council of Europe established a special body, the so-called “Council of Penological Cooperation” (PC-CP) that is occupied solely with the update and further development of the recommendations concerning the prison system. Out of the 47 member states of the Council of Europe, only nine states representatives are elected into this committee (for the period of five years). Chief Prosecutor Dr. Irene Köck is the first Austrian representative in this expert group. This is regarded also as recognition of the Austrians efforts concerning a rule-consistent prison regime.

Referring to the key component of § 20 of the Austrian Prison Act, the enforcement of sentences shall have the effect of guiding the convicted to a righteous attitude which corresponds with the standard requirements of a functioning society and of preventing them from any further pursuing of unlawful tendencies. Both these principles of enforcement of sentences, restricting the conduct of life, aim at the re-socialisation of the prisoner. It is the task of the prison regime to overcome social deficits through educational measures, which can only be implemented by means of an adequate learning process (social learning). All underlying concepts of the Austrian prison regime follow the objective to prevent relapse and therefore also
constitute an essential contribution in reference to victim protection. The Austrian prison regime is therefore fully in accordance with international initiatives focused on the role of victims under the motto “restorative justice”.

An important tool for re-socialisation is the engagement of prisoners. The Prison Act obliges all prisoners fit for work to do work. Meaningful and useful work not only helps to make a long-term sentence better bearable but can also train the skills of prisoners that can help them with establishing a stable existence after prison. In Austrian prisons, there are about 50 different categories of work places, such as e.g. carpentry, locksmith, bookbindery, print shops and agricultural sites. The average working day lasts 6 hours per day. There is also the possibility for prisoners to absolve a professional training. The financial allowance depends on the kind of work and ranges between 5 and 7, 5 Euro per hour. Hereof, a prison fee (75 percent of the gross wage) and a contribution for the unemployment insurance are deducted, half of the rest is put in a reserve fund for the time after prison, the rest is at the prisoner’s free disposal. A person released from prison can be also granted a modest, one-time financial support for the time after prison (up to 400 Euro), if there are no other ways for the person to provide for their daily living. The flexible enforcement of sentences further foresees the possibility for some prisoners to leave the prison during the day as so called “Freigänger” without custody in order to do work in a regular company. Presently 330 (more than 5% of all prisoners) take advantage of this opportunity.

In Austria, the electronically monitored house arrest (electronic curfew) was established on 1st of September 2010 and constitutes a new form of enforcement of sentences in the prison regime for imprisonment sentence and custody. Socially well integrated persons, whose custodial sentence doesn’t exceed twelve months, shall be enabled to absolve their sentence entirely (“frontdoor-option”) or partly (“backdoor-option”) in form of electronically monitored house arrest. Also for custody, this form of detention offers an alternative. Through adequate means of electronic surveillance (tags around the ankle in contact to receivers installed in the domicile), the presence of a person in his/her identified accommodation can be controlled. Departure from the accommodation is only permitted in certain circumstances, in particular for work, for the purchase of basic living requirements or for required medical care and attendance by the probation service is granted.
All together, in the 27 Austrian prisons ("Justizanstalten") approximately 8600 persons are detained, thereof less than 2000 in custody. The high number of foreign inmates represents an enormous challenge, due to the fact that their care and treatment is for the most part more complicated and more intense. The proportion of foreign inmates is currently at around 47 per cent – among the highest in Europe. Regulation § 133a of the Prison Act, according to which persons, against whom a negative residence authorisation exists, who are willing to leave the country on a voluntary base, there is an option after serving at least half of the sentence, to be released earlier. The purpose has to be the departure of the country. This new instrument of treatment of foreign prisoners was created just a few years ago with the objective to grant them an earlier repatriation.

Finally, the Austrian prison regime is based on the understanding of a care prison regime (in opposition to a solely detention prison regime). The prisoners are granted occupation as we as a structured daily agenda including professional training, work as well as outdoor activities and sports in order to spend the spare time in a meaningful way.