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U.S. Department of State

Austria Country Report on Human Rights Practices for 1997

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1998.

AUSTRIA

Austria is a constitutional democracy with a federal parliamentary form of government and an independent judiciary. Citizens choose their representatives in periodic, free, and fair multiparty elections.

The police are subordinated to the executive and judicial authorities. The national police maintain internal security. The army is responsible for external security.

Austria's highly developed, market-based economy, with its mix of technologically advanced industry, modern agriculture, and tourism affords its citizens a high standard of living.

The Government generally respected the human rights of its citizens, and the law and judiciary provide effective means of dealing with individual instances of abuse. There were occasional reports of abuse by police. Legislation went into effect to increase protection for women against domestic violence.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the Constitution prohibits such practices, government statistics for 1996 showed 235 complaints against federal police officials for illegal violations of personal freedoms, such as intimidation, threats, abuse, and mistreatment. Comparable statistics for prior years are not available.

Prison conditions meet minimum international standards. The Government is a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which includes a provision for human rights monitoring missions. In individual cases, investigating judges or prison directors have jurisdiction over questions of access to the defendant.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest, detention, or exile, and the Government observes this prohibition.

In criminal cases the law provides for investigative or pretrial detention for up to 48 hours, except that in cases of charges of "aggressive behavior" an investigative judge may within that period decide to grant a prosecution request for detention up to 2 years pending completion of an investigation. The grounds required for such investigative detention are specified in the law, as are conditions for bail. The investigative judge is required to evaluate an investigative detention at 2 weeks, 1 month, and every 2 months after the arrest.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government respects this provision in practice. The judiciary provides citizens with a fair and efficient judicial process.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such practices, government authorities generally respect these prohibitions, and violations are subject to effective legal sanction.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of the press, and the Government generally respects this right in practice, although stringent slander laws tend to discourage reports of police brutality. Publications may be removed from circulation if they violate legal provisions concerning morality or public security, but such cases are extremely rare.

The government monopoly in television and national radio is gradually being dismantled. A law passed in 1993 permitted licensing of regional private radio stations, but implementation of the law was delayed

due to legal challenges by unsuccessful applicants for licenses. A private radio station, however, has now opened in Styria and another in Salzburg. Rewritten radio frequency rules are scheduled to go into effect in October. Similar steps are expected for television in coming years.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, except for Nazi organizations and activities (an exception stipulated also in the Austrian State Treaty of 1955). The law on the formation of associations states that permission to form an organization may be denied if it is apparent that the organization will pursue the illegal activities of a prohibited organization.

c. Freedom of Religion

The Constitution generally provides for freedom of religion of individuals. The status of religious organizations, however, is governed by the 1874 "Law on Recognition" of churches. Officially, 75.3 percent of the populace is Roman Catholic, and there are 11 other recognized religious organizations.

Religious recognition under the 1874 law has wide-ranging implications, e.g., the authority to participate in the state-collected religious taxation program, engage in religious education, and import religious workers to act as ministers, missionaries, or teachers. Although in the past nonrecognized religious groups have had problems obtaining resident permits for foreign religious workers, administrative procedures adopted in 1997 partially have addressed this problem.

Previously, some nonrecognized religious groups were able to organize as legal entities or associations, although this route has not been universally available. Some groups even have done so while applying for recognition as religious communities under the 1874 law. Many such applications for recognition have languished in the Education Ministry, in some cases for years. Following years of bureaucratic delay and an administrative court order instructing the Education Ministry to render a decision, the Ministry denied in July the request for recognition of Jehovah's Witnesses. Jehovah's Witnesses appealed this decision to the Administrative Court.

In December Parliament passed a new law that allows nonrecognized religious groups to seek official status as confessional communities without many of the benefits available to recognized religions. To apply groups must have 300 members and submit to the Government their written statutes, describing the goals, rights, and obligations of members, membership regulations, officials, and financing. Groups also must submit a written version of their religious doctrine, which must differ from that of any existing religion recognized under the 1874 law or registered under the new law, for a determination that their basic beliefs do not violate public security, public order, health and morals, or the rights and freedoms of citizens. The new law also sets out additional criteria for eventual recognition according to the 1874 law, such as a 20 year observation period (at least 10 of which must be as a group organized as a confessional community under the new law) and membership equaling at least two one-thousandths of the Austrian population. Many religious groups and independent congregations do not meet the 300-member threshold for registration under the new law, and only Jehovah's Witnesses currently meet the higher membership requirement for recognition under the 1874 law.

Proponents of the law describe it as an opportunity for religious groups to become officially registered as religious organizations, providing them with a government "quality seal." Numerous religious groups not recognized by the State, as well as some religious law experts, however, dismiss the purported

benefits of obtaining status under the new law and have complained that the new law's additional criteria for recognition under the 1874 law obstruct claims to recognition and formalize a second-class status for nonrecognized groups. Experts have questioned the new law's constitutionality.

In 1997 the Government continued its information campaign against religious sects considered potentially harmful to individuals and society. As part of this campaign, the Family Ministry published a widely distributed brochure describing the potential dangers of membership in various nontraditional religious groups. The Family Minister publicly declared his determination to combat dangerous religious groups.

In August the Austrian People's Party (OeVP) decided that party membership is incompatible with membership in a sect. Understanding that he would be expelled as a consequence of this decision if he did not withdraw from either Scientology or the party, a local OeVP politician resigned from the party and abandoned plans for running on the OeVP ticket in October local elections. In July a national OeVP politician was criticized heavily across the political spectrum for his friendship with the local politician.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government does not restrict movement, including emigration. Citizens who leave the country have the right to return at any time.

Austria has signed the 1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol, but subscribes to the "safe country" concept, which requires asylum seekers who have entered illegally to depart and seek refugee status from outside the country. In response to continuing criticism by the office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations, the Government passed an amendment to the 1991 asylum law in July designed to bring some improvements to the "safe country" rule and the appellate procedure. The Government cooperates with the UNHCR and other humanitarian organizations in assisting refugees and relies upon UNHCR information to determine "safe countries." Individuals found to be true refugees by government authorities are not sent back to the countries from which they have fled.

The Government provides "temporary protected status," similar to first asylum, to refugees who fled fighting in Bosnia and Herzegovina. Those who arrived between April 1992 and July 1993 were granted protected status and provided government assistance without having to file asylum applications. The government assistance program for Bosnian war refugees in temporary protected status has been extended until July 31, 1998 for certain categories of refugees. Under this program, those whose temporary protected status expires and who have not been integrated into the society may be required to depart.

Asylum applications rose in 1996 by 1,000 over the previous year to 6,991, while the approval rate declined, with 716 applications approved. This figure includes asylum seekers from Iraq (183), Iran (136), the Federal Republic of Yugoslavia (92), Bosnia-Herzegovina (69), and Vietnam (55).

There is no reported or observed pattern of abuse of refugees. Following criticism of conditions in detention centers in 1996, the Government promised to take steps to improve them; no new criticism was reported.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right peacefully to change their government. Citizens

exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Approximately 26 percent of the members of Parliament and 4 of 16 cabinet members are women.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. In some cases, they have been dissatisfied with the information authorities have supplied in response to specific complaints.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The law provides for protection against any of these kinds of discrimination in employment, provision welfare benefits, and other matters, and the Government generally enforces its provisions effectively.

Women

Official data for 1996 show 11,932 reported cases of violence against women, of which 470 were rapes and 373 other sexual assaults. Police and judges enforce laws against violence; however, less than 10 percent of abused women are estimated to file complaints. On May 1, a law on the "Protection of the Family" went into force that empowers police officials to expel abusive family members from family homes and prohibit them from returning for a 7-day period. This period can be extended to as long as 3 months by a court order.

Most legal restrictions on women's rights have been abolished. Women are still prohibited by law from night work in most occupations. Although this ban is sometimes used as a pretext for not hiring women, it is supported by the Women's Affairs Ministry and women's organizations. (Nurses, taxi drivers, and a few other occupations are exempted from this ban.) According to a 1994 ruling by the European Court of Justice, a sex-based prohibition of nighttime work is not permissible. The Government has been granted a transition period until 2001 to adapt its legislation to gender-neutral European Union regulations, but at year's end, legislation revising this prohibition was still pending.

An April petition drive to force discussion of women's rights in the Parliament drew 645,000 signatures. The exclusion of women from the culturally important Vienna philharmonic orchestra ended, although only one female member has been accepted into the orchestra.

In addition to the federal Women's Affairs Ministry, a federal Equality Commission and a federal Commissioner for Equal Treatment oversee laws prescribing equal treatment of men and women. Sixty percent of women between the ages of 15 and 60 are in the labor force. Despite substantial gains in women's incomes, they average 20 percent lower than those of men. Although women still are not allowed in the military, the Government made a policy decision to integrate women into the military as soon as implementing laws are passed. On December 11, Parliament passed a legislative package that cleared the way for the e