

treatment if the persons are returned to their countries of origin; elements related to due process in the functioning of the autonomous administrative tribunals; existing legislation on the minimum age of consent for sexual relations with regard to male homosexuals; restriction of the definition of minorities to certain legally recognized groups; and the possibility that the recognition of religions, and benefits accorded to recognized religions, may result in discrimination.

The Committee recommended that the government, *inter alia*:

- ♦ ensure that all rights protected in the Covenant are given effect in Austrian law;
- ♦ revise the Code of Criminal Procedure to guarantee more fully the right to counsel at all stages of proceedings; implement audio-recording of interrogations;
- ♦ implement fully the principle of independence of all courts and tribunals;
- ♦ revise legislation to remove discrimination on the basis of sexual orientation;
- ♦ provide, in the next report, information on all ethnic, religious or linguistic minorities;
- ♦ provide, in the next report, information on the application and effect of article 283 of the Criminal Code concerning propaganda and incitement to war and to national, racial or religious hatred; and
- ♦ provide, in the next report, information on measures being implemented to counter all forms of violence against women.

The Committee decided that Austria's 4th periodic report would be due in October 2002.

## THEMATIC REPORTS

### Mechanisms of the Commission on Human Rights

#### Arbitrary detention, Working Group on: (E/CN.4/1998/44, para. 19)

The report notes that an urgent appeal involving nine persons was transmitted to the government. No details of the case or cases were provided.

#### Racism and racial discrimination, Special Rapporteur on: (E/CN.4/1998/79, paras. 53, 72)

The report notes that allegations related to racist incidents were sent to the government and that the government had not replied. No details of the cases were provided.

#### Religious intolerance, Special Rapporteur on: (E/CN.4/1998/6, paras. 48, 61)

Communications were sent to the government and, with regard to conscientious objection, the report notes that in

Austria there is apparently a legal time limit within which conscientious objectors must declare their refusal to perform military service or apply to perform alternative service. Information also indicated that the duration of alternative service is such as to be punitive in nature.

#### Torture, Special Rapporteur on: (E/CN.4/1998/38, para. 22; E/CN.4/1998/38/Add.1, paras. 14-17)

The government provided additional information concerning two cases which were transmitted and to which a reply was first received in 1996. The cases involved a journalist who was reported to have been arrested in September 1994 and knocked unconscious by police officers, and an Egyptian national who was reportedly assaulted by members of the Vienna Drugs Squad in June 1995. In the case of the journalist, the government stated that the Vienna Public Prosecutor's Office had found no grounds for further judicial prosecution of the officers accused and closed the case on 25 September 1997, since the judicial preliminary inquiries had produced no evidence of criminal behaviour. With respect to the Egyptian national, the government stated that the Vienna Court of Appeal, by judgement of 12 November 1996, had dismissed the appeal lodged by the Vienna Public Prosecutor's Office. The judgement of acquittal of the three detectives by the Vienna Regional Criminal Court on 24 April 1996 was therefore said to be final. The report refers to a response received by the Special Rapporteur from the source that had provided the information, indicating that in the case of the journalist, the government had failed to provide further information on the nature of the judicial preliminary inquiries, had not indicated whether the inquiries had been conducted promptly and impartially, or explained how the conclusion had been reached. On the case of the Egyptian national, the source commented that the government's response had not mentioned whether a prompt and impartial investigation had taken place.

#### Toxic wastes and products, Special Rapporteur on: (E/CN.4/1998/10, para. 62)

The report notes that Austria is among the main OECD countries from which, under "recycling" programmes, wastes are exported.

#### Violence against women, Special Rapporteur on: (E/CN.4/1998/54, Section III.B)

The report notes that a number of European courts have interpreted sexual violence and rape as forms of persecution, and refers to an Order by the Austrian Ministry of the Interior, dated 11 August 1995, regarding the granting of asylum for victims of rape. The Order specifies that on the basis of the Geneva Convention and the 1991 Asylum Law, rape is a ground for asylum provided it was motivated by one of the reasons in the Geneva Convention.

