

# AUSTRIA 2013 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The Republic of Austria is a parliamentary democracy with constitutional power shared between a popularly elected president and a bicameral parliament (Federal Assembly). The multiparty parliament and the coalition government it elects exercise most day-to-day governmental powers. National parliamentary elections in September and presidential elections in 2010 were free and fair. Authorities maintained effective control over the security forces. Security forces did not commit human rights abuses.

There continued to be reports that police at times used excessive force, particularly against members of minority groups. Societal discrimination persisted against ethnic minorities, including Muslims, immigrants, Roma, Jews, and foreigners of African origin.

Other reported abuses included shortcomings in detention centers, particularly those holding persons awaiting deportation. Laws restrict freedom of speech by criminalizing the public denial, belittlement, approval, or justification of Nazi genocide; and by laws that forbid incitement, insult, or expressions of contempt toward a group because of its members' race, nationality, religion, or ethnicity. Official corruption remained a problem, as did violence against women and children. There were some anti-Semitic incidents, including physical attacks, taunting, property damage, and vilifying and threatening letters and telephone calls. Laws mandating access for persons with disabilities were insufficient or not adequately enforced.

The government investigated public officials for suspected wrongdoing and punished those who committed abuses.

### **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. The criminal courts would be responsible for investigating any such acts.

#### **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, and there were no new reports that government officials employed them. The government investigated allegations of such practices and prosecuted cases in which credible evidence existed. The Human Rights Advisory Council monitored police respect for human rights and made recommendations to the interior minister. In January the government implemented a new law against torture in line with its obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhumane Treatment or Punishment.

### **Prison and Detention Center Conditions**

Prisons and detention center conditions generally met international standards, and the government permitted visits by independent human rights observers.

Physical Conditions: According to January statistics from the Justice Ministry, there were 8,273 persons in prison, including 529 women and 132 juveniles. The official prison capacity was 8,650 prisoners. Human rights groups criticized the high proportion of foreigners in prison, 4,021 according to the Justice Ministry. The reported incidence of death in prison or pretrial detention centers was low, although specific numbers were not available. Prisoners had access to potable water.

The Justice Ministry organized a task force to investigate the juvenile detention system following the revelation that four rapes and a suicide had been committed during the year. NGOs criticized the lack of resources and staff to care for juvenile prisoners.

Administration: There were detailed recordkeeping procedures to ensure prisoners did not serve beyond the maximum sentence for the offense with which they were charged. There are sentencing alternatives for nonviolent offenders. The federal ombudsman monitored the situation in prisons. Prisoners and detainees had reasonable access to visitors and religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhuman

conditions. The government investigated and monitored prison and detention center conditions. The federal ombudsman's office can investigate on behalf of prisoners and detainees.

Independent Monitoring: NGOs monitored detained prisoners on a regular basis. Human rights groups continued to criticize the incarceration of nonviolent offenders, including persons awaiting deportation, for long periods in single cells or inadequate facilities designed for temporary detention.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention, and information available during the year suggested that the government generally observed these prohibitions.

#### **Role of the Police and Security Apparatus**

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

NGOs continued to criticize the police for allegedly targeting minorities for frequent identity checks. Racial sensitivity training for police and other officials continued with NGO assistance.

#### **Arrest Procedures and Treatment of Detainees**

Authorities base arrests on sufficient evidence and documentation issued by a duly authorized official. Authorities bring the arrested person before an independent judiciary. In criminal cases the law allows investigative or pretrial detention for no more than 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. There were strict checks on the enforcement of pretrial detention restrictions and bail provisions, and the judge is required to evaluate investigative detention cases periodically. The maximum duration for investigative detention is two years. There is a functioning bail system. Police and judicial authorities generally respected these laws and procedures.

Detainees have the right to a lawyer. Although indigent criminal suspects have the right to an attorney at government expense, the law requires appointment of an

attorney only after a court decision to remand such suspects into custody (that is, 96 hours after apprehension). Criminal suspects are not legally required to answer questions without an attorney present. Laws providing for compensation if unlawfully detained are enforced.

There were isolated reports of police abuse, which authorities investigated.

Detention of Rejected Asylum Seekers or Stateless Persons: In rare cases authorities detained unsuccessful applicants for asylum pending deportation. Some NGOs criticized the government for protracted detention in such cases. The government provided free legal counsel for persons awaiting deportation.

### **e. Denial of Fair Public Trial**

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

### **Trial Procedures**

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

The law presumes persons charged with criminal offenses are innocent until proven guilty; authorities inform them promptly and in detail of the charges with free interpretation if required. Trials must be public and conducted orally; juries are used in trials for major offenses. Attorneys are not mandatory in cases of minor offenses, but legal counsel is available at no charge for needy persons in cases where attorneys are mandatory. The law grants defendants and their attorneys adequate time and facilities to prepare a defense and have access to government-held evidence relevant to their cases. Defendants can confront or question witnesses against them and present witnesses and evidence on their own behalf. They cannot be compelled to testify or confess guilt. A system of judicial review provides multiple opportunities for appeal.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **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 and judicial remedies were available for redressing alleged wrongs. Individuals could appeal adverse court decisions involving alleged violations of human rights by the state to the European Court of Human Rights (ECHR) once they had exhausted avenues of appeal available in domestic courts.

### **Regional Human Rights Court Decisions**

Through November 15, the ECHR decided 10 cases involving the country and found violations by the state in five. The cases concerned freedom of expression, the right to an effective remedy, the right to a fair trial, the prohibition against torture, and the prohibition against discrimination. The government complied with the ECHR orders and decisions.

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

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

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Speech and Press**

The constitution provides for freedom of speech and press, and the government generally respected these rights. An independent press, an effective judiciary, and a functioning democratic political system combined to promote 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.

Freedom of Speech: The law prohibits incitement, insult, or contempt against a group because of its members' race, nationality, religion, or ethnicity if the statement violates human dignity. The government strictly enforced these laws (see section 6, Anti-Semitism).

Press Freedoms: 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. The government strictly enforced these laws (see section 6, Anti-Semitism).

Libel Laws/National Security: Strict libel and slander laws created conditions to discourage reporting of governmental abuse. For example, many observers believed that the ability and willingness of the police to sue for libel or slander discouraged individuals from reporting abuse by police.

### **Internet Freedom**

There were no government restrictions on access to the internet or credible reports that the government monitored e-mail or internet chat rooms without appropriate legal authority. Individuals and groups engaged in the peaceful expression of views via the internet, including by e-mail.

Authorities continued to try to restrict access to websites containing information that violated the law, such as neo-Nazi and child pornography sites. Authorities restricted access to prohibited websites by trying to shut them and forbidding the country's internet service providers from carrying them.

On June 26, a court sentenced a 29-year-old man to 18 months in prison for posting pictures of Adolf Hitler, swastikas, and other prohibited material on Facebook.

### **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.

#### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

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

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

In-country Movement: Asylum seekers' freedom of movement was restricted to the district of the refugee camp where authorities assigned them for the duration of their initial application process, until the country's responsibility for examining the application is determined. Under the law asylum seekers must be physically present in the centers of first reception for up to 120 hours during the initial application process. Authorities have 20 days in which to determine the country's responsibility and jurisdiction. A September report by the Council of Europe's commissioner for human rights saw a potential conflict between the presence requirement and the right to freedom of movement, although the commissioner had not encountered a case in which the law was enforced.

### **Protection of Refugees**

Access to Asylum: 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, a special court mandated to process asylum cases, and the right to appeal to the Constitutional Court when constitutional issues arise. The federal ombudsman criticized the long duration of asylum proceedings in his 2012 report, considering 382 out of the 538 Federal Asylum Court cases reviewed as "drawn out." The Austrian Ombudsman Board voiced concern that the new central office for asylum and immigration matters would inherit the current backlog of 13,000 cases when it becomes operational in 2014.

During the year the Federal Asylum Court issued rulings, which included multiple rulings on some individual cases. The most recent statistics showed that the Federal Asylum Court confirmed the ruling of the trial court 63 percent of the time and overruled it 25 percent of the time. The other 12 percent consisted of decisions based on legal matters not addressed in the lower court.

Safe Country of Origin/Transit: The government required asylum seekers who transited a country determined to be "safe" to return to that country to seek refugee

status. Authorities consider signatories to the 1951 refugee convention and its 1967 protocol to be safe countries of transit. Human rights groups urged the authorities to refrain from returning asylum seekers to countries where effective protection was not provided or in which a transfer would result in humanitarian hardship because of health and family reasons. In response to a ruling by the ECHR and the recommendations of the UN special rapporteur on torture, the government in 2011 effectively halted the return of asylum seekers to Greece; the ruling remained in force during the year.

Refoulement: There were no credible reports of refoulement during the year.

Employment: While asylum seekers and refugees are legally restricted from seeking regular employment, they are eligible for seasonal employment, low paying community service jobs, or professional training in sectors that require additional apprentices.

Access to Basic Services: Asylum seekers and refugees are entitled to state medical care, a subsistence allowance, and housing. Asylum seekers and refugees between the ages of six and 15 are eligible to go to school.

Throughout the year a group of asylum seekers and refugees and their supporters staged protests in Vienna regarding living conditions, inability to access labor markets, and deportations. In late 2012 the UNHCR conducted inspections at 20 private accommodations in six provinces and found many to be inadequate on health or other grounds. The UNHCR urged that the federal government provide quality standards for refugee accommodations.

Temporary Protection: According to the Interior Ministry, the government provided temporary protection to 1,964 individuals in 2012 who might not qualify as refugees under the 1951 refugee convention, principally through subsidiary protection.

### **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 through periodic, free, and fair elections based on universal suffrage.

#### **Elections and Political Participation**

Recent Elections: The country held national parliamentary elections in September and presidential elections in 2010; there were no reports of serious abuse or irregularities in either election, and credible observers considered them free and fair.

Participation of Women and Minorities: The parliament consists of the popularly elected National Council and the Federal Council, whose members are named by the federal states. At year's end there were 61 women in the 183-seat National Council and 18 women in the 61-member Federal Council. As of December there were five women in the 16-member cabinet.

There appeared to be little representation of ethnic minorities at the national level. The new National Council includes one Muslim man and three Turkish-born Muslim women, and the Federal Council has a Muslim man of Turkish origin. The combined number of deputies with immigrant background at the federal and state level was 22, which is 3.2 percent of all representatives.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and anticorruption laws and regulations extend to civil servants, public officials, governors, members of parliament, and employees and representatives of state-owned companies. The government generally implemented the law effectively, but a number of high-profile cases have dragged on for years during lengthy investigations without authorities filing charges. A legal change effective in January broadened the law to criminalize corrupt practices by citizens outside the country. It also expanded the definition of public official and raised the penalty for bribery from three years to 10 years in prison.

Corruption: The courts are responsible for adjudicating corruption cases. During the year courts tried on corruption charges a former interior minister and member of parliament and, separately, telecom executives accused of funneling money to a ruling party in 2004. A court convicted and sentenced all to prison terms. An appeals court ordered a retrial in November on procedural grounds in the case involving the former interior minister.

The Central Public Corruption Prosecution Department has countrywide authority to prosecute corruption cases; it collaborated with civil society, operated

effectively and independently, and was sufficiently resourced. Parliamentary committees oversee ethics rules for elected officials.

Whistleblower Protection: The law provides protection to public and private sector employees who disclosure internally or publicly evidence of illegal activity. Authorities implemented the law effectively. A whistleblower meets the burden of proof required by the law by establishing by a preponderance of the evidence that the whistleblowing activity led to retaliation. The statute of limitations is between one to 10 years, depending on the transgression, and cases proceed through the regular court system.

On March 20, the Ministry of Justice launched a whistleblowing website to solicit anonymous information on corruption and white-collar crime. Investigators can request additional information from the original source in a secure manner.

Despite criticism from the police union and the public, the Vienna police department suspended an officer who disclosed that the traffic police had a required quota of traffic fines to issue in November. The suspended police officer is challenging the suspension.

Financial Disclosure: Public officials are subject to financial disclosure laws, and there were no reports of failure to comply with disclosure requirements. Politicians must publicly disclose biannually when they earn more than 1,142 euro (\$1,545) for certain activities, but they do not have to disclose the amounts earned. The law does not require public officials to file upon leaving office. Assets and incomes of spouses and dependent children are not included.

Public Access to Information: The law provides for full public access to government information, and the government generally respected this provision. Authorities may only deny access if it would violate substantial data protection rights by disclosing sensitive personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, health, or sex life, or would 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 generally were cooperative and responsive to their views.

Government Human Rights Bodies: A human rights ombudsman's office consisting of three independent commissioners examines complaints against the government. There is a parliamentary human rights committee.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

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

### **Women**

Rape and Domestic Violence: Rape, including spousal rape, is punishable by up to 15 years' imprisonment under the law. The government generally enforced the law. Government statistics on rape and sexual coercion included 1,215 reported occurrences and 281 convictions in 2012.

Domestic violence is punishable under the criminal code provisions for murder, rape, sexual abuse, and bodily injury. There were reports of violence against women, including spousal abuse. According to the Ministry of Women's Affairs and Civil Service, between 10 and 20 percent of adult women suffered from violence in a relationship sometime during their lifetimes. Fewer than 10 percent of women abused by an intimate partner filed complaints. Police can issue a two-week order barring abusive family members from contact with the victim, and courts may extend the order for up to six months. In compliance with a Council of Europe agreement, as of July the Justice Ministry eliminated court fees to obtain an injunction.

According to Justice Ministry statistics released in February, courts issued injunctions prohibiting abusive family members from returning home in 7,647 cases in 2012.

Under the law the government actively provides psychosocial care, in addition to legal aid and support throughout the judicial process, to survivors of gender-based violence. Police training programs addressed sexual or gender-based violence and domestic abuse.

The government funded privately operated intervention centers and hotlines 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. NGOs observed that these centers were generally effective in providing shelter for victims of abuse.

Sexual Harassment: The law prohibits sexual harassment, and the government generally enforced the law. The labor courts may order employers to compensate victims of sexual harassment based on the Federal Equality Commission's finding in a case; the law entitles a victim to a minimum of 1,000 euro (\$1,350) in financial compensation. Of the 3,218 cases of discrimination brought to the ombudsman in 2012 for reasons of gender, 301 involved sexual harassment.

Reproductive Rights: Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of their children, and do so free from discrimination, coercion, and violence. The government offered free access to contraception. Mandatory health insurance provided skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care.

Discrimination: 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. The ombudsman provides advice in discrimination cases and can file complaints with the Federal Equality Commission on behalf of persons who assert discrimination against them. The minister for women's affairs and civil service is responsible for promoting the legal rights of women.

To establish greater transparency and reduce the pay gap between the genders, the government required reporting on salaries by position and gender for all companies with more than 1,000 employees. During the year this requirement was extended to companies with more than 250 employees, which must file biannual reports. The participation rate for women between the ages of 15 and 64 in the labor force was 67.3 percent, as compared to 77.8 percent for men. Approximately 45 percent of employed women worked part time, compared with 32 percent in 2000.

Female employees in the private sector may invoke laws prohibiting discrimination against women. Depending on the Federal Equality Commission's findings, labor courts may award the equivalent of up to four months' salary to women found to have experienced gender discrimination in promotion. The courts may also order compensation for women denied a post despite having equal qualifications.

## Children

Birth Registration: By law children derive citizenship from one or both parents. Officials register births immediately.

Child Abuse: According to Interior Ministry statistics, authorities received reports of 1,663 cases of child abuse in 2011, most involving intercourse with a minor. Child abuse is punishable by up to five years' imprisonment, extendable to 10 years if the victim dies because of negligence. Severe sexual abuse or rape of a minor is punishable by up to 20 years' imprisonment, which may be increased to life imprisonment if the victim dies because of the abuse. Statistics Austria reported that prosecutors obtained convictions in 331 cases of child abuse in 2011.

The government continued its efforts to monitor child abuse and prosecute offenders. The Ministry for Economics, Family, and Youth estimated that close family members or family friends committed 90 percent of child abuse. Officials noted a growing readiness to report such abuse.

Forced and Early Marriage: The minimum legal age for marriage is 18. Adolescents between 16 and 18 may legally contract a marriage if they obtain a special permit for this purpose. During the year two NGOs reported 157 suspected cases of early marriage, primarily in the Muslim and Romani communities, but such cases were undocumented.

Harmful Traditional Practices: There were unconfirmed reports by NGOs that some immigrant families practiced female genital mutilation/cutting (FGM/C), but no information on the incidence of the practice was available. There were no reports of police or judicial reluctance to pursue FGM/C cases.

Sexual Exploitation of Children: The law provides up to 10 years' imprisonment for an adult convicted of sexual intercourse with a child under the age of 14, which is the minimum age for consensual sex. If the victim becomes pregnant, the sentence may be extended to 15 years. In 2012, according to government statistics, 729 cases were reported and 129 convictions obtained for sexual abuse and severe sexual abuse of minors.

It is a crime to possess, trade, or privately view child pornography. Exchanging pornographic videos of children is illegal. Possession of child pornography is punishable by up to two years' imprisonment; trading in child pornography is

punishable by up to 10 years' imprisonment. According to government statistics, 440 instances of these abuses were reported, and prosecutors obtained 167 convictions.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For country-specific information, see [http://travel.state.gov/abduction/country/country\\_5797.html](http://travel.state.gov/abduction/country/country_5797.html).

### **Anti-Semitism**

According to 2001 census figures and 2011 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 135 anti-Semitic incidents during 2012, a nearly 100 percent increase over 2011. These included six physical assaults in addition to name-calling, graffiti and defacement, threatening letters, dissemination of anti-Semitic writings, anti-Semitic internet postings, property damage, and vilifying letters and telephone calls. 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.

The law against 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.

In February the courts sentenced three men to prison under the law forbidding Nazi-related activities for their involvement in singing a Nazi-era song at a 2011 soccer game. One of the men convicted received 15 months in prison.

In January authorities convicted three men connected to a neo-Nazi website that displayed links to Hitler's *Mein Kampf*, called for actions to preserve the "German heritage," and denounced opponents of right-wing extremism. Authorities charged the suspects under the law against neo-Nazi activity. The sentences ranged from four-and-a-half to nine years in prison.

School curricula included discussion of the Holocaust and the tenets of different religions and advocacy of religious tolerance. The Education Ministry offered

special teacher training seminars on Holocaust education and conducted training projects with the Anti-Defamation League. Government leaders attended the 75th anniversary of Germany's annexation of Austria marked by ceremonies to honor Austrians who opposed Hitler and his 1938 "Anschluss." In October the Vienna Philharmonic Orchestra published details of its conduct under Hitler, highlighting that 60 of its 122 members were Nazi party members and that it expelled Jewish members and sent them to death camps.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in housing, education, air travel and other transportation, employment, and access to health care and other government services. The government did not effectively enforce these provisions.

While federal law mandates access to public buildings for persons with physical disabilities, NGOs complained that 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. They generally were able to vote and participate in civil affairs.

The law prohibits the sterilization of minors; however, the law provides for involuntary sterilization of adults with mental disabilities in cases where a pregnancy would be considered life-threatening. Authorities maintained that there were no such cases during the year.

The Ministry of Labor, Social Affairs, and Consumer Protection handled disability-related problems. The government funded a wide range of programs for persons with disabilities, including providing transportation and other assistance to help integrate schoolchildren with disabilities into regular classes and employees with disabilities into the workplace. Children with disabilities attend primary, secondary, and higher education schools.

In May the ombudsman for persons with disabilities criticized the requirement that voters sign their ballot, asserting that this requirement excludes blind and other persons with disabilities from participating in elections.

On September 23, the Committee on the Rights of Persons with Disabilities released a report which acknowledged government progress implementing the National Action Plan on Persons with Disabilities but cited several areas for improvement. The committee criticized in particular the fragmentation of disability policy between federal and state governments, the lack of opportunities for the employment of persons with disabilities, and authorities' failure to integrate children with disabilities into the educational system.

The UN Periodic Review of Austria on the Rights of Persons with Disabilities published in September generally praised the country's personal assistance programs and efforts to curtail any abuses in institutional settings. The report criticized aspects of laws and institutional settings that continue use of net beds and other forms of nonconsensual practices in psychiatric hospitals and institutions, and that allow a person to be confined involuntarily in a psychiatric institution when they have a psychosocial disability and it is forecast that they might endanger themselves or others. The Periodic Review also expressed concern that the population of persons with disabilities who are institutional dwellers has increased over the last 20 years.

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

Interior Ministry statistics released in May cited 519 neo-Nazi, right-wing extremist, xenophobic, or anti-Semitic incidents in 2012. The government continued to express concern over the activities of extreme right-wing and neo-Nazi groups, many with links to organizations in other countries.

An NGO operating a hotline for victims of racist incidents reported 772 complaints in 2012. It reported a large number of cases involving racial discrimination in housing, shops, or banks.

In June a man attacked a soccer referee of Turkish descent following a match in the province of Tirol. Prior to the attack, the assailant gave a Nazi salute and yelled, "Heil Hitler," three times.

In January assailants in Vorarlberg during the middle of the night attempted to set fire to a refugee asylum center housing 23 persons. A court in October convicted

two men, conditionally sentencing one to 12 months in prison and the other to seven months.

Federal law recognizes Croats, Czechs, Hungarians, Roma, Slovaks, and Slovenes as national minorities. Human rights groups continued to report that Roma faced discrimination in employment and housing. The Austrian Romani Cultural Association estimated that the Romani community consisted of more than 6,200 indigenous and between 15,000 and 20,000 nonindigenous individuals. The head of the association reported that the situation of Roma continued to improve. In April authorities counseled a police officer after he included insulting comments against Roma and Sinti in a political party's senior citizen calendar. Government programs, including financing for tutors, helped school-age Romani children move out of "special needs" and into mainstream classes.

NGOs reported that Africans living in the country experienced verbal harassment or were subject to violence in public. For example, in January a man pushed a woman of African descent from a subway platform onto the tracks after uttering racial insults. In some cases citizens stigmatized black Africans for perceived involvement in the drug trade or other illegal activities.

The government continued training programs to combat racism and educate the police in cultural sensitivity. The Interior Ministry renewed an agreement with a Jewish group 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. The Labor Ministry continued efforts to improve the situation by providing German-language instruction and skilled-labor training to young persons with immigrant backgrounds. Compulsory preschool programs, including some one- and two-year pilot programs, sought to remedy language deficiencies for nonnative German speakers. NGOs criticized the lack of a national action plan on racism and dismissed the national action plan on integration as too weak to fight discrimination effectively.

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

Antidiscrimination laws also apply to lesbian, gay, bisexual, and transgender (LGBT) persons. There was some societal prejudice against LGBT persons; however, there were no reports of violence or discrimination based on sexual

orientation or gender identity. LGBT organizations generally operated freely. Civil society groups criticized the lack of a mechanism to prevent service providers from discriminating against LGBT individuals. The largest national political party, the Social Democrats, announced that it would join the Green Party in endorsing a law to legalize gay marriage. In August diplomat Johann Spitzer became the country's first openly gay ambassador.

The Constitutional Court ruled that the local governments are required to provide the same ceremony, which includes use of vows and witnesses, in a civil ceremony for same-sex couples as in a wedding ceremony. In February the ECHR ruled that the government could not discriminate against LGBT persons applying to adopt a partner's biological child. The law changed to reflect the court's decision in August.

According to an EU Fundamental Rights Agency (FRA) study, the situation of LGBT rights was "mediocre." Problems included the prohibition on adoption of children by gay couples and the inaccessibility of artificial insemination for women in lesbian partnerships. The study found that 20 percent of openly homosexual employed persons reported labor discrimination based on their sexual orientation and that 89 percent of openly LGBT persons under the age of 18 claimed to have been bullied in school or in apprenticeships because of their sexual orientation. According to the FRA study, the situation was different in Vienna, which was "at the vanguard" of LGBT rights.

### **Other Societal Violence or Discrimination**

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

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides the right of workers to form and join independent unions, conduct legal strikes, and bargain collectively. It prohibits antiunion discrimination or retaliation against strikers, and provides for the reinstatement of workers fired for union activity. It allows unions to conduct their activities without interference. The Austrian Trade Union Federation was the exclusive entity representing workers in collective bargaining. Unions were technically

independent of government and political parties, although some sectors had unions closely associated with parties.

There were few reports of antiunion discrimination or other forms of employer interference in union functions. The government recognized the right to strike. Authorities enforced laws providing for collective bargaining and protecting unions from interference and workers from retaliation for union activities. There were no reports of antiunion discrimination or employer use of short-term contracts to avoid hiring workers with union rights. There were no reported threats against, or targeting of, union leaders.

### **b. Prohibition of Forced or Compulsory Labor**

While the law prohibits all forms of forced or compulsory labor, there were reports that women were subjected to involuntary domestic servitude and that children were subjected to forced begging. In addition to government-initiated forced labor awareness campaigns and workshops, labor inspectors and revenue authorities conducted routine site visits to identify forced labor.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The minimum legal working age is 15, with the exception that children who are least 12 engage in certain forms of light work on family farms or businesses. Children who are 15 and older are subjected to the same regulations on hours, rest periods, overtime wages, and occupational health and safety restrictions as adults but are subjected to additional restrictions on hazardous forms of work or for ethical reasons.

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.

In contrast with previous years, there were no reports from the Crisis Center for Unaccompanied Minors in Vienna of any children trafficked for forced begging.

The labor inspectorate of the 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.

#### **d. Acceptable Conditions of Work**

There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements with a coverage rate between 98 and 99 percent of the workforce set minimum wages by job classification for each industry. All collective bargaining agreements provide for a minimum wage of 1,000 euro (\$1,350) per month. The official poverty level was 1,031 euro (\$1,395) per month. Where no such collective agreements existed, such as for domestic workers, janitorial staff, and au pairs, wages were generally lower than those covered by collective bargaining agreements. The law requires equal pay for equal work.

The law provides for a maximum workweek of 40 hours, although collective bargaining agreements established 38 or 38.5-hour workweeks for more than half of all employees. Regulations to increase work hour flexibility allow companies to increase the maximum regular time from 40 hours to 50 hours per week with overtime. In special cases work hours can be increased to a maximum of 60 hours per week, including overtime, for a maximum of 24 weeks annually. These 24 weeks, however, can only be in eight-week segments, with at least a two-week break between each eight-week period.

Overtime is officially limited to five hours per week and 60 hours per year. 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 premium pay of 50 percent for overtime and requires time off on weekends and official holidays. An employee must have at least 11 hours off between workdays. Authorities enforced wage and hour standards equitably across all groups.

Foreign workers in both the formal and informal sectors made up approximately 13 percent of the country's workforce. Authorities did not enforce wage and hour regulations effectively in the informal sector.

The labor inspectorate regularly enforced mandatory occupational health and safety standards. Its approximately 300 inspectors routinely checked the country's nearly 210,000 worksites. Workers could file complaints anonymously with the labor inspectorate, which could sue the employer on behalf of the employee.

Workers rarely exercised this option and normally relied instead on the nongovernmental workers' advocacy group, and the Chamber of Labor, which filed suits on their behalf. According to Statistics Austria, there were 112,104 workplace accidents in 2012, 171 of which were fatal. Workers in the informal economy generally did not benefit from social protections. To receive health care benefits, unemployment insurance, and pensions, workers generally had to pay into the system, although nonworkers could qualify for coverage in certain cases.