

RACIST HATE CRIMES

STAND UP

for victims rights

**For Those Affected by
Racist Hate Crimes**



www.standup-project.eu

INTRODUCTION



Have you been insulted, abused, attacked, or injured because of your origin, skin colour, religion, or language?



**Get support from ZARA!
The advice is free of charge
and, if desired, anonymous.**

Racial discrimination means that individuals and/or groups are disadvantaged in any way due to their (ascribed) origin, skin colour, religion, or language.

Racism can take the form of discrimination, insults, damage to property, and violence.

You can report any racist incident to ZARA and get advice on what

you can do about it. This brochure focuses on what to do in the case of racist hate crimes (also known as bias-motivated crimes) and on how to take legal action if you want to.

You can get free support if you do not want to take these steps alone.

You have the right to support if you have experienced a criminal offence and want to report it as well as in the course of criminal proceedings (see below).

Experience shows that getting counselling before filing a report with the police is very helpful. And often things go better if someone accompanies you to the police station. Take advantage of this if you can.



FIRST AID

First aid after a racist incident

- 1** Make sure that you are no longer in danger. Otherwise, get to a safe place or shout loudly for help. Call the police on 133 or turn to witnesses and ask them directly to help you or call the police. The more concretely you address someone, the more likely that person will help you (e.g., "You with the green backpack, please help me").
- 2** Do not address the attacker with the German polite form "du" to make it clear to bystanders that the person attacking you is someone you do not know – this increases the likelihood for witnesses to get involved and take action.
- 3** Ask witnesses if they are willing to testify about what happened to you and write down their contact details – this can be very helpful later on.
- 4** Take photos of the place of the attack, any injuries, or objects that have been damaged. Leave everything as it was at the time of the incident.
- 5** If you have been injured, visit a doctor, have yourself examined, and ask for a medical certificate¹ – this is important if you want to report the incident to the police.
- 6** Write down, or ask a friend or a ZARA counsellor to do this for you, what happened, where it happened, how the situation evolved, who insulted/attacked you, if you were injured or something was damaged, what the attacker(s) did, and if there are any witnesses.



Attention: Do not forget to describe the motive as racist.

¹ If you do not have an E-Card (= health insurance card) or are not carrying it with you: in an emergency you will be assisted also without a health insurance card. Also, persons without an Austrian residence permit have the right to medical treatment in emergencies.

You do not have to deal with this alone. You can turn to one of the various counselling centres – they are there to provide support.

- 7** If you want, you can report the incident to the police or the public prosecutor's office. If you do not want to do this alone, you can take someone with you, e.g., a friend or a ZARA counsellor. If you need an interpreter for your statement, ask for one – you have the right to get one!
- 8** You do not have to deal with this alone. You can, for example, turn to one of the various counselling centres – they are there exactly for situations like these.

always decide for yourself which steps you want to take.

You can report racist incidents to ZARA even if you do not need any support and do not want to take any further steps. Reporting racist incidents to ZARA is important because ZARA documents all racist incidents reported nationwide.

By systematically documenting these incidents, racism becomes more visible and can, therefore, be fought more effectively.

Apart from ZARA, there are also other counselling centres that can support you, accompany you to the police or the public prosecutor's office, and give you legal advice. These services are free of charge!

Many counselling centres also offer anonymous counselling. If you turn to a counselling centre, you do not automatically have to report the incident to the police. You can



WHO TO CONTACT?

Antidiskriminierungsstelle in der Stadt Salzburg

Kirchenstraße 34
5020 Salzburg
office@antidiskriminierung-salzburg.at

Antidiskriminierungsstelle Steiermark

Andritzer Reichsstraße 38 | 1. Stock
8045 Graz
T: +43 316 / 714 137
buero@antidiskriminierungsstelle.steiermark.at
www.antidiskriminierungsstelle.steiermark.at

Antidiskriminierungsstelle Kärnten

Völkermarkter Ring 31
9020 Klagenfurt am Wörthersee
T.:050 536-33056
antidiskriminierung@ktn.gv.at
antidiskriminierung.ktn.gv.at

AÖF - Verein Autonome Frauenhäuser

Bacherplatz 10/4
1050 Wien
T: +43 (0) 1 544 08 20
www.aof.at

Women's helpline against violence (24h/Day)

0800 222 555

Dokustelle - Islamfeindlichkeit & Anti-Muslimischer Rassismus

E-Mail: office@dokustelle.at
Tel: +43 676 40 40 005
www.dokustelle.at

Gewaltschutzzentren & Interventionsstellen Österreich

www.gewaltschutzzentrum.at

migrare - Zentrum für MigrantInnen OÖ

Humboldtstraße 49
A - 4020 Linz
T: 0732 667363
www.migrare.at

WEISSER RING - Verbrechensopferhilfe

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

ZARA - Zivilcourage & Anti- Rassismus-Arbeit

Schönbrunner Straße 119/13
Eingang: Am Hundsturm 7
A-1050 Wien
T: +43 (1) 929 13 99
office@zara.or.at
www.zara.or.at

Romano Centro

Hofmannsthalgasse 2, Lokal 2
A-1030 Wien
+ 43 1 749 63 36
office@romano-centro.org
www.romano-centro.org

LEGAL INFORMATION

What Are Hate Crimes?

In this brochure, you will find information on (racist) hate crimes. Sometimes they are also called bias-motivated crimes, bias crimes, or bias-motivated crimes.

Hate crimes are criminal offences (e.g., bodily harm/assault, damage to property) committed on the basis of prejudice. Such prejudices relate, for example, to language, skin colour, religion, ethnicity, nationality, sexual orientation, gender, disability, or age. Hate crimes may also be committed for several of these reasons.

For an incident to be considered a racist hate crime, two conditions must be met:

- The perpetrator's acts are racially motivated
- AND
- what the person does is prohibited under criminal law.

Example: A perpetrator hits a Black person on the streets and racially insults him or her. This assault happens because the perpetrator wants to hurt a person with a certain characteristic - in this case, skin colour. Therefore, this incident

is considered a racist hate crime. In the case of hate crimes, the perpetrator attacks someone because of a certain characteristic.



What is Considered a Hate Crime in Austria?

Here are some examples of acts that are considered hate crimes in Austria:

- racially motivated bodily harm/assault
- racially motivated dangerous threat
- racially motivated damage to property
- racially motivated insult
- racially motivated incitement to hatred

LEGAL INFORMATION

What Does the Law Say About Hate Crimes?

Hate crimes are criminal offences. According to the law, criminal offences that are bias-motivated (e.g., due to racism) are worse than criminal offences that are not bias-motivated.

This means:

- A perpetrator whose acts are racially motivated is to be punished more severely than one without a racist motive.
- The police have to clarify if a reported incident constitutes a hate crime and must record this in writing. This ensures that the information is known during the entire criminal proceedings. This is especially important to guarantee that the racist motive is also considered during eventual proceedings before court.
- In the case of insults, the police and the public

prosecutor's office may only take action if the insult was bias-motivated.

And What Applies to Those Affected/"Victims"² of Hate Crimes?

With the following (legal) information, we want to provide you with certain knowledge so that you can decide what you want to do. Knowing your rights empowers you!

The state is obliged to take care of people affected by criminal offences.

Protecting you, taking you seriously, and looking after your needs are important duties of the police, the public prosecutor's office, and the courts.

They must, for example, inform you about your rights and institutions where you can get support.

² The Austrian law uses the term "victim" to refer to persons, who are affected by a criminal offence in a certain way. E.g., they might have suffered violence through criminal offence. In this section we sometimes also use the term, especially for clarity's sake. In general, we use "persons affected by a hate crime", because the word "victim" has negative connotations and can be associated with weakness or stigma. On the contrary, in our counselling work we witness every day how strong and resilient persons affected by hate crimes are.

6

If you want to file a report, it is important to be well prepared. If you can, seek support from friends, organisations, or through process support.

Attention: During criminal proceedings, the needs of those affected are often not fully met. The authorities try to find out what happened.

The lawyer of the accused person tries to get a favourable verdict for his or her client and, therefore, usually challenges the testimonies of witnesses and the victim to make them appear untrustworthy. The judge has to decide what he or she believes really happened.

Therefore, if you want to file a report, it is important to be well prepared. If you can, seek support from friends, organisations, or through process support. Once you have filed a report, you cannot stop the proceedings anymore.

Concrete Rights of Those Affected by Hate Crimes

As a person affected by a hate crime, you have many rights. Here,

we present some of them so that you can orientate yourself.

It is important that these rights are stated in the law. Unfortunately, they are not always granted straightforwardly. Many studies and experiences show that those affected by hate crimes do not always receive appropriate support from police officers and before court.

Counselling centres can help you assert your rights by advising you and accompanying you when you file a report. Therefore, we recommend that you seek counselling if you have experienced a hate crime.

Right to Psychosocial and Legal Process Support

Under certain circumstances, as a person affected by a hate crime you are entitled to psychosocial and legal process support.



LEGAL INFORMATION

Criminal proceedings can be very challenging for those affected. **Psychosocial process support** helps you cope with the excitement, tension, and uncertainty during criminal proceedings.

This means that someone informs you about what will happen at an appointment (e.g., a statement at the police station), accompanies you, and discusses what happened with you afterwards. This person is there to support you throughout the entire criminal proceedings.

In some cases, your psychosocial process support worker can also put you in touch with a lawyer who will then assert your rights (e.g., compensation for damages) as your legal process support during criminal proceedings.

Psychosocial and legal process support is free of charge for you.

To find out if you are entitled to process support, turn to the

organisations that offer it, for example, ZARA (if the hate crime took place online), WEISSER RING, Männer-beratung (Men's Counselling), NEUSTART, and many more.

Tip: You can call an organisation that offers process support before filing a report with the police. They can help you find out if you are entitled to process support and give you tips and advice on filing the report as well as information on the risks and opportunities of filing a report.

If you are entitled to process support, your process support worker can also accompany you when you file a report with the police.



Here, you will find a list of relevant organisations - sorted by federal states:



Filing a report with the police is very important because it is often the first time the police or the public prosecutor's office learn about a criminal offence.

Right to Have a Person of Trust Present

Even if you are not entitled to process support, you have the right to have someone you trust accompany you to questionings, when you file a report with the police, and to other appointments.

This person is not allowed to say anything but can give you security.

During court proceedings, sometimes spectators have to leave the courtroom for a while. Even then, you have the right to have three persons of trust stay with you in the courtroom.

Right to File a Report and to Receive a Confirmation of the Report

Every person affected by a hate crime can file a report with the police. It is only forbidden to report someone if you know that the suspicion is false.

Filing a report with the police is very important because it is often the first time the police or the public prosecutor's office learn about a criminal offence.

Once you have filed a report, you cannot withdraw it anymore. The state will then investigate, and you will probably have to testify as a witness. You have the right to receive a confirmation of the report - ask for one.

There are two ways to report a crime: directly at the police station and in writing to the public prosecutor's office

Directly at a police station:

Before you file a report with the police, you should find out if you are entitled to process support and you can also seek advice from other organisations. It is important to be well prepared when you go to the police. The police want to know who did what and when. If you have this information ready, it makes

LEGAL INFORMATION

everything easier. You can also write down what happened and take the written record with you. This can help you to keep track of what you want to say.

Filing a report is often a very stressful situation, and being well prepared can help you stay calm. Do not forget to tell the police why you experienced what happened to you as a hate crime.

If your case is complicated, you can also call the police and make an appointment.



You have the right to take a person of trust with you to the police. Since filing a report with the police can be very stressful, we recommend you to take a person that you trust with you.

Employees of counselling centres and psychosocial process support workers are specially trained to support you in this situation.

In writing to the public prosecutor's office:

If you do not want to file a report with the police, you can also write

down what happened and send your statement to the public prosecutor's office. Someone there will look at it and then decide whether the police need to investigate.

Right to Assessment of Special Protection Needs

Every person affected by a crime must be assessed individually to determine whether they are entitled to special protection.

Usually, the police carry out this assessment, but also the public prosecutor's office or a court can decide on this. If you have experienced a hate crime, you must be given special attention in the course of this assessment.

If you are granted special protection, you have special, additional rights. For example, you can demand to have your statement taken or translated by a person of the same gender in the preliminary proceedings, if possible.

6

If you want to get compensation from the offender & do not have money for a lawyer, you can also apply for legal aid from the court & possibly get a lawyer free of charge.

Right to Legal Representation

You have the right to be represented by a lawyer. In principle, you have to pay for his or her services yourself. However, if you are entitled to process support, the representation is free of charge.

If you want to get compensation from the offender and do not have money for a lawyer, you can also apply for legal aid from the court and possibly get a lawyer free of charge. If you already receive legal process support, you cannot get a lawyer through legal aid.

Right to a Statement of Reasons for Discontinuation of Proceedings and to Appeal for Continuation

If the proceedings against the accused person are discontinued, you have to be informed of this and

can demand a statement of reasons. This is free of charge.

If you are not convinced by the reasons, you can file an appeal for continuation of proceedings. Then, a court will check if the discontinuation was legally correct.

However, these appeals are rarely successful, and if your appeal is turned down, you will have to pay 90 euros.

Right to Interpretation and Translation

If it is difficult for you to recount what happened, understand contents, and ask questions in German, you have the right to interpretation and translation.



The sooner you tell the police or the court that you need an interpreter and written translations, the better.



LEGAL INFORMATION

It is very important that there is already an interpreter available when you file your report if you need one. Your report is probably the first time the police learn about an offence. It is the basis for what happens next and should, therefore, be as accurate as possible.



You also have the right to have certain documents translated in writing.

This does not happen automatically but only at your request. In any case, this applies to:

- confirmation of the report
- information that the criminal proceedings will be discontinued (i.e., that there will be no judgement)
- statement of reasons for discontinuation of proceedings
- verdict and criminal order

Right to Access to Files

You are entitled to know what is in the files and what the police, the public prosecutor's office, and the court are doing. You are allowed to see everything that is important in

order for you to assert your rights. However, you are not allowed to publish any information from the files! Under certain circumstances, the access to files may be restricted.

Right to Information

The police, the public prosecutor's office, and the court must inform you about your rights. Despite this obligation, it may be important for you to also get support from organisations that offer process support or other institutions. They sometimes have more time to inform you properly about your situation, and the people who work there are trained particularly for such talks.

As a victim, you can also request to be informed about the following circumstances:

- release of the accused person
- escape of the accused person from pre-trial detention (or re-arrest)
- first unguarded release from prison or imminent/successful release from prison of the detainee

In order to make the best possible use of your rights, we recommend that you seek advice and support from ZARA.

Right Not to be Informed

You can also demand not to receive any notifications or summonses if you do not want to be reminded of the proceedings.

However, if you have to testify as a witness, you will still receive a summons and have to come to the police or the court and testify.

Confidentiality of Your Data in the Files

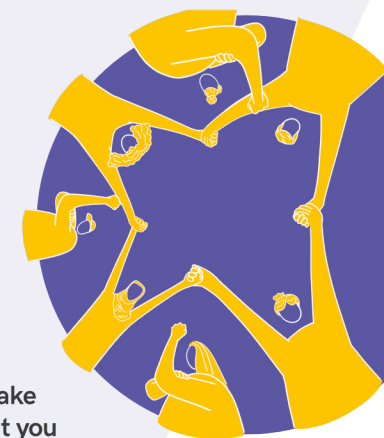
You can have your data anonymised in the files only under very specific conditions. However, this may be important because the accused person has access to the files as well.

It is only possible to have your data anonymised if there is a serious danger to life and health, physical integrity, or freedom.

Anonymisations are rarely authorized, but if you do not want your data to be in the files, request it as early as possible – then fewer mistakes will happen.


These are some very important rights of those affected, but there are many more.

It is important that these rights are stated in the law, but it is equally important that they are implemented. Unfortunately, this is sometimes difficult. In order to make the best possible use of your rights, we recommend that you seek advice and support from ZARA.





This publication was co-funded by the European Union's Justice Programme (2014-2020) and the Austrian Federal Ministry of Social Affairs, health, Care and Consumer Protection.

 **Bundesministerium**
Soziales, Gesundheit, Pflege
und Konsumentenschutz



This brochure was prepared within the framework of the project Stand Up for Victims' Rights. This publication reflects the views only of the authors, and the European Commission and the Federal Ministry of Social Affairs cannot be held responsible for any use which may be made of the information contained therein.



www.standup-project.eu