

## AUSTRIA

Federal Law of 23 January 1974. (*Bundesgesetzblatt*, No. 60, 1974.)

Sections 96, 97 and 98 of the Penal Code adopted in January 1974 read as follows:

### **Abortion**

**Sec. 96** (1) Anyone who interrupts a pregnancy with the consent of the pregnant woman shall be punished by imprisonment of up to one year; where the act is committed habitually and for gain ("*gewerbsmaessig*") by imprisonment up to three years.

(2) If the direct perpetrator of the act is not a physician the punishment shall be imprisonment of up to three years; where the act of such an offender is committed habitually and for gain, or where it causes death of the pregnant woman, the punishment shall be imprisonment from six months to five years.

1. A woman who performs or allows to be performed an abortion on herself shall be punished by imprisonment of up to one year.

### **Justification of abortion**

**Sec. 97** (1) An act is not liable to punishment under Sec. 96:

1. Where the abortion is performed by a physician during the first three months from the beginning of the pregnancy after a previous medical consultation; or
2. Where the abortion is required ("*erforderlich*") to avert a serious danger, not to be averted by other means, to the life or to the physical or mental health of the pregnant woman, or where a serious danger exists that the child may be afflicted with a serious physical or mental defect, or where the woman became pregnant when under 14 years of age; always provided the interruption of pregnancy has been performed by a physician; or
3. Where the abortion is performed to save the pregnant woman from an immediate danger to her life, which could not otherwise be averted, under circumstances where medical aid was not available in time.

(2) No physician is obliged to perform an abortion or to take part in it, except where it is necessary ("*notwendig*") without delay to save the life of the pregnant woman from an immediately threatening danger which cannot otherwise be averted. This applies also to persons in para-medical, medico-technical, or auxiliary health employments.

(3) No one may be in any way disadvantaged because he or she has performed a justified abortion, or taken part in it, or because he or she has refused to perform or take part in such an abortion.

***Abortion without consent of the pregnant woman***

**Sec. 98** (1) Anyone who interrupts a pregnancy without the consent of the pregnant woman shall be punished by imprisonment of up to three years; where the act causes the death of the pregnant woman, by imprisonment of from six months to five years.

(2) The perpetrator of the act shall not be punished under para. (1) where the abortion is performed to save the pregnant woman from an immediate danger to her life, not otherwise to be averted, under circumstances where the consent of the woman cannot be obtained in time."