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TEXT
TAGS: SHUM, AU
SUBJECT: 1986 HUMAN RIGHTS REPORT--AUSTRIA
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1. THIS CABLE TRANSMITS THE FINAL, CLEARED TEXT OF SUBJECT REPORT. THE REPORT IS EMBARGOED UNTIL ITS RELEASE BY CONGRESS (SCHEDULED FOR FEBRUARY 19). AT THAT TIME EMBASSY MAY PROVIDE A COPY TO GOA. DEPARTMENT WILL NOTIFY EMBASSY 24 HOURS IN ADVANCE OF CONGRESSIONAL RELEASE. THE REPORTS REMAIN CONFIDENTIAL UNTIL CONGRESSIONAL RELEASE.

2. TEXT FOLLOWS:

QUOTE

AUSTRIA IS A CONSTITUTIONAL PARLIAMENTARY DEMOCRACY. A COALITION GOVERNMENT (SOCIALIST PARTY AND PEOPLE'S PARTY) WAS FORMED AFTER THE NOVEMBER 1986 NATIONAL ELECTION. THE LOOSELY UNITED GREEN PARTY AND THE RIGHT-WING FREEDOM PARTY ARE IN OPPOSITION.

AUSTRIA HAS A DEVELOPED ECONOMY, AND AUSTRIANS ENJOY A HIGH STANDARD OF LIVING.

SINCE WORLD WAR II, AUSTRIA HAS SERVED AS A COUNTRY OF

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FIRST ASYLUM FOR NEARLY 2 MILLION REFUGEES FROM EASTERN EUROPE. DURING PERIODS OF CRISIS AND UPHEAVAL IN EASTERN EUROPE, REFUGEE ARRIVALS RISE SIGNIFICANTLY.

DURING THE 1986 PRESIDENTIAL ELECTION CAMPAIGN, OBSERVERS REPORTED SEVERAL INSTANCES IN WHICH PARTICIPANTS IN CAMPAIGN RALLIES EXPRESSED ANTI-SEMITIC SENTIMENTS DIRECTED AGAINST AUSTRIA'S JEWISH COMMUNITY. THESE ANTI-SEMITIC EXPRESSIONS OCCURRED IN CONNECTION WITH KURT WALDHEIM'S CANDIDACY FOR PRESIDENT AND ACCUSATIONS CONCERNING HIS ACTIVITIES DURING WORLD WAR II. THE GOVERNMENT OF AUSTRIA HAS SPOKEN OUT STRONGLY AGAINST ALL SUCH MANIFESTATIONS.

IN OTHER REGARDS, THE 1986 HUMAN RIGHTS SITUATION IN AUSTRIA WAS ESSENTIALLY UNCHANGED FROM THE CONDITIONS WHICH PREVAILED IN PREVIOUS YEARS. TO A VERY HIGH DEGREE, HUMAN RIGHTS ARE RESPECTED IN AUSTRIA, AND NO CHARGES OF HUMAN RIGHTS VIOLATIONS ON THE PART OF THE GOVERNMENT OR OTHER PUBLIC INSTITUTIONS WERE MADE DURING 1986.

RESPECT FOR HUMAN RIGHTS

SECTION 1 RESPECT FOR THE INTEGRITY OF THE PERSON,
INCLUDING FREEDOM FROM:

A. POLITICAL KILLING

THERE WERE NO REPORTS OF POLITICALLY MOTIVATED KILLINGS EITHER BY GOVERNMENT AUTHORITIES OR OPPOSITION GROUPS.

B. DISAPPEARANCE

THERE WERE NO ABDUCTIONS BY AUTHORITIES.

C. TORTURE AND CRUEL, INHUMAN, OR DEGRADING
TREATMENT OR
PUNISHMENT

TORTURE IS BANNED BY ARTICLE II OF THE EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, WHICH IS INCORPORATED INTO THE AUSTRIAN CONSTITUTION. THERE IS NO EVIDENCE OF ANY VIOLATION OF THIS PROVISION.

D. ARBITRARY ARREST, DETENTION, OR EXILE

THE CONSTITUTION PROHIBITS ARBITRARY DETENTION OR EXILE. THE LAW PROVIDES FOR INVESTIGATIVE DETENTION FOR 72 HOURS, BY WHICH TIME AN INVESTIGATIVE JUDGE MUST DECIDE ON THE LEGALITY OF THE DETENTION. PROVIDED THE INVESTIGATIVE JUDGE AGREES, THE ACCUSED MAY BE HELD IN DETENTION PENDING COMPLETION OF AN INVESTIGATION FOR UP TO A MAXIMUM OF 2 YEARS. GROUNDS FOR INVESTIGATIVE DETENTION ARE ENUMERATED IN THE LAW, AS ARE CONDITIONS

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FOR RELEASE ON BAIL. A 1983 LAW REFORMED THE PROVISIONS CONCERNING DETENTION BY SHORTENING PRETRIAL PROCEDURES, RESTRICTING THE NUMBER OF DETENTIONS, EXCEPT IN THE CASE OF PERSONS WHO HAVE OR ARE ALLEGED TO HAVE COMMITTED SERIOUS CRIMES, AND PROVIDING BETTER LEGAL PROTECTION FOR DETAINEES. THERE ARE NO ALLEGATIONS THAT THESE PROVISIONS FOR INVESTIGATIVE DETENTION HAVE BEEN VIOLATED.

DETENTION FOR MINOR INFRACTIONS OF ADMINISTRATIVE LAW MAY BE IMPOSED BY THE ADMINISTRATIVE AUTHORITIES BUT IS SUBJECT TO COURT APPEAL. THE GOVERNMENT IS CONSIDERING LEGISLATION REQUIRING INCREASED JUDICIAL CONTROL OF SUCH PROCEEDINGS. THE PROPOSED LEGISLATION PROVIDES FOR THE IMPLEMENTATION OF ARTICLE 5 OF THE HUMAN RIGHTS CONVENTION ACCORDING TO WHICH DETENTION MAY ONLY BE IMPOSED BY AN INDEPENDENT JUDGE. IN 1985 A TOTAL OF 2,388 PERSONS WERE HELD FOR VARYING PERIODS OF TIME IN INVESTIGATIVE DETENTION.

THERE IS NO FORCED LABOR.

E. DENIAL OF FAIR PUBLIC TRIAL

THE JUDICIARY IS INDEPENDENT FROM THE EXECUTIVE AND LEGISLATIVE BRANCHES OF GOVERNMENT. TRIALS ARE PUBLIC. JUDGES ARE APPOINTED FOR LIFE AND CANNOT, IN PRINCIPLE, BE REMOVED FROM OFFICE. JURY TRIALS ARE PRESCRIBED FOR MAJOR OFFENSES, AND THOSE CONVICTED HAVE THE RIGHT OF APPEAL. WRITTEN CHARGES MUST BE PRESENTED TO THE ACCUSED, WHO HAS THE RIGHT OF REPRESENTATION BY A LAWYER.

CONCERNED ABOUT THE POSSIBILITY OF EXECUTIVE INTERFERENCE IN THE JUDICIAL SYSTEM, CRITICS ARGUE THAT THE PUBLIC PROSECUTORS' LACK OF INDEPENDENCE FROM THE MINISTRY OF JUSTICE OPENS THE WAY FOR POSSIBLE GOVERNMENTAL MEDDLING. TO RECTIFY THIS POSSIBLE DEFECT, THE GOVERNMENT HAS BEEN CONSIDERING INTRODUCING A LAW WHICH WOULD REQUIRE THAT DIRECTIVES ISSUED BY THE MINISTRY TO THE PUBLIC PROSECUTORS BE MADE PUBLIC.

F. ARBITRARY INTERFERENCE WITH PRIVACY, FAMILY, HOME, OR CORRESPONDENCE

THE LAW PROVIDES FOR THE PROTECTION OF PERSONAL DATA COLLECTED, PROCESSED, OR TRANSMITTED BY GOVERNMENT AGENCIES, PUBLIC INSTITUTIONS, AND PRIVATE ENTITIES. CONSTITUTIONAL PROVISIONS ALSO PROTECT THE SECRECY OF THE MAIL AND TELEPHONE.

THE PRIVACY OF FAMILY LIFE IS RESPECTED. THERE IS NO EFFORT BY THE GOVERNMENT TO MONITOR OR CONTROL FAMILY LIFE.

SECTION 2. RESPECT FOR CIVIL LIBERTIES, INCLUDING:

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A. FREEDOM OF SPEECH AND PRESS

THESE FREEDOMS ARE GUARANTEED BY THE CONSTITUTION AND RESPECTED IN PRACTICE. AUSTRIA HAS A FREE, INDEPENDENT, AND MULTIFACETED PRESS, RANGING FROM CONSERVATIVE TO COMMUNIST.

PUBLICATIONS MAY BE REMOVED FROM CIRCULATION IF THEY VIOLATE LEGAL PROVISIONS CONCERNING MORALITY OR PUBLIC SECURITY. AS A MATTER OF PRACTICE, SUCH CASES ARE EXTREMELY RARE. OPPOSITION VIEWPOINTS ARE GIVEN WIDE ATTENTION IN AUSTRIAN PUBLICATIONS. AUSTRIA'S WELL-ESTABLISHED DEMOCRATIC POLITICAL SYSTEM, ITS ACTIVE AND INDEPENDENT PRESS, AND ITS EFFECTIVE JUDICIARY COMBINE TO ASSURE CONTINUED FREEDOM OF SPEECH AND PRESS.

B. FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

THE CONSTITUTION PROVIDES FOR FREEDOM OF ASSEMBLY AND ASSOCIATION. THE AUSTRIAN STATE TREATY OF 1955, THOUGH, MAKES AN EXCEPTION TO THIS PRINCIPLE IN THE CASE OF NAZI ORGANIZATIONS AND ACTIVITIES. THE CONSTITUTIONAL LAW OF 1945 ALSO PROHIBITS NAZI ORGANIZATIONS. THE LAW ON THE FORMATION OF ASSOCIATIONS STIPULATES THAT PERMISSION TO FORM AN ASSOCIATION MAY BE DENIED IF IT IS APPARENT THAT THE ORGANIZATION WILL PURSUE THE ILLEGAL ACTIVITIES OF A PROHIBITED ORGANIZATION.

PUBLIC DEMONSTRATIONS REQUIRE A PERMIT FROM THE POLICE AUTHORITIES. WHILE FOREIGNERS MAY PARTICIPATE IN DEMONSTRATIONS, IT MUST BE AN AUSTRIAN CITIZEN WHO SUBMITS THE PERMIT APPLICATION. IN PROCESSING SUCH APPLICATIONS, THE POLICE MAY CONSIDER ONLY THE PUBLIC SAFETY ASPECT OF THE

PROPOSED DEMONSTRATION AND NOT ITS POLITICAL PURPOSE. PERMITS ARE ROUTINELY ISSUED.

TRADE UNIONS HAVE AN IMPORTANT VOICE IN THE COUNTRY'S POLITICAL LIFE DUE TO THEIR ROLE IN "SOCIAL PARTNERSHIP," AN UNOFFICIAL SYSTEM BY WHICH AUSTRIA'S ECONOMIC POLICIES ARE DETERMINED BY LABOR AND MANAGEMENT REPRESENTATIVES. LABOR IS ORGANIZED IN 15 NATIONAL UNIONS, EACH OF WHICH IS A MEMBER OF THE AUSTRIAN TRADE UNION FEDERATION (ATUF). THIS ORGANIZATION HAS A STRONG, CENTRALIZED LEADERSHIP STRUCTURE. INDIVIDUAL UNIONS AND THE FEDERATION ARE INDEPENDENT OF GOVERNMENT OR POLITICAL PARTY CONTROL. UNIONS HAVE THE RIGHT TO ORGANIZE WORKERS, TO NEGOTIATE WAGE AGREEMENTS, AND TO STRIKE, ALTHOUGH STRIKES IN AUSTRIA DURING THE POSTWAR PERIOD HAVE BEEN RARE. ONE MEMBER OF THE PRESENT CABINET IS PRESIDENT OF A NATIONAL UNION AND, UNTIL THE PARLIAMENT DISSOLVED OCTOBER 3, 1986, THE PRESIDENT OF THE LOWER HOUSE WAS ALSO PRESIDENT OF ATUF. NEARLY 60 PERCENT OF THE WORK FORCE IS ORGANIZED IN TRADE UNIONS. ATUF IS A MEMBER OF THE INTERNATIONAL CONFEDERATION OF FREE TRADE

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UNIONS AND ALSO PROVIDES THE WORKER DELEGATE FOR AUSTRIA'S INTERNATIONAL LABOR ORGANIZATION DELEGATION.

BY LAW, MOST EMPLOYEES MUST BE MEMBERS OF THE CHAMBERS OF LABOR. THIS ORGANIZATION, WHICH IS UNIQUE TO AUSTRIA, REPRESENTS WORKERS' INTERESTS VIS-A-VIS THE GOVERNMENT WHEREAS THE UNIONS REPRESENT THE WORKERS VIS-A-VIS THE EMPLOYERS. THE LEADERSHIP OF THE TRADE UNIONS AS WELL AS OF THE CHAMBERS OF LABOR IS ELECTED THROUGH DEMOCRATIC BALLOTING. THERE ARE, IN ADDITION, A LARGE NUMBER OF TRADE ASSOCIATIONS AND OTHER PROFESSIONAL GROUPINGS IN AUSTRIA.

C. FREEDOM OF RELIGION

THIS RIGHT IS GUARANTEED BY THE CONSTITUTION, ALTHOUGH THE TREATY OF ST. GERMAIN, WHICH ALSO IS A CONSTITUTIONAL PROVISION, RESTRICTS THIS FREEDOM TO THE PRACTICE OF RELIGIONS WHICH ARE COMPATIBLE WITH PUBLIC SAFETY AND MORALITY. IN ORDER TO QUALIFY AS A RECOGNIZED RELIGIOUS ORGANIZATION UNDER AUSTRIAN LAW, RELIGIOUS GROUPS REGISTER WITH THE GOVERNMENT.

ALTHOUGH 85 PERCENT OF THE POPULATION ARE ROMAN CATHOLIC, MOST OF THE WORLD'S MAJOR RELIGIONS ARE REPRESENTED. DESPITE ITS DOMINANT POSITION IN THE COUNTRY, THE POLITICAL INFLUENCE OF THE CATHOLIC CHURCH HAS STEADILY DIMINISHED SINCE 1945 AND IS NO LONGER CONSIDERED A MAJOR POLITICAL FORCE.

ALTHOUGH OVERT AND EXPLICIT EXPRESSIONS OF ANTI-SEMITISM ARE NOT PART OF PUBLIC DISCOURSE HERE, SEVERAL RECENT SURVEYS INDICATE THAT SUCH SENTIMENTS ARE LATENT AMONG SOME AUSTRIANS. THESE CAME TO THE SURFACE WHEN ACCUSATIONS CONCERNING THE WARTIME ACTIVITIES OF KURT WALDHEIM (ELECTED PRESIDENT IN JUNE 1986) ELICITED A DISTURBING ANTI-SEMITIC REACTION ON THE PART OF INDIVIDUAL AUSTRIAN CITIZENS. THE GOVERNMENT HAS CONDEMNED THIS PHENOMENON IN VERY STRONG TERMS AND HAS RECOMMENDED THE COUNTRY TO COMBATING ALL ITS MANIFESTATIONS.

D. FREEDOM OF MOVEMENT WITHIN THE COUNTRY, FOREIGN TRAVEL, EMIGRATION, AND REPATRIATION

THERE ARE NO RESTRICTIONS CONCERNING FREEDOM OF MOVEMENT WITHIN THE COUNTRY OR THE RIGHT TO CHANGE RESIDENCE OR WORKPLACE. AUSTRIAN RESIDENTS ARE FREE TO TRAVEL OR TO EMIGRATE. CITIZENS WHO HAVE LEFT THE COUNTRY HAVE THE RIGHT TO RETURN. NO AREA OF THE COUNTRY IS CLOSED TO TRAVEL.

AUSTRIA SERVES AS A COUNTRY OF FIRST ASYLUM FOR REFUGEES FROM EASTERN EUROPE AND AS A TRANSIT POINT FOR SOVIET

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JEWISH EMIGRANTS ON THEIR WAY TO ISRAEL OR OTHER THIRD COUNTRIES. ONCE IN AUSTRIA, REFUGEES ARE NOT FORCIBLY RETURNED TO THEIR COUNTRY OF ORIGIN. DURING 1985 EASTERN EUROPEAN REFUGEE ARRIVALS TOTALED 6,050. ARRIVALS IN 1986 NUMBERED 8,179, A 35 PERCENT INCREASE OVER 1985. AUSTRIA BUDGETED ABOUT \$22 MILLION IN 1986 FOR REFUGEE RECEPTION, CARE, AND MAINTENANCE.

THE GOVERNMENT HAS DRASTICALLY LIMITED THE ISSUANCE OF WORK PERMITS TO NON-AUSTRIANS IN AN EFFORT TO REDUCE DOMESTIC UNEMPLOYMENT. AUSTRIA'S GUEST WORKER POPULATION, WHICH AVERAGED 226,400 IN 1973, STOOD AT 142,286 IN 1985.

**SECTION 3 RESPECT FOR POLITICAL RIGHTS: THE RIGHT OF CITIZENS
TO CHANGE THEIR GOVERNMENT**

AUSTRIA IS GOVERNED THROUGH A DEMOCRATIC PARLIAMENTARY SYSTEM. UNDER THE CONSTITUTION, ELECTIONS MUST BE HELD AT LEAST EVERY 4 YEARS. ELECTIONS ARE FREE AND REGULARLY DRAW HIGH LEVELS OF PARTICIPATION. THE 1986 NATIONAL ELECTIONS RESULTED IN A CHANGE OF GOVERNMENT IN AUSTRIA.

NO PARTY WON AN ABSOLUTE MAJORITY. THE SOCIALIST PARTY, WHICH WON 80 SEATS, WENT INTO COALITION WITH THE PEOPLE'S PARTY, WHICH WON 77 SEATS. SEVERAL SMALL PARTIES ALSO CONTESTED THE ELECTIONS, INCLUDING THE COMMUNIST PARTY, WHICH DID NOT RECEIVE SUFFICIENT SUPPORT TO ELECT CANDIDATES TO THE PARLIAMENT. THE RIGHT-WING FREEDOM PARTY WON 18 SEATS, AND THE GREENS WON 8.

**SECTION 4 GOVERNMENTAL ATTITUDE REGARDING INTERNATIONAL AND
NONGOVERNMENTAL INVESTIGATION OF ALLEGED
VIOLATIONS
OF HUMAN RIGHTS**

NO CHARGES OF HUMAN RIGHTS VIOLATIONS WERE BROUGHT BY INTERNATIONAL OR NONGOVERNMENTAL ORGANIZATIONS DURING 1985 AND 1986. AUSTRIA RECOGNIZES THE COMPETENCE OF THE EUROPEAN HUMAN RIGHTS COMMISSION IN STRASBOURG FOR IMPLEMENTING THE EUROPEAN CONVENTION. AUSTRIA CONCERNS ITSELF EXTENSIVELY WITH INTERNATIONAL HUMAN RIGHTS MATTERS. REPRESENTATIVES OF OPPRESSED GROUPS FREQUENTLY VISIT AUSTRIA AND MEET WITH GOVERNMENT OFFICIALS AND POLITICAL LEADERS TO EXPLAIN THEIR VIEWS. BECAUSE OF AUSTRIA'S GEOGRAPHIC POSITION, SUCH MEETINGS FREQUENTLY FOCUS ON THE HUMAN RIGHTS SITUATION IN EASTERN EUROPE. AUSTRIA HOSTED A COUNCIL OF EUROPE CONFERENCE ON HUMAN RIGHTS IN MARCH 1985.

AMNESTY INTERNATIONAL IS THE MAJOR NONGOVERNMENTAL HUMAN RIGHTS ORGANIZATION ACTIVE IN AUSTRIA. AUSTRIANS ALSO

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PROVIDE FINANCIAL SUPPORT FOR THE BRUNO KREISKY FOUNDATION, WHICH WAS FORMED IN 1976 TO HONOR DISTINGUISHED HUMAN RIGHTS ACTIVISTS.

SECTION 5 DISCRIMINATION BASED ON RACE, SEX, RELIGION, LANGUAGE, OR SOCIAL STATUS

AUSTRIA HAS AN EXTENSIVE PUBLIC WELFARE SYSTEM, THE BENEFITS OF WHICH ARE AVAILABLE TO ALL CITIZENS ON A NONDISCRIMINATORY BASIS.

LEGAL RESTRICTIONS ON WOMEN'S RIGHTS HAVE LONG BEEN ABOLISHED. WOMEN ARE ENTERING THE WORK FORCE IN INCREASING NUMBERS AND HAVE MADE SUBSTANTIAL PROGRESS TOWARD ECONOMIC EQUALITY IN THE POSTWAR ERA. NEVERTHELESS, SIGNIFICANT INEQUALITY IN PRACTICE STILL EXISTS IN POLITICAL, ECONOMIC, AND SOCIAL FIELDS DESPITE LEGISLATION ENACTED IN 1977 AND 1979 TO REFORM FAMILY LAW. IN 1985 APPROXIMATELY 41 PERCENT OF THE WORK FORCE WAS COMPOSED OF WOMEN. MEN, HOWEVER, EARNED 49 PERCENT MORE THAN WOMEN OVERALL. AMONG MEN AND WOMEN WITH EQUAL TRAINING AND EDUCATION, MEN EARNED ONE-THIRD MORE THAN WOMEN. WOMEN PARTICIPATE FULLY IN THE ELECTORAL PROCESS AND CONSTITUTE 53 PERCENT OF THE AUSTRIAN ELECTORATE. SINCE 1983 A STATE SECRETARY, A WOMAN IN THE CHANCELLOR'S OFFICE, HAS BEEN RESPONSIBLE FOR WOMEN'S ISSUES WITHIN THE GOVERNMENT. THE NEW COALITION GOVERNMENT HAS TWO WOMEN MINISTERS (EDUCATION AND FAMILY, SPORTS AND ENVIRONMENT).

THE HUMAN RIGHTS OF AUSTRIAN MINORITIES ARE RESPECTED, BUT THE SLOVENIAN MINORITY IN THE PROVINCE OF CARINTHIA IS CONCERNED ABOUT THE FUTURE OF INSTRUCTION IN THE SLOVENE LANGUAGE IN LOCAL ELEMENTARY SCHOOLS. THE SLOVENES FEAR THAT CHANGES IN THE PROVINCE'S BILINGUAL EDUCATION SYSTEM, WHICH SOME GERMAN-SPEAKING GROUPS ADVOCATE, WOULD EFFECTIVELY ELIMINATE SLOVENE FROM MOST PROVINCIAL ELEMENTARY SCHOOLS. NEGOTIATIONS ARE CURRENTLY UNDER WAY ON A PROPOSAL WHICH WOULD ALLOW PARENTS TO DETERMINE WHETHER THEIR CHILDREN SHOULD RECEIVE INSTRUCTION IN GERMAN OR SLOVENIAN.

CONDITIONS OF LABOR

THERE IS NO MINIMUM WAGE IN AUSTRIA, BUT ANYONE WHOSE INCOME FALLS BELOW THE OFFICIAL POVERTY LINE OF ABOUT \$3,960 PER YEAR IS ELIGIBLE TO RECEIVE SOCIAL WELFARE BENEFITS.

SINCE 1975 THE LEGAL AUSTRIAN WORKWEEK HAS BEEN ESTABLISHED AT 40 HOURS, ALTHOUGH WORKERS IN SEVERAL KEY BRANCHES HAVE ATTAINED REDUCTIONS BELOW THIS LEVEL RECENTLY. THE MINIMUM WORKING AGE IN AUSTRIA IS 15. THE

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LABOR CODIFICATION LAW AND THE LABOR PROTECTION LAW ARE AMONG THE MORE IMPORTANT LEGAL INSTRUMENTS FOR ENSURING WORKERS' RIGHTS AND DECENT WORKING CONDITIONS. A LABOR INSPECTORATE ATTACHED TO THE JUSTICE MINISTRY CONDUCTS ROUTINE INSPECTIONS OF HEALTH AND SAFETY CONDITIONS AT THE WORKPLACE.

SHULTZ

ADMIN
END OF MESSAGE

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