

## Dual Court Assistance

Dual court assistance is a reliable concept, which allows those affected - so-called victims (by law) of violence, dangerous threats and/or those who have been injured in their sexual integrity, to be supported **free of charge** with further legal proceedings as well as psychosocial care.

If you have experienced violence because of your appearance or (alleged) religious affiliation or if you have been dangerously threatened or violated in your sexual integrity, you are entitled to **free psychosocial and legal court assistance**.

State-approved victim protection institutions, such as WEISSER RING, specific counselling organisations (for women\* and/or men\*) as well as different kinds of violence protection centres and agencies

in Austria, offer free of charge dual court assistance.

If you have any questions or need information, please do not hesitate to contact the counselling organisation of your choice – such as counselling units specifically for women\* and/or men\*, the Antidiscrimination Office in Styria as well as WEISSER RING.

There you will receive further advise, support with filing a complaint, company to the police and/or you can talk about your experience, share your thoughts and emotions and report the incident in a warm and trustful environment. Note that you can always also report your experience to an independent organisation anonymously.



This brochure was created as part of the project V-START - Victim Support Through Awareness Raising and NeTworking. The sole responsibility for the content of this publication lies with the authors; the European Commission and the Ministry of Social Affairs are not responsible for the continued use of the information contained therein.



Co-financed by the European Union's Justice Programme (2014 - 2020)

 **Bundesministerium**  
Arbeit, Soziales, Gesundheit  
und Konsumentenschutz

Co-financed by the Federal Ministry of Labour,  
Social Affairs, Health and Consumer Protection.

## Who to contact?

### Afro Rainbow Austria - Von und für LGBTIQ+ Migrant\*innen aus afrikanischen Ländern

Nur nach Terminvereinbarung  
Pernerstofergasse 12  
office@afrorainbow.at

### Antidiskriminierungsstelle in der Stadt Salzburg

Kirchenstraße 34  
5020 Salzburg  
office@antidiskriminierung-salzburg.at

### Antidiskriminierungsstelle Steiermark

Andritzer Reichsstraße 38/1.Stock  
A-8045 Graz  
T: +43 316 / 714 137  
buero@antidiskriminierungs-  
stelle.steiermark.at  
www.antidiskriminierungs-  
stelle.steiermark.at

### AÖF - Verein Autonome Frauenhäuser

Bacherplatz 10/4  
1050 Wien  
T: +43 (0) 1 544 08 20  
**Frauenhelpline gegen Gewalt (24h/Tag)**  
0800 222 555

### Beratungsstelle Courage

Wienmühlgasse 15/1/7  
A-1060 Wien  
info@courage-beratung.at  
T: 01 585 69 66

### Gewaltschutzzentren Österreich

www.gewaltschutzzentrum.at

### HOSI - Homosexuelle Initiative

**Wien:** www.hosiwien.at  
**Salzburg:** www.hosi.or.at  
**Linz:** www.hosilinz.at  
**Tirol:** www.hositirol.at

### Queer Base - Welcome and Support for LGBTIQ Refugees

Linke Wienzele 102  
A-1060 Wien  
asylum@queerbase.at  
T: 0043 664 65 94 171

### Verein Vielfalt - Club Diversity

Hörbrannerstraße 17/1  
A - 6911 Lochau  
office@vielfalt.or.at  
T: +43 664 9910 7819

### WEISSER RING - Verbrechensopferhilfe

www.weisser-ring.at  
office@weisser-ring.at  
**Opfer-Notruf (24h/Tag)**  
0800 112 112



# Homo- und Transphobia What to do?

If you are affected by a homo- or transphobic crime – a *hate crime*.



**You are not alone!**

**Have you been insulted**, attacked, or hurt or has your property been damaged and you feel that the perpetrator acted in such a way because they hold prejudices, based on homo- and/or transphobic ideas?

 **This can be a drastic experience that stands out from „normal“ offences – get support!**

**You want to take action**, but you do not know how to proceed? You were injured and you want to take legal steps, aware that it was a homo- and/or transphobic act?

**Here you will find information and options for action.**

## What is Homophobia and Transphobia?

**Homophobia** stands for the rejection of homosexuals and homosexuality in any form. This rejection is often accompanied by fear, hatred, disgust and anger. Homophobic people display discriminatory expressions, actions, and behaviors. This can range from simple rejection to aggressive behavior and physical violence.

**Transphobia** stands for the aversion or hostility towards people who differ in their gender identity or in their sexual appearance from the so-called “norm” or who are not clearly classified in the binary system “man and woman”. Transphobia is often negatively rated, insulted, degraded, disadvantaged or even physically attacked for transphobia.

## What is hate crime?

→ “*Hate crimes are criminal acts with a bias motive against a certain group.*”<sup>1</sup>

Homo- or transphobic *hate crimes* must therefore meet two elements:

- The homo- or transphobic motive of the perpetrator
- The committed criminal offence of the perpetrator

→ A *hate crime* is therefore an offence on the basis of prejudice and intolerance.

## What is a bias motive?

A bias motive is a certain incentive for a person’s action. The (hate) crime is only committed, because the perpetrator holds prejudices and consequently commits a crime. Without the motive the offence would have never happened!

### Section 33 (1) 5 of the Austrian Criminal Code – the “special aggravating factors”

Section 33 (1) 5 of the Austrian Criminal Code – the “special aggravating factors” indicates, among other things, in which cases an especially aggravating reason (a deed) exists. Among other things, if a perpetrator...

...”acted out of racist, xenophobic or other motives that are particularly condemnable, especially those directed against one of the groups of persons referred to in Section 283 (1) 1 CC or a member of such a group expressly on grounds of belonging to that group.”

In the Austrian context, we therefore assume that those individuals or groups, mentioned in Section 283 (1) 1 of the Criminal Code, because of their actual or alleged affiliation to a group, can become victims of *hate crime* | prejudice crime | bias crime | bias motivated violence.

*Hate crime* – in the Austrian national context – is a criminal offence ...

“... against a church or religious denomination or any other group of persons defined by criteria of [...] colour of skin, language, religion or ideology, nationality, descent or national or ethnic origin, sex, a disability, age or sexual orientation or a member of such a group, explicitly on account of his/her belonging to such a group.”

## Which (criminal) acts can be considered hate or bias crimes in Austria – as homo- or transphobic hate crimes?

- Homo- and transphobic assault (§ 83 CC, § 84 CC, § 85 CC, § 86 CC, § 87 CC)
- Homo- and transphobic dangerous threat (§ 107 CC)
- Homo- and transphobic property damage (§ 125 CC, § 126 CC)
- Homo- and transphobic arson (§ 169 CC)
- Homo- and transphobic insult (§ 115 CC)
- Homo- and transphobic incitement to hatred and violence (§ 283 CC) in front of a lot of people on the street and / or on the internet
- Re-engagement in NS activities (prohibition law 1947)
- in front of a lot of people on the street and / or on the internet
- Homo- and transphobic disturbance of religious practice (§ 189 CC)

This list contains only examples. If you are unsure whether the experience you have made is a criminal offence, seek advice from a counselling or support organization at any time.

## What immediate actions can I take after I was insulted, harassed, threatened or attacked – motivated by Homo- or Transphobia?

After you have experienced homo- or transphobia, that can be identified as one of the abovementioned offences, you can file a complaint and get support in order to take (legal) action.

You can file a complaint ...

- either directly at the police station,
- directly to the prosecutor, if that is your wish, or
- with together with the support of a counselling or support organisation.

Before filing a complaint at the police, you have the opportunity to seek advice. There are different organizations, which you can turn to for free of cost counselling – for example, at WEISSER RING (Crime Victim Support), at various counselling units specifically for women\* and/or men\* as well as at the Antidiscrimination Office in Styria.

! If you decide to directly report a crime to the police, you cannot undo or change it afterwards.

! If you decide to report a crime to the police, it can be assumed that you will have to make a statement at the police at least once or twice.

Without a specific application, you are listed as a witness at the police. That means; you do not automatically have all the rights that a so-called “victim” as stated in the Code of

Criminal Procedure, has.

If – for any reason – you do not want to go to the police alone, you have the right to take a confidant with you. This can be a friend, a family member, or a trained counsellor.

! Attention: The person you bring to the police as a confidant cannot be the witness of the crime you experienced at the same time. That is not allowed.

## What can I do if I was (mildly to severely) injured?

If you have been mildly or severely injured, which you suspect was the result of homo- or transphobic motive and you go to the hospital for medical treatment, we recommend that you hold on to all documents that you receive.

Of course, the most important is that you get well. Subsequently, if you want to take (legal) action against the offender, you will need the aforementioned documents as evidence of the injuries you have sustained and the violation you have experienced.

The hospital staff is obligated to file a report if they provide medical care to a person whom they believe was injured by someone else.

Under normal circumstances, the police will contact you quickly if an incident has been reported by the hospital staff, in order to invite you to a hearing and for you to provide your statement. If this is not the

case, you have the opportunity to make a supplementary statement to tell the police that you have been affected by an homo- or transphobic act.

! Take care of your health first, but as soon as you are well again, we recommend that you immediately initiate such a supplementary statement!

You can go to the police alone and apply for and make such a supplementary statement. If you feel uncomfortable or do not want to do this by yourself, contact a counselling organization at any time - such as HOSI – Homosexuellen Initiative Wien/Salzburg/Linz/Tirol, Queer Base, die Beratungsstelle Courage, Verein Vielfalt, counselling units specifically for women\* and/or men\* as well as the Antidiscrimination Office in Styria – in order to get counselling, support and/or companionship.

<sup>1</sup> This is a practice-oriented definition, formulated by the OSCE Office for Democratic Institutions and Human Rights (ODIHR).