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## 1999 Country Reports on Human Rights Practices

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### AUSTRIA

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

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 abuses.

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. Trafficking in women for prostitution is a problem.

#### 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 killings.

In May an unsuccessful Nigerian asylum applicant died while being deported; his hands and feet were cuffed and his mouth was taped shut to control his violent behavior (see Section 2.d.).

On September 15, police shot and killed Horst Ludwig Meyer, a suspected member of the German terrorist group Red Army Faction, when he opened fire on them near Vienna. Meyer and an accomplice are believed to have killed a German diplomat, Gerold von Braunmuhl, and, in a separate attack, German businessman Heinz Beckurts and his driver, in 1986. Meyer and his accomplice also are accused of killing a Deutsche Bank spokesman, Alfred Herrenhausen, in 1989 and involvement in a 1988 attack against a NATO installation in Spain. His accomplice, Andrea Klump, was arrested and subsequently extradited to Germany on December 23.

In March Franz Fuchs was convicted for killing four Roma in 1995 and injuring 15 other persons in a letter bomb campaign between 1993 and 1997 (see Section 5).

A French appeals court was considering an Austrian government request for the extradition of the terrorist Illich Ramirez Sanchez (alias "Carlos the Jackal") at year's end. Austria formally has sought the extradition of "Carlos" since French authorities captured him in 1994. He is wanted on charges of manslaughter, kidnaping, and blackmail in connection with the terrorist attacks at Vienna's OPEC headquarters in December 1975.

#### 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 1998 showed 356 complaints against federal police officials for "unjustified use of force," compared with 321 in 1997. Of the 356 complaints, 288 resulted in investigations (compared with 339 in 1997). The number of suspensions dropped from 31 in 1997 to 22 in 1998. Four police officials were convicted of excessive use of force in 1998; two officers were convicted in 1999. Of the 158 cases pending in 1998, 44 have been dismissed due to lack of evidence; the other cases remain pending. Types of abuse ranged from slander to kicking and hitting, resulting mainly in bruising. Some of the violence appears to be racially motivated.

In May an unsuccessful Nigerian asylum applicant died while being deported; his hands and feet were cuffed and his mouth was taped shut to control his violent behavior. Two of the three police officers who accompanied him were suspended and a committee was created with the goal of ensuring that the police and gendarmerie respect human rights while carrying out their duties (see Section 2.d.).

According to some witnesses, in March a dark-skinned French citizen suspected of dealing drugs, known only as Mohammed S., allegedly was beaten by police officers during an arrest. Witnesses alleged that two officers kicked, hit, and sprayed the man with pepper spray after he had been immobilized. After a short period of time, additional officers and an ambulance arrived and the suspect was taken to the hospital. Minister of the Interior Karl Schloegl invited the witnesses to tell him personally what happened and

stated that his Ministry, the district attorney, and police management would investigate the matter. Several other witnesses later came forward and contradicted the earlier testimony. Charges were filed against the police officers, but were dropped in July due to lack of evidence.

On March 16, the U.N. Committee on the Elimination of Racial Discrimination (CERD) expressed concern regarding reports of serious cases of police brutality towards persons of foreign origin and ethnic minorities.

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 decide within that period 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 1993 law permitted licensing of regional private radio stations, but legal challenges by unsuccessful applicants for licenses delayed implementation of the law. Rewritten radio frequency rules went into effect in April 1998. As of July, there were 51 private radio stations. Second quarter figures show that while 71.3 percent of citizens listen to the state-run radio stations, 20.1 percent listen to private stations.

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 provides for freedom of religion of individuals and the Government generally respects this right in practice. However, the status of religious organizations is governed by the 1874 "Law on Recognition" of churches and by a January 1998 law establishing the status of "confessional communities." Religious recognition under the 1874 law has wide-ranging implications, for example, 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. Officially, 75.3 percent of the population are Roman Catholic, and there are 11 other recognized religious organizations.

Religious organizations may be divided into three different legal categories (listed in descending order of status): officially recognized religious societies, religious confessional communities, and clubs.

Under the law, religious societies have "public law corporation" status. This status permits religious societies to engage in a number of public or quasi-public activities that are denied to other religious organizations. The Constitution singles out religious societies for special recognition. Among the many benefits provided to religious societies that are not granted to other religious organizations are state subsidies for religious teachers (at both public and private schools), and access of the clergy to hospitals, prisons, and the military chaplaincy.

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 1998, a 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. Religious confessional communities, once they are recognized officially as such by the Government, have juridical standing, which permits them to engage in such activities as purchasing real estate in their own names, contracting for goods and services, and other activities. 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. A religious organization that seeks to obtain this new status is subject to a 6-month waiting period from the time of application to the Ministry of Education and Culture. 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 country's 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 1998, the Constitutional Court voided the Education Ministry's decision on Jehovah's Witnesses and ordered a new decision based on the January law on the Status of Confessional Communities. In July 1998, Jehovah's Witnesses received the status of a confessional community. According to the 1998 law, the group is now subject to a 10-year observation period before they are eligible for recognition.

As of July 10, 1998, 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. Later, the Hindu Mandir Association reapplied as the Hindu religious community and was granted confessional community status in December 1998. The Ministry rejected the application of the Sahaja Yoga group; in 1998 the group appealed the decision to the Constitutional Court.

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 law and have complained that the law's additional criteria for recognition under the 1874 law obstruct claims to recognition and formalize a second-class status for nonrecognized g