

STAND UP

for victims' rights

Know your rights,
react to homophobia and transphobia



www.standup-project.eu

What is a hate crime

A **hate crime** is a criminal act motivated by prejudice towards a particular group of people. To be considered a hate crime, an act must have two characteristics: it must constitute a crime under criminal law and it must be motivated by prejudice.

Motivations based on prejudice can be defined as negative preconceived or stereotyped opinions, intolerance or hatred towards a group of people who share a particular characteristic such as, for example, race, ethnicity, language, religion, nationality, gender, sexual orientation and gender identity. People with disabilities can also be victims of hate crimes. Hate crimes can affect not only people who actually belong to a certain group, but also people who, rightly or wrongly, are considered members of that group. Hate crimes motivated by sexual orientation and/or gender identity are defined as homophobic/biphobic or transphobic, respectively.

Hate crimes can take several forms: physical violence, sexual violence, hate speech, bullying, harassment, intimidation, threats, vandalism

or property damage and stalking (persecutory conduct such as following someone or continuously texting or calling them).

These are the most common forms of hate crimes, but any other crime which is committed with the intention of expressing hatred against a person or group because of their protected characteristic can constitute a hate crime.

A hate crime has a greater impact than a crime consisting of just physical or material harm alone, as it targets a fundamental part of a person's identity and therefore causes profound emotional and psychological harm. It can also increase someone's feeling of vulnerability, because a person cannot change what they are or the characteristics which have made them a target. In addition, hate crimes are directed not only against a particular person, but also against all people who belong to their group or community. Homophobic, biphobic or transphobic hate crimes send a negative message to the entire LGBT+ community.

Hate crimes are common crimes but with an aggravating factor: they are



Being insulted because of your sexual orientation or gender identity is a traumatic experience

motivated by hostility towards the social group to which the affected person belongs.

Almost every crime can become a hate crime: what turns an act of violence or persecution into a hate crime is the fact that the victim is 'chosen' on the basis of their membership (or presumed membership) of a certain 'group': for example, if they wear a religious symbol, like the veil or kippah, if their skin colour or facial features are different from those of the majority of the people around them; if they show or express attraction towards people of the same gender. With hate crimes the attack does not arise from personal reasons: victims are attacked not as individuals, but for their social identity or their membership of a social group. Often the attacker doesn't know the victim; the violence or aggression is not caused by what the victim has done or said to the attacker, but because of their physical appearance, clothing or habits, which identify them

as belonging to a certain group.

Being attacked or insulted because of one's sexual orientation or gender identity is certainly a traumatic and destabilising experience, with physical, psychological, economic and social consequences. So it's quite normal for anyone involved in this type of situation to feel anxious, worried and unsure of what they should do.

If you've been the victim of a physical or verbal assault due to your sexual orientation or gender identity, if you know someone who has or if you've seen something like this happen, here you can find information on the rights of the victim, on the first steps to take and the most useful service to turn to. Share the experience of aggression by asking for the help of other people or associations as well as friends or other people you trust. Talking about it and asking for help helps to prevent the attackers from continuing to hurt other people like you.

Cases of homophobia and transphobia; how to react¹

Robbery and personal injury

"I really didn't expect it. When the two guys approached me I was alone, sitting on the park bench outside the station, smoking. I thought they wanted a cigarette. I'm not used to trusting people... but I let them talk. I'd never seen them before, they were very different from me: I was uncomfortable... I was worried they'd realise something from my appearance, but their calmness threw me off. When I got up and made to leave they followed me: they kept talking, calm but insistent. Before I knew what was happening, they'd pushed me into the lobby of a building: "come on, come with us, we're gonna have some fun...we'll show you something." A moment later we were trapped in the elevator: it was then that they threw the first punch, then others came until I fell to the ground, curled up in a ball: "You ugly fucking pervert faggot... now you're gonna get it you disgusting piece of shit.". And still kicking and shouting."

During an afternoon walk in a garden in Rome, a boy meets two men who

approach him and start talking to him. The two guys are kind at first, they tell their story, ask him for a cigarette: then they become insistent, walk next to him and follow him.

Although he's afraid the boy can't escape: after a hundred metres the two men push him into the hall of a building and into the elevator. There they attack him, shout at him, call him a pervert, claim that he was in that park to meet other fags like him, that because he's so disgusting they should teach him a lesson. They punch and kick him all over, especially on the lower parts of the body, steal his phone and wallet and leave him in the elevator.

"When I recovered, my first thought was that if I reported it I'd have to talk about myself, tell the police about my sexual orientation. I felt guilty for not realising what was about to happen earlier. I need help, to report that I was the victim of a robbery and assault in broad daylight. I need to know that the people who attacked me have been identified, that these people have been stopped and are no longer a danger to other guys

1. These stories are loosely inspired by news stories or reports received by the Gay Help Line, the national contact centre against homophobia and transphobia.



like me. But I'm afraid that the police won't understand, that my privacy won't be respected, that a complaint won't change anything".

▲ WHY IS THIS A HATE CRIME?

SIGNS OF PREJUDICE:

PERCEPTION OF THE VICTIM

G. was immediately aware that he was being attacked for his sexual orientation;

DIFFERENCES BETWEEN THE PERPETRATOR AND THE VICTIM

The two attackers identified G. as a gay person and as a result they assaulted him;

LOCATION AND TIME

The park was identified as a place frequented by LGBT+ people;

LANGUAGE OR GESTURES

The attack was accompanied by homophobic slurs, and the violence was targeted at body parts identified as being involved in sexual behaviour.

ACTS OF HATE ALREADY COMMITTED BY THE PERPETRATOR

The two men had already carried out robberies and violent acts against LGBT+ people who frequented the park.

▲ NOW... HOW CAN WE HELP YOU?

G. immediately turned to a helpline and service centre against homophobia and transphobia.

Thanks to a toll-free number he reported the incident to the operators of the service and was listened to in complete respect of his sexual identity and his privacy. G.'s story allowed the operator to carry out an initial analysis of the facts and to spot the existence of signs of prejudice in the act of violence of which he was a victim.

G. was encouraged to go to the emergency room (118) as soon as possible, to receive primary care and to immediately undergo the necessary clinical examinations. The preparation of a prognosis by the first-aid doctor and the release of a report are essential and indispensable steps for victims of violence to have access to the appropriate protections in criminal proceedings and to possible compensation.

▲ NEEDS ASSESSMENT: RECEPTION AND GUIDANCE

The LGBT+ service centre welcomed G., reassured him that he didn't need to feel any responsibility for the incident and informed him about the protective means and measures which were available to him. The initial guidance served to limit the stress which resulted from the physical and psychological trauma suffered and to emphasise the usefulness of making a complaint and the protections which derived from it.

Psychological support:

The centre made a team consisting of an operator, an educator and

a psychologist available to G. The psychological support helped him to deal with the distress caused by his experience, to rework the experience of fear or vulnerability caused by the attack on his sexual orientation and to prevent mechanisms of concealment or marginalisation. It has also helped to strengthen his resolve in dealing with legal proceedings.

Legal support:

The event which happened to G. was framed as a crime of robbery and personal injury, aggravated by the fact that the attackers acted for trivial and futile reasons. The victim also had the opportunity to become a civil party in the criminal process, to claim compensation for the personal and property damage he had suffered.

At first G. was rather reticent in his account of the facts and uncertain about his willingness to file a complaint/lawsuit. His issues mainly stemmed from the fact that he had never revealed his sexual orientation to anyone, so this was his first time talking about it in a public context. The lawyer and psychologist at the centre reassured G. about his fears, explaining that the two criminals took advantage of his "vulnerability" to evade punishment. This is the phenomenon known as "victim blaming" which involves making a victim of a crime feel partially or entirely responsible for what happened to them.

The lawyer then told G. about other episodes in which the same criminal

scheme has been used: that is, an attack carried out in places frequented by the LGBT+ community in order to rob the victim and rely on the victim's guilt and shame to get away with it. Thanks to this support, G. began to view himself as a victim and made the decision to file a complaint, in the hope that what he had suffered would not happen to others.

The lawyer then explained that the complaint/lawsuit could be filed through two methods:

- 1) by going to a police or Carabinieri station and making it orally: in this case it will be documented in a report by the judicial police officer and then signed by the complainant;
- 2) by filing a written complaint/lawsuit with a police or Carabinieri station.

G. preferred the second option because it allowed him to speak more comfortably about his sexual orientation, without worrying about being judged for his behaviour or not being believed.

The lawyer then guided him through all the subsequent steps of the investigation and trial

The association which runs the service centre also reported the homophobic hate crime to OSCAD, the Observatory Against Discriminatory Acts run by the Ministry of the Interior.

The intervention of the Observatory ensured:

- the involvement of police officers who were trained in dealing



with victims of homophobia and transphobia;

■ the facilitation and encouragement of contacts between local police and LGBT+ service centre operators so that they were able to better support the victim.

Bullying at work

“ I’m M., I’m a woman. I’m 42 years old and I’ve worked as a civil servant for many years. At work, of course, I’ve always been regarded as a man - that’s what it says on my identity documents, on my contract, on my entrance card, in the computer logs. I always wear a suit and tie, sometimes I let my hair grow out a bit... but that’s all I can do. Then, two years ago, I started transitioning; I couldn’t live in a body which wasn’t mine any longer.

When my appearance began to change, my colleagues noticed it and I started to worry. The office gossips started calling me a faggot. I’m not gay, I’m a woman. Then they started spreading rumours about my sexual habits: “he’s like that during the day, then in the evening he gets paid to take it up the ass...”

M. is a closeted trans woman who works as a civil servant. When her appearance becomes more feminine her colleagues outed her, then they started insulting her while mistaking her for a gay man, defaming her by spreading a rumour about

her being a prostitute. Soon this escalated to blackmail: some of her colleagues threatened to report her to management and get her demoted and sidelined. Those colleagues who weren’t involved in the threats merely assisted, but didn’t intervene in her defence.

One day, on her office desk, she found a sheet of paper showing a knife stabbing a sprig of fennel (“finocchio” or “fennel” is the Italian equivalent of “fag”). Underneath it said “Watch out, things don’t end well for fags.”

“ At that point I started to feel afraid, but I couldn’t say anything. My work had become impossible, but they’d warned me that they’d retaliate if I complained. I was scared of losing my life’s job, my position, but on the other hand I was already losing myself.”

▲ WHY IS THIS A HATE CRIME?

SIGNS OF PREJUDICE:

PERCEPTION OF THE VICTIM

M. had never had problems with her colleagues before: these attacks only started when she began to express her female gender identity;

PERCEPTION OF WITNESSES

Some colleagues witnessed the insults and threats and, while they didn’t intervene, they recognised that they were motivated by homo-/transphobic hatred.

DIFFERENCES BETWEEN THE PERPETRATOR AND THE VICTIM

The perpetrators of the threats and blackmail had a prejudicial and incorrect perception of M.’s sexual identity - they believed her to be a gay male who disguised “him”self as a woman to engage in prostitution.

LANGUAGE OR GESTURES

The threats were accompanied by homophobic insults and put in writing with a violent intimidating act.

▲ NOW... HOW CAN WE HELP YOU?

M. had endured bullying and threats at work for months, because asking for help would have forced her to come out as a trans person: then she dialled the toll-free number for a helpline and service centre against homophobia and transphobia.

M. was then able to tell the service operators what she had been going through for months: and so, in an environment which was respectful of her gender identity, M. found the courage to say that she was a victim of the kind of prejudice suffered by trans women, who are commonly considered as sexual objects and all too often have their very dignity attacked.

M.’s story allowed the operator to carry out an initial analysis of the facts and to spot the existence of signs of prejudice in the act of discrimination of which she was a victim.

▲ NEEDS ASSESSMENT: RECEPTION AND GUIDANCE

The LGBT+ service centre offered M. the necessary support to go down the legal route and enforce her rights at work. It also supported M. so that the fear of being subjected to discrimination, verbal harassment, threats or attacks for her gender identity would not encourage her to give up her right to self-determination and the expression of her subjectivity in any social context.

The initial orientation helped to immediately recognise and alleviate her anxiety caused by the bullying and to build up her confidence in the legal protection which was available to her, as a woman and as a worker.

Psychological support

The LGBT+ centre followed M. with a counselling programme aimed at supporting her and enhancing her emotional resources.

This was so that she could feel comfortable enough to take the decision to file a complaint and then be able to deal with any legal actions or proceedings which might follow.

The counselling helped M. to rebuild her perception of herself, which had been severely damaged by the discrimination she had suffered, and to recover her self-esteem and her determination to assert her own identity.



Legal support:

The case in question, if upheld, would result in M.'s co-workers being charged with the crimes of defamation, threat and bullying.

Bullying is a collection of persecutory behaviours (psychological pressure or harassment, slander, verbal abuse, personal attacks, threats) which tend to marginalise a victim from their social group (in this scenario, from their fellow employees) through ongoing psychological violence, and often cause serious damage to the victim. LGBT+ people are at high risk of bullying. This happens because employers do not always promote tolerance and respect for the differences between employees: gender, physical abilities, nationality, religion, sexual orientation, gender identity, etc. In M.'s case, the bullying by her colleagues was motivated by her gender identity.

The lawyer at the LGBT+ centre helped M. to gather all the evidence necessary to prove the existence of this persecutory and discriminatory conduct and to reconstruct the chronological order in which the events occurred.

Later M. was informed about the possible safeguards which were relevant to this case:

Civil Protection: subpoena, before the Civil Court, of the co-workers who carried out the bullying. This is in order to determine their liability for the damage caused to M. and to extract compensation for the suffering they had caused her;

Criminal Protection: in Italian law bullying can, in some cases - such as M.'s - also have criminal relevance even if there is no specific criminal act. Under certain conditions, in fact, bullying can be counted under the crimes of personal injury (art. 590 of the Penal Code), "defamation" (art. 595 P.C., if communication between more than one person is established) and "persecutory acts" (art. 612 bis P.C. if repeated threats or harassment are established).

Domestic violence

"I met R. a year ago... she went to the same music school as me. I'm 20 years old, 4 years younger than her... but we got to know each other immediately, thanks to our common passion, or our long chats at the end of class, on the school ladders. We started seeing each other... without telling anyone else about it. After a few months, when my parents were pressuring me to bring a boyfriend home, I admitted to being with her.

The first thing my mother said was "You're a disgrace", the next "Either you stop seeing her and get treated or you leave this house". I tried to explain, but to no avail.

She locked me in the house for 3 days and told my father about it. He decided that R. had brainwashed me, that women should only be with men. I tried to protest, and that's when the beatings came. Then a year of isolation and control."

T. came out to her family at the age of 20: her parents immediately accused her girlfriend of brainwashing her and forced T. to never see her or talk to her again. They wouldn't let her out of the house, monitored her phone, humiliated her and threatened to stop paying for her tuition. After the umpteenth discussion the girl was beaten and driven out of her home. T. temporarily took refuge with R. When her parents learned this they started to search for their daughter insistently, contacting her acquaintances and being intimidating and persecutory. One day the girl received a phone call from her local police force: they warned her that her parents had reported her "disappearance" and tried to convince her to return home, telling her that she owed her parents respect because no-one would want to have a gay daughter.

knew that R. couldn't accommodate me for long, and that we were alone.

"But I was scared to go back home, back to the violence I'd suffered for a year. But they were looking for me, and the police thought that I was to blame for my "sexual choices". All I chose was to respect myself and love my girlfriend. Who could I ask to help me?"

WHY IS THIS A HATE CRIME?

SIGNS OF PREJUDICE:

PERCEPTION OF THE VICTIM

T. suffered from her parents' expectations around gender stereotypes,

which turned into violence and repression due to prejudice against homosexuality.

DIFFERENCES BETWEEN THE PERPETRATOR AND THE VICTIM

T.'s parents exercised their educational role under the belief that homosexuality was a negative and guilty trait, which they used to justify the use of repression and violence.

LANGUAGE OR GESTURES

Quarrels and escalations of violence were accompanied by lesbophobic insults.

ACTS OF HATE ALREADY COMMITTED BY THE PERPETRATOR

Repressive behaviours were repeated for months.

NOW... HOW CAN WE HELP YOU?

T. called the free number of the LGBT+ service centre against homophobia and transphobia to report that she had been threatened and abused by her parents for a year before being kicked out of the house: but her parents reported her absence from home to the police as a disappearance. The police didn't recognise the actual danger to the girl and, due to lack of training or because of their own prejudice, tried to bring her back to the perpetrators of the violence.

M. told the operator of the service that she felt intimidated both by the persecutory attitude of her parents, and by the measures which law



enforcement might have taken if she had presented herself at the police station. Also, the girl explained that her partner couldn't accommodate her for very long because of her limited financial resources, so soon she'd need a place to stay.

The collection of information allowed the operator to determine that the prejudice of the parents and the police against the girl's sexual orientation has resulted in an imbalance of forces and a violation of her right to receive protection against hatred and violence.

NEEDS ASSESSMENT: RECEPTION AND GUIDANCE

The LGBT+ service centre welcomed T. as a victim of homophobic violence: it offered her a safe space to process the trauma she'd suffered and understand the rights violations she'd been a victim of. T. was informed of the possibility of filing a complaint for the poor treatment she had suffered at the hands of her family and was given support in her dialogue with the police, who had been put on her trail. The operators of the centre assisted her with the primary aim of gathering information and elements which could convince law enforcement agencies that there was an element of hate involved and create a support network around her.

Welcome to Casa Rifugio:

The LGBT+ centre activated a protocol to take care of the needs of the victim

which includes legal protections, psychological support, reception in a protected environment and inclusion in a project guiding her towards independence. The crisis caused by her family members' violence and abandonment has created a complex situation: not only the immediate emergency of needing to be welcomed in a safe place, but also her lack of economic resources and the impairment of her training and professional development.

T. was welcomed into a family home where, thanks to the work of educators, social workers, psychologists and social mediators, she began to regain the peace of mind she needed to carry on with her life, without renouncing her sexual identity.

Legal support:

The conduct of T's parents fell under the crime of domestic abuse set out in art. 572 P.C.

In particular the regulations punish "anyone who abuses a member of their cohabiting family." In general, abuse, according to the law, means authoritarian, vexatious and oppressive acts repeated over time, capable of causing physical or psychological suffering to the victim. It is therefore a habitual offence, i.e. an offence characterised by the occurrence of behaviour which becomes of criminal relevance as a result of its repetition over time.

T. told the LGBT+ centre's lawyer that her parents' hostility towards her sexual orientation was expressed through

segregation in the home, physical and psychological violence and preventing her from having an open romantic relationship with her girlfriend. The girl was told that, as an adult, she could freely decide to leave her violent family and that the missing persons report made by her parents had no relevance. Finally, as T. was a university student who was not yet economically self-sufficient, she could decide whether to make a civil claim for her parents to provide maintenance and/or alimony payments. The association which runs the service centre also reported the homophobic hate crime to OSCAD, the Observatory Against Discriminatory Acts run by the Ministry of the Interior.

The intervention of the Observatory allowed:

- an intervention on the inadequate response from the local police. OSCAD facilitated contacts between the officers involved and police officers who are experts in hate crimes against LGBT+ people, in order to modify their approach to the assessment of the reported facts (respect for the privacy and sexual orientation of the victim, recognition of the crime and of the prejudicial motivations)
- the involvement of police officers who were trained in dealing with victims of homophobia and transphobia;
- facilitating contacts between the local police and the LGBT+ service centre operators so that they were

able to support the victim in the complaint process.

General information and specific services

The Italian legal framework is heavily influenced by the absence of a specific law against homophobia and transphobia. The criminal rules on hate speech and hate crimes, originally contained in the so-called Reale-Mancino law, have recently been incorporated into the Criminal Code. Legislative Decree no. 21/2018 has in fact introduced articles. 604-bis and 604-ter into a new section of the Criminal Code dedicated to "crimes against equality" In particular, art. 604-bis P.C. punishes acts of "propaganda and incitement to commit a crime on the grounds of racial, ethnic or religious discrimination". Art. 604-ter P.C., on the other hand, adds a special aggravating factor for all crimes "punishable by a penalty other than life imprisonment committed for the purpose of ethnic, national, racial or religious discrimination or hatred, or in order to facilitate the activity of organisations, associations, movements or groups which have the aim of doing so".

Like the Reale-Mancino law, these regulations do not include sexual orientation and gender identity among the protected characteristics. Of course, this does not rule out the possibility that acts committed for the purposes of discrimination or hatred



of a homophobic, biphobic or transphobic nature are also criminally illegal whenever they accompany a crime. In some cases, the courts have applied to these crimes the common aggravating circumstance provided for in art. 61 no. 1 P.C., which provides for the increase of the penalty up to one-third if the crime is committed for petty or trivial reasons.

Moreover, following the partial transposition of Directive 2012/29/EU victims of homophobic and transphobic hate crimes also have the following fundamental rights:

Italian law does not yet provide for specific crimes of homophobia and transphobia: only a law which introduces specific protections for this type of hate crimes could make the best work of the victim protection system. In the absence of such regulations it is therefore even more important to be able to enforce other laws which can be used to protect the victims of any type of crime, including those who experience homophobic or transphobic attacks. First of all the European Directive, which establishes the fundamental rights of the victim of crime, which are - among others:

- the right to receive information in an understandable language in all communications with the authorities;
- the right to receive information about your case and about what kind of assistance you can receive;
- the right to free legal assistance, accessing legal aid at the expense of the state;

- the right to receive free assistance from victim support services, even in the absence of a formal complaint;
- the right to participation in criminal proceedings;
- the right to be heard and understood, which also applies to minors, and the right not to have contact with the offender.

If you are in a dangerous situation and need immediate help, call the police or the Carabinieri. The emergency numbers are 112 and 113 and operate 24/7. Remember to give your name and telephone number and indicate where you are. Briefly explain what happened, so that the person responding to you can properly assess the situation and decide what to do. Once the call has been made, the police or Carabinieri have the obligation to intervene immediately, assess the risks or dangers involved and take all the necessary measures to get you out of the situation and protect you from violence.

If you need medical assistance following a violent act, call 118 or go to the emergency room straight away. Inform the healthcare professional assisting you that your injuries are the result of a violent assault and remember that the medical report is very important as proof of what happened and for any claim for compensation.

Of particular importance in this context are the victim support services, which can be either general or specific. These services are considered funda-

mental, including to reduce the number of crimes which go unreported and should provide:

- information and assistance on victims' rights;
- emotional and psychological support;
- advice on financial and practical aspects of the crime;
- advice on the risk and prevention of secondary and repeated victimisation, intimidation and retaliation.

Below is a list of some of those who can help you in case you suffer or witness an assault or insult caused by your or someone else's sexual orientation or gender identity.

Main support services

NAME	CONTACTS	WEBSITE
O.S.C.A.D. Osservatorio per la Sicurezza Contro gli Atti Discriminatori	oscad@dcpc.interno.it	www.interno.gov.it/it/ministero/osservatori/osservatorio-sicurezza-contro-atti-discriminatori-oscad
U.N.A.R. Ufficio Nazionale Antidiscriminazioni Razziali	Tel. 800 901010 unar@unar.it www.unar.it/cosa-facciamo/contact-center/fai-una-segnalazione/	www.unar.it
Rete Lenford – Avvocatura per i diritti LGBT	Servizio SOS www.retelenford.it/sos	www.retelenford.it
Gay Help Line	Tel. 800 713 713 info@gayhelpline.it	www.gaycenter.it
Rete Dafne	Tel. 800 777811	www.retedafne.italia@retedafne.it
Rete VIS Sportello VIS	Piazza del Municipio, 4 - Livorno Tel. 0586 257229 sportellovis@provincia.livorno.it	www.provincia.livorno.it/fileadmin/Pari_Opportunita/provincia_depliant.pdf



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