

LEFÖ-IBF

Legal information in Austria Trafficking in Women

Austrian Criminal Code (StGB)

Trafficking in women is covered under the Austrian Criminal Code Article 104a on trafficking in persons and under Article 217 on cross-border prostitution trade. Trafficking in persons is defined as a dishonest premise on the basis of which a person's sexual integrity is violated, their labor is exploited or organs are extracted. A dishonest premise, for example, is understood as deceit, intimidation, abuse of authority or coercion that leads to a situation or condition in which a person is rendered helpless. Depending on the degree of force, threat and endangerment of a person's life, the punishment can be a maximum of 10 years imprisonment. Cross-border prostitution trade takes place when persons are forced to work in prostitution outside their country of origin. The punishment for this is also up to 10 years imprisonment, particularly in cases where deceit was employed for personal gain.

Law on residency and settlement rights in Austria (NAG)

Under Article 69, victims and witnesses of trafficking in persons and transnational prostitution trade may apply for a "special protection" residence permit. To receive such a permit, the offense must have been reported to and recorded by a government agency; it has, however, been expressly noted that the outcome of the court case is not considered relevant for issuing such a permit. This type of permit seeks to ensure civil rights protection while in Austria. The duration of the permit for "special protection" is a minimum of 6 months and can be extended over the entire period of the legal procedure.

There is the possibility to change the permit form of "special protection" to the permit "Red-White-Red - Card plus", which will provide unlimited access to the labour market.

The prerequisites of the "special protection" permit still have to be adhered. Furthermore the first Module of the Integration agreement has to be fulfilled. In addition adequate Job offers and minimum wages are requirements for a successful application for a "Red-White-Red – Card plus".

Criminal Procedure Code (StPO)

The Criminal Procedure Code concerns the rights of victims during the legal procedure:

During the legal procedure: Article 66 confirms that victims of violence, life-threatening danger or violation of sexual integrity have the right to psychosocial and legal services throughout the entire legal procedure. The services covered here include support during stressful procedures, assistance in translating the logic of the

court and legal procedures into everyday language for better understanding and legal counsel to ensure the person's rights are upheld.

Sensitive interrogation procedures: Article 47a ensures that all officials involved in the criminal procedure must treat the person with respect and dignity, and must particularly respect their personal sphere. This also protects persons from having their identity revealed and prohibits the circulation of photographs. Victims of sexual violence generally have the right to sensitive interrogations and examinations and to exclude cameras and the press throughout the preliminary procedures and entire court case.

Translation assistance: Article 38a ensures those affected by trafficking the right to translation assistance, regardless of the situation.

Information: Article 195 guarantees the right to immediate information upon the release of one's perpetrator and specific information about warrants issued, for example, a warrant that the perpetrator is not to come near the victim.

Security Police Law (SPG)

Article 56, paragraph 1 of the Security Police Law extends the right to police authorities to convey information about the victim to institutions with victim protection programs, particularly in the case that protection is deemed necessary.

Civil Law

The 2nd Protection Against Violence Law came into effect on 1st June 2009, ensuring free psychosocial counseling throughout the entire procedure. Victims who received psychosocial counseling during the procedure have the right to continue this counseling during civil court cases (in cases of a violation under Civil Law), provided the court case is related to the criminal procedure-

Labor Legislation

It is possible to bring cases where payment and/or wages for work have been withheld to the Labor Court or the Social Welfare Court. This can be done on a variety of grounds, depending on the activity (wage agreements, employment laws etc.). After an assessment of the probability of the case's outcome (and it is highly probable that the plaintiff will win the case), the official representation of employees in Austria (*Arbeiterkammer*) will provide legal counsel for the court case.

Compensation for Damages / Compensation for Pain and Suffering

The right to compensation for damages / pain and suffering are regulated by different laws. Victims of crimes may take the perpetrators to court as a private person if the disadvantages they experienced are considered applicable under Civil Law. If the perpetrator is found guilty, she/he will be required to pay compensation for damages / compensation for pain and suffering. It is also possible to receive the right to payment through a trial in the Civil Court. (see above)

According to Article 373a of the Criminal Procedure Code the state may also administer an advance payment of the full sum. State compensation is regulated under the Victims of Crime Law. A problem that arises here, however, is that according to penal law, the victim must have been in possession of a valid permit to stay in Austria at the time of the crime.