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2010 Human Rights Report: Austria

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2010 Country Reports on Human Rights Practices

April 8, 2011

Austria is a parliamentary democracy with constitutional power shared between a popularly elected president and a bicameral parliament (Federal Assembly). The country's eight million citizens choose their government representatives in periodic, free, and fair multiparty elections. In 2008 voters elected members of the national parliament. Security forces reported to civilian authorities.

During the year there were some reports of excessive use of force by police and societal discrimination against Muslims and members of unrecognized religious groups, particularly those considered "sects." Incidents of violence against women, child abuse, and trafficking in women and children for prostitution and labor were also reported. There were reports of anti-Semitic incidents, including physical attacks, taunting, graffiti and defacement, Internet postings, property damage, and vilifying and threatening letters and telephone calls. Isolated incidents of neo-Nazi and right-wing extremism and xenophobia directed toward members of minority groups occurred.

RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

On March 12, a Lower Austrian court found a police officer guilty of negligence causing bodily harm in the August 2009 shooting death of a 14-year-old burglary suspect. The officer was given an eight-month suspended prison term.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices; however, there were isolated reports that police beat and abused persons.

On March 11, the Council of Europe's Committee for the Prevention of Torture (CPT) released the report on its February 2009 delegation visit to the country. The CPT delegation reported receiving a number of allegations of excessive use of force at the time of apprehension. The delegation also received a number of allegations, in particular from juveniles, of physical mistreatment or verbal abuse during police questioning. The report noted that in two cases police officers allegedly also threatened to inflict pain on juveniles if they did not confess to a particular criminal offense.

On February 11, a U.S. citizen working in Vienna was injured when police arrested him after reportedly confusing him with a drug dealer. Police rejected accusations of excessive use of force and stated that physical force was used only when the subject resisted arrest. The Prosecutor's Office filed charges of negligence against one of the officers involved. In a trial on June 24, the district court judge concluded that the intent to harm could not be excluded and that she had no jurisdiction to rule in this case. The case was sent to the higher provincial court, which at year's end had not yet heard the case.

Prison and Detention Center Conditions

Prisons and detention center conditions did not always meet international standards.

Overcrowding remained a problem in some institutions. In its March 11 report, the CPT noted that the overall prison population in the country had been on the decline since 2004 and stood at a little over 8,000 at the beginning of 2009. At the same time, the official capacity of prisons increased from 8,074 to 8,501 detainees.

The CPT reported that the delegation had not received any allegations of staff mistreatment at any of the prisons visited and that many prisoners emphasized the correct attitude and behavior of staff towards prisoners. However, the CPT delegation reported hearing a number of allegations of violence among prisoners at the Innsbruck and Vienna-Josefstadt prisons. Detention conditions at regional police headquarters and police stations visited by the CPT were on the whole satisfactory.

In March the Human Rights Advisory Council, an independent governmental body whose members were appointed by the minister of the interior, released its 2009 annual report. The report described conditions facing aliens prior to deportation as "questionable from a human rights point of view" and at times "not in conformity with human rights standards." There were no indications that authorities made changes in response to these criticisms.

Some human rights observers criticized the incarceration of nonviolent offenders, including persons awaiting deportation, for long periods in single cells or inadequate facilities designed for temporary detention. In its March 11 report, the CPT expressed misgivings over the long-standing practice of accommodating foreign nationals pending deportation in police establishments designed to hold criminal and administrative offenders. It noted that conditions under which foreign nationals were held in the police detention center in Vienna-Hernalser Guertel remained unacceptable, with foreign nationals being locked in their cells for 23 hours a day, with reading and playing board games their only occupation.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. The government investigated and monitored prison and detention center conditions. The Federal Ombudsman's Office can investigate on behalf of prisoners and detainees but cannot consider such matters as alternatives to incarceration for nonviolent offenders to alleviate overcrowding. There were strict checks on the enforcement of pretrial detention restrictions and bail provisions, and detailed recordkeeping procedures to ensure that prisoners did not serve beyond the maximum sentence for the offense with which they were charged.

Nongovernmental organizations (NGOs) monitored prisons on a regular basis. In addition delegations from the CPT regularly visited the country to review conditions at the country's prisons and detention centers. During its most recent visit in February 2009, the delegation paid particular attention to the treatment of persons in police detention and to the detention conditions under which foreign nationals were held.

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d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and information available during the year suggests that the government generally observed these prohibitions; however, the strict application of slander laws tended to discourage reports of police abuse.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the police and army, and the government has effective mechanisms to investigate and punish abuse. There were no reports of impunity involving the security forces during the year.

Some police violence appeared to be racially motivated. Amnesty International's *Annual Report for 2009* criticized a certain degree of "ethnic profiling" by police, noting that immigrants and ethnic minorities were more likely to be suspected of crimes than "Caucasians." The report further claimed that police and the judicial system regularly denied minorities their right to equal treatment and noted that authorities do not effectively investigate and punish racially motivated police misconduct. Amnesty International expressed concern that the criminal justice system as a whole, and police in particular, were failing to provide the same level of service to foreign nationals and members of ethnic minorities as they routinely provided to citizens from the country's majority ethnic group.

Police were also accused of not taking seriously the personal safety concerns of members of minority communities. After the killings of a Chechen asylee in January 2009 and a Sikh religious leader at a Sikh temple in May 2009, information emerged suggesting that in both cases police had ignored warnings or specific requests for personal protection.

NGOs and other groups continued to criticize the police for targeting minorities. Racial sensitivity training for police and other officials continued with NGO assistance. The Human Rights Advisory Council monitored police respect for human rights and made recommendations to the interior minister.

Arrest Procedures and Treatment While in Detention

In criminal cases the law allows investigative or pretrial detention for up to 48 hours, during which a judge may decide to grant a prosecution request for extended detention. The law specifies the grounds for investigative detention and conditions for bail. The judge is required to evaluate such detention periodically. The maximum duration for investigative detention is two years. There is a functioning bail system. Police and judicial authorities respected these laws and procedures in practice. Apprehensions were based on sufficient evidence and issued by a duly authorized official and brought before an independent judiciary.

Some legal experts called for a review of an article in the criminal code designed to target collusion of suspected terrorists, which they asserted authorities have used improperly to detain persons on charges not connected with terrorism. The provision was used to try animal rights activists who had damaged fur stores.

Detainees have the right to access a lawyer. Although indigent criminal suspects have the right to an attorney, the criminal procedures code requires an attorney be appointed only after a court decision to remand such suspects into custody (i.e., 96 hours after their apprehension). The law provides that criminal suspects are not required to answer questions without an attorney present although, according to the March 11 CPT report, the criminal police were instructed to question

suspects without delay and may do so before an attorney arrives. In its March 11 report the CPT also noted that, while a system of free legal counseling by telephone was introduced in 2008 in cooperation with the Austrian Bar Association, many police officers outside Vienna appeared to have received no information on how to utilize the service. On average, according to the bar association, only a few such calls per day had been registered in the country since the hotline's introduction. Only initial counseling by telephone was free of charge, which, according to the CPT report, affected the utilization of the service by detained persons, since they did not have the means to pay an attorney to be present during police questioning.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice.

Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. A system of judicial review provides multiple opportunities for appeal. Persons charged with criminal offenses are considered innocent until proven guilty. Trials must be public and conducted orally. Juries are used only in trials for major offenses. Defendants have the right to be present during trials. They can confront or question witnesses against them and present witnesses and evidence on their behalf. Defendants can consult attorneys no later than 96 hours after apprehension. Legal counsel is provided pro bono for needy persons in cases where attorneys are mandatory. Attorneys are not mandatory in minor offense cases. Defendants and their attorneys have access to government-held evidence relevant to their cases.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Regional Human Rights Court Decisions

From January to August the European Court of Human Rights (ECHR) ruled on 13 cases against the government. The ECHR found violations concerning the right to a fair trial and the presumption of innocence until proven guilty, the length of proceedings, the prohibition of discrimination, and the right to vote during imprisonment. The government complied with the ECHR orders and decisions.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters, including an appellate system. These institutions are accessible to plaintiffs seeking damages for human rights violations. Administrative remedies as well as judicial remedies were available for redressing alleged wrongs.

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

The law prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution provides for freedom of speech and the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and the press. The independent media were active and expressed a wide variety of views with few restrictions. Individuals generally could criticize the government publicly or privately without reprisal.

The law prohibits public denial, belittlement, approval, or justification of the Nazi genocide or other Nazi crimes against humanity in a print publication, a broadcast, or other media. It also prohibits incitement, insult, or contempt against a group because of its members' race, nationality, or ethnicity if the statement violates human dignity. The government strictly enforced these laws.

On September 9, the Vienna Criminal Court gave convicted Holocaust-denier Gerd Honsik an additional two-year, nonsuspended prison sentence for violating the law prohibiting neo-Nazi activities. The conviction stemmed from the 2009 publication of two neo-Nazi books in which Honsik made accusations concerning the work of Simon Wiesenthal. Honsik was already serving time for a previous violation of the law prohibiting neo-Nazi activities.

Strict libel laws discouraged reporting of governmental abuse.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups engaged in the peaceful expression of views via the Internet, including by e-mail. Approximately 75 percent of the country's inhabitants used the Internet, according to 2010 statistics from the International Telecommunication Union.

Beginning in June, a special unit of the Interior Ministry investigated a neo-Nazi Web site that was based outside of Europe and that displayed links to Hitler's *Mein Kampf*, called for actions to preserve the "German heritage," and denounced persons who fight right-wing extremism. In October police conducted several house searches but no arrests were reported.

There were no reports that the government attempted to collect personally identifiable information of persons in connection with their peaceful expression of political, religious, or ideological opinion or beliefs.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The law provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

For a complete description of religious freedom, see the *2010 International Religious Freedom Report* at www.state.gov/g/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation. The government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the government did not use it in practice.

Protection of Refugees

The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

Rejected asylum seekers have recourse to the Federal Asylum Court. When they allege a breach of the European Convention on Human Rights, they can appeal to the Constitutional Court. Since July 2008 asylum seekers no longer have recourse to the Higher Administrative Court, a change criticized by human rights groups.

The Federal Asylum Court reported that more than half of new appeal cases were adjudicated in less than six months whereas decisions in "Dublin cases" (i.e., cases returned to another EU member state under the Dublin Regulation establishing the criteria and mechanisms for determining the member state's responsibilities in asylum cases) take an average of two weeks. In December there were 1,250 pending cases before the Asylum Court, and a further 800 cases before the Administrative Court. Under the law, authorities have six months to process an application from the time it is filed. Observers expressed concern that, due to a significant backlog of cases in the appellate system, some applicants wait four years or more for final determination of their cases.

Asylum seekers' freedom of movement was restricted to the district of the refugee camp to which they were assigned for the duration of their initial application process, i.e., until the country's responsibility for examining the application is determined.

Asylum seekers and refugees received a subsistence allowance and housing. While they were legally restricted from seeking regular employment, they were eligible for seasonal employment. Children of asylum seekers and refugees between the ages of six and 15 were eligible for education. Following changes to the asylum process in 2009 that placed additional restrictions on those applying for asylum, total applications have fallen by 27 percent while the approval rate for applications has declined from 32 percent in 2007 to 14 percent in 2010.

The UNHCR has noted that the country continued to return asylum applicants to Greece under the Dublin Regulation, despite expert reports that asylum law and practice in Greece were not in compliance with international and European human rights standards. In October, Human Rights Watch released a report criticizing the deportation of Roma, Ashkali, and Egyptians by a number of European countries, including Austria, back to Kosovo where adequate reception conditions for safe and dignified returns were not established.

The country subscribed to a "safe country of transit" policy, which required asylum seekers who transited a country determined to be "safe" to return to that country to seek refugee status. Member states of the EU and other signatories to the 1951 Convention relating to the Status of Refugees were considered safe countries of transit.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Human rights groups continued to criticize the detention system as a breach of human rights. Asylum seekers who are in detention awaiting deportation are held in police detention centers, generally in closed cells with no opportunities for training/work and very limited access to legal counsel. According to Amnesty International, in October the Interior Ministry significantly reduced funding for legal advice for asylum seekers, provided by NGOs.

New asylum legislation, effective on January 1, introduced measures to counter the abuse of the asylum process. The legislation limits follow-up applications and claims to improve the assessment of claims of family relations and age. The new laws made it easier for authorities to detain asylum applicants awaiting deportation in cases, such as "Dublin cases,"

where rejected asylum seekers either file follow-up applications that appear to lack justification or violate registration obligations.

The government did not provide temporary protection during the year to any individuals who did not qualify as refugees.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

The country held national parliamentary elections in 2008 and presidential elections in April 2009; there were no reports of serious abuse or irregularities in either election.

Political parties could operate without restriction or outside interference.

The parliament consists of the popularly elected National Council and the Federal Council, which is named by the federal states. There were 51 women in the 183-seat National Council and 21 women in the 62-member Federal Council. There were six women in the 14-member Council of Ministers (cabinet).

There appeared to be relatively little representation of ethnic minorities at the national level. Following the September 2008 elections, a Muslim woman entered the Federal Assembly for the Green Party.

Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. In 2008 the government tightened the criminal code's corruption regulations and established a special central public prosecution department with countrywide authority for corruption cases. To alleviate some measures viewed as too strict, the government in September 2009 amended and defined more precisely criminal laws against corruption. Criminal code provisions against corruption cover civil servants; officials with functions in legislation, administration or justice on behalf of the state, including ministers, governors, and members of parliament on all levels; and employees and representatives of the country's companies. The term "corruption" includes bribery and illicit intervention, abuse of office, and accepting an advantage. The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

Corruption in the private sector was not considered a major problem in the country; however, the ongoing scandals involving the Hypo Alpe Adria banking group and Meinel European Land (MEL) raised the profile of private sector corruption during the year. Another ongoing, high-profile corruption case involved the government's \$1.1 billion privatization of 60,000 state-owned apartments in 2004 (the so-called "BUWOG affair"). The Prosecutor's Office continued its investigation into the matter but did not make any indictments during the year.

During the year prosecutors and the federal auditor's office were still investigating the failed expansion of the Vienna airport terminal that, due to cost overruns, triggered a controversy regarding political influence in the appointment of the managers and consultants handling the project. The investigation of the federal auditor's office focused on allegations of embezzlement and related statutory offenses by the board of Airport Vienna in connection with contracts for construction companies and consultants.

The five parliamentary parties agreed in August to tighten donation rules on financing for political parties.

According to Transparency International, there is "little or no enforcement" by the country of the Antibribery Convention of the Organization for Economic Cooperation and Development (OECD). In August, the head of an OECD working group on corporate corruption, Mark Pieth, criticized the country for inadequate enforcement of its anticorruption laws. Although the country has strengthened its criminal code in recent years and established an anticorruption prosecutor, a number of weaknesses remain, including too little independence for prosecutors, poor whistleblower protection, and prosecutions that are few and slow.

There are financial disclosure laws for public officials. The courts are responsible for corruption cases. Parliamentary committees oversee ethics rules for elected officials.

The law provides for full public access to government information, and the government generally respected this provision in practice. Authorities may only deny access if it would violate substantial data protection rights or involve national security information. Petitioners could challenge denials before the Administrative Court.

Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were generally cooperative and responsive to their views, but some groups were dissatisfied with the information supplied by authorities in response to specific complaints. A human rights ombudsman's office consisting of three independent commissioners examines complaints against the government. There were no parliamentary human rights committees during the reporting period.

Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law provides for protection against discrimination based on race, gender, disability, language, or social status, and the government generally enforced these protections.

Women

Under the law, rape, including spousal rape, is punishable by up to 15 years' imprisonment. The government generally enforced the law. According to 2009 statistics from the Ministry of the Interior, there were 1,039 reported cases of rape or sexual coercion. There were no reports of police or judicial reluctance to prosecute spousal or other rape cases.

Violence against women, including spousal abuse, was a problem. The Office of Women's Affairs and Civil Service estimated that 10 percent of adult women have suffered from violence in a relationship. However, fewer than 10 percent of abused women filed complaints. By law police may expel abusive family members from family homes for up to three months. In 2009 the courts issued injunctions prohibiting abusive family members from returning home in 6,731 cases.

The government funded privately operated intervention centers and help lines for victims of domestic abuse. The centers provided for victims' safety, assessed the threat posed by perpetrators, helped victims develop plans to stop the abuse, and provided legal counseling and other social services. In the view of most observers, these centers were generally effective in providing shelter for victims of abuse.

In September the government launched a "Don't Look Away" public awareness campaign aimed at discouraging sex tourism. Billboards and short video spots featured an e-mail address that travelers and tourism industry staff could use to report suspicious activity to the authorities.

The law prohibits sexual harassment, and the government generally enforced the law. Of the 3,455 cases of discrimination brought to the ombudsman for equal treatment of gender in 2009, 494 involved sexual harassment. The labor court may order employers to compensate victims of sexual harassment on the basis of the Federal Equality Commission's finding in a case; the law provides that a victim is entitled to a minimum of 700 euros (approximately \$940) in financial compensation.

Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and are free to do so without any discrimination, coercion, and violence. Women have access to contraception and skilled attendance during childbirth, including obstetric and postpartum care, and are diagnosed and treated for sexually transmitted infections as equally as men. According to data compiled by international organizations, there were approximately 5 maternal deaths per 100,000 live births in the country in 2008.

The Minister for Women's Affairs and Civil Service is responsible for promoting the legal rights of women. Women enjoy the same legal rights as men, and the Federal Equality Commission and the ombudsman for equal treatment of gender oversee laws requiring equal treatment of men and women.

According to Statistics Austria's *Women's Report 2010*, women earned on average 25.5 percent less than men; women's average earnings were approximately 15 percent less than men for equivalent work. Labor participation for women aged 15 to 64 was 69 percent, roughly the same as men. The report attributed the recent increase in female labor market participation to a rise in part-time work. Approximately 41.5 percent (1998: 30.7 percent) of women in employment worked part-time. The report stated that labor market participation of women is also important in reducing poverty risk: around 60 percent of single mothers who do not work are at risk of poverty.

Although labor laws provide for equal treatment of women in the civil service, women remained underrepresented. The law requires the government to hire women of equivalent qualifications ahead of men in all civil service areas, including the police force. During the year less than 40 percent of civil servants were women. The judiciary system and academia were two areas which did not meet the target. There are no penalties, however, for agencies failing to attain the 40-percent target.

To address the low labor market participation rate for women, Women's Affairs Minister Gabriele Heinisch-Hosek, together with trade unions, continued an awareness-raising campaign during the year. She pointed to the international study *Global Gender Gap Report 2009*, published in October 2009, which indicated that the gender gap in the country had worsened.

Female employees in the private sector may invoke equality laws prohibiting discrimination against women. On the basis of the Federal Equality Commission's findings, labor courts may award compensation of up to four months' salary to women who experienced discrimination in promotion due to their gender. The courts may also order compensation for women who were denied a post despite having equal qualifications.

Children

By law children derive citizenship from their parents.

Child abuse remained a problem, and the government continued its efforts to monitor abuse and prosecute offenders. The Ministry for Economics, Family, and Youth estimated that 90 percent of child abuse was committed by close family members or family friends. Officials noted a growing readiness to report abuse cases. Trafficking of children remained a problem. See the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

During the year there were occasional reports of underage marriage, primarily in the Muslim and Romani communities; however, such cases were undocumented. Some male immigrants married underage girls in their home countries and returned to the country with them.

The law provides up to 10 years' imprisonment for an adult convicted of sexual intercourse with a child under the age of 14. If the victim becomes pregnant, the sentence may be extended to 15 years. In 2008 the Ministry of the Interior reported 1,806 cases of child abuse, most involving intercourse with a minor.

The law provides for criminal punishment for possessing, trading, or private viewing of child pornography. Exchanging pornographic videos of children is illegal.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html as well as country-specific information at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

According to 2001 census figures and 2010 estimates from the Vienna Institute of Demography, a branch of the Austrian Academy of Sciences, the Jewish community in the country numbered approximately 7,000.

The NGO Forum against Anti-Semitism reported 70 anti-Semitic incidents between January and December, including four physical assaults, as well as name-calling, graffiti and defacement, threatening letters, anti-Semitic Internet postings, property damage, and vilifying letters and telephone calls. Vienna Jewish Community (IKG) President Ariel Muzicant reported a rise in anti-Semitic incidents related to the May 31 Gaza flotilla incident. There were anti-Israel demonstrations organized by several Muslim groups at the beginning of June, including the use of an anti-Semitic banner displaying the slogan, "Wake up, Hitler." Another banner equated the Star of David to the swastika. Muzicant also reported an incident in which two Turkish-speaking men spat on a rabbi in Vienna. The Vienna Jewish Community's offices and other Jewish community institutions in the country, such as schools and museums, continued to receive extra police protection.

In March the outside wall of the Mauthausen concentration camp site was defaced with anti-Islamic and anti-Semitic graffiti, similar to that of a previous incident in February 2009. The Interior Ministry increased security but rejected a proposal by the Mauthausen Memorial Committee to place video cameras on the site.

The law banning neo-Nazi activity prohibits public denial, belittlement, approval, or justification of the Nazi genocide or other Nazi crimes against humanity in print publication, broadcast, or other media. The government strictly enforced these laws.

Beginning in June, a special unit of the Interior Ministry investigated a neo-Nazi Web site based outside of Europe that displayed links to Hitler's *Mein Kampf* and called for actions to preserve the "German heritage," while denouncing persons who fight right-wing extremism. In October police conducted several house searches but no arrests were reported. In November the country's media reported denials from the Office for the Protection of the Constitution and Counter-Terrorism (BVT) that neo-Nazis had infiltrated one of its branch offices. The statements came in the wake of reports regarding the transfer of a BVT agent whose son was linked to the neo-Nazi Web site.

On September 9, the Vienna Criminal Court gave convicted Holocaust-denier Gerd Honsik an additional two-year nonsuspended prison sentence for violating the law prohibiting neo-Nazi activities. The conviction stemmed from the 2009 publication of two neo-Nazi books in which Honsik made accusations concerning the work of Simon Wiesenthal. Honsik was already serving time for a previous violation of the law prohibiting neo-Nazi activities.

On November 15 and 16, the criminal court in Eisenstadt tried 14 men, ages 18 to 38, on charges of neo-Nazi activity. The men were accused of publicly displaying the Hitler salute and smearing swastika graffiti on stores between 2007 and 2009. The court gave six of the defendants suspended prison sentences of five to eight months and sentenced five of them to 70-100 hours of social work. Three of the defendants were acquitted.

On December 1, a regional court in Wels convicted three men of neo-Nazi activity in relation to an incident at the site of the former concentration camp in Ebensee. The men disturbed a commemoration ceremony at the site, fired air rifles at a group of French visitors, and shouted Nazi slogans. The three men received suspended prison sentences of up to six months.

On December 3, the *Austrian Times* reported that an Austrian soldier was facing charges for giving a Nazi salute while on a peacekeeping mission in Bosnia-Herzegovina. The soldier was subsequently dismissed from military service. In a July press conference, the Defense Minister announced the military had a "no tolerance" policy in regards to any form of right-wing extremism.

School curricula fostered discussion of the Holocaust and the tenets of different religions and advocated religious tolerance. The Education Ministry offered special teacher-training seminars on Holocaust education while also conducting training projects with the Anti-Defamation League.

On November 17, the parliament adopted a law establishing a fund for the renovation and maintenance of Jewish cemeteries. In compliance with the 2001 U.S.-Austrian "Washington Agreement," which called for the country to "provide additional support for the restoration and maintenance of Jewish cemeteries," the government will allocate 20 million euros (approximately \$27 million) over 20 years to the project.

Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip.

Persons with Disabilities

The law protects persons with physical, sensory, intellectual, and mental disabilities from discrimination in housing, education, employment, and access to health care and other government services. The government's performance in enforcing these provisions was mixed.

Federal law mandates access to public buildings for persons with physical disabilities; however, many public buildings lacked such access due to insufficient enforcement of the law and low penalties for noncompliance. Persons with disabilities generally had access to information and communications.

The law provides for involuntary sterilization of adults with mental disabilities in cases where a pregnancy would be considered life-threatening. However, authorities have not performed any involuntary sterilization in recent years. The law prohibits the sterilization of minors.

The Ministry of Labor, Social Affairs, and Consumer Protection handles problems for persons with disabilities. The government funded a wide range of programs for persons with disabilities, including provision of transportation and assistance for integrating schoolchildren with disabilities into regular classes and for integrating employees with disabilities into the workplace.

National/Racial/Ethnic Minorities

In 2009 the Ministry of the Interior recorded 453 neo-Nazi, right-wing extremist, xenophobic, or anti-Semitic incidents directed against members of minority groups. The government continued to express concern over the activities of extreme right-wing skinhead and neo-Nazi groups, many with links to organizations in other countries.

Human rights groups reported that Roma faced some discrimination in employment and housing. However, the head of the Austrian Romani Cultural Association reported that the situation of the Romani community, estimated at more than 6,200 indigenous and between 15,000 and 20,000 nonindigenous individuals, has significantly improved in recent years. Government programs, including financing for tutors, have helped school-aged Romani children move out of "special needs" and into mainstream classes. The government also initiated programs in recent years to document the Romani victims of the Holocaust and to compensate its victims.

NGOs reported that Africans living in the country experienced verbal harassment in public. In some cases black Africans were stigmatized as being involved in the drug trade or other illegal activities.

Federal law recognizes Croats, Czechs, Hungarians, Roma, Slovaks, and Slovenes as national minorities. It requires any community where at least 25 percent of the population belongs to one of these groups to provide bilingual town signs, education, media, and access to federal funds earmarked for such minorities. Communities in the Slovene-speaking area of the state of Carinthia have some bi-lingual town signs, but authorities have so far refused to implement rulings by higher courts requiring the state to install additional bilingual signs. The Chancellor's Office appointed a high-ranking official tasked with resolving the dispute.

The government continued training programs to combat racism and educate the police in cultural sensitivity. The Ministry of the Interior renewed an agreement with the Anti-Defamation League to teach police officers cultural sensitivity, religious tolerance, and the acceptance of minorities.

Poor German language skills were a major factor preventing minorities from entering the workforce. In April 2009 the Labor Ministry announced efforts to combat this situation by providing German language and skilled labor training for 19- to 24-year-olds.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There was some societal prejudice against gays and lesbians; however, there were no reports of violence or discrimination based on sexual orientation. Lesbian, gay, bisexual, and transgender persons' organizations, such as the Homosexual Initiatives (HOSI) in Vienna and Linz and the Lambda Rights Committee, were present and generally operated freely. Vienna hosted an annual gay pride march in July and the city provided police protection.

Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS.

Section 7 Worker Rights

a. The Right of Association

The law provides workers the right to form and join independent unions without prior authorization or excessive requirements, and workers exercised this right in practice. According to the Austrian Trade Union Federation, 35 percent of the workforce belonged to unions. The law does not explicitly provide a right to strike; however, the right is recognized in practice. The law prohibits retaliation against strikers, and the government effectively enforced the law.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right in practice. Collective bargaining is protected in law and was freely practiced. Approximately 80 percent of the labor force worked under a collective bargaining agreement. The Austrian Trade Union Federation was exclusively responsible for collective bargaining.

The law prohibits antiunion discrimination, and there were no reports of antiunion discrimination or other forms of employer interference in union functions.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that women were trafficked to the country for domestic labor and that children were trafficked to the country for begging (see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip).

d. Prohibition of Child Labor and Minimum Age for Employment

Laws and policies protect children from exploitation in the workplace and prohibit forced or compulsory labor, and the government generally enforced these laws and policies effectively.

There were reports of trafficking of children for begging. In 2009 the Crisis Center for Unaccompanied Minors in Vienna assisted 121 children, primarily from Bulgaria and Romania, who were trafficked into the country (see the Department of State's annual *Trafficking in Persons Report* at www.state.gov/g/tip).

The minimum legal working age is 15 years. Children under the age of 15 are not permitted to work, with the exception of children at least 12 years old engaged in certain forms of light work on family farms or businesses. Children over 15 years of age are subject to the same regulations on hours, rest periods, overtime wages, and occupational health and safety restrictions as adults, except for additional limitations on hazardous forms of work or limitations for ethical reasons.

The Labor Inspectorate of the Federal Ministry of Labor, Social Affairs, and Consumer Protection is responsible for enforcing child labor laws and policies in the workplace, and the Inspectorate enforced the laws effectively. The Labor Inspectorate did not find any violations of child labor laws during the year.

e. Acceptable Conditions of Work

There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements set minimum wages by job classification for each industry. All collective bargaining agreements provide for a minimum wage of 1,000 euro (\$1,340) per month. Wages in select areas where no such collective agreements exist, such as for domestic workers, janitorial staff, and au pairs, are regulated in pertinent law and are generally lower than those covered by collective bargaining agreements. According to the Austrian Trade Union Federation, some 350,000 Austrians are "working poor," meaning that they have a job, but cannot sustain themselves or their families without additional assistance.

The country participated in an International Labor Organization (ILO) pilot project measuring "decent work standards" in ILO member states. The ILO's profile for the country, released in October 2009, noted progress in employment rates for women and an improved framework for reconciling work, family, and personal life, but found the country lagging in reducing the persistently large wage gap between men and women.

Existing legal provisions stipulate a maximum workweek of 40 hours, but collective bargaining agreements also provide for a workweek of 38 or 38.5 hours per week for more than half of all employees. Flexible work hour regulations, in place

since 2008, allow firms to increase the maximum regular time hours from 40 to 50 per week. In special cases and including overtime, work hours can be raised up to 60 hours per week for a maximum of 24 weeks annually. However, these 24 weeks can only be in eight-week segments, with at least a two-week break between each eight-week period.

The law also requires compulsory time off on weekends and official holidays. An employee must have at least 11 hours off between workdays. Authorities effectively enforced these provisions. Foreign workers in both the formal and informal sectors make up approximately 13 percent of the country's workforce. Wage and hour standards are equitably enforced across all groups.

The law limits overtime to five hours per week and to 60 hours per year; however, authorities did not enforce these laws and regulations effectively, and some employers exceeded legal limits on compulsory overtime. Collective bargaining agreements can specify higher limits. The law stipulates 50-percent premium pay for overtime.

The Labor Inspectorate regularly enforced mandatory occupational health and safety standards. Workers could file complaints anonymously with the Labor Inspectorate, which could bring suit against the employer on behalf of the employee. However, workers rarely exercised this option and normally relied instead on the nongovernmental worker's advocacy group, the Chamber of Labor, which filed suits on their behalf.

The law gives workers the right to remove themselves from a job without incurring any prejudice to their careers if they fear serious, immediate danger to life and health, and workers were able to exercise this right in practice.

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