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Race against time to compensate gay men convicted of sex crimes in Austria

About 1,000 men were convicted under pre-2002 law and stigmatised as sex offenders.

By Enrique Anarte

Thomson Reuters Foundation (07.07.2020) - <https://bit.ly/2WpYTOd> - Tobias was 19 when he fell out with his 17-year-old boyfriend, who found another lover, unlocking a chain of events that still scar his life in Austria - a criminal record and threatening anonymous phonecalls tarring him as a paedophile.

Before the law was changed in 2002, thousands of men like Tobias - aged 19 or more who had sex with boys under 18 - were jailed for up to five years and stigmatised as sex offenders who remain barred from working with children.

"I received calls with insults or warnings against getting close to children," said Tobias, now a 40-year-old openly gay businessman, who still finds it hard to talk about what happened almost two decades later.

"At first it scared me and I often felt lonely, but I received a lot of support from LGBT+ activists and left-wing politicians. It helped me cope with stigma," he said, declining to publish his real name as it could damage his business.

Many countries have grappled with retrospectively erasing criminal records as laws governing sexual orientation have evolved over the years. Germany and Canada have compensated gay men who were convicted and cleared their names.

Same-sex relations were legalised 1971 in Catholic-majority Austria. The courts ruled in 2002 that having a higher age of consent for gay sex than for heterosexual sex - which was age 14 - was unconstitutional and the laws were harmonised in 2003.

But the victims have not been granted redress.

The Thomson Reuters Foundation interviewed four men who were convicted under the criminal code, all of whom said the government's refusal to quash their convictions had caused life-long stigma and psychological and financial problems.

"Deep inside, that legislation was telling gay men that society did not think their behaviour was okay, that gay men were still child molesters, a danger to society," said Andreas Brunner, co-head of QWIEN, a queer history centre in Vienna.

The justice ministry did not respond to a request for comment and there are no official figures on the number of victims, although Austria's largest LGBT+ rights group, HOSI Wien, estimates about 1,000 men were convicted since 1971.

"Nobody really knows how many victims are still alive," said Helmut Graupner, an LGBT+ rights lawyer, who has fought for the repeal of anti-LGBT+ laws, most recently, winning the right to same-sex marriage, which was legalised in Austria in 2019.

Paedophile

Jakob, 71, was jailed for five months in 1985 for having sex with a 17-year-old. He declined to talk about his time in jail but said it destroyed his dream of becoming a lecturer.

"It prevented me from following an academic career, after a lot of effort it made it impossible," said Jakob, who kept his sexual orientation hidden for many years afterwards so that he could continue to earn a living with informal teaching work.

"Despite psychological pressure, I managed to survive as a private tutor, even though now I do not have pension or income."

He would like to receive compensation, but is sceptical.

"I do not think I will live to see that," he said.

Although Maximilian, 56, won a case in the European Court of Human Rights in 2003, which ruled that his conviction was discriminatory, he still feels too ashamed about his criminal record to campaign publicly in Austria for redress.

"What hurts however is that young gay men now see one as a paedophile," said Maximilian, who declined to publish his real name.

"Twenty years later, I still get a fright when the door rings in the evening or I see a police car in front of my door, even though I know I should not have a bad conscience ... compensation would mean justice."

All four men interviewed wanted to have their criminal records expunged, but were reluctant to say much about the past and unwilling to go public because of the stigma involved.

Austria's liberal Neos party has twice this year introduced motions seeking to clear the names of the reclusive middle-aged and elderly gay men convicted for their sexual activities but both were rejected before reaching parliament.

"Financial and legal reparations for the victims are long overdue," said Yannick Shetty, parliamentary spokesman for LGBT+ rights for Neos, which has 15 out of 183 seats in the lower house of parliament.

"We will definitely keep putting the topic on the political agenda. Therefore, we are going to table the motion again in autumn."