

# **Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)**

## **NGO Shadow Report**

### **Supplementing the 9<sup>th</sup> Austrian CEDAW Report**

#### **To the United Nations**

## **Introduction**

This shadow report on the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW) supplements the 9<sup>th</sup> Austrian CEDAW report and was coordinated by Klagsverband.

This report is structured along the lines of the articles of the CEDAW. The articles were chosen according to the currency and urgency of the topics concerned in an Austrian context. The rights of lesbian, bisexual and trans women as well as the rights of women with disabilities were not addressed separately, but were included in the respective contributions, as far as possible.

The statements made in the following contributions represent the opinions and views of the authors.

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## **Article 2 CEDAW – Constitutional framework and implementation of the Convention**

Andrea Ludwig – Klagsverband, [www.klagsverband.at](http://www.klagsverband.at)

The Federal Chancellor's ordinance extending the responsibilities of the regional offices of the Ombud for Equal Treatment came into effect with the first of July 2017. The regional offices' responsibilities now include all grounds of discrimination and all areas of discrimination within the meaning of the Equal Treatment Act. This extension of the regional offices' responsibilities is an important step to offer comprehensive counselling and support to women locally. At the same time, however, it is necessary to also adjust resources to match the higher workload which the regional offices now face.

Because of the very low amount of immaterial compensations in cases of discrimination it can be assumed that cases of multiple discrimination are also not consistently adequately compensated. Since no appropriate way to find judgements drawn from the equal treatment legislation within the legal information system of the federal government (RIS) exists, it is hardly possible to gain a comprehensive overview over the few verdicts and cases of

compensations. For this reason, a precondition for a necessary study would be a consequent way to find these specific verdicts within the RIS.

Austria did not use the amendment to the Equal Treatment Act in 2013 to extend the ban on discrimination outside of the workplace to the areas of religion and ideology, sexual orientation and age, or to embody an effective and comprehensive protection against discrimination for women in Austrian law (Levelling-Up)<sup>1</sup>.

For every draft of legislation, for example, an impact assessment should be commissioned, as also pointed out in the state report, which should be used to examine the ramifications on the genuine equality of women and men. Furthermore, review periods should be complied with.

Demands:

- match the resources of the Ombud for Equal Treatment with its extended responsibilities
- raise the level of protection against discrimination in the access to and supply of goods and services within the Equal Treatment Act (Levelling-Up)
- create a legal standard for minimum compensation for all forms of discrimination
- launch an investigation into the adequacy of compensations for women who are affected by (multiple) discrimination, including a way to find verdicts that specifically draw from equal treatment legislation
- a comprehensive National Action Plan (NAP) for gender equality with inclusion of non-governmental organisations

## **Article 2g CEDAW – Criminal Law, Violation of Sexual Self-Determination**

Valerie Purth, Johanna Schlintl – die Juristinnen, [www.juristinnen.at](http://www.juristinnen.at)

Violations of sexual self-determination are discrimination on the grounds of gender. The gender ratio is unambiguous. Victims are nearly exclusively women, perpetrators are nearly exclusively men. The new § 205a of the Criminal Code (StGB), “violation of sexual self-determination”, which makes intercourse or “sexual acts equitable to coitus” without consent punishable, presents an important step in the recognition of sexual self-determination, especially of women. However, the protection thereof is still incomplete.

### **Sexual harassment**

The offense of sexual harassment (§ 218 StGB) was supplemented with par. 1a: “...whoever hurts the dignity of a person through an intense touch of a body part which is part of this person’s intimate sphere”, must be punished according to par. 1. However, another

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<sup>1</sup>

[https://www.bmgf.gv.at/home/Frauen\\_Gleichstellung/Gleichbehandlung/Gleichbehandlungsberichte/Bericht\\_Evaluierung\\_der\\_Instrumente\\_des\\_Gleichbehandlungsrechts\\_samt\\_Stellungnahmen](https://www.bmgf.gv.at/home/Frauen_Gleichstellung/Gleichbehandlung/Gleichbehandlungsberichte/Bericht_Evaluierung_der_Instrumente_des_Gleichbehandlungsrechts_samt_Stellungnahmen) (5.12.2017)

supplement to § 218 would have been necessary to counter a practice of sentencing which has been using this article restrictively by only assigning an objective sexual context when a part of a person's immediate genitals is touched (the buttocks are excluded from this definition<sup>2</sup>). Such a supplement should add "physical acts which are comparable to sexual acts in kind and intensity and which are related to the sexual sphere in a wider sense" to this article. Moreover, a phrasing like "approximating or closely associated with such an act" would have been more appropriate, since a strict reading of the paragraph's wording can be expected.<sup>3</sup>

### **Evaluation of the law governing sexual offenses**

It is surprising that the number of convictions for the suspicion of rape has been falling<sup>4</sup>, since it could have been expected that the psycho-social and legal assistance in proceedings would potentially lead to more convictions. For this reason, the current evaluation of the reasons for decisions to convict or to acquit in regards to cases of suspicion of rape and sexual assault (§§ 201, 202 StGB)<sup>5</sup> can be seen as a very positive step. However, an evaluation of the procedures of public prosecutors<sup>6</sup>, which are often met with incomprehension by those concerned, is necessary. Instead of thinking about increased penalties, the internal evaluation of the offense of violation of sexual self-determination and sexual harassment (§§ 205a, 218 StGB)<sup>7</sup> which has been announced to take place in 2019, should take a look at judicial sentencing and public prosecutorial procedures. This evaluation should also be accompanied by external legal-sociological studies.

### **Abortion**

The provision of § 97 of the Criminal Code (general prohibition on abortion, provision permitting abortions within the first three months of pregnancy) remains unchanged. This represents a criminalisation of women's right of self-determination and clear discrimination on the grounds of gender.

#### **Demands:**

- consistent recognition and adequate reflection of the principle of consent within the legal framework covering sexual offenses
- mandatory training for the judiciary and police
- comprehensive internal and external evaluations of judicial sentencing and public prosecutorial procedures in the area of sexual offences
- nullification of the stand-alone criminal offense of abortion from the Criminal Code

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<sup>2</sup> RIS-Justiz RS0095204.

<sup>3</sup> Statement by von Ass.-Prof.<sup>in</sup> Mag.<sup>a</sup> Dr.<sup>in</sup> Katharina Beclin, 162/SN-98/ME.

<sup>4</sup> Cf. <http://derstandard.at/2000041008108/Sexuelle-Uebergriffe-Fast-80-Prozent-der-Taeter-sind-Oesterreicher> (6.11.2017)

<sup>5</sup> Cf. [https://oravm13.noc-science.at/apex/f?p=115:3:::NO::P3\\_PROJIDF:31104](https://oravm13.noc-science.at/apex/f?p=115:3:::NO::P3_PROJIDF:31104) (6.11.2017)

<sup>6</sup> Cf. footnote 4

<sup>7</sup> Cf. 728 of the supplements to the stenographic records of the National Council XXV. GP, 12f.

### **Article 3 CEDAW –violence against women within the family**

Despite existing safeguard provisions regarding prevention of violence<sup>8</sup>, victims' rights and victims' protection, there are still severe gaps within the protection against violence. To close these gaps and to curb the still great dimensions of violence – especially against women within the family and in intimate social environments – socio-political strategies on different levels are needed.

The European Commission published a Special Eurobarometer regarding gender-based violence in November 2016. In an EU wide comparison, Austria performs overall below average in regards to attitudes and mind-sets<sup>9</sup>.

Between 2014 and 2016, a central demand of NGOs and of the CEDAW committee has been met with the National Action Plan (NAP)<sup>10</sup>, which was created as part of the Istanbul Convention. However, to effectively implement an NAP, a body with enough resources and competences to coordinate a strategy against violence against women and to oversee its implementation is needed.

The lack of a consistent system of data collection about violence against women and domestic violence makes it impossible to sufficiently evaluate and verify legal and political measures to prevent violence.

Moreover, a professional risk assessment by police and judiciary to prevent homicide is necessary. Here, there should be a focus on threat assessment and multi-institutional cooperation in cases of violence within the families of high risk victims. At the moment, hardly any measures geared towards victim protection in regards to the perpetrator are implemented (such as provisional detention or similar security measures, anti-violence training...). The number of femicides and serious violence against women in relationships in Austria is still high.<sup>11</sup>

Female migrants also have a right to live free of violence. To facilitate this, being able to receive residency status independent of potential offenders or a “special protection” residency permit, among other measures, could be used. Access to these rights is very difficult.

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<sup>8</sup> E.g. GeSchG BGBl 1996/759; 2. GeSchG BGBl 2009/40; Istanbul Convention

<sup>9</sup> *Dearing* in Mayrhofer/Schwarz-Schlöglmann 11.

[https://frauen.spo.e.at/sites/default/files/gewaltbarometer\\_eu.pdf](https://frauen.spo.e.at/sites/default/files/gewaltbarometer_eu.pdf) (14.7.2017)

<sup>10</sup>[https://www.bmgf.gv.at/home/Frauen\\_Gleichstellung/Gewalt\\_gegen\\_Frauen/Nationaler\\_Aktionsplan\\_zum\\_Schutz\\_von\\_Frauen\\_vor\\_Gewalt\\_2014\\_-\\_2016](https://www.bmgf.gv.at/home/Frauen_Gleichstellung/Gewalt_gegen_Frauen/Nationaler_Aktionsplan_zum_Schutz_von_Frauen_vor_Gewalt_2014_-_2016) (19.12.2017)

<sup>11</sup> In the absence of any official gender-specific statistics, the Federal Association of Protection against Violence Centres and Intervention Agencies surveys the homicides in the context of domestic violence every year. 2015, 24 homicides were recorded. Renate Hojas, *Femizide in Österreich - Maßnahmen zur Verhütung*, in: Mayrhofer/Schwarz-Schlöglmann (Hg) (2017), *Gewaltschutz. 20 Jahre Gewaltschutzgesetz und Gewaltschutzzentren/Interventionsstellen*, Wien

Moreover, it should be guaranteed that female migrants who are victims of violence can receive admission into women's shelters for their protection.

Demands:

- a nationwide campaign against domestic violence against women and children
- improvement of the availability of data regarding gender-based violence
- raising awareness of the judiciary for the topics of domestic violence in general within the framework of education and training
- responsible media coverage to contribute to public awareness of the injustice done to women and children affected by domestic violence
- protection of children of women who have suffered from violence, both in cases of direct and indirect violence
- better access to justice and to safety measures for female migrants and refugees
- equality measures for women and men, most importantly reduction of the income gap to eliminate grave economic disadvantages for women which often keep women from escaping abusive relationships.
- sufficient resources to implement complex strategic measures to prevent violence, and also for institutions offering help and support for women affected by violence

### **Article 3 CEDAW – violence against women with disabilities**

Elisabeth Udl – Ninlil, [www.ninlil.at](http://www.ninlil.at)

Women with disabilities in Austria are still confronted with multiple discrimination. Discrimination that women experience because of their gender often affect women with disabilities even more severely. At the same time, there is little public awareness of the needs and concerns of women with disabilities. One reason for this problem is that because of a lack of resources, there is still no independent advocacy group for women with disabilities in Austria.

Women with learning difficulties who live in facilities of the aid for the disabled programme are often subjected to discrimination because of their gender, since gender equality is often only insufficiently implemented into the everyday life in these facilities. For that reason it is especially important to strengthen the position of women in these contexts and to make their

concerns visible. One way to do so would be the implementation of the concept “Commissioner for women’s issues in facilities of the aid for the disabled programme.”<sup>12</sup>

The only way to effectively counter the multiple discrimination of women with disabilities is to focus all efforts on the pursuit of independent living. Many women with disabilities in Austria are still dependent on the support of their social environment. This form of dependence in everyday life promotes the occurrence of psychological and/or physical violence.

Women with disabilities who receive no support from their social environment often have no other choice than to live in a facility of the aid for the disabled programme. The organisational structure necessary in such facilities often clashes with a person’s own wishes for an independent everyday life. Women with disabilities who live in such facilities are often exposed to structural violence.

Both of these problem areas could be solved through a system of personal assistance. However, Austria still does not have any nationwide provision for needs-based personal assistance, which could be used irrespective of a person’s impairment.

Demands:

- allocation of resources to create a nationwide non-governmental women’s advocacy organisation for women with disabilities
- nationwide expansion of peer consultation services for women
- expansion of specific education opportunities for women with disabilities for topics such as empowerment and independent living
- implementation of the concept of a “Commissioner for women’s issues in facilities of the aid for the disabled programme”
- nationwide provision for needs-based personal assistance, independent from income and independent from individual impairment

### **Article 3 CEDAW – Development Policy**

Claudia Thallmayer - WIDE, [www.wide-netzwerk.at](http://www.wide-netzwerk.at)

The Austrian Development Agency (ADA), which is working at the behest of the Federal Ministry for Europe, Integration, and Foreign Affairs (BMeiA), does the most important part of Austria’s development assistance. The 2016-18 three year programme of the Austrian Development Cooperation (OEZA) only includes gender equality as a cross-cutting issue. According to the recent Federal Finance Act, 75% of ADA programmes should have contributed to gender equality. In reality, between the years 2011 and 2015 this goal was only met in the year 2012; the results of other years lay far below that (at 41 to 66%). The

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<sup>12</sup> <https://www.weibernetz.de/frauenbeauftragte/>

percentage of funding for projects with the primary objective of the advancement of women amounted to a modest 2.5 to 10%.<sup>13</sup>

In the case of other bilateral donors (the Development Bank of Austria, other ministries apart from the BMeiA, federal provinces and municipalities), there is a lack of concrete equality-oriented objectives and of a consistent use of the OECD's DAC gender equality policy marker. Equality-oriented projects only represented 12 to 45% of the bilateral Austrian Development Cooperation between the years 2011 and 2015.

On the positive side, the OEZA funding allocated to equality programmes has largely flown into the areas of "social infrastructure" and "population and sexual/reproductive health".

However, very little is done for the economic empowerment of women. One part of this is the reduction of the disadvantages women face for performing unpaid labour in subsistence, domestic and care work. The effort to reduce such disadvantages has also been demanded in CEDAW Article 14 and the Agenda 2030 for sustainable development. To find and implement emancipatory approaches to transforming gender relations, cooperating with feminist organisations would be of special importance. However, women's organisations only receive very little direct support: With the exception of 2013, they only received 0.5% of bilateral funding.

In regards to measures to adapt to and combat climate change, Austria also hardly provides any funds for programmes with a gender-focus. However, there are many examples within the context of development of how rural women, a group especially affected by climate change, can profit from a strengthening of their rights (such as access to land), promotion of clean technologies (such as solar energy for households) and training in sustainable technology in the areas of food, health and education.

Moreover, the percentage of bilateral development cooperation with the least developed countries (LDC) has decreased in the last years, and most funding has been relocated to the support of refugees and migration in their countries of transit and origin. It should be seen critically that Austria is using its development policy more and more for its own agendas of economic and migration policy.

Demands:

-inter-departmental orientation of the OEZA strategy to gender equality (2017)

-adjustment of the OEZA's efforts for the advancement of women (a sum of specific measures and gender-mainstreaming) to the goal of 85% according to the "EU Gender Action Plan II". Establishment of a specific goal of 10% specifically for women's advancement and stronger cooperation with women's organisations. All departments (beyond BMeiA/ADA) should be obligated to reach these goals in bilateral areas.

-acceptance of the goals defined in the "EU Gender Action Plan II" (based on SDG 5) for the equality of the genders as a specific goal – and not just cross-cutting material – in the programme of the OEZA. This means concrete measures in the area of violence against women, advancement of women's social and economic rights as well as social participation of girls and women.

-applying CEDAW's general recommendation No 34, Austria should have its bi- and multilateral climate, trade and financial policy reviewed to identify possible negative consequences for the rights

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<sup>13</sup> Reference source: see appendix

of women in developing countries as declared in CEDAW. Moreover, funding should be provided to develop expertise in order to facilitate political discussion about necessary changes.

-in accordance with CEDAW's general recommendations No 28 and 30, independent organisations should be commissioned with examining the consequences of the EU's border management, which is shifted farther and farther outward, in relation to violence against female refugees and migrants. Cooperation in the area of migration with states in which severe human rights violations have been documented should be suspended.

#### **Article 4 CEDAW –Special temporary measures**

Valerie Purth, Johanna Schlintl – die Juristinnen, [www.juristinnen.at](http://www.juristinnen.at)

The percentage of women in leadership and decision-making positions in the private sector is extremely low.<sup>14</sup> Even if the women's quota, which will come into effect in 2018 and which prescribes a percentage of women of 30% among the members of the supervisory boards of public companies and of companies with more than 1,000 employees<sup>15</sup>, women would still be excluded from leadership positions in the vast majority of companies.

Moreover, the percentage of women in Austrian politics is traditionally low and has decreased even more since 2014 at the governmental, national and provincial level. Only at the municipal level has the percentage of women increased within the same timeframe, however only from 6% to 7%.<sup>16</sup> Individual parties' voluntary commitments to implement systems of alternating men and women on party lists and of minimum percentages of women will not change anything about this. (Also compare article 7 in this report.) As there are no legal provisions for a gender-equal distribution of positions within the political system, equal representation of men and women will not be guaranteed for the future.

Demands:

-temporary women's quotas of at least 40% on all levels of leadership in public companies as well as large and medium-sized companies with more than 50 employees<sup>17</sup> as well as for the leadership of legal corporations and advocacy groups. If this quota is not filled, sanctions should be provided, such as nullification of elections, posts remaining vacant, no benefits for members of decision-making bodies.

-additional initiatives and "soft law" to promote and establish structures and practices complying with gender equality in the private sector

-temporary women's quotas of at least 50% on all political levels; non-compliance should be connected to reductions of the financing of parties, parliamentary groups and party political foundations

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<sup>14</sup> E.g., the representation of women in the management of the 200 highest-grossing companies is still low at 7.2% and has remained unchanged. In the controlling bodies of public companies, it even decreased to 3.9% since 2016 (cf. AK, Frauen Management Report 2017, 16, 23).

<sup>15</sup> The number of public companies is continually decreasing. In 2016, it is at 79. (cf. <https://www.trend.at/geld/studie-oesterreichs-aktienmarkt-impulse-7988381> [27.10.2017]); in 2016, only 176 of overall more than 500,000 companies had 1,000 or more employees. (cf. Austrian Economic Chamber, statistical yearbook 2017, 76)

<sup>16</sup> Cf. <http://derstandard.at/2000050250264/Weniger-Frauen-in-der-Politik-Hohe-Huerden-und-viel-Gegenwind>

<sup>17</sup> <https://www.wko.at/service/zahlen-daten-fakten/KMU-definition.html> (27.10.2017)

-national Action Plans to further the percentage of women in politics (connected with financial incentives)

### **Article 5 CEDAW – Stereotypes**

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#### **Re recommendation 23 a) of the UN’s CEDAW committee: Traditional attitudes and stereotypical roles in childcare**

The legislature has taken welcome steps with the amendment to the child allowance legislation (KBGG) and the granting of a bonus for fathers during family leave (law governing family leave and related bonuses, FamZeitbG<sup>18</sup>). However, employees in the private sector of the economy still have to negotiate to get unpaid “daddy month” leave. A legal right should be created here. Also, special protection from dismissal would be necessary. The creation of protection from dismissal for having exercised their right to take family leave in the Equal Treatment Act (GIBG) does not appear to be sufficient.

#### **Re recommendation 23 d) of the UN’s CEDAW committee: idealized imagining of beauty, models, retouched images**

The depiction of very thin models contributes to eating disorders and to increased demands for aesthetic surgery operations. A welcome step has been taken with a law regulating the implementation of aesthetic procedures and treatments<sup>19</sup>. As the committee recommended in 2013, a specific advisory body for women and girls who want to undergo aesthetic surgery procedures should be established.

#### **Re recommendation 23e of the UN’s CEDAW committee: sexism in advertisement**

The goal to reduce sexist portrayals in the advertising and media landscape has not been sufficiently pursued. Self-regulation by the advertising industry does not offer effective ways to impose penalties for non-compliance. The appointment of an anti-sexism committee to advise the Austrian Advertising Council on its decisions, the retouch barometer on the website of the advertising council and the creation of advertising watch groups on the provincial level are all welcome improvements. Moreover, we also demand nationwide legal regulation plus effective means to control compliance and sanction non-compliance.

### **Intersex people**

Intersex people are routinely victims of medical procedures based on gender stereotypes which are meant to “correct” their external genitalia. Moreover, they are not acknowledged in the legislation governing civil status. For this reason, we demand that medical procedures must only be conducted with the “informed consent” of the person concerned. Also, a third option should be created when registering a person’s gender (for example, “inter”, “other”, “X”).

Demands:

-legal right for fathers to claim “daddy leave” including a special protection from dismissal

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<sup>18</sup> BGBl I 2016/53.

<sup>19</sup> BGBl I 2012/80.

- establishment of an advisory body for women and girls who want to undergo aesthetic surgery procedures
- nationwide legal regulations against sexist advertisement with means of control and sanctioning
- medical procedures on intersex people may only be conducted with “informed consent”
- establishment of a third option for registering an intersex or non-binary person’s gender

## **Article 6 CEDAW – Trafficking of Women**

Isabella Chen, Evelyn Probst – Lefö-IBF, [www.lefoe.at/index.php/ibf.html](http://www.lefoe.at/index.php/ibf.html)

Human trafficking of women is a complex crime and a serious violation of human rights. From a human rights perspective, structural discrimination benefitting trafficking of women must be taken into account.

The rights of women and girls who are exploited within refugee contexts are threatened by deportations to their country of origin or repatriation according to the Dublin III regulation. Efforts to identify women as victims of human trafficking are countered by restrictive asylum policies, which often cause women to be deported before they can exercise their rights as victims.

Temporary residency for those affected by human trafficking according to §57 of the Austrian asylum law (AsylG)<sup>20</sup> is issued for one year at a time and is connected to a criminal procedure and thus to the victim’s willingness to testify. Moreover, it has to be ensured that female EU citizens who are victims of human trafficking receive a registration certificate. To make psychosocial support structures efficient, there needs to be some form of residency or registration certificate. Women who have no residency are dependent on the organisations that are supporting them and don’t have access to medical care or the labour market.

The awareness-raising efforts which are also envisaged by the National Action Plan<sup>21</sup> have contributed to a higher number of (potentially) affected women who are transferred by government agencies or NGOs. For this reason, these efforts have to be continued.

Even though compensation are increasingly granted to victims in a criminal context, there are systemic and practical obstacles to the pay-out of these compensations to the victims. The enforcement of claims for compensation is dependent on the recovery and seizure of assets. In most investigations no consideration is taken of this, which poses a restriction on the rights of the victims.

Demands:

- different forms of exploitation, especially the exploitation of domestic workers, have to be detected and identified
- victims of human trafficking must not be deported, instead they must be offered unconditional protection, security and support, so they can exercise their rights as victims

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<sup>20</sup> BGBl I 2017/145.

<sup>21</sup> Cf. Task Force Menschenhandel, National Action Plan to combat human trafficking, years 2015-2017

-for all those affected by trafficking of women, a secure residence permit has to be created, independent of their testimony in criminal proceedings. This residence permit must be connected with access to the labour market and a right to claim health insurance

-networking and awareness raising for all actors in the refugee context in order to facilitate correct transferrals and protection of access to rights

-recovery and seizure of assets to secure or cover claims for compensation

## **Article 6 CEDAW – Sex work**

Melanie Hamen – maiz, [www.maiz.at](http://www.maiz.at)

Most registered workers in the sex work sector are still migrants, many of them EU citizens. There are hardly any legal possibilities for non-EU citizens in this field to stay and work in Austria. Restrictive migration policies and unequal access to the labour market are thus facilitating labour exploitation and human trafficking. A strict distinction between human trafficking/trafficking of women and sex work as well as strengthening the rights of sex workers are basic requirements to improve sex workers' working and living conditions.

Following the judgement of the Austrian Supreme Court (OGH)<sup>22</sup> in the year 2012, sex work is not per se “immoral” anymore. However, this has not had an effect on the (labour) rights of sex workers to date.

Specific regional guidelines, such as the Upper Austrian law regulating sexual services, the Viennese Prostitution Act, but also the Tyrolean regional police law, which has been amended in 2017, all serve first and foremost to control the industry and prevent initiation and practice of street-based sex work. These restrictive regulations facilitate dependencies, principally those of sex workers. Sex workers' choices of where and how to work are sometimes seriously restricted.

Since 1<sup>st</sup> of January 2016, sex workers only have to undergo mandatory medical check-ups every 6 months, but those check-ups still present an invasion of privacy and a violation of the protection of sex workers' bodily integrity.

The current range of specific counselling services for sex workers is threatened at the moment, since future funding for some institutions is not guaranteed.

Demands:

-a complete decriminalisation accompanied by equalisation of sex work with other forms of (self) employment would mean more rights, choices and autonomy for sex workers and thus an improvement of their living and working conditions.

-elimination of compulsory check-ups would protect sex workers' privacy and their bodily integrity. Instead of these check-ups, comprehensive services for sex workers should be created, which could be made use of voluntarily.

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<sup>22</sup> OGH 18.4.2012, 30b 45/12g.

## **Article 7 CEDAW – Political participation and representation**

Sonja Ablinger, Brigitte Hornyik – Österreichischer Frauenring, [www.frauenring.at](http://www.frauenring.at)

In Austria there are no legally binding measures to improve the representation of women in politics. Article 7 subparagraph 2 of the Federal Constitutional Law (B-VG) only contains a national objective and a pledge to create genuine equality between genders.

Voluntary commitments of political parties have only very little impact, as a case from the year 2015 illustrates. After the passing of sitting National Council President Barbara Prammer (Social Democratic Party Austria, SPÖ) in the summer of 2014, controversies within the party arose, when in spite of the bylaws of the SPÖ a man was newly appointed to the National Council instead of a woman. Because of this, the percentage of women in the party dropped to 32.7% and thus was far from the quota laid down in the party's bylaws.

An especially drastic example for the way in which men still dominate Austrian politics was given when the new provincial government of the province of Upper Austria was sworn in in October 2015. During the election on the 25<sup>th</sup> September of 2015, the Austrian People's Party (ÖVP) and the SPÖ each lost one seat within the provincial government to the Freedom Party of Austria (FPÖ). The only two female members of government (from the ÖVP and the SPÖ) had to leave, all other male members of the provincial government stayed in their positions and on the 23<sup>rd</sup> October of 2015 a new provincial government, made up of nine men, was sworn in.<sup>23</sup>

Demands:

-commitment to make the percentages of women and men in governing bodies transparent – up to now only the Austrian Parliament and the Viennese provincial parliament keep statistics regarding the gender ratio of members of decision-making bodies.

-general mandatory quotas for women in the federal constitution. On the level of ordinary law accompanying measures must be taken to promote the political participation of women, as was also suggested, for example, by a motion during the 20<sup>th</sup> legislative session – 146/A XX.GP. This motion was based on Austria's international law obligation caused by CEDAW. By amending the Political Parties Act, the law governing the rules of procedure of the National Council, and the law on the financing of parliamentary groups, as well as the Journalism Subsidies Act and the election procedure of the National Council, the percentage of women in Parliament should be raised.

-men and women should be mentioned equally in all laws.

-collective redress mechanisms like collective action for women's organisations, since people affected by the kind of actions described above often don't make use of legal remedies for political reasons – see also the example of the Upper Austrian provincial government at the beginning of this article. The inquiry process in accordance with article 8 of the optional protocol is likely not expedient in these cases.

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<sup>23</sup> Cf.

[http://www.frauenring.at/sites/default/files/artikel/Frauenring\\_Repraesentation\\_von\\_Frauen\\_StandNov2015.pdf](http://www.frauenring.at/sites/default/files/artikel/Frauenring_Repraesentation_von_Frauen_StandNov2015.pdf) (14.11.17); in 2017, the percentage of women in the National and Federal Council is at 30%, see <http://www.parlament.gv.at> (14.11.17)

-non-EU citizens living and working in Austria should be allowed to cast their votes in municipal elections, independent of their citizenship.

### **Article 9 CEDAW – Citizenship**

Katharina Echsel – Peregrina, [www.peregrina.at](http://www.peregrina.at)

Formally, the equality between women and men within citizenship law has been realised with the Citizenship Law Amendment of 1983. In reality, though, especially the requirements in the criterion of a person's ability to support themselves are set so high that it has a structurally discriminatory effect on women who are seeking to be awarded citizenship. Under the heading of "sufficiently secured livelihood", income far above the indicative rates of guaranteed minimum income are required for three out of the last six years before the filing of the application. Only a person's own income, legal claims to maintenance and insurance benefits are considered here. Unpaid labour, such as child care, house work or the care of close relatives – all kinds of work which are still mostly done by women – are not taken into account. As the only exception, the reception of child allowance within the last six months before filing of the application is counted as sufficiently secured livelihood.

These high income thresholds are, especially for women with multiple responsibilities such as single mothers and women working in low-wage sectors, often not attainable.<sup>24</sup>

The criteria of income, which were exclusively aimed at the ability of a person to financially support themselves, had to be changed in 2013 because of pressure by the Austrian Constitutional Court. Now, hardships incurred by no fault of one's own, especially serious illness and disability (to only mention some items on this list), also have to be taken into account. However, in practice this exemption clause is handled restrictively, which is why it will hardly benefit the groups of people mentioned above, even though there can be no exact statements made in this regard since statistical assessments or inquiries here are lacking.

To impede the structural discrimination of women within the framework of citizenship law, given these circumstances, income criteria would have to be completely foregone. Since there are a high number of other conditions for a person to be granted citizenship, they would also be expendable.

Demands:

-waiving of income criteria in the process of granting citizenship

### **Article 10 CEDAW – Education**

Andrea Leitner, Angela Wroblewski – Institut für Höhere Studien, [www.ihs.ac.at](http://www.ihs.ac.at)

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<sup>24</sup> According to the EU's statistics on income and living conditions 2016, 43% of residents with non-Austrian citizenship are threatened by poverty and marginalization. Third-country nationals are most notably affected. Gender-specific data originated in 2011. In 2011, the annual net income of Austrian women was at 18,400 Euro; for female foreigners, it was 3,100 less. The average income of Turkish women was at 12,900 and thus about 5,500 Euro below that of Austrian women (cf. Migration & Integration. Schwerpunkt Frauen. Zahlen, Daten, Indikatoren 2013/2014. Herausgegeben vom Österreichischen Integrationsfonds, Wien 2014.)

Early school dropout and educational deprivation are still problems related to women's equality, especially for young women with migrant backgrounds<sup>25</sup>. Girls with migrant background have a nearly three times higher risk of dropping out of school than the average, making gender differences disappear: 29% of 15 to 24 year old girls with migration background only completed compulsory education, at most, and are not currently pursuing any secondary education (compared to 11% according to Statistics Austria, "Monitoring of Education-related Employment Behaviour", 2012; see also Steiner, Pessl 2015). There are no further studies on the causes for the high proportion of school dropouts among girls with migration background. This means that there are no empirical foundations to support any deliberate reduction of these girls' risk of dropping out of school. However, it can be assumed that social background plays an even bigger role in the at-risk group of women with migration background, because of gender roles and the influence of their parents' educational level on the education of their children, than is the case with people dropping out of school in general. For women, dropping out of school is often caused by gender roles, pregnancies, support of family members or mobbing, while in the case of men, conflicts, punishment, exclusion and special education needs are cited as more likely causes. Studies about the influence of their social background show that girls from educationally deprived families and families with a lower social status are more affected by their parents' educational level and are less likely to advance than boys (Alzinger et al. 2013).

Demands compulsory schooling:

- study on girls with migration background dropping out of school
- more education support and career counselling for girls who are vulnerable to school dropout, especially girls with migration background.

The tertiary education sector is still characterized by its pronounced horizontal segregation (under-representation of women in technical and scientific studies) and the leaky pipeline, meaning the marked decline of the percentage of women on higher levels of the hierarchy (from 52% of women among students to 24% of women among professors in 2016<sup>26</sup>). It is problematic that even in the newly created instrument of tenure track positions only every third position is filled with a woman, which reinforces existing conditions.

To dismantle the current gender differences, the reinforcement of equal opportunity policies in tertiary institutions and the building of gender expertise for people in leading and decision-making positions, but also within the courses, are urgently needed. Engaging with gender is still voluntary in most courses. For that reason, we cannot assume that enough gender expertise is built during courses at tertiary institutions to prompt changes of gender role stereotypes.

Demands tertiary education:

- adjust the standards for equality in universities of applied sciences (Fachhochschulen) and private universities to those of public universities
- make the building of gender expertise an explicit objective of tertiary education institutions
- break down barriers for women when trying to enter professorships and tenure track positions

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<sup>25</sup> Reference source: see appendix

<sup>26</sup> See [www.bmwf.gv.at/unidata](http://www.bmwf.gv.at/unidata)

## Article 10c CEDAW – Stereotypes in Education

Claudia Schneider – EfEU, [www.efeu.or.at](http://www.efeu.or.at)

For many years, Austria has been deploying a range of education policy measures<sup>27</sup> to respond to gender-specific inequality. Because of this, a slightly increasing percentage of girls and a decrease of segregation in gender-typical school types (compare equality indicator<sup>28</sup>) can be observed. Many career orientation services conducted by associations (such as counselling centres for girls, or outside experts) have more of a compensatory effect and only have a limited sustainable impact on the system.

In national and international proficiency and competence tests<sup>29</sup>, the gender gap in mathematics and science is growing to the disadvantage of girls.

Besides gender, the most important determinant for academic performance in Austria are migration background, multilingualism, the socioeconomic status of one's parents and especially their educational qualifications<sup>30</sup>. There is a lack of effective measures to reduce these disadvantages, as well as a lack of appropriate equal opportunity objectives or indicators.

The new form of teacher training began in 2015 for primary school and 2016 for secondary school; there are no standardized curricula for all of Austria. Gender expertise is covered in the curricula, according to the quality assurance council for teacher education (Qualitätssicherungsrat für Pädagoginnen- und Pädagogenbildung, QSR); however, the depth in which they deal with the subject varies. A monitoring by the QSR is being prepared. We have to wait to see how the new teacher training performs.

The fundamental decree on “Education for Gender Equality”<sup>31</sup> is currently (autumn/winter 2017) being redesigned. Both a new title and a completely new text are supposed to prevent an orientation towards binary gender logic.

Demands:

-monitoring or evaluation of gender relevant curricula and of their implementation in the classroom.

-enhanced qualification of educators through education and training on:

- building of gender expertise apart from gender-essentialist heteronormative difference approaches
- gender and sexual diversity, reduction of discrimination and mobbing on the grounds of homophobia and transphobia<sup>32</sup>

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<sup>27</sup> E.g. gender-sensitive vocational orientation in the curricula for grades 7 and 8, qualification programmes for women in gender-atypical vocations, shared classes for textile and technical work in new secondary schools (NMS) since 2012, in grammar schools (AHS) starting 2020.

<sup>28</sup> BKA Bundeskanzleramt Österreich (Hg.) (2016): Bericht zur Wirkungsorientierung 2015 gemäß § 68 (5) BHG 2013 iVm. §7 (5) Wirkungscontrollingverordnung. Wien

<sup>29</sup> Bifie (2016): PISA 2015: Zusammenfassung der ersten Ergebnisse, in: Bruneforth, M. et al. (Hg.) (2016): *Nationaler Bildungsbericht Österreich 2015, Band 2: Fokussierte Analysen bildungspolitischer Schwerpunktthemen*. Graz; OECD (2016): „Austria“, in: *Education at a Glance 2016: OECD Indicators*, OECD Publishing, Paris; Claudia Schreiner/Simone Breit (Hg.) (2014): Standardüberprüfung 2013 Mathematik, 4. Schulstufe. Bundesergebnisbericht. Salzburg; Claudia Schreiner/Simone Breit(Hg.) (2012): Standardüberprüfung 2012 Mathematik, 8. Schulstufe. Bundesergebnisbericht. Salzburg

<sup>30</sup> Birgit Suchaň/Simone Breit (Hg.) (2016): PISA 2015. Grundkompetenzen am Ende der Pflichtschulzeit im internationalen Vergleich. Graz sowie FN 9

<sup>31</sup> <http://pubshop.bmbf.gv.at/download.aspx?id=642> (19.12.2017)

- intersectionality
- diversity sensitive education
- reflexion of educational practice

-career and life planning as early as primary school and comprehensive responsibility for child care – “caring masculinity”

-analyses and replacement of text books

-research and building of know-how of educational selection mechanisms regarding socioeconomic determinants

-Discourse about gender justice without culturalisation to dispel culturalised/racist images of migrants and refugees.

### **Article 11 CEDAW – Labour Market**

Sybille Pirklbauer – Arbeiterkammer Wien, [www.wien.arbeiterkammer.at](http://www.wien.arbeiterkammer.at)

At 68%, the employment rate of women in Austria is higher than the EU-28 average of 61% - partly because 47% of all female employees were working part-time in 2016 (male employees: 12%, AKE 2016<sup>33</sup>).

The gender pay gap is one of the highest in the EU, at 22% in regards to hourly wages. Moreover, women are considerably overrepresented in low-wage sectors, at 23.1% (men 8.7%, Statistics Austria, VESTE 2010<sup>34</sup>). For this reason, many women do not earn a living wage.

Even though women formally have higher educational qualifications than men, they are underrepresented in the STEM sector (science, technology, engineering, mathematics). This is especially distinct in apprenticeship positions, only a third of which is filled by young women – girls hardly stand a chance in male-dominated sectors (WKO 2016<sup>35</sup>).

Demands:

-nationwide full-time childcare facilities (starting from infancy), schools and facilities for the care and support of adults.

-advancement of transparency of pay, mandatory linking to measures combating inequality

-living minimum wage (of at least 1,700 Euro before taxation)

-redesign of family support to create incentives for both parents to share responsibilities

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<sup>32</sup> cf. Leitfaden für Schulbücher: Zentrum polis (Hg.) (2016): Empfehlungen für nicht-diskriminierende Schulbücher, Fokus Gender und sexuelle Orientierung. Wien; download: [www.politik-lernen.at/dl/MpulJMJKomloIjqx4KJK/edpol\\_2016\\_Nicht\\_diskriminierende\\_Schulbuecher\\_web.pdf](http://www.politik-lernen.at/dl/MpulJMJKomloIjqx4KJK/edpol_2016_Nicht_diskriminierende_Schulbuecher_web.pdf)

<sup>33</sup> Statistik Austria, Arbeitskräfteerhebung, [http://www.statistik.at/web\\_de/statistiken/menschen\\_und\\_gesellschaft/arbeitsmarkt/arbeitszeit/teilzeitarbeit\\_teilzeitquote/index.html](http://www.statistik.at/web_de/statistiken/menschen_und_gesellschaft/arbeitsmarkt/arbeitszeit/teilzeitarbeit_teilzeitquote/index.html) (11.12.2017)

<sup>34</sup> Tamara Geisberger, Ausmaß und Struktur der Niedriglohnbeschäftigung in Österreich 2010, in: Statistische Nachrichten 11/2017

<sup>35</sup> Lehrlingsstatistik der Wirtschaftskammer Österreich 2016; <http://wko.at/statistik/jahrbuch/Folder-Lehrlinge2016.pdf>

- improvement of equal treatment legislation (option of collective action, higher compensation)
- gender sensitivity as a basic principle in all educational training, mandatory gender-sensitive vocational and educational orientation in schools
- services for unemployed and employed women to improve their occupational qualifications<sup>36</sup>, better access to the labour market for migrant women.

## **Article 12 CEDAW – Women’s Health**

Felice Gallé – Frauengesundheitszentrum Graz, [www.frauengesundheitszentrum.eu](http://www.frauengesundheitszentrum.eu)

Health has a gender! The meaning of social and biological gender (gender and sex), however, is still not factored in enough. Discrimination and barriers to access in the health care system compromise the health of women and girls in Austria<sup>37</sup>. For this reason, measures on individual and structural levels are necessary.

The cutback in social benefits, the development of the labour market and the situation of refugee women and girls present current challenges. This further proves that the cross-cutting issue of women’s health needs coordinated measures in the social, education, health, youth, integration and economic sector.

Demands:

- removal of obstacles when accessing the health care system as well as target-group-specific measures to promote health and patient care specifically for marginalized groups of women, such as migrants, women with disabilities, lesbian, bisexual and trans women.
- low-threshold access to birth control, takeover of the costs by health insurances at least for young women and women with no or low income, accompanying independent counselling.
- implement mandatory quality-assured, gender-equitable sex education offerings by external female and male experts in all schools.
- secure or establish low-threshold information centres even in rural areas and a women’s health centre in every province.
- implement target-group-specific measures to reinforce health literacy especially in socially disadvantaged and older women as well as female asylum seekers.
- expand and secure measures to strengthen women’s mental health, including psychotherapy with interpreters.

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<sup>36</sup> There are some very good individual projects, such as „FRECH – Frauen ergreifen Chancen“ for working women in Vienna (<https://www.wien.gv.at/arbeit/waff/frech.html>) or FIT – Frauen in die Technik (<http://www.fitwien.at>) or „Learn forever“ für bildungsferne Frauen (<http://www.learnforever.at/>); this kind of services should be available nationwide.

<sup>37</sup> Bundesministerium für Gesundheit (2011): Frauengesundheitsbericht 2010/2011. Wien. Bundesministerium für Gesundheit und Frauen (2017): Aktionsplan Frauengesundheit. 40 Maßnahmen für die Gesundheit von Frauen in Österreich. Wien. Bundesministerium für Gesundheit, Bundesministerium für Bildung und Frauen (2015): Gesundheitliche Situation von Frauen in Österreich. Grundlagen für die Entwicklung des Aktionsplans Frauengesundheit. Wien.

-create structures for the involvement of women in the health care system as insured people, consumers and patients and introduce quotas for leading and decision-making levels.

-create mandatory standards for women-specific, gender-equal research, publications, health promotion, health care and health information, according to international standards and models, especially in relation to public funding and the creation of expertise.<sup>38</sup>

### **Article 13 CEDAW – other areas of economic and social life**

Petra Leschanz – Frauenservice Graz, [www.frauenservice.at](http://www.frauenservice.at)

Women's access to other areas of social and economic life in Austria is still significantly impaired by their higher likelihood to be affected by poverty<sup>39</sup>, the unequal distribution of care responsibilities, and the obstacles to their participation in socio-political processes.

Demands:

-effective measures to reduce poverty among working women and retirement poverty, as well as redistribution of care work.

-alimony advance by the state that secures a living for single mothers and decoupling of alimony from the capability of the person with maintenance obligations.

-family allowance<sup>40</sup>: Eradication of legal and factual obstacles (especially for female EU-citizens, women in asylum procedures and sex workers). Explicit commitment for revenue services to determine the right of residence according to the EU directive regarding European Union citizens<sup>41</sup> independently; nationwide uniform, feasible solutions for assessing the income of sex workers, entitlement to family allowance for women in asylum procedures.

-family benefits on a provincial level: Apart from an entitlement according to §2 of the Austria Family Charges Equalisation Act, proof of social need (such as receipt of primary care, needs-tested minimum income, social assistance, etc.) should suffice as a prerequisite to receive family passes, concessions on public transport and cultural events, financial aid for school trips, eligibility for free rides and similar benefits.

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<sup>38</sup> Frauengesundheitszentrum (2017): Internationale Vorgaben und Vorbilder. In: Gesundheitskompetenz und –information, [www.frauengesundheitszentrum.eu/gesundheitskompetenz](http://www.frauengesundheitszentrum.eu/gesundheitskompetenz) (19.12.2017)

<sup>39</sup> At a rate of 19%, women are more often threatened by poverty or marginalization than men (16%). One-parent households (predominately single mothers with their children) are in the highest danger of being marginalized, according to the type of household, with 38%. Female pensioners who live alone have a higher risk of male pensioners living alone – 20% to 11%. Source: Statistics Austria

<sup>40</sup> Family allowance in accordance to the CEDAW are all financially relevant supporting measures which are aimed at families. Cf. Kommentar zum UNO-Übereinkommen über die Beseitigung jeder Form der Diskriminierung der Frau (CEDAW und Optional Protocol) (2015), Wien, Art. 13, Rz 18

<sup>41</sup> Directive 2004/38/EC of the European Parliament and the Council 29 April 2004

-legal establishment of the invalidity of guarantee contracts when guarantors neither have assets nor sufficient income (such as free shares of income above the indicative rates of § 293 of the Social Security Act (ASVG)). Liability of banks for translation deficiencies when concluding a contract. Provisionally invalid guarantee contracts until independent legal advice has been obtained.

-associations and institutions which significantly shape social life (in particular in rural areas), such as art clubs, Alpinist associations<sup>42</sup>, sport clubs, social clubs, musical societies, volunteer fire brigades<sup>43</sup> etc., should only receive public subsidies under the stipulation that they present their effective measures for the promotion of women in regards to active membership, filling of positions in governing bodies and the possibility of access without discrimination.

#### **Article 14 CEDAW – Women in rural areas and in agriculture**

Monika Thuswald, Maria Vogt – Österreichische Berg- und Kleinbäuer\_innen Vereinigung (ÖBV-Via Campesina Austria), [www.viacampesina.at](http://www.viacampesina.at)

The situation of rural women and women working in agriculture has not improved in the past period. Women are severely underrepresented in leadership positions in agricultural politics and administration. The close party association and exclusive funding of the dominating women farmer's organisation, which deals with cultural and customs preservation more than with socio-critical political issues, creates an environment that upholds the existing system and does little to further emancipation for women in rural areas. The number of women running farms is declining again. Women are assisting workers twice as often as men. Women are severely disadvantaged in their access to land, for example because of the tradition of farms being passed on to sons. Furthermore, there is a lack of gender-disaggregated data on the labour and ownership situation in agriculture.

Demands:

-social protection of women in agriculture in regards to topics like pension claims, marriage contracts, takeover agreements etc., as well as awareness-raising campaigns on these topics

-measures to improve women's access to land and to encourage and financially and legally support "unconventional" types of farms: e.g. Mediation of extra-family farm transfers, equalisation of farm communities in regards to obtaining funding, etc.

-education: Abolishment of the division into agricultural schools (attended mainly by boys) and rural domestic economics schools (attended mainly by girls), so that women who wish to run an enterprise after finishing their education are on equal terms with men (e.g. when applying for funds)

-resources: Reduction of the ceiling for investment incentives in the rural development programme; moreover, eligibility criteria should concern the production of public goods, according to the motto of "public money for public goods"; simplification of the application procedure for investment amounts of less than 10,000 euro.

-improvement of labour rights of female (seasonal) workers in agriculture, as well as greater control of their implementation and sanctioning of violations

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<sup>42</sup> Nowack, Rappich, Weißensteiner, Noch immer nicht selbstverständlich. Frauen in alpinen Vereinen, Bergauf (4/2017)

<sup>43</sup> Vgl. Steirischer Feuerwehrverband (Styrian association of fire fighters): The percentage of women in voluntary fire brigades is at 5% throughout Styria; in the capital at 20%; for fire brigade youth at 20%.

-fair distribution of resources between organisations and educational facilities for women in rural areas and in agriculture with different content-related orientations

-gender-disaggregated collection and publication of data on property, work performance and remuneration in agriculture

-the “UN declaration on the rights of peasants and other people working in rural areas”, which is currently being prepared by NGOs and the UN<sup>44</sup>, should be undersigned and actively supported by Austria

### **Article 16 CEDAW – Equality in marriage and family issue**

Karin Mayer, Barbara Smetschka – FAMOS, [www.regenbogenfamilien.at](http://www.regenbogenfamilien.at)

By December 2018, lesbian women and trans and intersex people with female status still do not have the same right to marriage as heterosexual women: marriage between two people of the same gender is still prohibited in Austria (§ 44 General Civil Code (ABGB)).

For same-sex couples, “registered partnership” exists since 2010 and contains inferior terms in comparison with civil marriage. Some, but not all discriminatory differences between those two kinds of civil law partnerships have been removed since its inception. But just the fundamental difference between two different kinds of partnership on the grounds of sexual orientation stays discriminatory: For example, a person who states that their marital status is “living in a registered partnership” to government agencies or to their employer, etc., is thus forced to out themselves as “homosexual”, since it is not permitted by law to state they are “married”.

Opening up marriage for same-sex couple has been attempted through legislative initiatives on the topic in the National Council several times, the last time being June 29<sup>th</sup>, 2017. In 2017, change happened not because of political efforts, but because of juridical reasons, as the marriage ban for same-sex couples was examined by the Constitutional Court.<sup>45</sup>

This positive development is a nice step on the path to equality. The CEDAW Committee will have to monitor the constitutional implementation of the verdict, which comes into effect on the first of January 2019.

In regards to the legislation regulating family foundation, three essential improvements have been made for lesbian women: the possibility of stepchild adoption for the mother’s partner (2013), access to medically assisted reproduction for lesbian women (2015) and the opening of general adoption to same-sex couples (2016).

Following the decision to open marriage to all, it is now important to pay attention to the according equalisation in regards to a) parenthood by default, and b) child-care allowance:

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<sup>44</sup> Via Campesina: <https://viacampesina.org/en/new-step-forward-process-un-declaration-rights-peasants/>  
UN: <http://www.ohchr.org/EN/HRBodies/HRC/RuralAreas/Pages/WGRuralAreasIndex.aspx> (9.1.2018)

<sup>45</sup> VerfGH 4.12.2017, G258-259/2017-9.

a) For children born into a valid marriage (or within 300 days after the existence thereof), the spouse of the child's mother is legally the child's/the children's father. A female "registered partner" has to request to be made a parent to her partner's biological child through stepchild adoption in court. Parenthood by default in registered partnerships only occurs in the case of medically assisted reproduction. Female migrants face even more disadvantages: parenthood by default can only happen if the child's biological mother is an Austrian national.

b) The option for both parents to receive child-care allowance, which was expanded in 2017, only insufficiently considers the parenthood of lesbian women. If two women who are in a partnership give birth in a short interval, at least one of both has to work again after her maternity leave ends, since only one parent can draw child-care allowance.

In relation to the legal protection of women in co-habitational relationships – especially in regards to division of property and alimony in case of the dissolution of the co-habitation – no improvements have been made.

Demands:

- option to receive child-allowance simultaneously, if both partners give birth to a child.
- education and training on the topic of LGBT families in the education and care professions
- support for counselling, networking and visibility for LGBT families

### **Article 16b CEDAW – Marriage only with free consent**

Selda Yücel – Orient Express, [www.orientexpress-wien.com](http://www.orientexpress-wien.com)

Since 1<sup>st</sup> January 2016 "forced marriage" is a criminal offence<sup>46</sup>. However, the introduction of a criminal offense isn't sufficient to protect girls and women in the private domain. Some improvements were made with the opening of an emergency shelter for girls and young women threatened and affected by forced marriage, as well as with the nationwide inception of the co-ordination centre for abduction and forced marriage<sup>47</sup>.

However, in some areas specific measures are urgently needed and can only be realised if more resources are provided.

Demands:

- opening of further emergency shelters and contact points for those affected or threatened by forced marriage
- data collection
- resources for research and studies
- specific measures to sensitise the population in regards to the topic of forced marriage as a type of violence

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<sup>46</sup> see § 106a Strafgesetzbuch (StGB), BGBl I 2015/112.

<sup>47</sup> see: Orient Express Wien, <http://www.orientexpress-wien.com> (9.10.2017)

-expansion of training and sensitisation opportunities for different occupational groups such as the judiciary, police, medical and teaching staff

-enhanced prevention and educational work in schools and in youth outreach

## **Appendix: Literature and Sources**

### **Article 3 – Development Policy (Claudia Thallmayer)**

Bundesministerium für Europa, Integration und Äußeres: ODA-Berichte 2012, 2013, 2014, 2015 siehe: <http://www.entwicklung.at/mediathek/publikationen/berichte/> (9.1.2018)

Federal Ministry for Europe, Integration and International Affairs (2017): Gender Equality and the Empowerment of Women and Girls, Implementing the EU Gender Action Plan II 2016–2020, siehe [http://www.entwicklung.at/fileadmin/user\\_upload/Dokumente/Publikationen/Leitlinien/Englisch/PD\\_Gender\\_2017\\_EN.pdf](http://www.entwicklung.at/fileadmin/user_upload/Dokumente/Publikationen/Leitlinien/Englisch/PD_Gender_2017_EN.pdf) (9.1.2018)

OECD-DAC (2016, 2017): Aid in Support of Gender Equality and Women’s Empowerment (Donor Charts etc.), siehe <http://www.oecd.org/dac/gender-development/aidinsupportofgenderequalityandwomensempowerment.htm> (9.1.2018)

### **Artikel 10 – Education (Andrea Leitner, Angela Wroblewski)**

Altzinger, Wilfried; Lamei, Nadja; Rumplmaier, Bernhard & Schneebaum, Alyssa (2013). Intergenerationelle soziale Mobilität in Österreich. Statistische Nachrichten 2013/1, 48-62.

BMBWF (2018, forthcoming), Universitätsbericht 2017, Wien.

Steiner Mario, Pessl Gabriele & Bruneforth Michael (2016) Früher Bildungsabbruch – Neue Erkenntnisse zu Ausmaß und Ursachen, in: Bruneforth Michael et al. (Hg) Nationaler Bildungsbericht Österreich 2015, Band 2, S. 175-220.