

Austria 2023 Human Rights Report

Executive Summary

There were no significant changes in the human rights situation in Austria during the year.

Significant human rights abuses included serious restrictions on freedom of expression with enforcement of criminal libel laws.

The government took credible steps to identify and punish officials who may have committed human rights abuses or engaged in corruption.

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, including extrajudicial killings, during the year.

b. Disappearance

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

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

The constitution and law prohibited such practices, and there were no reports that government officials employed them.

Human rights monitors reported a number of complaints of police mistreatment; these were generally investigated internally with minimal public information or oversight and convicted police officers generally received only suspended sentences. In September, the government established an office to investigate allegations of police mistreatment. The office was established as a separate organizational unit within the Federal Corruption Office, which was part of the Ministry of the Interior.

Prison and Detention Center Conditions

There were no significant reports that raised human rights concerns regarding prison or detention center conditions. Nonetheless, a June report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment alleged that staff shortages led to longer periods of confinement and insufficient psychiatric care.

Administration: Authorities conducted investigations of credible allegations of mistreatment.

Independent Monitoring: The government permitted visits by independent

nongovernmental observers.

d. Arbitrary Arrest or Detention

The law prohibited arbitrary arrest and detention and provided for the right of any person to challenge the lawfulness of their arrest or detention in court. The government generally observed these requirements.

Arrest Procedures and Treatment of Detainees

Authorities based arrests on sufficient evidence and legal warrants issued by a duly authorized official. The law required that the arrested person be brought before an independent judiciary and charged with a crime and those rights were respected. In criminal cases, the law allowed investigative or pretrial detention for no more than 48 hours, during which time a judge could decide to grant a prosecution request for extended detention. The law specified 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 was required to evaluate investigative detention cases periodically. Pretrial detention could last up to one year for crimes punishable by a term of imprisonment less than five years, or up to two years for crimes punishable by a term of imprisonment exceeding five years. House arrest could be ordered in defined circumstances. There was a functioning bail system. Police and judicial authorities generally respected these laws and procedures.

Detainees had the right to an attorney. Although indigent criminal suspects had the right to an attorney at government expense, the law required appointment of an attorney only after a court decision to remand such suspects into custody (at most 96 hours after apprehension). Criminal suspects were 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 provided for an independent judiciary, and the government generally respected judicial independence and impartiality.

Trial Procedures

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

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

f. Transnational Repression

Not applicable.

g. Property Seizure and Restitution

The government had laws or mechanisms in place, and nongovernmental organizations (NGOs) and advocacy groups reported that the government made some progress on resolving Holocaust-era restitution claims, including by foreign citizens. Property restitution also included an art restitution program. 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 2020, can be found on the State Department's website: <https://www.state.gov/reports/just-act-report-to-congress/>.

h. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibited 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 provided 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 media members.

Freedom of Expression: The law prohibited incitement, insult, or contempt against a group because of its members' race, nationality, religion, or ethnicity if such action violated human dignity, and imposed criminal penalties for violations. The law prohibited 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 provided criminal penalties for violations. In January, the Vienna Higher Regional Court convicted Austrian neo-Nazi rapper "Mr. Bond" (real name: Philip Hassler) to a 10-year prison sentence for glorifying National Socialism, Adolf Hitler, and the Holocaust through his rap lyrics and video clips. The law also prohibited disparagement of religious teachings in public.

Libel/Slander Laws: Libel, slander, defamation, and the denunciation of religious teachings (blasphemy) were criminal offenses and were prosecuted.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content.

b. Freedoms of Peaceful Assembly and Association

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

e. 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 provided for granting asylum or refugee status, and the government had established a system for providing protection to refugees.

Abuse of Refugees and Asylum Seekers: Representatives from UNHCR, UNICEF, and the International Organization for Migration expressed concern that children were not systematically tracked until admitted to a provincial care facility, a process that could take several months. The government believed that most children only transited the country; the government also was unable to track fully their movements, in part because of EU regulations prohibiting collection of biometrics for persons younger than 14.

Durable Solutions: While the government processed and granted 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, with the government's Austrian Integration Fund, and provincial and local integration offices, coordinated measures for integration of refugees. The government offered naturalization to refugees residing on their territory and assisted in refugees' voluntary return to their homes.

Temporary Protection: The government provided temporary protection to

approximately 4,025 individuals who might not qualify as refugees.

f. Status and Treatment of Internally Displaced Persons (IDPs)

Not applicable.

g. Stateless Persons

According to the government's statistical office, as of January 1 there were 19,863 persons in the country registered as stateless or having unknown citizenship. The government categorized 4,741 of these individuals as stateless persons, 789 as having unknown citizenship, and 14,333 as persons of undetermined 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. After a three-year period, such individuals could apply for Austrian nationality.

Section 3. Freedom to Participate in the Political Process

The law provided 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

Abuses or Irregularities in Recent Elections: National elections were widely reported to be fair and free of abuses and irregularities.

Participation of Women and Members of Marginalized or Vulnerable

Groups: No laws limited the participation of women or members of historically marginalized groups in the political process, and they did participate. Women's participation in government at the national level increased steadily, with their representation in the lower house of parliament growing from 27 percent in 2008 to 39 percent in 2019.

Although gender quotas were not legally mandated, three of the country's largest political parties had longstanding voluntary quotas for their national candidacies. A 2019 law provided a 3 percent funding bonus to political parties whose parliamentary representation was more than 40 percent women. After the Green Party joined the coalition government in 2020, eight of 18 federal ministers and state secretaries were women, including the defense minister, justice minister, EU minister, and energy minister. Women's political leadership at the subnational level remained low; only one governor (out of nine) was a woman and only two of the country's 10 most populous cities had a woman mayor.

Section 4. Corruption in Government

The law provided criminal penalties for corruption by officials, and the

government generally implemented the law effectively. There were isolated reports of government corruption.

During the year, the Group of States Against Corruption (GRECO) criticized the government for undue political influence in awarding top jobs in the police force.

Corruption: In May 2022, former Family Minister Sophie Karmasin received a 15-month suspended sentence for violating competition law by colluding to fix prices to ensure that her firm would win a bid for public polls, which were allegedly rigged to boost former Prime Minister Sebastian Kurz's chances for leadership of the party. Karmasin was also found to have unlawfully received continued payment of her salary as minister for five months after stepping down but was acquitted of severe fraud in May after paying back the fraudulently obtained funds.

For additional information about corruption in the country, please see the Department of State's *Investment Climate Statement* for the country, and the Department of State's *International Narcotics Control Strategy Report*, which includes information on financial crimes.

Section 5. Governmental Posture Towards International and Nongovernmental Monitoring and

Investigation of Alleged Abuses of Human Rights

A number of domestic and international human rights groups generally operated without government restriction to monitor or investigate human rights conditions or cases and publish their findings. Government officials often were cooperative and responsive to the views of these groups.

Government Human Rights Bodies: A human rights Ombuds Board consisting of three independent commissioners examined complaints against the government. The board was independent and had its own budget. Each of the country's three largest political parties appointed one member, who were then confirmed by parliament. The board effectively monitored government activities, although civil society organizations called for a single ombudsperson without ties to a political party.

In addition to the Ombuds Board, a parliamentary human rights committee provided oversight of the government's actions with respect to human rights. Each federal ministry had a human rights coordinator.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: Rape of a person, regardless of gender, including spousal rape, was punishable by up to 15 years' imprisonment;

domestic violence was punishable under the criminal code provisions for murder, rape, sexual abuse, and bodily injury. The government generally enforced the law, and the law enforcement response to rape and domestic violence was generally effective. In May, two of three Afghan men involved in the 2021 drugging, rape, and murder of a girl, age 13, were convicted of rape and murder; they received sentences of life and 20 years. The third man involved was convicted in December 2022.

Discrimination: The law provided the same legal status and rights for women as for men, and those laws were generally respected. The law required equal pay for equal work, but women occasionally experienced pay discrimination. Women employees in the private sector could file suit against the employer or register a complaint with the Federal Equality Commission, which could 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 could also order compensation for women denied a post despite having equal qualifications.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. Emergency contraception methods were available. The government provided access to sexual and reproductive health services for survivors of sexual violence, and emergency contraception and postexposure prophylaxis were available as

part of the clinical management of rape.

Systemic Racial or Ethnic Violence and Discrimination

Laws to protect members of racial or ethnic minorities or groups from violence and discrimination were in place, and the government enforced them effectively. The law prohibited incitement, insult, or contempt against a group because of its members' race, nationality, religion, or ethnicity if such action violated human dignity, and imposed criminal penalties for violations. The law prohibited 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 provided criminal penalties for violations.

The Interior Minister's 2022 report on hate crimes listed 5,865 cases (up from 5,464 reported in 2021), of which 1,840 (down from 2,091) involved physical violence.

NGOs asserted police targeted members of minority groups disproportionately frequently for identity checks. Muslim women wearing headscarves sometimes encountered discrimination when trying to obtain retail or customer service positions. The government continued training programs to combat racism among police forces and educate police in cultural sensitivity.

Children

Child Abuse: There were laws against child abuse, which the government enforced effectively.

Child, Early, and Forced Marriage: The minimum legal age for marriage was 18 and was effectively enforced by the government. Adolescents between the ages of 16 and 18 could legally contract a marriage by special permit and parental consent or court action.

Sexual Exploitation of Children: The law prohibited the sale, grooming, or use of children for commercial sexual exploitation, including sex trafficking. The law prohibited child pornography or other forms of online child sexual exploitation and abuse. Authorities enforced these laws. The minimum age for consensual sex was 14.

Antisemitism

According to figures compiled by the Jewish Community of Vienna (Israelitische Kultusgemeinde, IKG), there were between 13,000 and 14,000 Jews in the country, of whom 12,000 were in Vienna.

The Reporting Office for Anti-Semitism of the IKG reported 719 antisemitic incidents during 2022, compared with 965 in 2021, a decrease of 25.5 percent. These included physical assaults in addition to name-calling, graffiti and defacement, threatening letters, dissemination of antisemitic texts,

property damage, and vilifying letters and telephone calls. Of the reported incidents, 14 were physical assaults, 21 involved in-person threats and insults, 140 were letters and emails, 122 were cases of vandalism, and 422 involved insulting or abusive behavior. The IKG noted that a majority (55 percent) of antisemitic incidents involved neo-Nazi and other related right-wing extremist perpetrators but reported that a substantial number of incidents involved left-wing (20 percent) or Muslim (9 percent) perpetrators. The overall decrease was attributed to the receding COVID-19 situation.

Following the Hamas terrorist attacks in Israel on October 7, the IKG postponed the release of its half-year report on antisemitic incidents. After October 7, according to the IKG, counts of antisemitic incidents sharply increased, some of which were more severe than previous cases.

A study commissioned by parliament and released in April found that 36 percent of Austrians believed Jews exploited the Holocaust for their own advantage, and 47 percent thought Jews wielded too much power. The government enforced the laws against antisemitism effectively.

The government provided police protection to the IKG's offices and other Jewish community institutions, such as schools and museums. The government extended the law to receive citizenship from September 2020 to September 2023 for descendants of Austrian victims of National Socialism. Approximately 23,000 foreign-born persons received citizenship under this law.

For further information on incidents of antisemitism in the country, whether or not those incidents were motivated by religion, and for reporting on the ability of Jews to exercise freedom of religion or belief, please see the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

Trafficking in Persons

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

Acts of Violence, Criminalization, and other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: No laws criminalized consensual same-sex sexual conduct between adults. This included cross-dressing and other sexual or gender characteristic-related behaviors.

Violence and Harassment: There were no reports that police or other government agents incited, perpetrated, condoned, or tolerated violence or harassment against lesbian, gay, bisexual, transgender, queer, or intersex (LGBTQI+) individuals or those reporting such abuse.

The Interior Ministry's 2022 hate crimes report listed 373 incidents related

to sexual orientation (nearly identical to the 376 reported in 2021). The Federal Chancellery operated a 24/7 hotline for anonymous reporting of crimes against LGBTQI+ individuals and offered counseling to callers.

Discrimination: The law prohibited discrimination by state and nonstate actors based on sexual orientation, gender identity or expression, or sex characteristics, and explicitly recognized LGBTQI+ couples and their families and granted them rights equal to rights of other persons. The government enforced such laws. In May 2022, the country lifted a de facto ban on LGBTQI+ persons from donating blood; individuals could only be banned from donating blood if they had sex with three different partners within the last three months regardless of gender or sexual orientation.

Availability of Legal Gender Recognition: Citizens were able to change their gender legally on official documents. For transgender persons, a change of gender required “an irreversible sense of belonging to the opposite sex and a clear approximation to the outward appearance of the opposite sex.” This had to be confirmed by an assessment by a specialist in psychiatry, or psychotherapist, or a clinical psychologist. For intersex persons, the change of sex required an expert opinion confirming that “the applicant cannot be assigned to either the male or the female sex due to their chromosomal, anatomical or hormonal development.” The terms 'diverse', 'inter' or 'open' were available for the registration of the gender category. It was also possible to delete the gender entry. In February, the Vienna Administrative

Court ruled that persons whose physical sex characteristics could be clearly assigned to a binary gender were entitled to the entry 'non-binary'.

Involuntary or Coercive Medical or Psychological Practices: Per a Constitutional Court ruling, intersex constituted an alternative sex development and not an expression of a pathological development. As such, medical personnel were required to avoid sex-assignment medical interventions on newborns and children unless medically necessary.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly: LGBTQI+ organizations generally operated freely. LGBTQI+ individuals faced no legal restrictions on freedom of expression. The government did not prevent LGBTQI+ organizations from legally registering or convening meetings. Generally, LGBTQI+ individuals and organizations held rallies and public meetings without major incident.

Persons with Disabilities

The law mandated that persons with disabilities be able to access education, health services, public buildings, and transportation on an equal basis with others. Government information and communication on disability issues was provided in accessible formats. The government generally enforced these aspects of the law effectively. The report of the 2023 periodic review on the country's implementation of the UN Convention on the Rights of Persons with Disabilities, however, largely echoed criticism voiced by the

Austrian Disability Council.

The Ministry of Social Affairs, Public Health, Care, and Consumer Protection was responsible for implementing the law. The law prohibited discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government did not always effectively enforce these antidiscrimination provisions. Employment discrimination against persons with disabilities occurred. Companies sometimes chose to pay a fine rather than hire a person with a disability.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provided workers the right to form and join independent unions, conduct legal strikes, and bargain collectively. It prohibited antiunion discrimination or retaliation against strikers and provided for the reinstatement of workers fired for union activity. The law allowed unions to conduct their activities without interference. All enterprise-level unions were part of the Austrian Trade Union Federation, which supported the individual unions in collective bargaining negotiations. Unions were technically independent of government and political parties, although unions in some sectors were closely associated with parties.

The government effectively enforced the laws on freedom of association, collective bargaining, and the right to strike. Penalties for violations were civil, 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 protecting unions from interference and workers from retaliation for union activities. Penalties were regularly applied against violators.

b. Prohibition of Forced or Compulsory Labor

See the Department of State's annual *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 prohibited all the worst forms of child labor. The minimum legal working age was 15, with the exception that children who were at least 13 could engage in certain forms of light work on family farms or businesses. Children 15 and older were subject to the same regulations on hours, rest

periods, overtime wages, and occupational health and safety restrictions as adults, but were subject to additional restrictions on hazardous work or work detrimental to ethics and morals. Restrictions for hazardous jobs included work with materials considered dangerous for children, work in sawmills, on high-voltage pylons, and in specified construction jobs.

The labor inspectorate of the Ministry of Labor was 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 could be doubled in cases of repeated violations of the child labor code. Penalties were commensurate with those for analogous crimes.

Child labor occurred, but mostly in the context of working in a family business for longer than permitted hours. Children were trafficked to the country and subjected to forced begging and occasionally sexual exploitation. Forced labor or exploitation of children was 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. Penalties were regularly applied to violators.

d. Discrimination (see section 6)

e. Acceptable Conditions of Work

Wage and Hour Laws: There was no legislated national minimum wage. Nationwide collective bargaining agreements covered 98 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 or custodial staff, wages were generally lower than those covered by collective bargaining agreements. The agreements set wages above the poverty line except in a few cases, such as for apprentices early in their programs.

The law in general provided for a maximum workweek of 40 hours, although collective bargaining agreements established either 38 or 38.5 hour workweeks for more than half of all employees. Regulations allowed companies to increase work hours to a maximum of 12 hours per day and 60 hours per week for a short period of time and if they could provide a valid reason. Overtime pay took effect after 40 hours. Employees could refuse, without providing a reason, to work more than 10 hours per day.

Some employers, particularly in the construction, manufacturing, and information technology sectors, exceeded legal limits on compulsory overtime. Collective bargaining agreements could specify higher limits. An employee had to have at least 11 hours off between workdays. Wage and

hour violations could be brought before a labor court, which could fine employers who committed violations.

Sectors with immigrant and migrant workers were particularly prone to violations of wage and hour regulations. Foreign workers in both the formal and informal sectors made up 19 percent of the country's workforce. They constituted 21 percent of officially employed persons and 35 percent of unemployed persons. There were concerns that some migrant workers 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: In accordance with applicable federal laws, the labor inspectorate effectively established mandatory occupational safety and health (OSH) standards appropriate for the main industries. OSH experts actively identified unsafe conditions in addition to responding to workers' OSH complaints. In cases of violations resulting in serious injury or death, employers could be prosecuted under the penal code. Hazardous sectors where the most accidents occurred included construction, manufacturing, 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 a

nongovernmental workers' advocacy group and the Chamber of Labor, which filed suits on their behalf.

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

Wage, Hour, and OSH Enforcement: The labor inspectorate effectively enforced mandatory wage, hour, and OSH standards. The number of inspectors was sufficient to deter violations. Inspectors had the authority to make unannounced inspections and initiate sanctions. Resources and remediation remained adequate. Penalties for wage, hour, and OSH violations were commensurate with those for similar crimes. Penalties were regularly applied against violators.

The country's informal sector was estimated to account for roughly EUR 32 billion (\$35 billion), approximately 8 percent of GDP in 2022, the latest year for which data were available. The government enforced labor laws – including wage, health, and safety regulations – wherever it detected a violation, including in informal economic activity.