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**UNITED NATIONS, HUMAN RIGHTS,
FREEDOM OF RELIGION OR BELIEF**

*The Tandem Project is a UN NGO in Special Consultative Status with the
Economic and Social Council of the United Nations*

Separation of Religion or Belief and State

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Universal Periodic Review - Austria

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PARAGRAPHS FROM THE AUSTRIA NATIONAL REPORT

Freedom of religion

99. In Austria, the state's legal position vis-à-vis religion is based on two core principles: freedom of religion and belief and the constitutional guarantee for religious communities to act as corporate entities in public.

100. The Basic Law on the General Rights of Nationals of 1867 (StGG)⁸⁴ provides for freedom of faith and conscience and, in conjunction with the 1868 Interdenominational Act⁸⁵, lets individuals freely choose his/her affiliation to a church/religious community, to discontinue religious membership or to have no religious affiliation at all. The StGG also defines the corporate status of legally recognized churches and religious communities. They have a public-law status, regulate and administer their internal affairs independently and have the exclusive right to their name, their religious doctrine and to the exclusive care for their members.

101. The right of non-recognised religious communities to publicly exercise their religion was first enshrined in the 1919 Treaty of Saint Germain Act⁸⁶. The individual right of freedom of religion, conscience and thought was reinforced by the ECHR. In 1998, the Federal Act on the Legal Status of Registered Religious Communities⁸⁷ introduced new regulations on the procedures to legally recognize religious communities. The constitution provides that Austria takes a neutral approach towards religion, the state's tasks and objectives follow a purely secular orientation.

102. Austria actively supports efforts on the regional and international level to protect freedom of religion and religious minorities worldwide.

The Report of the Working Group (above) on Conclusions and Recommendations by UN Member States has 97 formulated during the inter-active dialogue that enjoy the support of Austria, 54 recommendations that will be examined by Austria and responded to later, and 10 recommendations that do not enjoy the support of Austria. Very few of the recommendations have anything to do with human rights and freedom of religion or belief. To get the best up-to-date picture of Religious Freedom in Austria in 2010 read the U.S. State Department 2010 International Religious Freedom Report on Austria.

<http://www.state.gov/g/drl/rls/irf/2010/148910.htm>

Gender equality

33. The Government is aware of the barriers for equality of women and, in its government programme, agreed to issue a National Action Plan (NAP) for the Equality of Women and Men in the Labour Market. Together with the social partners and experts a paper containing proposals for the elimination of disadvantages for women has been prepared. This paper defines priorities as follows: diversification of education and career, increase of women in the labour market and their full-time employment in combination with a reduction in gender-specific differences, increase of the share of women in leading positions and reduction of income differentials between women and men. A package of 55 specific measures shall implement these goals, such as mandatory occupational counselling at the 7th and 8th grade level, a review of the curricula and core subjects with regard to stereotypes. Particular attention will be paid to girls with migration background by providing appropriate measures in education and teacher training, continuous nation-wide expansion of child-care facilities, the promotion of paternity leave and

the legal obligation for companies to submit reports on the income of women and men (starting 2011 for large companies).

Gender equality in Austria is reflected in the Women's UN Report Network (WUNRN) News Releases. Open this link and type Austria Gender Equality in the search engine to browse through a selection of articles:

<http://www.wunrn.com/news/news.htm>

Fight against discrimination, xenophobia, racism and intolerance

44. Austria considers the fight against xenophobia and racism a priority task and takes various measures for the promotion of equal treatment and integration, and for the elimination of racism and prejudice. The government programme provides e.g. for the reinforcement of criminal-law protection against discrimination. 45. Austria ratified the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in 1972;³⁶ the convention was implemented by a federal constitutional law.³⁷

46. The principle of equal treatment is enshrined in the constitution.³⁸ On this basis, extensive anti-discrimination legislation has been adopted, which is continuously being enhanced.³⁹ In the administrative and civil-law area, the implementation of the relevant EU Directives⁴⁰ has reinforced anti-discrimination legislation in Austria.

The UN Human Rights Council in its seventeenth session has a Panel Discussion and Dialogue on Resolution A/HRC/16/18 that was sponsored by Pakistan and adopted by consensus. The resolution combines aspects of several important issues that have caused tension in the UN Human Rights Council and the UN General Assembly for years over the fight against discrimination, xenophobia and intolerance. It promises to resolve several of these issues if adopted unanimously by the General Assembly in September 2011. Open this link to review the issues:

[UN Human Rights Council Panel Discussion - Culture of Tolerance and Peace - 14 June 2011](#)

FREEDOM OF RELIGION OR BELIEF

AUSTRIA

U.S. State Department 2010 International Religious Freedom Report,

<http://www.state.gov/g/drl/rls/irf/2010/148910.htm>

November 17, 2010

The constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion; however, some religious minority groups complained about second-class status. The government classifies some of these groups as "sects."

The government generally respected religious freedom in practice. There was no change in the status of respect for religious freedom by the government during the reporting period.

There were some reports of societal abuses and discrimination based on religious affiliation, belief, or practice. The nongovernmental organization (NGO) Forum against Anti-Semitism (FGA) reported 200 anti-Semitic incidents, including seven assaults, in 2009. Many of these incidents reportedly were in reaction to Israel's "Cast Lead" operation in the Gaza Strip.

There was some societal mistrust and discrimination against members of some religious groups not officially recognized as "societies," particularly those referred to as "sects." During 2009 the public brought 41 cases of discrimination based on religion before the equal rights commissioner. Muslims also reported prejudice, particularly with regard to headscarves and veils.

The U.S. government discusses religious freedom with the government as part of its overall policy to promote human rights.

Section I. Religious Demography

The country has an area of 32,369 square miles and a population of 8.2 million.

According to 2009 estimates, membership in major religious groups is as follows: Roman Catholic Church, 66 percent; Muslim community, 4.2 percent; Protestants, including Lutheran and Swiss Reformed Churches (Evangelical Church-Augsburger and Helvetic confessions), 3.9 percent; Eastern Orthodox (Russian, Greek, Serbian, Romanian, and Bulgarian), 2.2 percent; other Christian churches, 0.9 percent; Jehovah's Witnesses, 0.3 percent; other non-Christian religious groups, 0.2 percent; and Jewish community, 0.1 percent. Atheists account for 12 percent, and 2 percent do not indicate a religious affiliation.

The provinces of Carinthia and Burgenland have higher percentages of Protestants than the national average at 10.3 percent and 13.3 percent respectively.

The numbers of Muslims in Vienna and in the province of Vorarlberg are higher than the national average, at 7.8 percent and 8.4 percent respectively, where industry drew a disproportionately higher number of guest workers from Turkey and the former Yugoslavia.

The vast majority of groups considered "sects" by the government are small organizations with fewer than one hundred members. Among the larger groups is the Church of Scientology, which claims between 5,000 and 7,000 members, and the Unification Church, with approximately 700 adherents. Other groups termed "sects" include Divine Light Mission, Eckankar, Hare Krishna, the Holosophic Community, the Osho Movement, Sahaja Yoga, Sai Baba, Sri Chinmoy, Transcendental Meditation, Center for Experimental Society Formation, Fiat Lux, Universal Life, and The Family.

According to a 2007 poll by the German market research institute FESSEL-GfK and a 2009 survey in the Austrian

magazine *News*, 81 percent of respondents stated that they belong to a church or religious group. Of that number, 2 percent attend services more than once a week, 10 percent attend weekly, 9 percent attend a minimum of once a month, 24 percent attend several times a year (on special occasions), and 55 percent rarely attend.

Section II. Status of Government Respect for Religious Freedom

Legal/Policy Framework

The constitution provides for freedom of religion, and other laws and policies contributed to the generally free practice of religion. Citizens have the right to sue the government for constitutional violations of religious freedom.

The law prohibits public incitement to hostile acts against a church, religious society, or group because of its race, nationality, or ethnicity if that incitement poses a danger to public order. It also prohibits incitement, insult, or contempt against these groups if it violates human dignity.

The government is secular. The Catholic Church is the predominant religious group. The government observes the following religious holidays as national holidays: Epiphany, Good Friday (Protestants only), Easter Monday, Ascension Day, Whit Monday, Corpus Christi Day, Assumption Day, All Saints' Day, Immaculate Conception, Christmas Day, and Saint Stephen's Day.

The law does not restrict religious clothing or symbols in the public workplace.

The status of religious organizations is governed by the 1874 Law on Recognition of Churches and by the 1998 Law on the Status of Religious Confessional Communities, which establishes the status of "confessional communities." Religious organizations are divided into three legal categories (listed in descending order of status): officially recognized religious societies, religious confessional communities, and associations. Each category of organizations possesses a distinct set of rights, privileges, and responsibilities.

Recognition as a religious society under the 1874 law has wide-ranging implications, such as the authority to participate in the mandatory church contributions program, provide religious instruction in public schools, and bring religious workers into the country to act as ministers, missionaries, or teachers. Under the 1874 law, religious societies have "public corporation" status. This status permits them to engage in a number of public or quasi-public activities that are denied to confessional communities and associations. The government provides religious societies, but not other religious organizations, with financial support for religious teachers at both public and private schools. The government provides financial support to private schools run by any of the 14 officially recognized religious societies: the Catholic Church, the Protestant churches (Lutheran and Presbyterian, called "Augsburger" and "Helvetic" confessions), Islamic community, Old Catholic Church, Jewish community, Eastern Orthodox Church (Russian, Greek, Serbian, Romanian, and Bulgarian), Church of Jesus Christ of Latter-day Saints (Mormons), New Apostolic Church, Syrian Orthodox Church, Coptic Orthodox Church, Armenian Apostolic Church, Methodist Church of Austria, Buddhist community, and the Jehovah's Witnesses.

The Alevis, followers of a belief system that incorporates aspects of both Shi'a and Sunni Islam while also drawing on the traditions of other religious groups found in Anatolia, previously applied for recognition as a religious society.

Their goal is to have separate religious instruction in public schools. The government rejected the application of the Alevis in August 2009, arguing that the Alevi belief is part of Islam, which is already a recognized religious society.

The 1998 Law on the Status of Religious Confessional Communities imposes new criteria on religious groups to achieve religious society status, although it allows previously recognized societies to retain their status. Criteria include a 20-year period of existence (at least 10 of which must be as a group organized as a confessional community under the 1998 law) and membership equaling at least 0.2 percent of the country's population (approximately 16,000 persons). Only five of the 14 recognized religious societies (Catholic, Protestant, Islamic Community, Eastern Orthodox, and Jehovah's Witnesses) meet this membership requirement. In past rulings, the European Court of Human Rights criticized the waiting period for recognition as well as the separate standards, benefits, and privileges applied to religious societies and other groups.

The 1998 law allows religious groups that are not recognized as societies to seek official status as "confessional communities" without the fiscal and educational privileges available to recognized religious groups. To apply groups must have at least 300 members and submit to the government their written statutes describing the goals, rights, and obligations of members, as well as membership regulations, officials, and financing. Groups must also submit a written version of their religious doctrine, which must differ from that of any religious society recognized under the 1874 law or any religious confessional community established under the 1998 law. The Ministry of Education then examines the doctrine to ensure that the group's basic beliefs do not violate public security, public order, health and morals, or the rights and freedoms of citizens. In 2005 several NGOs and recognized experts at the Organization for Security and Cooperation in Europe meeting on Anti-Semitism and Other Forms of Intolerance, concluded that "the existing system and in particular the 1998 Law on Confessional Communities is inherently discriminatory as it de facto prevents religious organizations from obtaining a state-recognized status and relegates them to a second class status."

Once recognized by the government, a religious confessional community has juridical standing, which permits it to engage in such activities as purchasing real estate in its own name and contracting for goods and services. A religious group that seeks to obtain this new status is subject to a six-month waiting period from the time of application to the Ministry of Education and Culture. According to the ministry, there were no new applications during the reporting period.

The 10 groups that constitute religious confessional communities according to the law are: the Baha'i Faith, Baptists, Evangelical Alliance, Movement for Religious Renewal--Community of Christians, Free Christian Community (Pentecostalists), Pentecostal Community of God, ELAIA Christian Community, Seventh-day Adventists, Hindu Religious Community, and Mennonites. The Movement for Religious Renewal--Community of Christians has applied for recognition as a religious society. After the Education Ministry rejected the application, the group filed an appeal with the Constitutional Court.

Religious groups that do not qualify for either religious society or religious confessional community status may apply to become associations under the Law of Associations. Associations have juridical standing and have many of the same rights as confessional communities, such as the right to own real estate within the parameters of the law on associations. Some groups organized as associations even while applying for recognition as religious societies. The Church of Scientology (which withdrew its application for religious confessional community status in 1998), the

Unification Church, and a number of smaller groups are organized as associations.

There are no restrictions on missionary activities; however, unrecognized religious groups in the past reported some problems obtaining resident permits for foreign religious workers. Unlike workers for religious societies, religious workers for unrecognized groups apply for a general immigrant visa category that is neither employment nor family based, and subject to quota.

The government provided funding for religious instruction in public schools and places of worship for children belonging to any of the 14 officially recognized religious societies. The government did not offer such funding to other religious groups. A minimum of three children is required to form a class. In some cases, religious societies decided that the administrative cost of providing religious instruction was too great to warrant providing such courses in all schools. Attendance in religious instruction is mandatory for all students unless they formally withdraw at the beginning of the school year; students under the age of 14 require parental permission to withdraw from instruction. Instruction takes place either in the school or at sites organized by the religious groups. Some schools offered ethics classes for students not attending religious instruction.

In a December 21 meeting in the Federal Chancellery, the provincial government representative reached an agreement with Jewish Community Vienna (IKG) President Ariel Muzicant regarding the financing for Jewish cemeteries. In compliance with the 2001 U.S.-Austrian "Washington Agreement," which called for the country to "provide additional support for the restoration and maintenance of Jewish cemeteries," the government agreed to allocate \$28 million (20 million euro) over 20 years to the project.

The government strictly enforced its anti-neo-Nazi legislation, which prohibits neo-Nazi acts, including Holocaust denial, incitement of neo-Nazi activity, and the glorification of National Socialism. Due to the country's history during the National Socialist era, there is strong opposition to relaxing the law banning Holocaust denial.

The government provides police protection for Jewish community institutions.

Restrictions on Religious Freedom

The government generally respected religious freedom in practice. There was no change in the status of respect for religious freedom by the government during the reporting period.

Several religious groups that the government did not recognize under the 1998 law, as well as some religious law experts, dismissed the benefits of obtaining status under the 1998 law and complained that the law's additional criteria for recognition as a religious society obstructs recognition and formalizes a second-class status for religious groups not recognized as societies.

The Federal Office of Sect Issues continued to function as a counseling center for those who have questions about sects and cults. Under the law, this office has independent status, but the minister for health, family, and youth appoints and supervises its head.

The state of Lower Austria and the city of Vienna fund a counseling center of the Society against Sect and Cult

Dangers (GSK), a controversial quasi-NGO that actively works against sects and cults. GSK distributes information to schools and the general public and runs a counseling center for those who believe they have been negatively affected by cults or sects. Several states fund offices that provide information on sects and cults. Some members of the public believed the Office of Sect Issues and similar government offices fostered societal discrimination against unrecognized religious groups.

The conservative People's Party (OVP) position regarding membership in a "sect" remained in force during the reporting period. The OVP's stated position is that party membership is incompatible with membership in a "sect" if the sect holds a fundamentally different view of man from what the party believes, advocates opinions irreconcilable with the ethical principles of the party, or rejects the basic rights granted by progressively minded constitutional states and an open society.

Prisoners who belong to religious groups not recognized as societies are entitled to pastoral care. Some evangelical groups reported problems with accessing pastoral care in isolated instances; however, there were no allegations of widespread problems.

As in the previous reporting period, the Church of Scientology reported problems in obtaining concessions for staging public events in downtown Vienna.

In the spring, individual politicians from all five parliamentary parties called for a ban of the burqa. Politicians argued that burqas were a symbol of the suppression of women.

In October 2009 Peter Suntinger, mayor of Grosskirchheim village, told German television station ZDF that he wanted as few foreigners living in his village as possible and that the village would prevent Muslims from buying land there.

On August 23, a right-wing Freedom Party (FPO) politician in Vorarlberg province called the director of a Jewish museum in the province an "exile Jew from America."

There were no reports of religious prisoners or detainees in the country.

Forced Religious Conversion

There were no reports of forced religious conversion.

Improvements and Positive Developments in Respect for Religious Freedom

Compulsory school curricula provide for anti-bias and tolerance education as part of civics education and as a focus across various subjects, including history and German. Religious education and ethics classes were another forum for teaching the tenets of different religious groups and overall tolerance.

The government continued to restitute property lost in the Holocaust to their original owners or heirs, and agreed in December to provide \$28 million (20 million euro) for Jewish cemeteries over a 20-year period. Holocaust education was generally taught as part of history instruction but was also featured in other subjects under the heading "political education" (civics). The Ministry of Education conducts training projects with the Anti-Defamation League. Special teacher training seminars were available on the subject of Holocaust education, and Holocaust survivors talked to school classes about National Socialism and the Holocaust.

Section III. Status of Societal Respect for Religious Freedom

There were some reports of societal abuses and discrimination based on religious affiliation, belief, or practice.

IKG President Ariel Muzicant reported a rise in anti-Semitic incidents related to the May 31, Gaza flotilla incident, at a June 16, press conference. There were anti-Israel demonstrations organized by several Muslim groups at the beginning of June, including the use of an anti-Semitic banner displaying the slogan, "Wake up, Hitler." Another banner equated the Star of David to the swastika. Muzicant also reported an incident during which two Turkish-speaking men spit on a rabbi in Vienna.

The NGO Forum Against Anti-Semitism reported 200 anti-Semitic incidents, including seven assaults. The incidents also included name calling, graffiti/defacement, threats, property damage, and vilifying letters and telephone calls. The European Union's Monitoring Center on Racism and Xenophobia declared in the past that anti-Semitism in the country was typically characterized by diffuse and traditional anti-Semitic stereotypes rather than by acts of physical aggression.

In March the outside wall of the Mauthausen concentration camp site was defaced with anti-Islamic and anti-Semitic graffiti, using letters of the same color and size as a previous defacing in February 2009. The Interior Ministry increased security but rejected a proposal by the Mauthausen Memorial Committee to place video cameras.

On December 26 an unknown perpetrator wrote pro-Nazi graffiti and a swastika on a cemetery wall in Peggau, near Graz.

On December 12 a Palestinian asylum seeker attacked a rabbi in Vienna during a Chanukkah celebration and bit off part of the rabbi's finger. The asylum seeker was arrested.

In September a Muslim schoolgirl was attacked by two classmates who attempted to set her on fire, according to Austria's Broadcasting Corporation. The classmates were sent home.

Muslims complained about incidents of societal discrimination and verbal harassment. Muslim women reported difficulties in the job market when potential employers learned they wore a headscarf. (In 2004 the Equal Treatment Bill that implemented the EU Anti-Discrimination and Anti-Racism Guidelines took effect, allowing such victims to take

action in court.) Women who wore a headscarf also reported that they experienced harassment in public areas.

A controversy surrounding the expansion of a Turkish/Islamic center in Vienna remained unresolved. In the town of Bad Voeslau, a new Turkish/Islamic mosque opened in October.

A February IMAS study found that 54 percent of Austrians believed Islam is a threat to the west and 71 percent of Austrians believed Islam is incompatible with democracy. Sixty-one percent believed that "Austria is a Christian country and should remain so." Fifty-nine percent of respondents were against building minarets, and 51 percent thought building mosques and wearing headscarves should be banned altogether. However, a 2009 Gallup survey found that 60 percent of Austrians were opposed to a ban on minarets. The Vienna Jewish community and Vienna's Archbishop Cardinal Christoph Schonborn publically opposed such a ban.

Some societal mistrust and discrimination continued against members of some religious groups not recognized as societies, particularly against those considered to be members of "sects." A large portion of the public perceived such groups as exploiting the vulnerable for monetary gain, recruiting and brainwashing youth, promoting antidemocratic ideologies, and denying the legitimacy of government authority. There were occasional television/radio shows and reports featuring alleged victims, or relatives and friends of victims, who claimed to be exploited by a group termed a "sect," or a Satanic or esoteric movement. During 2009 there were 41 cases of discrimination based on religion brought before the equal rights commissioner.

Members of groups that the government considers to be "sects" continued to complain that the government lacks an objective stance when dealing with them. The "sects" claimed that the government relies too heavily on isolated cases of persons who had negative experiences with a group, rather than speaking directly to the vast majority of members who make no complaint. Societal prejudice could also be a problem.

Some groups complained about incidents in which instructors showed antisect videos during religion or ethics instruction, which in both public and private schools is not controlled by the government. One group complained about antisect material in a flyer directed toward senior citizens.

Relations among the 14 officially recognized religious societies were generally amicable. Fourteen Christian churches, among them the Catholic Church, various Protestant confessions, and eight Orthodox and Old Oriental churches, were engaged in dialogue in the framework of the Ecumenical Council of Austrian Churches. The Baptists and the Salvation Army have observer status in the council. The international Catholic organization Pro Oriente, which promotes dialogue with the Orthodox churches, was also active.

At the end of the reporting period, construction continued on the new Islamic cemetery in Vorarlberg Province.

Section IV. U.S. Government Policy

The U.S. government discusses religious freedom with the government as part of its overall policy to promote human rights.

The U.S. embassy monitors the government's adherence to religious tolerance and freedom of expression as part of its evaluation of the government's policies and commitments to freedom of expression. The U.S. ambassador and other embassy officers regularly meet with religious and political leaders to reinforce the U.S. government's commitment to religious freedom and tolerance and discuss the concerns of NGOs and religious communities regarding the government's policies towards religious groups.

U.S. representatives repeatedly voiced concern to the government about the strict requirements for religious recognition in the country.

The embassy maintained an active dialogue with members of the Catholic, Jewish and Muslim communities, the Jehovah's Witnesses, the Church of Scientology, the Unification Church, and other religious groups.

The embassy highlighted religious freedom and tolerance in its programs.

The Tandem Project a non-governmental organization (NGO) founded in 1986 to build understanding, tolerance, and respect for diversity of religion or belief, and to prevent discrimination in matters relating to freedom of religion or belief. The Tandem Project has sponsored multiple conferences, curricula, reference material and programs on Article 18 of the International Covenant on Civil and Political Rights- Everyone shall have the right to freedom of thought, conscience and religion – and the 1981 United Nations Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

In 1968 the United Nations deferred work on a legally-binding treaty on religious intolerance as too complex and sensitive and passed a non-binding declaration in its place. The Tandem Project believes until a core legally-binding human rights Convention on Freedom of Religion or Belief is adopted international human rights law will be incomplete. It may be time to begin to consider reinstating the 1968 Working Group to better organize and bring all matters relating to freedom of religion or belief under one banner, a core international human rights legally-binding treaty.

*Global Advocacy for the Universal Values and Principles of Human Rights
and Freedom of Religion or Belief through Education and Research*

