

AUSTRIA

ASYLUM

The Supreme Court overturned two court rulings from the same judge this year, who denied refugee status on the basis of sexual orientation to a Bangladeshi gay man. The cases affirmed that some judges routinely reject claims of LGBTI applicants for international protection and that civil society can predict a ruling depending on who the sitting judge is. Civil society called for training for the judiciary and highlighted that not every applicant can afford to appeal a negative decision.

BIAS-MOTIVATED SPEECH

Online hate speech against LGBTQIA+ people has gained even more ground than in previous years, with a sharp increase following Pride month in June. The implementation of the 2021 legislative package against online hate speech remained flawed. For instance, the number of prosecutions has not increased, few people used the option of complaints against anonymous offenders, and victim protection support was used less often than expected.

Hostile speech by FPÖ MPs was common during the parliamentary discussions on alternative gender markers (see under *Legal Gender Recognition*), and targeted trans, intersex, and non-binary people. Two individuals, who burnt a rainbow flag at a 2020 protest against COVID-19 restriction measures, were acquitted in March. The ruling is not final.

A trans member of the local parliament in Alsergrund spoke about receiving death threats.

BIAS-MOTIVATED VIOLENCE

Hate crimes continued to be a serious issue, with over two hundred incidents just in the first three months of the year. The Ministry of Interior's annual hate crime report documented 376 hate crimes against LGBTIQ people in 2021 although over 80% of the cases may not be reported. SPÖ (Social Democratic Party) also published a report and called for a national strategy against hate, exclusion and discrimination. As intersex or sex characteristics are not explicitly mentioned in the law, violations against intersex people are not included in the numbers of the Ministry of Interior's annual hate crime report. Civil society has also flagged that very few intersex

people report attacks, which sometimes happen on a daily basis.

BODILY INTEGRITY

The process of banning so-called 'conversion therapies' continued to be stalled this year, despite the National Council calling for legal reform twice over the past three years.

The proposed ban on non-consensual and medically unnecessary treatments performed on intersex children was also stalled. The working group convened by the Ministry of Justice finished its work in late 2021, but no draft law was shared since then.

EDUCATION

A survey among 3,500 students found that two-thirds identified outside the heterosexual, cisgender, and monogamous norm.

Regarding education on the diversity of sex characteristics and gender identity, VIMÖ held more than 60 training events, consultations and speeches, commissioned by private universities, companies and public institutions.

EMPLOYMENT

VIMÖ, the ERSTE Group and IBM published guidelines for companies on working with inter*, trans* and non-binary employees, colleagues and customers.

EQUALITY AND NON-DISCRIMINATION

The parliament's Equal Treatment Committee addressed the need to better protect the rights of LGBTI people and particularly youth. The Committee later announced a roundtable would be organised convening key ministries and civil society.

Some political parties continued to lobby for a comprehensive anti-discrimination law that would extend to all areas of life and cover SOGIESC as protected grounds. In June, MPs announced the first parliamentary intergroup on LGBTI issues, with representatives from all parties, except for the far-right FPÖ (Freedom Party). Minister of Justice Alma Zadić also affirmed she was committed to tackling discrimination against LGBT people.



The Supreme Court ruled in July that the same retirement age must be applied to trans men as to cisgender men. The case concerned a trans man who legally transitioned a few years before reaching retirement age, which is lower for women than men.

In June, the Minister of Justice Alma Zadić said she would continue pushing for financial compensation to victims of criminal prosecution in the Second Republic.

A statue will be installed in Vienna in 2023 to commemorate LGBT victims of nazi persecution.

FAMILY

Minister of Justice Alma Zadic (Green Party) affirmed her commitment to marriage equality.

The Constitutional Court passed several important rulings this year. In January, it ruled that unmarried couples can jointly adopt children. In May, it established that the current regulations for parenthood recognition discriminate against lesbian couples and must be amended before 2024. According to the law, the non-gestational mother would only be automatically recognised as a parent if the couple went through official channels of insemination, and not if they used home insemination. This distinction does not exist in the case of cisgender heterosexual couples. In July, it ruled that foreign same-sex couples, in the respective case, a Czech-Slovakian gay couple, can adopt children in Austria.

FREEDOM OF ASSEMBLY

The 26th Vienna Pride, held in June, was dedicated to the theme 'Pride against hate: make love, not war', in support of the Ukrainian LGBTQ+ community. The Pride march was attended by 250,000 people.

HEALTH

The discriminatory restrictions on LGBT people donating blood were abolished in May. In 2021, the government announced a blood shortage, and civil society again called for the revision of the rules, which completely excluded trans and non-binary persons, and set a 12-month deferral period for men who have sex with men. The new rule, which entered

into force on 1 September, establishes a deferral period of three months for everyone, regardless of their SOGI.

HUMAN RIGHTS DEFENDERS

VIMÖ received the Meritus Special Prize from PrideBiz Austria for its Var.Ges - Counseling Centre for Variations of Sex Characteristics, which provides peer counselling for intersex people and their families, and training.

INSTITUTIONAL SUPPORT

The city of Vienna provided 50,000 euro in funding for Pride month and also announced 100,000 euro in financial support that will be distributed among nine projects, with a focus on education.

LEGAL GENDER RECOGNITION

In October, the National Council amended the registration law that takes into account alternative gender markers.

VIMÖ continued to demand that legal gender recognition procedures be based solely on self-determination and provide access to alternative gender marker options to anyone, without a diagnosis. The current system only provides alternative gender markers for intersex people with a medical diagnosis. Those who have been using alternative gender markers have been facing hurdles in bureaucracy, whereby systems do not recognise their gender or address them through binary options.

PARTICIPATION IN PUBLIC, CULTURAL AND POLITICAL LIFE

Following the first roundtable on sex and gender diversity in sports, VIMÖ and 100% Sport started developing educational resources and recommendations to ensure safety and inclusion for intersex people in sports.

*Inter*Pride - perspectives from a worldwide human rights movement* was published and sold out in its first three months.

VIMÖ's theatre play *INTER*Story - A Piece of Activism*, centring the stories of intersex people, premiered in November.



SEXUAL AND REPRODUCTIVE RIGHTS

In March, 20 activists held a demonstration outside the Ministry of Interior after the federal police published a victim-blaming information sheet on gender-based violence. The activists warned that a ‘Flinta’ (“female, lesbian, inter, non-binary, transgender, agender”) person’s appearance or behaviour can never legitimise violence.

SOCIAL SECURITY AND SOCIAL PROTECTION

A centre for LGBTIQ youth will open in Vienna, to be founded and run by the Regenbogenfamilienzentrum Wien.

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