



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	Austria
<b>Title:</b>	Lower Austria passes Anti-Discrimination Act
<b>Date:</b>	2 May 2017
<b>Expert:</b>	Schindlauer, Dieter
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Protection against discrimination beyond employment and occupation
<b>Ground of discrimination:</b>	Ethnic affiliation, sex, religion/belief, disability, sexual orientation
<b>Source:</b>	Lower Austrian Provincial Law Gazette Nr 24/2017 of 13 March 2017
<b>Field:</b>	Self-employment and occupation; access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience; membership of and involvement in an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations; social protection, including social security and healthcare; social advantages; education; access to and supply of goods and services which are available to the public, including housing
<b>Applicable law:</b>	Lower Austrian Anti-Discrimination Act

### **Content**

As the last of the nine Austrian provinces, Lower Austria adopted a new Anti-Discrimination Act<sup>1</sup> on 26 January 2017, published on 13 March 2017 and in force since 14 March 2017.

Reaching partly beyond the minimum standards set out in the relevant European directives, the protection against discrimination now extends to self-employment<sup>2</sup> and to occupation, including selection criteria and recruitment conditions, including promotion; access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining, including practical work experience; membership of and involvement in an organisation of workers or employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations; social protection, including social security and healthcare social advantages; education; access to and supply of goods and services which are available to the public, including housing for all the grounds mentioned (ethnic affiliation, sex, religion/belief, disability, sexual orientation and age).

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<sup>1</sup> Lower Austrian Anti-Discrimination Act (*Niederösterreichisches Antidiskriminierungsgesetz*), Lower Austrian Provincial Law Gazette Nr 24/2017 of 13 March 2017, in force since 14 March 2017.

<sup>2</sup> Nota bene: The employment field is regulated by the Lower Austrian Equal Treatment Act for all grounds.

Prior to this amendment, Lower Austria had been the only province to protect only the ground of "ethnic affiliation" in these fields.

**Key points of analysis:** The Act is modelled along other provincial anti-discrimination acts and basically covers (copies) the main definitions from the Directives 2000/43/EC and 2000/78/EC, bringing broad and equal protection in the fields outside employment. It was a long-awaited step by Lower Austria, as all other Austrian provinces had introduced similar protection years ago.

While protection is generally widening the personal scope enshrined in Directive 2000/43/EC to other grounds than ethnic affiliation, there is still one provision causing concern: § 4/5 contains a general clause for exceptions from protection against discrimination, if the different treatment is objective and appropriate, justified by a legitimate aim and the means to achieve this aim are appropriate and necessary. This seems to allow justifications even in cases of direct discrimination on the basis of ethnicity, which would be in breach of Directive 2000/43/EC.

**Internet link source: (German)**

[https://www.ris.bka.gv.at/Dokumente/LgblAuth/LGBLA\\_NI\\_20170313\\_24/LGBLA\\_NI\\_20170313\\_24.pdf](https://www.ris.bka.gv.at/Dokumente/LgblAuth/LGBLA_NI_20170313_24/LGBLA_NI_20170313_24.pdf)sig.