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## U.S. Department of State

### Austria Country Report on Human Rights Practices for 1998

Released by the Bureau of Democracy, Human Rights, and Labor, February 26, 1999.

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#### 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. The police are generally well trained and disciplined, although some members of the police were responsible for instances of human rights

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 some reports of abuse by police, which involved occasional beatings but mainly involved verbal abuse and threats. Legislation went into effect to increase protection for women against domestic violence, which has been a problem and is considered to be greatly underreported.

#### 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 1997 showed 321 complaints against federal police officials for illegal violations of personal freedoms, such as intimidation, threats, abuse, and mistreatment, compared with

235 such complaints in 1996. In 1998 4 police officials were convicted of excessive physical force; 158 cases are pending. Types of abuse ranged from slander to kicking and hitting, resulting mainly in bruising. Some of the violence appeared to be racially motivated.

Prison conditions meet minimum international standards and the Government permits prison visits by human rights monitors. 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 and detention and the Government observes this prohibition.

In criminal cases the law provides for investigative or pretrial detention for up to 48 hours; however, in cases of charges of "aggressive behavior" an investigative judge may within that period decide to grant a prosecution request for detention of 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 after 2 weeks, 1 month, and every 2 months after the arrest.

Forced exile is not practiced.

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. Rewritten radio frequency rules went into effect on April 1. Since that date, several private radio stations began broadcasting.

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. However, the status of religious organizations is governed by the 1874 "Law on Recognition" of churches and by a January law establishing the status of "confessional communities." 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, to engage in religious education, and to 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 have addressed this problem in part.

Previously, some nonrecognized religious groups were able to organize as legal entities or associations, although this route has not been available universally. 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, in 1997 the Ministry denied the request for recognition of Jehovah's Witnesses. Jehovah's Witnesses appealed this decision to the Constitutional Court.

In January a new law went into effect that allows nonrecognized religious groups to seek official status as confessional communities without the fiscal and educational privileges 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. Only Jehovah's Witnesses currently meet the higher membership requirement for recognition under the 1874 law.

In a decision issued in March, the Constitutional Court voided the Education Ministry's decision on the Jehovah's Witnesses and ordered a new decision based on the January law on the Status of Confessional Communities. In July Jehovah's Witnesses received the status of a confessional community. According to the January law, they are now subject to a 10-year observation period before they are eligible for recognition.

As of July 10, the Education Ministry had granted the status of "confessional community" to eight religious groups, including for example, Jehovah's Witnesses, Baptists, and Seventh Day Adventists. The Church of Scientology and the Hindu Mandir Association withdrew their applications. The Ministry rejected the application of the Sahaja Yoga group.

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." However, numerous religious groups not recognized by the State, as well as some religious law experts 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 1998 the Government continued its information campaign against religious sects considered potentially harmful to individuals and society. As part of the campaign, the Family Ministry initiated a new "Federal Office on Sects", which is responsible for collecting and providing information on sects active in the country.

The Austrian People's Party (OeVP) retained the policy it set in 1997 that party membership is incompatible with membership in a sect. This policy led to the resignation of a local OeVP official in 1997. In July the city government of the provincial capital Innsbruck denied permission for a concert sponsored by Scientologists, referring to a "ban on Scientology-sponsored activities" stipulated in a 1997 city government decision.

#### 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 1997 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. A Government ordinance declaring Austria's eastern neighbors as "safe countries" generated continued criticism by human rights and refugee advocacy groups throughout the fall of 1998. Individuals found to be true refugees by government authorities are not sent back to the countries from which they have fled. The Government established an appeal body for refugees--the "UBAS," of the Independent Federal Asylum Senate. Refugees who feel their cases are not being given due consideration can turn to this body for help.

Of the estimated 95,000 Bosnian refugees who arrived in Austria between April 1992 and July 1993, the Government provided temporary protected status (TPS), similar to first asylum, to 47,000, which made them eligible to receive government assistance without having to file asylum applications. Most of the other 48,000 refugees were deemed to have other means of support, either from families already present in Austria or from nongovernmental organizations. The overwhelming number of all Bosnian refugees has been integrated in the Austrian labor market. They now hold "gastarbeiter" status, which means that their residency permit is evaluated each year on the basis of Austria's overall labor demand. Many of the refugees have chosen voluntarily to return to their homeland, a process that still continues. In 1997 4,200 Bosnians returned to their homeland; a similar figure was expected to have returned by the end of 1998.

A September proposal by the Interior Ministry for a change of European asylum policy drew substantial criticism from human rights groups and opposition parties. While the Interior Ministry maintained that its objective had been to create a framework for newly developed concepts such as "temporary protected status" for persons fleeing civil war and ethnic conflicts, critics argued that the proposal was aimed at abolishing the legal right to asylum.

Asylum applications dropped in 1997 to 6,719, a reduction of 272 from the previous year; the approval rate remained constant with 639 applications approved during the year. This figure includes asylum seekers from Iraq (125), the Federal Republic of Yugoslavia (99), Iran (97), Afghanistan (64), and Bosnia-Herzegovina (39). While asylum applications averaged approximately 500 per month in 1997, this figure rose to 1,282 in August, of which 800 applications were from Kosovar Albanians. In reaction to the growing number of asylum applications from Kosovo, the Interior Ministry emphasized that the Government did not intend to create a "temporary protected status" program for Kosovar Albanians. Instead, the Government aims to set up European Union (EU) aid programs for Kosovo. There is no reported or observed pattern of abuse of refugees.

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

The Constitution provides citizens with the right to change their government peacefully. Citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

Approximately 25 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**

Violence against women is a problem. Official data for 1997 show 11,539 reported cases of violence

against women, of which 472 were rapes and 381 other sexual assaults. Police and judges enforce laws against violence; however, less than 10 percent of abused women are estimated to file complaints. In 1997 a Law on the Protection Against Violence in the Family went into force. The Law 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. The Government also sponsors shelters and telephone help lines for women.

Austria is affected significantly by the growth of East-West trafficking in women. It is both a transit and destination point, primarily for women from Eastern Europe and the countries of the former Soviet Union. Organized crime groups from these areas also are involved in trafficking. The country is particularly attractive to traffickers due to its geographical location and the fact that citizens of the Czech Republic, Slovakia, and Hungary do not require visas to enter the country.

While prostitution is legal, trafficking for the purposes of prostitution is illegal. The law calls for a jail sentence of up to 10 years for convicted traffickers. A witness protection program granting temporary resident status to women willing to testify against their traffickers went into effect on January 1. In the past, because so few witnesses agreed to testify against their traffickers, prosecution was difficult and those trafficked often simply were expelled from Austria. The witness protection plan is aimed at generating more support from witnesses so that police will be able to see concrete results from their efforts. Austrian NGO's, with the support of the Government, have begun to broaden their assistance and strong support for battered spouses to include those women seeking to flee from the prostitution traps created by criminal elements.

In October the Government hosted an East-West conference on trafficking in women. The Minister of Women's Affairs has spoken out repeatedly about the problem.

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. Legislation revising this prohibition was still pending.

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, women's incomes average 30 percent less than those of men. As of April 1, women were allowed to serve in the military. Several female volunteers started serving on that date.

Although labor laws providing for equal treatment extend to women in the civil service, they remain underrepresented. To remedy this circumstance, a 1993 law requires hiring women of equivalent qualifications ahead of men in civil service areas in which less than 40 percent of the employees are women; there are no penalties for failing to attain the 40 percent target.

Women may be awarded compensation of up to 4 months' salary if discriminated against in promotions because of their sex. The Labor Court also can order employers to compensate victims of sexual harassment.

Women's rights organizations are partly politically affiliated, and partly autonomous groups. In voicing

their concerns, they receive wide public attention.

## **Children**

Laws protect the vast majority of children's rights established in international conventions and in some respects go beyond them. Each provincial government and the federal Ministry for Youth and Family Affairs has an "Ombudsperson for Children and Adolescents" whose main function is to resolve complaints about violations of rights of children.

While 9 years of education are mandatory for all children, beginning at age 6, the Government also provides free education through the level of technical or vocational programs or university. Educational opportunity is equal for girls and boys. Comprehensive, government-financed medical care is available for all children without regard to gender.

There is no societal pattern of abuse against children, although heightened public awareness of abuse has led the Government to increase its efforts to monitor the issue and prosecute offenders. Reports of suspected sexual abuse of children in 1997 increased to 895, up from the 1996 total of 738; the number of related convictions fell from 339 to 314.

Stricter regulations on child pornography went into effect in 1997. Under the new laws, any citizen engaging in child pornography in a foreign country becomes punishable under Austrian law even if the actions are not punishable in the country where this violation was committed. The new laws also entail more severe provisions for the possession, trading, and private viewing of pornographic materials. For example, exchanging videos is now illegal even if done privately rather than as a business transaction.

In the context of its EU presidency, the Government advanced a multiyear plan to prevent misuse of the Internet. In February 1997 authorities set up a 24-hour "tip line" for citizens to report leads on child pornography on the Internet and to lodge complaints. In December the Government announced its action plan to combat the promotion of child abuse and child pornography through the Internet.

## **People With Disabilities**

Disabled individuals are protected by law from discrimination in housing, education, and employment. In July 1997, Parliament passed an amendment to the Constitution explicitly requiring the State to provide for equal rights for the disabled "in all areas of everyday life." The law requires all private enterprises and state and federal government offices to employ 1 disabled person for every 25 to 45 employees, depending on the type of work. Employers who do not meet this requirement must pay a fee to the Government, and the proceeds help finance services for the disabled such as training programs, wage subsidies, and workplace adaptations. However, the law has received some criticism, since many observers believe that penalties are too low to discourage companies from bypassing the requirement. No federal law mandates access for the physically disabled; some public buildings are virtually inaccessible to those unable to climb stairs.

Mentally retarded women can be sterilized involuntarily at the request of parents, in the case of minors, or, by request of the responsible family member or by court order, in the case of adults. One political party called for more restrictive legislation to make it more difficult to sterilize mentally retarded women.

## **National/Racial/Ethnic Minorities**

According to a government report on rightwing extremism, anti-Semitism, and xenophobia, the number of complaints and incidents totaled 280 in 1997, 10 cases fewer than in 1996. Criminal convictions were obtained in 47 cases. In 1997 the Anti-Defamation League opened an office in Vienna for Central and Eastern Europe. The European Union opened an office against racism and xenophobia in Vienna on July 1.

Legislation was passed in 1997 to provide law enforcement agencies with expanded investigative tools, such as electronic eavesdropping, merging of databases, and witness protection programs. Criminal investigations begun in 1995 against three Austrians for spreading fascist and extreme rightwing propaganda through the Internet were dropped in 1997 due to lack of sufficient evidence. In 1997 two Austrians were charged for similar offenses; both cases are pending.

### **Religious Minorities**

The second suspect in the desecration of the Jewish cemetery in Eisenstadt in 1993 has not been apprehended.

### **Section 6 Worker Rights**

#### **a. The Right of Association**

Workers have the right to form and join unions without prior authorization, under general constitutional guarantees of freedom of association. In practice trade unions have an important and independent voice in the political, social, and economic life of the country. Fifty-two percent of the work force was organized into 14 national unions, all belonging to the Austrian Trade Union Federation (OGB), which has a highly centralized leadership structure. Individual unions and the OGB are independent of government or political party control, although formal factions within these organizations are closely allied with political parties.

Although the right to strike is not explicitly provided in the Constitution or in national legislation, it is universally recognized. Historically, strikes have been comparatively few and usually of short duration. This year there was one strike by employees of the Finance Ministry. A major reason for the record of labor peace is the unofficial system of "social partnership" among labor, management, and government. At the center of the system is the Joint Parity Commission for Wages and Prices, which has an important voice on major economic questions.

#### **b. The Right to Organize and Bargain Collectively**

Unions have the right to organize and bargain collectively. Almost all large companies, private or state-owned, are organized. Worker councils operate at the enterprise level, and workers are entitled by law to elect one-third of the members of the supervisory boards of major companies. Collective agreements covering wages, benefits, and working conditions are negotiated by the OGB with the National Chamber of Commerce and its associations, which represent the employers. Wage and price policy guidelines are set by the Joint Parity Commission. A 1973 law obliges employers in enterprises with more than five employees to prove that job dismissals are not motivated by antiunion discrimination. Employers found guilty of this offense are required to reinstate workers. Labor and business representatives remain in a longstanding disagreement over how to comply with the obligation under the International Labor Organization's Convention 98 to provide legal protection to employees against arbitrary dismissals in firms with five employees or fewer.

Typically, legal disputes between employers and employees regarding job-related matters are handled by a special arbitration court for social affairs. The OGB is exclusively responsible for collective bargaining. The leadership of the Chamber of Labor, the Chamber of Commerce, and the OGB are elected democratically.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

Forced labor is prohibited by law and is not practiced. The Government prohibits forced and bonded labor by children and enforces this prohibition effectively.

Former forced laborers have filed suits against Austrian companies that used forced labor provided by the Nazi government. In October, the Government set up a commission to analyze several Nazi-era issues, including forced labor.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The minimum legal working age is 15 years. The law is effectively enforced by the Labor Inspectorate of the Ministry of Social Affairs. The Government has adopted laws and policies to protect children from exploitation in the work place. The law prohibits forced and bonded child labor, and the Government enforces this prohibition effectively (see Section 6.c.).

#### e. Acceptable Conditions of Work

There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements set minimums by job classification for each industry. The generally accepted unofficial minimum gross income is \$14,000 per year. Every worker is entitled to a variety of generous social benefits. The average citizen has a high standard of living, and even the minimum wages are sufficient to permit a decent living for workers and their families.

Although the legal workweek has been established at 40 hours since 1975, more than 50 percent of the labor force is covered by collective bargaining agreements that set the workweek at 38 or 38½ hours.

Extensive legislation, regularly enforced by the Labor Inspectorate of the Ministry of Social Affairs, provides for mandatory occupational health and safety standards. Workers may file complaints anonymously with the Labor Inspectorate, which may bring suit against the employer on behalf of the employee; however, this option is rarely exercised, as workers normally rely instead on the Chambers of Labor, which file suits on their behalf.

The Labor Code provides that workers have the right to remove themselves from a job if they fear "serious, immediate danger to life and health" without incurring any prejudice to their job or career.

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