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Country Report Austria: Gender-based violence against women migrants and refugees

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List of Acronyms

ÄrzteG	Ärztegesetz/Law on Doctors
AsylG	Asylgesetz /Asylum Act
BMVRDJ	Bundesministerium für Verfassung, Reformen, Deregulierung und Justiz/ Federal Ministry of Constitutional Affairs, Reforms, Deregulation and Justice
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CGR	Geneva Contention on Refugees/Flüchtlingskonvention
EEA	European Economic Area
EIGE	European Institute for Gender Equality
EMN	European Migration Network
EU	European Union
FGM/C	Forced Genital Mutilation and Cutting
FPÖ	Freiheitliche Partei Österreichs/Austrian Freedom Party
FRA	European Agency for Fundamental Rights
GBV	Gender-based violence
GREVIO	Group of Experts on Action against Violence against Women and Domestic Violence
GVG-B	Grundversorgungsgesetz/Basic Care Act of 2015
IBEMA	Identification of potential trafficked persons in the asylum procedure
ICMPD	International Centre for Migration Policy Development
IKF	Institut für Konfliktforschung/ Institute of Conflict Research
ILGA Europe	International Lesbian, Gay, Bisexual, and Intersex Association Europe
IMAG	interministerielle Arbeitsgruppe/inter-ministerial working group
IOM	International Organization for Migration
IPV	Intimate Partner Violence
LGBTIQ+	Lesbian, Gay, Bisexual, Transgender, Inter, Queer +
MARACs	Multi-Agency Assessment Conferences
MS	Member State
NAG	Niederlassungs- und Aufenthaltsgesetz/Settlement and Residence Act
NAP	National Action Plan
ODIHR	OSCE's Office for Democratic Institutions and Human Rights
ÖVP	Österreichische Volkspartei /Austrian People Party
SPG	Sicherheitspolizeigesetz/ Security Police Act
SPÖ	Sozialdemokratische Partei Österreich/Social Democratic Party Austria
StGB	Strafgesetzbuch/Criminal Code
StPO	Strafprozessordnung/ Conduct of Criminal Offence Procedure
UN	United Nations
UNDOK	Anlaufstelle zur gewerkschaftlichen Unterstützung UNDOKu-mentiert Arbeitender
UNHCR	United Nations High Commission for Refugees
UNODC	United Nations Office on Drugs and Crime
UNSCR	United Nations Security Council Resolution
WPS	Women, Peace and Security
ZARA	Zivilcourage und Anti-Rassismus Arbeit

1 Introduction

This country report was written as part of the FWF and Horizon2020 project “GBV-MIG: Violence against women migrants and refugees. Analysing causes and effective policy” in year 2019. Along with country reports by other consortium members, it aims at giving an overview on the policy and legal situation, state and NGO actors in the field of *gender-based violence (GBV)* against women migrants and refugees in Austria. It intends to illustrate the availability of support structures for this target group in the event of *GBV*. In addition, it points at some of the dominant discourses and identifies major shortcomings that prevent women from receiving adequate support or access to relevant infrastructure.

We draw this compilation of information from various sources, including shadow reports by NGOs on the Austrian implementation of international and European frameworks countering *GBV*, government and ministerial documents and statistics as well as studies by different governmental and non-governmental actors and academics. In recent years, organizations such as the *International Organization for Migration (IOM)*, the *European Migration Network* or the *International Centre for Migration Policy Development (ICMPD)* has published several comprehensive reports addressing subtopics relevant to migration like migration law, return policies and access to services. Issues at the intersections of gender, *GBV* and migration are, if at all, marginally covered in most of these reports (European Migration Network, 2019, 2016). In general, there exists a lack of comprehensive data, analyses and statistics on *GBV*. In addition, little information has been gathered on the specific life situations and respective consequences in which women migrants and refugees find themselves when coming to Austria.

Gender-based violence (GBV) is defined as violence directed against a person because of their gender. It includes any violation of a person’s physical or psychological integrity, which is connected to the gender of the offended and offending person. Forms of *GBV* may include intimate partner violence (IPV), rape, sexual assault and human trafficking. These types of *GBV* are inextricably linked to forms of structural, cultural, i.e. discursive violence (Galtung, 1969) such as patriarchal behavior or institutionalized racism, sexism or ethnocentrism. Conditions like limited access to the labour market and health services reinforce these forms of violence as an expression of unequal power relations (Hagemann-White, 1992).

In Austria, several feminist and migrant-solidarity NGOs demand for a reconceptualization of *GBV* as an all-encompassing societal issue. They call for the introduction of political measures, which do not differentiate between *GBV* against migrants and refugees and Austrian citizens autochthonous Austrians (Frauen: Rechte jetzt!, 2013a).

Due to the introduction of the *Protection against Violence Act* in 1997, Austria has enjoyed the status of an international role model in the field of protection against and prevention of violence against women (Schwarz-Schlöglmann, 2017). However, recent reports give insight into legal and policy gaps, especially concerning *GBV* against women migrants and refugees (ibid.). Since the implementation of the second *Protection against Violence Act 2009*, *GBV* against women and especially migrant and refugee women has found relatively little attention in policy and government programs (Wolf, 2018). Following a number of publicly mediatized incidents of violence in the years 2017 and 2018, the third *Protection against Violence Act (BKA, 2019)* tightened several laws, but provided little increase in budget for political measures or the improvement of support infrastructure.

Austrian state measures countering *GBV* mainly address violence perpetrated by men against women. Violence is barely addressed in the context of same-sex/gender or non-binary relationships. Little attention has been paid to *GBV* resulting from hate crimes, homo-, bi- and transphobia as well as racist infringement and abuse, assaults by the police or the like. The *GREVIO shadow report* (GREVIO Shadow Report NGO-Coalition, 2016) and organizations active in the fight against hate crimes attempt to increase attention towards same-sex/gender relationships and violence against members of the *Lesbian, Gay, Bisexual, Transgender, Inter, Queer + (LGBTIQ+)*-community or motivated by racism.

After introducing a number of conceptual remarks, the subsequent chapters provide an overview of NGO and state actors relevant to addressing *GBV*. Following an academic state of the art, where we introduce a selection of publications to allude to the scattered availability of academic output in general, we compile statistical data about legally recognized forms of *GBV* and relating legal provisions. In the final chapter, we outline some of the particularities and shortcomings in access to services and infrastructure. We conclude with an overall assessment of the current situation of *GBV* in Austria. We acknowledge that some of the topics touched upon deserve to be discussed in an entirely separate report. As this country report was first written in 2019, it does not claim to be exhaustive.

2 Conceptual remarks, legal terms, analytical definitions

In both academia and practice, the potential added value of **migrant-specific data** has been an issue of discussion. This applies in particular to *GBV*. NGOs, scientists and activists have repeatedly asked policy makers and government to step back from measures, which tackle violence against autochthonous Austrians and migrants and refugees separately (Logar, 2017; Mendel and Neuhold, 2015; Schwarz-Schlöglmann, 2017; Wolf, 2018). Whether *GBV* should be addressed according to special needs of specific groups or in a more general manner is a central question with regards to effective support, on the one hand, and reproduction of essentialist narratives, on the other. However, we can establish that violence is a crucial topic for any part of society, regardless of people's class, ethnicity, gender, sex and religious beliefs. Consequently, there is need for a careful conceptualization of the term violence and *GBV* in the context of migration and beyond (Sauer, 2011).

In legal terms, a distinction between non-migrants, migrants and refugees exists and shapes access to rights, services and possibilities of refugees and migrants. Moreover, for Austria, an analytical approach towards the term *migrant* differentiates between three legal categories. The first category is the so-called *foreign population*, i.e. without Austrian legal citizenship, the second category is the *population of foreign origin* who are registered as born outside of Austria but may have Austrian citizenship. The third category is defined as *population with migration background*. This group also comprises people whose parents were born outside of Austria.

As for the term *refugee*, we refer to the *UNHCR* definition, categorizing refugees as a

“person who is outside the country of his[/her] nationality, or if he[/she] has no nationality, the country of his[/her] former habitual residence, because he/she has or had well-founded fear of persecution by reason of his[/her] race, religion, nationality or political opinion and is unable or, because of such fear, is unwilling to avail himself of the protection of the government of the country of his[/her] nationality, or, if he[/she] has no nationality, to return to the country of his[/her] former habitual residence” (UNHCR, 2016)

Regarding people who were forced to leave their home countries, the Austrian law draws on international law and thereby differentiates between three groups. An *asylum seeker* is defined as a foreigner who applied for international protection and is in the midst of ongoing asylum procedure (§ 2 Z 14 AsylG, 2005). The procedure ends with a dismissal or adjudgment as *recognized refugee* or someone who needs *subsidiary protection*.¹ Moreover, there are groups of

¹ Based on the *European Convention on Human Rights* the Austrian *Asylum Act 2005 (AsylG, 2005)* states the following: A person shall be granted *subsidiary protection* status if they are not granted asylum or the status was

people who legally classify neither as *refugees* nor as *migrants* in Austria. We include these in the category of *undocumented or stateless individuals*.

In the context of GBV the term “cultural violence” is frequently used in Austrian politics and public discourse. Some governmental actors construe the existence or occurrence of some of the above presented forms of *GBV* in connection with the term. Oftentimes, political, legal and policy measures address the protection of migrant and refugee women but do not identify structural reasons and/or take steps to increase supportive infrastructure. According to Mendel and Neuhold (2015), in Austria the term “cultural violence” can be traced back to political discursive development around 2004 under the influence of right-wing political actors. We leave the term in quotation marks since it implies that violence, in general, and specific types of violence, in particular, can be attributed to people belonging to certain ethnic or cultural groups.

3 Agents and actors in the field of *GBV*, women migrants and refugees: NGOs and Civil Society

In Austria, there is a wide range of NGO and civil society actors that are active in the field of refugee and migrant support. Some actors specialize on specific groups or needs of refugees; others compile a collection of services catering to general requirements and interests of refugees and migrants. Vienna by far offers most services and infrastructure and hosts a variety of NGOs but also state- and city-subsidized centres and institutions. Same goes for services designed more specifically to support women refugees in the event and prevention of *GBV*. On a federal level, some networks of actors working in the field of *GBV* but also on migration and refugees have formed to coordinate and unite their efforts and demands. One of these networks was initiated with the ratification of the *Istanbul Convention*. *GewaltFREI leben*, a network and alliance of several actors in the field of victim protection and protection against violence focus on the progress of the *Istanbul Convention*’s implementation in Austria. In addition, there exist a number of similar networks like the Autonomous Women’s Shelters. Some networks have formed on local levels, working on specific topics such as FGM/C or human trafficking.

As for international organizations , the involvement of the *UNHCR* is of special character. It is “embodied in the *Asylum Act* that the *UNHCR* must be informed immediately when asylum proceedings are initiated. It has the right to demand information on every asylum procedure, to

withdrawn and if deportation to their country of origin “would constitute a real risk of violation of Art. 2 or Art. 3 of the *European Convention on Human Rights* or of Protocol No. 6 or Protocol No.12 to the Convention or would represent for the alien as a civilian a serious threat to her/his life or person as a result of arbitrary violence in connection with an international or internal conflict” (§ 8 Z 8 AsylG, 2005).

examine the files, to contribute to the assessment of fact-finding, to be represented at interviews, as well as to get in contact at any time with the asylum seekers or refugees”(Merhaut and Stern, 2019, p. 32).

Available federal budget has been distributed among state and non-state actors offering support and services according to a scattergun approach, which still leaves many of them in precarious situations (Deutschlandfunk, 2019). This finds expression in the financial responsibility for projects some NGOs had planned to realize with an initially awarded government-budget, which was withdrawn later in the year of 2018/9 (ibid.). Furthermore, NGOs feel like they received indirect instructions to stay quiet and complain as little as possible about their situation (ibid.).

To understand civil society’s active role in the field of migration and refugees, it is worthwhile to save room for its overall contribution, especially in recent years. Although not decisively assessing *GBV* and refugees as a topic, Austrian civil society’s contribution during the refugee movement in 2015/6 and highlights the nexus between distribution of tasks between the state and NPOs/NGOs and their contribution to negotiating societal contradictions in the field of migration (Simsa et al., 2021).

4 Scholarly contributions on GBV in Austria

Academic contributions in the field of *GBV* in general, but especially *GBV* against women migrants and refugees exist but tend to be scattered for the Austrian context. In general, members of Klagsverband, (2018) and Frauen: Rechte jetzt! (Frauen: Rechte jetzt!, 2013a, 2013b) have pointed at the lack of comprehensive statistical and analytical publications on *GBV* especially in the context of migration and asylum, e.g. regarding health. Loidl (2013) presents an overview of the situation of research on domestic violence in Austria. One of the most important contributors in the field has been the *Institute for Conflict Research (IKF)*. With a variety in topics, the institute has been providing research on violence against women, by adolescents, men and the police but also on victims-oriented work with offenders, empowerment of women who experienced violence and on sexual offences since 1993. Other studies included violence against people with disabilities, sexual harassment of young men and women in training or at work and the economic costs of violence. Furthermore, the institute carried out an study on the introduction of the *Protection against Violence Act*, followed by an evaluation of the Act’s implementation (Haller, 2005). In what follows, we provide summaries and descriptions of a selection of other relevant academic publications.

Nowak et al. (2013) *Krieg und Folter im Asylverfahren. Eine psychotherapeutische und juristische Studie*. Studienreihe des Ludwig-Boltzmann-Institute for Human Rights, 28, Universität Graz: Neuer wissenschaftlicher Verlag.

“In the life of a refugee, experiencing torture constitutes a decisive caesura. The sense of powerlessness during torture can lead to profound psychological changes, which question the usual, day-to-day life with all its values and attitudes. Traumata caused by torture can therefore exceed the immediate life-threatening experience. If a victim of violence manages to find their way to and finally arrive in Austria – usually on highly dangerous paths – they find themselves in not solely legal situations of insecurity. This book is the result of a study, in which the situation of refugees in the Austrian asylum system were analyzed from a psychotherapeutic and legal perspective, exemplified by 14 individual stories. On psychotherapeutic level, the focus lies on the ramifications of the asylum system on the situation of refugees as well as the consequences of trauma and psychotherapy on the asylum procedure. The legal perspective on the other hand is concerned with the topics of identification of people as victims of violence within the asylum procedure, the Dublin-regulations and the assessment of credibility of the victim’s story. In addition, the authors discuss the access of refugees to medical, psychological and psychotherapeutic care in the recipient country Austria and the role of International Criminal and Civil Law.”²

Mayrhofer, M and Schwarz-Schlöglmann (eds.) (2017): *Gewaltschutz. 20 Jahre Gewaltschutzgesetz und Gewaltschutzzentren/Interventionsstellen*. Wien: Verlag Österreich.

“The *Protection against Violence Act* entered into force in 1997 and became a role model for similar legal provisions in Europe and beyond. 20 years of this act and congruent Centers for Protection against Violence testifies for a revolutionary development in the field of countering violence against women, domestic violence and violence in relationships, violence in the social environment and stalking. The attention paid towards the victim as well as the implementation of victims’ rights and its protection in the administrative and judicial processes constitute milestones in the history of this Act. This edited volume gives an overview on the respective fields of law, in which these accomplishments have found expression and in which prevention, victim’s support and protection have been expanded continuously. This work presents a state of the art, analysis and insight into the implementation and practice of protection against violence in Austria and alludes to where the authors identify potential and requirements”³

Schwarz-Schlöglmann (2017) emphasizes the need for infrastructure and legal groundwork to ensure protection against and prevention of violence in the context of migration and flight. She states that there is lack of policy for protecting people in these vulnerable situations. She expects that refugees are in need of psychological support in their mother tongue. For people who had

² Author’s translation of blurb.

³ Author’s translation of blurb.

to migrate, victim support is less accessible and there are more barriers that impede seeking help. Reasons for that include distressing experience with authorities in their home country or in countries of transit. Also, if they did not apply for asylum on their own, reporting a person that their status is dependent upon could have severe consequences for their asylum claim. To sum up, while Austria was an example for victim protection against violence in the 1990s and the early 2000s, backlog exists concerning victims who experienced violence and have a migration or flight biography. Women who travelled alone as well as unaccompanied minors and traumatized persons are considered to have lived in especially vulnerable life situations.

Strasser and Holzleithner (2010): Multikulturalismus queer gelesen: Zwangsheirat und gleichgeschlechtliche Ehe in pluralen Gesellschaften. Frankfurt am Main: Campus Verlag.

“In recent years, the term *Multiculturalism* has been contested in theory and practice. Among other things, this links to an increase in awareness for problematic practices of ethnic and religious groups, such as forced marriage. Control of a person’s sexuality does not only take place in these contexts but also in the exclusion of same-sex couples from getting married. The authors of this edited volume research this problem from a legal and social-anthropological perspective for Austria, Great Britain and Turkey and point at the necessity of bringing together debates on cultural differences, gender equality and sexual self-determination.”⁴

Sauer (2011) analyzes the discourse and political measures against “**culture-specific**” *GBV* against migrant women, such as *FGM/C* and forced marriage. Consequently, *culturalizing* this term ignores structural factors of social inequality, economic dependence and restrictive legal provisions on residence (*ibid.*). She emphasizes that these factors are crucial to the creation of vulnerable situations and environments in which *GBV* can develop (*ibid.*). Therefore, she calls for a re-contextualization of the term by understanding these forms of violence in the nexus of class, ethnicity, nationality and feminist conceptualizations that go beyond the perspective of patriarchal submission by accounting for the structural implications of these forms of discrimination (*ibid.*).

Taking a postcolonial and materialistic stance on Austrian migration and integration politics, Mendel and Neuhold (2015) criticize the discursive development on violence, women and migration, linking conservative, pseudo-feminist patterns of argument with the justification for a more repressive and restrictive migration regime in and around Austria since 2004. They identify the “culturalization of sexist violence which was intertwined with the topic of women (i.e.

⁴ Author’s translation

equality) and integration” (ibid., 39) to be discursively used to locate the problem of violence and sexism “outside” of the “Austrian” population. The consequential “instrumentalization of violence in conjunction with culture therefore justifies certain forms of institutional and state violence against women and racist migration politics” (ibid., 40). The Austrian state acts as a protector in his paternal role and stages himself as a liberator of women. Violence should, however, not be regarded as a given cultural tradition of “the Other” but should be analyzed in the context of racist violence exercised by the state. A postcolonial analysis highlights that enlightenment and values such as democracy, social justice and liberal feminism are, from a Eurocentric perspective, understood as completed processes, while ignoring the colonial context within which Enlightenment emerged. This explains the simplicity with which e.g. a “regressive Islam” can be identified as something unwanted in Austria. A central question posed in this article asks: Why do emancipation and women’s rights represent western fundamental values, while daily sexism and assaults are not regarded as inherent to „Western culture “?

Form a postcolonial and feminist scholars Castro Varela and Dhawan (2016) address the question whether the “migrant woman” needs to be rescued from *GBV*. By comparing German and Austrian discourses, they discuss “the pivotal feminist issues of gendered violence, vulnerability, and agency and the concomitant dilemmas that emerge when addressing the problem of gendered and sexualized violence particularly in migrant and refugee communities”(Castro Varela and Dhawan, 2016, p. 14)

5 What counts as GBV? Data on types

This chapter lays out data on forms of *GBV* against women migrants and refugees., which either constitute a criminal offence as well as. relevant numbers of complaints and conviction rates between 1990 and 2016. Some forms of *GBV* receive more attention in the political and public discourse compared to others. Other forms of *GBV* are discussed by government bodies, others by NGOs and civil society exclusively.

5.1 4.1 Data on GBV

According to the Gender Equality Index of the *European Institute for Gender Equality (EIGE)*, last published in 2017, 20% of women in Austria reported to have been subject to physical and/or sexual violence (Barbieri et al., 2017). This is 13% lower than the EU-average (33%). The *Österreichische Prävalenzstudie zur Gewalt an Frauen und Männer* shows that 74.2% of the women interviewed and 27.2% of the men interviewed have experienced sexual harassment. Sexual violence affected 29.5% of women and 8.8% of men (Drechsler and Rinnerhofer, 2011).

Only a small number of cases of sexual harassment and violence are reported to the police, leading to criminal statistics representing only a small amount of the cases of violence.

Figure 1 illustrates the overall situation of experience of violence against women. This is one of the only more comprehensive studies, provides statistical data on the prevalence of violence, published by the *European Union Agency for Fundamental Rights (FRA) (European Union Agency for Fundamental Rights, 2014)*.

5.2 Sexual harassment and public sexual acts

Sexuelle Belästigung und öffentliche geschlechtliche Handlungen § 218

	2001	2002	2003	2004	2005	2006	2007	2008	2009
Anzeigen	27					1038	1083	1111	1154
Verurteilungen	32	44	36	48	55	64	68	87	69
Verurt.-quote						6,1%	6,2%	9,6%	5,9%

	2010	2011	Ab 2012 sämtliche Verurteilungen	2012	2013	2014	2015	2016	2017
Anzeigen	1130	1366		1489	1337	1330	1228	1918	1759
Verurteilungen	69	87		70 ²⁸	105 ²⁹	108 ³⁰	105 ³¹	138 ³²	169 ³³
Verurt.-quote	6,1%	6,3%		4,7%	7,8%	8,1%	8,5%	7,2%	9,6%

BMJ: Sicherheitsberichte 2010, 2011, 2012. Berichte über die Tätigkeit der Strafrechtspflege.; BMI: Sicherheitsberichte 2006, 2007, 2010: Kriminalitätsberichte.; BMI: Kriminalitätsbericht 2012; Auskunft des BKA zu angezeigten Fällen 2013; BMI: Kriminalitätsbericht 2014; BMI: Kriminalitätsbericht 2015; Statistik Austria (2014/2015/2016/2017/2018): Gerichtliche Kriminalstatistik 2013/2014/2015/2016/2017; ; Auskünfte des BMI zu den Anzeigenstatistiken 2016, 2017

Figure 1 Conviction rates sexual harassment and public sexual acts (*Notruf Beratung für vergewaltigte Frauen und Mädchen Wien, 2018, p. 9*)

There exists no statistical data regarding the number of reports of sexual harassment available for the years before 2006. Therefore, the conviction rates cannot adequately be determined. Figure 5 shows that the conviction rates differ slightly over the years. In 2008 and 2017, the conviction rate peaked at 9.6%. With 4.7%, the lowest point was reached in 2012. No clear trend can be discerned regarding the conviction rates. They are low and vary between 4.7% in 2012 and 9.6% in 2008 and 2017. It is striking that sexual harassment and sexual acts in public are combined statistically. This makes differentiation between crimes that harm a person and an administrative offense where two or more people may be involved voluntarily less clear.

5.3 Violation of sexual self-determination

In 2016, the statutory offence of violation of sexual self-determination was introduced with the implementation of the § 205a in the *Criminal Code (StGB)*. Since then, criminal behaviour contrary to a person's sexual self-determination is punishable. Criteria for this criminal offence

are met if someone takes advantage of a plight or intimidates the other person or if sexual intercourse or any comparable action is carried out against the will of a person. This statement of facts can apply to crimes committed as part of a e.g. anti-Semitic or racist assault.

5.4 Forced Genital Mutilation and Cutting (FGM/C)

Under the heading *Tradition and Violence against Women*, the Ministry for Women and Health published a policy brief on *FGM/C* in early 2017. In Austria, *FGM/C* qualifies as “gender-specific” and “tradition-related violence” (Bundesministerium für Gesundheit und Frauen, 2017). Any type of *FGM/C* is illicit and is considered a crime if committed within but also outside of Austria against citizens or residents, e.g. on a trip abroad. There is no comprehensive statistical data on trials as the topic has only relatively recently received increased political attention and separate data on this issue is not gathered. Since 2007, a Viennese interdisciplinary working group under the lead of the *Program for Women’s Health* has been discussing the issues regarding prevention and care for affected women (Der Standard, 2018). This group has produced a number of informative documents and material, such the short movie “Nein zur Genitalbeschneidung” [No to genital mutilation] in five languages (Stadt Wien, 2018; Wiener Programm für Frauengesundheit/Büro für Frauengesundheit und Gesundheitsziele in der MA 24, 2017). In addition, the African Women’s Women’s Organization published a toolkit to prevent *FGM/C* against migrants in Europe (Afrikanische Frauen-Organisation, 2005).

5.5 Forced Marriage

In 2015, a reform of the *Penal Code* led to the introduction of forced marriage as a stand-alone offence. It is considered a criminal act liable to public prosecution. Hence, apart from the victim, any third party can report to the police if they suspect forced marriage to have taken place or about to be performed. Anyone involved in performing, arranging or supporting forced marriage acts against the law and can be punished.

According to NGOs like *Orient Express*, however, few policy measures were taken by the government to adapt to the needs of people who sought help when under threat of being or already forcefully married to another person (Verein Orient Express, 2011). *Orient Express* expects about 5,000 girls to be at risk to get married forcibly in Austria in 2019 (ibid.). In the mid-2010s, the government released funds to open a number of emergency flats as well as a federal coordinating office *Obstruction and Forced Marriage* (Klagsverband, 2018). However, according to this report, there persists a lack of information and training for schools, police, judicial

and medical personnel that allow for a comprehensive understanding and assessment of individual situations of affected persons (ibid.). As with *FGM/C*, there is little data to be found on this topic.

5.6 4.7 Femicides

This topic received an large amount of attention during the winter of 2018/19 in the media and in political discussions. The discursive role migrants and refugees played and which frames were used to explain the relatively large amount of femicides is yet to be analyzed. We assume that the death of a migrant woman and/or killings by a man with migration background are overrepresented in the media. According to the *GREVIO shadow report* (GREVIO Shadow Report NGO-Coalition, 2016), about 20 to 30 women are killed by their (ex)partners annually. So-called "honour killings" are illegal in Austria and are prosecuted even if are performed outside of Austrian territories against residents and citizens. Despite political attention and politicization of the topic coupled with anti-migration sentiments this topic has received in the recent years, only fragmentary data on convictions is available.

5.7 Intimate-Partner Violence and domestic violence

IPV is – in most cases – addressed as an act towards women by men in Austria. It is therefore conceptualized in a heteronormative understanding of partnership-violence. Figures show that about 25 to 30 % of women seeking help at *centers providing protection against violence* (*Gewaltschutzzentren*) are migrant women (Mayrhofer and Schwarz-Schlöglmann, 2017). The numbers are even higher for women's shelters. These shelters provide ad-hoc protection to women who escaped violent relationships in their families.

Analyses on the topic of IPV show that campaigns, policy measures etc. frame *the issue as a "woman's problem"* (Wolf 2018). Like in many European countries, *IPV* still tends to be considered a marital, private issue detached from larger societal structures such as patriarchy. Alongside goes a notion of victim blaming, i.e. making the woman responsible for occurred violence. In the context of migration, there is a tendency of rooting the problem of *IPV* in family structures or culturally specific, traditional role conceptions (Castro Varela and Dhawan, 2016). Hence, this generalizing analysis implies that the issue is of higher relevance to families with migration background but should not be addressed as a societal problem in general. As Schwarz-Schlöglmann (2017) states "factors which increase the risk of domestic violence are

the same in any relationship, no matter if it is in the context of migration or not. That is, patriarchal power structures with gender-specific hierarchies of subordination or superordination are most significant in this context” (162).

5.8 Human Trafficking

The *Task Force Human Trafficking*, part of the Ministry of Foreign and European Affairs, is one of the most continuous working groups in the area of *GBV*. First implemented in 2004, the task force presents a regular working plan and a final report every three to four years. It is part of efforts to implement the *United Nations Security Council Resolution Women, Peace and Security (UNSCR) 1325* ff. The concomitant project *Identification of potential trafficked persons in the asylum procedure (IBEMA)* initiated training sessions for judges and counselors of several administrative bodies (incl. asylum, legal advice on asylum etc.) in cooperation with *UNHCR*, the *IOM*, the federal criminal police office, the NGO *LEFÖ*, the *Men’s Health center* and the children’s protection center *Drehscheibe* (Ministry for Women and Health 2017). Furthermore, the centre *Anlaufstelle zur gewerkschaftlichen Unterstützung UNDOkumentiert Arbeitender (UNDOK)* for undocumented workers was established in 2013 to assure unionist support for victims of trafficking (Bundesministerium für Europa, Integration und Äußeres (BMEIA), 2019; Bundesministerium für Gesundheit und Frauen, 2017).

Following compensation payments for trafficked and abused Latin American girls in Austria in 2018, *La Strada* - a European network of NGOs working to counter human trafficking - expounds, “vulnerability to human trafficking is dynamic and context-specific. The abuse of a position of vulnerability has to be looked at as a linkage of factors, including not only class or formal education, but also gender, age and residency status” (La Strada, 2019). Over the past years, more people have received compensation after having been trafficked in Austria. However, receiving compensation requires the confiscation of assets of the offenders. (ibid.).

Looking at the gender ratio of trafficked persons, women (49%) and girls (21%) are overrepresented in comparison to men (18%) and boys (12%). Most of the detected women victims of trafficking were sexually exploited (79%). The majority of men victims were trafficked for forced labour (83%) (UNODC, 2014). Compared to other countries, Austria’s conviction rates range between low and average. Austria is both a transit and a destination country for human trafficking (United States Department of State, 2018). In 2000, the *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*, supplementing the *United Nations Convention against Transnational Organized Crime* was opened for signature and implemented three years later (UNODC 2014).

In 2003, two thirds out of 173 countries lacked a regulatory framework on human trafficking. Today, only 5% of the 173 countries do not have specific legislation for trafficking NGOs, like *LEFÖ* – a NGO specializing in the support of refugee women and trafficked women – call for the Austrian government to acknowledge that trafficking occurs in a multi-layered internationally operating system, which cannot be tackled solely by acting on a national level (Frauen: Rechte jetzt!, 2013b),

Despite thorough counter-trafficking action plans being one of the most consistent undertakings in the realm of *GBV*, practice shows that trafficked women are often criminalized (ibid.). One of the reasons for that is the lack of regulated mechanisms to acknowledge women as victims. Although § 104a *StGB* categorizes human trafficking as a crime, its implementation is still incomplete. According to *LEFÖ*, due to lack of budgetary resources, judicial, police and medical personnel is not sufficiently trained to deal with individual victims and cases. According to the ninth UN-report on *CEDAW*, the government reacted towards shortcomings and increased the number of lawyers and judges specialized in the issue of trafficking (Bundesministerium für Gesundheit und Frauen, 2017).

For refugees, *LEFÖ* expresses concerns that women and girls who experienced economic exploitation, physical abuse, etc. during migration to Austria live under the threat of being deported to the country of origin or another EU country according to the *Dublin III regulations* (Klagsverband 2018). According to *LEFÖ*'s assessment, Austria's increasingly restrictive migration politics complicate the identification of trafficked women since many victims are deported before they can make use of their rights as a victim of trafficking (ibid.). Until 2013, Article 69a of the *NAG* concluded that trafficked persons have a right to receive a residence permit for special protection to allow for the prosecution of offenders. Nevertheless, practice showed that those permits took several months to be issued, resulting in people having limited to no access to health services etc. This was especially relevant for third-country nationals. Today, § 57 of the *Asylum Act* (in BGBl I 2017/145) "victims or witnesses of human trafficking or cross-border prostitution for the purpose of guaranteeing the prosecution or the enforcement of civil-law claims" (European Migration Network, 2016, p. 55). It permits people a limited stay of one year. Prosecution and trials are directly connected to the victim's statements, which may put the person under emotional and psychological stress. If proceedings are closed due to whatever reason, victims are not entitled to receive a residence permit. Therefore, no legal protection from expulsion exists (only 30-day mark with no legal basis) and their access to service is bound to a lawsuit.

While the Ministry for Women and Health (2017) describes access to employment for victims of trafficking with third-country nationality as easier compared to Austria's previous *CEDAW*-screening in 2011, *LEFÖ* calls for unconditional protection, access to services (psychosocial and health but also employment) and security for trafficked persons to make use of their rights (Klagsverband, 2018, Frauen: Rechte jetzt!, 2013). Financial constraints have arisen since the ÖVP-FPÖ coalition government. For example, in 2018, the NGO *UNDOK* raised concerns about their financial situation. Although Beate Harting-Klein, former minister for social affairs between 2017 and 2019, assured financial security to the NGO, they still faced cuts of about half their budget from previous years (UNDOK, 2018).

5.9 Violence motivated by racism

Certain groups in Austrian society face specific forms of discrimination, sometimes resulting in hate crimes, due to various reasons along the lines of gender, race, class, sexual orientation, religion, nationality etc. The *OSCE's Office for Democratic Institutions and Human Rights (ODIHR)* defines *hate crimes* as “criminal acts motivated by bias or prejudice towards particular groups of people” (ZARA, 2019, p. 36). ZARA expanded the definition in accordance with the Austrian criminal law. In Austria, hate crimes are legally categorized as statements of fact, including threats (§ 107 StGB), insults (§ 115 StGB) and bodily harm (§§ 83, 84, 85, 86, 87 StGB). Therefore, the working definition states that hate crimes are directed “towards a church or religious community or any other group of people or members of such a group of people defined according to existing or non-existing criteria of race, skin, colour, language, religion or ideology, nationality, descent or national or ethnic origin, gender, physical or mental disability, age or sexual orientation explicitly due to their affiliation to this group” (ibid.). Identifying such forms of discrimination and their scope (as far as documented) is vital to understanding the roots and expressions of *GBV* against migrants and refugees. In other words, these forms of violence should be considered in their intersection and reciprocity with other societal discriminatory structures.

Studies, like the *Fundamental Rights Agency's* report *Being Black in the EU* (European Agency for Fundamental Rights, 2018) show that the topic of racist violence is highly significant to the Austrian case. Therefore, although most of the data below is not gender-specific, it is especially important to shed light onto this issue when looking at Austria. The study gives mostly negative insight into the situation for Black people living in Austria and portrays a similar picture as statistics by ZARA show below. People of African descent live under particularly high risk of experiencing racist violence in Austria. Within a 12-month period in which the survey was taken, Austria shows the highest rate of racist violence compared to the other 11 European states

surveyed. Every other participant of African descent knows of friends or family members who have been verbally insulted. Here, Austria scores first and second when it comes to physical attacks against close friends and family members (ibid.).

In 2018, 1920 racist incidents encountered with authorities were reported to *ZARA* (ZARA, 2019). Most of the incidents reported took place on the internet. Hate crime on the web is disproportionately directed towards women. Eight of 10 times the person reporting the incident was not the victim self. Only eight of the 82 reported cases of racist incidents by members of the police were formalized (ibid., 13).

Police violence and racial profiling is a major problem in Austria, despite the latter being illegal according to the Council of Europe's European Commission against Racism and Intolerance (European Commission against Racism and Intolerance, 2007)

“Overall, 2 % of all people of African descent interviewed experienced a racist physical assault by a police officer in the five years preceding the survey. Respondents in Austria indicate the highest prevalence (5 %) – when compared to all other target groups and countries surveyed (incl. non-European countries)” (FRA, 2018, 21).

The lowest level of trust towards the police with people of African descent is found in Austria. Sixty-six percent of the most recent and disproportionately high occurring police checks encountered by respondents were perceived as racist assaults (ibid). Compared to other states, this is exceptionally high. Racial profiling is an extremely relevant topic for people with migration background and their daily lives, which needs to be actively approached by authorities and/or state measures. Negative experience with the police may keep many people, including women, from reporting to the police.

5.10 4.11 Conclusion

This chapter discussed various types of GBV and has shown that on a political and legal level, measures against various type of *GBV* have been taken. While some forms of *GBV* have qualified as criminal offence for more than 20 years, others were only recently added to the catalogue of statement of facts. A significant number of legal provisions were introduced to guarantee protection for any victim of violence; others specifically target victim protection of women. One the one hand, some legal policies lay ground for the introduction of statements of facts to counter *GBV* against women migrants and refugees. Previous Austrian governments, especially in the 1990s, undertook efforts to counter human trafficking in and around Austria. On the other

hand, violence motivated by racism and other forms of hate crime – either verbally or physically, by authorities or individuals – appears to be an issue, which requires further research and policy measures. This would include the analysis of other, intersecting forms of violence. It is, above all, pivotal to recognize the intersections of different forms of *GBV* and allow for these issues to be visible and reflected upon.

6 National and international regulatory frameworks

In this chapter, we first outline what role gender plays in contemporary regulations for asylum seekers, refugees and migrants. After engaging with national regulatory frameworks, we demonstrate how these relate to international frameworks which combat *GBV*.

6.1 Gender-specific refugee regulations: status, asylum and titles

The *Geneva Convention on Refugees (CGR)* of 1951 and 1954, respectively, did not implement gender as a reason for flight. The conception of an ‘atypical refugee’ was heavily masculinized and there was “little awareness that women could be refugees” (Schrover and Moloney 2013 (Schrover and Moloney, 2013, p. 258). It only includes persecution because of race, religion, nationality, belonging to a social group or in cases of political persecution.

According to the asylum regulation in Austria, § 20 *AsylG 2005*, questioning of the same-sex is required, if an asylum seeker states, that they experienced offences against their sexual self-determination. This requirement needs to be matched, unless the person was informed about this right and declines it. In proceedings where it is likely for a refugee to be a victim of violence to suffer from a mental health issue, particular attention to the needs of the asylum seeker should be paid to (§ 30 *AsylG*). Until 2004, persecution because of sexual orientation was not regarded as a claim for asylum in the EU. The *Council Directive 2004/83/EC* and its subsequent the *Directive 2011/95/EU* changed this (ILGA Europe 2016, p. 1). The second Directive states that gender identity should be taken into consideration.

In Austria, persecution on the grounds of sexual orientation or gender qualifies as “belonging to a social group” or due to “political reasons”. Gender-specific reasons for migration may occasionally be recognized (Kassai, 2015). The *Directive 2011/95 EU* states that also gender specific acts and physical, mental or sexual violence can be acts of persecution. Furthermore, discriminatory prosecution can be defined as persecution (Article 9 Abs 2a-f). These can classify a person as *refugee* within the meaning of Article 1A of the *Geneva Convention*. Article 10 of the *Directive 2011/95/EU* declares that the situation in the country of origin needs to be considered for the assessment if the sexual orientation of the person establishes a membership of a

social group that is under persecution (Article 10 Abs 1d). With regards to migrants identifying as LGBTIQ+, the Austrian government implemented laws on sexual orientation, policies or other positive measures were regarded as insufficient by *ILGA* (ILGA Europe, 2019). However, the *International Lesbian, Gay, Bisexual, Trans and Intersex Association Europe (ILGA Europe)*, an international NGO umbrella organization, which aims at improving human rights for people identifying as LGBTIQ+, calls for the adoption of EU-wide measures to ensure the protection of rights of *LGBTIQ+* asylum seekers and migrants.

6.2 National legal frameworks on violence

In 1996, the *First Protection against Violence Act* was implemented. According to Mayrhofer and Schwarz-Schlöglmann (2017), this legal framework is a ground-breaking societal achievement. As feminist groups and civil society pushed for legal foundations to protect individuals from domestic and other forms of violence, Austria's victim protection was internationally accredited for its progressive legal and policy measures. It included expulsion- and prohibition-to-return orders for cases of domestic violence in the Austrian *Security Police Act* (SPG).

In 2009, the *Second Protection against Violence Act* modified the criminal law, criminal procedural law und civil procedural law. In 2014, former minister of justice Dr. Beatrix Karl implemented a working group to reform the Austrian criminal code. Legal alterations were made in conformity with the *NAP* and the *Istanbul Convention*.

In 2014, a reform of the *StGB* applied renewals in the protection of victims based on the Istanbul Convention. *The EU-Directive on the Protection of Victims of Crime (Directive 2012/29/EU)* was implemented through the reformation of the *Conduct of Criminal Offence Procedure (StPO)* 2016. Wording in the *StGB* is gender-neutral and does not mention *GBV*.

A *Third Protection against Violence Act* was adopted in 2019. National Council pronounced a reform on the legal framework on violence on 25 September 2019 (ORF 2019). The Act includes higher penalties for the statement of facts rape and stalking. In addition, *FGM/C* should be declared “bodily harm with serious ramifications for the victims”, such as severe long-term consequences and harm (Bundesministerium für Verfassung, Reformen, Deregulierung und Justiz, 2019). The Act was criticized heavily by multiple civil society actors and NGOs. The feminist and social worker Rosa Logar stated to the newspaper *Der Standard* that new amendments should focus on higher conviction rates instead of increasing penalties (Der Standard 2019a). To increase conviction rates and victim support, an improvement of training for judicial and executive personnel is necessary (Logar, 2017, p. 115).

In 2011, *Multi-Agency Risk Assessment Conferences (MARACs)* were introduced as settings in which executive, judicial and victim support agents had discussed high-risk-violence-cases (Logar, 2017, p. 12). However, representatives of the criminal justice system did not take part in these conferences. They justified their absence with their obligation to objectivity. A good cooperation of justice, executive and victim support is necessary for preventing serious acts of violence (Logar, 2017, p. 112). The former government abolished the *MARACs* (Der Standard 2019a). In 2019, these case conferences were announced to be reintroduced. However, the police now carries sole competence for requesting these case conferences. If an institution for victim protection e.g. a violence protection center sees someone in great danger, he/she cannot request an interdisciplinary meeting in this kind of setting. Riezler (2017) criticizes that there is need of implementation of a separate category of psychological threats and violence in order to comply with Art. 27 of the *Istanbul Convention*.

The NAP on the *Protection of Women against Violence* between 2014-2016 was designed as an addition to the *first* and *second violence Protection Act (Gewaltschutzgesetz)*. Moreover, it was a consequence of ratifying the *Istanbul Convention* (GREVIO Shadow Report 2016:14). An inter-ministerial *working group ("Interministerielle Arbeitsgruppe" – IMAG)* on violence against women concluded their work on the implementation of the NAP by late 2018.

Bundeskanzleramt (2018): National Action Plans on the protection of women against violence (2014-2016).

Six pillars to counter violence against women

1. Interlocking political measures and data collection
2. Prevention,
3. Protection and support,
4. Substantive law,
5. Investigations, prosecution and protection provisions, and
6. European and international collaboration.

Furthermore, measures included

- awareness raising measures regarding gender-based violence and the existing support systems for teachers and school children;
- the development of curricula for psychosocial and legal court assistants for victims of violence;
- efforts to integrate “recognising and preventing violence against women” into the training curricula of health and nursing care professions;
- the establishment of an interdisciplinary and nationwide Working Group on Victim-Oriented Work with Perpetrators;
- the establishment of an early support system

Legal frameworks on violence against migrant women link to the dynamic and rapid changes in the *Asylum Act*. § 57 Abs. 1 Z 3 of the *Asylum Act* allows for victims of violence with a residence permit to receive *special protection*. If they file for divorce or separate from their family, their right on to remain in Austria is preserved. However, women often do not declare personal reasons for asylum when they apply with their family. This can pose a threat to their status or title if they decide to leave their spouse (Schwarz-Schlöglmann 2017). If a person takes this step and receives an independent title, they face strict requirements regarding German classes, integration agreement, proof of employment etc. This bares additional challenges if a person has little to no social network to lean on, carries responsibility for one or more children and tries to escape a violent relationship or family situation (ibid.).

A case of *FGM/C* may be considered persecution under the *Asylum Act* if there is a lack of willingness and/or ability of the country of origin to protect the claimant. According to the Austrian counter-*FGM/C* platform *stopFGM*, about 20 women that were under the threat of *FGM/C* have already received asylum. Two women, the report states, have received asylum after having undergone *FGM/C* (Kija 2017). According to the law, individuals can be accused and convicted if they belong to the group of a) perpetrator, i.e. conducting *FGM/C*, b) parents who give permission to someone to perform *FGM/C*, c) doctors, d) anyone who assists or helps in performing *FGM/C* (Ministry for Women and Health 2017).

Cases of *IPV* and domestic violence fall under the *NAG* if legal prosecution affects migrant's legal status. According to § 27 3 *NAG*, a person is able to receive a residence permit in the case of domestic violence (§ 27 Abs 3 Z 2) or forced marriage (§ 27 Abs 3 Z 1 *NAG*). This rule applies only if the victim reports the experienced violence within a month (§ 27 Abs 4 *NAG*). If a person is at risk of becoming a victim of (domestic) violence or has been assaulted already, recent changes to the *NAG* have made it easier for migrants who derived their title from EEA-citizens' titles, i.e. their spouse, to receive an independent residence (§ 54 Abs 5 Z 4 *NAG*). However, this status can only be received if the police has issued a restraining order against the offender. As many people with migration background experience interactions with Austrian police officers as negative (FRA 2018), women are less likely to approach the authorities for help directly (GREVIO Shadow Report 2016).

6.3 International frameworks: Istanbul Convention and CEDAW

Much of the violence-related legal frameworks on national level are derived from international binding and non-binding recommendations, directives and regulations. The Council of Europe

and EU play an important role in the advancement of victim protection in Austria (Riezler 2014).

The Austrian government ratified the *Istanbul Convention* on 14 November 2013, which came into effect on 1 August 2014. According to the *Istanbul Convention*, women refugees are especially vulnerable in the context of flight. It holds the state accountable for providing women with sufficient infrastructure and protection. This includes women who have been structurally and legally excluded from access to accommodation and who are restricted in their autonomy regarding security and protection (Schwarz-Schlöglmann, 2017).

With reference to Art. 60 – Gender-Based Asylum Claims – of the *Istanbul Convention*, “GREVIO welcomes the highly developed and efficient system of welcoming and processing the claims of asylum-seekers in Austria. It nevertheless invites the Austrian authorities to ensure that all women arriving as asylum-seekers are ensured the possibility of being interviewed on their own and that all those concerned in the processes (interviewers, interpreters, lawyers) receive adequate training on the questions of gender-based persecution and gender-based violence (proposal 45, paragraph 212)” (GREVIO Shadow Report NGO-Coalition, 2016, p. 31). In the ministry’s response, criticism on this issue is recognized while attention is drawn to limited budgetary funds under which the Ministry had to work during 2015/16. As laid out in the *Istanbul Convention*, women refugee’s residence title should not be dependent upon her spouses if she decides to file for divorce or separate (ibid.). Furthermore, by signing the *Convention* states commit to standardizing *GBV* as persecution with reference to the *Geneva Convention of Refugees*. In the case of suspicion of *GBV*, investigative interviews are required to take place with the help of a same-sex translator.

On EU-level, “according to Art. 22 EU Reception Conditions Directive (2013/33/EU), Member States are obliged to assess special protection needs of vulnerable persons within reasonable time. According to Art. 21 *EU Reception Conditions Directive*, victims of different forms of [*GBV*] (rape, sexual exploitation, human trafficking, and female gender mutilation) are defined as applicants with special reception needs” (GREVIO Shadow Report, 2016, p. 93). Access to women’s shelters and secluded women-only areas within reception centers is therefore indispensable. If violence against women occurs in a shelter, the accommodation provider should consult a doctor with the affected person (Schwarz-Schlöglmann, 2017). Moreover, the doctor’s obligation to notify authorities pursuant to § 54 Abs 4 *ÄrzteG* is given in cases of serious violence or if there are grounds to suspect that a person cannot protect their interests individually and is being harassed, neglected or sexual abused. Even if counseling and assistance services are available and known, it is often especially difficult to seek help for women refugees.

Austria received rather positive reactions to her implementation of *NAPs* on *WPS* by the *CEDAW shadow report* of 2012. The state implemented a first *NAP* on *WPS* in 2007, in which one of the early concerns of the *NAP* on *WPS* was the matter of human trafficking. In 2006/7, an inter-ministerial working group addressing the *WPS* on a (non-) governmental level was initiated by the Ministry for European and International Affairs. In her time as a temporary member of the UN Security Council between 2009 and 2010, Austria was active on an international and national level. The *NAP*'s revision took place in 2010 and 2011 after an international conference on the Resolution in Vienna. Ever since, the government has been publishing annual evaluation reports which document the progress of the resolution's implementation.

In its recent revision of 2019, the UNSCR 2467 strengthens the role of *CEDAW* and makes it legally more relevant on a human-rights level, i.e. brings it closer to a legally binding document by referring to it in the Preamble (Chinkin and Rees, 2019). This is relevant for Austria as the *Common Recommendation No. 28* of the *CEDAW*-committee concludes that states are equally responsible for ramifications of their politics that affect people living outside of the state's territories. In other words, Austria carries responsibility to follow coherent politics inside and outside her territories to remove forms of discrimination against women where the country is involved in every which way. As the interconnection between *CEDAW* and *UNSCR 2467 (2019)* is reinforced, Austria might have to revisit her implementation in the upcoming years.

This chapter has given an overview of the current legal and regulatory developments around migration, refugee and asylum law but also frameworks around *GBV*. It breaks down some of the international obligations under which Austria stands and how previous governments translated these into national law and policy. While the *Act on Protection against Violence* and its successors present a continuous and at times liberal framework, changes to the law in the context of asylum and migration have made it increasingly complicated to keep track of the current state. While the issue of domestic violence, *IPV* and *FGM/C* are some of the most prominent forms of *GBV* which are considered by the law, a more holistic conception of *GBV* is only marginally visible.

7 Health and access to services in the event of *GBV* for refugees and migrants

Legally speaking and on paper, migrant women and asylum seekers residing in Austria 'legally' have access to health insurance and have equal rights to receive health care. When employed in

Austria, the employee is insured by the employer, covering pension schemes and health insurance. Family members of a person who possesses a work permit in Austria and is employed can be co-insurance if needed (European Migration Network, 2016).

However, Echsel et al., representing the NGO *Peregrina*, clarify that migrant and refugee women are at higher risk of becoming and staying ill without recovering (Frauen: Rechte jetzt!, 2013). Equal access is not given for these women to the Austrian health system, as it is not sufficiently adapted to women with migration background due to the lack of e.g. language proficiency by personnel and/or translators or interpreters (ibid.). To counter these circumstances, some initiatives commenced their work to make needs for refugee women more visible. Since 2017, a roundtable on “Migration and Women’s Health” gathers on a regular basis in Vienna to discuss current issues in the field of asylum and women’s health as well as to connect actors working in the field of asylum, refugees and women. Another initiative – the *Viennese Platform for Women, Migration and Health* – was founded in 2017 (Stadt Wien, 2018). Their focus lies on women refugees and their health requirements.

According to Echsel et al., women migrants and refugees have less access to social security. Therefore, they are at higher risk of suffering from work-related health problems (Frauen: Rechte jetzt!, 2013a). Data is limited on this issue. Some studies show that migrant and refugee women assess their quality of life and psychological health as unsatisfactory (ibid.). Their risk of suffering from chronic diseases such as diabetes is three times higher than with other groups in Austria. The risk of experiencing high blood pressure, depression or anxiety is 2.6 times higher and 1.5 times higher when it comes to migraines, joint and spinal problems (ibid.). A lot of the primary psychological and physical health care is still left at the hands of local NGOs. Oftentimes the lack of language proficiency of health care personnel makes medical support impossible (ibid.).

Schwarz-Schlöglmann (2017) illustrates a number of reasons why women migrants and refugees frequently find it hard to access services or make use of their rights in the event of *GBV*. Apart from physical or verbal forms of *GBV*, these women face structural barriers such as the reduction of or exclusion from social security benefits. Those forms reinforce isolation and a lack of a social network, lack of German language skills, or fear of the police. Sauer (2011) underpins this assessment with factors of socio-economic inequality, exclusion from citizenship and the lack of educational and employment opportunities. The extent to which access is available needs to be analyzed in the light of the intersections of class, race and gender.

In general, Austria is well equipped with institutions that support women, children, and adolescents in the event of e.g. domestic violence, *IPV* and rape. Austria has 30 shelters offering room

for 766 women and children. Vienna provides about 175 spots for women (ORF 2013). Each federal state has its own *Violence Protection Center/Intervention Center*. Six regional counselling centres for sexual violence are presently installed in Austria to provide counselling and support for e.g. rape victims. However, there is a significant difference between urban and rural regions regarding access to services. On paper, any woman should have access to protection, prevention and support facilities. Nevertheless, some differences can be identified especially for refugee women.

According to Schwarz-Schlöglmann (2017), 25 to 0% of women at shelters or protection centers show some kind of migration background. Shelters and refugee's reception centers are most frequently confronted with violence against refugee women in the following three contexts (166): Violence in the family, violence against single women or those who traveled on their own, and violence in the immediate social environment.

According to the 2018 *CEDAW* Shadow report, refugee women with subsidiary protection face relatively higher obstacles when trying to leave a relationship (Klagsverband, 2018). For refugee women coming to Austria to reunite with their families, their legal (asylum) status is, in most cases, dependent upon the status of their spouse, since they oftentimes apply for asylum as a family (European Migration Network, 2016). Until recently, this made escaping violent relationships extremely hard. Under the *Asylum Act*, refugees may leave their spouse and receive an independent status. However, requirements for receiving permission to remain in Austria (language, employment, income) are oftentimes hard to meet.

In 2017, the *Diakonie*, a protestant charity organization, opened Austria's first ever center tailored to the needs of women refugees in Vienna. Services include language-training, education on sexual and reproductive health, social activities but also help in the event of *GBV* (ORF, 2017). Although this center is a step towards the right direction, extensive and nation-wide infrastructure is yet to be installed (ibid.).

There are some NGOs, like *FEM Süd* in Vienna, that offer support for women in the case of *FGM/C* and forced marriage. If minors are likely to be taken away for a specific amount of time to get married or for the removal of parts of their genitals, child protective services may step in. There is a special clinic in Vienna, which cooperates with gynecologists offering plastic and reconstructive surgery. Organizations like *Orient Express* offer support (legal and psychological) to women and their relatives confronted with forced marriage. Women who have been forced to undergo *FGM/C* and press charges against the offender have the right to receive psychosocial and judicial support free of charge.

ZARA, Romano Centro and the *Forum against Antisemitism* offer support for any person who experienced forms of hate crimes. Some migrant women may be especially affected when e.g. wearing a head scarf, if they are insulted or assaulted due to their skin colour or confronted with stereotypes and prejudice around “culture-specific” gender roles and norms. Legal and psychological support as well as mediation and workshops on related topics are offered to women, men and children.

LGBTIQ+-specific support facilities and services for migrants and refugees are rare. Vienna, Linz and the Salzburg region feature some institutions, such as *Queer Base*.

The pressure under which some women’s shelters provide protection for refugee women is especially concerning. In some federal states in Austria, women refugees have unequal access to these institutions due to various reasons. “In several of the nine provinces of Austria, some groups of migrant or refugee women, especially undocumented and asylum-seeking women and women with limited social rights and benefits, face barriers to accessing women’s shelters” (GREVIO Shadow Report NGO-Coalition, 2016, p. 5). Public donors, like local governments, restrict accommodating asylum seekers and undocumented women, which forces shelters to come up for those women privately (*ibid.*). It might also lead to women not being admitted to shelters at all. This poses severe financial and existential insecurity for women and NGOs. “There is a lack of services provided in mother tongues other than German. Since the funding of migrant organisations is not secured, they suffer from austerity measures and are even forced to close, such as the migrant counselling centre *Horizont* in Lower Austria” (*ibid.*: 51).

Wolf (2016): Handbook to prevent *GBV* in the context of work with refugees. *Johanniter Initiative gemeinsam gewaltfrei*.

This handbook gives a thorough overview on what forms of *GBV* can occur during the work with refugees. It does not only address the identification of abuse but also helps social workers etc. to approach the topic more carefully. It introduces the reader to different potentially conflictual areas. It looks at violence against women but also transgender and homosexual migrants and refugees as well as work with men to prevent violence. In addition, a template sheet for identification of physical and psychological abuse is attached to the appendix. This handbook is unique in Austria. Working with provisions of the *Istanbul Convention*, *CEDAW* and *UNHCR*, it makes sure to fulfill international standards. However, it does not discuss or address the topic of *GBV* by authorities towards refugees. Developed by a number of researchers, lawyers and social workers who had worked with refugees suffering multiple forms of *GBV* in 2015/2016, the handbook gained attention on a practical, and on a municipal level like the City of Vienna.

Voices, from different fields within the Austrian non-governmental sector such as *LEFÖ*, *HEMAYAT*, *Queer Base* or *UNDOK* have criticized the lack of the following requirements to ensure women's support:

- Psychosocial support, therapists and comprehensive appropriate infrastructure for women exposed to *GBV*
- Services and education on reproductive and sexual health
- *LGBTIQ+* specific support structures
- Services in mother tongue for women
- Access to shelters for any woman
- Infrastructure for traumatized and tortured refugees,
- Sensitization for structural reasons for and forms of *GBV*
- Prevention of racial profiling by authorities; Anti-racism and anti-sexism measures
- Training for medical and judicial personnel, social workers, police, judges, psychotherapists in every of the above points
- Increase federal budgets for ministries working on intersecting issues regarding women refugees; increase funding to combat all forms of hate crime.

Most of this comes down to the lack of funding from governmental bodies on local and federal level. As stated in the *GREVIO* Shadow Report, “to enable migrant women and their children to live free of violence requires not only the right to be protected from violence, but also social and economic rights, such as the right to employment, to financial assistance and to housing” (*GREVIO* Shadow Report NGO-Coalition, 2016, p. 51). As of 2016, the Ministry for Women and Health received a budget of €10 Million to finance projects and campaigns on *GBV* and measures generally directed towards gender equality. These assets were deemed as insufficient for comprehensive improvements in this regard (*ibid.*).

8 Conclusion

Different forms of *GBV* are induced by imbalances in power structures, upheld patriarchal hierarchies on a societal and systemic level. This is applicable for *GBV* against women as well as other marginalized groups in society. Austria is not excluded from these dynamics. Thinking violence as something all women, no matter their nationality, race, class etc. can be exposed to, is crucial, since its underlying constructions and the reason why *GBV* occurs can be retraced to structural forms of discrimination embedded in society. It is therefore important to understand *GBV* not as an individualized issue but as a challenge to society. However, this does not imply a universality to the experience of violence per se. Refugee and migrant women in Austria face challenges, which need specific attention but simultaneously do not explicitly differ from groups of women, which are not categorized as refugees or migrants. That is why this country report presents a first spotlight onto the intersections of women migrants and refugees, gender and race in the context of *GBV* in Austria.

Research for this country report has given some insight into what potential there is to expand on that allows women refugees and migrants to build resilience in their potentially vulnerable life situations. Measures may include expanding access to services and support infrastructure but also health and employment. Urban areas, with Vienna at the forefront, are well equipped with infrastructure compared to rural areas. Regarding women's shelters and ad-hoc protection against domestic violence, Austria seems to be living off its good reputation from the past. While achievements in the 1990s concerning protection against and prevention of domestic violence demonstrated a big leap forward and a success for feminist struggles, there is an increasing need for improvement in the field of protection against *GBV* in the context of refugee women.

At the same time, it becomes obvious that political will to support this infrastructure has deteriorated in recent years. A delicate network of shifts in political power, xenophobic and discriminating-against discourse against migrants and refugees has complicated the situation for refugees in Austria of which women face certain additive forms of hardship. There is a demand for improved infrastructure of short-term help, such as unlimited access to emergency shelters and long-term infrastructure concerning education, employment, health, leisure, mobility and social security. Some of the most important actors in the field, namely NGOs, face financial, legal and political insecurity while changes to migration and asylum law have constrained their work and conditions under which their clients approach them.

The issue of “cultural or tradition-specific” forms of violence has received more attention by government. It is yet to be analyzed how this agenda may be in line with discursive developments around *GBV*, migration and women and e.g. Eurocentric frames revolving around “the Other”. The task remains to acknowledge the role of the state in how he reproduces structural forms of *GBV*.

Looking at the state as an actor in the field, we therefore conclude two strands of developments, which are intertwined with regards to *GBV*. On the one hand, power shifts and restructuring of state bodies and authorities occurred. On the other, increased emphasis is put on “culture-specific” forms of *GBV* and the victim’s protection, which need to be tackled. This push for legal reforms simultaneously serves as an argumentative base why restrictive migration politics are necessary. Part of this relates to the argument of “protecting our women” and victims of violence from “other cultures” (Standke-Erdmann, M.; Pieper, M. Rosenberger, 2022)

The chapters of human trafficking shows that the issue of *GBV* needs to be reflected upon in a global context, exceeding national borders of Austria. While the act of violence may occur on the journey or in a person’s country of origin, the consequences of violence are likely to show after their arrival in Austria. This report reveals the need for analyses of in international migration regimes and actors therein in the context of *GBV*.

Overall, *GBV* against refugee women has been and is a relevant topic in Austria. As some initiatives show, an important task in upcoming years is to make the issue visible, underline its importance for every-day lives of these women and to catch attention of relevant actors who can have a significant impact on improving women’s life situations.

9 References

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