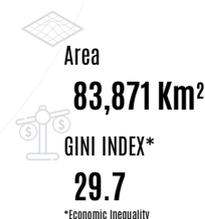
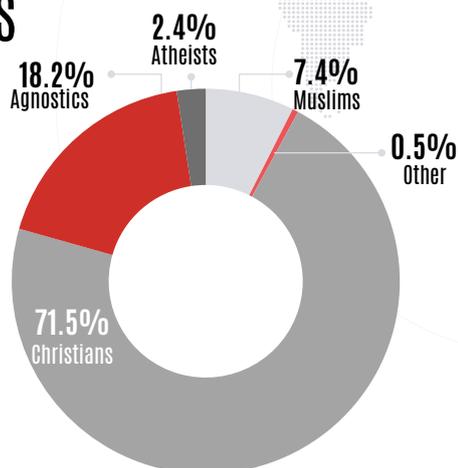




AUSTRIA

RELIGIONS



LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

Freedom of religion is protected in Austria through a combination of laws, treaties, conventions, along with the Federal Constitutional Act and the State Basic Law on the General Rights of Citizens.¹ Freedom of religion includes the right to join, leave, or abstain from any church or religious community.² The right to practice one's religion individually or in community with other through worship, teaching, prayer, and observance of religious customs is guaranteed to all.³

Article 7 of the Constitution and Article 2 of the State Basic Law on the General Rights of Citizens⁴ provides that all citizens are equal before the law and privileges based on religion are prohibited. Freedom of expression, belief, and conscience are protected.⁵ The law permits alternative service for conscientious objectors.⁶

The criminal law⁷ prohibits "disruption of the practice of religion" (Article 189). There are enhanced penalties for damage of or theft from places dedicated to religious worship or sacred objects (Articles 126 and 128).

Austria's 'de-facto' blasphemy law provides that "Anyone who publicly disparages or mocks a person or thing that is the object of worship of a domestic church or religious society, or a doctrine, [or other] behaviour" may be subject to criminal charges (Article 188).

In October 2018, the European Court of Human Rights ruled on whether this law was compatible with the right to freedom of expression under Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms. In the case of *E.S. v. Austria*, the applicant had been convicted under Article 188 of the Austrian code suggesting that Muhammad, the Prophet of Islam, had "paedophilic tendencies" by "referring to a marriage which Muhammad had concluded with Aisha, a six-year-old, and consummated when she had been nine." The European court held that the Austrian courts "did not overstep their – wide – margin of appreciation" and were "a better position to evaluate which statements were likely to disturb the religious peace in their country."⁸

Section 283 of the criminal code prohibits hate speech: public incitement to hatred against a person or group (including churches or religious societies), or insults such a person or group "with the intention of violating [their] human dignity." In December 2020, the Federal Council narrowly passed a legislative package which included a law to combat on-line hate speech which would require on-line platforms (if they meet certain criteria) to block illegal content within a specified period. The law came into force on 1st January 2021.⁹

Austria is a secular state and the legal system is religiously neutral.¹⁰ For historical reasons, Austria maintains a special relationship with the Roman Catholic Church, regulated by the 1933

Concordat with the Holy See and other laws, which includes special agreements about educational and financial issues.¹¹

Under the law, religious groups are divided into three categories (in descending order of status): officially recognised churches and religious societies, religious denominational communities, and associations.¹² Officially recognised religious societies have the right to practise public worship, to autonomous administration of their internal affairs, to found private schools (financially supported by the state) and to provide religious instruction with public funding in private and public schools. Legal recognition endows a church or religious community with the status of a corporate body and private legal capacity.¹³

To be recognised as a church or religious society, groups must either have been recognised as such before 1998, or must have membership equalling 0.2% of the population and have been in existence for 20 years (10 as an organised group, and five as a “confessional community”).¹⁴

Religious groups not recognised as societies may seek recognition as “confessional communities.” This endows them with a certain level of legal status, but without the financial, immigration, and educational benefits available to recognised religious societies. Groups must have at least 300 members and submit their governing statutes and a written description of their religious doctrine. The Office for Religious Affairs (in the Federal Chancellery) determines if a group qualifies as a confessional community.¹⁵

Religious instruction is mandatory until the age of 14 and is publicly funded on a proportional basis for children belonging to one of the officially recognised religious societies. Ethics courses are offered in some schools for students who opt out of religious education. Both religious and ethics instruction include explanation of the tenets of different religious groups.¹⁶

In December 2020, the constitutional court struck down a blanket ban on assisted suicide, holding that such a ban violated the “right to self-determination.”¹⁷ Austrian Catholic bishops reacted to the ruling, which does not permit euthanasia but would allow some forms of “assisted dying,” by calling on Parliament to work on alternative legislation to oppose the ruling and “increase the availability of palliative facilities for the elderly.”¹⁸

In December 2020, the constitutional court also struck down a law prohibiting primary school children from wearing “religious clothing that is associated with a covering of the head.” Head coverings worn by Sikh boys or the Jewish kippah were excluded from the law so the court ruled that “the selective ban... applies exclusively to Muslim schoolgirls and thereby separates them in a discriminatory manner from other pupils.”¹⁹

After years of the Austrian government’s threats to close the Sau-

di-funded King Abdullah bin Abdulaziz International Centre for Interreligious and Intercultural Dialogue due to human rights violations in Saudi Arabia, in June 2020 there were reports that the Centre would move to Geneva. However, as of October 2020, the organisation was still operating in Austria.

In the aftermath of a terror attack committed by an Islamic extremist in November 2020, the Cabinet “agreed on a wide range of anti-terrorism measures meant to plug perceived security flaws identified after” the attack. “We will create a criminal offense called ‘political Islam’ in order to be able to take action against those who are not terrorists themselves, but who create the breeding ground for them,” Chancellor Sebastian Kurz tweeted after the Cabinet meeting.²⁰ However, that language was changed to “religiously motivated extremist association.” Registration of all imams in the country was also included in the measures, as was a ban on symbols associated with extremist organisations (including far-right and Islamist).²¹ Authorities also raided Muslim Brotherhood and Hamas-linked targets, in a move the Interior Minister said was “not targeted at Muslims or Islam as a religious community.

On the contrary, these measures are also intended to protect Muslims, whose religion is abused for the purposes of an ideology hostile to the constitution.”²²

INCIDENTS AND DEVELOPMENTS

The Islamic State claimed responsibility for the November 2020 terrorist attack near a synagogue in Vienna.²³ According to Austrian media reports, the gunman, who had a previous terrorism conviction and had “deceived” authorities by convincing them he had successfully completed a ‘de-radicalisation programme’,²⁴ also targeted a Catholic youth group meeting in a nearby church. When his attempts to enter the building were unsuccessful, he was shot by police.²⁵ Officials ordered increased security measures around churches and synagogues in all federal states as a result of the attack.²⁶

The Observatory on Intolerance Against Christians (OIDAC) reported 28 anti-Christian incidents in Austria, including assaults, burglaries, and arson and vandalism of churches and public Christian statues during the reporting period.²⁷ Reported incidents included graffiti in an apartment building reading “Death to Christians” and praising the gunman in the November 2020 terror attack,²⁸ a series of anti-Catholic incidents in October 2020 including a physical attack on a Catholic nun by a 19-year-old Afghan in Graz, a group storming a church in Vienna shouting “Allahu Akbar, and an Afghan shouting “Islamic slogans” in St. Stephen’s Cathedral.²⁹ There were two telephone bomb threats against the Vienna cathedral in 2019.³⁰

According to the 2018 and 2019 OSCE/ODHIR (Organisation for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights) hate crime reports Austrian police still do not record or report anti-Christian hate crimes or incidents. However, in November 2020, the online police recording database was updated to allow officers to record bias motives, including religion.³¹ Civil society contributions, as well as from the Holy See, for 2018 included six attacks against property, four attacks against people, and three threats.³² For 2019, there were nine property crimes, two attacks against people, and one threat reported by civil society organisations.³³

Austrian police reported 28 anti-Muslim crimes in 2018 to the OSCE for inclusion in the hate crime report. Incidents were not divided by type of crime. Civil society contributions of data for the same year included 56 property crimes (the majority of which was anti-Muslim graffiti on public street walls, houses, schools and universities, public transport, and shop walls. Five attacks against people were reported, all of which were against Muslim women, and one threat in which a Muslim family was threatened and harassed until they were forced to move.³⁴

For 2019, officials reported six unspecified anti-Muslim hate crimes. Civil society groups reported 113 incidents, 82 of which were property-related, 21 attacks on people, and 10 threats. As in the previous year, the majority of the physical attacks were on Muslim women wearing headscarves. The anti-racism and Islamophobia documentation association Zara reported a sharp increase in anti-Muslim incidents (including online) in the aftermath of the November 2020 terrorist attack in Vienna. A spokesperson said women who wear headscarves were particularly affected. An example was given of a man shouting “Terrorist! Terrorist!” at woman in a train station.³⁵

According to the OSCE hate crime report, police reported 49 anti-Semitic crimes in 2018.³⁶ Incidents were not divided by type of

crime. For 2019, official figures were 30 anti-Semitic hate crimes. The Jewish Community of Vienna and Forum against anti-Semitism reported that anti-Semitic incidents increased by 9.5% from 2017 to 2019 with 550 incidents (including 6 physical attacks, 18 threats, 78 property-related incidents).³⁷

Incidents over the reporting period included the previously-mentioned terror attack in November 2020 near the city synagogue, a string of anti-Semitic crimes in Graz in August 2020 including a physical attack on the Graz Jewish community’s president and “Free Palestine” graffiti on the synagogue. During a press conference, the perpetrator was identified as a “Syrian citizen with an Islamic motive.” The Minister of Culture and Integration said, “Anti-Semitism in whatever form is an attack on our community of values and we have a historic responsibility to combat it.”³⁸

Regulations for religious gatherings during the coronavirus pandemic in 2020 and 2021 were largely the result of agreements between religious communities and the government and included distancing and hygiene requirements, bans on singing, and postponement of religious rites such as marriages.³⁹

PROSPECTS FOR RELIGIOUS FREEDOM

In the reporting period, there were several legislative updates that may tangentially affect religious freedom in Austria, including registration for imams and the criminalisation of “religiously motivated extremism.” The online hate speech regulation, combined with Austria’s de-factor blasphemy law, may inhibit the criticism of religious ideologies, as well as progressive ideologies relating to gender, sexuality, or marriage. There appears to be an increasing risk of societal intolerance against both majority and minority religions. Rising anti-Semitism and increased targeting of Christian sites is a worrying trend, but one the government appears to be anxious to address.

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