

Austrian legislations:

Introduction

This overview of Austrian Legislation does not pursue the goal of completeness. Its objective is to give a rough overview of contents which are relevant for our project "Love and Respect - Preventing Teen Dating Violence". We want to raise the awareness among the youth regarding the different types of violence that can occur in relationships, and to sensitise the public to this issue. Simultaneously, we share statistics, tips and literature that are related to our campaign.

General declaration of human rights:

Human rights are rights inherent to all human beings, regardless of nationality/ethnicity, social class or gender. Human rights cannot be waived or relinquished, which means that no person, group of persons or nation can withdraw these rights. Human rights are the freedoms of the individual in our society. Every person has the right to personal development, which is only limited by the personal development of other persons.

- All human beings are born free and equal in dignity and rights. They are gifted with rationality and conscience and should act towards one another in a spirit of brotherhood.
- Everyone is entitled to all the rights and freedoms mentioned in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.
- Everyone has the right to life, liberty and security of person.
- No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.
- No one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment.
- All are equal before the law and are entitled without any discrimination to equal protection by the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.
- Everyone has the right to an effective legal remedy at the domestic courts if they feel their human rights have been infringed upon.

Declaration of sexual rights:

The right to sexuality is a human right. But what is allowed at which age?

At the age of 14 you are "sexually competent", or: you're legally able to consent. That means you can decide on your own if you want to have sex and with whom – however, it is only legal if both of you want to have sex, and if both of you are old enough!

For a 13-year-old, having sex would be legal if the partner is not more than 3 years older. That means: Sex between a 13-year-old and a 16-year-old adolescent is allowed. Sex between a 13-year-old and a 17-year-old is against the law.

At the age of 14 you are not just sexually responsible, but also criminally responsible! This means you can be punished for breaking the law, according to the Juvenile Criminal Law.

- The right to sexual freedom. Sexual freedom encapsulates the possibility for individuals to express their full sexual potential. However, this excludes all forms of sexual coercion, exploitation, and abuse at any time and situation.
- The right to sexual autonomy, sexual integrity, and physical safety. This right includes the ability to make autonomous decisions about one's sexual life within the context of one's own personal and social ethics. It also encompasses control and enjoyment of our own bodies free from torture, mutilation, and violence of any sort.
- The right to sexual privacy. This involves the right for individual decisions and behaviours about intimacy as long as they do not intrude on the sexual rights of others.
- The right to sexual equity. This refers to freedom from all forms of discrimination regardless of sex, gender, sexual orientation, age, race, social class, religion, or physical and emotional disability.
- The right to sexual pleasure. Sexual pleasure, including autoeroticism, is a source of physical, psychological, intellectual, and spiritual well-being.
- The right to emotional sexual expression. Sexual expression is more than erotic pleasure or sexual acts. Individuals have a right to express their sexuality through communication, touch, emotional expression, and love.
- The right to sexually associate freely. This means the possibility to marry or not, to divorce, and to establish other types of responsible sexual associations.
- The right to make free and responsible reproductive choices. This encompasses the right to decide whether or not to have children, the number and spacing of children, and the right to full access to the means of fertility regulation.

- The right to sexual information based on scientific inquiry. This right implies that sexual information should be generated through the process of unencumbered and yet scientifically ethical inquiry, and disseminated in appropriate ways at all societal levels.
- The right to comprehensive sexuality education. This is a lifelong process from birth throughout the lifecycle, and should involve all social institutions.
- The right to sexual health care. Sexual health care should be available for prevention and treatment of all sexual concerns, problems, and disorders.

Overview of important paragraphs:

§201 StGB – Rape: Rape includes: forced sex with violence or threats. Rape is sentenced with 1-10 year's imprisonment. Depending on the seriousness of how the crime was committed, it can be a sentence with life imprisonment. Of course: legal is when both people enjoy their experience.

§202 StGB – sexual coercion: Includes all forced sexual interactions, violating this law is sentenced with ½ up to 5 year's imprisonment.

§205 StGB - Sexual abuse of a defenseless or mentally impaired person: It is prohibited to abuse someone who cannot defend themselves. E.g. persons with disabilities or persons who cannot judge what they want perhaps due to an influence of alcohol or drugs. Sexual abuse is sentenced with 1-10 year's imprisonment. Depending on the seriousness of the crime, it can be a sentence with life imprisonment.

§205a StGB – Violation of sexual self-determination: Forcing a person to sexual actions, against their will or under exploiting a predicament. It can be sentenced with imprisonment up to 2 year's.

§206 StGB - Serious sexual abuse of minors: A person who has sex with a minor (a child younger than 14 years), can be charged with committing serious sexual abuse. Serious sexual abuse is sentenced with 1-10 year's of imprisonment. Depending on the seriousness of the crime it can be a sentence with life imprisonment. All children have the right to be protected from sexualised (and all forms of) violence. If you assume a child is victim of sexualised violence, contact (anonymously) one of the counselling centres which offer help and support.

§207 StGB - Sexual abuse of minors: This law relates to sexual intercourse with minors without penetration. Sexual abuse of minors is sentenced with ½ - 5 year's imprisonment. Depending on seriousness of the crime it can be punished more severely.

§207a StGB - Pornographic representation of minors: Provocative nude pictures of adolescents under 18 is child pornography and is prohibited. It is a criminal offence to produce, offer, provide, present or gain access to pornographic material of minors, in any form, to anybody. People violating this law can be sentenced up

to 3 year's jail time. If the pictures are shared around, the sentence can be furthered to 5 year's imprisonment, or longer depending on the seriousness of the crime. Searching and using child pornography on the internet is also prohibited, carrying a sentence of up to 2 year's imprisonment.

In general, adolescents must not buy or own potentially youth-damaging media! These are brutal, violent, discriminating or pornographic representations (§20 Styrian Youth protection legislation). Sending nude pictures is called „sexting“. You are allowed to send nude pictures of yourself to your sexual partner, but these must not be forwarded onwards for other people to see. Important: If you receive nude pictures you must not send them to anybody! Pictures of persons must not be presented publicly or disseminated if this causes a violation of the person's interest. This is defined in the copyright law (§78 UrhG).

§207b StGB - Sexual abuse of adolescents (younger than 16): It is a criminal offence if adolescents (14 to 16 years) are abused or persuaded into sexual actions if they cannot appropriately judge the situations. It is a crime which has a sentence of up to 1 year's imprisonment, or a financial penalty. If adolescents (under 18) are forced or persuaded to have paid sex, the person who made them do it can be sentenced with up to 3 year's jail time.

208 StGB – Moral endangering of children and adolescents (younger than 16 years): This relates to actions which endanger the „moral, mental and health development“ of young people, e.g. adolescents who are brought to prostitutes, adults who have sex, masturbate or show pornographic material in the presence of adolescents. These actions usually have prison sentences of up to 1 year's imprisonment, although it can be longer.

§208a StGB – Initiation of sexual contacts to minors (under 14 years): „Cyber Grooming“ is one way through which people have initiated minors into sexual contact (via chat forums, facebook or other social media networks). It is a crime with a sentence of up to 2 year's jail time.

It is very important to be cautious if a person you are communicating with (via social media) asks you for nude pictures or asks you to meet them. That person could be lying and need be the person he or she pretended to be! If you decide to meet the person then you should take these actions to make it safe: tell somebody about the meeting, don't go there alone, and meet them in a public place like a cafe!

§212 StGB – Abuse of authority: Relatives, foster parents, teachers, trainers, group leaders, educators, care givers, supervisors, therapists, medical doctors, nurses, etc. must not have sexual contacts with the adolescents (under 18) who they are responsible for. It has a sentence up to 3 year's jail time.

§214 StGB – Arrangement to engage in sexual contact with a minor for payment: A person who has arranged to engage to have sexual contact with a minor in exchange for money, can be sentenced with ½ - 5 year's imprisonment.

§215a StGB – Initiation of prostitution and pornographic presentation of minors: A person who recruits or links minors into carrying out acts of prostitution, or have minors be involved in the production of pornographic material, can be punished with ½ - 5 year's imprisonment.

§218 StGB – Sexual harassment and public sexual acts: These are actions which make people feel harassed. Sexual harassment has many forms: offensive jokes or comments about somebody, whistling or catcalling somebody, unwanted physical touching, the presentation of genitals etc. The law says that nobody is allowed to touch another person's intimate bodyparts (e.g. bum, breasts) with a sexual intention without consent. Additionally, sexual actions must not be continued if someone feels harassed by it. These actions can be sentenced with up to ½ year imprisonment or a financial penalty.

§104 StGB – Human trafficking: This can be sentenced with 1 – 10 year's imprisonment if a minor is transported with the intention to sexually exploit them for payment

§105 StGB – coercion: coercion includes all actions, which are done to get someone to sexual acts, to do something else or to refrain from something. Can be sentenced with up to one year jail time.

§106 StGB – Grievous duress: A person who urges adults into prostitution, or be complicit in the production of pornographic material, can receive a sentence of ½ year up to 5 years imprisonment. If minors are urged to do these actions, it can be punished with 1-10 year's imprisonment.

§106a StGB – Forced marriage: Someone can be sentenced with ½ - 5 year's if they force someone into marriage.

§107a StGB – persistent harassment: If somebody is consistently harassed or followed against her or his will over a long period of time, it is called „stalking“. Stalking can be sentenced with up to one year's imprisonment or a financial penalty.

§107c StGB – continued harassment via telecommunication or computer systems: It is prohibited to continuously harass someone via internet or spread personal pictures or information around to people, without the consent of the person featured. The offender can be sentenced with up to 1 year's imprisonment or financial penalty.

If somebody committed one of these crimes against you, or one of your friends, you have the right to have protection and receive assistance!

General – Types of violence:

Violence is much more than physical assault, violence is complex and varied and people from all social and economic sections can be affected. The different types of violence range from psychological and economic to physical and sexual violence.

According to an 2011 ÖIF study, only 7.4% of women and 14.7% of men have never experienced any of these forms of violence. For most, these experiences of violence begin early. Around three quarters of all women and men surveyed experienced mental and physical violence as early as childhood. There are no gender differences in psychological and physical childhood violence, as opposed to childhood sexual violence: 27.7% of women reported experiencing sexual violence before the age of 16; for men, the percentage is much lower, around 12%.

In the following article, the different forms of violence are explained in more detail and tips for those affected and outsiders are communicated.

Domestic Violence:

While men are usually victims of violence in public spaces, women are more affected by violence in their family or in other close relationships. The offender is often a male person and in most cases he is the partner, a family member or an acquaintance.

Because of this relationship between the offender and the victim, it can be very difficult for the victim to get help and to break the relationship off.

Domestic violence is not a single or sudden type of violence, very often it's a cycle of violence which starts with emotional and financial violence and ends in physical and sexual violence. One or both partners will repeatedly act violent, which intensifies until the situation escalates and gets out of control. At the end, the offender will be sorry for his/her behaviour. The victim forgives them and the cycle starts at the beginning again.

Tips for affected people:

Inform yourself of any helplines and organisations that offer consults and support, as well as your legal rights. Gather information about emergency shelters and save their number in your phone. Speak to a person you trust about what you have been through, especially if you have been a victim of physical violence. Get yourself examined at a forensic outpatient clinic: their doctors have signed a confidentiality agreement and will not report to the police. The outpatient clinic secures any evidence and documents it in detailed reports. If you are in immediate danger, call the police! They can remove the perpetrator's keys to the house, send them away or even serve them with a restraining order.

Tips for helping others:

If you suspect a loved one is a victim of domestic violence, don't look away! Try to speak to the person and find out what's going on. Let them know you're available if they need to talk, and provide active support by providing contact details of helplines and organizations that offer help and support.

Psychological violence

Psychological violence takes place on an emotional level and includes verbal aggression such as insults, threats, insults, but also bullying, stalking and controlling behaviour. Especially in teen relationships, the exercise of control and power is strongly influenced by cultural and social norms. Gender roles and norms in the family influence the personal expectations of relationships, thus also shaping the sensitivity to different forms of violence. In adolescence, psychological violence often takes place via social media or communication services, which in the end is also related to the reality of life of our target group.

Tips for affected people:

If you experience psychological violence in your relationship, there are different contact points that can offer you support. As a first step, you should seek a conversation with your partner. In doing so, you should thematize problematic behaviours or habits and explain which problems arise for you as a result. In relationships, one often lapses into a routine in which individual actions and habits are no longer reflected and therefore the effects of this behaviour are not perceived in the actual intensity.

Tips for helping others:

If you notice unhealthy or violent behaviours in a relationship, mention it to the affected persons. Especially in adolescence, the first experiences in relationships can trigger a great dependency and shape the norms for further relationships. Talk to the affected persons about issues such as privacy, trust and acceptance of individual boundaries. Should the psychological violence take on more serious/threatening forms, you should also provide contact details of counselling and aid organizations or emergency numbers.

Stalking

Stalking can take many different forms. A few examples can be: if you get multiple unwanted phonecalls a day, if you get letters, messages or presents which you don't want. But also if somebody spreads rumors about you which are detrimental for you, or if you're being followed. If stalking happens over the internet, it's called cyberstalking.

Tips for affected people:

Let the police know if you're being followed or harassed. Let the perpetrator know only once that you do not want contact with them: do not message them again. Gather evidence in the form of messages, e-mails and so on, and document the date and time of each. Let people that you trust know that you're being stalked or followed: this restricts the (accidental) flow of information to the perpetrator. Do not accept any gifts or packages from the offender. In case of harassment over the phone, you can either contact your provider and order a secret number, or you can block the phone number of the stalker.

Tips for helping others:

If you or someone you know has trouble accepting that the contact is unwanted, or even has feelings of vengeance and hate, seek out a consultation centre or provide the person with the contact details for one.

Online violence:

One can also be confronted with violence over the internet: This is called cyberbullying or cyberstalking. This form of violence is often voiced through hatemail, mean comments or mean posts.

Violence on the internet is often very personal, but it can also be sexist, womenunfriendly or downright racist. The perpetrators usually have the goal of silencing the victim, or overpowering them. You don't have to tolerate this: there are also laws and rules regarding online violence!

Tips for affected people:

Gather evidence! Make screenshots of hatemail, threats and comments, and document the dates and times for each. If laws have been broken, you can report this to the website where the harassment happened, or make a police report. Do not allow yourself to be silenced! Make the threats public and tell your friends what happened. Freedom of speech does not mean that you are beneath another person. You don't have to tolerate this behaviour.

Tips for helping others:

If you notice any online violence, report your observations to the moderators or administrators of the website. Gather evidence and send it to the people responsible for ensuring a safe online environment. In cases where urgent attention is required, let the police know immediately.

Physical violence

This is the best-known form of violence because it is usually most visible, and everyone can relate to it. Physical violence includes actions such as punching, kicking, scratching and all other forms of violent acts. Physical violence in youth relationships affects both sexes equally, as well as individuals with different sexual orientations and cultural backgrounds. 'Male youth use physical violence to control their partner, female youth in self-defence against violent partners' (EBG 2017, p.3).

Tips for those affected:

No one should have to put up with physical violence or maltreatment. Everyone has a right to physical integrity and a secure space in the relationship. If your partner is violent towards you, you have the right to professional help and support! If you are in immediate danger, get yourself to safety, inform the police or consult a counselling or support centre!

Tips for outsiders:

If you notice that a youth is affected by physical violence in their relationship, take a stance! Make it clear that you do not accept violence and offer support. Provide information about counselling and support facilities and encourage the person concerned to stand up for his/her rights. No one should be subjected to physical violence or abuse, everyone has a right to physical integrity!

Sexual violence:

According to recent studies, a third of all women has dealt with sexual harassments, rape (attempts) or molestation. Many of these women have not spoken up about these incidents and have not made a police report. Usually, this is because these forms of boundary overstepping have taken place in relationships, friend groups or in the family. Many studies have disproven the myth that offenders are usually strangers: Most cases of harassment and assault take place in familiar surroundings.

Another thing that is often spoken about, are "marital duties". Sex and sexual activities are NEVER obligatory, nor are they a duty. Any sexual acts that take place have to happen with consent from both parties. In Austria, marital rape is illegal and a criminal offence.

Tips for affected people:

Talk about it with a person you trust, and find yourself a suitable consultation/help centre. Needing professional help is nothing to be ashamed of, and it can be a very important first step to get out of the dangerzone. Call the police if you're in immediate danger!

Tips for helping others:

If you suspect that someone may be a victim of sexual violence, try to speak to them about it! Often, victims are ashamed about what they have experienced, or they doubt themselves. For this reason it's important to empower the victims and to let them know what happened is not their fault. Only the perpetrator is responsible for his misbehaviour. The intervention has to be led by trained personnel: you can help the victim find a suitable consultation centre or a therapist.

Sexual harassment:

Sexual harassment is one of the most common criminal offence. About 75% of all women have reportedly been sexually harassed. This often happens in public places, at schools, at work places or at associations. Examples of sexual assault are catcalling, sexual remarks, sexist jokes, molestation and violation of private space.

Tips for affected people:

Note your gut instinct. Only you can decide what your boundaries are and how far other people can go. Set clear boundaries with the help of gestures and words. Ask for the help of staff in public areas, and do not get into discussions with the perpetrator. You don't have to justify your boundaries.

Tips for helping others:

If you notice someone being harassed or attacked, interfere immediately. This way, violence can often be prevented. Offer the affected person help: Walk them home, call the police. Let the perpetrator know that his behaviour is unacceptable.

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