

The Problem of Minorities in Austria. Legislation, enforcement, and Radical groups.

1. Legislation

In recent years, Austria has implemented several new laws that regulate and partially restrict the rights of religious minorities, specifically Muslims. Thus, the so-called “Islam Law” - “Federal law on the external legal relations of Islamic religious societies” (“Islamgesetz”) of 2015 defined “the rights and obligations” for Islamic religious societies registered in Austria. New legislation had long been expected and, indeed, called for by the Muslim community in Austria, since the previous law originated in 1912. Today, Austria recognizes only two Islamic religious societies: the Islamic Community in Austria and the Islamic Alevi Community in Austria. The new law gives Muslims the right to “pastoral care” in state facilities – but it also restricts this practice to persons who acquired their education in Austria and have their primary residence in Austria. This stipulation is unique in Austria and does not, for example, apply to Jewish pastoral care in the respective law from 2012. The “Islam Law” also aims to create legal certainty for “existing and future Islamic graveyards” and to protect Islamic religious holidays from disturbances, but it does not stipulate any effect on work or the workplace (nor do relevant labor laws in Austria). Furthermore, it grants Islamic religious societies the right to produce food in “accordance to their beliefs” and specifies that Islamic dietary rules “are to be taken in consideration” for Muslims in state institutions such as the armed forces, penitentiaries, hospitals, care facilities and public schools. The law also establishes a framework for a new university degree program of Islamic-theological studies at the University of Vienna, providing up to six positions for teaching staff and a specific branch of study for each of the religious societies, while also granting the societies participation in selecting potential candidates and providing the practical part of the degree. The law also establishes criteria for the written constitution or statutes of a religious society, including that it must be in German. Furthermore, a German translation of the respective version of the Quran has to be presented to government authorities for them to determine whether or not a possible new community has a different religious interpretation than the two already existing ones, since all newly registered religious communities must differ in their teachings from already existing ones. The law forbids financial support originating in other countries for the ongoing financing of Islamic religious societies. No other religious societies in Austria have such a prohibition and some even have a mandatory finance commitment regulation. The “Islam Law” also allows revoking the legal status of a local community by the Federal Chancellor or withdrawing the recognition of a religious society by the Federal Government if certain requirements are met (e.g. if unconstitutional or bylaw-contradictory behavior persists even after a cessation request or if the society/community does not have a positive attitude towards

Austrian society and state. Again, these stipulations are unique for religious communities in Austria, singling out Muslims.¹

The second major legislative change concerning Muslims in Austria was the so-called Anti-Face-Veiling Act that came into effect on January, 1, 2017. After much public debate, the law avoided singling out Muslims but clearly targeted religiously motivated veiling practices, with the then-Vice Chancellor, Reinhold Mitterlehner, justifying the ban by arguing that wearing a religiously motivated headscarf symbolically demonstrated the unwillingness of Muslims to integrate; others argued that it would liberate Muslim women from patriarchal oppression; while most critics recognized in it the desire to ban religious symbols of Islam from public spaces. The law prohibits hiding or concealing facial features by “clothes or other objects in such a way that they are no longer recognizable” in public places or public buildings. Violation of this regulation can be penalized with an administrative penalty of up to € 150.² In a move that has been described as cynical, this law was implemented as part of a so-called “integration package”. This bundle of laws ostensibly aims to enhance integration “by strengthening participation in social life and to secure peaceful coexistence in Austria”. The only exceptions to the restrictions on covering one’s face are it being expressly required by federal or state law, occurring in artistic, cultural or traditional events, during sports activities as well as on health or professional grounds.³ These exceptions, arguably designed to indirectly restrict the prohibition to religious veiling since a more direct approach would be obviously unconstitutional in Austria, have caused substantial confusion and criticism, since the police have to judge case by case and on the spot.⁴

The year 2017 also saw a major overhaul of laws concerning asylum and the residency of foreign nationals in Austria (“Fremdenrechtsänderungsgesetz”), thus also impacting many minorities in Austria. This legislative package was presented as a response to the so-called “refugee crisis” of 2015/2016 and implemented many restrictions, most prominently limited free movement and residency. It stipulated that asylum seekers who gain social benefits may no longer freely choose in which of Austria’s nine states they live during their asylum procedures. Instead, they must live in the state that provides the social benefits. Furthermore, the law gives authorities the power to instruct asylum seekers to continuously live in the quarters assigned to them as social benefits when required by public interest or public order. People with a legally binding return decision may also be instructed to remain in a state-organized facility until their departure (under penalty of fines between € 100 and 1,000). The new asylum laws also simplify deportation, i.e. the forcible transfer out of the country, for rejected asylum seekers and people who reside illegally in Austria. The government also aims to promote the voluntary departure of foreign nationals without asylum or other forms of residency: Already in 2016, the government started the “Voluntary Departure and Return Assistance” project. Asylum seekers who have decided to return to their home country

¹ www.bmeia.gv.at/fileadmin/user_upload/Zentrale/Integration/Islamgesetz/Islam_Law.pdf

² http://www.bmi.gv.at/bmi_documents/2090.pdf

³ <http://www.refworld.org/docid/5aaa27064.html>

⁴ <https://ec.europa.eu/migrant-integration/news/austria-anti-face-veiling-act-enters-into-force-and-causes-confusion>

voluntarily can seek information and advice at a repatriation counselling center and may apply for financial support that covers travel expenses. Rejected asylum seekers are now obliged to contribute to their departure procedures, and noncompliance may result in a fine or coercive detention pending deportation. The 2017 legislation also extended the maximum duration of detention pending removal from 10 to 18 months. Asylum seekers whose asylum request was denied by the authorities now also lose basic social benefits care, even if they appeal the decision, if the court that decides over the appeal does not grant the appeal a suspensive effect. They regain basic social care only when granted asylum or, during the appeal, if they contribute to their departure procedures, i.e. before their request for asylum has been definitively rejected.⁵

Recent years have also seen the advancement of a long-awaited major anti-discrimination law concerning homosexuality in Austria. Already in 2002, the Constitutional Court had repealed the criminal offence of same-sex intercourse with people under 18 (*Gleichgeschlechtliche Unzucht mit Personen unter achtzehn Jahren*), deciding that it was an “unobjective law”. It criminalised (only) men older than 19 who had consensual intercourse with same-sex partners between 14 and 18 on grounds of *sexual immorality*. This singled out homosexuals specifically, because Austrian law generally recognizes the right to sexual self-determination for an adolescent at 14 years of age. As a result, the parliament defined a new criminal offence generally criminalizing sexual acts with adolescents under 16 years of age if that particular adolescent is not yet mature enough to comprehend that particular sexual act. However, in 2002 the parliament neglected to establish a law that would allow all persons concerned the right of deleting final conviction from criminal records. After the ECtHR determined this situation not compatible with the ECHR, the Austrian parliament enabled convicted people to request the deletion from their criminal record in December 2015.⁶

To date, marriage and with it some legal, administrative and economic privileges (including the marriage ceremony, inheritance status and medical decisions) in Austria remains a heterosexual privilege. Homosexual partnerships, while recognized by law and given several rights, are not accorded the same range of privileges. This discrimination is now set to be changed in 2019, following a ruling of the Austrian Constitutional Court. Also following a ruling of the Austrian Constitutional Court, homosexual couples since 2016 also have adoption rights similar to heterosexual couples.⁷ In this context, it has often been remarked that Austrian governments/legislators have deliberately left such decisions and reforms, which go against a conservative view on society, for the national courts or even the European Court of Human Rights to decide, with laws only following after rulings rather than taking the initiative.⁸

With respect to the workplace (in both private and public sector) as well as the exchange of services and goods, Austrian law contains strict anti-discrimination provisions that explicitly

⁵ <https://www.bmi.gv.at/magazinfiles/2017/11-12/fremdenrecht.pdf>

⁶ https://www.parlament.gv.at/PAKT/VHG/XXV/I/I_00852/fname_474617.pdf

⁷ https://www.ris.bka.gv.at/Dokument.wxe?Abfrage=Vfgh&Dokumentnummer=JFT_20141211_14G00119_00

⁸ <https://diepresse.com/home/politik/innenpolitik/753438/Keine-Babyfrage>

guarantee that no one may be discriminated against on grounds of their gender, age, ethnicity, religion or world view, sexual orientation or handicap. This includes hiring, working conditions, reorganization or laying-off processes at the workplace. The latter is handled in separate laws that protect handicapped people specifically, while all other cases are covered in general anti-discrimination law. Austrian law also penalizes indirect discrimination that takes place through regulations that seem neutral but effectively discriminate against a particular group. There are several state-run agencies that advise and support people who feel they have been discriminated against in such ways (“Gleichbehandlungsanwaltschaften”) as well as dedicated equal rights offices within the administration and civil service. Despite its well-developed anti-discrimination measures, Austrian federalism creates a complex situation in which anti-discrimination in some areas of social life fall not under federal but regional jurisdiction (of Austria’s provinces or “Länder”). Because the relevant anti-discrimination laws are not entirely parallel, this means, for instance, that federal protection from discrimination in one’s access to goods and services only applies to reasons of ethnicity, gender or handicap – but not to sexual orientation, religion or age, all of which are included in the regional laws of, e.g. Vienna. The resulting situation has been criticized for its lack of transparency and diverging standards.⁹ In this context, the Council of Europe in 2015 warned that Austria has not ratified Protocol no. 12 of the European Charter for Human Rights and, while it prosecutes hate crimes related to National Socialism, did not offer equally laws against all hate crime motivated by racist ideologies. It also criticized that the high number of different anti-discrimination laws and institutions in Austria undermines their effectiveness, that federal anti-discrimination laws outside the work place only cover ethnicity- and gender-related discrimination, and that the “Gleichbehandlungsanwaltschaft” is not entirely independent.¹⁰

The Austrian constitution enshrines the rights of autochthonous minorities in Austria, including representation, funding and language and education rights. These rights have sometimes led to conflict on the regional political level. Therefore, although Austrian governments in the past have generally complied with these rights, some have remained contested. A particular long-standing conflict concerns the language rights of ethnic minorities in Austria stipulated by the Austrian Federal Constitution, which calls for the respect and promotion of ethnic groups. The rights of the Croatian and Slovenian ethnic groups were originally set forth in the State Treaty of 1955, which recognizes Croat and Slovene as official languages in addition to German in Burgenland, Carinthia and Styria, where there were significant ‘mixed’ populations. The State Treaty also bans acts of discrimination. At the time, penalties for racial discrimination were mainly focused on preventing a revival of National Socialism and keeping the peace rather than improving conditions for victims. Special rights were also accorded to Croatian, Slovenian, Hungarian, Czech and Slovak ethnic groups and for Roma by the Ethnic Group Act (“Volksgruppengesetz”) of 1976 as well as a number of other laws and regulations. One year later, Ethnic Advisory Councils were set up to assist the federal government in all matters

⁹ <http://helpv2.orf.at/stories/1766512/index.html>

¹⁰ <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Austria/AUT-CbC-V-2015-034-DEU.pdf>

concerning Austria's Croat, Slovene, Hungarian and Czech minorities. The requirement that these official minorities should be "settled" and have a "distinct ethnicity and language" prompted a trend towards greater segregation, which arguably ran counter to intentions of the State Treaty. In addition, the 1976 Act required that place-name signs in the minority language would be put up in addition to German signs only if a "considerable part of the population" was of that minority – which was interpreted as meaning 25 per cent of the local population.¹¹

When parts of the 1976 law which deviated from the State Treaty were successfully contested by the Burgenland Croat community at the Constitutional Court in 1987, this sparked a decades-long political struggle over place names that was settled only in 2011.¹²

2. Combating Hate crime.

The Austrian legal system distinguishes between hate crimes in general and hate speech in particular. The former can be criminal offenses in their right or simply aggravating circumstances. Hate speech, however, are forbidden utterances and are punishable by laws covering hate incitement ("Verhetzung") and the denigration of religious teachings as well as the National Socialism Prohibition Act 1947 ("Verbotsgesetz"). Special protection against hate incitement is given to groups of a specific church, religious community or another group defined by the criteria of race, skin color, language, religion or ideology, citizenship, origin or national or ethnic origins, sex, disability, age or sexual preferences as well as members of such groups targeted explicitly because of their belonging or not belonging to such a group.

In January 2016, the criminal offense "hate incitement" was changed to more closely match international standards (especially the *International Convention on the Elimination of All Forms of Racial Discrimination*, *EU Council Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law and the additional Protocol to the Convention on Cybercrime by the Council of Europe*) and to more adequately address recent developments. The offense is now defined as publicly denying, grossly minimizing, approving or justifying acts that constitute genocide or crimes against humanity – "publicly" meaning in a form that is accessible to approximately 30 people or more. The reform also added qualifying elements of the crime which increase the maximum penalty if a broad public (150 people or more) is reached or if other persons are moved to violence against the protected groups. It specifically forbids calls for violence and hatred, insulting or verbally abusing, advocating or welcoming genocide and spreading hate-inciting material – images, texts and other presentations of ideas or theories that advocate, propagate or incite hatred or violence against such groups or members solely because of belonging to that group. This particular crime requires a potential audience of at least 150 as well as a certain level of intellectual or theoretical complexity, simple xenophobic slogans do not qualify. The hate crime of endorsing genocide or crimes against humanity requires that the referenced act has

¹¹ <https://www.bmeia.gv.at/en/european-foreign-policy/human-rights/priorities-of-austrian-human-rights-policy/rights-of-minorities/>

¹² https://diepresse.com/home/politik/innenpolitik/647029/Chronologie_Der-OrtstafelStreit-seit-1955

already been legally recognized by an Austrian and international court of justice. New regulations also specify that not only the posting and sharing of such content may be criminal but that not deleting them and thus keeping them available to a large public is as well. Simply clicking the “Like” button on Facebook may thus qualify as hate speech as well because it may serve to endorse genocide or crimes against humanity. Hate speech related to the Holocaust and other crimes against humanity perpetrated by the Nazis is covered by the National Socialism Prohibition Act.

The stipulations for the offense “insulting” protect not just the above-named groups but protect anyone from insults made with the intent of violating human dignity. That includes insults that deny a person their humanity as such, deny a group the right to live as equal citizens or present them as less valuable or worthless members of society or subjecting them to any other inhumane and humiliating treatment.

The Austrian government has recently given special attention to hate speech on the internet, launching an initiative against “Violence on the web” in 2016. This established guidelines for dealing with “hate postings” in social media with respect to damages and compensation to be paid according to media law (“Mediengesetz”) and awareness-raising measures within the administrative bodies of the government itself (police, state attorney’s office, courts) to facilitate a more rigorous prosecution of such crimes. It was also announced that special prosecutors would be established to fight hate crime in general.¹³ The government also established the free-of-charge counselling service Against Hatred on the Web (“#GegenHassimNetz”), which supports and counsels in different languages victims of hate postings, cyber-bullying and other forms of verbal and mental violence online and those who have witnessed it.¹⁴

In addition, the Ministry of Justice has recently reached an agreement with Facebook that obligates the social medium to investigate within no more than 24 hours any valid report of content violating the above-described laws against hate speech and discrimination and remove such content or restrict access to them.¹⁵

3. Law enforcement practices affecting minorities

3.1. Discriminatory practices

In recent years, as before, there have been some reports on discriminatory practices by the Austrian police. This includes practices of racial profiling, public name-calling and humiliation by police¹⁶. The Austrian NGO for anti-discrimination, ZARA, also documents and reports discriminatory practices by the police and other authorities, attesting to a persistent problem stemming from ethnic/racial profiling and degrading treatment of

¹³ <https://diepresse.com/home/panorama/oesterreich/5173774/Sonderermittler-gegen-Hassdelikte>

¹⁴ https://beratungsstelle.counteract.or.at/wp-content/uploads/2017/09/Beratungsstelle1718_Folder_Englisch_RZ.pdf

¹⁵ https://www.parlament.gv.at/PAKT/VHG/XXVI/AB/AB_00348/imfname_691581.pdf

¹⁶ https://www.vice.com/de_at/article/7bqw7g/die-oesterreichische-polizei-hat-immer-noch-ein-problem-mit-rassismus-738

minorities in public. In addition, they conclude that filing complaints against police for discriminatory behavior is exceedingly difficult in Austria.¹⁷ Amnesty International has also consistently criticized Austrian police for racial/ethnic profiling and highlighted discriminatory practices in the judicial system, particularly against African or African-looking persons in relation to drug-related crime.¹⁸

3.2. Anti-discrimination practices

The Ministry of Justice as well as the Ministry of Interior both conducted awareness-raising programs for their staff in 2016, especially with respect to hate speech and discriminatory practices on the internet and in social media. In addition, non-discriminatory language use is part of the standard training for any police officers in Austria. Such training is done in cooperation with the Anti-Defamation League. The pilot project Communicating Police, also launched in Vienna in 2016, also aims to raise awareness among the police and reduce discriminatory incidents.¹⁹

While radical nationalism remains a fringe phenomenon in Austria – the far-right FPÖ taking a carefully toned-down approach in public – xenophobic statements by politicians have recently been more visible as well. These tended to come from members of two right-wing parties in parliament and thus part of the legislative body in Austria: the FPÖ and Team Stronach, a now-ousted party founded by industrialist and billionaire Frank Stronach. In March 2016, the parliamentary leader of that party, Robert Lugar, referred to refugees as “Neanderthals”. He was rebuked by the president of parliament for it and many other politicians called for his resignation; however, Lugar remained in parliament, and later called for “mandatory labor” for all asylum seekers “from the first minute onwards”, including any refugee older than 14.²⁰

During his election campaign for president in 2016, the FPÖ’s candidate, Norbert Hofer, repeatedly referred to refugees and Muslims in general as “invaders” or as “an invasion” of Austria. The Facebook pages of several FPÖ politicians, including FPÖ leader Heinz-Christian Strache, Johann Gudenus and Norbert Hofer, repeatedly featured, shared or liked postings that contained hate speech and xenophobic content as well as conspiracy theories. For example, one such posting alleged that asylum seekers were receiving preferential treatment in Austria’s hospitals; another claimed that asylum seekers were being given smart phones free of charge. Another FPÖ politician summarily referred to Muslim men as sexual predators, sodomists and likely pedophiles.²¹ But the most appalling scandal was linked to Facebook and WhatsApp-group maintained by the student union AG Jus, which is affiliated not with the FPÖ but the ÖVP: Members of the group had shared antisemitic and racist messages, some glorifying the crimes of National Socialism and some seeking to dehumanize

¹⁷ https://www.zara.or.at/wp/wp-content/uploads/2017/03/ZARA_Rassismus_Report_2016_web_fin.pdf

¹⁸ https://www.amnesty.at/media/2387/oesterreich_opfer-oder-verdaechtige.pdf

¹⁹ <http://www.bmi.gv.at/news.aspx?id=676D6445476E793144776F3D>

²⁰ https://www.zara.or.at/wp/wp-content/uploads/2017/03/ZARA_Rassismus_Report_2016_web_fin.pdf

²¹ https://www.zara.or.at/wp/wp-content/uploads/2017/03/ZARA_Rassismus_Report_2016_web_fin.pdf

minorities in the spirit of National Socialism. The group used the genre of “memes” to present their racist ideology in what they later defended as a “humorous” manner.²² Several members of those groups were also members of the Young ÖVP and the ÖVP itself, and most but not all of them consequently had to resign.²³ The University of Vienna harshly condemned these actions, the Rector led a day of protest against them and launched a series of public lectures dealing with extreme-right and Neo-Nazi ideology today.²⁴ All criminal investigations and legal proceedings are still pending at this time.

On many occasions, Austrian politicians during 2016/2017 made statements against xenophobia. Most prominent among these have been members of the Social-Democrats (SPÖ), Greens (Grüne), NEOS and People’s Party (ÖVP) – with the FPÖ also distancing itself from some of its members when coming under intense public scrutiny. The Austrian President during that period, Heinz Fischer, used his New Year’s speeches as well as commemorative occasions such as the Commemorative Day against Violence and Racism in Remembrance of the Victims of National Socialism (May 8) to appeal to Austrians in general and to politicians in particular to uphold human rights and combat xenophobia and hatred.²⁵

4. Position of immigrants

Overall, immigration law in Austria has become more and more restrictive for the past 20 years, excepting only – temporarily – skilled workers or certain groups that are attractive for the Austrian labor market (via the so-called Red-White-Red Card). Any residency title (except asylum) requires the immigrant to prove – before entry – having health insurance, the legal right to lodgings, and a “secure livelihood”. The latter can take the form of regular income, being a dependent on someone who vouches to provide for the immigrant, or funds that ultimately guarantee the immigrant will not immediately be a “financial burden” for the welfare state²⁶.

Like many other European countries, residency (as well as citizenship) in Austria has been closely connected to language competence: All non-EU/EEA or Swiss immigrants (but not visa applicants) must prove that they have A1 level German competence according the Common European Framework of Reference for Languages when applying for residency, i.e. before coming to Austria, unless they are younger than 14, suffer from specific handicaps, are family members of someone already possessing a specific residency title or recognized refugees. After two years at the latest, such immigrants must have a German competence at A2 level if their residency title is to be extended; B1 must be reached for their residency to become permanent. These requirements as well as additional “value” courses are specified in

²² <https://derstandard.at/2000057250697/Antisemitische-Postings-in-Gruppe-der-Aktionsgemeinschaft>

²³ <https://diepresse.com/home/bildung/universitaet/5292480/Die-Folgen-der-AGLeaks>

²⁴ <https://derstandard.at/2000066940132/AG-Jus-Skandal-Dekan-ruft-zum-Gedenken-an-Novemberpogrome-auf>

²⁵ https://www.ots.at/presseaussendung/OTS_20090505_OTSO182/wortlaut-der-rede-von-bundespraesident-dr-heinz-fischer-bei-der-gedenkveranstaltung-gegen-gewalt-und-rassismus-am-dienstag-den-5-mai-im-parlament

²⁶ <https://www.help.gv.at/Portal.Node/hlpd/public/content/12/Seite.120217.html>

the so-called “Integration Agreement” that every non-EU/EEA or Swiss immigrant must sign and adhere to.²⁷

In 2017, new residency titles were introduced to Austrian immigration law, in order to simplify access to residency for third-state citizens working in multi-national corporations situated outside the EU, for start-up entrepreneurs and for scientists/researchers.²⁸

Austria has a long history of anti-immigration sentiments among the population, allowing parties like the Freedom Party (FPÖ) to successfully stoke those sentiments during election campaigns and other initiatives such as the “Austria First” plebiscite campaign of 1992/1993 (“Österreich zuerst”).²⁹ Indeed, much of the far-right party’s electoral success has been attributed to its ability to appeal to anti-immigrant sentiments in Austria since the 1990s. Studies have long indicated a strongly polarized society, with half the population at least slightly xenophobic and the other half open and embracing of other cultures; the same studies also indicate about 20% with strong antisemitic tendencies³⁰.

However, Anti-immigration sentiments in Austria have been rising and becoming more pronounced since the so-called “refugee crisis” of 2015/2016, arguably leading to the collapse of the then-ruling government coalition and leading the xenophobic FPÖ to yet another electoral success and, in 2018, a government coalition with the conservative People’s Party (ÖVP), which had also campaigned on anti-immigration and anti-refugee issues. The Council of Europe in 2015 reported a noticeable increase in xenophobic tendencies among Austrians and in Austrian media.³¹

As to overall attitudes, Standard Eurobarometer studies have consistently shown that the Austrian population on average ranks very low in terms of inter-ethnic mixing and positive attitudes toward foreign nationals but high in stereotyped negative perceptions of foreigners.³²

The Austrian welfare state recognizes that foreign nationals in general, and low-skilled migrants in particular, have a high risk of social disadvantage and unemployment; consequently, it has sought to balance these disadvantages. However, austerity measures and, more recently, xenophobic tendencies have given rise to attitudes best described as “welfare chauvinism”, i.e. the attitude of “our money for our people” propagated by the FPÖ and, recently, also the ÖVP and even parts of the SPÖ.

Regarding access to social support, Austria has separate rules for EU, EEA, and Swiss nationals. Under the ‘country of employment’ principle, the country where a worker is employed is required to pay family benefits even if the child in question lives permanently in

²⁷ <https://www.help.gv.at/Portal.Node/hlpd/public/content/12/Seite.120500.html>

²⁸ <https://www.bmi.gv.at/magazinfiles/2017/11-12/fremdenrecht.pdf>

²⁹ Martin Reisigl and Ruth Wodak, “Austria first”. A discourse-historical analysis of the Austrian “anti-foreigner petition” in 1992 and 1993’, in Martin Reisigl and Ruth Wodak (eds), *The Semiotics of Racism: Approaches in Critical Discourse Analysis* (Wien: Passagen 2000), 269–303.

³⁰ <http://sciencev1.orf.at/science/news/34264>

³¹ <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Austria/AUT-CbC-V-2015-034-DEU.pdf>

³² http://ec.europa.eu/public_opinion/archives/ebs/ebs_263_sum_de.pdf;
http://ec.europa.eu/commfrontoffice/publicopinion/archives/eb/eb83/eb83_first_de.pdf

another Member State. All other foreign nationals are entitled to family allowances for children living in Austria if their stay in Austrian federal territory is lawful and not only temporary. Furthermore, recognized refugees and persons granted subsidiary protection status (in employment but without entitlement to basic services) may claim family allowances.

Since the so-called refugee crisis of 2015/2016, Austrian legislators have been aiming for more restrictive asylum laws and less social support for asylum seekers and recognized refugees. Immediate changes in late 2015 included the introduction of new rules for family reunions for people with subsidiary protection status, who must now wait three years instead of one before they can apply for any family members to come to Austria; in addition, the applicant must now prove a certain level of income dependent on the number of their family members. A significant change has also been to limit asylum status to three years when it is first granted (“temporary asylum”), subject to re-evaluation and rejection after that period; asylum status only becomes permanent if it is reaffirmed after this period.³³

Most of these changes only took effect in 2017, such as easier and faster deportation of rejected applicants, encouraging voluntary departure even before appeals have been decided, and extending the period of imprisonment before deportation from 10 to 18 months maximum. Additional changes include up to four weeks of imprisonment as well as fines of up to € 15,000 for rejected asylum seekers who resist voluntary departure, refuse to provide documents, and so forth. The new asylum legislation also restricts freedom of movement during pending asylum applications to the region of residence. Refugees may now also be required to do “voluntary work” for non-profit organizations. And recognized refugees may be disqualified from their refugee status if found guilty of any crime – due to recent changes in legislation, this process may now already begin when charges are brought against the refugee, although a guilty verdict is still required for its completion.³⁴

Although it is not, strictly speaking, part of asylum law, the so-called “upper limit” or “maximum limit” the Austrian government established in early 2016 is perhaps the most controversial change: It de facto limits the number of asylum applications that Austria will process per year, thus numerically limiting the right to asylum. The number set for the last few years has not been reached and there is significant legal debate around what might happen if it did.³⁵ All of these changes are part of what the government has openly called an effort to reduce so-called “pull factors”, i.e. to decrease the attractiveness of Austria for refugees.³⁶

5. Society’s attitude towards immigrants, foreign nationals and various ethnic minorities

The Eurobarometer for 2015 showed the Austrian population to be very skeptical towards foreigners, far above the European average, especially with regard to immigrants from outside the EU. It also indicated a strong and above-average preference of Austrians for controlling

³³ <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004240>

³⁴ <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004240>

³⁵ <https://derstandard.at/2000029466127/Scharfer-Prottest-von-SPOe-Wien-gegen-Obergrenzen>

³⁶ https://diepresse.com/home/innenpolitik/4857449/MikiLeitner_Muessen-Oesterreichs-Attraktivitaet-senken?direct=4858630

“illegal immigration” on the national rather than European level as well as a strong disapproval of a common European immigration policy.³⁷ These trends were arguably reinforced by the so-called “refugee crisis” in 2015/2016, spiking in a two-third majority of Austrians feeling concerned or even alarmed by immigration.³⁸ A second factor may have been political parties: Since the 1990s, the FPÖ has consistently campaigned on anti-immigrant issues, scapegoating migrants for social and economic problems, linking them to crime and – more recently – terrorism, thus amplifying the public’s attention on such issues. In recent years, it has been joined in no small measure by the ÖVP, which in the 2017 parliamentary elections also campaigned on anti-refugee sentiments and closed borders. A third contributing factor may be sensationalist, tabloid media with wide reach – chiefly the newspapers *Kronen Zeitung* and *Österreich*, both of which are well-known for xenophobic attitudes – whose op-ed pieces not only support the above-mentioned political parties quite openly but also focus their news on crimes and issues linked to foreign nationals, particularly refugees.

According to ZARA, an Austrian NGO that documents discriminatory behavior towards migrants, foreign nationals and ethnic minorities, negative attitudes towards these groups in 2016 has publicly manifested most strongly on the internet (30%), in public spaces (20%), access to goods and services (16%), politics and the media (9%) and less the workplace (3%). This may be due Austria’s relatively strict anti-discrimination laws at the workplace, but it also indicates a disturbing trend towards more public discrimination and xenophobic attacks.³⁹ This has recently included calling out Muslim women for wearing any form of headscarf or veil and demanding that they remove it; verbally and even physically attacking people of color (or variously southern-, Arab- or African-looking) for speaking a language other than German or for using public transport; mail sent indiscriminately to households in Lower Austria, alleging that crimes committed by foreign nationals, migrants, asylum seekers and people who only recently became Austrian citizens have increased massively and that therefore a neighborhood watch should be founded to combat those crimes; being confronted with people publicly wearing t-shirts with the slogan “rapefugees” and showing stereotyped African-looking men chasing European women; language bans at schools (including breaks between classes) and at sports clubs against languages other than German and “good foreign languages” like English or French.⁴⁰

In some of the Austrian media, fear-mongering allegations and often exaggerated or simply false reporting (“fake news”) has contributed to the increasingly xenophobic climate. For instance, in January 2016, the tabloid newspaper *Kronen Zeitung* ran an article titled “Asylum seekers – Are the police covering up crimes?”, alleging that the Austrian police has been deliberately withholding or even suppressing information about “criminal asylum seekers”.

³⁷ http://ec.europa.eu/commfrontoffice/publicopinion/archives/eb/eb83/eb83_first_de.pdf; for a summary of the development of xenophobic attitudes in Austria since the 1990s, see http://www.sws-rundschau.at/archiv/SWS_2010_1_Friesl.pdf

³⁸ <http://www.anif-hilft.at/2015/10/08/refugee-report-oesterreich-zwischen-hilfsbereitschaft-und-fremdenfeindlichkeit/>

³⁹ https://www.zara.or.at/wp/wp-content/uploads/2017/03/ZARA_Rassismus_Report_2016_web_fin.pdf

⁴⁰ <http://sprachenrechte.at/tag/sprachenverbote>

The article describes several crimes in detail and claims that these “leave a lot of room for speculation” – and proceeds to offer such speculation in the form of linking the crimes to asylum seekers without any proof or confirmation. The refusal of the police to confirm that these crimes were, indeed, committed by asylum seekers is then taken as indication of a cover-up and censorship. This line of argumentation – a circular fallacy – is reminiscent of conspiracy theories promoted by far-right populists like the Austrian FPÖ. A similar case was denounced by the Austrian Press Council (“Presserat”) for the website oe.24.at, the online edition of the tabloid newspaper *Österreich*: In this case, the paper reported on a factitious case of sexual assault by a “dark-skinned man” at an Austrian lake.⁴¹ Beyond such clearly unethical behavior by mass media journalists, there has also been a tendency in Austrian tabloids to report on crimes committed by foreign nationals, especially refugees and asylum seekers, in other European countries – thus strongly increasing the visibility of criminal activity associated with these groups.

Starting at the peak of the refugee movements of 2015, a large number of Austrians have (publicly and privately) supported their arrival and integration in countless grass-roots initiatives. This ranges from simply providing water and food for those arriving at the Vienna train stations to welcome them, voluntary work in teaching German, advising and supporting refugees during their asylum applications, organizing social activities and so forth. Many Austrian businesses have time and again taken initiative and welcomed refugees in the sense of launching programs for hiring and training refugees (very publicly).⁴² Perhaps the most visible sign was the “Voices for Refugees” concert given in Vienna in October 2015, at the height of the refugee movement to and through Austria,⁴³ but smaller demonstrations for accepting refugees have continued at irregular intervals – usually to protest new, more restrictive legislation or to show solidarity in specific cases.⁴⁴

Hate-inciting graffiti and graffiti using National Socialist symbols or language has remained a more or less constant phenomenon in Austrian public space. However, it has recently increased and shifted towards anti-Muslim and anti-refugee incitement. For instance, benches in public parks and refugee homes have been defaced or smeared with Swastikas and slogans like “Only for Arians” (“Nur für Arier”) or “Muslim is shit” (sic)⁴⁵ or “Auschwitz”.⁴⁶ There have also been acts of vandalism and threats against Mosques in recent years, such as tying a pig’s head to the entrance of a Mosque in Linz in 2016.⁴⁷

The presence and popularity of radical nationalist literature, films or music in Austria is negligible outside very specific Neo-Nazi and extreme-right circles, which are rarely accessible public. Ultranationalist rock bands and their concerts had their heyday in Austria in

⁴¹ https://www.zara.or.at/wp/wp-content/uploads/2017/03/ZARA_Rassismus_Report_2016_web_fin.pdf

⁴² <https://www.trend.at/wirtschaft/oesterreichs-wirtschaft-fluechtlinge-7944247>

⁴³ <https://voicesforrefugees.com/>

⁴⁴ <https://derstandard.at/2000033263053/Tausende-beiPro-Asyl-Demo-in-Wien>

⁴⁵ https://www.zara.or.at/wp/wp-content/uploads/2017/03/ZARA_Rassismus_Report_2016_web_fin.pdf

⁴⁶ https://www.wienerzeitung.at/meinungen/blogs/juedisch_leben/947611_Gedankenlos-oder-antisemitisch.html

⁴⁷ <https://diepresse.com/home/panorama/oesterreich/5033008/Schweinekopf-an-Eingang-zu-Linzer-Moschee-befestigt>

the 1990s as part of the international “Blood & Honour” network (especially in the province of Vorarlberg and Vienna), but these had almost entirely ceased until recently. After more than a decade of pause, in 2016 there was another concert of a Hungarian Neo-Nazi band connected to “Blood & Honour” in Austria, which had moved there after being banned in Germany.⁴⁸ Although the Austrian Neo-Nazi music scene is largely dominated by commercial German bands, the band “Terrorsphäre” from the Austrian province of Tyrol has recently become popular internationally and is likely the only active Austrian Neo-Nazi hard-rock band at the present.⁴⁹ Unlike other Neo-Nazi bands, this one propagates sports, mountaineering and martial arts in order to train the “warriors of the Volk” and maintain “strength through discipline” – combining to create a hyper-masculine ideal. Their songs invoke the alleged conspiracy of political, left, Jewish elites to use drugs and refugees against the true “Volk”. Very closely connected to the Austrian scene, although situated in the Italian South Tyrol, is the band “Frei.Wild”.⁵⁰ Besides literature and music, however, Neonazi and extreme-right clothing labels and brands have been gaining popularity in Austria (and beyond): They successfully market and sell clothing with Nazi symbols and slogans, many of which are hardly coded references to National Socialism, such as “Jubeljahr 1933” or “Wer A sagt, muss auch Dolf sagen”; while some more carefully use numerical codes for Hitler’s birthday and Nazi slogans;⁵¹ and yet others, such as the clothing label of the Austrian Identitarian Movement (“Phalanx Europa”), completely avoid any link to National Socialism but still qualify as virulently xenophobic, racist, white supremacist and ultimately extreme-right ideology.⁵²

The extreme-right and radical right-wing groups remain a threat to democracy in Austria to this day. However, the extreme-right milieu is not unified, if well-connected internationally and has increasing access to resources. Their main targets of propaganda and hate crimes are Jews and Muslims (and their institutions in Austria), Islam as a religion, members of the Roma and Sinti minorities, asylum seekers, refugees and migrants in general, other people they perceive to be “foreigners” or “different” (i.e. homosexuals), people and organizations, mainly NGOs, that support foreigners in Austria, left-wing groups and activists, Israel, the EU, left-wing parties, and the democratic system as such (including elections and the judicial system).⁵³ Apart from neo-Nazi and ultranationalist groups, Austria has also seen activity from the so-called New Right, in particular the Identitarian Movement originally founded in France (“Identitäre Bewegung Österreich”), which the authorities regard as an extreme-right group and are currently investigating for a number of crimes, including forming a large-scale criminal organization. They demand that all immigration to Austria be halted, asylum procedures be suspended, and foreigners residing in Austria be “repatriated” in order to

⁴⁸ <https://forschungsgruppefipu.wordpress.com/2018/01/13/der-nazis-neue-toene-neuere-entwicklungen-im-oesterreichischen-rechtsrock/>

⁴⁹ <https://exif-recherche.org/?p=1919>

⁵⁰ <https://derstandard.at/2000077893177/Rechtsruck-mit-Rechtsrock>; <https://kurier.at/kultur/heimatlieder-und-hassgesang-der-schwierige-umgang-mit-rechtsrock/4.605.893>

⁵¹ https://www.vice.com/de_at/article/padxv7/wir-waren-bei-der-grossten-neonazi-veranstaltung-deutschlands

⁵² <http://fm4v3.orf.at/stories/1777530/index.html>

⁵³ <http://bvt.bmi.gv.at/401/files/Verfassungsschutzbericht2016.pdf>

safeguard “the survival of the Austrian people”. Unlike traditional extreme-right groups, the Identitarian Movement employs faux-intellectual argumentation and goes to great lengths to use seemingly academic wordings, pseudo-science and thus create a serious appearance. Despite this rebranding, their ideology remains deeply racist, even if their racism is expressed in cultural, ethnic or religious terms (saving Christianity or “the Occident”).⁵⁴ They present themselves as “defenders of Europe”, despite their clearly nationalist and pan-German ideology, and as a “youth movement”, i.e. the “identitarian generation”, making use of popular culture and social media to spread their ideas. Their slogan “Our inheritance is our land, our blood, our identity”, however, indicates their right-extremist ideology of “land and blood”. They are well-connected with similar groups across Europe and in the US as well as to the Austrian Freedom Party, some of whose members have participated in the Identitarian Movement’s public actions.⁵⁵

Over recent years, the far-right Austrian Freedom Party has somewhat toned down their public rhetoric against foreigners and minorities in general, but their underlying ideology and demands has changed little if at all. Their party program and publications continue to endorse strongly nationalist policies, closed borders, restrictive measures for migrants and asylum seekers. They also continue fear-mongering, invoking existential crises for the Austrian people and the Austrian state, and even Europe. For instance, one of their publications claims that “Europe will burn” in some sort of civil war, if migration is not stopped immediately. Beginning with the so-called “refugee crisis”, the Austrian People’s Party (ÖVP) has, on the federal level, increasingly embraced the FPÖ’s policy demands and even populist rhetoric. The two parties won at the 2017 parliamentary elections and are currently in a government coalition.

Since 2015, the Identitarian Movement has conducted several public actions to protest, hinder or prevent immigration and what they see as the elite’s conspiracy to replace the Austrian people with migrants. This has included breaking into the Green Party’s offices in Graz and then protesting from that building’s roof (6/4/2016), illegally trespassing on the roof of the “Burgtheater” in Vienna (27/4/2016), the regional offices of Austria’s public broadcasting service ORF (7/3/2017), occupying the offices and balcony of the EU Human Rights Agency in Vienna (31/5/2015), violently disrupting a university lecture in Klagenfurt (10/6/2016), attempting to block border crossing with human chains, and similar disturbances. The organization is currently being investigated for various crimes and has recently been charged on multiple counts.⁵⁶

They have thus been quite successful in (almost) monopolizing the public’s attention on extreme-right movements, because they actively seek the media’s attention. Other groups may have receded to the background in the public’s awareness, but they are still active. In May

⁵⁴ Lehner, Sabine (2017): Rhetorik der Angst am Beispiel der ‚Identitären‘. Zur Konstruktion von Bedrohungen, Krisen und Gefahren. In: Goetz, Judith/Seldacek, Joseph Maria/Winkler, Alexander (Hrsg.): Untergangster des Abendlandes. Ideologie und Rezeption der rechtsextremen ‚Identitären‘. Hamburg: Marta Press, 133-166.

⁵⁵ <http://bvt.bmi.gv.at/401/files/Verfassungsschutzbericht2016.pdf>

⁵⁶ <https://derstandard.at/2000079696115/Anklage-gegen-zehn-fuehrende-Vertreter-der-Identitaeren>

2016, for instance, a member of the Neo-Nazi network “Blood & Honour” committed double homicide and then suicide in rural Austria. “Aula”, a journal associated and partly owned by the FPÖ, has continued its well-known and long-established practice of publishing provocative and sometimes antisemitic texts: In 2015, it featured a text that referred to survivors of the concentration camp Mauthausen as “pests” and “mass murderers” (“Landplage”, “Massenmörder”), alleging that they had harassed and troubled the locals after being freed. The state attorney’s office had not pursued the case, arguing that this portrayal was “plausible”. In early 2017, a civil action against the journal was successful and it had to withdraw and revoke the article. A complaint brought against the Republic of Austria for its negligence in a related case is currently pending at the European Court of Human Rights.⁵⁷

6. Hate crime.

There is no overall statistic for hate crimes in Austria, because many such crimes are prosecuted as regular crimes with the “hate” component being recognized as aggravating circumstances and thus increase the potential sentence. The OSCE ODIHR network for hate crime reporting describes Austria’s hate crime laws as a combination of a general penalty-enhancement provision and a substantive offence, but also notes that the data reported is problematic in terms of what is included and not included (e.g. hate incitement).⁵⁸ The majority of hate crimes is reported as generally racist/xenophobic (84%), followed by antisemitic (10%) and anti-Muslim (6%). The majority of hate generally racist/xenophobic and antisemitic hate crimes are attacks against property (80%), but more than half of the hate crimes against Muslims are attacks on people (60%).

However, the Austrian authorities provide statistics on significant parts of what is considered hate crime in Austrian legislation (but not by the OSCE): for hate incitement in connection with right-wing extremism and racism, charges were brought in 380 cases, increasing from 282 in 2015 (no data for 2017 yet); also in connection with right-wing extremism, 339 cases of vandalism, up from 289 in 2015; 48 charges of dangerous threats in connection with right-wing extremism, increasing from 31 in 2015; hate incitement to criminal activity in connection with right-wing extremism was charged in 44 cases, compared to 25 cases in 2015; there were also 24 cases assault, increasing from 20 in 2015; and 13 cases of wearing/displaying National Socialist symbols, compared to 0 in 2015. This totals an increase from 1,156 cases to 1,313 extreme-right crimes from 2015 to 2016 (+13.6 percent). Of these crimes, 27.1 percent had a xenophobic motivation, 3.1 percent were registered as antisemitic and 2.1 percent as Islamophobic. There has thus been an overall increase of documented extreme-right hate crimes across the board.⁵⁹ There is no statistical measure reported for anti-LGBT hate crime, but a recent study found that nearly 80% percent of Austrian LGBT have been verbally abused in public and more than 25% have been victims of physical violence.⁶⁰

⁵⁷ <https://derstandard.at/2000074052398/KZ-Haeftlinge-als-Landplage-beschimpft-EGMR-befasst-sich-mit-Aula?ref=rec>

⁵⁸ <http://hatecrime.osce.org/austria>

⁵⁹ <http://bvt.bmi.gv.at/401/files/Verfassungsschutzbericht2016.pdf>

⁶⁰ <https://www.wien.gv.at/menschen/queer/schwerpunkte/wast-studie.html>

Besides prevalent xenophobia and pan-German nationalism, antisemitism remains an essential cornerstone of extreme-right ideology in Austria and a connecting element for the fragmentary scene. It is also noteworthy that antisemitic crimes cannot only be attributed to single individuals or groups of individuals who are firmly rooted in extreme-right groups but also come from outside those circles, making right-wing extremism and even more heterogeneous phenomenon.⁶¹

In 2016/2017, vandalism and arson have occurred at an alarming frequency at asylum shelters and housing facilities for asylum seekers or refugees and at offices of NGOs supporting them.⁶² As in years before, vandalism at cemeteries and religious sites has targeted Jewish gravestones as well as memorials to victims of the Holocaust, including plaques and markers funded by the “Stumbling Stones” (Stolpersteine) initiative in Austrian cities such as Graz, Salzburg and Vienna.⁶³ Only in 2014, 2 young men had been arrested and charged with 133 cases of vandalism against similar memorials.

Interethnic tensions have been a minor concern in Austria until recently. In school, for instance, intercultural or interethnic tensions rarely lead to physical violence but more often to verbal abuse.⁶⁴ Gang-related crimes and honor killings have been linked to the Chechens living in Austria, many of whom came as refugees and are officially treated as Russian citizens (in statistics, for instance),⁶⁵ but these are not typically against another ethnicity and often even within the group. Two other ethnicities that have occasionally been reported on as in violent conflict with Chechens in Austria are Afghans and Albanians, but these clashes are more gang- and crime-related than based on interethnic conflicts.

There have been not terrorist attacks motivated by radical nationalism or religion in Austria in recent years, although the authorities report that the so-called “Islamic State” terrorist group is active in Austria as well. According to Austria’s intelligence community, it represent the most significant terrorist threat to the Austrian state and is closely monitoring Foreign Fighters who have returned home to Austria as well as radicalization tendencies among some Muslims, in particular young men. At the end of 2016, the authorities counted 296 such Foreign Fighters from Austria who had joined or had returned from the war in Syria or Iraq.⁶⁶

7. Glorification of German National Socialism and collaborators of the Nazi Germany.

Austrian law covers crimes related to National Socialism in the so-called National Socialism Prohibition Act 1947 (Verbotsgesetz). In its amended form, this law prohibits any activities related to NDSAP and its paramilitary groups or their aims, or even in the “spirit” of their aims, with a view to undermining “the selfdetermination and independence of the Republic of

⁶¹ <http://bvt.bmi.gv.at/401/files/Verfassungsschutzbericht2016.pdf>

⁶² <http://bvt.bmi.gv.at/401/files/Verfassungsschutzbericht2016.pdf>

⁶³ https://www.kleinezeitung.at/steiermark/graz/4662644/GRAZ_Vandalismus-Weitere-Stolpersteine-beschaedigt

⁶⁴ https://diepresse.com/home/bildung/schule/1333471/Multikulti-in-der-Schule_Jeder-Dritte-beobachtet-Konflikte

⁶⁵ <https://kurier.at/chronik/oesterreich/tschetschenen-in-oesterreich-die-missslueckte-integration/232.930.003>

⁶⁶ <http://bvt.bmi.gv.at/401/files/Verfassungsschutzbericht2016.pdf>

Austria or to disturbing public peace and the reconstruction of Austria or whoever plays a leading role in an association of this kind.” It further prohibits requesting, instigating or trying to induce others through “publications”, “documents” or “illustrations” in public or in the presence of several persons to perform forbidden acts thus connected to National Socialism as well as any material that glorifies or extols the objectives of the NSDAP, its institutions or actions. It similarly prohibits denying, grossly minimizing or approving or trying to justify the Holocaust or any other National Socialist crimes against humanity in a publication, a broadcasting medium or any other medium publicly and in any other manner accessible to a large number of people.⁶⁷

Statistics show a continuous increase over recent years: in 2010, a total of 711 violations of the National Socialism Prohibition Act 1947 (Verbotsgesetz) were reported to the authorities; 153 cases tried in court, 640 cases were dismissed, 244 trials were broken off. 45 guilty verdicts, 7 acquittals. In 2010, 152 cases of hate incitement according to the National Socialism Prohibition Act were reported, i.e. inciting hate on the basis of National Socialist ideology. In 2012, the overall number had risen to 940 incidents, by 2013 to 1,900.⁶⁸ Almost half the number of these crimes relate to denying, grossly minimizing or approving or trying to justify the Holocaust or any other National Socialist crimes against humanity on the internet – this also includes Holocaust denial.⁶⁹ Another large share of these crimes are activities that seek to revive the spirit of National Socialism.

The increase of violations of the Prohibition Act is largely due to hate speech on the internet, in particular forums and social media, targeting Jews, Roma and groups of “foreigners” in connection with National Socialism. The case of the website “alpen-donau.info” was particularly prominent and led to 18 house searches.⁷⁰

Throughout recent years, Austria has seen an increasing number of cases of desecration and vandalism of memorials dedicated to victims of the Holocaust⁷¹ and graves of Jewish people in general. This includes graffiti depicting Nazi symbols like the Swastika⁷² or slogans like “Adi is good” (sic). Most if not all of these acts of vandalism would also fall under the National Socialism Prohibition Act (see above).

In early and again in late 2017, the monument to the Red Army soldiers who fought and died to defeat National Socialism and liberate Austria (situated on Vienna’s Schwarzenbergplatz) was vandalized with graffiti.⁷³

⁶⁷ https://www.ris.bka.gv.at/Dokumente/Erv/ERV_1945_13/ERV_1945_13.pdf

⁶⁸ <http://bvt.bmi.gv.at/401/files/Verfassungsschutzbericht2016.pdf>

⁶⁹ <https://derstandard.at/2000050686089/Lob-fuer-Holocaust-Leugner-FPOe-schweigt-zu-Mitarbeiter>

⁷⁰ <http://bvt.bmi.gv.at/401/files/Verfassungsschutzbericht2016.pdf>

⁷¹ <https://diepresse.com/home/panorama/wien/5211332/Wiener-Shoah-Mahnmal-beschmiert>

⁷² <http://www.vienna.at/juedischer-friedhof-am-zentralfriedhof-wien-mit-hakenkreuzen-beschmiert/5036424>; <https://kurier.at/chronik/niederosterreich/friedhof-in-noe-geschaendet-vandalen-bespruehten-grabsteine/217.091.744>

⁷³ <http://www.heute.at/oesterreich/wien/story/Vandalismus-Attacke-auf-Russen-Denkmal-in-Wien-42077999>

During the period under consideration, no glorification of German National Socialism and/or its collaborators was documented in the decisions or otherwise made by the Austrian authorities.

The Austrian Freedom Party (FPÖ), which is in a government coalition since 2018, has repeatedly claimed that the Prohibition Act infringes unduly on the freedom of speech and has consequently called for its repeal or revision; a call summarily rejected by all other political parties in Austria. No such initiative is currently known to be underway. Indeed, other political actors have consistently reaffirmed the Prohibition Act as a “fundamental, politically necessary distancing from the Nazi regime” due Austria’s historical responsibility.⁷⁴

8. Persecution of human rights activists.

No public calls for repressions against the veterans and partisans of the anti-Hitler coalition have been documented in Austria in recent years. However, both extreme-right groups and the FPÖ have repeatedly call for police action and prosecution of antifascist activists and the so-called “black block” in the context of left-wing demonstrations and radical-left vandalism, for instance during demonstrations against the “Akademikerball”, a Viennese ball known as an international networking occasion for far-right and extreme-right actors.

The authorities have not imposed any restrictions on human rights and antifascist organizations, but the FPÖ has repeatedly referred to NGOs supporting refugees as “the asylum industry” or “asylum mafia”. This rhetoric implies that human rights NGOs not only live (unfairly) well off state subsidies while actually working against the true interests of the Austrian people and state by helping foreigners, but that they will also do anything – including illegal actions – to help foreigners because they represent their livelihood.

There has been no criminal prosecution of veterans, partisans of the anti-Hitler coalition and antifascists by the Austrian authorities.

9. Conclusions for the period

Since the so-called “refugee crisis” of 2015/2016, Austria has been struggling with a notable increase of generally xenophobic, racist or anti-Muslim sentiments as well as actions. Most of these fall clearly under the extreme-right rubric and many are also categorized as violations of the National Socialism Prohibition Act. However, while there was a turning point in public and political opinion regarding refugees/immigration in late 2015, it is important to realize that this pattern is not a radical break but an intensification or perhaps even resurgence of anti-immigrant attitudes that have a long history in Austria. At the same time, legislation has become ever more restrictive, perhaps even more clearly continuing a trend begun in the 1990s – after the fall of the Iron Curtain. In particular, language (i.e. German) has become perhaps the main means of regulating and restricting immigration (through requirements) as well as access to citizenship; language is also the controversial focus of forcing integration through language prohibitions at schools. In terms of legislation, the so-called Islam Law has

⁷⁴ https://www.parlament.gv.at/PAKT/VHG/XXV/AB/AB_11431/index.shtml

sparked some controversy by implementing restrictions on Islam that no other recognized religious community is faced with in Austria. In the period under consideration, both antisemitic and anti-Muslim sentiments and actions have risen strongly, especially but not only on the internet. Vandalism, verbal abuse, and discrimination also remain a grave concern. Austrian legislators in the period under consideration have focused on hate speech on the internet, implementing stricter laws. During this period, some tabloid/sensationalist media have also played a significant role in reinforcing xenophobic and racist attitudes, amplifying the core issues of extreme-right political actors.

Recommendations

1.1 General recommendations for the accession to international agreements and conventions

It is recommended that Austria fully ratify Protocol no. 12 of the European Charter for Human Rights.

1.2 General recommendations for adjustments to the legal framework

It is generally recommended that Austria ensure that its legal framework be consolidated so as to avoid any discrepancy between regional law (“Landesrecht”) and federal law (“Bundesrecht”) regarding discrimination. With regard to discriminatory and xenophobic actions by the media, it is also recommended that the Press Council (“Presserat”) be given a stronger mandate and powers to sanction violations. Provisions should also be implemented that improve the reporting and documentation of discriminatory actions and hate crime in accordance with international standards, including detailed statistics. With regard to immigration and refugees, it is strongly recommended that Austria disconnect “values” from “language competence” in its tests for residency and citizenship, and that it desist from any discrimination on the basis of membership or practice of language minorities. Rather, Austria should embrace multilingualism while simultaneously strengthening German competence.

1.3 General recommendations for the executive bodies in the field of law enforcement and human rights

It is generally recommended that Austria continue efforts to raise awareness among the executive bodies in the field of law enforcement with regard to human rights and anti-discrimination guidelines. It is furthermore recommended that a strictly independent body be established or an existing one modified so as to be entirely independent of ministerial or political control; this body should be empowered to document, advise and investigate discriminatory actions by members of law enforcement or the judicial system. Political actors should be aware of their heightened moral responsibility as exemplars and of their power in discourses, and consequently desist from making, spreading or endorsing false, exaggerated or as yet unsubstantiated accusations that scapegoat minorities. In all executive bodies, the utmost transparency regarding racist, xenophobic or antisemitic activity is required, including the conclusions of internal investigations and disciplinary action, which should be decisive and act as a deterrent.