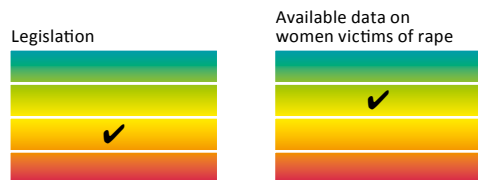


NATIONAL ANALYSIS

Austria



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Legislation

Under the Austrian Penal Code, the definition of rape still includes the use of force (§ 201).

Rape is defined as when a person forces another to perform or undergo coitus or a sexual act equivalent to coitus through violence, deprivation of the person's freedom or threat of body harm or death (§ 89. This offence is punishable by six months to ten years imprisonment. If the act results in grievous bodily harm (§ 84 Abs.1) or pregnancy or if the rape victim is kept in an agonizing condition for a lengthy period or has experienced particular humiliation then the perpetrator must be punished by a term of imprisonment ranging from five to fifteen years. Further, if the act resulted in the death of the rape victim the punishment shall range from ten to twenty years imprisonment.

Source: Jusline Österreich: www.jusline.at/201_Vergewaltigung_StGB.html

Additional comments

Assistance in court proceedings: From 1 January 2006, victims of violence or serious threat of violence or those whose sexual integrity has been violated (e.g. by rape) are, under certain conditions, entitled to claim assistance in court proceedings. While this statutory right applies in cases of deliberate acts, the occurrence of special damage is not a requirement.

Assistance in court proceedings is two-fold ("dual assistance in court proceedings") - first, the provision of psychosocial assistance before, during and after police and judicial questioning, and second, the provision of legal assistance, i.e. legal advice and representation in court by lawyers. From 1 June 2009, the availability of psychosocial assistance in court proceedings was extended to civil proceedings, provided that the latter are related to criminal proceedings. Representation by a lawyer is only

free of charge if - and to the extent that - affected persons are eligible for legal aid.

Victims entitled to claim assistance in court proceedings must be informed about this right upon their first meeting with the police or the court. As a rule, assistance starts when an offence is reported. In exceptional cases it may start even earlier, such as with counselling related to the reporting of an offence. For victims, assistance in court proceedings is invariably free of charge, irrespective of the outcome of the criminal proceedings. In the event of a conviction, the convicted person can be ordered to pay up to EUR 1,000 toward court fees. If the defendant is acquitted, the costs are borne by the state. Experts at Violence Protection Centres/ Intervention Centres against Violence, women's shelters and women's emergency help lines offer free psychosocial and legal assistance in court proceedings for women. (Source: Ministry of Women: www.bka.gv.at)

NGOs, women's shelters and other organisations working with rape victims complain about the lack of initiatives or projects in the area of rape and sexual assault prevention. There are no information materials and myths and stereotypes are still prevalent, even among judges. In rape cases, women victims have to be "trustworthy".

Available data on women victims of rape

The data on relationships between perpetrators and victims of reported rapes show that 32.7% of rapes are perpetrated by a family member, 55.5 % by an acquaintance and 11.8% by persons unknown or unrelated.

Source: Ministry of the Interior, Criminal Report 2011 (BM für Inneres, Kriminalitätsbericht 2011, Statistik und Analyse S. B 23)



The criminal statistics give gender-neutral data, except when related to the age of victims. Of a total of 858 victims, 96% (824) were women and 4% (34) men.

Age of Victims (M: male, F: female)

Rape	14-18		18-21		21-25		25-40		40-65		65-Older		Male		Female		Persons
	M	F	M	F	M	F	M	F	M	F	M	F	Sum	Sum	Sum		
	6	173	8	126	8	142	5	247	7	128	–	8	34		824	858	

Source: Ministry of the Interior, Criminal Report 2011 (BM für Inneres, Kriminalitätsbericht 2011, Statistik und Analyse S. B 20)

The Austrian Prevalence Study of Violence on Women and Men published by the Austrian Institute of Family Research (ÖIF) in 2011 states that 20% of people experience severe sexual violence. In addition, 29.5% of women are victims of sexual violence, and a quarter of these are victims of rape.

In addition, there are only two representative studies about criminal prosecution of rape and sexual assault in Austria (vgl. Breiter 1995; Kelly/Seith 2009). Although, there is a 20 year gap between the two studies, the results are strikingly similar. The 2009 study showed that in Austria less than 10% of rapes are reported to the authorities and less than 20% of reported rapes lead to criminal convictions.

Sources: *Österreichisches Institut für Familienforschung (2011): Gewalt in der Familie und im sozialen Umfeld. Österreichische Prävalenzstudie zur Gewalt an Frauen und Männern.*

Kelly, Liz; Seith, Corinna (2009): Different systems, similar outcomes. Tracking attrition in reported rape cases in 11 countries. Europäische Projektstudie.

Breiter, Marion (1995): Vergewaltigung. Ein Verbrechen ohne Folgen? Wien. Verlag für Gesellschaftskritik.

It seems that Austrian ministries are more interested in collating data on rape and sexual assaults involving

Austrians and foreigners than those involving only Austrian men and women. The reports show a lot of work on which foreigners from which countries are involved in these two issues (rape/sexual assault), while data about the female aspect is very limited.

Useful Contacts

Free women's helpline (tel.: 0800/222 555), offers advice in various languages and refers callers to the nearest specialised facility.

Women's emergency help lines are available in the event of rape, and Violence Protection Centres/ Intervention Centres have been set up to provide help in violent situations occurring in families and/or the social environment.

www.gewaltschutzzentrum.at

Women's shelters provide safe accommodation for women and their children who are at risk of or affected by violence. www.aoef.at/cms

Further addresses and contacts for Wave other networks and women's shelters are available on www.bka.gv.at

