



**“IF HOUSING WAS A HUMAN
RIGHT, I WOULDN'T LIVE LIKE
THIS”**

BARRIERS TO ACCESSING HOMELESS ASSISTANCE
SERVICES IN AUSTRIA

**RESEARCH
BRIEFING**

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**AMNESTY
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GLOSSARY

Basic Act on Social Assistance (<i>Sozialhilfe-Grundsatzgesetz</i>)	This act is intended to harmonize social assistance systems across federal states. Due to its nature as a basic law, federal states are required to further specify its provisions for implementation at state level. Apart from a mandatory framework it also includes several optional provisions which gives federal states significant leeway when designing their implementing laws. Per the act, which came into force on 1 June 2019, the federal states are required to pass such laws within seven months.
Bundesarbeitsgemeinschaft für Wohnungslose (BAWO)	BAWO is an umbrella organization for homeless support services in Austria. It was founded in 1991 with the aim to provide a platform for all relevant services across Austria. Today, BAWO consists of 55 different member organizations and 95 individual members. BAWO aims to contribute to the elimination of homelessness in Austria by providing not only services but also impetus to relevant stakeholders and decision-makers.
Carer	For the purpose of this briefing, carers are defined as professionals who provide support and counselling to individuals experiencing homelessness. The definition also entails those working at emergency and temporary accommodation centres, and mobile support services. If not further specified in the briefing, social workers can also be subsumed under the definition of “carer”.
<i>Chancenhaus</i>	As part of the emergency services, a <i>Chancenhaus</i> provides shelter for individuals experiencing homelessness. Characteristics of these services are the low-threshold access, the provision of close social work support and counselling, and that the services are limited in time. Unlike most emergency shelters, a <i>Chancenhaus</i> is open all-day and night. To date, these services are only available in the city of Vienna.
Day centre (<i>Tageszentrum</i>)	Day centres offer the possibility to cover basic needs, such as sanitary and cooking facilities, and provide a place to stay and to receive information, counselling and referrals to other organizations or agencies for persons experiencing homelessness or at risk of it. Day centres however do not offer accommodation for the night.
Emergency accommodation/shelters (<i>Notunterkunft</i>)	Emergency accommodation/shelters offer short-term and temporary overnight stays for persons acutely sleeping rough.
<i>Erfüllungsvorbehalt</i>	The so-called <i>Erfüllungsvorbehalt</i> (reservation of implementation) states that a respective international treaty or instrument is not directly applicable within the state of Austria, even if this treaty has been ratified.
ETHOS	FEANTSA has developed a European Typology of Homelessness and housing exclusion (ETHOS) as a means of improving understanding and measurement of homelessness in Europe, and to provide a common “language” for transnational exchanges on homelessness. This typology was launched in 2005; a re-designed English version, “ETHOS light” in 2017 further harmonized definitions of homelessness for statistical purposes. This is the definition used by most organizations working on homelessness in Austria.
Fachstelle für Wohnungssicherung (FAWOS)	The Fachstelle für Wohnungssicherung (FAWOS) is an institution of Volkshilfe Vienna, a social organization that supports and provides

	counselling on behalf of the city of Vienna to persons at imminent risk of eviction.
FEANTSA	FEANTSA is the European Federation of National Organisations Working with the Homeless. Established in 1989, FEANTSA brings together non-profit services that support homeless people in Europe, currently over 120 member organizations from 30 countries, including all 27 EU Member States. They are the only European NGO focusing exclusively on the fight against homelessness.
'Hidden homelessness'	'Hidden homelessness' describes the situation of people who are experiencing homelessness but do not show up in official statistics. This includes people who become homeless but find a temporary solution by staying with family members or friends, sofa surfing, living in squats or other insecure and unsuitable accommodation. In the Austrian context, hidden homelessness is particularly relevant with regard to women.
Homelessness	For the purpose of this briefing, homelessness is defined as a state or condition of lacking a stable, secure and adequate housing. This definition also entails individuals sleeping in emergency shelters or rough or those living in temporary accommodation.
Housing First	Housing First is an approach in the homeless assistance services. Its basic principle is the provision of independent living while ensuring support on different levels as long as needed by the individual.
Housing subsidies (<i>Wohnbauförderung</i>)	Housing subsidies are a fiscal instrument to provide financial support for adequate, qualitative, and affordable housing. Housing subsidies lie within the competency of the federal states and are anchored in regional legislation. The available financial support can entail loans, grants, or financial assistance.
Jugend am Werk	Jugend am Werk Steiermark GmbH is one of the leading providers of social services in Styria. In Graz, the capital city of Styria, Jugend am Werk provides housing first for women.
Limited-profit housing (LPH) (<i>Genossenschaftswohnung</i>)	Limited-profit housing is provided by the Limited-Profit Housing Association (LPHA) in Austria and regulated by national law. It offers both rented homes and homes for ownership. LPH is based on the principle of serving the common good and not to maximize profits, meaning that the cost of housing is calculated on the basis of the actual costs of construction, administration, and so on.
Mobile supported housing	Mobile supported housing refers to a flexible, needs-oriented and professional care and support in a person's own home.
Municipal housing (<i>Gemeindewohnung</i>)	Cities and municipalities can provide social housing to ensure the provision of affordable housing. Subsidized or financed by the city or municipality, the access to such dwellings is bound to certain requirements, such as income, nationality or status of residency, and so on.
Net replacement rate (<i>Nettoausgleichszulagenrichtsatz</i>)	The net replacement rate intends to fill the gap between a person's income and the maximum amounts of the social assistance, especially relevant for persons working poor and persons with little pension benefits.
neunerhaus	The organization neunerhaus was founded in 1999 and has its headquarters in Vienna; neunerhaus offers temporary accommodation as well as permanent housing (via Housing First) to individuals experiencing homelessness. Moreover, neunerhaus provides medical care and general support via social work and counselling.

P7	P7 is an institution of Caritas Vienna, a social organization, acting as a central point of contact for persons experiencing homelessness in Vienna. In cooperation with the Vienna Social Fund, P7 registers all available places in emergency shelters in Vienna and refers persons who are sleeping rough to emergency shelters.
Peer	Peers are individuals who have former experience in homelessness and are offering their support to persons currently experiencing homelessness. Since 2019, the organization <i>neunerhaus</i> is offering a course where individuals can obtain an official certificate as a Peer.
Social worker	Social workers offer support and counselling to individuals, families, or communities in situations of life crises or difficulties. Social work is practice-based and aims to enhance the overall well-being and functioning of individuals or societies. Depending on the sector they work in, social workers can carry out various tasks.
Stage model (<i>Stufenmodell</i>)	The stage model is the prevailing approach within the homeless assistance services in Austria. It is characterized by low-threshold emergency accommodation at the bottom of the model and independent housing at the top of it.
Statistik Austria	Statistik Austria is the national office for statistics. Its mandate is comprised of data collection and the publication of statistics in areas of public interest, such as economics, administration, media, and politics.
Temporary accommodation	Temporary accommodation refers to all services of the homeless assistance that provide shelters with inpatient care and support for a certain time period. Shelters can be targeted to specific groups of persons, such as people living with mental health problems, or drug use.
Vienna Social Fund (<i>Fonds Soziales Wien</i>)	The Vienna Social Fund is a company in the health and social sector, providing care and support services including debt counselling, homeless services, and basic care for refugees. The Fund supports over 100,000 customers per year together with 160 partner organizations, and a number of subsidiaries. It also offers affordable housing for the different customers using the Fonds' services.
Winter package (<i>Winterpaket</i>)	Winter packages provide emergency humanitarian assistance to persons sleeping rough during the cold season. They include places in emergency shelters, places to retreat from the cold, an increase of human resources in existing counselling facilities and street social work. Winter packages are open to all persons sleeping rough regardless of their residence status or eligibility to social assistance.
Wrap-around support	Wrap-around support refers to measures of support that are separated from housing itself, meaning the support is provided irrespective of the actual whereabouts of a person. Wrap-around support is provided by a multi-professional team who are flexible in time and can adapt to the specific circumstances or needs of a person.

BACKGROUND TO THE RESEARCH PROJECT

This research project forms part of a comprehensive project of Amnesty International Austria focussing on poverty and human rights, which is aimed at raising awareness about economic, social and cultural rights, to ensure that all people are empowered to demand and exercise these rights, and thereby prevent poverty more effectively.¹ Amnesty International Austria is an associate member of the Austrian anti-poverty network (*Armutskonferenz*). The *Armutskonferenz* is a network of over 40 social organizations, educational and research institutions addressing causes, data and facts, strategies and measures against poverty and social exclusion in Austria. This initial research project was limited in time and scope and is intended to provide a human rights perspective on a critical concern, that of homelessness, particularly in advance of the forthcoming review by the UN expert Committee on Economic Social and Cultural Rights of how Austria is progressing in terms of its compliance with its obligations under the Covenant to respect, protect and fulfil people's right to housing.

In addition, this research project intends to contribute to the discussions overall strengthening economic, social and cultural rights in Austria, notably by advancing the process of the government's statement of intent, included in the government's programme of work to review the Austrian catalogue of fundamental rights.²

Homelessness is considered among the most extreme breaches of the human right to housing. The organization recognizes there are other important aspects of homelessness and human rights which merit further research but that were beyond the reach of this initial research project.³

METHODOLOGY

This briefing is based on qualitative research carried out by Amnesty International between August 2021 and March 2022 into how the right to housing is being respected, protected and implemented, specifically in the case of people experiencing homelessness in Austria. In particular, the organization researched specific concerns around prevention of homelessness and availability and accessibility of emergency housing for individuals in particular situations of precarity or at risk of homelessness and enhanced obstacles some need to overcome when trying to access emergency housing or associated support, depending on intersecting aspects of their identity.

The research was conducted through desk research and literature review, as well focus groups and in-depth interviews with people experiencing or who have experienced homelessness, and organizations working in the homelessness sector, experts who work alongside people experiencing or at risk of homelessness, including service providers and lawyers in shelters and organizations.

Amnesty International organized two workshops with representatives of NGOs working in the homelessness sector and persons who experienced homelessness, also known as 'peers' in the Austrian context: The first workshop was held in person in the early stages of the research on 15 October 2021 with five participants, including three Peers to discuss the research questions, test the results of desk research into the potential key human rights concerns, as well as to confirm and identify research gaps. This workshop also assisted in guiding researchers in the most appropriate and ethical ways to engage and research the issue of homelessness and interview people experiencing homelessness, getting crucial input, feedback and advice from people affected by it themselves. The second in person workshop was conducted on 4 March 2022

¹ See Amnesty International Österreich, *Armut verletzt Menschenrechte* (thematic page), <https://www.amnesty.at/themen/wirtschaftliche-soziale-und-kulturelle-rechte/armut-verletzt-menschenrechte/>.

² Austrian government's programme of work *Aus Verantwortung für Österreich. Regierungsprogramm, 2020 – 2024*, p 13, <https://www.bundeskanzleramt.gv.at/dam/jcr:7b9e6755-2115-440c-b2ec-cbf64a931aa8/RegProgramm-lang.pdf>

³ For example, according to research by other organizations, such as the umbrella organization for homelessness support services in Austria ('Bundesarbeitsgemeinschaft für Wohnungslose', BAWO) or the European Federation of National Organisations Working with the Homeless (FEANTSA)³ and the interviews conducted for this research, there are several groups of people who are at particular risks of homelessness, such as youth, Roma and Traveller communities, LGBTIQ persons and people with disabilities, for the purposes of this report, time and resource constraints meant that it was not possible to focus on these and other at-risk groups, such as asylum seekers or persons who have been released from prison or hospitals. Organization focussing on these areas are for instance the umbrella organization for homelessness support services in Austria "Bundesarbeitsgemeinschaft für Wohnungslose" (BAWO), NEUSTART, an organization working in the field of justice-related social work, probation and parole support, and prevention, or Ute Bock Flüchtlingsprojekt.

with seven participants, including four participants who experienced homelessness, to receive feedback on the research findings, the analysis, and the recommendations. All individual interviews with people with lived experience of homelessness were established through cooperation with organizations, shelters, and related service provider networks who published a call for volunteers to participate in these interviews.

People experience homelessness for a number of reasons that frequently intersect with factors such as ethnicity, race, gender, gender identity, sexual orientation, migrant status, poverty, drug use, disability, and mental health. Considering the significant lack of policies and statistics in Austria on homelessness that reflect the specific needs of women, this project intentionally sought to listen to and provide a platform for the voices and concerns of women affected by homelessness.

Amnesty International also interviewed 30 people involved or working in the sector including those providing support services, running shelters, and NGO workers and experts in this field. In addition to the information from interviewees, the briefing also draws from analysis of a range of documents and sources, including government, academic and NGO studies, articles in print and electronic media.

Amnesty International spoke to 19 people who were either currently experiencing homelessness or with recent experience of homelessness. Seven of these interviewees were actually experiencing homelessness at the time of the interview. The interviewees shared their experiences of homelessness in three cities of Austria, including 15 in Vienna, two in Linz, and two in Graz. Unfortunately, Amnesty International was, despite continuous effort, not able to conduct interviews with people with experience of homelessness in the cities of Salzburg and Innsbruck. However, Amnesty International spoke to organizations and social carriers in those two cities. Of the 19 people interviewed, 11 were women and eight were men. At least 12 of the interviewees were Austrian nationals, four interviewees were EU citizens, and at least two interviewees were non-EU citizens. Four of the persons interviewed were under the age of 40 years and 15 interviewees were between the age of 40 to 65 years old. The majority of interviews took place in person, observing restrictions in place due to the Covid-19 pandemic. However, due to a changing pandemic situation, a few interviews also had to be conducted via secure online platforms.

In compliance with informed consent given by interviewees and as is the norm in Amnesty International's investigations, the briefing includes the date of when the interview took place but protects the identity of some of the people by using a pseudonym and other means to anonymize the individual, their location, nationality and any other identifying details, in accordance with their wishes.

Amnesty International requested information in writing about statistics regarding persons experiencing homelessness, statistics on evictions and notices to vacate, measures planned to prevent Covid-19-related evictions, the cooperation between the federal ministry and the federal states, from the Ministry of Social Affairs, Health, Care and Consumer Protection and the Ministry of Justice. On 19 January 2022, Amnesty International Austria met with two representatives of the Ministry of Social Affairs, Health, Care and Consumer Protection via a secure online platform to discuss the requests made in writing. The information provided by officials during this meeting is reflected in the briefing.

Amnesty International shared the main findings and recommendations included in this briefing on 28 March 2022 with the Ministry of Social Affairs, Health, Care and Consumer Protection with a view to offering the possibility to comment on them. On 4 April 2022, the Minister of Social Affairs, Health, Care and Consumer Protection replied to Amnesty International's findings and recommendations in writing. The information provided in the response is reflected in this briefing. Amnesty International also contacted the Ministry of Justice in writing for additional information on the number of notices to vacate and evictions taking place during the Covid-19-pandemic. At the time the briefing was published, Amnesty International had not received a response from the Ministry of Justice.

ACKNOWLEDGEMENTS

Amnesty International would like to express its profound gratitude to everyone who kindly agreed to share their experiences and expertise with the researchers. We particularly thank the people with experience of homelessness who agreed to be interviewed for this briefing and so generously shared their experiences, insights and expertise. This briefing would not have been possible without them. We would also like to thank all organizations for providing services and their support in outreach during the research, for facilitating interviews and group discussions and for their advice and feedback on the briefing. We finally also extend our thanks to the Austrian Ministry for Social Affairs, Health, Care and Consumer Protection for

receiving the researchers and for the information kindly provided during the meeting and in the written response.

1. BACKGROUND

“The temporary mitigation measures taken by States and local governments [during the Covid-19 pandemic] prove that national laws can be changed or interpreted to better protect the right to housing. ... What is needed now is the political will to turn temporary measures into more permanent solutions that ensure the protection and realization of the right to adequate housing for all ...”⁴

Leilani Farha, *former UN Special Rapporteur on the Right to Adequate Housing*

Everyone has the right to adequate housing.⁵ A home is the centre of social, emotional and – for many people during the Covid-19 pandemic – economic lives. Having a safe and secure home is fundamental to the enjoyment of a number of other human rights including the rights to health, social security, work, vote, privacy and education.⁶ And yet, more than 1.8 billion people worldwide lack adequate housing, and more than approximately 150 million people are homeless, due to, among others, natural disasters, conflicts, evictions and poverty.⁷

The UN Committee on Economic, Social and Cultural Rights (CESCR), the body of independent experts mandated to monitor the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR), expressly underlined that the right to adequate housing should not be interpreted in a narrow sense, laying down certain minimum criteria in its General Comment 4 on the right to adequate housing. These include:

- 1) Security of tenure, that is a legal guarantee against forced evictions, harassment and other threats;
- 2) Availability of services, materials, facilities and infrastructure such as safe drinking water, adequate sanitation, energy for cooking, heating, lighting, food storage or refuse disposal;
- 3) Affordability so that cost associated with housing must not threaten or compromise the occupants' enjoyment of other human rights;
- 4) Habitability, that is housing which provides physical safety, adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards;
- 5) Accessibility so that the specific needs of disadvantaged and marginalized groups are taken into account;
- 6) Location of housing that allows access to employment opportunities, health-care services, schools, childcare centres and other social facilities, and is equally not located in polluted or dangerous areas; and
- 7) Cultural adequacy so that housing respects and allows for the expression of cultural identity.⁸

Homelessness is a prima facie violation of the human right to adequate housing as part of the right to an adequate standard of living, according to Article 11(1) of the ICESCR to which Austria is party since 1978. Homelessness is considered one of the most extreme violations of the right to adequate housing.⁹ The right to adequate housing is also enshrined in several other international and regional human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR)¹⁰, the Convention on the Rights of the Child (CRC)¹¹, International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)¹² and the European Social Charter.¹³

⁴ Report to the Human Rights Council, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, UN Doc. A/HRC/37/53, para.1, https://ap.ohchr.org/documents/dpage_e.aspx?si=A%2FHRC%2F37%2F53

⁵ Committee on Economic, Social and Cultural Rights (CESCR), General Comment 4 on the Right to adequate housing (Article 11(1) of the International Covenant on Economic, Social and Cultural Rights), UN Doc. E/1992/23 paras 1, 6.

⁶ UN Special Rapporteur, UN Doc. A/HRC/37/53 p. 9.

⁷ Office of the High Commissioner of Human Rights (OHCHR), *Right to Adequate Housing*, <https://www.ohchr.org/EN/Issues/Housing/RightToHousing/Pages/RighttoAdequateHousingIndex.aspx>

⁸ CESCR General Comment 4 on the right to adequate housing

⁹ UN Special Rapporteur, UN Doc. A/HRC/43/43, para.30.

¹⁰ International Covenant on Civil and Political Rights, Article 17.

¹¹ UN Convention on the Rights of the Child, Article 27.

¹² International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 5.

¹³ European Social Charter, revised version, Article 31.

People who experience homelessness often endure violations of other human rights, such as the rights to life, security of a person, health, private and family life and may be at heightened risk of being subjected to cruel and inhuman treatment,¹⁴ or the right to non-discrimination.¹⁵

1.1 HOMELESSNESS IN AUSTRIA

OVERVIEW

Austria is internationally considered a good practice with regards to the right to housing. This is especially due to its social housing segment, particularly in Vienna, and its supplementing homelessness assistance services.¹⁶

The CESCR, the body of independent experts mandated to monitor the implementation of the Covenant, to which Austria is a party, explicitly stated in its General Comment No. 3 that “a State party in which any significant number of individuals is deprived ... of basic shelter and housing ... is, prima facie, failing to discharge its obligations under the Covenant.”¹⁷

In Austria, more than 22.000 people experienced homelessness in 2019. There is no legal basis for the provision of homeless assistance services neither in the Austrian constitution nor in the federal law. Moreover, there is no disaggregated data on homelessness in Austria (see chapter 4.1), making it difficult to assess all facets of homelessness. Since the 1980s, existing homeless services, that were initially provided by charities or social organizations, were integrated into regional social assistance acts (‘länderspezifische Sozialhilfegesetze’) thus, making these services a competence of the federal states.

In Austria, the homeless assistance services mainly consist of:

- Prevention services,
- Counselling and supporting services,
- Emergency services,
- Mobile supported housing services,
- Temporary accommodation services.

Due to the regional differences and historic developments, the homeless assistance services are not uniform but differ from one federal state to another. Furthermore, these services differ in their thresholds of access, their scope, and the duration of support among and within the federal states.

The first point of contact for individuals experiencing or at risk of experiencing homelessness, therefore also differs from one federal state to the other. The official federal government website provides a (non-exhaustive) list with possible contacts¹⁸ but mostly these are social organizations or emergency service providers.¹⁹

¹⁴ See *Jasin v. Denmark*, UN Human Rights Committee, [CCPR/C/114/D/2360/2014](#); *A.H.G v. Canada*, UN Doc. UN Human Rights Committee, [CCPR/C/113/D/2091/2011](#); in *NH and Others v France*, the European Court of Human Rights (ECtHR) had found that sleeping rough, without access to sanitary facilities, having no means of subsistence and constantly in fear of being attacked or robbed, amounted to degrading treatment, and a lack of respect for the applicants’ dignity. Combined with the lack of an appropriate response from the French authorities such living conditions had exceeded the threshold of severity for the purposes of Article 3 of the European Convention on Human Rights (ECHR); *N.H. and Others v. France* (28820/13, 75547/13 and 13114/15), European Court of Human Rights (ECtHR)

¹⁵ Office of the High Commissioner of Human Rights (OHCHR), *Right to Adequate Housing*, <https://www.ohchr.org/EN/Issues/Housing/RightToHousing/Pages/RighttoAdequateHousingIndex.aspx>

¹⁶ See U.S. Department of Housing and Urban Development, Vienna’s Unique Social Housing Program, https://www.huduser.gov/portal/pdredge/pdr_edge_featd_article_011314.html; Urban Agenda for the EU, Policy Guidelines for Affordable Housing in European Cities, City of Vienna, 2018, https://www.iut.nu/wp-content/uploads/2018/12/HfA_Brosch%C3%BCre_7_12_Ansicht-002.pdf

¹⁷ CESCR, General Comment 3, para 10

¹⁸ See [www.oesterreich.gv.at, Beratung und Betreuung bei \(drohendem\) Wohnungsverlust](https://www.oesterreich.gv.at/themen/soziales/armut/2/Seite.1694300.html), <https://www.oesterreich.gv.at/themen/soziales/armut/2/Seite.1694300.html>

¹⁹ In Vienna, the Vienna Social Fund (Fonds Soziales Wien [FSW]) carries its own homeless service facilities, such as shelters and day centres, and cooperates directly with other social institutions offering homelessness assistance services through funding. In Upper Austria, Salzburg, Styria and Tyrol, however, the respective regional governments and municipalities, outsource the provision of homeless assistance services to social organizations.

However, regardless of the federal state, people who are not eligible for social assistance in that federal state, are excluded from accessing homeless assistance services altogether in the respective federal state. The only support accessible for this group of people are the so-called winter packages, considered a mere humanitarian measure to ensure that people do not sleep rough during the coldest months of the year.

In case a person is eligible for the homeless assistance services in a federal state, they can access the homeless assistance services and would move through the different stages of the so-called 'stage-model' (*Stufenmodell*) which is still the prevalent approach within the homeless assistance services in Austria.²⁰

The 'stage-model' is characterized by low-threshold emergency services, such as emergency shelters at the first step of the system, which are generally limited to a few months; and independent housing at the end of the system, with various forms of supported housing in between.¹ Notably, mandatory supervision and support are preconditions for a person to be eventually able to live in their own and secure apartment again, either by accessing the social housing segment or the private rental market.

HOMELESSNESS IN NUMBERS

There is no official international definition of homelessness, and the number of existing definitions reflect the different shapes and forms homelessness can take, from its most visible manifestation of sleeping rough without any shelter to different forms of emergency or temporary accommodation. The definition of the European typology for homelessness and housing exclusion (ETHOS) developed by the European umbrella organization for homeless assistance (FEANTSA), used by most organizations working on homelessness in Austria, differentiates between rooflessness (being without a shelter of any kind, sleeping rough); houselessness (having a place to sleep but temporary in institutions or shelter); living in insecure housing (being threatened with severe exclusion due to insecure tenancies, eviction, domestic violence); and living in inadequate housing (in caravans on illegal campsites, in unfit housing, in extreme overcrowding).²¹

According to the statistical office Statistik Austria, 22,038 people were registered homeless in Austria in 2019, 31% of them women.²² These figures however are incomplete: Statistik Austria itself states that the indicator used only captures the bottom line of homelessness in the country, that is those officially registered as homeless. However, the statistical methods used don't capture those not using homeless assistance services, or who are not registered with the municipality as experiencing homelessness, and therefore are likely not able to capture all forms of homelessness, in particular those affecting women.²³

In 2013, the CESCR urged Austria to improve the disaggregated data it collects on homelessness, but detailed disaggregated data is still not available. It can be estimated that the real numbers are much higher because not all those experiencing homelessness register their residence at a shelter or at the municipality. It also cannot capture all those who are not using shelters but staying with friends, family or others: in particular, forms of women's homelessness are often obscured by the fact that women are indirectly forced to often remain in or enter abusive relationships due to the prevailing structural inequalities in Austria, such as the persisting high gender pay gap and the fact that women are more often working in non-standard forms of employment, thereby becoming more economically dependent on partners or friends, which simultaneously puts women at heightened risk experiencing abuse or sexual and gender-based violence.²⁴ Consequently, these women do not appear in the official statistics, adding additional barriers for them to access adequate support.

Homelessness can take such a toll as to be lethal. In Austria, men who live in extreme poverty die on average eleven years earlier compared to men not living in extreme poverty; women who live in extreme

²⁰ Volker Busch-Geertsemay, BAWO, *Festschrift H Housing First – Housing Plus*, pp. 110 – 125;

²¹ FEANTSA, ETHOS - European Typology on Homelessness and Housing Exclusion, <https://www.feantsa.org/en/toolkit/2005/04/01/ethos-typology-on-homelessness-and-housing-exclusion>.

²² Statistik Austria uses an indicator combining those who are formally registered as homeless with statistics of service users from homelessness services providing temporary accommodation.

²³ Statistik Austria, *Kennzahlen zu Lebensbedingungen 2019 - Indikatoren für soziale Inklusion in Österreich, 2020*, https://pic.statistik.at/wcm/idc/idcplg?IdcService=GET_PDF_FILE&RevisionSelectionMethod=LatestReleased&dDocName=125253; T. Glaser, R. Heuberger, *Standard-Dokumentation Metainformationen (Definitionen, Erläuterungen, Methoden, Qualität) zu EU-SILC 2018*, Statistik Austria, 2019. Notably, the latest official statistics by the Ministry of Social Affairs, Health, Care and Consumer Protection are from 2018 and use data collected from different temporary accommodation services – showing a discrepancy in the data collection methodology. According to the Ministry, 11,383 persons were homeless in 2018.

²⁴ neunerhaus, *Wohnungslosigkeit ist oft unsichtbar*, <https://www.neunerhaus.at/unsichtbar/>; Interview with representative of Autonome Österreichische Frauenhäuser, 22 March 2022, online

poverty die on average four years earlier. The mortality rate of a person in Austria who experiences homelessness is estimated to be 20 years earlier than those not experiencing homelessness.²⁵

1.2 “YOU DON’T HAVE TO FEEL ASHAMED - IT CAN HAPPEN TO ANYBODY”²⁶ - EXPERIENCES OF HOMELESSNESS IN AUSTRIA

Every person who experiences homelessness has a unique and distinct personal story. The chain of events that lead into homelessness is highly individual as various individual factors and structural problems intersect at different times²⁷ – as will be elaborated in chapter 3. For many people with experience in homelessness, homelessness was not the result of one particular event in their lives, but an overlap of multiple life events and factors, as the story of “Johannes” demonstrates:

“In 2012, I lost my apartment, my marriage fell apart and I lost my job. How could it come this far? I had a lawsuit against my employer because of my chain employment contracts. The court also agreed with me and stated that I had to get a permanent contract. But then I was dismissed. You fight for your rights and then you get punished [for it]. ... I didn’t get unemployment benefits after nine years of working, because the lawsuit against my employer meant I was in a limbo. No unemployment money, no employment. Other social benefits were not even a question for me. I didn’t want to be on the teat of the state, also because I had savings. I was an orchestra musician and also taught [students].

The competitive pressure as an orchestra musician is brutal and enormous. You are being exploited. At the time, I was 35 years old. That’s a problematic age for a musician in an orchestra, because you are already being side-lined. You no longer get invitations to auditions. Young musicians are preferred. ... I was harassed by my employer at that point because my employer simply didn’t let me show up for work anymore. My wife played also in the same orchestra.

[My] marriage fell apart because it was difficult on her, too – maybe even more than for me, because she always had to be on duty. This pressure on our relationship ... Our relationship couldn’t take it [anymore]. I tried to make it [on my own] and went to Vienna. I was able to find shelter with a friend. It was an illusion to find your own apartment. Where is the money [for it] supposed to come from, if you don’t have any?”²⁸

If personal social networks are missing or disappear, individuals are further put at heightened risk of experiencing homelessness, as **Regina** explained to Amnesty International:

“I had to figure out where to stay. I stayed here and there. Suddenly, all my contacts were gone. They gave excuses [as to] why I couldn’t stay with them. All my friends and contacts vanished.”²⁹

This testimony by Regina indicates that people who experience homelessness are still socially stigmatized and discriminated in Austria, as the social construction of ‘the homeless’, as discussed in chapter 2.1, is still prevailing.

Articulating the sense of exclusion that many people experiencing homelessness have to face, “Johannes”, told Amnesty International:

“When you are excluded, that is cruel. It is a cruel shadow society. You represent everything that society wants to exclude, every stigma, every prejudice. It’s so difficult to bear and it’s more difficult than anything else. ... You do not dare to accept help because of shame and pride. You do not want to become dependent.”³⁰

²⁵ Statistik Austria, *Eingliederungsindikatoren*, 2017, https://www.sozialministerium.at/dam/jcr:0c842498-9b5f-4281-b331-21d84f8a01ba/ingliederungsindikatoren_2017__statfinal_rev1_2.pdf

²⁶ Interview with Priscilla, 17 January 2022, in person.

²⁷ See Fonds Soziales Wien, Kund:innen- und Mitarbeiter:innenbefragung: Betreute Wohnangebote der Wiener Wohnungslosenhilfe 2020, https://www.fsw.at/downloads/kundinnenbefragung/KundInnenbefragung_WWH_2020_Ergebnisse.pdf

²⁸ Interview with “Johannes”, (name changed for security reasons) 18 November 2021, in person

²⁹ Interview with Regina, 20 October 2021, in person

³⁰ Interview with “Johannes”, (name changed for security reasons) 18 November 2021, in person

1.3 THE IMPACT OF COVID-19 PANDEMIC ON HOMELESSNESS IN AUSTRIA

The Covid-19 pandemic acted as a magnifying glass, laying bare pre-existing and structural inequalities in the housing system worldwide,³¹ including in Austria. For a great number of people in Austria, the pandemic and the subsequent lockdowns meant job loss, short-term-working schemes, loss of income or less income, reduced working hours and unpaid sick leave. People who were working in non-standard employment were disproportionately affected.³² As a result of the economic insecurity and precarity caused by the immediate and mediate effects of the pandemic, thousands of people in Austria increasingly struggle to be able to pay their rents, mortgages or utility bills.³³ Such a constant fear of existential crisis causes a high level of anxiety and stress for the persons affected that can eventually negatively impact their right to physical and mental health and well-being.³⁴

In addition, increasing rent and housing prices disproportionately affect persons living in poverty or at risk of it. This is especially concerning as persons living in poverty are already more likely to live in inadequate housing due to overcrowding.³⁵ According to Eurostat, 14.1% of the Austrian population lived in overcrowded housing in 2020.³⁶ Living in overcrowded homes affects all aspects of a person's life in their homes, such as sleeping, eating, educational life and so on. Overcrowded homes therefore can have an adverse impact on a person's right to life, the security of a person, health and private life.

Numerous organizations and institutions have warned about both the immediate need for everyone to have a safe home or shelter during the ongoing pandemic crisis, during which many countries ordered national lockdowns and advised people to "stay at home"; and about the expected economic downturn resulting from the pandemic.³⁷ While Austria has introduced temporary emergency relief and accommodation measures with regard to evictions and homelessness in the context of the pandemic, there is concern that these measures are inadequate and only provide temporary relief.³⁸

Like Austria, many countries have responded, with varying levels of swiftness, to assist those who are homeless during the pandemic. While the pandemic has not solved the global homeless problem – indeed, the simultaneous ramping up of evictions threatens to increase the number of homeless persons – the measures adopted show that, with sufficient funding and political prioritization, governments can help to end homelessness. In Austria, the additional assistance provided to people affected by homelessness during the Covid-19 pandemic consisted of additional funding for eviction prevention and ensuring people would not be evicted due to rent arrears in this respect as well as to keep emergency shelters open 24/7, illustrating that homelessness is a problem that can be tackled by the Austrian authorities if there is political will.³⁹

Amnesty International hopes the findings contained in this briefing will highlight some of the key human rights concerns within the Austrian homelessness assistance system, and that the recommendations made

³¹ Report to General Assembly, Special Rapporteur on adequate housing, *COVID-19 and the right to adequate housing: impacts and the way forward*, UN Doc. A/75/148, para. 10, <https://www.undocs.org/A/75/148>. See also Amnesty International, *COVID-19 and the right to housing – a submission to the UN Special Rapporteur on Adequate Housing* (Index: IOR 40/2626/2020) <https://www.amnesty.org/en/documents/ior40/2626/2020/en/>

³² Amnesty International, "We just want some rights!" *Migrant care workers denied rights in Austria*" (Index: EUR 13/4326/2021), <https://www.amnesty.org/en/documents/eur13/4326/2021/en/>; see also, for example, Statistik Austria, *Arbeitsmarkt im Corona-Jahr 2020: 1,3% weniger Erwerbstätige, 19,0% mehr Arbeitslose*, https://www.statistik.at/web_de/presse/125561.html; Bundesministerium Finanzen, *FAQ: Das Corona-Hilfspaket der Österreichischen Bundesregierung*, <https://www.bmf.gv.at/public/top-themen/corona-hilfspaket-faq.html>

³³ The Austrian Chamber of Labour estimated that up to 26.000 persons could lose their apartment in 2021, <https://www.arbeiterkammer.at/hilfsfonds>. See also Evelyn Dawid, *Armutsbetroffene und die Corona-Krise 2.0. Eine zweite Erhebung zur sozialen Lage aus der Sicht von Betroffenen*, Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 2021. p 4, <https://www.sozialministerium.at/dam/jcr:1f7b593a-ea85-4792-866e-e67ac4053800/Bericht%20Corona-Krise%20&%20Armut%202.pdf>

³⁴ World Health Organization (WHO) Europe, *Impact of economic crises on mental health*, 2011, https://www.euro.who.int/_data/assets/pdf_file/0008/134999/e94837.pdf; Organization for Economic Cooperation and Development (OECD), *Tackling the mental health impact of the COVID-19 crisis: An integrated, whole-of-society response*, 2021, <https://www.oecd.org/coronavirus/policy-responses/tackling-the-mental-health-impact-of-the-covid-19-crisis-an-integrated-whole-of-society-response-0ccafa0b/>

³⁵ Household overcrowding is an alternative indicator of dwelling space, adopted by the European Union and an important dimension of housing quality.

³⁶ The EU average is 17.8 per cent. See Eurostat, *Quality of housing*, <https://ec.europa.eu/eurostat/cache/digpub/housing/bloc-1c.html?lang=en>.

³⁷ See, for example, Report to the General Assembly, UN Special Rapporteur on adequate housing, *Adequate housing as a component of the right to an adequate standard of living*, 20 July 2020, UN Doc. A/75/148, <https://www.undocs.org/A/75/148>; FEANTSA, *European Homelessness and COVID 19*, 1 April 2021, <https://www.feantsa.org/en/other-observatory-publications/2021/04/01/european-homelessness-and-covid-19>

³⁸ As a first response, the federal government introduced an eviction prevention mechanism for people who were in rent arrears due to the Covid-19 pandemic, but initially only for rent arrears between April – June 2020. In November 2021, the Austrian federal parliament approved an additional EUR 24 million spending on Covid-19-related eviction prevention programmes and to offer people financial relief. Please see chapter 3.1 for more details.

³⁹ UN Special Rapporteur on adequate housing, *COVID-19 and the right to adequate housing: impacts and the way forward*, UN Doc. A/75/148, para. 14

at the end of the briefing will assist the authorities in taking the action needed and required under international law to improve the situation and ensure people's human right to adequate housing in Austria is respected, protected and fulfilled.

2. THE LACK OF A LEGAL BASIS FOR THE PROVISION OF HOMELESS ASSISTANCE SERVICES IN AUSTRIA

“If housing was a human right, I wouldn't live like this!”⁴⁰

Carmen, who experienced homelessness in Vienna

Austria ratified the ICESCR on 10 September 1978;⁴¹ and ratified the revised European Social Charter on 20 May 2011 but placed a reservation on its Article 31 on the right to housing.⁴² According to Article 2(1) ICESCR, Austria, as a state party, is required to give full effect to the ICESCR's provisions in national legislation. Moreover, Austria is responsible for the actions of any state organ (person or entity), based in any of its divisions (federal, provincial or local government), that act inconsistently with its international obligations.⁴³ This applies equally to any person acting as an agent of the state or on its institutions.

Further, as per Article 27 Vienna Convention on the Law of Treaties, “[a] party may not invoke the provisions of its internal law as justification for its failure to perform a treaty”.⁴⁴ Therefore, Austria remains bound to the ICESCR by virtue of its ratification, despite the fact that it has enacted a *Erfüllungsvorbehalt* (reservation to its execution) in its national legislation that prevents courts and administrative bodies from implementing it directly.⁴⁵

In this respect, the CESCR has repeatedly urged Austria to fully incorporate the ICESCR into its domestic legal order and ensure that victims of violations of economic, social and cultural rights have access to effective legal remedies.⁴⁶ The CESCR has further repeatedly recommended Austria to accept the individual complaints mechanism contained in the Optional Protocol to the ICESCR.⁴⁷ This was also a recommendation reiterated several times during Austria's Universal Periodic Reviews (UPR) before the UN Human Rights Council, most recently in 2021.⁴⁸

In its General Comment 4 on the right to adequate housing, the CESCR states that state parties are required to take all steps necessary to achieve the full realization of the rights set forth in the Covenant and that this “will almost invariably require the adoption of a national housing strategy”.⁴⁹ A human-rights based housing strategy or action plan is a composition of programmes and steps, addressing all relevant housing issues, including, among other things, homelessness and availability of affordable housing. These housing strategies aim to harmonize different domestic legislations as well as to provide effective coordination between the relevant ministries and local governments.⁵⁰

However, states cannot rely on the argument that taking steps towards elimination of homelessness may only be considered at a later stage of development, claiming that all economic, social and cultural rights are subject to progressive realization. The CESCR has clarified in its General Comment 4 that states must regardless of their state of development, take certain steps to realize the right to adequate housing immediately and that in this respect priority must be given to those social groups living in unfavourable conditions.⁵¹ Obviously, sleeping rough or having no access to adequate housing at all, means living in one of the most unfavourable conditions. Preventing and eliminating homelessness is a “minimum core

⁴⁰ Interview with Carmen, 5 November 2021, in person

⁴¹ UN Human Rights Treaty Bodies, Ratification Status by country, Austria, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=10&Lang=EN

⁴² Article 31 ESC covers three aspects of the right to housing, namely that Parties undertake to take measures designed: (1) to promote access to housing of an adequate standard; (2) to prevent and reduce homelessness with a view to its gradual elimination; and (3) to make the price of housing accessible to those without adequate resources. See also European Committee of Social Rights, First report of the non-accepted provisions of the European Social Charter, Austria, September 2016, <https://rm.coe.int/168070729c>

⁴³ CESCR, General Comment No. 4, para. 12

⁴⁴ United Nations, Vienna Convention on the Law of the Treaties, 1969

⁴⁵ Consolidated Federal Law, Complete Legislation for the International Covenant on Economic, Social and Cultural Rights, version of 2 July 2022, BGBl. 590/1978

⁴⁶ CESCR Concluding Observations on the third (2005) and fourth (2013) periodic report of Austria, available at

⁴⁷ CESCR Concluding Observations on the third (2005) and fourth (2013) periodic report of Austria

⁴⁸ Human Rights Council, Report of the Working Group on the Universal Periodic Review, Austria, A/HRC/47/12, 9 April 2021, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/084/50/PDF/G2108450.pdf?OpenElement>

⁴⁹ CESCR, General Comment No. 4, para. 12

⁵⁰ CESCR, General Comment No. 4, para. 12 and UN Special Rapporteur, UN Doc. A/HRC/43/43

⁵¹ CESCR, General Comment 4, para. 11

obligation [of States] to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights” under the ICESCR.⁵²

Furthermore, in its General Comment 4, the CESCR also underlined that an additional key purpose of a national housing strategy is to “reflect genuine and effective consultation with, and participation by, all of those affected, including the homeless, the inadequately housed and their representatives”.⁵³ Similarly, the Special Rapporteur on the right to adequate housing emphasized that “affected individuals and communities shall have the opportunity to meaningful participation and to influence related policy outcomes as they provide expertise due to their life experiences”.⁵⁴

2.1 AUSTRIA FAILS TO GIVE FULL EFFECT TO THE RIGHT TO HOUSING

The Austrian constitution does not enshrine a right to adequate housing nor is there a legal basis for the provision of homeless services at the national level. Austria’s *Erfüllungsvorbehalt* on the ICESCR further means that individuals cannot directly rely on the ICESCR before national courts when alleging its violations, such as regarding the right to adequate housing according to Article 11(1) ICESCR; nor can rightsholders access to the individual complaints mechanism under the Optional Protocol to the ICESCR which Austria has not ratified.

Nevertheless, the CESCR already clarified that “ensuring effective judicial remedies for the right to adequate housing is an immediate obligation of States, since there cannot be a right without a remedy to protect it”.⁵⁵ Moreover, as a state party to the ICESCR, Austria has the immediate obligation to address homelessness and provide persons with experience in homelessness with shelter. While it is acknowledged that all levels of government, including regional and municipal ones, are accountable to guaranteeing and ensuring access to adequate housing, it is nonetheless the legal obligation of the state to be a key actor and regulator in this respect.⁵⁶

This role falls on the federal government of Austria. However, in accordance with Article 15(a) of the Austrian Federal Constitutional Law, the federal states are responsible for preventing and eliminating homelessness and ensuring the provision of homeless services in their respective regions.⁵⁷ Consequently, there is not one national homeless assistance service but nine different regional ones. Therefore, the legal basis for these services is not to be found in the Austrian Constitution or federal law but in the respective regional social assistance laws (*Sozialhilfegesetze*).⁵⁸ These laws regulate the social institutions providing housing and shelter as well as the general requirements of eligibility and accessibility.⁵⁹ Due to the regional differences, the homeless assistance services did not develop uniformly but differ from one federal state to another; contributing to a fragmented system.

THE LACK OF A LEGAL PROVISION'S EFFECT ON PEOPLE

The UN Special Rapporteur on adequate housing advocates for a human rights compliant understanding of homelessness, which, apart from its physical aspects also recognizes the social aspects of the absence of a home, that is a secure place to establish a family or social relationships and participate in community life. Secondly, such a definition should incorporate structural and institutional reasons for homelessness based on systemic discrimination and social exclusion, exacerbated by the social construction of the ostracized group of ‘the homeless’ which reinforces discrimination and stigmatization. As a third dimension, understanding homelessness must put those affected in the centre of social transformation which is required to affect change and realize the right to adequate housing.⁶⁰

⁵² CESCR, General Comment 3, para. 10; and UN Doc. A/HRC/31/54, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

⁵³ CESCR, General Comment 4, para. 13

⁵⁴ UN Special Rapporteur on adequate housing, UN Doc. A/HRC/43/43, p. 6

⁵⁵ Special Rapporteur on adequate housing, UN Doc. A/HRC/31/54, para. 50

⁵⁶ Special Rapporteur on adequate housing, UN Doc. A/HRC/37/53, para. 13. The guidelines further specify that a national strategy should include a coordination for all areas of relevant policies for a coherent implementation of the right to housing. In addition, legislation must clearly establish the division of responsibilities and obligations between local, regional and national governments with regard to the right to housing.

⁵⁷ Bundes-Verfassungsgesetz, Artikel 15a., <https://www.ris.bka.gv.at/eli/bgb/1930/1/A15a/NOR40045742>

⁵⁸ BAWO, Grundsatzprogramm der Wohnungslosenhilfe in Österreich, Innsbruck, April 1998

⁵⁹ BAWO, Grundsatzprogramm der Wohnungslosenhilfe in Österreich, Innsbruck, April 1998

⁶⁰ UN Special Rapporteur on adequate housing, UN Doc. A/HRC/31/54, para. 19

A human rights-based definition of homelessness therefore opposes “moral” explanations of homelessness as personal failures to be solved with acts of charity and instead reveals patterns of inequality and injustice that deny those who are homeless their rights to be equal members of society”.⁶¹ This social construction of “the homeless” is the theory that each person experiences reality differently, linked to their individual social context, ultimately recognizing that reality is a subjective experience. In relation to homelessness, such individual interpretations see homelessness as the result of personal deficiencies, such as drug use and social disaffiliation, and disregard structural interpretations which suggest that it is the result of systemic factors, such as lack of affordable housing and employment opportunities.⁶² The Special Rapporteur on adequate housing further noted that this social construction of “the homeless” is reinforced by the depiction and treatment of persons experiencing homelessness as “morally inferior, undeserving of assistance and authors of their own misfortune”, with the consequence that discrimination is further embedded in society.⁶³

In interview, Jan expressed his wish for every person experiencing homelessness to be treated as an individual rather than a “category”: What I wish for is that every person is looked at individually... no matter who you are, where you are coming from or what your story is. The person should be at the centre. So that people are not looked at as a group of “the homeless” but as individual persons, no matter why they are homeless. A person should be supported to live a life they can be content with.”⁶⁴

In Austria the public perception and the social construction of “the homeless” also reflects the notion that housing is primarily a commodity and not a right that people are entitled to.⁶⁵ Based on these paradigms of individualism and self-reliance, homelessness continues to be subject to extreme social stigma, degrading rightsholders to petitioners, and thereby further increasing the difficulties for many of those affected to assert their entitlements and rights. This situation, coupled with the lack of legal provisions for homelessness assistance on national level, may negatively impact people's recourse to redress further.

2.2 THE LACK OF A NATIONAL HOUSING STRATEGY

Due to the lack of a legal recognition of the right to housing in and the provision of homeless assistance service through a national framework, the system is subsequently fragmented and unequal in its provision, accessibility and availability across the country. This fragmentation is further exacerbated by the absence of a national housing strategy. The CESCR has criticized Austria for failing to adopt a nation-wide housing strategy,⁶⁶ which is crucial not only to provide housing, but also to address gaps and inequalities in the existing system of homeless assistance services.⁶⁷ A housing strategy is also critical in providing “opportunities to review and change policies and programmes to ensure their efficacy and challenge[s] the stigmatization, marginalization and discrimination that lies behind failures of housing systems”.⁶⁸ FEANTSA noted in its annual overviews that the decline in homelessness correlates with the implementation of long-term strategies of successful cooperation between the state, local authorities and local stakeholders, and when approaching homelessness by understanding it as a human rights violation.⁶⁹

In the absence of a national housing strategy in Austria, some federal states have filled this void and adopted their own strategies for the system of homeless assistance services: In 2019, for instance, the FSW,⁷⁰ adopted a strategy on the system of homeless services in Vienna, stipulating its vision and

⁶¹ UN Special Rapporteur on adequate housing, UN Doc. A/HRC/31/54, para. 18

⁶² Courtney Cronley, *Unraveling the Social Construction of Homelessness*, 2010, Journal of Human Behavior in the Social Environment, pp.319-33, <https://www.tandfonline.com/doi/abs/10.1080/10911350903269955>

⁶³ UN Special Rapporteur on adequate housing, UN Doc. A/HRC/31/54

⁶⁴ Interview with Jan, 23. November 2021, in person

⁶⁵ See https://www.armutskonferenz.at/media/sozialrechtsnetz_recht_auf_wohnen_2021_1.pdf and

<https://www.fsw.at/downloads/kundinnenbefragung/Forschungsbericht-Chancenhaeuser.pdf>

⁶⁶ CESCR, Concluding Observations on Austria, 13 December 2013, UN Doc. E/C.12/AUT/CO/4, para. 20

⁶⁷ Special Rapporteur on adequate housing, UN Doc. A/HRC/37/53, para. 7

⁶⁸ Special Rapporteur on adequate housing, UN Doc. A/HRC/37/53, para. 7.

⁶⁹ FEANTSA, Second overview of housing exclusion in Europe, 2017, p. 69, https://www.feantsa.org/download/gb_housing-exclusion-report_complete_20178613899107250251219.pdf; FEANTSA, Third overview of housing exclusion in Europe, 2018, pp.82-84,

<https://www.feantsa.org/download/full-report-en1029873431323901915.pdf>; FEANTSA, Sixth overview of housing exclusion in Europe, 2021,

https://www.feantsa.org/public/user/Resources/reports/2021/6th_Overview_of_Housing_Exclusion_in_Europe_2021_EN.pdf

⁷⁰ FSW, *Die Wiener Wohnungslosenhilfe - ein Überblick*, <https://2016.fsw.at/p/wiener-wohnungslosenhilfe>; FSW, *Die Entwicklung des Fonds Soziales Wien*, <https://www.fsw.at/p/entwicklung-des-fonds-soziales-wien>

identifying the steps required for its realization.⁷¹ Notably, the guiding principles of FSW's strategy for 2022 are immediate and direct support for persons experiencing homelessness, the priority of wrap-around support in housing, the flexibility and continuity of support, and autonomy and privacy at the centre of all services.⁷²

No general law exists that requires an implementation of regional strategies. While certain aspects of this strategy by the FSW can be considered good practice, it does not compensate for the lack of a national housing strategy, especially as Vienna was the only federal state analyzed in this briefing that adopted a housing strategy. This leads to discrepancies in available services across the country. Depending on in what region an individual faces homelessness, their options in taking up a service might be either broad or limited.

This demonstrates another gap in the Austrian patchwork system of homeless assistance services, namely the lack of a common approach, which is further demonstrated by the lack of structured dialogue between the authorities at federal and regional levels. Such a platform for dialogue and exchange of information, good practice as well as lessons learned is consequently limited in the Austrian context. Experts from the FSW interviewed expressed a wish for closer cooperation between the federal states.⁷³ According to the Ministry of Social Affairs, Health, Care and Consumer Protection, there is regular exchange with BAWO (*Bundesarbeitsgemeinschaft für Wohnungslose*); the Austrian Platform against Poverty and Social Exclusion serves as another forum for exchange and discussion. Yet, these platforms do not compensate for the lack of structured and periodic exchange at federal level. Additionally, the Federal Ministry of Social Affairs, Health, Care and Consumer Protection also acknowledged in a meeting with Amnesty International that there was little exchange between the Ministry and the federal states. However, representatives of the Ministry also mentioned that in case the federal states would express a wish for more structural exchange, the Ministry would be happy to comply with such a wish.⁷⁴

Moreover, in the absence of a national housing strategy, meaningful participation of persons with experience in homelessness is limited at the federal level and may take up the forms of ad-hoc working groups or events. This limited participation is often considered ineffective, especially by the persons with experiences in homelessness. **Hedy**, an activist who has experience in homelessness, told Amnesty International: "It's very perfidious, if [the politicians] don't know any further, then they set up a working group, invite people [to talk about it]. The politicians go out and say we'll do something, but nothing happens."⁷⁵

In sum, with the absence of a human-rights based national housing strategy, Austria not only fails to comply with the CESCR's recommendation of adopting one, but also fails to harmonize and mend the fragmented system, including to address current gaps and problems in regard to housing and the homelessness assistance service system in the country. In addition, Austria does not provide for meaningful participation of individuals with experience in homelessness in the development of relevant policies and programmes. This lack of meaningful participation not only perpetuates stigmatization and marginalization of people experiencing homelessness as they cannot challenge policies but also indicates the existing manifestation of marginalization of individuals experiencing homelessness.

⁷¹ According the strategy by the Fonds Soziales Wien, its vision is to facilitate that persons experiencing homelessness live autonomously. See FSW, *Wiener Wohnungslosenhilfe Strategie 2022*, <https://www.fsw.at/downloads/informationen-fuer-organisationen/Wiener-Wohnungslosenhilfe-Strategie-2022.1625056362.pdf>

⁷² FSW, *Wiener Wohnungslosenhilfe Strategie 2022*, p. 20, <https://www.fsw.at/downloads/informationen-fuer-organisationen/Wiener-Wohnungslosenhilfe-Strategie-2022.1625056362.pdf>

⁷³ Interview with representatives of Fonds Soziales Wien, 11 November 2021, online.

⁷⁴ In person meeting with the Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 19 January 2022

⁷⁵ Interview with Hedy, 12 October 2021, in person

3. STRUCTURAL CAUSES FOR HOMELESSNESS AND THE LACK OF PREVENTION

“Society mustn’t forget, it’s about people... Every person should have a roof over their head and food and people should be able to afford something nice like [drinking] good coffee from a coffee mug – small things but they protect the dignity of a person.”⁷⁶

Ingrid, 65 years old, who lives in her own apartment that she secured via Housing First

According to Article 2 (1) ICESCR, Austria has the obligation to progressively realize the rights enshrined in the ICESCR. The CESCR, the body of independent experts mandated to monitor the implementation of the Covenant, stipulates in its General Comment 3 that “this principle obligation imposes an obligation on state parties to ‘move as expeditiously and effectively as possible towards this goal’”.⁷⁷ It further noted that any retrogressive measure “would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources”.⁷⁸

As a state party to the ICESCR, Article 2(2) obliges states to guarantee the rights enshrined in the Covenant without discrimination.⁷⁹ Article 14 CEDAW reaffirms the right to housing for women, free of discrimination. In addition, the UN Guidelines on Preventing Extreme Poverty recall a state’s obligation to progressively improve the living conditions of people living in poverty,⁸⁰ especially as they are the first to struggle with increasing housing and rental prices.

As regards the right to adequate housing, the CESCR also expressly underlines that it should not be interpreted in the narrow sense, laying down certain minimum criteria in its General Comment 4, including affordability; and elaborates that the costs associated with housing must not threaten or compromise the occupants’ enjoyment of other human rights.⁸¹ Housing is considered affordable if the costs do not exceed such a level as to threaten the attainment and satisfaction of other basic needs.⁸² Therefore, states should ensure that the percentage of housing-related costs is commensurate with income levels. This might require states to adopt housing subsidies for those persons who cannot afford adequate housing otherwise.⁸³ The European Committee for Social Rights (ECSR) considers housing affordable if a household can afford to pay the initial costs and other related expenses, such as utility bills and charges, on a long-term basis, while still being able to maintain a minimum standard of living.⁸⁴

Forced evictions are recognized as a gross violation of the right to adequate housing, and evictions must not render people homeless in order to comply with Article 11 ICESCR. Consequently, states have to implement programmes and measures to prevent evictions and its underlying causes.⁸⁵ Guideline No. 6 for the implementation of the right to adequate housing stipulates further any eviction under domestic law must fully comply with human rights and respect the general principles of reasonableness, proportionality and due process, and access to justice must be ensured throughout the process and not just when an eviction is imminent.⁸⁶ In that regard, it is crucial for authorities to provide those affected with legal remedies, and effective procedural guarantees, including a right to adequate compensation, which may have a deterrent effect on planned evictions.⁸⁷ According to the guidelines, evictions should only occur as a last resort and after a full exploration of alternative means, in case of rent arrears or mortgage foreclosure.⁸⁸

⁷⁶ Interview with Ingrid, 25 March 2022, in person

⁷⁷ CESCR, General Comment 3, para. 9

⁷⁸ CESCR, General Comment 3, para. 9

⁷⁹ According to CESCR General Comment No 20, the list of prohibited grounds of discrimination is not exhaustive.

⁸⁰ OHCHR, *Guiding Principles on Extreme Poverty and Human Rights*, para. 73, https://www.ohchr.org/sites/default/files/Documents/Publications/OHCHR_ExtremePovertyandHumanRights_EN.pdf

⁸¹ CESCR, General Comment 4, para. 8

⁸² CESCR, General Comment 4, para. 8

⁸³ Report of the Special Rapporteur on adequate housing, UN Doc. A/HRC/40/8, 14 October 2021, para. 31

⁸⁴ Commissioner of Human Rights, *The right to affordable housing: Europe’s neglected duty*, 2020, <https://www.coe.int/en/web/commissioner/-/the-right-to-affordable-housing-europe-s-neglected-duty>

⁸⁵ UN Special Rapporteur on adequate housing, UN Doc. A/HRC/43/43, para. 38 (d)

⁸⁶ UN Special Rapporteur on adequate housing, UN Doc. A/HRC/43/43, para. 38

⁸⁷ CESCR, General Comment 7, para 13; OHCHR / UN Habitat, *Joint factsheet on right to housing*, https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf

⁸⁸ Special Rapporteur on adequate housing, UN Doc. A/HRC/43/43, para. 38(c)

In general, Austria has a duty to respect, protect and fulfil women’s right to equal pay for equal work, and has been urged by CEDAW to take action on this and several related areas to bring it into compliance with its treaty obligations.⁸⁹ The Special Rapporteur on adequate housing has also underlined that it is “important to take into account the gender disparity in income and access to financial resources” when defining the criteria affordability in this respect.⁹⁰

The Commissioner for Human Rights of the Council of Europe highlighted that violence against women can lead to a violation of women’s right to housing and called upon states to ensure that “domestic violence laws include provisions to protect women’s right to housing”.⁹¹ In this respect, and as a state party to the Istanbul Convention, Austria has the duty to protect women against all forms of violence and has been urged by CEDAW and the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) to ensure the sufficient provision of women’s shelters across the country.⁹²

3.1 THE STRUCTURAL CAUSES OF HOMELESSNESS IN AUSTRIA

Homelessness is considered an interplay between personal and structural factors. Understanding these dynamic and interdependent factors and how they interact is in general a prerequisite for developing and adopting more targeted strategies and programmes to prevent homelessness and housing exclusion.

Considering structural causes for homelessness, in Austria, as in many other member states of the European Union (EU), rent and housing prices have been increasing over the last decade.⁹³ Many experts interviewed by Amnesty International expressed concern that there is an increasing shortage of affordable adequate housing. Persons living in poverty or at risk of it particularly struggle to be able to afford adequate housing, both on the private rental market as well as the social housing segment.⁹⁴

Several experts interviewed mentioned that it was already possible to identify a deterioration for people living in poverty due to the Basic Act on Social Assistance (*Sozialhilfe-Grundsatzgesetz*), adopted in 2019 and heavily criticized by Amnesty International and other NGOs (see below chapter 3.1.3). As a result, people living in poverty have been confronted with a housing-cost overburden or live in overcrowded accommodation. The Covid-19 pandemic and its effects on the job market, including job loss and short-term-work schemes (so-called ‘*Corona-Kurzarbeitszeitmodell*’), have exacerbated their struggle.

In the interviews conducted by Amnesty International, experts as well as persons with experience in homelessness clearly expressed that there are certain structural factors that contribute to a heightened risk of homelessness. However, it was also stressed that specific groups of persons, including women but also young adults or sex workers (see chapter 3.3), face additional and to their situation specific risk factors that overall increase their risk of experiencing homelessness.

3.1.1 THE LACK OF AFFORDABLE HOUSING

In general, the housing market in Austria is divided into two parts: the home ownership and the rental market. The latter is divided into three segments: municipal housing (*Gemeindewohnung*), limited-profit housing (*Genossenschaftswohnung*) – both considered part of the social housing segment – and the private rental market.

⁸⁹ CEDAW Concluding Observations on Austria 2019, UN Doc. CEDAW/C/AUT/CO/9, para. 33

⁹⁰ UN Special Rapporteur on adequate housing, UN Doc. A/HRC/19/53, para. 46

⁹¹ Commissioner for Human Rights of the Council of Europe, Recommendation on the implementation of the right to housing CommDH(2009)5, 30 June 2009, p 18f

⁹² CEDAW, Concluding Observations on Austria 2019, UN Doc. CEDAW/C/AUT/CO/9, para. 23; GREVIO Baseline evaluation report on Austria, 2017, para. 107

⁹³ EUROSTAT 2021, Eurostat news, Rents up by 16%, house prices by 34% since 2010, 7 October 2021, <https://ec.europa.eu/eurostat/en/web/products-eurostat-news/-/ddn-20211007-1>.

⁹⁴ Austrian Broadcast Corporation (orf), *Mieten stiegen doppelt so stark wie Inflation*, 17 January 2022, <https://oesterreich.orf.at/stories/3138925/>

Despite an extensive system of social housing, particularly in Vienna, rents have been increasing throughout all segments in Austria, including the social housing segment, as experts noted.⁹⁵ According to an analysis by the thinktank Agenda Austria, rents in municipal housing increased in Austria on average by 35% and in the segment of limited-profit housing by 38% on average between 2010 and 2020.⁹⁶ Consequently, people increasingly struggle to be able to afford adequate housing.⁹⁷ This is exacerbated by a general shortage of affordable housing, as experts interviewed by Amnesty International noted, and the long-term consequences of the Covid-19 pandemic.⁹⁸

THE AUSTRIAN HOUSING MARKET

In 2020, almost 50% of all households in Austria were owner-occupied, whereas 43% were renter-occupied. The latter consisted of 17% municipal housing and 39% limited-profit housing. The remaining 44% of renter-owned households were part of the private rental market. However, these statistics differ greatly between the nine federal states. In Vienna, for instance, 77% of all households were renter-occupied and only 20% owner-occupied. Of those renter-occupied households 22% were municipal housing and 21% limited-profit housing, meaning that 43% of all dwellings in Vienna were part of the social housing segment - a specific characteristic of Vienna.

Figure 1: Renter-occupied housing in Austria and Vienna in 2020



Overview of renter-occupied housing in Austria and Vienna in 2020, disaggregated by housing provider. Amnesty International used the data available via Statistik Austria and the *Arbeiterkammer Wien*.⁹⁹

Several experts interviewed said that fixed-term rental contracts exacerbate the struggle for affordable housing. While it is generally possible to have permanent rental contracts, fixed-term rental contracts have become the norm since the 2000s, an expert from the tenancy association told Amnesty International.¹⁰⁰ Fixed-term contracts create insecurity as tenants cannot rely on their rental contract being extended; if a contract is extended, landlords have the bargaining power with regard to possible rent increases and can claim the usual market price. Without an extension, the search for an (affordable) apartment starts all over again, including costs for relocation, deposit and brokerage costs.¹⁰¹ For this reason, the legislation foresaw a redress: Section 16(7) of the Tenancy Law for instance stipulates that the rent of a fixed-term contract should be 25% less compared to a permanent. However, an expert of the Tenancy Association noted that this is frequently not the case in practice, as landlords do not have to fear any negative consequences for not complying with this provision.¹⁰²

⁹⁵ Agenda Austria, 2020, <https://www.agenda-austria.at/grafiken/mieten-steigen-in-allen-segmenten-2/>

⁹⁶ Agenda Austria, *Mieten steigen in allen Segmenten*, 17 January 2022, <https://www.agenda-austria.at/wp-content/uploads/2022/01/20220117-aa-gdw-p25uw-mieten.pdf>

⁹⁷ In principle, there is no rental cap in Austria. On the private market, the amount of rent may be set freely. However, exceptions may apply to dwellings where the so-called 'Mietrechtsgesetz' (Austrian Tenancy Act) and 'Richtwertgesetz' apply fully: For example, benchmarks for the maximum possible amount of rent are set for flats in old buildings, which were constructed between 1945 and 1953. Dwellings provided by the Limit-Profit Housing Association also lower in rent as specific regulations set forth by the regional laws of the respective federal states.

⁹⁸ Interview with representative of Austrian Tenancy Association, 25. November 2021, online

⁹⁹ Statistik Austria, *Wohnsituation*, 2021, https://www.statistik.at/web_de/statistiken/menschen_und_gesellschaft/wohnen/wohnsituation/index.html

¹⁰⁰ Interview with a representative of the Austrian tenancy association, 25 November.2021, online; also see GBV, 'Befristete Mietverträge zunehmend als Problem', 11 March 2019, for prevalence of fixed-term contracts in Austria.

¹⁰¹ Mietervereinigung AT, *AK und MVÖ: Mieter entlasten und Mieterhöhung stoppen*, 8 February 2022, [AK und MVÖ: Mieter entlasten und Mieterhöhung stoppen \(mietervereinigung.at\)](https://www.mietervereinigung.at)

¹⁰² Interview with a representative from Mietervereinigung, 25 November 2021, online

In order for tenants to challenge the rent, tenants can have their contracts reviewed by the tenants' association. However, an expert of the Austrian Tenants' Association noted that many people don't take up this possibility due to the fear of not having their fixed-term rental contract extended, and subsequently fear losing their apartment.¹⁰³ As a result, tenants are trapped in a situation where the rent of their fixed-term contracts is too high, especially in cities where housing is scarce. An expert working at *Fachstelle für Wohnungssicherung* (FAWOS) summarized the problem of the housing market in Austria as follows:

“The problem with affordable housing is the question, where do I even find affordable housing, especially if you are eligible for means-tested benefits or social assistance. There are only a few options and often there are only fixed-term rental contracts, ... every second or third newly signed rental contract is a fixed-term one. If one would like to have the rent checked, many are scared that their contract might not be extended. Unfortunately, we can't help then.”¹⁰⁴

Closely linked to the issue of affordability is the question of disposable income of a person. Austria notably has one of the highest gender-pay gaps in the European Union. In 2019, it was 19.9%.¹⁰⁵ Women are more likely to work in non-standard employment, such as part-time work and predominately carry out unpaid care work.¹⁰⁶ Due to these structural gender inequalities in the Austrian labour market, women earn less than men and are less financially independent. According to Statistik Austria, women, especially single parents are at greater risk of living in poverty. Older women are also at heightened risk of living in poverty, as due to the structural gender inequalities in the labour market, including the fact that care work is still considered predominately female, these women are not able to accumulate the same amount of relevant years for pension support compared to men.¹⁰⁷

There is also no statutory definition of affordable housing in the Austrian law and policy. In a meeting with the Ministry of Social Affairs, Health, Care and Consumer Protection, the representatives noted that there are different concepts of affordability, including one that is centred on the question of how much disposable income remains after housing costs are deducted.

The reference budget of the debt advice service (*Schuldnerberatung GmbH*) stipulates that in 2021, a single person household needed EUR 1.459 to cover all living and housing related expenses per month. Notably, the poverty line in Austria defined as 60% of the median income for a single person household, was EUR 1.328 in 2021.¹⁰⁸ In 2021, 1,222,000 persons in Austria¹⁰⁹ had an income below EUR 1.328, indicating that these individuals were not able to cover all necessary expenses, per reference budget of the debt advice service.

In sum, the rental and housing prices in Austria are increasing, leading to a situation where affordable housing has become even more scarce. Particularly affected by a lack of affordable housing are people living in poverty or at risk of it, especially women as their disposable income is generally less than that of men due to existing structural inequalities.¹¹⁰ In addition, the fact that fixed-term contracts have become

¹⁰³ Interview with a representative from Mietervereinigung, 25 November 2021, online

¹⁰⁴ Interview with a representative from FAWOS, 8 November 2021, in person

¹⁰⁵ Statistik Austria, Tabellenband EU SILC 2020, https://www.statistik.at/wcm/idc/idcplg?IdcService=GET_PDF_FILE&dDocName=125871

¹⁰⁶ Amnesty International, We just want some rights! Migrant care workers denied their rights in Austria, July 2021, (EUR 13/4326/2021), <https://www.amnesty.org/en/documents/eur13/4326/2021/en/>; European Trade Union Institute (ETUI), Non-standard workers and the self-employed in the EU: social protection in the Covid-19 pandemic, 2020, www.etui.org/sites/default/files/2021-03/Non-standard%20workers%20and%20the%20selfemployed%20in%20the%20EU%20social%20protection%20during%20the%20Covid-19%20pandemic-2021_0.pdf; Austrian Institute for Family Studies, *Frauen in der Arbeitswelt Erwerbsarbeitszeitmodelle und deren Potenzial für Frauenförderung und Geschlechtergleichstellung*, June 2020, https://www.oif.ac.at/fileadmin/user_upload/p_oif/Forschungsberichte/fb_32_frauen_in_der_arbeitswelt.pdf

¹⁰⁷ According to the results of the EU SILC 2020, women, in particular female single parents and older women are particularly at risk of poverty. See also Anti-Poverty Network (Armutskonferenz), Aktuelle Armutszahlen, <https://www.armutskonferenz.at/armut-in-oesterreich/aktuelle-armuts-und-verteilungszahlen.html>

¹⁰⁸ Schuldnerberatung, Referenzbudget 2021,

https://www.schuldenberatung.at/downloads/infodatenbank/referenzbudgets/Referenzbudgets_Aktualisierung_2021_EndV.pdf; BAWO, *Wohnen für Alle*, https://bawo.at/101/wp-content/uploads/2019/11/BAWO_2017_Wohnen_fuer_alle_Kurzversion.pdf

¹⁰⁹ Armutskonferenz, *Aktuelle Armutszahlen*, <https://www.armutskonferenz.at/armut-in-oesterreich/aktuelle-armuts-und-verteilungszahlen.html>. The numbers are based on an index which identifies the threshold of being below the 60% median income, thus they include people “at risk of poverty” and “extremely materially deprived” that is already experiencing poverty.

¹¹⁰ Statistik Austria, *Lebensstandard aus Geschlechterperspektive*, *Statistische Nachrichten 12/2011*,

https://www.statistik.at/wcm/idc/idcplg?IdcService=GET_PDF_FILE&RevisionSelectionMethod=LatestReleased&dDocName=072071; Armutskonferenz, *Verschärfte Frauenarmut durch Gesetzesentwurf Sozialhilfe*, <https://www.armutskonferenz.at/aktivaeten/frauen-armut/verschaeerfte-frauenarmut-durch-gesetzesentwurf-sozialhilfe.html>

the norm in Austria also means that people experience more insecurity, as tenants cannot rely on their rental contract being extended; if a contract is extended, landlords have the bargaining power with regard to possible rent increases and can claim the usual market price. Without an extension, the search for an (affordable) apartment starts all over again. In addition, Section 16 (7) of the Tenancy Act does not foresee any consequences for not complying with the provision.

3.1.2 POVERTY AS AN AGGRAVATING FACTOR

In 2020, 13.9% of the Austrian population – or 1,222,000 individuals – were at risk of or experiencing poverty,¹¹¹ meaning their income was less than 60% of the median income in Austria.¹¹² Apart from women, children, people experiencing long-term unemployment and migrants are particularly at risk of living in poverty.¹¹³ They are particularly affected by increasing rental prices, as they already spend a disproportionate amount of their income on housing-related costs. This is aggravated by the fact that 64% of all households with low income rent their dwellings, and thus are more vulnerable to a fast-changing rental market.¹¹⁴ Alexander Machatschke, director of BAWO, an umbrella organization for homelessness support services in Austria explained the connection between poverty and homelessness:

“Take for instance the unemployment benefit, which is 55% net replacement rate. If your income was already low before, and you were perhaps already living at risk of poverty, and then you lose your job, in the end, you might be living in poverty and at risk of losing your home. Then, people have to decide what they spend their money on. Do you spend it on housing, on food, on being able to participate in social life, on clothes, or on leisure time? These are decisions that people have to make and at a certain point, it doesn't work anymore and, unfortunately, losing your home is very often a consequence of poverty.”¹¹⁵

In Austria, people living in poverty or at risk of it spend on average 37% of their income on housing,¹¹⁶ compared to an average of 18,2% in Austria.¹¹⁷ This constitutes a severe financial burden on these people, as their disposable income is in general already less than 60 % of the median income. Consequently, they are often confronted with a so-called cost overburden.¹¹⁸

Regina, who lives in Vienna and has experienced homelessness, told Amnesty International researchers that it was difficult to find affordable apartments and to keep them, and that people are often living in a flat that is actually too expensive, but that they cannot afford to move either.¹¹⁹

Carmen, who is currently living in Vienna and has experience with living in homelessness, explained:

“If you have little income or get the means-tested social benefits (*Bedarfsorientierte Mindestsicherung*) and something in your home stops working, how are you paying for it? You get into trouble by not paying your invoices and you have to decide: Am I paying for this or my rent? Or if it's someone's birthday or Christmas, how are you paying for it? Normal life isn't possible when you are getting means-tested social benefits or emergency assistance (*Notstandshilfe*) It only works for a couple of months - but not longer.”¹²⁰

For people living in or at risk of poverty, it is an increasing challenge to be able to afford adequate housing. A representative of Jugend am Werk Housing First in Graz, explained that in this respect social assistance is one of the most important instruments to ensure that housing is affordable and clarified that the amount of social assistance has to correspond to the actual housing costs, because “if there isn't the possibility to finance an apartment with the social assistance benefits, then the services of the homeless assistance also

¹¹¹ Armutskonferenz, *Aktuelle Armutszahlen*, <https://www.armutskonferenz.at/armut-in-oesterreich/aktuelle-armuts-und-verteilungszahlen.html>. The numbers are based on an index which identifies the threshold of being below the 60% median income, thus they include people “at risk of poverty” and “extremely materially deprived” that is already experiencing poverty.

¹¹² According to the Armutskonferenz, in 2020, 60% of the median income for a single household was EUR 1.328, <https://www.armutskonferenz.at/armut-in-oesterreich/aktuelle-armuts-und-verteilungszahlen.html>

¹¹³ Armutskonferenz, *Aktuelle Armutszahlen*, <https://www.armutskonferenz.at/armut-in-oesterreich/aktuelle-armuts-und-verteilungszahlen.html>

¹¹⁴ Statistik Austria, EU SILC 2016, *Armut und soziale Ausgrenzung 2008 bis 2016*, https://www.statistik.at/wcm/idc/idcplg?IdcService=GET_PDF_FILE&dDocName=115763

¹¹⁵ Interview Alexander Machatschke, 27 October 2021, in person

¹¹⁶ Interview with Alexander Machatschke, 27 October 2021, in person

¹¹⁷ Eurostat, 2019, <https://www.agenda-austria.at/wp-content/uploads/2021/04/20210426-aa-gdw-lfu3v-wohnenkosten-in-oesterreich.pdf>

¹¹⁸ Notably the CESC defines cost overburden when a person spends more than 40% of their disposable income on housing.

¹¹⁹ Interview with Regina, 20 October 2021, in person

¹²⁰ Interview with Carmen, 05 November 2021, in person

have no possibilities [to support], in case these two issues don't [correspond]. Then, more and more people will experience homelessness.”¹²¹

In sum, Austria is obliged to ensure the right to adequate housing without discrimination, including on the grounds of social origin, property or other status, such as economic and social situation.¹²² This also extends to the criteria of affordability. The fact that people living in poverty are confronted with a cost-overburden, spending 37 % of their disposal income on housing, puts them at greater risk of having their other human rights denied. According to Article 11 ICESCR Austria has to ensure affordable housing without discrimination. The information provided in this section indicates that affordable housing is not ensured for all, as there is a risk that housing costs, especially for people experiencing or at risk of poverty, exceed such a level as to threaten the attainment and satisfaction of other basic needs. Therefore, the Guiding Principles on Extreme Poverty and Human Rights stipulate that a state has to ensure adequate public expenditure and promote policies and programmes that enable access to affordable housing for people living in poverty.¹²³

3.1.3 THE BASIC ACT ON SOCIAL ASSISTANCE ADDS TO THE STRUGGLE FOR AFFORDABLE HOUSING

In June 2019, the Austrian government adopted the Basic Act on Social Assistance (Sozialhilfe-Grundsatzgesetz - BGBl. I Nr. 108/2019), aimed at harmonizing the means-tested social assistance system by stipulating a general legal framework and requiring the federal states to implement their own regional legislation. As of 1 December 2021, it has been fully implemented by six federal states and partly by one federal state.¹²⁴

The legislation is problematic for several reasons, including with respect to the right to social security and the full enjoyment of the right to adequate housing for people who receive social assistance.

In particular, the framework of the Basic Act stipulates maximum amounts of social benefits for individuals, instead of providing minimum standards.¹²⁵ In 2022, the maximum amount available to a single person is restricted to EUR 978. Moreover, according to Section 5 (5) of the Basic Act, the implementing laws can stipulate that all housing costs are provided as in-kind benefits, such as the direct transfer of an individual's rent to their landlords, rather than cash-benefits, thereby perpetuating the notion of social benefits as charity rather than an individual's human right. Several non-governmental organizations, including Amnesty International, criticized the law for failing to prevent poverty and ensure a life in dignity.¹²⁶ In December 2019, the Austrian constitutional court already declared two provisions to be in violation of constitutional law.¹²⁷ Unfortunately, the court was not able to rule on the compliance with the ICESCR due to the lack of constitutional guarantees protecting the right to social security.

The explanatory notes to the Basic Act on Social Assistance stipulate that a negative development in recent years has become visible through the growing number of beneficiaries of social assistance and resulting budgetary costs, due to the increasing unemployment rates during the economic crisis and the increasing “immigration into the Austrian welfare state” – which is considered a pull factor that the Basic Act on Social Assistance intends to limit. The commentary further notes that the reforms initiated should result in an

¹²¹ Interview with representative from Jugend am Werk in Graz, 11 November 2021, online

¹²² CESCR, General Comment No. 20, para. 15-35

¹²³ Office of the High Commissioner for Human Rights, Guiding Principles on Extreme Poverty and Human Rights, p 26, https://www.ohchr.org/sites/default/files/Documents/Publications/OHCHR_ExtremePovertyandHumanRights_EN.pdf

¹²⁴ As of 1 December 2021, the law has been implemented in six federal states, including Lower Austria, Upper Austria, Salzburg, Styria, Carinthia and Vorarlberg; Vienna implemented it partly, <https://www.oesterreich.gv.at/themen/soziales/armut/3/2/Seite.1693914.html>

¹²⁵ According to the Basic Act on Social Assistance, in 2021 the maximum amounts were restricted to EUR 978 for a single household, EUR 1.424 for couples, and the amounts for children differed between EUR 171 to EUR 256 per child. Additional information is available at <https://www.oesterreich.gv.at/themen/soziales/armut/3/2/Seite.1693914.html>

¹²⁶ Amnesty International Austria criticized the law for failing to prevent poverty and that it does not ensure the protection of the rights to social security and an adequate standard of living, *Stellungnahme Sozialhilfe-Grundsatzgesetz*, 7 January 2019, https://www.amnesty.at/media/4791/amnesty_stellungnahme-sozialhilfegesetz_jaenner-2019.pdf; Amnesty International, Submission for the UN Universal Periodic Review, 37th Session of the UPR Working Group, *Austria: Human Rights Challenges Persist* (Index: IOR EUR 13/2855/2020), <https://www.amnesty.org/en/documents/eur13/2855/2020/en/>

¹²⁷ Constitutional Court of Austria, G 164/2019-25, G 171/2019-24, 12 December 2019. The decision concerned Sections 5(2) and 5 (6)-(9) that stipulated reductions of social aid benefits in inverse correlation with the number of children living in a household and pre-conditioned 35% of a person's monthly social aid on their employability at the Austrian job market, respectively. Latter was coupled to the existence of sufficient relevant language skills. However, Section 4 of the basic act that foresees that persons entitled to subsidiary protection status are only eligible for core elements of social assistance that do not exceed the level of social assistance granted to asylum-seekers (so-called ‘Grundversorgung’) is still in force.

“optimization of resources so that those who actually need benefits should get support by the solidarity community”.¹²⁸

Furthermore, Section 5 (2) foresees a degressive scheme of benefits for people living in shared accommodation.¹²⁹ The implementing laws in Upper Austria and Lower Austria, for instance, define ‘shared household’ as an accommodation where several persons live together, presuming that people in such shared households automatically share the (budgetary) household management, unless there are specific circumstances present; these are however not specified any further.¹³⁰ In practice, this means that people living in homeless’, refugees’ or women’s shelters receive fewer social benefits: their living situation is considered a ‘shared household’ as they usually share kitchens and sanitary facilities.¹³¹ As a result, the amount for social assistance is reduced for these people. Ultimately, this prevents people living in homeless’, refugees’ or women’s’ shelters from having access to the full amount of social assistance and increases their struggle to save money in order to find affordable housing for their own.

In addition, Section 7 (1) of the Basic Act stipulates that the overall amount of social assistance should be reduced by taking into account additional social benefits, such as any additional housing subsidies a person receives. Several federal states have in their implementing laws included fixed percentages for housing benefits. For instance, in Upper Austria the percentage dedicated to housing is 25%, in Lower Austria, Styria and Salzburg it is 40%. Thereby, the ratio for living and housing-related costs was set at 75:25 and 60:40 respectively. Consequently, persons with relatively little housing-related costs, might be faced with a reduction of social assistance, which is illustrated by the following example provided by the Austrian Anti-Poverty Network:

THE EXAMPLE OF LOWER AUSTRIA

In Lower Austria – and contrary to the means-tested social benefits – 60 % of the social assistance are earmarked for living costs. The respective 40 % are earmarked for housing-related costs. However, there are additional housing subsidies (*Wohnbauförderung*) that are calculated, provided and funded by different regulatory bodies and laws, not related to the means received in form of social assistance but they are counted towards the 40% of housing related costs. The effects of this provision are illustrated as follows: The maximum amount for a single person is €917.35 of which €550.41 are dedicated for living costs and € 366.94 for housing-related costs. If the costs for housing amount to €500 and a person receives additional housing subsidies from another source, amounting to €200, those €200 are deducted from the €366.94 earmarked for housing-related costs because the housing subsidies are counted towards the housing-related costs. Consequently, there remains a difference of €133.06 – which has to be covered from the living costs, which are limited to €550.41.¹³² This results in a situation where a single person has to decide between covering living expenses or housing related costs.

Section 6 of the Basic Act on Social Assistance stipulates that the federal states can foresee in their implementing laws that higher housing costs due to location can be compensated through the so-called ‘*Wohnkostenpauschale*’, a flat-rate housing allowance. In this case, a person receives 30% more on top of the maximum amount of EUR 978. However, only a few federal states, such as Vienna, Vorarlberg, Tirol or Salzburg provide for this in their implementing laws.

¹²⁸ Parliament of Austria, Explanatory Notes („Erläuterungen“), Allgemeiner Teil, 514 der Beilagen XXVI. GP – Regierungsvorlage, p. 1, https://www.parlament.gv.at/PAKT/VHG/XXVI/I/I_00514/fname_740754.pdf

¹²⁹ According to Section 5 (2) the first and second person living in a shared household receive 70% of the maximum rate; the third person living in the same shared household receives 45%.

¹³⁰ Upper Austria, Implementing Law for the Basic Law on Social Assistance, 8 February 2022, para. 7 Art.5, <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=LRO0&Gesetzesnummer=20001049>; Lower Austria, Implementing Law for the Basic Law on Social Assistance, para. 4 Article 4, <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=LrNO&Gesetzesnummer=20001239>; see also Constitutional Court of Austria, E 3494/2020-20, 7 June 2021, https://www.armutskonferenz.at/media/vfgh_e_3494_2020-20_anonym.pdf

¹³¹ Armutskonferenz, *Folgen und Auswirkungen der Sozialhilfe*, July 2021, https://www.armutskonferenz.at/media/armutskonferenz_folgen_und_auswirkungen_sozialhilfe_2021_1.pdf; Armutskonferenz, *Sozialhilfe-Grundsatzgesetz, Problemanalyse und gesetzliche Sanierungsvorschläge*, https://www.armutskonferenz.at/media/armutskonferenz_sozialhilfe_probleme_sanierungsvorschlaege_2021.pdf; Armutskonferenz, „Die im Dunkeln sieht man nicht...“, *Eine Erhebung zur „Sozialhilfe“ aus Sicht von Expert*innen der sozialen Praxis*, March 2022, https://www.armutskonferenz.at/media/armutskonferenz_sozialhilfeerhebung_2022.pdf

¹³² Armutskonferenz, *Folgen und Auswirkungen der schlechten Sozialhilfe*, https://www.armutskonferenz.at/media/armutskonferenz_auswirkungen_schlechte_sozialhilfe_2020.pdf

In addition, Section 4 of the Basic Act regulates the personal scope of its applicability and limits it to Austrian nationals and persons with an “equivalent status”, these are refugees and “foreigners” with a permanent residence, that is persons who have actually and legally resided in the territory of Austria on a permanent basis for at least five years. In light of the case law of the European Committee of Social Rights, the requirement of residence of at least five years may be disproportionate according to Article 13 (1) of the European Social Charter which Austria ratified.¹³³ In addition, Section 4 foresees that persons entitled to subsidiary protection status are only eligible for core elements of social assistance that do not exceed the level of social assistance granted to asylum-seekers (so-called ‘*Grundversorgung*’), creating a differential treatment of persons entitled to international protection.¹³⁴

The Basic Act on Social Assistance is moreover inadequate to prevent poverty and ensure a life in dignity for all people in Austria; as it does not pursue a legitimate aim and does not ensure a non-discriminatory access to social security according to Article 9 ICESCR in conjunction with Article 2 (2) ICESCR and under European Union legislation.¹³⁵

The maximum amounts stipulated by the law in addition to the fixed percentage rate for covering living and housing costs respectively, is problematic, as it does not ensure adequate social assistance benefits, as stipulated by the CESCR. In its General Comment 19, the CESCR clarified that “benefits, whether in cash or in kind, must be adequate in amount and duration in order that everyone may realize his or her rights to family protection and assistance, an adequate standard of living ...”.¹³⁶ Therefore, this measure could constitute a *prima facie* retrogressive measure, as the previous system of means tested benefits did not foresee maximum amounts of social assistance allowances.¹³⁷ The fact that people in some federal states have to decide between covering living or housing costs indicates that these people are ultimately at heightened risk of experiencing homelessness.

3.1.4 INSUFFICIENT PREVENTION OF EVICTIONS

Several experts interviewed by Amnesty International expressed an additional risk factor for experiencing homelessness: evictions. The CESCR defines forced eviction as the “permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection that are compliant with international human rights law”.¹³⁸ The European Committee for Social Rights defined in its conclusions on Sweden eviction as the deprivation of housing that a person occupied, due to insolvency or wrongful occupation.¹³⁹

In general, the risk of eviction is shaped by economic and social factors that operate on structural and individual levels which often intersect, such as unemployment, poverty, lack of affordable housing coupled with a lack of social support networks, lack of family ties or health problems. In Austria, most evictions take place due to rent arrears¹⁴⁰ and therefore, should also be assessed in the context of rising housing costs. If a person is evicted from their home and they lack personal safety nets and/or sufficient financial support and/or resources and/or rapid re-housing options are not available, this person is at heightened risk of homelessness and will ultimately have to rely on homeless services and shelters. Therefore, effective and timely measures are key to prevent persons from experiencing homelessness due to evictions.

¹³³ Council of Europe, Digest of the Case Law of the European Committee of Social Rights, December 2018, <https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80>

¹³⁴ See Article 29 of the Directive 2011/95/EU of the European Parliament and the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted, read in conjunction with preambular paragraph 45

¹³⁵ European Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security; European Parliament and the Council of the European Union, Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation; European Council Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes; European Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial and ethnic origin. This applies also to social protection – including social security and healthcare – as well as to housing.

¹³⁶ CESCR, General Comment No 19, para. 22

¹³⁷ See Sozialministerium, *Zweiter Bericht des Arbeitskreises Bedarfsorientierte Mindestsicherung*, 2014, https://www.armutskonferenz.at/media/sozialministerium_zweiter_bericht_arbeitskreis_mindestsicherung-2014.pdf

¹³⁸ CESCR, General Comment 7 on the right adequate housing (Article 11.1): forced evictions, 20 May 1997, para. 3

¹³⁹ Karin Lukas, *The Revised Social Charter*, An Article by Article Commentary, Elgar Commentaries series, 2021, p. 334

¹⁴⁰ Mietervereinigung, *Schutz vor Delogierung*, <https://mietervereinigung.at/8893/Raumungsklage-und-Delogierung>

In Austria, the legal grounds and proceedings for an eviction are stipulated by law.¹⁴¹ Most evictions are based on Section 1118 of the Austrian Civil Code and are due to rent arrears, but there are also a number of other grounds, such as notices of termination and transfer orders due to notified personal needs, division proceedings after divorces and eviction settlements.¹⁴² As an accompanying measure in case of an eviction, Section 33a of the Tenancy Law provides for a notification of the relevant local municipalities by the courts, when proceedings have started, in order for the municipalities to inform social institutions to provide support in case of imminent eviction or homelessness.

In Vienna, the Volkshilfe *Fachstelle für Wohnungssicherung* (FAWOS) acts as such an institution that supports and provides advice on behalf of the city of Vienna, to persons at imminent risk of eviction. A staff member of FAWOS explained the process as follows: FAWOS contacts the person in writing several times, providing them with relevant information, and again when the eviction is imminent. She noted, however, that often these letters do not reach the individuals, and explained further:

“We have tried different variations and styles in writing, but many [people] no longer open their letters, because they find themselves in such a crisis. Many even bring with them a pile of letters when they come to us for an appointment, because they didn’t manage to open the letters before. These people are overwhelmed [with the situation] and not opening a letter is a [coping] mechanism.”¹⁴³

Taking into account the personal aspects of such a situation, FAWOS carried out a pilot project, where staff members visited persons at their homes who did not reply to letters. However, even then, it was not possible for FAWOS to reach all persons concerned.¹⁴⁴ The head of the FrauenWohnzentrum in Vienna explained to Amnesty International that the experience of an eviction is traumatizing for most persons; and that in such a situation people often feel paralyzed.¹⁴⁵

In Vienna, FAWOS also offers support and counselling to people who have not yet received a note to vacate or where proceedings have not yet been initiated but who face difficulties in paying the rent. However, an expert of FAWOS explained:

“Unfortunately, our support is only obtained when – figuratively speaking – the house is on fire. It’s very shameful for the individuals and therefore, many try to resolve it themselves. They spend all their savings or borrow money from family and friends to pay instalments that are hardly affordable. They try everything possible to resolve the situation themselves. When we ask the person, why they have come only now, often, the person didn’t know where to go to or felt too ashamed to open their letters. Of course, we wish that people come to us as soon as possible, because then we have the greatest room for action.”¹⁴⁶

The fact that the current means, such as those by FAWOS in Vienna, to reach out to individuals at risk of eviction are not always successful would indicate that some research and consultation needs to take place to identify mechanisms to ensure people are accessing the timely support and advice they need and have a right to. This is particularly relevant in the context of the Covid-19 pandemic that is expected to exacerbate the situation, in particular for persons who already had to struggle with affordable housing before. Consequently, during the pandemic, the Special Rapporteur urged governments to prevent evictions and the threat of them due to arrears of rental, mortgage or utility payments.¹⁴⁷

AUSTRIA’S RESPONSE TO THE COVID-19 PANDEMIC REGARDING EVICTION PREVENTION

In April 2020, the Austrian government presented the fourth Covid-19 legislation that was subsequently adopted by parliament and included two provisions to prevent rental debts and evictions.¹⁴⁸ According to

¹⁴¹ Section 30 of the Austrian Tenancy Law, Section 117 of the Austrian General Civil Law (‘Allgemeines Bürgerliches Gesetzbuch’, ABGB)

¹⁴² As regard the process, please see for more information: https://www.konsumentenfragen.at/konsumentenfragen/FAQ/FAQ/WOHNEN_-_Kuendigungsverfahren_Raumungsklage.html#

¹⁴³ Interview with a representative of FAWOS, 8 November 2021, in person

¹⁴⁴ Interview with a representative of FAWOS, 8 November 2021, in person

¹⁴⁵ Interview with representative of Caritas FrauenWohnZentrum, 2 September 2021, in person

¹⁴⁶ Interview with a representative of FAWOS, 8 November 2021, in person

¹⁴⁷ Special Rapporteur on adequate housing, *COVID-19 Guidance Note: Protecting renters and mortgage payers*, 8 April 2020, https://www.ohchr.org/Documents/Issues/Housing/SR_housing_COVID-19_guidance_rent_and_mortgage_payers.pdf

¹⁴⁸ See Die Österreichische Justiz, 2. *COVID-19-Justizbegleitgesetz und andere Änderungen im Justizbereich*, 8 April 2020, <https://www.justiz.gv.at/html/default/2c94848a6ff6fb201715afa51fe361d.de.html>

the legislative amendments as part of the fourth Covid-19-legislation, tenants whose economic income was significantly impaired by the Covid-19 pandemic and who were therefore in rent arrears, in whole or in part, for the period from April to June 2020 may not be evicted for rent arrears until the end of 2022.¹⁴⁹ A moratorium for landlords on bringing legal action for rent arrears ended in March 2021, allowing them to file a notice to vacate again. However, several experts question the effectiveness of this measure, in particular as data on its take-up is missing and people with rental arrears generally tend to first ask family and friends for financial support, before seeking additional support or subsidies. An expert from the tenants' association explained to Amnesty International:

“We don't have any data on how many people were in arrears in their rental payments due to the pandemic. There is also no responsible authority. However, we noted in our counselling appointments that more people asked for information about it. The deferral of payments was only possible for three months – from April to June 2020 – and it is not possible to be evicted for these rent arrears until end of 2022. However, this is one of the biggest problems from our perspective: At the beginning people still had savings and your own place is the most important thing. This means, at the beginning people still tried to pay their rent.”¹⁵⁰

Several experts who were interviewed anticipated a similar scenario comparable to the world economic crisis of 2008, where an increase in evictions took place only with some delay in 2012. Responding to such concerns from experts regarding Covid-19-related evictions, in November 2021, the Austrian federal parliament approved an additional EUR 24 million spending on Covid-19-related eviction prevention programmes and to offer people financial relief.¹⁵¹ According to the information provided in a meeting with the Ministry of Social Affairs, Health, Care and Consumer Protection, a directive implementing programmes for the prevention of eviction was developed in winter 2021 and became effective beginning of March 2022 – this is the so-called “*Wohnschirm*” that is effective until end of 2023.¹⁵²

In sum, evictions have become a frequent response to rent arrears in Austria. The Austrian government has put in place a number of policies and programmes to prevent evictions and consequently ensure that people are not rendered homeless. However, some of the underlying causes of evictions such as increasing rent and housing prices, particularly on the private rental market – are aspects that are not addressed in the current eviction prevention programmes and policies. Furthermore, the lack of reliable data on how many people in Austria relied on the measures included in the fourth Covid-19 legislation does not allow for an accurate assessment to what extent these have been effective. According to the Guidelines for the implementation of the right to adequate housing, the Austrian authorities should ensure that preventive measures are accessible to persons at risk of eviction.¹⁵³

3.2 GENDER-BASED VIOLENCE – A CAUSE FOR WOMEN'S HOMELESSNESS

In general, there is a strong correlation between women's homelessness and gender-based violence, including intimate partner violence. Women risk becoming homeless if they escape violent relationships.¹⁵⁴ This is also illustrated by Priscilla's story, who at the time of the interview was living in an emergency shelter for women in Graz:

“I'm 33 years old and I have a two-year old daughter. I worked as a home help but have been on parental leave until recently. I'm currently [going through a divorce] and have been at the emergency shelter since January 2022. I found out that my ex-husband had an affair at the beginning of 2021. He abused me

¹⁴⁹ Bundesgesetzblatt, 4. Covid-19 Gesetz, Artikel 35, 2. Bundesgesetz betreffend Begleitmaßnahmen zu COVID-19 in der Justiz (2. COVID-19-Justiz-Begleitgesetz – 2. COVID-19-JuBG), https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2020_I_24/BGBLA_2020_I_24.pdfsig

¹⁵⁰ Interview with a representative of the Mietervereinigung, 25 November 2021, online.

¹⁵¹ Bundesministerium für Soziales, Gesundheit, Pflege und Konsumentenschutz, COVID-19-bedingte Delogierungsprävention und Wohnungssicherung, 15 November 2021, https://www.sozialministerium.at/dam/jcr:76aeef27-288a-4b2d-a7cd-a4278dec5e08/Richtlinie_Wohnungssicherung.pdf; <https://www.sozialministerium.at/Themen/Soziales/Soziale-Themen/wohnungssicherung.html>

¹⁵² The directive stipulates two types of support. one for assisting in securing housing and the other offering financial support in case of a move of residency. The directive further lists a number of social organizations responsible for submitting applications for support together with the applicants to a special agency within the Ministry of Social Affairs, Health, Care and Consumer Protection (so-called “Abwicklungsstelle”). Applications for support can be submitted until end of 2023 and subject to the existing funding. When this report was published, there were no numbers regarding applications submitted available, yet.

¹⁵³ Special Rapporteur on adequate housing, UN Doc. A/HRC/37/53

¹⁵⁴ OHCHR, *Women and the right to adequate housing*, HR/PUB/11/02, p 80, https://www.ohchr.org/Documents/Publications/WomenHousing_HR.PUB.11.2.pdf

psychologically and made a video that he showed to my friends. He doesn't pay me any alimony. In December, we went to my grandparents but had to leave because they said we were only making a mess. Then we stayed at a colleague's place for two weeks. Then I came here. I didn't know where to go.

I was living in Vienna for 13 years before, and then I lived in St. Pölten. My best friend and the administrative district told me about this shelter. ...

I only had one suitcase and one bag with me [when we came here]. If you have to go to an emergency shelter, you think that's the end of your life! During the first night, I cried a lot. But with every day it has gotten better. You mustn't feel ashamed. It can happen to anyone."¹⁵⁵

According to NGO reports on the prevention and protection of women and children from violence, Austria does not provide enough women's shelter places, contrary to the standard set up in the Istanbul Convention's Explanatory report: In 2021, 11 % of beds were missing.¹⁵⁶ This lack of sufficient capacity of women's shelter places and the high percentage of women who economically depend on their partner due to prevailing inequalities and stereotyped gender roles¹⁵⁷ coupled with the weak implementation of specific legislation allowing the perpetrators to be removed from the house¹⁵⁸ gives little choice to women who decide to escape gender-based violence, including intimate partner violence. In addition, the GREVIO report on Austria identifies additional barriers faced by some women in accessing shelters, such as the lack of shelters in rural areas, the requirement for residence status, or the fact that asylum seekers and irregular migrants as well as women with mental health conditions and those using substances are not admitted.¹⁵⁹

In 2021, 31 women were killed due to gender-based violence in Austria.¹⁶⁰ According to statistics by the Autonomous Austrian Women's Shelters (*Autonome Österreichische Frauenhäuser*), one in five women in Austria experiences psychological or sexual violence.¹⁶¹

The official statistics on homelessness in Austria, however, do not seem to reflect this correlation between women experiencing homelessness and gender-based violence: approximately one third of the persons officially registered as homeless are women.¹⁶² Firstly, as will be discussed in chapter 4.1, the methodology for statistics on homelessness in Austria does not include, for instance, women living in women's shelters or other forms of insecure housing. Secondly, many women with experience in homelessness are survivors of gender-based violence.¹⁶³ For example, **Saloni**, a 46-year-old woman, told Amnesty International researchers: "I was in a violent marriage. For 15 years. [At some point] I couldn't stand it anymore. I ended up in a women's shelter with panic attacks."¹⁶⁴

The fact that women's homelessness is less visible in Austria strongly correlates with the phenomenon of so-called "hidden homelessness" (see also chapter 1.1). A representative of the *Autonome Österreichische*

¹⁵⁵ Interview with Priscilla, 17 January 2022, in person

¹⁵⁶ GREVIO, report on Austria, 2017, <https://rm.coe.int/grevio-report-austria-1st-evaluation/1680759619>; WAVE country report 2021, Women's Specialist Support Services in Europe and the impact of COVID-19 on their provision, December 2021, https://wave-network.org/wp-content/uploads/WAVE_Country-Report.pdf

¹⁵⁷ Wiener Frauenarbeitskreis der BAWO, „...wie schläft die Marie?“, 2020, p 5, https://bawo.at/101/wp-content/uploads/2020/12/Frauenrechte-Qualitätsstandards-in-der-Wohnungslosenhilfe_-Stand_10_2020.pdf; Statistik Austria, *Lebensstandard aus Geschlechterperspektive, Statistische Nachrichten 12/2011*, https://www.statistik.at/wcm/idc/idcplg?IdcService=GET_PDF_FILE&RevisionSelectionMethod=LatestReleased&dDocName=072071

¹⁵⁸ Section 38a of the Security Policy Law (*Sicherheitspolizeigesetz*) provides for barring and eviction order that prevent a perpetrator of sexual and gender based violence to enter the household of the person who survived sexual and gender based violence and its immediate neighbourhood. The protection extends to all persons living in the household irrespective of kinship and the ownership situation. The barring order is issued for a period of two weeks, and can be extended to four weeks, in case an interim injunction is filed. According to Section 382b of the Enforcement Order (*Exekutionsordnung*) a prolonged protection by means of a court injunction, that is for the protection against violence in apartments, can be filed and can be issued by a court for a maximum of six months. A requirement for filing this court injunction is that the apartment is urgently needed by the person surviving sexual and gender-based violence.

¹⁵⁹ GREVIO report on Austria, 2017, para. 105 ff, <https://rm.coe.int/grevio-report-austria-1st-evaluation/1680759619>

¹⁶⁰ See AÖF - Verein Autonome Österreichische Frauenhäuser, *Mutmaßliche Femizide durch (Ex-)Partner oder Familienmitglieder oder durch Personen mit Naheverhältnis zum Opfer 2021* laut Medienberichten, https://www.aoeff.at/images/04a_zahlen-und-daten/Frauenmorde_2021_Liste-AOEF.pdf

¹⁶¹ AÖF, *Gewalt an Frauen und Mädchen in Österreich*, Factsheet, https://www.aoeff.at/images/04a_zahlen-und-daten/Factsheet_Gewalt-an-Frauen-und-Maedchen-in-Oesterreich.pdf

¹⁶² See for instance, City of Vienna, (*Verdeckte*) *Wohnungslosigkeit von Frauen*, <https://www.wien.gv.at/menschen/frauen/stichwort/wohnen/wohnungslos.html>, and *neunerhaus, Österreich: Fast 23.000 Menschen sind wohnungslos*, 10 May 2020, <https://www.neunerhaus.at/nc/neuner-blog/aktuelles/detail/oesterreich-fast-23000-menschen-sind-wohnungslos/>

¹⁶³ See, for example FEANTSA, *Guide for developing effective gender-responsive support and solutions for women experiencing homelessness*, 8 March 2021, <https://www.feantsa.org/public/user/Resources/resources/Guide%20supporting%20and%20solutions%20for%20women.pdf>; *neunerhaus, Wohnungslosigkeit ist oft unsichtbar*, <https://www.neunerhaus.at/unsichtbar/>

¹⁶⁴ Interview with Saloni, 12 October 2021, in person

Frauenhäuser told Amnesty International: “Many women who experience violence are at risk of becoming homeless. If there aren't any [shelters or alternatives], then [these women] enter hidden homelessness.”¹⁶⁵ Another reason for “hidden homelessness” is that the definition of homelessness is only using location-based indicators to capture the absence of a home, which distorts the perception of who is homeless. Studies show that women, especially when with children, will seek other options, such as staying with family members or friends or entering new partnerships that might also expose them to the risk of exploitation and abuse,¹⁶⁶ to avoid the repercussions associated with rough sleeping, including violence¹⁶⁷ or the fear that children end up in the custody of the authorities. Because these women are not considered homeless, they are not provided with homeless assistance services and not captured by any official statistics. According to experts interviewed, another reason why women's homelessness is often hidden is that women's homelessness is still even more stigmatized, mainly because of the underlying and prevailing gender and cultural norms that result in a heightened feeling of shame for women who lose their home.¹⁶⁸ As an expert interviewed by Amnesty International explained: “Identification with housing is higher among women than among men. There are gender differences that may be related to socialization. Women believe they have to keep the home together, and when they can't, it's difficult [for them] to admit. Studies also show that homelessness is more stigmatized among women. This is also related to the role models that women are always associated with the household. Men may have lived in workers' hostels before, and maybe that's why it's a little easier for them.”¹⁶⁹

This stigmatization coupled with the fear of gender-based violence when sleeping rough and a lack of sufficient and adequate gender-sensitive services¹⁷⁰ leave women at risk of further exploitation, dependence, and domestic abuse.¹⁷¹ In addition, a significant proportion (49%) of people experiencing homelessness suffer from mental ill health.¹⁷² This is also seen in the case of women who experience homelessness, as a recent study demonstrates. According to this study on women experiencing homelessness and mental ill health in the city of Salzburg, 74 % of those who were surveyed were affected by multiple mental health concerns.¹⁷³ This study highlighted the interconnectedness of all reasons leading to homelessness, such as traumatic life events coupled with structural causes and how they overlap with psychological and mental health conditions.¹⁷⁴ Access to adequate and quality medical treatment is urgently needed, but sufficient places are lacking.¹⁷⁵ Long-term or chronic homelessness is often accompanied by tri-morbidity: physical ill-health combined with mental ill-health and substance (drug or alcohol) dependence. A representative of the *Autonome Österreichische Frauenhäuser* explained further: “Many women live with trauma or post-traumatic experiences, that are not treated and then [these women] may become addicted. Addiction is the result of violence and traumatic experiences. Women's shelters work closely with other shelters, that offer psychological or psychiatric support. Women's shelters offer psychological support, too.”¹⁷⁶ The representative however also explained that if “it turns out that there is in mainly an addiction problem, then it will be looked for another shelter, because living together [in the women's shelter] may be more difficult.”¹⁷⁷

This information indicates that Austria does not effectively protect women from violence as required by the Istanbul Convention; as demonstrated by the high number of women murdered by their (ex-) partners and other gender-based violence in Austria. The persistent and unaddressed gender pay gap, women's continued role in providing a disproportionate amount of care and caring responsibilities meaning they are

¹⁶⁵ Interview with representative of Autonome Österreichische Frauenhäuser, 22 March 2022, online

¹⁶⁶ Wiener Frauenarbeitskreis der BAWO, ‘...wie schläft die Marie?’, third edition, October 2020, p.6,

https://bawo.at/fileadmin/user_upload/public/Dokumente/Publikationen/Berichte_Studien/Frauen/Qualitaetsstandards_2014_Logos_vollstaendig.pdf

¹⁶⁷ Special Rapporteur on adequate housing, UN Doc. A/HRC/31/54, para. 9

¹⁶⁸ Interview with representatives of P7, 8 November 2021, in person; interview with a representative of Haus Miriam, 1 December 2021, in person

¹⁶⁹ Interview with representatives of P7, 8 November 2021, in person

¹⁷⁰ For details please refer to chapter 4.2

¹⁷¹ FEANTSA, Guide for developing effective gender-responsive support and solutions for women experiencing homelessness, 8 March 2021; Wiener

Frauenarbeitskreis der BAWO, ‘...wie schläft die Marie?’, third edition, October 2020, https://bawo.at/101/wp-content/uploads/2020/12/Frauengerechte-Qualitaetsstandards-in-der-Wohnungslosenhilfe_-Stand_10_2020.pdf; Interview with a representative of

Caritas FrauenWohnZentrum, 2 September 2021, in person

¹⁷² Verband Wiener Wohnungslosenhilfe, Geht's Noch? Psychisch krank und wohnungslos, p7, [https://www.caritas-](https://www.caritas-wien.at/fileadmin/storage/wien/ueber-uns/publikationen/verband-wiener-wohnungslosenhilfe-situationsbericht.pdf)

[wien.at/fileadmin/storage/wien/ueber-uns/publikationen/verband-wiener-wohnungslosenhilfe-situationsbericht.pdf](https://www.caritas-wien.at/fileadmin/storage/wien/ueber-uns/publikationen/verband-wiener-wohnungslosenhilfe-situationsbericht.pdf)

¹⁷³ Heinz Schoibl/Hel-x - Forschung und Beratung, Obdachlose Frauen mit psychischer Erkrankung im Umfeld der Stadt Salzburg, 2021,

<http://forumwih.at/wp-content/uploads/2021/04/handout-obdachlose-frauen-mit-psychischer-erkrankung.pdf>

¹⁷⁴ Heinz Schoibl/Hel-x - Forschung und Beratung, Obdachlose Frauen mit psychischer Erkrankung im Umfeld der Stadt Salzburg, 2021,

<http://forumwih.at/wp-content/uploads/2021/04/handout-obdachlose-frauen-mit-psychischer-erkrankung.pdf>

¹⁷⁵ Verband Wiener Wohnungslosenhilfe, *Situationsbericht*, [https://www.caritas-wien.at/fileadmin/storage/wien/ueber-uns/publikationen/verband-](https://www.caritas-wien.at/fileadmin/storage/wien/ueber-uns/publikationen/verband-wiener-wohnungslosenhilfe-situationsbericht.pdf)

[wiener-wohnungslosenhilfe-situationsbericht.pdf](https://www.caritas-wien.at/fileadmin/storage/wien/ueber-uns/publikationen/verband-wiener-wohnungslosenhilfe-situationsbericht.pdf)

¹⁷⁶ Interview with a representative of the Österreichische Autonome Frauenhäuser, 22 March 2022, online

¹⁷⁷ Interview with a representative of the Österreichische Autonome Frauenhäuser, 22 March 2022, online

often in lower paid, highly feminised and undervalued areas of work, as well as a lack of sufficient women's shelters across Austria increases the risk of women to experiencing homelessness. This risk pushes them into precarious living conditions which not only undermines their right to adequate housing but also compromises their health and safety. There is a concerning lack of specific data regarding women who experience homelessness. This may also be due to the fact that women living in women's shelters not being included in the official registration of people who are homeless in Austria. Consequently, this may contribute to frustrating women's access to homeless assistance services which they need and have a right to.

3.3 OTHER GROUPS AT RISK OF HOMELESSNESS

As elaborated in previous chapters homelessness is the result of an interplay between the state's failure to address a range of structural causes as well as to respond to individual circumstances. The Special Rapporteur on adequate housing further underlined that homelessness is directly linked to systemic patterns of discrimination, and it disproportionately affects particular groups, including women, young people, children, people with disabilities, migrants and refugees, the working poor, and LGBTIQ persons.¹⁷⁸ Experts interviewed by Amnesty International in relation to the situation of homelessness in Austria for this research also noted that there are a number of particular groups disproportionately affected by homelessness, in particular sex workers and youth.¹⁷⁹

3.3.1 SEX WORKERS

Sex workers, in particular migrant women and transgender persons, are also at heightened risk of experiencing homelessness due to discrimination and stigmatization, especially on the private housing market. In Austria there were more than 6,400 officially registered sex workers in 2019.¹⁸⁰ However, the actual number of sex workers in Austria is expected to be higher due to the fact that some sex workers might work informally.¹⁸¹ Of the 6,400 sex workers registered in the context of the mandatory medical examination, some 95% of the sex workers were migrants¹⁸² who are often mobile, and therefore likely to be rotating for a certain period of time between Austria and their countries of origin. According to a representative of LEFÖ, an organization for the empowerment of migrant women, sex workers are usually self-employed and the majority of them work in brothels, where they then also rent a room to live.¹⁸³ The representative of LEFÖ further told Amnesty International that many sex workers face challenges in finding their own apartment, as a proof of income is required to secure the apartment and sex workers experience stigmatisation due to their work.¹⁸⁴ This stigmatisation is aggravated by the fact that 'using apartments for prostitution' (so-called *Wohnungsprostitution*) is forbidden by law.¹⁸⁵

The Covid-19 pandemic rendered sex workers at heightened risk of homelessness, as many brothels had to close, which also meant that sex workers lost their income and their place to live at the same time. The restrictions on international travel put in place at the beginning of the pandemic also meant that sex workers who are migrants could not travel back to their countries of origin, with the result that many sex workers were left in a limbo in Austria. The representative of LEFÖ explained that the organization documented several cases of women sex workers who found accommodation at their client's house, increasing their risk of experiencing exploitation and abuse.¹⁸⁶

¹⁷⁸ Special Rapporteur on adequate housing, A/HRC/31/54, Summary of the report of the Special Rapporteur on the right to adequate housing, https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/HomelessSummary_en.pdf

¹⁷⁹ Interview with a representative of LEFÖ, 15 March 2022, online; Interview with representative of JUCA, 15 November 2021, in person; Interview with representative of a_way, 5 November 2021, in person

¹⁸⁰ Austrian Federal Chancellery, *Regelung der Prostitution in Österreich, Empfehlungen der Arbeitsgruppe „Prostitution“*, April 2021, p 29, https://www.bundeskanzleramt.gv.at/dam/jcr:79a063e4-084f-440e-b197-37bd477457cf/4_bericht_der_ag_prostitution_april_2021.pdf

¹⁸¹ Austrian Federal Chancellery, *Regelung der Prostitution in Österreich, Empfehlungen der Arbeitsgruppe „Prostitution“*, April 2021, https://www.bundeskanzleramt.gv.at/dam/jcr:79a063e4-084f-440e-b197-37bd477457cf/4_bericht_der_ag_prostitution_april_2021.pdf

¹⁸² Austrian Federal Chancellery, *Regelung der Prostitution in Österreich, Empfehlungen der Arbeitsgruppe „Prostitution“*, April 2021, p 29, https://www.bundeskanzleramt.gv.at/dam/jcr:79a063e4-084f-440e-b197-37bd477457cf/4_bericht_der_ag_prostitution_april_2021.pdf

¹⁸³ Interview with representative of LEFÖ, 15. March 2022, online

¹⁸⁴ Interview with representative of LEFÖ, 15. March 2022, online

¹⁸⁵ Austrian Federal Chancellery, *Regelungen der Prostitution in Österreich*, p 52, https://www.bundeskanzleramt.gv.at/dam/jcr:fcc589ce-a105-45e2-8b51-ac7fc4ee1785/regelg_prostitution_in_oe_juni2008pdf.pdf

¹⁸⁶ Interview with a representative of LEFÖ, 15 March 2022, online

The information gathered for this research indicates that there are likely additional concerns for migrant sex workers who may be at increased risk of homelessness due to multiple and intersecting forms of discrimination. In addition, the criminalization of the so-called *Wohnungsprostitution* further exacerbates the risk of their rights being infringed, including their right to adequate housing.

3.3.2 YOUTH

Another group who is at heightened risk of experiencing homelessness in Austria are the youth. In general, their experiences are distinct from adult homelessness as there are additional factors as to why children and young adults are forced to leave their homes and are at risk of experiencing homelessness.¹⁸⁷ These include domestic violence, the lack of private space at home or family rejection. In addition, so-called “care-leavers”, young adults who previously lived in facilities of youth welfare, such as in carers’ homes and foster care, but had to leave these when they turned 18 years old, are at particular risk of experiencing homelessness, as a representative of JUCA, a shelter for young adults, explained to Amnesty International:

“The majority [of children and young adults who came here], which is about 60%, have a history with the Department of Children’s and Young Peoples’ Affairs [here in Vienna]. ... Many of them were in the care [of the youth welfare facilities] until their 18th birthday. Many who turn 18 fall back on their social network and maybe go to friends or back to their parents because they think it’s better there than here [temporary accommodation service for youth experiencing homelessness] and when they realize that it doesn’t work, they come to us. ... Then there are others who perhaps come here more voluntarily. They came directly from home because it’s overcrowded. Or the family is at risk of poverty or is already living in a homeless welfare institution. When the children turn 18, they have to leave. And then there are a few young adults, but not so many, who were refugees and are former unaccompanied minors ... There are also some, and they are not so few, who previously had their own municipal housing flat at [the age of] 18 and were not able to keep it. The reasons are crises or a feeling of being overwhelmed.”¹⁸⁸

The Special Rapporteur on adequate housing noted that “children raised in residential institutions often find themselves homeless when they reach the age at which institutional care ceases”.¹⁸⁹ This was with the case for **Anita** who experienced precarious living conditions as a child before she moved into a shared flat for girls. She told Amnesty International about her experiences when she came of age and had to move out of the shared flat:

“When I came of age, I moved into an own apartment. This overwhelmed me. I slid down the slippery slope of my first marriage. I wanted a family and to have unconditional love.”

Anita explained that she would have needed more time and support and that she would have wished that “coming of age didn’t play a role”. She explained that it would be better to focus on what a person needs in a very specific moment and not to make it conditional one a person’s age.¹⁹⁰ The information collected in this research indicates that there are concerns regarding some groups of young people, in particular the so-called “care-leavers” with regard to their right to adequate housing. The Austrian authorities should review youth as a potential vulnerable group, and in particular the so-called ‘care-leavers’, to ensure their needs and situation are adequately addressed in order to protect them from homelessness.

¹⁸⁷ See FEANTSA, Preventing Youth Homeless: Case Studies from across Europe and North America, spring 2016, https://www.feantsa.org/download/magazine_spring_2016_youth3935837121310495469.pdf; FEANTSA, Ending Youth Homelessness: A Human Rights Guide, <https://www.feantsa.org/download/youthrights-guideeu-finalcompressed57863223550928774401.pdf>

¹⁸⁸ Interview with a representative of JUCA, 15 November 2021, in person

¹⁸⁹ Interview with Regina, 20 October 2021 in person

¹⁹¹ Interview with Regina, 20 October 2021 in person

4. BARRIERS TO ACCESSING HOMELESS ASSISTANCE SERVICES

“[One of the biggest problems is that] there is still this difference made between who is eligible [for homeless assistance services] and who isn’t. If you’re not eligible you have no entitlement to accommodation in a shelter. The only thing there is are the winter packages, but in between you have no accommodation ... people always think of those ineligible as someone from another country. But you might as well come from Lower Austria.”¹⁹¹

Regina, a 62 year old activist who experienced homelessness in Vienna

As a state party to the ICESCR, Austria is under the obligation to ensure minimum essential levels of each right, including the right to adequate housing for all, without discrimination. The recognition of the right to adequate housing therefore includes an obligation to recognize all aspects of the right to housing as articulated in General Comment 4 and General Comment 7 of CESCR in law, policy and practice and to ensure that no measures which undermine or erode the right are introduced. As set out in chapter 2, in relation to the right to adequate housing, this includes ensuring that services are both available and accessible, and that access is guaranteed without discrimination.

The right to adequate housing includes the immediate obligation to determine the degree to which this right is not in place, and to target housing policies and laws towards attaining this right for everyone in the shortest possible time. It also includes the obligation to ensure through legislation and other means a commitment to progressively realize the right to housing for all. States therefore have an immediate obligation to respond urgently to the needs of persons who are currently homeless as well as to implement plans to prevent and eliminate systemic homelessness as swiftly as possible. To address homelessness in a comprehensive manner it is also required to adopt appropriate types of interventions for each different category of homelessness and “by distinguishing between chronic and transitional homelessness”.¹⁹²

As per the UN Special Rapporteur guidelines on the right to adequate housing, in the context of homelessness, States should:

- a) provide access to safe, secure and dignified emergency accommodation, with necessary supports and without discrimination on any grounds, including migration status, nationality, gender, family status, sexual orientation, gender identity, age, ethnic origin, disability, dependence on alcohol or drugs, criminal record, outstanding fines or health.
- b) provide individuals and families access to adequate permanent housing so as not to be compelled to rely on emergency accommodation for extended periods. “Housing first” approaches that centre on quickly moving people experiencing homelessness into permanent housing should provide all necessary supports for as long as required for sustaining housing and living in the community;
- c) prohibit and address discrimination on the ground of homelessness or other housing status and repeal all laws and measures that criminalize or penalize homeless people or behaviour associated with being homeless, such as sleeping or eating in public spaces. The forced eviction of homeless persons from public spaces and the destruction of their personal belongings must be prohibited. Homeless persons should be equally protected from interference with privacy and the home, wherever they are living.¹⁹³

Article 2.2 ICESCR obliges all States to guarantee the exercise of the rights in the Covenant without discrimination of any kind as to “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.¹⁹⁴ CERD General Comment 30 further stipulates that states

¹⁹¹ Interview with Regina, 20 October 2021 in person

¹⁹² Economic and Social Council, Report of the Secretary-General, *Affordable housing and social protection systems for all to address homelessness*, 27 November 2019, UN Doc. E/CN.5/2020/3, <https://digitallibrary.un.org/record/3840349?ln=en>

¹⁹³ The European Committee of Social Rights also elaborated that state parties to Article 31(2) ESC – which Austria has not ratified – have to offer persons who experience homelessness shelter as an emergency solution. Therefore, state parties have to foresee sufficient places in emergency shelters and living conditions in these shelters should enable individuals to live with human dignity and the greatest possible degree of independence. The Council of Europe Commissioner for Human Rights defined the criteria of human dignity in housing further in a recommendation as meeting health, safety and hygiene standards and being equipped with the basic amenities, such as access to water, heating, and sufficient lighting, in addition to the security of the immediate surroundings of the shelter. The obligation to provide emergency accommodation regardless of status is also protected under Article 3 ECHR.

¹⁹⁴ Similar non-discrimination clauses are contained in other international human rights treaties.

are obliged to “[r]emove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens”, including, notably, in the area of housing, and that they need to guarantee the “the equal enjoyment of the right to adequate housing for citizens and non-citizens”.¹⁹⁵ The principles of non-discrimination in relation to housing can also be found in regional human rights law, including in articles E and 31 of the Revised European Social Charter of the Council of Europe.¹⁹⁶

Women often face multiple, intersectional discrimination on the basis of economic status, disability, race or ethnicity, documentation status and other prohibited grounds, including in relation to their right to adequate housing.¹⁹⁷ The Convention on the Elimination of All Forms of Discrimination against Women reaffirms the right to housing for women, free of discrimination;¹⁹⁸ discrimination against women in gaining access to housing is also prohibited by EU Directive 2004/113/EC. The UN Special Rapporteur further affirms that right to housing is a central component of women’s right to substantive equality¹⁹⁹, and requires that laws, policies and practices are altered in order to alleviate the systemic disadvantages experienced by women experience.²⁰⁰

Adopting a human rights compliant approach towards housing would commit the Austrian government to putting in place deliberate and concrete measures to progressively realize the right to housing for all. This includes ensuring the availability of necessary financial resources.

In order to implement the right to housing, with particular attention to addressing discrimination against certain groups, independent monitoring and collecting disaggregated data is a central component of the obligation to progressively realize this right, as stated in the UN Special Rapporteur Guidelines. This is crucial to be able to assess whether the services provided are adequate and sufficient, including for specific groups, such as women, youth and migrants.²⁰¹ The CESCR specified that state parties have a positive obligation to monitor the situation of homelessness within their jurisdiction²⁰² and it recommended Austria in its latest Concluding Observations of 2013 to collect disaggregated data on homelessness. Thereby, in particular data on homelessness is also key in ensuring there are sufficient number of places in shelters and day centres available to all persons experiencing homelessness, without any discrimination, and states “must demonstrate ... that [they] have taken whatever steps are necessary... to ascertain the full extent of homelessness and inadequate housing within [their] jurisdiction ...”.²⁰³

4.1 LACK OF STATISTICS

In the Austrian context, there is an estimate of 22,000 individuals experiencing homelessness in 2019, of which 31% are women. According to statistics by the Federal Ministry of Social Affairs, Health, Care and Consumer Protection, 57% of all people experiencing homelessness reside in Vienna.²⁰⁴ However, and as was also acknowledged by *Statistik Austria*, the estimate of 22,000 individuals is incomplete, as the indicator for measuring homelessness only captures the bottom line of homelessness in Austria.²⁰⁵ Several experts interviewed also criticized the data collection methodology, as it is based on the number of individuals who are listed by individual providers of homeless services and/or have registered their address with one of those facilities. Therefore, the methodology is insufficient to capture detailed information on the various forms of homelessness.

Consequently in 2019, BAWO and the *Statistik Austria* cooperated to improve and complement the data collection methodology to include an adapted list of facilities that corresponds with the different forms of

¹⁹⁵ CERD General Recommendation 30 on discrimination against non-citizens, UN Doc. CERD/C/64/Misc.11/rev.3

¹⁹⁶ Austria has not ratified these articles. The Racial Equality Directive of the European Union also prohibits racial discrimination by public and private actors, including in the field of housing, and requires European Union member States to establish national equality bodies with complaint mechanisms to address discrimination.

¹⁹⁷ OHCHR, Women and the right to adequate housing, 2012, https://www.ohchr.org/sites/default/files/WomenHousing_HR.PUB.11.2.pdf

¹⁹⁸ Convention on the Elimination of All Forms of Discrimination against Women, arts. 1, 14 (2), 15 (2) and 16 (1)

¹⁹⁹ UN Special Rapporteur on adequate housing, UN Doc. A/HRC/43/43, para. 52

²⁰⁰ S.C. and G.P. v. Italy (E/C.12/65/D/22/2017), para. 8.2

²⁰¹ Special Rapporteur on adequate housing, UN Doc. A/HRC/31/54, paras 68ff

²⁰² CESCR, General Comment 4; CESCR Fact Sheet No 21

²⁰³ CESCR, Concluding Observations on Austria, UN Doc. E/C.12/AUT/CO/4, para 20

²⁰⁴ Bundesministerium für Soziales, Gesundheit, Pflege und Konsumentenschutz, *Eingliederungsindikatoren 2018, 2019*.

²⁰⁵ CESCR, Concluding Observations on Austria, UN Doc. E/C.12/AUT/CO/4, para. 20

homelessness according to the ETHOS typology by FEANTSA.²⁰⁶ However, several shortcomings in the data collection methodology continue to exist: The data collection still rests upon on register-based data, meaning only individuals who have had an official contact with a homeless assistance service or those who are registered with the municipality's central register as experiencing homelessness are included in the statistics. Thus, individuals who do not have an official address, for instance due to eligibility criteria for obtaining an address, are not included in the official statistics. In addition, "hidden homelessness" and other forms of homelessness, such as people sleeping rough, women staying in women's shelters are not yet covered by the existing methodology and consequently, not included in the official statistics. Therefore, the current data collection methodology is insufficient to ascertain the full extent of homelessness in Austria and some experts even estimate that the number of persons experiencing homelessness might be as high as 25,000.²⁰⁷

4.2 DISPARITIES IN SERVICE PROVISION, ACCESSIBILITY AND AVAILABILITY ACROSS THE COUNTRY

The Austrian government has an obligation to provide adequate and sufficient services for each category of homelessness to effectively address and eliminate it. Several experts and practitioners also expressed an urgent need for ensuring a variety of available services. Ten experts Amnesty International spoke with raised concerns that there are still gaps in the system of homeless assistance services, especially in relation to its availability across the country, and for specific groups.

Amongst the five cities analyzed for this briefing, the Viennese homeless assistance service is the most elaborate, providing the highest number of homeless assistance services and a wide-ranging offer in terms of scope of services and target groups, which is considered good practice in the Austrian context. The below chart illustrates the types of services, with a focus on specific groups, are available in Vienna, Linz, Salzburg, Graz, and Innsbruck. However, it does not provide any information on the overall scope of the services, that is the total number of beds or rooms available to individuals.

²⁰⁶ BAWO, Statistisch untererfasste Formen von Obdachlosigkeit und Wohnungslosigkeit, Zusatzbericht, October 2019, https://bawo.at/101/wp-content/uploads/2020/04/20191018_BAWO_Zusatzbericht_final.pdf

²⁰⁷ See BAWO, Obdachlosigkeit Beenden: Eine bundesweite Strategie, Policy Paper der Bundesarbeitsgemeinschaft (BAWO), gefördert durch das Soziaministerium, p. 8, https://bawo.at/101/wp-content/uploads/2021/04/BAWO_Policy_Paper.pdf

Figure 2: Homeless Assistance services in selected cities in Austria

Homeless Assistance Service			Cities				
Type	Target Audience	Vienna	Graz	Salzburg	Linz	Innsbruck	
Emergency services	Emergency accomodation/shelter	Women	x*	x			x*
		Women and / or with children	x	x*			x*
		Youth ¹	x	x	x	x	x
		Men	x	x			
		not specified	x	x	x	x	x
	'Winter Package'	not specified	x	x	x		x
		Women	x		x		
	Day Centre	Women	x			x	
		Youth ¹	x				
		not specified	x	x*	x	x*	x
Supported accomodation services	'Chancenhaus'	Women	x*				
		Women and / or with children	x**				
		Youth ¹					
		Men	x				
		not specified	x				
	Mobile Supported Housing Services	not specified	x	x	x	x	x
		Women only	x		x***	x	
	Temporary Housing Services	Women and / or with children	x	x	x***	x	x
		Youth ¹	x		x*		x
		Men	x	x	x*		x
not specified		x	x	x	x	x	
Housing First	Housing First	not specified	x		x*	x*	
		Women		x			

Captions:
¹ Persons between the age of 15 - 24 years
 *limited in capacity, or opening hours and/or scope of services
 **women and families
 x*** opening in spring 2022

Overview of the different types of homeless assistance services that exist in the Austrian cities of Vienna, Graz, Salzburg, Linz and Innsbruck. Amnesty International collected the data based on information obtained from social organizations working in the homeless assistance sector and through additional sources available online.

4.2.1 LACK OF SERVICES DESIGNED FOR THE SPECIFIC NEEDS OF WOMEN AND YOUTH

A glance at the chart demonstrates that Linz ranks lowest in providing diversified services for specific groups. Most services are not gender specific and offer services based on the needs and experiences of men. Such women-only services are important to ensure that women are safe in shelters, not least as the evidence suggests that many of them may have experienced psychological or physical abuse and violence either during or prior to becoming homeless.²⁰⁸

Despite the complex system of homeless assistance services and the range of availability that these five cities offer, experts interviewed by Amnesty International identified certain shortcomings, especially regarding services for specific groups. For example, in Vienna, multiple services for women exist. In

²⁰⁸ OHCHR, Women and the right to adequate housing, 2012, https://www.ohchr.org/sites/default/files/Documents/Publications/WomenHousing_HR.PUB.11.2.pdf

addition to two women-only day centres, the city also provides two temporary accommodation centres only for women, and three temporary accommodation centres for women and their children.

A lack of emergency accommodation services for women can also be identified in other cities, for example in Salzburg and Linz. **Sonja**, a 42-year-old woman living in Linz who has experienced homelessness told Amnesty International about her wish for more women-specific services in the city: “There is a service specifically for women from Caritas, namely FRIDA. It wouldn't hurt if there was a second day centre. NOWA [note: the only emergency shelter in Linz] has now at least its own floor for women. It doesn't even have to be an overnight service, but if there was a second service for women, that would be good”²⁰⁹

Furthermore, while all five cities provide services for the youth, not all service categories are adequately covered in every city (see chart on homeless assistance services), and the lack of a coherent definition of youth homelessness in Austria means service providers define their own age limits. Specific services for young people are of particular importance, as their needs and vulnerabilities differ from those of adults. As the majority of young people have left home and relationships that they have been dependent on, additional measures are required to support youth not only in transitioning into independent living, such as vocational trainings, but also into adulthood to accompany young people in their ongoing personal development process, such as psychosocial support.²¹⁰ These include support and guidance in relation to the series of milestones young people might go through during this period of their lives including the right to vote, their sexual health, ageing out of state care, accessing benefits, the range of services they are entitled to access, the institutions they work with and how they are treated by agencies and institutions of state including the justice system.²¹¹ In this respect, an expert from DOWAS chill-out, a low-threshold accommodation for youth who experience homelessness in Innsbruck, Tyrol interviewed by Amnesty International expressed the need for more long-term accommodation options specifically for the youth.²¹² Another practitioner told Amnesty International that “[t]here are not enough services for young adults in Vienna” and that “a diverse set of services are particularly important for this age group as it is not enough for them to have their own flat. They need some sort of safety net, a comprehensive support system, ..., and the ability to come back if they cannot handle living independently right away.”²¹³

4.2.2 EMERGENCY SHELTERS ONLY AVAILABLE AT NIGHT

The fact that most emergency shelters are only accessible during the night, means that people have to find a place to stay at or go to during the day. It also can prevent people from accessing them at all, as **Saloni** told Amnesty International in her interview: “Thank God, I didn't [have to stay in an emergency shelter]. ... But I heard from other women, how it is there. It's very difficult. You have to leave the emergency shelter in the morning.”²¹⁴

While there are day centres in all the cities analyzed by Amnesty International and some cities even have day centres for women only, the constant moving constitutes an additional stress factor for the persons affected. During the Covid-19 pandemic, the emergency shelters, including winter packages in Vienna for instance, changed to operating 24/7, as the capacities of day centres had to be restricted in order to comply with social distancing rules. This was welcomed by people with experience in homelessness, as it allowed them to stay in the shelter. Experts also underlined its positive impact on the well-being of the persons affected, as this provided them with more structure during the day. The head of an emergency shelter for children and youth in Vienna told Amnesty International: “The kids were happy about the 24/7 running of our emergency shelter, because they had more stability. And it also meant that we had to become more pedagogical.”²¹⁵

²⁰⁹ Interview with Sonja, 17 November 2021, in person

²¹⁰ FEANTSA, *European Framework for Defining Youth Homelessness*, 2020, <https://www.feantsa.org/en/report/2020/03/24/european-framework-for-defining-youth-homelessness>

²¹¹ FEANTSA, *European Framework for Defining Youth Homelessness*, 2020, p 5; Youth Homelessness Network of FEANTSA in cooperation with the European Youth Centre of the Council of Europe, *Preventing and addressing youth homelessness through access to social rights*, 2014, p 13, <https://rm.coe.int/16806fd5c1> <https://www.feantsa.org/en/report/2020/03/24/european-framework-for-defining-youth-homelessness>

²¹² Interview with representative of DOWAS Chill Out, 15 December 2021, online

²¹³ Interview with representative of JUCA, 15 November 2021, in person

²¹⁴ Interview with Saloni, 12 October 2021, in person

²¹⁵ Interview with a representative of a_way, 05 November 2021, in person

In the city of Salzburg, for instance, two floors of a hotel near the train station became a shelter for people with experience in sleeping rough in 2020, because there was a shortage of places due to the social-distancing rules.²¹⁶ This project ran for eight months and was a success story, as a head of the social work of Caritas Salzburg told Amnesty International:

“We concentrated on 24/7 care. There was also a specific quarantine space. We haven’t had that many placements in the housing market, job market or into therapy places before! The people could find rest in single or double rooms! And there was support. The people approached us and asked for a therapy place. Usually, it’s the other way around. This permanent support and care has been a success story. Because of this better offer, we could reach people who we wouldn’t have reached before.”²¹⁷

Acknowledging the shortcomings of existing emergency accommodation, Vienna introduced – as the only city in Austria - so-called *Chancenhäuser*, emergency accommodation services that combine low-threshold access with a level of support similar to the one provided in temporary accommodation services. The *Chancenhäuser* are also open during the day unlike most emergency shelters.²¹⁸

4.3 BARRIERS IN ACCESSING THE HOMELESS ASSISTANCE SERVICES

The experts and persons with experience in homelessness interviewed as part of this research expressed a variety of barriers that effectively hinder persons from accessing available homeless assistance services. These include the criteria of eligibility, the lack of information about available homeless assistance services, bureaucracy and language barriers, the lack of privacy in shelters, as well as more gender-specific barriers that potentially force women into “hidden homelessness”.

4.3.1 (NON-)ELIGIBILITY CRITERIA EXCLUDE PEOPLE FROM HOMELESS ASSISTANCE SERVICES

Seven interviewees and several experts raised the eligibility criteria as the first and most significant statutory barrier, as thereby groups of people are intentionally excluded from accessing homeless assistance services.

As elaborated in chapter 2 the right to adequate housing is not guaranteed by the Austrian constitution and there is no legal basis for the provision of homeless assistance services in Austria. In fact, the provision of homeless services, including access to shelters is considered part of the social welfare system which falls within the competency of the federal states. Therefore, the federal states stipulate the statutory criteria for accessing social assistance – and hence homeless assistance services and shelters – in their respective laws.

In general, the statutory eligibility criteria for accessing homeless assistance services and benefits are based on the requirements for accessing social assistance. To start with, a person has had to have their actual residence in the respective federal state, before becoming homeless.²¹⁹ They also need to have Austrian citizenship or an equivalent status to be able to access homeless assistance services in the respective federal state.²²⁰ In addition, a person has to experience social hardship²²¹ and has to be willing to contribute to overcoming the social hardship, for example by work and/or “integrational measures”.²²²

²¹⁶ Funded by Land Salzburg, Caritas

²¹⁷ Interview with a representative of Caritas Salzburg, 25 November 2021, online

²¹⁸ Because of the Covid-19-pandemic, emergency shelters have been running 24/7

²¹⁹ According to the Meldegesetz, every person living in Austria has to officially register with the local authority, https://www.oesterreich.gv.at/themen/dokumente_und_recht/an_abmeldung_des_wohnsitzes/Seite.1180200.html#Rechtsgrundlagen

²²⁰ According to Section 4 Basic Act on Social Assistance the ‘equivalent status’ refers to refugees as well as ‘foreigners’ with a permanent residence, these are persons who have actually and legally resided in the territory of Austria on a permanent basis for at least five years

²²¹ The implementing law of the Basic Act on Social Assistance in Upper Austria for instance defines ‘social hardship’ in case a person cannot cover their own living and housing needs or the living and housing needs of dependents who live with them in a household; excluded are situations for which sufficient provision has already been made on the basis of other legal regulations. See Section 6 (2) Oö. Sozialhilfe-Ausführungsgesetz (LGBI. Nr. 107/2019).

²²² Explanatory notes to the Basic Act on Social Assistance, 514 der Beilagen XXVI. GP,

https://www.parlament.gv.at/PAKT/VHG/XXVI/I/I_00514/fname_740754.pdf

Only if these requirements are fulfilled, a person is eligible to access the homeless services, including shelters, in a respective federal state.²²³

Ineligibility of Austrian nationals becoming homeless in another federal state

Seven persons interviewed by Amnesty International stated that the criterion of eligibility is the greatest hurdle for persons in accessing the homeless services; it does not take into account the specific circumstances of a person experiencing homelessness, and intentionally excludes both Austrian nationals in some circumstances and migrants from the provision of services. **Regina**, who has experience in homelessness in Vienna, stressed in her interview with Amnesty International:

“[The biggest problem is] the distinction between who’s eligible and who’s not. If you are not eligible, ... you can only access the winter emergency shelters, but in the meantime, people are not accommodated and don’t have health insurance. ... People always think that persons who aren’t eligible come from other countries. But you may as well come from Lower Austria [and unable to access services in Vienna].”

This was also the case for **Florian**, who is an Austrian citizen, and was sleeping rough in Vienna after he had moved there from Styria with his then girlfriend. For three months, he tried to hand in his application for the homeless services in Vienna, which proved to be difficult because he also lacked information about the procedure. During this time, he slept in construction cabins or in abandoned buildings or in parks.²²⁴ **Dieter**, who is also Austrian, and currently lives in a winter emergency shelter in Vienna, told Amnesty International “I was travelling when the Covid-19 pandemic started and got one of the last flights [back to Europe] ...I stranded in Vienna ... but because of the lockdowns I have not been able to find a job.”²²⁵

Ineligibility of mobile EU citizens

In addition to Austrian nationals, the laws also exclude non-Austrian citizens who do not fulfil these requirements, many of whom could include migrant sex workers or destitute mobile EU citizens.²²⁶ Mobile EU citizens who experience homelessness in Austria include some who came as seasonal workers or migrant workers often working informally on constructions sites. Others came to Austria as students but stayed after their courses ended and others came to Austria to find work. There are no relevant statistics available at national or federal state level in relation to mobile EU citizens experiencing homelessness, but the experts interviewed provide some important insights: For instance, an expert from Caritas *Sozial- und Rückkehrberatung* in Vienna told Amnesty International that there are approximately 3,000 EU citizens per year, mainly coming from Slovakia, Hungary, Romania, Poland, and Bulgaria who come to the counselling centre.²²⁷ An expert from Caritas Salzburg mentioned that there are approximately 300 to 350 EU citizens, mainly from Roma communities, who experience homelessness in the city of Salzburg every year who come there to sell newspapers or have no option but resort to begging,²²⁸ and explained that very often these people already experienced marginalization, stigmatization and structural discrimination in their countries of origin.²²⁹ In such cases, returning to their countries of origin is therefore not a possibility, even if there was support offered to facilitate such returns through adequate cooperation between host and sending countries. And even where a person might consider returning, a lack of coordination and dialogue between ‘host’ and ‘sending’ countries often prevents this as viable option in practice.²³⁰

²²³ Section 4 Basic Act on Social Assistance in conjunction with implementing laws of the federal states

²²⁴ Interview with Florian, 11 January 2022, in person

²²⁵ Interview with Dieter, 10 January 2022, in person

²²⁶ While other groups of persons, such as undocumented migrants or persons who do not fulfil the criteria for an equivalent status to Austrian nationals are also excluded from homeless assistance services, experts interviewed by Amnesty International particularly stressed the situation of destitute mobile EU citizens and migrant sex workers in Austria.

²²⁷ Interview with a representative of Caritas Sozial- und Rückkehrberatung, 11 November 2021, in person

²²⁸ Interview with a representative of Caritas Salzburg, 25 November 2021, online

²²⁹ Amnesty International, Mind the legal gap: Roma and the right to housing in Romania (Index: EUR 39/004/2011),

<https://www.amnesty.eu/news/mind-the-legal-gap-roma-and-the-right-to-housing-in-romania/>; Amnesty International, Parallel Lives: Roma denied rights to housing and water in Slovenia (Index: Eur 68/005/2011), <https://www.amnesty.eu/news/parallel-lives-roma-denied-rights-to-housing-and-water-in-slovenia/>; Amnesty International, Stop forced evictions of Roma in Europe (Index: EUR 01/005/2010), <https://www.amnesty.eu/news/stop-forced-evictions-of-roma-in-europe/>

²³⁰ FEANTSA, Effectively tackling homelessness amongst mobile EU citizens – the role of homelessness services, cities, member states and the EU, <https://www.feantsa.org/download/effectively-tackling-homelessness-amongst-mobile-eu-citizens7332890560782313964.pdf>; As part of its project on mobile EU citizens, FEANTSA has collected best practice examples from across the EU, which include, where desired, facilitating the return of persons by accompanying them to international embassies for emergency travel documents and covering all costs of such returns. Please see FEANTSA, *Good Practices in Supporting Homeless Eu Citizens*, November 2021, https://www.feantsa.org/public/user/Good_Practices_in_Supporting_Homeless_Mobile_EU_Citizens.pdf

Thus, in Austria, destitute mobile EU citizens can only access emergency shelters, such as the VinziNest in Graz,²³¹ the VinziPort in Vienna or the emergency shelter for migrants run by Caritas Salzburg.²³² In addition, and only during winter, the Viennese homeless assistance service expands its services and provides so-called winter packages (*Winterpakete*) – a measure whose aim is to ensure that no person must sleep rough during the coldest months of the year.²³³ According to experts interviewed, this is also reflected in the statistics on the beneficiaries of the winter packages, where 70-80 % of all people who use these additional emergency shelters are EU citizens.²³⁴

Experts interviewed also expressed their concerns regarding older persons who are mobile EU citizens, as this group of people is particularly vulnerable and at heightened risk of experiencing health problems and sometimes in need of enhanced care. Without regularised status in Austria, they are excluded from any social assistance services in the country. At the same time, returning to their countries of origin is often no longer possible, either because their health status has already deteriorated, or they do not have any family ties or social safety nets in their countries of origin anymore after having lived in Austria for several years or decades. An expert from Caritas summarized the problem the following:

“Each year there are more persons who need care, but they can’t access long-term care services. The emergency shelters are overwhelmed with these people because they are not equipped and prepared for it. Sooner or later, these people end up in a hospital and then, the hospital increases the pressure and discharges them from the hospital or sends them back to us. During the summer, these people are sleeping rough.”²³⁵

The freedom of movement of EU mobile citizens is regulated through specific EU legislation, in particular EU Directive 2004/38/EC (Citizens Rights Directive), implemented into Austrian national legislation through the Settlement and Residence Act (*Niederlassungs- und Aufenthaltsgesetz*). It foresees that EU citizens with a valid identity card or passport are entitled to a right of residence in another EU member state for up to three months.²³⁶ In order to be entitled to reside for longer than three months, they must work, look for work, study, or have enough money to support themselves and have comprehensive health insurance; or be a family member of someone legally residing in the respective Member State.²³⁷

EU citizens who meet those requirements, and thus are entitled to stay in Austria for more than three months under EU law must notify the settlement authority (*Niederlassungsbehörde*) if they are staying in Austria for more than three months. Upon request, they receive a "registration certificate" as documentation of their right of residence.²³⁸ They then have right of residence under Austrian law and should be treated the same as Austrian nationals.²³⁹ However, per Article 24(2) of the Directive, host Member States may exclude those who are economically inactive and are without resources or comprehensive health insurance from social assistance services.²⁴⁰ Earning money in the informal sector is not deemed “work” and does not provide a basis for right of residence.

After five years of continuous legal residence in Austria, EU citizens can apply for a certificate of permanent residence (*Bescheinigung des Daueraufenthalts*), and with the legal status of permanent residency, the limitations in relation to equal treatment provided for in Article 24(2) cease to apply.

In addition to the lack of eligibility for social assistance service during the five years until permanent residency status, problems arise for those mobile EU citizens who are not able to acquire such status even after five years for example due to having worked informally. They are thus cut off from social assistance

²³¹ The VinziNest in Graz is financially supported by the Land Steiermark and the city of Graz

²³² Financially supported by the city of Salzburg and the Land Salzburg

²³³ The current ‘Winterpaket’ is open from 2 November 2021 until 2 May 2022 and provides for an additional 900 emergency shelter places

²³⁴ Interview with representatives of P7, 8 November 2021, in person; interview with representative of Caritas Sozial- und Rückkehrberatung, 11 November 2021

²³⁵ Interview with a representative of Caritas, 11 November 2021, in person

²³⁶ Article 6 of the Directive 2004/38/EC of the European Parliament and the Council, of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States

²³⁷ Article 7 of the Directive 2004/38/EC

²³⁸ A corresponding application must be submitted within four months of entering Austria

²³⁹ Directive 2004/38/EC Article 24: Equal treatment Article 24 (1) of the Directive ensures that EU citizens are treated equally to nationals and should have access to the same benefits, including social welfare benefits, such as unemployment services. The principle of equal treatment, and thus the prohibition of discrimination on grounds of nationality, can be found in the Treaty on the Functioning of the European Union, Article 18, and is also a general legal principle of primary EU law

²⁴⁰ Directive 2004/38/EC Article 24(2)

services and have limited access to homeless assistance services forcing them to sleep rough. In many EU countries, these individuals make up a significant proportion of those sleeping rough.²⁴¹

In consequence, people who are intentionally excluded from accessing the homeless assistance services based on the eligibility criteria, can only access emergency shelters with little to no additional support, such as social work or counselling, further restricting their possibilities to break out of homelessness.

4.3.2 ADDITIONAL BARRIERS TO ACCESSING HOMELESS ASSISTANCE SERVICES

Bureaucratic hurdles frustrate timely access to services by people in need

Closely related to the question of eligibility and indispensable for fulfilling the right to social security²⁴² is the process for determining a person's eligibility for social assistance – and hence, for ensuring access to emergency and temporary shelters as well as to housing benefits. In general, the system of social assistance should be accessible to individuals, including through providing necessary information about the system itself. The process should also be taking into account the specific needs of persons who might face additional barriers, such as language barriers.²⁴³

However, rather than addressing and mitigating such additional barriers, the current process adds further hurdles: Eight out of 18 interviewees told Amnesty International researchers that the process was overly bureaucratic and overwhelming,²⁴⁴ as a person had to make appointments with different authorities, fill in several application forms and has to provide all required documentation in order for their application to be examined.

In interview, **Hedy**, a 64 year old woman who has experienced homelessness, said that: “The majority [of people] is overwhelmed by the bureaucracy! It's degrading. This humiliation wouldn't be necessary though. They have got everything in the computers and still they force people to carry with them all their documents and even show papers that aren't relevant to their current situation, like divorce papers. That's humiliating!”²⁴⁵ **Ingrid** told Amnesty International about her recent experience with the bureaucracy: “I have 380€ for living [expenses]. I was told that I could receive a one-off financial support of 150€ [for additional expenses. However, I am unsure because I'd have to fill in 4 pages! I feel like a petitioner. I've always felt like a petitioner.”²⁴⁶

An expert from Jugend am Werk Housing First²⁴⁷ in Graz told Amnesty International about the negative consequences the bureaucratic process in Styria has on the lives of persons experiencing homelessness: “[With the adoption of the implementing law to the Basic Act on Social Assistance] people have to show a registration form (*Meldezettel*) and that's a huge problem because in order to get a registration form you have to report to Arche 38²⁴⁸ [once a week] for three weeks in a row, either in person or by phone, and then you get a registration form. But for people in an existential crisis, this is psychologically and physically often not possible to report [to Arche 38] weekly and then, [these people] don't get a registration form and then, they don't get any social assistance and then, they drop out of the system completely. Sooner or later these people reappear in the health system, in the hospital. ... This high threshold [is an obstacle] in accessing basic things.”²⁴⁹

²⁴¹ CORE, *Analysis of the obstacles to freedom of movement and political participation. Policy Recommendations*, Policy Paper 2020, <https://ecas.org/wp-content/uploads/2020/09/CORE-Policy-paper-final.pdf>

²⁴² as guaranteed in Article 9 ICESCR

²⁴³ CESCR, General Comment 19 on the right to social security (Article 9 ICESCR), 4 February 2008, UN Doc. E/C.12/GC/19, para. 27, <https://www.refworld.org/docid/47b17b5b39c.html>

²⁴⁴ In this respect, the Chamber of Labour of Upper Austria commissioned a study that identified the consequence of an overwhelming bureaucratic process with regard to housing subsidies. According to this report, reasons for a person not taking up housing subsidies were lack of information, the application process, administrative costs, language barriers as well as social and psychological costs, such as stigmatisation. Tamara Premov, Michael Fuchs, Non-Take-Up der Wohnbeihilfe in Oberösterreich, March 2021, European Centre for Social Welfare Policy and Research, https://oee.arbeiterkammer.at/service/presse/2021_Endbericht_Wohnbeihilfe_Land_Ooe_27.04.2021.pdf

²⁴⁵ Interview with Hedy, 12 October 2021, in person

²⁴⁶ Interview with Ingrid, 25 March 2022, in person

²⁴⁷ Jugend am Werk is one of the leading providers of social services in Styria. In Graz, the capital city of Styria, Jugend am Werk provides housing first for women

²⁴⁸ Arche 38 is a contact point for people who are experiencing homelessness, run by Caritas in Graz. Its range of services includes emergency shelter and care, short- and medium-term housing and individual advice

²⁴⁹ Interview with representative of Jugend am Werk Housing First, 11 November 2021, online

In addition, six out of 18 people with experience in homelessness mentioned to Amnesty International that they did not know which authority or institution was responsible for which part of the process; and eleven out of 18 interviewees noted that they lacked relevant information about it. **Carmen** told Amnesty International “[t]here is just no information! You simply don’t know where to go – especially if you have difficulty understanding the language. ... information that is easy to understand and easily accessible, that’s what missing.”²⁵⁰

Regina, who has experience in homelessness in Vienna, said about her experiences with public authorities and institutions and what a possible solution could look like:

“Everyone tells you ‘I’m not responsible’ and if you ask who is responsible, then you are sent on to the next office. People are sent around in circles. That’s insane! They are telling you to search for it online, but they don’t get that you might not have the mental space for this or don’t have access to the internet. In addition, you have to know how to use the internet! ... Flyers with information about counselling services should be available in the district offices. It should be written on these flyers, what to do and where to go when one is facing homelessness. But this simply does not exist.”²⁵¹

The Covid-19 pandemic also led to negative effects in the provision of homeless services, as appointments for services could then only be made online and a lack of access to smart phones and the internet that some people in homelessness experience exacerbated their situation. Experts working at P7, the first contact point for people with experience in homelessness in Vienna, noted that because of such lack of access and lack of digital competences, many people were not able to make an online appointment with the relevant authority or institution, or were not able to file applications or upload necessary documents online. One expert explained to Amnesty International that “many clients didn’t know what happened to their documents [that they uploaded] because everything was done online. They had no human interaction anymore and this led to uncertainty. They started to ask themselves, what now?!”²⁵² The experts further noted that people had to be more aware of application deadlines for the social services and that it was overwhelming for people to find out what Covid-19-specific rules applied to which authority or institution because it was not regulated consistently across the different social welfare offices.²⁵³

Overly complicated language used in forms for applying for benefits

In addition, four out of 18 interviewees with experience in homelessness told Amnesty International researchers about their difficulties in filling in the forms necessary for determining relevant benefits. **Saloni** told Amnesty International that despite speaking German very well, it was difficult to understand the bureaucratic language,²⁵⁴ and **Regina** noted that the bureaucratic language was not very accessible, especially for non-lawyers. She noted “German is my mother tongue and even I had difficulties. How should people whose mother tongue is not German understand. Those forms are not really humane. And if you fill in something wrong, you won’t get an apartment.”²⁵⁵

Many persons interviewed mentioned to Amnesty International that during the time of experiencing homelessness, they had to receive support from social workers in order to navigate and manage the bureaucratic processes. **Anita** shared her experiences on the road to finding a place for herself again:

“It was an exhausting process. Thank God, there was my social worker. I couldn’t have managed it alone. I wouldn’t have had the patience and the nerves. In the past, I also didn’t have the courage to admit that I couldn’t pay a bill or to arrange for instalments. I received a lot of help, so I was able to keep going. I believe because as a social worker there is more distance, it is easier to address things than if you’re immediately affected by it. Because no one can help you. Every office sends you on [to another one]. That’s a big barrier. You also have to open your mail. Otherwise, the dunning letters become more and more. The huge penalties for late payment aggravate the situation. And if you have depression, you don’t want to see or hear anything anyway. If you have a good day and you try again, then it’s already enough if

²⁵⁰ Interview with Carmen, 5 November 2021, in person

²⁵¹ Interview with Regina, 20 October 2021 in person

²⁵² Interview with representatives of P7, 8 November 2021, in person

²⁵³ Interview with representatives of P7, 8 November 2021, in person

²⁵⁴ Interview with Saloni, 12 October 2021, in person

²⁵⁵ Interview with Regina, 20 October 2021, in person

someone tells you that you are talking to the wrong person. Then you start from scratch again. In these cases, it is good to have a pillow to fall onto.”²⁵⁶

Financial barriers to accessing emergency shelters

While staff working in emergency shelters, as well as persons staying in emergency shelters confirmed in interviews to Amnesty International that the lack of a monetary contribution will not lead to exclusion from the provision of services, the issue of having to pay for emergency shelters nevertheless causes an additional stress level on the individuals, as four interviewees mentioned.²⁵⁷ Jan, who experienced rough sleeping and who was not eligible for the Viennese homeless services, said:

“I had to pay 2 euros per night. It was a tremendous stress. When I arrived [at the emergency shelter], I was told to pay 2 euros and I was a bit puzzled, because I didn’t know that. I had no money on me, but I could nevertheless stay for the night. This was also the reason why I had to beg. I knew I had to do it. I was scared [of the begging]. I tried a thousand times to go to the train station but left again, before I eventually sat down on the floor. The feeling, when you beg, I can’t describe it. It isn’t only shame... This feeling, you can’t put it into words. It was horrible.”²⁵⁸

Sonja, who experienced homelessness in Linz, also mentioned in her interview that she was affording the sleeping place in an emergency shelter through begging.²⁵⁹

Many people who experience homelessness, in particular destitute mobile EU citizens who are not eligible for any social assistance, have to resort to begging as a means to survive and to pay for the emergency shelters.²⁶⁰ For them, anti-begging sanctions can have severe consequences. While “silent begging” is allowed in Austria, certain forms of begging are prohibited by Police Criminal Acts (*Länder-Polizeistrafgesetz*) of the federal states. However, since begging is a matter for the federal states, the laws differ depending on the respective state. Aggressive begging, such as touching, accompanying someone without being asked, name-calling or begging with minors are prohibited in all federal states. Salzburg²⁶¹, Upper Austria²⁶², Tyrol²⁶³ and Vorarlberg prohibit organized begging; and Vorarlberg²⁶⁴, Vienna²⁶⁵, Carinthia²⁶⁶, Upper Austria²⁶⁷, Burgenland²⁶⁸, Lower Austria²⁶⁹ prohibited by law taking part in organized begging. In addition, communes may restrict begging further by regulation, for example to prohibit it at specific places or in specific areas.²⁷⁰

Gender-specific barriers

Many persons interviewed by Amnesty International stressed that women and men experience homelessness differently. Experts noted that a reason might be the structural gender inequalities and that care work still predominantly falls on women, which aggravates the situation for women who experience homelessness as they are subject to additional stigmatisation for failing their gender roles. “Tanja”, who had to flee with her family from Chechnya to Austria, told Amnesty International that she did everything she could to keep her experience in homelessness a secret. “Tanja” explained that she could not tell anyone

²⁵⁶ Interview with Anita, 14 December 2021, online

²⁵⁷ As part of this report, Amnesty International did not systematically research the requirement of payment across all shelters to see in which circumstances there are exceptions made and if they are made regularly. All shelters visited as part of this research confirmed that they would not send people away for lack of payment. However, the interviews with people experiencing homelessness suggest that the existence of the fee might create a chilling effect, and may be compelling some into acts such as begging that stem from homelessness. It should be noted that in *Lăcătuș v. Switzerland* (application no. 14065/15) the European Court of Human Rights held, unanimously, that the fine of 500 Swiss francs (approximately 464 euros) imposed on the applicant for begging in public in Geneva, and her detention in a remand prison for five days for failure to pay the fine had infringed the applicant’s human dignity and impaired the very essence of the rights protected by Article 8 of the Convention, and the State had thus overstepped its margin of appreciation.

²⁵⁸ Interview with Jan, 23 November 2021, online

²⁵⁹ Interview with Sonja, 17 November 2012, in person

²⁶⁰ https://www.caritas-ooe.at/fileadmin/storage/oberoesterreich/pfarrservice/broschuere_armutsmigration.pdf

²⁶¹ Landesrecht konsolidiert Salzburg: Gesamte Rechtsvorschrift für Salzburger Landessicherheitsgesetz, version of 28 March 2022, para. 29

²⁶² Landesrecht konsolidiert Oberösterreich: Gesamte Rechtsvorschrift für Oö. Polizeistrafgesetz, version of 28 March, para. 1a

²⁶³ Landesrecht konsolidiert Tirol: Gesamte Rechtsvorschrift für Landes-Polizeigesetz, version of 28 March, para 10

²⁶⁴ Landesrecht konsolidiert Vorarlberg: Gesamte Rechtsvorschrift für Landes-Sicherheitsgesetz, version of 28 March, paras 7-8

²⁶⁵ Landesrecht konsolidiert Wien: Gesamte Rechtsvorschrift für Wiener Landes-Sicherheitsgesetz – WLSG, version of 28 March 2022, para. 2

²⁶⁶ Landesrecht konsolidiert Kärnten: Gesamte Rechtsvorschrift für Kärntner Landessicherheitsgesetz – K-LsiG, version of 28 March, para. 27

²⁶⁷ Landesrecht konsolidiert Oberösterreich, Gesamte Rechtsvorschrift für oberöstr. Polizeistrafgesetz, version of 28 March, §1a

²⁶⁸ Gesamte Rechtsvorschrift für Burgenländisches Landessicherheitsgesetz, version of 28 March, para. 5

²⁶⁹ Landesrecht konsolidiert Niederösterreich: Gesamte Rechtsvorschrift für NÖ Polizeistrafgesetz, version of 28 March, para. 1a

²⁷⁰ Landes-Polizeigesetz para. 8

that she stayed in a temporary accommodation for mothers with children because it was not accepted in her community ‘for women to do such things’ and that she was afraid of the stigmatization.²⁷¹

As elaborated in chapter 3, many women who experience homelessness survived gender-based violence, including intimate partner violence; and, as a result, they might also live with mental health conditions or drug and alcohol dependence. While women’s shelters are the first point of contact for women survivors of gender-based violence, the house rules in these women’s shelters are strict to ensure the women’s security and safety. An expert from the Autonome Österreichische Frauenhäuser told Amnesty International that it happens regularly that they have to send women seeking admission away, mainly due to capacity issues.²⁷² In addition, if women experience gender-based violence outside of their homes, and if they experience additional health problems such as drug or alcohol dependence, women’s shelters do not take responsibility for providing these women with shelter. In these cases, the women’s shelters evaluate possible alternatives for the women and may suggest shelters provided by the homelessness assistance services as such. However, other experts interviewed by Amnesty International explained that in these cases, the homeless services often fill this gap although they might not be best equipped to do so.²⁷³

In addition, the non-existence of women-only shelters, especially emergency shelters, prevent women from accessing them, as many women - especially those who have survived gender-based violence - would not feel safe or comfortable in mixed gender accommodation. **Saloni** stated that she stayed in several shelters where her experiences were not that good because the shelters were organized so that women and men stayed in the same shelter although they had strictly separated sleeping quarters. She explained that she lives with a mental health condition and that it was consequently difficult for her to live with other people.²⁷⁴

Emergency shelters very often serve as the first contact point for people with experience in homelessness. However, taking this first step requires a lot of effort by those who experience homelessness and is often also perceived as frightening, particularly for women, due to the social construct of “the homeless” and the stereotypical picture of emergency shelters that is all too deeply embedded in the Austrian society, as two women interviewed expressed to Amnesty International.²⁷⁵ **Priscilla** described her feelings when she came to an emergency shelter for women with children:

“If you have to go to an emergency shelter, you think that’s the final stop in your life. I pictured it very cliché, people sleeping rough, unkempt, the smell and the alcohol... But [in fact] the emergency shelter is not how I depicted it. It is clean, the women who live here are very kind. And they have a similar fate. Therefore, there’s a feeling of solidarity.”²⁷⁶

Lack of privacy in emergency shelters

Eleven out of 18 persons interviewed who have experience in homelessness mentioned the lack of privacy in shelters as one of the greatest challenges with regard to the living conditions. In emergency shelters, shared rooms and dormitories are still common and some emergency shelters apply strict house rules, prohibiting for instance the consumption of alcohol or banning pets.

Leo told Amnesty International “I rarely stayed in emergency shelters ... because I did not want to sleep in shared rooms, were one person stinks and the other snores. The emergency shelter also banned alcohol [within the premises].”²⁷⁷ **Dieter**, who is currently living in a winter emergency shelter in Vienna, also mentioned that “[t]here is no privacy at all but I personally don’t really mind, it’s not like I feel fully comfortable but that I expected worse.”²⁷⁸ **“R”** who is sleeping rough, told Amnesty International “I’m not going to emergency shelters, I prefer it this way. The clients [in the emergency shelters] are not that great and there is zero privacy and very little independence. You have to sleep and wake up when they tell you. If you don’t show up, you lose your place and if you wanna sleep somewhere else you have to ask. That’s just like at your Mum’s or in jail.”²⁷⁹

²⁷¹ Interview with “Tanja” (name changed for security reasons), 15 November 2021, in person

²⁷² Interview with a representative of the Autonome Österreichische Frauenhäuser, 22 March 2022, online

²⁷³ Interview with P7, 8 November 2021, in person

²⁷⁴ Interview with Saloni, 12 October 2021, in person

²⁷⁵ Interview with Priscilla, 17 January 2022, in person; Interview with Saloni, 12 October 2021, in person

²⁷⁶ Interview with Priscilla, 17 January 2022, in person

²⁷⁷ Interview with Leo, 17 November 2021, in person

²⁷⁸ Interview with Dieter, 10 January 2022, in person

²⁷⁹ Interview with “R” (name withheld for security reasons), 12 January 2022, in person

5. HOUSING FIRST – AN ALTERNATIVE TO THE STAGE MODEL?

“The punch line is: Housing first and then all the other things follow. I think that's great! But unfortunately, you have to be eligible and go through the bureaucracy, etc. until it works out. Housing First should be as easy as it sounds. Housing comes first and then all other things. Sounds easy, but it's not.”²⁸⁰

Jan, who has experience in homelessness

5.1 HOUSING AT THE CENTRE OF SUPPORT

Experiencing homelessness often means having to deal with multiple disadvantages and unmet needs at the same time, making multi-agency support essential. Several persons interviewed by Amnesty International reiterated this and expressed the importance of a personalized approach tailored to the specific needs of a person experiencing homelessness.

The basic principle of the Housing First approach is the provision of independent living while ensuring support on different levels and as long as needed by the individual person. Elisabeth Hammer, director of *neunerhaus* in Vienna, summarized the key elements of the Housing First approach as follows: “There are three key elements to the success [of Housing First]: affordable housing, a lease in one’s name, and support by social workers on a voluntary basis and as long as it’s needed.”²⁸¹

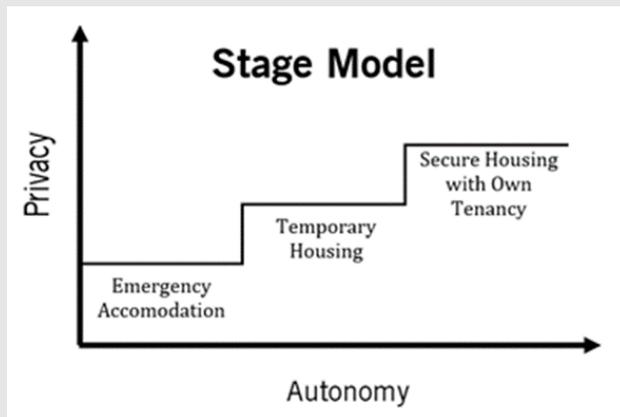
Housing First is often praised as most in line with a human rights-based approach.²⁸² It tries to tackle homelessness in a comprehensive, multidimensional way, addressing its manifold aspects, from physical to social, and also incorporates solutions to address the structural and institutional barriers people affected by homelessness face, based on systemic discrimination and marginalization, especially those at risk of poverty. In addition, the provision of housing as a first step to exiting homelessness counters images which form the basis for stigmatization and stereotypes of persons affected by homelessness and can thereby support the overall social transformation required.²⁸³

Housing First was first developed in New York City in 1992 by Dr Sam Tsemberis, at Pathways to Housing in New York, as an alternative to the “staircase services” approach in the United States.²⁸⁴ Recently, Housing First also emerged as the dominant model for responses to homelessness in several European countries.²⁸⁵ Contrary to the “stage model” where people have to go through a series of mandatory steps before being offered long-term housing, Housing First means that a person experiencing homelessness does not have to demonstrate any prior qualifications in order to live independently in a permanent housing with secure tenure.²⁸⁶ Therefore, Housing First constitutes a paradigm shift, where independent living with secure tenure is the starting point for any social work support services.²⁸⁷

THE STAGE-MODEL-APPROACH

The ‘stage-model’ (*Stufenmodell*) still constituting the as prevalent approach within the homeless assistance services in Austria has been criticized by experts,²⁸⁸ one being that this model is based on a ‘treatment-first’-approach,²⁸⁹ where mandatory supervision and support are preconditions for a person to live in their own and secure apartment again. Another drawback of this model is that the enjoyment of human rights, such as the rights to private life and human dignity depend on the individual progress of a person within the stage model, with a simultaneous degression of mandatory support and supervision.

Figure 3: The stage model



Graphic illustrating the link between privacy and autonomy in the stage model in different forms of housing. Amnesty International created this graphic based on information provided by organizations interviewed.

In addition, the composition of the teams providing support services that are wrapped around Housing First is multi-professional in order to ensure that the specific needs of a person can be met. Social workers are an important part of these teams, and often there is one worker dedicated to assisting a person to find the best possible solution, at the appropriate pace. Typically, support provided by social workers in the context of Housing First may include relationship building, familiarizing the person with the surroundings, advice in health matters, advice in relation to finances, support in the re-integration into the labour market, accompanying the person to appointments, support in providing information about the rights and obligations of a tenant, and so on.²⁹⁰

A further important aspect is the respect and encouragement of self-determination and participation of those affected in decision-making. Social workers and clients reflect together on the conditions required, for example in relation to the frequency, type and intensity of care, but also in terms of equipment and social inclusion. This allows for the active and meaningful participation which is a key for respecting the dignity, and the exercise of agency, autonomy and self-determination of affected individuals, as outlined by the UN Special Rapporteur on adequate housing in the Guideline 3 for the Implementation of the Right to Adequate Housing.²⁹¹

5.2 AUSTRIA'S EXPERIENCES WITH HOUSING FIRST

In Austria, a leading organization for Housing First is the *neunerhaus* in Vienna, a social organization supporting homeless persons and people at risk of poverty with medical care, housing and advice. The

²⁸⁰ Interview with Jan, 23. November 2021, in person

²⁸¹ Interview with Elisabeth Hammer, 7 February 2022, in person

²⁸² See, for example, Nicholas Pleace, *Housing First Guide*, 5 May 2016, https://housingfirsteurope.eu/assets/files/2017/03/HFG_full_Digital.pdf; UN Special Rapporteur on adequate housing, *End of Mission Statement by The Special Rapporteur on the right to adequate housing presents her preliminary findings after her visit to the Republic of France*, conducted on 2 – 11 April 2019; CoE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights, *A rights-based approach to guarantee the right to housing in Europe: between policy and (good) practice*, 16 May 2018, <https://rm.coe.int/report-of-the-6th-meeting-of-the-coe-fra-ennhri-equinet-collaborative-/16808f231a>

²⁸³ UN Special Rapporteur on adequate housing, UN Doc. A/HRC/31/54, para 19

²⁸⁴ Housing First Europe Hub, 1.2. The History of Housing First, <https://housingfirsteurope.eu/guide/what-is-housing-first/history-housing-first/>.

²⁸⁵ Housing First Europe Hub, 1.3. Housing First in Europe, <https://housingfirsteurope.eu/guide/what-is-housing-first/housing-first-in-europe/>.

²⁸⁶ Claudia Halbartschlager, Elisabeth Hammer, Sofia Martinsson, Andrea Zierler, *Housing First – Das Wiener Modell*, Fachliche Standards und Rahmenbedingungen für die Umsetzung, October 2012, p. 5, https://www.fsw.at/downloads/ueber-den-FSW/infos-fuer-organisationen/201210_HousingFirst_DasWienerModell_Endbericht.1567153130.pdf

²⁸⁷ Claudia Halbartschlager, Elisabeth Hammer, Sofia Martinsson, Andrea Zierler, *Housing First – Das Wiener Modell*, p. 5

²⁸⁸ Volker Busch-Geertsemach, BAWO, *Festschrift H Housing First – Housing Plus*, pp. 110 – 125; *neunerhaus*, *Housing First in Wien*, https://www.neunerhaus.at/fileadmin/user_upload/Fachpublikationen/Housing_First_Diverses/Housing_First_final.pdf

²⁸⁹ *neunerhaus*, *Housing First in Wien*, p. 18ff,

https://www.neunerhaus.at/fileadmin/user_upload/Fachpublikationen/Housing_First_Diverses/Housing_First_final.pdf

²⁹⁰ Claudia Halbartschlager, Elisabeth Hammer, Sofia Martinsson, Andrea Zierler, *Housing First – Das Wiener Modell*, p. 12

²⁹¹ UN Special Rapporteur on adequate housing, UN Doc. A/HRC/43/43, paras 20 ff

organization started working with the Housing First approach in 2012, and also engages in acquiring housing themselves to be able to offer more flats which are affordable for people with very low income.²⁹² Elisabeth Hammer, director of neunerhaus, described the outcome of their Housing First approach as follows: “At neunerhaus we can say that three years after signing their lease, 95% of tenants still live in their own flat. That’s a great success, and we are proud of it. In homelessness services it was often said that a place to sleep and a roof over one’s head are the most important things. While this is certainly true, low-level offers such as emergency shelters on their own are not enough if we want to permanently end homelessness – this can only be achieved through having your own flat.”²⁹³

In particular for women who often face additional barriers to accessing traditional homelessness services, Housing First has proven to be a viable alternative to not accessing support services, staying with friends or family, or enduring violence and abuse in order not to lose their home. While traditional services are usually predominantly utilised by men (up to two thirds),²⁹⁴ in Housing First the ratio is often closer to being approximately equal.²⁹⁵ Apart from the advantages of Housing First for all people affected by homelessness, according to FEANTSA, for women, Housing First also means safety first: the real and well-founded concerns of what sleeping rough or sleeping in emergency shelters means for women is one of the main reasons why Housing First is well-received and considered to more adequately incorporate a gender-perspective.²⁹⁶ Contrary to the stage model, Housing First also does not require a prior stay in a shelter of the homeless assistance service.²⁹⁷

According to the annual report 2020 of Jugend am Werk in Graz, 21 out of 30 women lived in insecure housing, with friends, acquaintances or family members, in women’s shelters or lived with their partners or families in precarious conditions, at the time of first contact with Housing First.²⁹⁸

A representative of Jugend am Werk Housing First, told Amnesty International that in the city of Graz, shelters for women were overcrowded and that there was either the option to open a new shelter or explore new ways: the decision was to explore new ways with the Housing First approach, because “it’s about finding long-term solutions” and to ensure people have a lease in their name and that their autonomy is guaranteed.²⁹⁹ She further explained that it is very often forgotten how important it is to encourage women in their independent living, especially when women escape a violent or dependent relationship.³⁰⁰ The Housing First approach can provide this sort of support, by addressing the individual needs and situation of the person.

In light of the Covid-19 pandemic’s impact on the livelihoods of people in Austria, the federal Ministry of Social Affairs, Health, Care and Consumer Protection together with BAWO presented the initiative “*zuhause ankommen*” that promotes the Housing First approach in several federal states, including Upper Austria and Vienna.³⁰¹ By 15 February 2022, the initiative supported 251 persons in procuring their own place, 53% were women and girls.³⁰²

²⁹² The so-called neunerimmo acts as an intermediary and as a renter of more than 400 affordable housing. neunerimmo rents housing for “starter apartments” and contributes to the development of innovative housing, addressing the needs of people living in poverty. More information about neunerimmo is available at <https://www.neunerimmo.at/>

²⁹³ Interview with Elisabeth Hammer, 7 February 2022, in person

²⁹⁴ See, for example Homelessness Research Institute, National Alliance to End Homelessness, *Demographic Data Project, Part II: Gender and Individual Homelessness*, 2018, <https://endhomelessness.org/wp-content/uploads/2019/09/DDP-Gender-brief-09272019-byline-single-pages.pdf>, ; Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz, *Eingliederungsindikatoren 2018*, December 2019, https://www.sozialministerium.at/dam/jcr:1f4e3ef3-2ab5-493f-92f0-cf323f258c40/Eingliederungsindikatoren_2018.pdf

²⁹⁵ See, for example, neunerhaus, *Wohnungslosigkeit ist oft unsichtbar*, <https://www.neunerhaus.at/unsichtbar/>

²⁹⁶ FEANTSA, *Guide for developing effective gender-responsive support and solutions for women experiencing homelessness*, <https://www.feantsa.org/public/user/Resources/resources/Guide%20supporting%20and%20solutions%20for%20women.pdf>

²⁹⁷ Jugend am Werk, *Jahresbericht 2020*, Housing First, p. 5

²⁹⁸ Jugend am Werk, *Annual Report 2020*, Housing First, p. 5

²⁹⁹ Interview with Andrea Knafel, 11 November 2021, online

³⁰⁰ Interview with Andrea Knafel, 11 November 2021, online

³⁰¹ BAWO, “zu Hause ankommen” – BAWO startet mit Sozialministerium Initiative zur nachhaltigen Bekämpfung von Wohnungs- und Obdachlosigkeit; BAWO, “zu Hause ankommen” – BAWO startet mit Sozialministerium Initiative zur nachhaltigen Bekämpfung von Wohnungs- und Obdachlosigkeit; BAWO, “zu Hause ankommen”, <https://bawo.at/>

³⁰² BAWO, “zu Hause ankommen”, <https://bawo.at/>; according to the correspondence by the Ministry of Social Affairs of 4 April 2022 this project seeks to provide support to persons experiencing or at risk of experiencing homelessness in finding a suitable apartment in the not-for-profit sector, as well as to reduce obstacles by incurring financial contributions and offering needs-based social care work.

5.3 THE ELIGIBILITY CRITERIA TO ACCESS HOUSING FIRST

The eligibility criteria for Housing First are the same as those to other homeless assistance services, such as a regular income or being eligible to social assistance (as explained in chapter 5), a secure residential status or a person's wish to live in a housing with security of tenure.³⁰³ This excludes again certain groups of persons from accessing Housing First and results in the same discriminatory effects for persons who are not eligible to the Austrian homeless assistance service. Therefore, Housing First is not as straight forward as it sounds, as Jan told Amnesty International:

“The punch line is: Housing first and then all the other things follow. I think that's great! But unfortunately, you have to be eligible and go through the bureaucracy, and so on. until it works out. Housing First should be as easy as it sounds. Housing comes first and then all other things. Sounds easy, but it's not.”³⁰⁴

Housing First approach has housing at its centre and the individual and their needs are paramount to other considerations. Its tailored approach which promotes and preserves individual autonomy, addressing the different dimensions of homelessness, including social stigma and discrimination, makes Housing First in line with a human rights-based approach. However, as also demonstrated in this and previous chapters, the needs of persons experiencing homelessness differ. Therefore, there is also no one-size-fits-all solution to ending homelessness, but a variety of different homeless assistance services are needed.

³⁰³ Jugend am Werk, *Jahresbericht 2020*, Housing First, p 5; Claudia Halbartschlager, Elisabeth Hammer, Sofia Martinsson, Andrea Zierler, *Housing First – Das Wiener Modell*, p.7

³⁰⁴ Interview with Jan, 23. November 2021, in person

6. CONCLUSIONS AND RECOMMENDATIONS

The data, information and testimonies gathered and analyzed for this briefing show that some of the most marginalized groups are not getting the support they need. Austria must take urgent measures to comply with its obligations to respect, protect and fulfil the right to adequate housing of people experiencing or at risk of homelessness in Austria, especially for women, destitute mobile EU citizens and other migrants other human rights.

The data available shows that thousands of people are currently enduring homelessness in Austria. Given the expert predictions that the number of people facing the possibility of becoming homeless will likely increase due to having lost their jobs or experiencing other difficulties as a consequence of the Covid-19 pandemic, action must be taken now, both to address the current situation, as well as to prevent further people enduring breaches of their human rights.

The current situation is exacerbated by the state not giving full effect to the right to adequate housing and other social rights in the national legal framework. This contributes to the negative public perception and stigma placed on people who are experiencing homelessness and contributes to further entrenching the notion of housing being a commodity rather than a right that people are entitled to. The reservation of execution (*Erfüllungsvorbehalt*) on the ICESCR prevents courts and administrative bodies from applying the Covenant directly and adds to the violations stemming from a lack of enshrining the right to housing in national law. This reservation however does not free Austria from its obligations under the ICESCR as laid down in Article 27 of the Vienna Convention on the Law of Treaties stipulating that a party “may not invoke the provisions of its internal law as justifications for its failure to perform a treaty”. The non-ratification of the Optional Protocol to the ICESCR which provides an individual complaints mechanism for persons to claim their rights at international level, together with the reservation of Article 31 of the European Social Charter creates a de facto complete barrier to any legal recourse for the right to housing in Austria.

The lack of a legal provision of the right to housing in the Austrian constitution coupled with the absence of a national housing strategy, has resulted in a highly fragmented system for the provision of homeless assistance services. Austria’s failure to collect relevant and disaggregated data on homelessness means that Austria does not have the necessary information to address homelessness and the ways in which it affects particular groups adequately. Moreover, it means that this lack of detailed data results in a discrepancy in the provisions of such services, in particular regarding the availability of a variety of services for specific groups of people, among the federal states of Austria.

This is exacerbated by the lack of a genuine consultation with people who have experienced homelessness in decision-making and policy processes, which frustrates making effective and sustainable changes. The Special Rapporteur on the right to adequate housing underlined that “[t]hose who are homeless or living in inadequate housing are uniquely situated to identify shortcomings or problems in housing policies and programmes” and that by recognizing the expertise of these people as rightsholders can act as an “ongoing corrective mechanism” against which to assess existing policies and programmes and ensure their compliance with international human rights standards.³⁰⁵

The restrictions on who is eligible for homeless assistance services represents an initial impediment that intentionally excludes specific groups of people from accessing these services. In this respect, Austria does not ensure a non-discriminatory access to shelters, as guaranteed under the right to housing. This de facto excluded certain persons from the homelessness assistance services. The human rights consequences are severe: They have extremely limited recourse out of homelessness, a prima facie violation of their right to adequate housing, which can ultimately also violate their rights to life, personal security, health, and freedom from cruel, inhumane or degrading treatment.

Conditions in emergency shelters, such as the lack of privacy and the lack of gender-specific shelters due to a lack of gender mainstreaming in the conceptual phase of these services prevent persons experiencing homelessness, in particular women, from effectively accessing homeless assistance services. The overall bureaucratic process of these services and additional language barriers further prevent persons

³⁰⁵ UN Special Rapporteur on adequate housing, UN Doc. A/HRC/37/53

experiencing homelessness from accessing available services. Having to make a monetary contribution to be able to access the shelters, no matter how small, also represents a barrier which adds to the social stigmatization that people experiencing homelessness are already subjected to. Although there are exceptions to this rule in practice, it can have a chilling effect which might still prevent people from accessing shelters or compel them to beg, placing them at risk of administrative criminal sanctions.

These statutory and practical barriers to the accessibility of homeless assistance services have a negative impact particularly on people who already face structural inequalities and discrimination, including women, destitute mobile EU citizens and other migrants – especially as the latter two often face additional obstacles due to language barriers, and the need to navigate a foreign bureaucratic system.

In conclusion, there are insurmountable hurdles for people in need of help to even be considered eligible for support, turning the system completely inaccessible for some and a lottery for others, depending as it does for example on a person's last official residence and their citizenship and migration status to determine the availability and accessibility of services.

Austria is failing to guarantee the right to housing for all due to a lack of availability and accessibility of adequate housing, and homelessness assistance services for those considered not eligible. In addition, it shows that Austria fails to ensure non-discriminatory and equal access to homeless assistance services. Austria's current system is in stark contrast with the right to equality that requires housing and social programmes to be non-discriminatory in their effect.

The absence of a genuine consultation process with people with experiences in homelessness on the federal and regional level has further contributed to a system of homeless assistance services does not ensure dignity and assist people to live with the greatest possible degree of autonomy and independence and falls short of fulfilling the state obligations under international law. Innovative and more human rights compliant approaches, such as Housing First, have been established in several cities of Austria only, to a limited extent.

The lack of a structured dialogue between the relevant federal, regional and local actors has hindered the sharing of good practices and lessons learned amongst these actors – despite the fact that especially Vienna is considered an example of good practice internationally.

With a view to ensuring that the right to adequate housing is respected, protected and fulfilled for all people in Austria and that the Austrian authorities comply with their obligations under multiple international treaties to which Austria is party, Amnesty International calls on the Austrian government and parliament to:

- Ensure that the ICESCR, to which Austria is a state party, is effectively incorporated into national law, including by
 - Removing the reservation on the national implementation of the ICESCR (Erfüllungsvorbehalt); and
 - Reviewing the Austrian catalogue of fundamental rights with a view to incorporating economic, social and cultural rights in the Austrian constitutional law, as envisaged in the government's programme of work 2020-2024;
- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- Ratify Article 31 on the right to housing of the revised European Social Charter;
- Take urgent steps to ensure that the rights enshrined in the ICESCR are enforceable through domestic courts in Austria; in particular ensure that all victims of violations of the right to adequate housing have access to effective remedy, including domestic judicial remedy;
- Take urgent action to implement the recommendations made by the UN Committee on all forms of Discrimination against Women including on enforcing equal pay for work of equal value and closing the gender pay gap, as well as addressing discrimination against women in the workplace particularly focussing on the needs of women belonging to disadvantaged groups.

Amnesty International also calls on the Federal Ministry of Social Affairs, Health, Care and Consumer Protection to:

- Repeal Section 4 and 5 (2) of the Basic Act on Social Assistance (BGBl. I Nr. 108/2019) as outlined in the Amnesty International Austria public statement on the draft law of 7 January 2019³⁰⁶ and in Amnesty International's submission to the Third Universal Periodic Review of Austria³⁰⁷;
- Adopt effective measures to prevent evictions, in particular due to arrears in rent and ensure that the temporary preventative measures adopted in the context of the Covid-19 pandemic applicable until end of 2023 are periodically reviewed in order to ensure these measures are extended and strengthened in line with the needs of individuals affected by the Covid-19 pandemic ;
- Ensure a sufficient number of affordable and secure housing to end homelessness by 2030 by carrying out a needs-based assessment of affordable and secure housing throughout Austria, taking into account recommendations developed by organizations working in this field, such as BAWO's policy paper '*Obdachlosigkeit beenden. Eine bundesweite Strategie*', and in compliance with Austria's commitment made under the Lisbon Declaration;
- Take action to address the underlying causes of lack of affordable housing and ensure that all measures take into account gender concerns and the structural inequalities women experience in Austria;
- Implement the recommendations of the UN Committee on Economic Social and Cultural Rights, including to adopt a national housing strategy that addresses the underlying causes that contribute to violations of the right to adequate housing, in particular regarding affordability, eviction prevention and poverty, and stipulates concrete actions to end homelessness by 2030, thereby complying with the CESCR concluding observations on Austria; and ensure that a national housing strategy specifically addresses the situation of women and responds to women's specific needs in this respect;
- Review existing processes in obtaining homelessness support to ensure people at risk of or experiencing homelessness are not denied access due to the complexity of the forms and lack of assistance thereto; in this regard, it would be important to:
 - consult with people who have lived experience of homelessness on measures that may facilitate timely access to support including for example, addressing the complexity of the system and forms and ensuring the language used is accessible and understandable;
 - consider measures as suggested some individuals affected by homelessness interviewed establishing a nation-wide hotline and website as a one-stop-shop for persons with regard to housing;

In addition, and with a view to Austria's immediate obligation to prevent and end homelessness, Amnesty International calls on the federal government, in particular the Federal Ministry of Social Affairs, Health, Care and Consumer Protection and the nine federal states of Austria to take urgent steps to ensure that no one sleeps rough for a lack of accessible, safe and adequate emergency accommodation, by:

- Urgently reviewing the criteria of eligibility that hinder both Austrians as well as non-Austrians from accessing the homeless assistance services that they need and have a right to;
- Expanding the *winter packages* to provide services beyond the winter so that they are accessible throughout the year;
- Ensure the rights of mobile EU citizens and other people who are migrants are respected, protected and fulfilled, by reviewing the eligibility criteria and ensuring that people regardless of their status have access to at least minimum essential levels of benefits to avoid destitution, and access to housing, and implementing the EU Directive 2004/38 in a human rights compliant manner;

³⁰⁶ Amnesty International, Public Statement on the draft in relation of the basic federal law on social assistance and social assistance statistics, January 2019, https://www.amnesty.at/media/4791/amnesty_stellungnahme-sozialhilfegesetz_jaenner-2019.pdf; See also Amnesty International: Suggested recommendations to states for UPR37 (Index: IOR40/3440/2020), <https://www.amnesty.org/en/documents/ior40/3440/2020/en/>

³⁰⁷ Amnesty International, Submission for the UN Universal Periodic Review, 37th Session of the UPR Working Group, January 2021, EUR 13/2855/2020, <https://www.amnesty.org/en/documents/eur13/2855/2020/en/>

- Within the national strategy consider scaling up projects that take into account the three dimensional approach anchored in human rights approach recommended by the UN Special Rapporteur, such as Housing First, so that they extend across Austria;
- Develop a systematic data collection mechanism on the extent and causes of homelessness, disaggregated by gender, age, ethnicity, migrant status, sexual orientation, gender identity, disabilities and rural-urban population applicable throughout Austria. In developing such a system for data collection consult with relevant organizations working in this field, in particular women's shelters, youth, LGBTI organizations and organizations working on sex workers' rights, as well as the Austrian Anti-Poverty Network, to ensure the comprehensive assessment of the situation of homelessness, including risk factors for insecure forms of housing in Austria, so vulnerable and priority groups can be identified and specific measures developed and reforms made to adequately meet their needs and protect their rights;
- Establish a platform for regular dialogue between the relevant federal ministry and the federal states with a view to facilitating exchange of best practice and lessons learned;
- Ensure genuine and meaningful participation and consultation of persons with experiences in homelessness, in particular women, migrants, destitute mobile EU citizens, youth and LGBTIQ persons, in the process of developing programmes and policies addressing the concerns regarding their human rights.

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