



AUSTRIA

BODILY INTEGRITY

In July, the UN Committee on the Elimination of Discrimination against Women (CEDAW) recommended Austria to implement a human rights based healthcare protocol for intersex persons, ensure that intersex children and their parents are fully informed of all options, that children are involved in the decision making process and that no one is subjected to surgery or treatment without their free, informed and prior consent.

In August, the Ministry of Health published its recommendations on healthcare provision for intersex people. The Ministry failed to recommend banning non-consensual and medically unnecessary surgeries performed on intersex children. The recommendations support peer counselling and psycho-social support to intersex people and their families.

EMPLOYMENT

On 15 January, the Court of Justice of the European Union ruled that Austria must compensate a man for longstanding discrimination in his pension provision. The man was a highly decorated police officer who was convicted and discharged in 1976 for being gay, under Article 209 of the Criminal Code at the time. As a consequence, his pension was cut by 25 per cent. The Federal Court had ruled against any compensation in 2016.

EQUALITY AND NON-DISCRIMINATION

The CEDAW recommended Austria to ensure substantive and procedural protection against discrimination on the basis of sexual orientation in the private and public sector.

FAMILY

Although a number of same-sex couples were already able to get married late last year, following the 2017 Constitutional Court's decision, same-sex marriage officially became available from January this year. On 2 January however, the Ministry of Interior emailed to local governments and relevant magistrates that an Austrian citizen and a foreign national are only allowed to marry, if same-sex marriage is legal in the foreign national's home country. The judiciary committee of the National Council ruled in June that this restriction was unlawful.

The Administrative Court in Vienna ruled in May that the children of a Mexican-Austrian married lesbian couple must be granted citizenship and an Austrian passport. The family lives in Mexico.

HEALTH

In December, the Ministry of Social Affairs lifted the lifetime ban on men who have sex with men (MSM), who want to donate blood, and changed the regulation to a 12-month deferral period.

HUMAN RIGHTS DEFENDERS

NGO Hosi Vienna's office was attacked on 16 December. The perpetrators smeared all three doors with a bloody liquid and broke the glass in one of them. HOSI reported the case to the police and launched a fundraiser to cover the cost of repair.

LEGAL GENDER RECOGNITION

Intersex and trans people faced serious hurdles in accessing the third gender marker this year, despite the Constitutional Court decision in 2018 ordering that gender markers in civil registers and IDs have to reflect an individual's own self-determined gender identity. Intersex people need to present proof of a medical assessment issued by the expert group 'VdG-Board' (variants of sex development board), which was heavily criticised by civil society. This expert group was never formally established. Trans people have also been unable to benefit from the court decision, since the third gender marker is limited to people with congenital variations in sex characteristics and therefore excludes trans people.

SEXUAL AND REPRODUCTIVE RIGHTS

The CEDAW recommended Austria mandatory sex education that aims to eliminate barriers of lesbian, bisexual and trans women to sexual and reproductive rights.