

Public Statement

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Austria: Restrictions on consensual sexual activity

Amnesty International is concerned that Article 209 of the Austrian penal code places restrictions on consensual sexual activity between males in a manner that violates the government's obligations under international law to prohibit discrimination and arbitrary interference with the right to privacy.

Article 209 states: "A man over 19 years of age who engages in same-sex lewdness with a person who has attained the age of 14 but not yet the age of 18 shall be punished with imprisonment from six months to five years".

On 14th February Franz L, who is in his thirties, was arrested after the Vienna Regional Criminal Court issued a warrant based on information from the police that he was allegedly engaged in a sexual relationship with a 15 year old adolescent. The police took the juvenile from school and subjected him to intensive interrogation about Franz L during which he confirmed the sexual relationship. During the interrogation (which lasted more than nine hours on the first day and two and a half hours on the second day) he stated clearly that Franz L loved him and that all sexual contact had been consensual.

During his detention at the police station, Franz L was extensively interrogated and he confessed to sexual relation with the 15 year-old, as well as to sexual relations with three other adolescents within the past three years. All the adolescents involved were over 14 years of age at the time of the alleged sexual contacts. On 16th February Franz L was

transferred to the Court's prison house, and a judge imposed detention on remand for danger of repetition.

— Franz L has no criminal record and is employed as a consultant, a job he now fears to lose as a result of his continued detention. The written report to the court, the pre-trial investigation and the custody on remand are all based solely on Art. 209 of the Penal Code.

As an international organization, Amnesty International takes no position on an appropriate universal age of consent. However, the organization opposes laws which place a higher age of consent for sexual conduct between people of the same sex. Article 209 of the Austrian penal code stipulates a higher age of consent for homosexual male relations compared to lesbian or heterosexual relations. While the age of consent for heterosexuals and lesbians is placed at 14 years of age, the age of consent for homosexual males is 18.

Amnesty International considers Franz L to be a prisoner of conscience and urges the Austrian authorities to release him immediately and unconditionally. The organization also urges the Austrian authorities to repeal Article 209, and ensure that legislation is consistent with Austria's international obligations to prevent discrimination and protect the right to privacy.

Footnote: The main full name is being withheld on grounds of confidentiality

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