

# **AUSTRIA 2021 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. Parliamentary elections in September 2019 and presidential elections in 2016 were considered free and fair.

The federal police maintain internal security and report to the Ministry of the Interior. The army is responsible for external security but also has some domestic security responsibilities and reports to the Defense Ministry. Civilian authorities maintained effective control over the security forces. There were no reports that members of the security forces committed abuses during the year.

Significant human rights issues included credible reports or allegations of: the existence of criminal libel laws; serious government corruption; and violence or threats of violence motivated by anti-Semitism and anti-Muslim sentiment.

The government had mechanisms in place to identify and punish officials who may commit human rights abuses.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed arbitrary or unlawful killings. Judicial authorities investigate whether any security force killings that may occur were justifiable and pursue prosecutions as required by the evidence.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

The government has measures in place to ensure accountability for disappearances if one were to occur.

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

The law prohibits such practices, and there were no reports that government officials employed them. Impunity was not a significant problem in the security forces.

After police used excessive force against several climate activists while dispersing a spontaneous assembly in Vienna in 2019, one police officer involved was prosecuted on charges of bodily injury and another on charges of abuse of office and false testimony. In October a Vienna court convicted one officer of one count of bodily injury and sentenced him to a four-month suspended sentence. The other officer was convicted of one count of abuse of office and sentenced to a one-year suspended prison sentence. In June a Vienna court convicted a third officer involved in the case of abusing his office and giving false testimony. The court sentenced him to a 12-month suspended prison term. The country's administrative court also declared some actions by police during the incident as illegitimate. In October a Vienna court convicted another officer involved in the case of endangering bodily safety and imposed a fine.

In July a Vienna court convicted six police officers accused of striking a Chechen man during an identity check in 2019; two others were acquitted. The two main defendants received suspended prison sentences of 10 to 12 months on charges of bodily injury and abuse of office. Four others received suspended sentences of eight to 10 months on charges of abuse of office. Amnesty International stated that the suspended sentences did not have a sufficient deterrent effect.

The government's January 2020 coalition agreement called for the creation of an independent office to deal with complaints of police brutality, but it had not been established as of year's end.

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

There were no significant reports regarding prison or detention center conditions

that raised human rights concerns.

**Physical Conditions:** There were no major concerns in prisons and detention centers regarding physical conditions or inmate abuse. The most recent public report by an international prison monitoring body was the 2015 report by the Council of Europe's Committee for the Prevention of Torture (CPT) based on a 2014 visit to the country. The report stated that the committee received virtually no allegations of physical mistreatment of prisoners by staff and that material conditions of detention were satisfactory.

**Administration:** Authorities conducted investigations of credible allegations of mistreatment.

**Independent Monitoring:** The government permitted visits by the CPT.

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

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government generally observed these requirements.

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

Authorities base arrests on sufficient evidence and legal warrants 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 time 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 a 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. There were isolated reports of police abuse, which authorities investigated and, where warranted, prosecuted.

Detainees have the right to an attorney. 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 (96 hours after apprehension). Criminal suspects are not legally required to answer questions without an attorney present. Laws providing for compensation for persons unlawfully detained were enforced.

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

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

### **Trial Procedures**

The law provides for the right to a fair and public 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. Trials must be public and conducted orally; defendants have the right to be present at their trial. Attorneys are not mandatory in cases of minor offenses, but legal counsel is available at no charge for indigent persons in cases where attorneys are mandatory. The law grants defendants and their attorneys adequate time and facilities to prepare a defense. Defendants can confront or question witnesses against them and present witnesses and evidence on their own behalf. Free interpretation is available from the moment a defendant is charged through all appeals. Suspects cannot be compelled to testify or confess guilt. A system of judicial review provides multiple opportunities for appeal.

The law extends the above rights to all defendants regardless of sex, gender, race, ethnicity, age, religion, or disability.

### **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 and organizations may appeal domestic decisions to regional human rights bodies.

### **Property Seizure and Restitution**

For the resolution of Holocaust-era restitution claims, including by foreign citizens, the government has laws and mechanisms in place. Property restitution also includes an art restitution program. Nongovernmental organizations (NGOs) and advocacy groups reported that the government had taken comprehensive steps to implement these programs.

The Department of State's Justice for Uncompensated Survivors Today (JUST) Act report to Congress, released publicly in July 2020, can be found on the State Department's website: <https://www.state.gov/reports/just-act-report-to-congress/>.

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

The law prohibits such actions, and there were no reports the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The constitution provides for freedom of expression, including for the press and other media, and the government generally respected this right. An independent media, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for members of the media.

**Freedom of Expression:** 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, and imposes criminal penalties for violations. The law prohibits public denial, belittlement, approval, or justification of the Nazi

genocide or other Nazi crimes against humanity in print media, broadcast media, the publication of books, and online newspapers or journals, and provides criminal penalties for violations. The law also prohibits disparagement of religious teachings in public. The government strictly enforced these laws (see the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>).

**Libel/Slander Laws:** Libel, slander, defamation, and denouncement of religious teachings (blasphemy) are criminal offenses and are enforced. NGOs reported that strict libel and slander laws created conditions that discouraged reporting of governmental abuse. For example, many observers believed the ability and willingness of police to sue for libel or slander discouraged individuals from reporting police abuses.

### **Internet Freedom**

With limited exceptions, the government did not restrict or disrupt access to the internet or censor online content. There were no credible reports the government monitored private online communications without appropriate legal authority. Authorities continued to restrict access to websites that violate the law, such as neo-Nazi sites. The law barring neo-Nazi activity provides for one- to 10-year prison sentences for public denial, belittlement, approval, or justification of National Socialist crimes. The criminal code provision on incitement provides for prison sentences of up to five years for violations. Authorities restricted access to prohibited websites by trying to shut them down and by forbidding the country's internet service providers from carrying them.

### **Academic Freedom and Cultural Events**

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

### **b. Freedoms of Peaceful Assembly and Association**

The constitution and law provide for the freedoms of peaceful 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 <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement and the Right to Leave the Country**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

**In-country Movement:** Asylum seekers' freedom of movement was restricted to the district of the reception center assigned by authorities for the duration of their initial application process, until the country's responsibility for examining the application was determined. By law asylum seekers must be physically present in the centers of first reception while administrative processing is underway, but no more than 120 hours during the initial application process. Authorities have 20 days in which to determine the country's responsibility and jurisdiction for the case.

Concerns about the COVID-19 pandemic resulted in special requirements for movement within the country. Due to the COVID-19 pandemic, the government imposed nationwide lockdowns from the beginning of the year through mid-May and from November 22 to December 12. On November 15, the government also imposed a nationwide lockdown for unvaccinated and nonrecovered individuals, requiring them to stay at home unless they needed to exercise, purchase items at essential retail outlets such as grocery stores and pharmacies, or go to work. The lockdown for unvaccinated and nonrecovered individuals continued after the nationwide lockdown ended on December 12. There were also some exit restrictions in provinces and municipalities throughout the country when infection or hospital rates became too high. For example, in September persons near Braunau, which had a high incidence of infection and a low rate of immunization, were required to be vaccinated or tested for COVID-19 with a negative result to leave that area.

### **e. Status and Treatment of Internally Displaced Persons**

Not applicable.

## **f. Protection of Refugees**

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, returning refugees, or asylum seekers, as well as other persons of concern.

**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.

Despite growing criticism by human rights NGOs, the government continued to deport unsuccessful asylum seekers to Afghanistan until August. In a legal challenge brought by an Afghan being held in custody prior to deportation, the Constitutional Court ruled on August 17 that given recent developments in Afghanistan, it was impossible to deport Afghan asylum seekers within any reasonable time. Subsequently, the ministers of interior and foreign affairs acknowledged deportations to Afghanistan were no longer possible and stressed that under EU and Schengen Zone rules, the government instead would return Afghans to the first EU country they entered on their way to Austria.

**Safe Country of Origin/Transit:** EU regulations provide that asylum seekers who transit an EU country determined to be “safe” on their way to Austria can be returned to that country to apply for refugee status. Authorities considered signatories to the 1951 Refugee Convention and its 1967 Protocol to be safe countries of transit.

**Employment:** While asylum seekers are legally restricted from seeking regular employment, they are eligible for seasonal work, low-paying community service jobs, or professional training in sectors that require additional apprentices. A work permit is required for seasonal employment but not for professional training. An employer must request the work permit for the prospective employee. Asylum seekers have access to health care services and school education is available to their children, but they do not receive other integration services, such as language classes or employment assistance, until their applications have been approved.

**Durable Solutions:** While the government processes and grants applications for asylum, there was no active program for resettlement of refugees, and UNHCR



was not involved in the refugee or asylum process in the country. The integration section in the Ministry for Women, Family, Youth, and Integration at the Federal Chancellery, together with the Integration Fund and provincial and local integration offices, coordinated measures for integration of refugees.

**Temporary Protection:** According to the Ministry of Interior, in 2020 the government provided temporary protection to 2,524 individuals who might not qualify as refugees but were unable to return to their home countries. According to the Ministry of Interior, between January and July, the government provided temporary protection to 2,110 individuals.

### **g. Stateless Persons**

According to the government's statistical office, in January there were 17,992 persons in the country registered as stateless, that is, having undocumented or unclear citizenship. Stateless persons in the country were largely Austrian-born children of foreign nationals who were unable to acquire their parents' citizenship due to the laws in their parents' country of origin. Authorities did not deport them because they lacked a home country.

The law allows some stateless persons to gain Austrian nationality. A stateless person born in the country may be granted citizenship within two years of reaching the age of 18 if he or she has lived in the country for a total of 10 years, including five years continuously before application, and is able to demonstrate sufficient income. Stateless persons can receive temporary residence and work permits that must be renewed annually.

## **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

**Recent Elections:** The country held parliamentary elections in 2019 and presidential elections in 2016. There were no reports of serious abuse or irregularities in either election, and credible observers considered both to be free

and fair.

**Participation of Women and Members of Minority Groups:** No laws limit the participation of women or members of minority groups in the political process, and they did participate. Women's participation in government at the national level increased because of the 2019 federal elections. There were 74 women in the 183-member lower house of compared with 63 during the 2017-19 legislative term. The coalition government had eight women in its 17-member body. The previous government had six female ministers.

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

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. Anticorruption laws and regulations extend to civil servants, public officials, governors, members of parliament, and employees or representatives of state-owned companies. The law also criminalizes corrupt practices by citizens outside the country. The penalty for bribery is up to 10 years in prison.

There were reports of government corruption during the year. The Ministry of Justice's 2020 annual report disclosed that it had investigated 2,031 allegations of corruption in 2020, of which 1,594 were closed without prosecution, 249 resulted in convictions, and 93 resulted in acquittals. The convictions represent a 15 percent increase from 2019.

**Corruption:** On November 18, parliament voted to lift the parliamentary immunity of former chancellor Sebastian Kurz, at his request, so that an investigation against him by anticorruption prosecutors could continue. Kurz resigned as chancellor in October but at that time continued to serve as the People's Party chairman and started serving as the party's parliamentary floor leader. Kurz resigned in the wake of corruption investigations against him in connection with alleged abuse of office and alleged misuse of public funds for manipulated polling and favorable press coverage beginning in 2016. Kurz withdrew from politics completely in December and resigned as chairman of the People's Party and as the party's parliamentary floor leader.

On August 27, a Vienna court sentenced the former vice chancellor and former leader of the Freedom Party, Hans-Christian Strache, to a 15-month suspended prison term for trying to initiate legislation to benefit the owner of a private hospital who donated \$14,000 to Strache's party. Strache appealed the verdict.

During the year, prosecutors also continued investigations regarding both party-affiliated personnel appointments in the partly state-owned Casinos Austria company and the government holding company OeBAG. The investigations included a search of the finance minister's house based on allegations he may have been involved in discussions about a political party donation by gambling company Novomatic in exchange for the government's assistance regarding a tax matter in Italy. In June prosecutors initiated investigations against Kurz on perjury charges in connection with his June 2020 testimony before a parliamentary investigative committee regarding his possible involvement in the appointment of the CEO of the government holding company. The finance minister resigned all party positions and withdrew from politics in December.

Prosecutors also continued investigating allegations the former vice chancellor and former Freedom Party leader submitted private expenses of more than 500,000 euros (\$575,000) for reimbursement to the party (the Freedom Party and other leading political parties receive some government funding).

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

Several 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. The ombudsman's office is completely independent and has its own budget; parliament appoints its members. The ombudsman's office effectively monitored government activities. A parliamentary human rights committee also

provides oversight of the government's actions with respect to human rights.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** Rape of women or men, including spousal rape, is punishable by up to 15 years' imprisonment; domestic violence is punishable under the criminal code provisions for murder, rape, sexual abuse, and bodily injury. The government generally enforced the law, and law enforcement response to rape and domestic violence was generally effective. Police can issue, and courts may extend, an order barring abusive family members from contact with survivors. Police referred victims of domestic violence to special shelters.

Under the law, the government 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.

**Sexual Harassment:** The law prohibits sexual harassment, and the government generally enforced the law. Labor courts may order employers to compensate victims of sexual harassment; the law entitles a victim to monetary compensation. The Ministry for Women, Family, Youth and Integration and the labor chamber regularly provided information to the public on how to address sexual harassment.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. There are no legal barriers or government policies that adversely affected access to contraception.

The government provided access to sexual and reproductive health services for survivors of sexual violence, and emergency contraception was available as part of the clinical management of cases of rape.

**Discrimination:** The law provides the same legal status and rights for women as for men, including under family, religious, personal status, and nationality laws, as well as laws related to labor, property, inheritance, employment, access to credit

and owning or managing businesses or property. Women were subject to some discrimination in remuneration and representation in certain occupations.

## **Systemic Racial or Ethnic Violence and Discrimination**

Laws to protect members of racial or ethnic minorities or groups from violence and discrimination are in place, and the government enforced them effectively. 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, and imposes criminal penalties for violations. The law prohibits public denial, belittlement, approval, or justification of the Nazi genocide or other Nazi crimes against humanity in print media, broadcast media, the publication of books, and online newspapers or journals and provides criminal penalties for violations. (See section 2.a.)

In response to a parliamentary inquiry, the Ministry of Interior reported there were 443 neo-Nazi extremist, racist, anti-Muslim, or anti-Semitic incidents between January and June, up from 314 in the previous year.

In July the Ministry of Interior presented its first report on hate crimes. The report listed 1,936 hate crimes between November 2020 and April 21, primarily directed against persons of a different religion, opinion, or ethnicity.

The NGO ZARA, which operated a hotline for victims of racist incidents, reported receiving 3,039 complaints of threats and harassment in 2020, up from 1,950 complaints in 2019. It reported that 2,148 of the cases were based on racist internet postings, up from 2,070 in 2019. Most of these were directed against Muslims and immigrants.

The Islamic Faith Community's documentation center reported receiving 1,402 complaints of threats and harassment in 2020, a 33.4 percent increase over the 1,051 complaints received in 2019. Some 84 percent of the reported incidents took place on digital media. The incidents included verbal abuse directed against Muslims and anti-Muslim graffiti.

Muslim groups objected to a new online "Islam Map" published by the University of Vienna's Institute for Islamic Religious Pedagogics and presented by the

integration minister's Documentation Office of Political Islam on May 27 that shows the location of over 600 Muslim institutions in the country as well as their origin and ideology, structure and network, and connections abroad. The groups interpreted the map as an attempt to put Muslims in the country under general suspicion. Minister for Women, Family, Youth, and Integration Raab defended the map as providing more transparency that the government and public could use as reference material.

Human rights groups continued to report that Roma faced discrimination in employment and housing. Government programs, including financing for tutors, helped school-age Romani children move out of "special needs" programs and into mainstream classes. NGOs reported that Africans living in the country were also verbally harassed or subjected to violence in public.

NGOs continued to assert that police allegedly targeted minorities for frequent identity checks.

The Ministry of Labor and the Ministry for Women, Family, Youth, and Integration continued providing German-language instruction and skilled-labor training to young persons with immigrant backgrounds. Preschool programs, including some one- and two-year pilot programs, sought to remedy language deficiencies for non-native German speakers.

The government continued training programs to combat racism among police forces and educate police in cultural sensitivity. The Ministry of Interior renewed an annual agreement with the Anti-Defamation League (ADL) to teach police officers cultural and racial sensitivity, religious tolerance, and the acceptance of minorities in the framework of the ADL's "A World of Difference" program. Training has been conducted on an ongoing basis for police officers since 2002 and was introduced as part of officers' basic training in 2008. In 2020, 525 current police officers and 1,035 prospective police officers received training nationwide. As of the end of 2020, a total of 23,265 police officers had received the ADL training out of a total police force of about 31,000 members.

## **Children**

**Birth Registration:** By law children derive citizenship from one or both parents.

Officials register births immediately.

**Child Abuse:** Child abuse is punishable by up to five years' imprisonment, which may be extended to 10 years. 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. The government continued its efforts to monitor child abuse and prosecute offenders. Officials noted a growing readiness by the public to report cases of such abuse.

**Child, Early, and Forced Marriage:** The minimum legal age for marriage is 18. Adolescents between the ages of 16 and 18 may legally contract a marriage by special permit and parental consent or court action. NGOs estimated there were 200 cases of early marriage annually, primarily in the Muslim and Romani communities.

**Sexual Exploitation of Children:** The law prohibits the commercial sexual exploitation, sale, grooming, and offering or procuring children for commercial sex and practices related to child pornography; authorities generally enforced the law effectively. The law provides up to 15 years' imprisonment for an adult convicted of sexual intercourse with a child younger than 14, the minimum age for consensual sex for both girls and boys. Possession of or trading in child pornography is punishable by up to 10 years' imprisonment.

**International Child Abductions:** The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

## **Anti-Semitism**

According to figures compiled by the Austrian Jewish Community (IKG), there were between 12,000 and 15,000 Jews in the country, of whom an estimated 8,000 were members of the IKG.

The IKG expressed concern that the COVID-19 crisis led to a further increase of anti-Semitism. The NGO Forum against Anti-Semitism reported 585 anti-Semitic

incidents during 2020. These included physical assaults in addition to name-calling, graffiti, and defacement, threatening letters, dissemination of anti-Semitic texts, property damage, and vilifying letters and telephone calls. Of the reported incidents, 11 concerned physical assaults, 22 involved threats and insults, 135 were letters and emails, 53 were cases of vandalism, and 364 involved insulting behavior. The IKG reported 562 incidents in the period from January to June. The government provided police protection to the IKG's offices and other Jewish community institutions, such as schools and museums. The IKG noted that the majority of anti-Semitic incidents involved neo-Nazi and other related right-wing extremist perpetrators but reported that a substantial number of incidents involved Muslim perpetrators.

An August 2020 physical attack by a Syrian immigrant on a Graz Jewish community leader remained under investigation. Authorities reportedly were unable to locate the perpetrator of another assault in November 2020 on a rabbi in Vienna.

Government officials roundly condemned the attacks at the time they occurred. School curricula included discussion of the Holocaust, the tenets of different religious groups, and advocacy of religious tolerance. The Ministry of Education, Science, and Research offered special teacher training seminars on Holocaust education and conducted training projects with the Anti-Defamation League.

From September 2020 – the date a law extending citizenship to descendants of Austrian victims of National Socialism entered into force – to August, approximately 6,600 persons, mostly from Israel, the United Kingdom, and the United States, received citizenship.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government did not always effectively



enforce these provisions. Employment discrimination against persons with disabilities occurred. Health services and transportation were available on an equal basis with others, and government communication was generally provided in accessible formats. There were no government actions that limited participation in civic life, including the ability to vote.

The government had a *National Action Plan on Disability* for 2012-20 that called for gradual abandonment of segregated schools for students with disabilities. During the 2019-20 school year, however, 36.2 percent of students with disabilities were placed in special education schools.

The Federal Disabilities Act mandates access to public buildings for persons with physical disabilities. While the federal ombudsman for disabled persons has noted most buildings comply with these regulations, NGOs complained some public buildings still lacked such access. The Ministry of Social Affairs, Health Care, and Consumer Protection handled disability-related problems. The government funded a wide range of programs for persons with disabilities, including transportation and other assistance, to help integrate schoolchildren with disabilities into mainstream classes and employees with disabilities into the workplace.

## **HIV and AIDS Social Stigma**

A Social Democratic Party parliamentarian reported in April that the Federal Ombudsman's Office was examining his complaint about a ban on blood donations by sexually active gay men.

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

There were no reports of police or other government agents inciting, perpetrating, condoning, or tolerating violence against lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) individuals or those reporting on such abuse. There was some societal prejudice against LGBTQI+ persons but no reports of violence or discrimination based on sexual orientation or gender identity. LGBTQI+ organizations generally operated freely. According to a survey by the EU Fundamental Rights Agency, 11 percent of homosexual persons and 17 percent of

transgender persons reported they had been verbally or physically assaulted in the previous five years.

In October a court in Styria convicted a Syrian national living in Austria who had defaced the walls of an LGBTQI+ community center in the city of Graz, assaulted the president of the Graz Jewish Community, and vandalized the Graz synagogue. The court sentenced him to a three-year prison term.

In March a trial before the Vienna court on incitement charges against a man who had allegedly harassed three LGBTQI+ men after a rainbow parade in 2019 ended in a settlement providing financial compensation to the victims.

Federal law prohibits discrimination against LGBTQI+ persons in employment. Laws at the provincial level prohibit discrimination by state and nonstate actors against LGBTQI+ persons, including with respect to essential goods and services such as housing, employment, and access to government services such as health care. Civil society groups noted there was no federal mechanism to prevent service providers from discriminating against LGBTQI+ individuals.

## **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. The law 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 unions in some sectors were closely associated with parties.

The government effectively enforced applicable laws that covered all categories of workers. Resources, inspections, and remediation were adequate. Penalties for violations were of a civil nature, with fines imposed, and were commensurate with those under other laws involving denials of civil rights. Administrative, registration, and judicial procedures were not overly lengthy.

There were few reports of antiunion discrimination or other forms of employer interference in union functions. The government and employers recognized the right to strike and respected freedom of association and the right to collective bargaining. Authorities effectively enforced laws providing for collective bargaining and protecting unions from interference and workers from retaliation for union activities.

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

The law prohibits all forms of forced or compulsory labor. The government effectively enforced the law, and resources, inspections, and remediation were adequate. Labor inspectors and revenue authorities conducted routine site visits to identify forced labor. The government initiated forced labor awareness campaigns and workshops. Penalties ranged from six months to five years imprisonment for offenses involving an adult victim and from one to 10 years' imprisonment for those involving a child victim and were commensurate with those for similar crimes.

NGOs noticed an upward trend in labor trafficking in recent years due to organized crime in Eastern Europe. Traffickers were reported to exploit men and women from Eastern Europe, Southeast Asia, and China in forced labor, primarily in restaurants, construction, agriculture, health care, and domestic service, including in diplomatic households. Seasonal migrants were especially vulnerable to labor trafficking, particularly during the harvest seasons. Traffickers exploited children, persons with physical and mental disabilities, and Roma in forced begging.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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

The law prohibits all the worst forms of child labor. The minimum legal working age is 15, with the exception that children who are at least 13 may engage in certain forms of light work on family farms or businesses. Children who are 15 and older are subject to the same regulations on hours, rest periods, overtime wages, and occupational health and safety restrictions as adults, but they are

subject to additional restrictions on hazardous forms of work or work that is detrimental to ethics and morals. Restrictions for hazardous jobs include work with materials considered dangerous for children, work in the sawmill business, on high-voltage pylons, and specified jobs in the construction business.

The labor inspectorate of the Ministry of Labor is responsible for enforcing child labor laws and policies in the workplace and did so through regular and thorough checks of workplaces and special youth advisors in companies. Penalties in the form of fines may be doubled in cases of repeated violations of the child labor code. Penalties were commensurate with those for other analogous crimes.

Child labor occurred. Children were trafficked to the country and subjected to forced begging and occasionally sexual exploitation. Forced labor or exploitation of minors is treated under the criminal code as trafficking in persons, with criminal penalties of one to 10 years in prison, double the penalty for forced labor or exploitation of adults.

#### **d. Discrimination with Respect to Employment and Occupation**

Labor laws and regulations related to employment or occupation prohibit discrimination regarding race, sex, gender, disability, language, sexual orientation, gender identity, HIV-positive (or other communicable disease) status, religion, age, or world view. The law does not address national origin. The government effectively enforced these laws and regulations. Penalties for violations were commensurate with laws relating to civil rights.

Discrimination in employment and occupation occurred with respect to women, persons with disabilities, and members of certain minorities. Muslim women wearing headscarves sometimes encountered discrimination when trying to obtain a retail or customer service position. Companies sometimes preferred to pay a fine rather than hire a person with a disability.

The law requires equal pay for equal work, but women occasionally experienced discrimination in remuneration. Persons with disabilities had difficulty accessing the workplace. Women employees in the private sector may invoke laws prohibiting discrimination against women by filing a court case or registering a complaint with the Federal Equality Commission, which can award the equivalent

of up to four months' salary to women found to have experienced gender discrimination in promotion, despite being better qualified than their competitors. The courts may also order compensation for women denied a post despite having equal qualifications.

## **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** There is no legislated national minimum wage. Instead, nationwide collective bargaining agreements covered between 98 and 99 percent of the workforce and set minimum wages by job classification for each industry. Where no such collective agreements existed, such as for domestic workers, custodial staff, and au pairs, wages were generally lower than those covered by collective bargaining agreements. The agreements set wages above the poverty line except in a few cases.

The law in general provides for a maximum workweek of 40 hours, although collective bargaining agreements establish 38- or 38.5-hour workweeks for more than half of all employees. Regulations to increase workhour flexibility allowed companies to increase the maximum regular time from 40 hours to 50 hours per week with overtime. A law that entered into force in 2019 allows work hours to be increased to a maximum of 12 hours per day and 60 hours per week, including overtime, but employees can refuse, without providing a reason, to work more than 10 hours per day.

Overtime is officially limited to 20 hours per week and 60 hours per year. The period worked must not exceed an average of 48 hours per week over a period of 17 weeks. Some employers, particularly in the construction, manufacturing, and information technology sectors, exceeded legal limits on compulsory overtime. Collective bargaining agreements can specify higher limits. An employee must have at least 11 hours off between workdays. Wage and hour violations can be brought before a labor court, which can fine employers who commit violations. Penalties were commensurate with other similar crimes.

Sectors with immigrant and migrant workers were particularly affected by violations in wage and hour regulations. Foreign workers in both the formal and informal sectors made up 19 percent of the country's workforce. They constituted

20 percent of officially employed persons and 35 percent of unemployed persons. There were concerns that some migrant workers, especially those in the childcare industry, were misclassified as independent contractors instead of employees. Consequently, these workers did not have access to social safety net benefits, such as unemployment insurance, as well as other benefits, such as paid leave.

**Occupational Safety and Health:** The labor inspectorate effectively enforced mandatory occupational safety and health standards, which were appropriate for the main industries. The number of inspectors was sufficient to deter violations. Inspectors have the authority to make unannounced inspections and initiate sanctions. Resources and remediation remained adequate. In cases of violations resulting in serious injury or death, employers may be prosecuted under the penal code. Penalties are commensurate with those for other crimes, such as negligence.

In 2020 a total of 113 workers died in industrial accidents, down from 126 in 2019. Hazardous sectors where the most accidents occurred include construction, agriculture, and forestry.

Workers could file complaints anonymously with the labor inspectorate, which could in turn 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.

Workers could remove themselves from situations that endanger health or safety, without jeopardy to their employment. The Employment and Labor Relations Federal Public Service protected employees in this situation.

**Informal Sector:** Authorities did not effectively enforce wage, hour, and occupational safety and health standards in the informal sector. Workers in the small informal economy generally did not benefit from social protections. Workers generally had to pay into the system to receive health-care benefits, unemployment insurance, and pensions, and such payments were rare in the informal sector. Economists estimated the size of the country's informal sector at approximately 7 percent of GDP.