
2. AUSTRIA

Area in sq. miles	31,760
Population	6,100,000
Capital	Vienna
Population of Capital	1,842,000

Austria has a probation law for minors and adults dated 23rd September 1920, and parole. Age of criminal responsibility, under ten years *nil*, ten to eighteen years partial (see Appendix).

Probation officers are full-time, trained and state-paid. Also there are part-time officers and volunteers.

The juvenile court law, 25th January 1919, deals with offenders, dependent and neglected children, etc. Specialised judge, psychiatrist children's clinics (Education Department), observation home, counsel to defend children.

There is a society to protect children, with branches everywhere, legalised 23rd September 1920, to co-operate with the courts, and a Federal Ministry for social administration.

The information given below was supplied by Miss Grete Löhr, Chief Probation Officer in the Viennese law-courts. It is dated 10th April 1925, and was written in English by Miss Löhr. I had the pleasure of meeting her when she attended the International Prison Congress, London, 1925, and seized the opportunity of discussing with her the aims of Austrian probation, and of thanking her for the valuable literature on the subject which she had sent me.

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1. We have a law which permits the release on probation of offenders punishable by our courts in approved cases.
 2. The name of this law is "Gesetz über die bedingte

Verurteilung" (Law regarding release on probation).
Date, 23rd September 1920.

3, 4, 5 and 13. The law is applicable to minors and adults of every age. The "Jugendgerichtschilfe" (Juvenile Court Care Work) has been introduced into the whole of Austria. In country districts probation is carried on by the agents of the "Landesjugendamt" (Local Welfare Office). These agents are generally women care workers. In Vienna the Juvenile Court Care Work has been carried on for fourteen years. It started at a time when the legal regulations were still at a very primitive stage and only required a special treatment of juveniles. The Vienna Juvenile Court Care Work, together with the leading judges, prepared the ground for the "law for setting up juvenile courts," which was passed 25th January 1919. The Vienna Juvenile Court Work is an association of workers whose centre is known as "Geschäftsstelle der Jugendgerichtschilfe." This is incorporated with the juvenile court, and is a so-called "semi-official" bureau. It is responsible to the juvenile court for the entire carrying out of visits of investigation and of probation work. Eighteen workers are employed in this bureau, both in and out of doors, under the supervision of the Chief Probation Officer, whose signature is attached to this letter. The most important and complicated visits are paid by the agents of the Geschäftsstelle. This latter provides the connecting-link between the court and the incorporated associations.

Almost all the Care and Welfare Associations of any note are incorporated in the Vienna Juvenile Court Care Work. These associations put the most capable of their welfare workers at the disposal of the Juvenile Court Care Work; besides this, about 100-150 individual workers are incorporated.

I must add that our juvenile court not only intervenes in the case of youthful offenders, but acts also as a "guardian court" in the case of forsaken, jeopardised, ill-used and neglected children. It also has to make decisions as to the children of divorced marriages who are jeopardised in their development by the quarrels of their parents.

This wide scope of the juvenile court necessitates a widespread organisation of the care work belonging to it.

5. (a) The probation officers are all trained for their work, both theoretically and practically.

(b) The salaries are fixed by order of the National Council (Parliament), paid by the State and administered by the Federal Ministry for Social Administration.

(c) The municipality or other local authorities have in every case the supervision of all children born out of wedlock.

(d) The salaries of probation officers are paid by voluntary societies in cases where the associations provide their own workers.

(f) We have a large number of voluntary workers.

6. Those offenders or jeopardised children who show any special peculiarities are examined by the Psychiatrist for juveniles. At the trials in criminal cases (not ordinary offences), the Jugend Psychiatrist is always present.

7. These Jugend Psychiatrists are attached to the court. The children's clinic is attached to the Education Authority.

8. The examination of offenders takes place before or after the trial, according to the individuality of the case.

9. The scheme of intelligence tests used is that of O. Binet, Bobertag, and the modification according to Lazar-Tremel.

10. We have an observation department—

1. At the children's clinic.

2. Schutzheim (Home of Protection) for jeopardised male juveniles, run by Pater Kehrein, and

3. The Luisenheim for jeopardised girls.

11. There are courses for the training of probation officers.

The care workers receive a general training—

1. In the Municipal Academy.

2. The special courses for welfare work (Arlt-Schule).

3. Social Women's School (Soziale Frauenschule).

In addition the Vienna Juvenile Court Care Work arranges from time to time special courses for probation officers.

12. The judge refers offenders for examination on the recommendation of the probation officer or on his own initiative.

The number of full-time paid probation officers is unfortunately unknown to me.

(Signed) GRETE LÖHR,

Chief Probation Officer at the Vienna Juvenile Court.

SUPPLEMENTARY INFORMATION

I. Dr. Victor Suchanek in the B.I.P.E., 28th February 1925 and 30th April 1925, tells us:

There were three degrees in the ages at which offenders may be punished (*responsabilité pénale ou capacité du délit*) prior to the laws of 1919-20.

1. Children under ten years of age were absolutely free from legal proceedings. If they broke the law, they were confided to parental discipline completely without any supervision by the judicial authority.
2. Children of over ten years and up to fourteen years of age :
 - (a) If under the law the offence committed was designated a "crime," the offender was punishable, but only for "an infraction of the law committed by a minor," for which there were special penalties not so severe as those for adults.
 - (b) If the offence was less serious, *délit ou infraction*, carrying in adult cases less severe penalties than those for "crimes," the minor was free from prosecution.
3. Above fourteen years of age, offenders under the law might be punished to the same extent as adults. However, for many years the tendency had been to adopt fourteen as the age of criminal responsibility.

The new law, 1919-20, establishes complete penal irresponsibility of minors of less than fourteen years completed, and a limited responsibility for the ages from fourteen up to eighteen years.

Until recently in Austria and in the greater number of European States, no distinction was made between child offenders and adult offenders from the penal point of view. This changed only with the movement inaugurated in America at the end of the last century, and later in England, whence it passed to Germany and Austria. The predominant principle was that it was necessary to apply *penal* measures in the case of adult offenders and *educational* measures in the case of the young. This reform found expression in Austria in the law 25th January 1919, concerning the organisation of juvenile courts, and in the regulations 25th September 1920. By virtue of these the following juvenile courts (A and B) function in Austria:

A. Children's courts in Vienna and in every district children's court outside Vienna over which a children's judge presides. These are not only tribunals for the protection of children, but also for their correction.

These courts make decisions—

- (a) in penal affairs concerning children ;
- (b) concerning "infractions" committed by adolescents who have not completed eighteen years of age ;
- (c) concerning adults who have committed infractions against those who have not completed eighteen years of age, e.g. cruelty, employing them in begging, etc.

The Vienna juvenile court employs a simplified procedure in cases of delinquent minors.

B. The district or regional courts which function—

- (a) as courts for jury trials involving the most serious offences,

(b) as Sheriff's courts for all crimes not dealt with by a jury,

(c) as a Court of Appeal against the decision of the juvenile courts.

Generally speaking, penal procedure in the courts is the same for children as for adults. Enquiry into the motives which have caused an offence is not legally required, but modern judges of children deviate from the strict course, no doubt impelled thereto by the beliefs of the Society for the Defence of Children brought before the Courts. This society for the Defence of Children, etc., considers the following procedure as indispensable:

(a) To appoint counsel for accused minors.*

(b) To secure the absence of publicity in courts for minors.

(c) To forbid publication of sentences arrived at behind closed doors.

(d) To preserve young offenders from harmful influences.

(e) To find occupation, instruction and other educative measures for minors during detention.

(f) To make special arrangements in the case of "conditional release" or "conditional sentence."

Conditional release or conditional sentence implies probation. It applies to minors and adults and consists of a period of testing of from one to three years. If the offender's conduct is satisfactory during the time, the punishment is not inflicted. If not, respite is withdrawn and the delinquent pays his penalty. In the case of minors the court is compelled to take the necessary official measures of protection in order to guard against their becoming recidivists. Such measures are supervision of conduct and education, educational assistance in a family, or in an institution, etc. Supervision may be extended even beyond the period of probation.

Probation may also be used for offenders who have suffered two-thirds of their sentence, or—as the Americans would say—"those who have been liberated 'on parole.'"

"The Society for the Defence of Children brought before the Courts" acquired a legal character the 23rd September 1920. It forms a sort of co-operative body linking up those persons, corporations and societies engaged in child welfare which place themselves at the court's disposal for carrying out educational and penal measures amongst minors. It is in aims and essence similar to the "National Federation of Institutions for the Protection of Children" promulgated in Decree No. 10,767 by the Portuguese Republic, 15th May 1925 (see Portugal).

II. Miss Löhr, writing 20th November 1926, informs me that a new Bill is being submitted to the Austrian Parliament of which there are two drafts, viz. that proposed by the Government, and one by Dr. Fiala, chairman of the juvenile court at Vienna. The Bill has for object, among other things, the introduction of the "Indeterminate sentence for youthful offenders." Under this the length of an offender's sentence is determined by his ability to make good.

* As in Parisian juvenile courts, see France, and Czech courts, see p. 33, etc.