

„There are no laws. They are the law!”

The Vordernberg Immigration Detention Centre in Austria

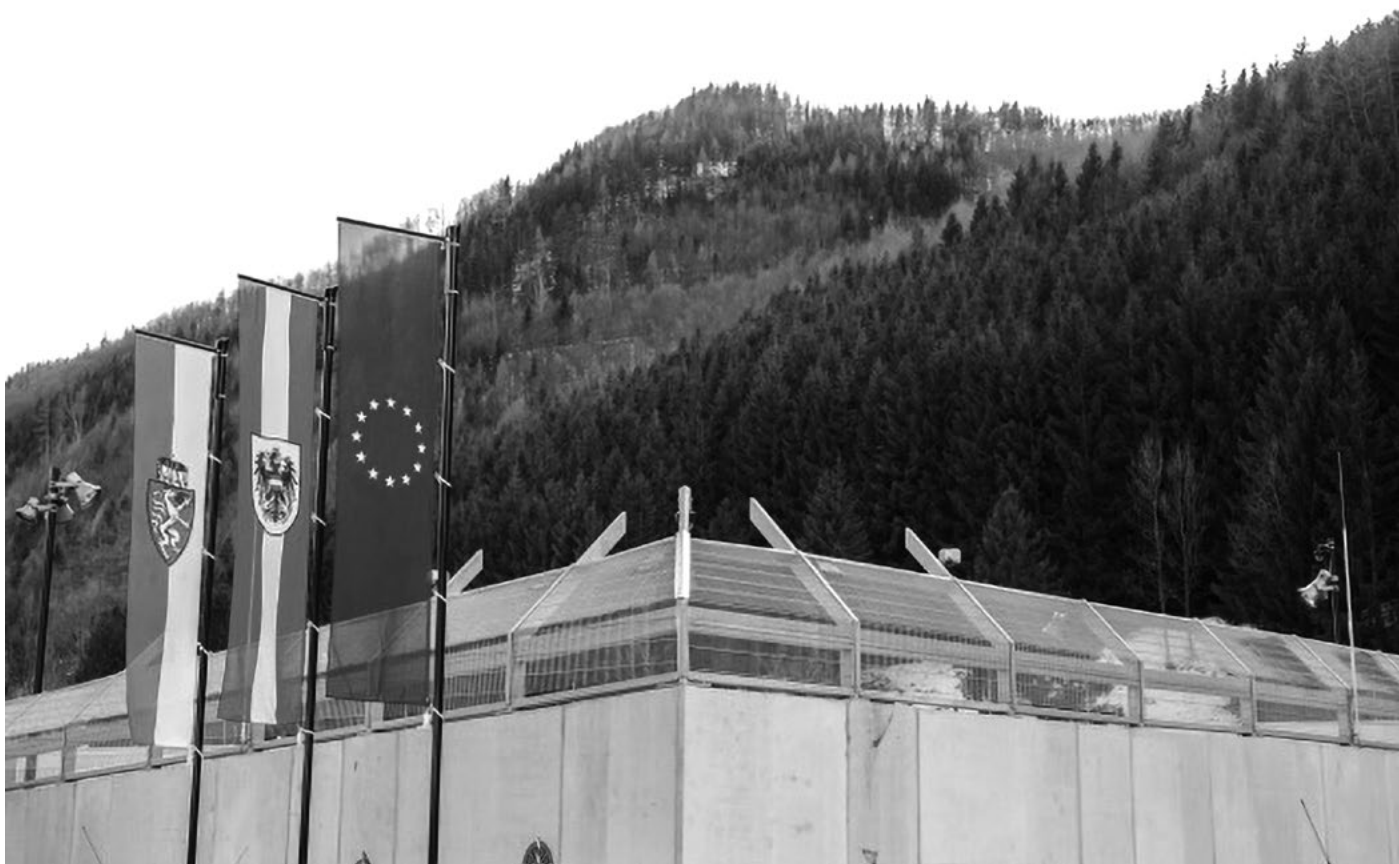


Foto: Nima Obaro

A study by
Push-Back Alarm Austria and
Deserteurs- und Flüchtlingsberatung



Deserteurs- und
Flüchtlingsberatung

1. Introduction

After more than four months in custody at the Hernalser Gürtel police detention centre, T. was transferred to the Vordernberg immigration detention centre in Styria in the south of Austria. His first glimpse of the building reminded him of the former US high-security prison on Alcatraz. "It was like something out of a film," he said in an interview with Push-Back Alarm Austria in a Viennese coffee house. "The place was far from everything, only wilderness all around; it was very strict and brutal!"

The idea of building an immigration detention centre in Vordernberg was developed in 2001, after years of criticism of the Austrian practice of immigration detention by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) and the then Human Rights Advisory Council of the Federal Ministry of the Interior. This proposal was then taken up by the SPÖ and ÖVP coalition government in its 2008-2013 programme. 250 places for measures terminating sojourn were to be created.

After initial criticism due to low occupancy rates and a disapproving report by the Austrian Court of Audit in 2019, things went quiet around Vordernberg. The location, far from metropolitan areas, poorly connected to public transport and time restrictions on entry not only make it difficult for visitors, organisations, independent legal advice services and lawyers to access the centre, but also further isolate detainees from the outside world. The main actors in the detention centre are police officers, employees of a private security company (G4S) and employees of the state funded legal and return counselling services. Publicly available reports are written by official or state institutions and do not reflect the experiences of people in immigration detention.

More than ten years after the opening of the detention centre, the two initiatives Push-Back Alarm Austria and the Deserteurs- und Flüchtlingsberatung document testimonials of people who have been imprisoned in Vordernberg. The interview partners were identified using a snowball sampling method; they consisted of people who were already in contact with the two initiatives and people who were referred to them by these individuals.

All were imprisoned in Vordernberg in the last three years. The study cannot claim to be representative, but the descriptions of the situation in Vordernberg largely coincide and thus allow the conclusion that they reflect truthful and generalisable experiences – even though a verification of the information is not possible due to the restrictive access and information policy of detention centres in Austria in general and Vordernberg in particular .

The interviewees report on detention conditions that erode or eliminate the detainees' will to live and their control over their own lives; these conditions, taken as a whole, meet the United Nations' legal definition of torture ('torturing environment').

2. Legal framework for immigration detention in Austria

Non-Austrian citizens can have their personal freedom restricted for a variety of reasons by being placed in detention pending deportation. Every instance of restricted personal freedom must be preceded by an examination of the legal requirements, the risk of absconding and proportionality; in particular, it must be determined whether a less severe measure can achieve the same goal as detention.

If the Federal Office for Immigration and Asylum (BFA) comes to the conclusion that detention pending deportation is proportionate, a so-called mandate notice is issued. In contrast to an ordinary decision, which is preceded by a preliminary investigation, a mandate decision is issued, among other reasons, in the event of 'imminent delay'. An example for clarification: if the competent authority suspects the risk of a building collapse, the evacuation of the building is ordered as an

emergency measure. Only after the evacuation has taken place, there is a proper investigation.

According to the same logic, detention pending deportation is defined by law as a way of averting imminent danger and the BFA is given the right to impose this form of detention without a proper investigation. The length of the detention is also not determined at the time of its imposition – whereas the deprivation of liberty due to criminal or administrative offences is determined by a court of law in its length. Persons who are not accused of anything other than unlawful residence are thus placed in a more precarious position than persons convicted under criminal or administrative law.

Nevertheless, a rough examination must be carried out, although this is handled differently by the field offices and regional offices of the BFA: some conduct written interrogations, while others merely refer to the procedural file in general terms. The purpose of the detention and the information on legal remedies in the emergency administrative decision are to be translated into comprehensible language for the person concerned; the reasons for the detention and the legal basis are to be stated only in the official language German.

The BFA informs the current legal counselling service, the Federal Agency for Care and Support Services (BBU), about the issuing of the mandate notice. The BBU is tasked with providing counselling on the mandate notice as soon as possible and informing the person concerned about the possibility of lodging an appeal. Such an appeal can be lodged during the entire detention and up to six weeks after release from detention. If the complaint is rejected, the person concerned faces a cost risk of around €400 to €800. If the person wants to file a complaint, the BBU has to write it, submit it and represent the person in the event of a hearing in front of the administrative court. If the person does not want to file a complaint, the BBU has no further mandate. The BBU will then no longer visit the person and advise them, unless a new procedural order is issued.

All of our interview partners described the legal advice as insufficient and stated that they had no trust in the BBU. Five respondents said that the BBU only informed them about the possibility of a voluntary return and the impending deportation; three explicitly stated that they were not informed about their rights and possible legal remedies. Four interviewees said that they had sought contact with the BBU in vain.

After a detention order has been imposed by means of a mandate decision, the necessity of the deprivation of personal liberty is reviewed by the BFA itself every four weeks without due process, and only after four months have passed, there is an ex officio detention review carried out by a second instance, the Federal Administrative Court (BVwG).

Under certain conditions, the detention can be extended from six to eighteen months. Whether such conditions exist is only examined by the BFA shortly before the expiry of the six months. The reason often given for further detention is that a travel certificate (HRZ) must be obtained. Access to the case file for the purpose of obtaining a HRZ is not provided for in the statutory legal advice and is often refused to independent legal representatives. The restriction of the rights of inspection of both the BBU and other legal representatives means that it is not possible for them to effectively challenge the BFA in court. The same applies to arrests made before a detention order is issued.

The low procedural and detention order standards, the cost risk of lodging an appeal, the limited legal framework for legal advice, the lack of access to procedural records and the four-month deadline for the first ex officio detention review by a second instance clearly show that the legal situation already undermines the interests of those affected as well as their right to legal certainty and legal representation.

*I always kept hearing that Austria is a country where the state of law,
the rule of law exists, where they provide people with healthcare,
they provide refugees with refuge and asylum.
And this is not how I experienced Austria at all.
I experienced it through the prison cell.*

3. „It was like a prison. It was a prison. It's a closed prison": Personal experiences in Vordernberg

The special – and in this form unique – immigration detention centre in Vordernberg was a particularly drastic experience for the interview partners. Especially the legal uncertainty and the undefined duration of the detention order had severe psychological impact on the detainees.

*Then the police took me, they told me I am going to an open camp
and then we arrived at Vordernberg and I was shocked
to see that it was not an open camp,
it was a prison or a detention center.
The first time I got there I saw a lot of police,
a lot of security, a lot of barbed wires, a lot of CCTV cameras.*

Vordernberg is described by all our interview partners as a prison. The geographical situation presents an additional problem, as it makes visits difficult or impossible.

*Building such a place in the middle of mountains
actually explains what is inside.
It's a place that is far off, to hold people without any charges,
to hide it from society.*

The detainees' right to self-determination is extremely limited; two interviewees described that personal property is locked away, meaning that every time you want a cigarette or need toothpaste, you have to ask someone from G4S for it.

According to all interviewees, everyday life in Vordernberg is characterised by arbitrariness and assaults by the staff – both the police and G4S.

*They think we don't have dignity. We are not human.
A lot of them, a lot of them, they think we are animals.*

In an interview, it was reported that some of the staff have far-right tattoos and that swastikas were repeatedly drawn on the wall of our conversation partner's cell, and were not removed throughout his entire stay despite numerous complaints. It was also stated that the graffiti 'Kill all Muslims' was written on cell walls.

Punishment

According to the interview partners, neither the rights, obligations and options for lodging complaints under the detention order nor the rules at the immigration detention centre in Vordernberg are explained. At the same time, however, alleged (even trivial) rule violations are severely punished, often with solitary confinement. One interview partner reported that he was placed in solitary confinement after unintentionally breaking the card on which the credit for purchases and phone calls was booked. One person reported that he was placed in solitary confinement after attempting suicide by hanging; this was confirmed by a second interviewee. Two other interviewees report that they were denied medical care in solitary confinement.

According to the collected testimonies, there are several cells that are used for isolation. Furthermore, a type of padded cell for one person is described. This cell is green and windowless. The hygiene conditions are described as catastrophic: according to one person, they spent five days in isolation without the opportunity to shower and without any clothes to change; another stated that they went a whole month without fresh clothes and only showered once in that month in solitary confinement.

Health care

All interview partners described the health care in Vordernberg as inadequate and problematic. According to one interview, there is no medical emergency service and, despite serious health problems, transport to a hospital often does not take place. Several interview partners reported that they received the wrong medication; others that they did not receive adequate dental treatment and insufficient painkillers.

One interviewee described that health care was inadequate even after suicide attempts. Another interviewee said that he went on a hunger strike for 12 days and was not medically examined during that time. Another reported that a hunger striker went 15 days without medical attention or care.

Five interviewees said that tranquilizers are administered very frequently. One interviewee mentioned that there is no professional psychological or psychiatric care.

Suicide attempts

Suicide attempts appear to be common in Vordernberg. One of our interview partners had attempted suicide by hanging. Another interviewee stated that seven people he had known personally had attempted suicide, and he had heard of even more cases. In two of the cases he reported, people drank shampoo, one broke a razor blade into several pieces and swallowed them, two tried to hang themselves, two cut their wrists. A third person reported that inmates collect sedatives to kill themselves with an overdose. Another interview reports an attempted suicide in which the person concerned swallowed a lighter.

Escape attempts

The inhumane situation in Vordernberg is shown particularly dramatic in two reports of an escape attempt by about 15-20 people. According to our information, most of them were stopped at the first fence with electric shockers and pepper spray, beaten by the police and taken to the isolation cells.

The injuries inflicted by the police were not treated.

The second interviewee involved in the escape said that he spent two and a half hours on the second fence. During this time, police officers stood inside and outside the fence with firearms, stun guns and pepper sprays. No interpreter was called.

Our interviewee cut himself on the barbed wire, then gave up and came down. He further reported that the police beat him and used stun guns and pepper spray multiple times, when he was already lying on the ground, unable to move. He was then taken to a padded cell, where he spent 18 days. During this time, he was not given medical attention despite his serious injuries and significant pain. When he screamed for help, he was once again beaten by two police officers.

4. Conclusions

Most people detained in Vordernberg are imprisoned for long periods of time. Based on the testimonies, it is clear that they experience the prison as a lawless space where the police guards and G4S personnel enforce power and control and where racist and physical assaults are daily routine. The interviewees consistently reported significant human rights violations in Vordernberg, which drove individual interviewees and their fellow detainees to self-harming behaviour or suicide attempts.

In summary, it can be said that ten years after the opening of the immigration detention centre in Vordernberg the vision of a detention centre that complies with human rights by the Federal Ministry of the Interior has failed. On the contrary torture-like conditions are reported by its prisoners. The slogan 'Rooms instead of Cells' by the executing architectural firm, [Franz&Sue](#), turned out to be a mockery for all those who were imprisoned in Vordernberg for a certain period of their lives. Or as one of the interviewees put it:

*I spent nearly a year in prison,
and I felt like they had stolen a year of my life.
This is very unfair, and it was extremely unjust.
It's very painful to think about the fact
that I had to spend one year in prison
without doing anything to deserve it.*

The inhumane conditions in Vordernberg make the closure of this place indispensable and require an immediate and independent inspection by human rights organisations. These must be granted unrestricted and unsupervised access to the building and to the detainees.

Furthermore, the legal provisions for dealing with people without a regular residence status and the implementation of these provisions must be critically reviewed. Vordernberg is just the tip of the iceberg when it comes to Austria's deportation policy, which is characterised by legal uncertainty for those affected, considerable legal leeway for the authorities and inadequate legal advice and violence.

The full version of this study will be published at the end of September.