

LGBTIQ

STAND UP

for victims' rights

BROCHURE FOR VICTIMS OF HATE CRIMES
AGAINST LGBTIQ PERSONS



www.standup-project.eu

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Human Rights House Zagreb is a human rights organization established in 2008 as a network of civil society organizations with a goal of protecting and promoting human rights and fundamental freedoms. Human Rights House's vision is to build a democratic, pluralistic and inclusive society based on the values of human rights protection, the rule of law, social justice and solidarity. Through research, monitoring, advocacy and education, HRH contributes to the protection, promotion, development and advancement of human rights and fundamental freedoms. By publishing annual overviews of the situation in human rights, thematic reports and submissions, we contribute to the development of better laws and public policies.

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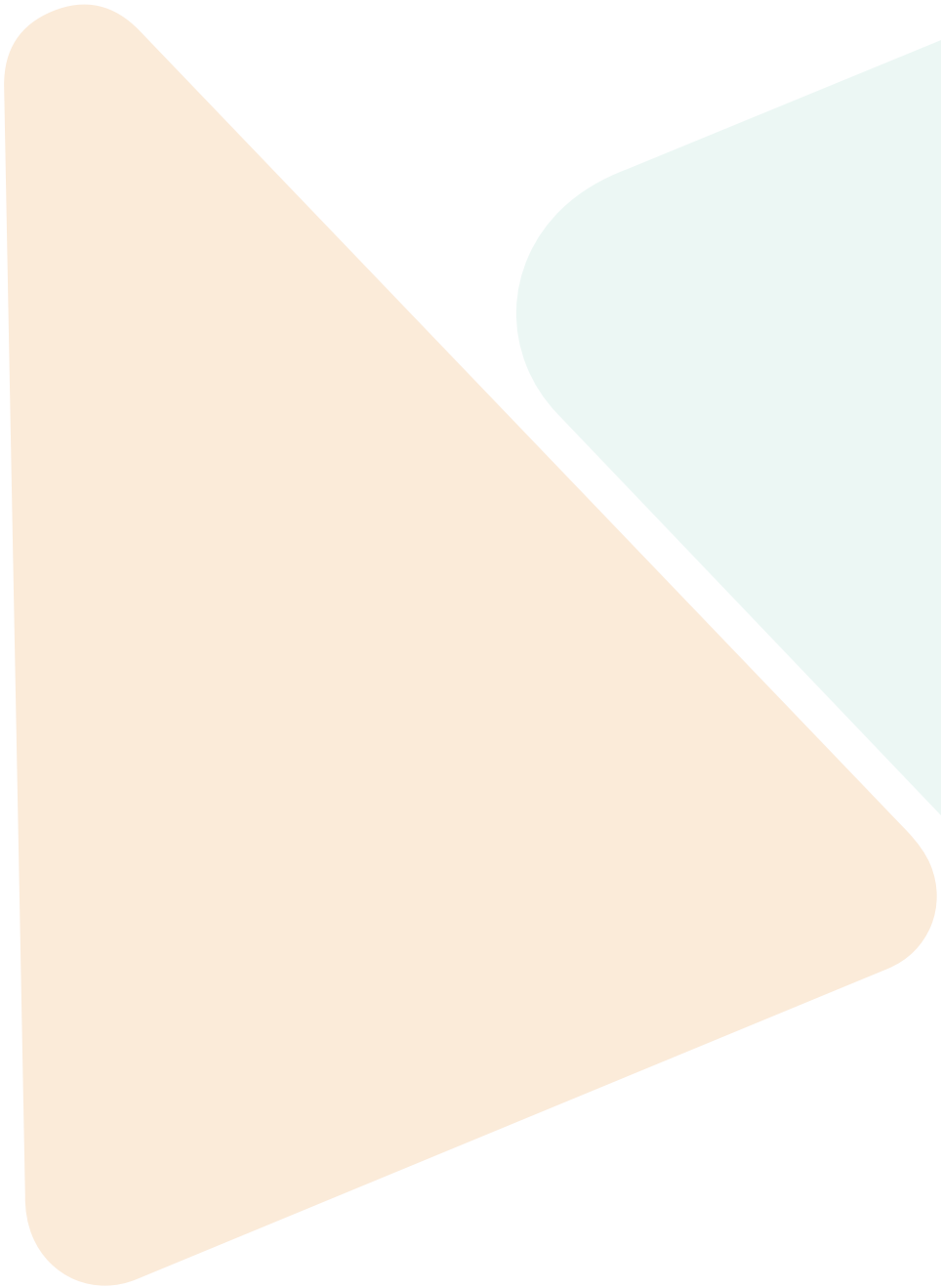
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Gender-specific words and terms used in this brochure refer equally to all genders.





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What is a hate crime?

Hate crimes are criminal acts motivated by bias or prejudice against particular social groups. Individuals are threatened, assaulted, abused and in other ways mistreated because they either actually belong or are perceived to belong to a particular social group, i.e., are associated with it. Depending on national and local contexts, members of marginalized and/or discriminated groups are more likely to become targets of hate crime. Individuals who carry symbols, signs or can be associated with a particular social group based on external characteristics (appearance, clothing, etc.) are also more likely to become victims of hate crime.

Victims are not only individuals but entire communities that share characteristics with individual victims. The hate-motivated criminal act targets the victim's personal identity and sends a message to the entire community that they are not equal members of society – which is why these criminal offences are described as message crimes.

An act is considered a hate crime if it meets two basic criteria: first, it must constitute a criminal offence; second, it must be motivated by prejudice. What differentiates a hate crime from other criminal offences is precisely the perpetrator's motive.

CRIMINAL OFFENCE + HATE = HATE CRIME

Example: Bodily harm is a criminal offence. However, if the infliction of bodily harm is motivated by, for example, the victim's race, it constitutes a criminal offence of bodily harm qualified as a hate crime. The penalty for this criminal offence is higher than for the basic form of the criminal offence of bodily harm.

“A criminal offence committed on account of a person’s race, color, religion, national or ethnic origin, language, disability, gender, sexual orientation or gender identity. Unless a more severe punishment is explicitly prescribed by this Code, such conduct shall be taken as an aggravating circumstance.

*Article 87 paragraph 21
of the Criminal Code*



The specifics of hate crimes against LGBTIQ persons

LGBTIQ persons in Croatia are exposed to various forms of violence and discrimination that remain unreported to the police. To protect themselves from violence and discrimination, LGBTIQ people often adjust their behavior in public. Such a degrading environment negatively affects their mental health and sense of belonging in the wider community. According to Zagreb Pride's research, over 60% of LGBTIQ persons adjust their behavior in open public spaces for fear of experiencing discrimination or violence, and 38% do so in their own homes to protect themselves from violence, humiliation and discrimination by family members.

The reason why LGBTIQ persons most often do not report hate crime to the police is that they think nothing can be done against hate crimes anyway, while many often consider that the violence they suffered is not serious enough or do not even consider reporting because they see violence as a normal part of the LGBTIQ experience in Croatia. The third most common reason for not reporting is the fear of a transphobic or homophobic reaction from police officers.

Distrust of the police or fear that the police will reveal the victim's sexual orientation or gender identity is part of the distrust towards institutions that is common amongst citizens. However, it is important to note that LGBTIQ civil society organizations have been working on educating and sensitizing police officers for over a decade. Although this effort should make police officers aware of the rights and needs of LGBTIQ hate crimes victims, it is advisable that any LGBTIQ person who chooses to report hate crime also seeks free legal and psychological support from associations such as Zagreb Pride. In this case, a LGBTIQ hate crime victim can get a support provider, an educated activist who can accompany the victim throughout the proceedings, from the police to the court. Practice has shown that the possibility of unprofessional, homophobic and/or transphobic conduct by the police is almost completely reduced when victims are accompanied by a support provider.

Why is it important to report hate crime?

Reporting a hate crime is a brave and responsible act.

Experiencing violence is traumatic in itself, and the procedure of reporting a hate crime includes revealing information about your private life and identity to a stranger. Having to expose yourself without wanting to may make you feel a loss of control over your own life.

However, reporting hate crime gives you an opportunity to reclaim that control. Because hate crime strikes at the core of a person's identity, the very act of recognizing such a crime as hate crime repairs the inflicted emotional and psychological damage.

Reporting hate crime is a responsible act because hate crime is never directed solely at the victim of the attack but at all persons belonging to that group or community. Homophobic and transphobic hate crimes send a message to the entire LGBTIQ community.

A homophobic and transphobic bully is otherwise prone to intolerance towards other minority and marginalized groups or generally prone to violence. It is therefore responsible to break the spiral of violence so that it is not continued by the same perpetrator or like-minded

persons towards someone else, perhaps with even more serious consequences. What is especially important to know and what may motivate you to report hate crime is that courts in Croatia are obliged to impose significantly longer and stricter penalties, usually imprisonment, for any violence committed out of hatred. Courts must not impose equal penalties for violent behavior or bodily harm with and without hatred as the motive. The penalty must be higher if the crime was motivated by hatred!



How to report hate crime and to whom

If you have experienced physical or sexual assault, the threat of physical or sexual assault, if someone humiliates you in front of a large group of people and shouts homophobic or transphobic hate speech that aims to degrade your identity and everything that makes you an LGBTIQ person and if you feel threatened by imminent danger, the first thing you need to do is take care of your own safety.

This means that you need to call for an ambulance and emergency police intervention by dialing the emergency number 112. If you are witnessing a hate crime, regardless of whether it is a person you know, try to help the victim in a way that does not endanger your own safety. Shout to attract other people's attention, say the police are on their way to deter or discourage the perpetrator or perpetrators of the attack. You should always call the emergency number 112 and inform the police.

Any person attacked or threatened with violence has the right to defend themselves, but this can cause even more damage. It is always better to inform the police and allow them to resolve the situation. It is always important to seek medical help as well, even if you

are not seriously injured, as every medical report, including a medical report on mental health, is used as evidence in court proceedings.

Only after you have taken care of yourself, informed the police and asked for medical help, turn to LGBTIQ associations that provide assistance to victims of hate crimes: Zagreb Pride, LORI (Rijeka) and LGBT Center Split. If you do not live in Zagreb, Split or Rijeka, reach out to the associations Zagreb Pride or Human Rights House Zagreb, which will help you directly or through a partner organization closest to your place of residence. If the police arrests the perpetrator, it is important to inform a local LGBTIQ organization as soon as possible, so that the hate crime does not qualify as a misdemeanor against public order and peace!

Useful notes for reporting hate crime

Write down everything you can remember about the incident, including all later recollections, as soon as you can.

In our experience, victims react differently after an attack, some withdraw without wanting to communicate with anyone, some are initially very angry and want to do something right away, while others react by wanting to forget what happened to them as soon as possible. This is why it is very important to record the exact chronology of the attack as soon as possible. You will have to repeat this chronology several times: first to the police, then to the state attorney and finally to the court.

Important things to write down:

- the exact time of the attack;
- a description of the perpetrator;
- the place of attack, especially if it took place at a gathering of LGBTIQ persons or if the place of attack is in the vicinity of your home;
- exactly what the perpetrator said before, during and after the attack;
- write down what clothes and shoes they wore because it is possible that you will most easily recognize the perpetrator on this basis. Most victims avoid eye contact during the attack, so other details stick in their memory.

Am I entitled to free interpretation and translation services (when I contact the police or other competent authorities or during the investigation and the proceedings)?

When reporting the incident to the police or the State Attorney's Office, you have the right to use your language!! The police have also translated the form with information about your rights into foreign languages.

If you state that you want to participate in the proceedings as an injured party, you have the right at all stages of the proceedings to:

- use your own language, including sign language for deaf and deafblind persons and
- the help of an interpreter if you do not understand or use Croatian or
- a sign language translator or interpreter if you are deaf or deafblind.



The procedure at the police

You can report criminal behavior to the police by calling 112, in person at the nearest police station or in writing. After reporting the incident to the police, you can request confirmation that the report has been submitted. (*Note: the police issue a confirmation of submitting the report only at your request. The police will not issue the confirmation unless you explicitly ask for it.*)

When reporting the incident to the police in person, you have the right to be accompanied by a person of trust (a friend, parent, spouse, formal/informal life partner, representative of a civil society organization or any other adult that you trust) who can be present during your interview with the police officer. Your person of trust can accompany you during all further stages of the proceedings (at the police, the State Attorney's Office and the court).

The police are obliged to inform you of all the rights you have during the proceedings. If you do not understand any of your rights, the police must explain the meaning of the right in question in a way that you can understand. The list of rights that you are entitled to during the proceedings (misdemeanor or criminal) must be provided to you in written form.

Before taking a statement about the incident that happened to you, the police will conduct an *individual assess-*

ment to be able to provide you with the protection and support you need. This means that the police must consider all the circumstances of the incident and your need for safety and protection (e.g., you have the right to ask to be questioned by a person of a certain gender, through an audio-video link at a later stage of the proceedings, to be informed by the police about the perpetrator being released from custody/pre-trial detention, etc.). Since the incident that happened to you can be very stressful and traumatic, the police can refer you to the Department for Victim and Witness Support available at seven county courts. In order for you to receive the emotional support and help that you need, the police can also refer you to the Network of Support and Cooperation for Victims and Witnesses of Criminal Offences (see more in the chapter "What are my rights? The right to access support services for victims of criminal offences") and to civil society organizations that protect and promote the rights of certain social groups (see more in the chapter "What are my rights? The right to effective psychological and other expert assistance from support organizations and from bodies, organizations or institutions providing support to victims of criminal offences in accordance with the law").

After you report the incident to the police, the police will conduct a criminal investigation. When the police have gathered all necessary information and found that there are grounds for filing

criminal charges (for criminal offences) or an information (for misdemeanor offences), the police file a criminal complaint to the state attorney or an information to the Misdemeanor Court for further proceedings.

The procedure at the State Attorney's Office

You can report the incident directly to the nearest State Attorney's Office in person, by phone, e-mail or any other written means of communication. If you report the incident directly to the State Attorney's Office, you will receive confirmation that the report has been submitted.

As in the case of reporting the incident to the police, you have the right to have a person of trust present with you. The state attorney will inform you of all the rights you have in the proceedings. If you do not understand any of your rights, feel free to ask for clarification, which the state attorney is obliged to provide in a way that you can understand.

If you do not speak and/or understand Croatian, the state attorney is obliged to provide you with a translator (interpreter) or another person who understands your language. You can request to receive confirmation that the report has been submitted in your language.

Before questioning you, the state attorney will perform an *individual assessment* to secure the protection and support that you need.

If the State Attorney's Office finds that there are no grounds for filing criminal charges, the state attorney will abandon criminal prosecution and inform you of their decision. In that case, you have the right to pursue the prosecution yourself within a maximum of 8 days from the day you received the notice (see more about taking over the criminal prosecution in the chapter "What are my rights?").



What is my role after reporting hate crime?

In order to exercise the rights that you have in the proceedings as a victim of hate crime, it is important to know that you can participate in three roles: as a victim, injured party and injured party as a subsidiary prosecutor. You can also appear as a witness.

The victim of a criminal offence is a natural person who suffered physical and mental consequences, property damage or a significant violation of fundamental rights and freedoms as a direct consequence of the criminal offence.

The injured party is a person who suffered damages as a direct consequence of the committed criminal offence. The injured party can be both a natural person and a legal person. The victim can also be the injured party if they suffered pecuniary and/or non-pecuniary damage as a consequence of the criminal offence. If you suffered damages as a consequence of the criminal offence, you have the right to compensation from the person who caused the damages by committing the criminal offence (usually the perpetrator). In that case, you can file an associated action for damages, requesting compensation for damages (pecuniary or non-pecuniary).

The injured party appears as a subsidiary prosecutor in cases when you, as the injured party, take over criminal proceedings from the State Attorney's Office that abandoned prosecution having established that there are no grounds for prosecuting the perpetrator.

The witness is a person who may have information about the criminal offence, the perpetrator or other relevant circumstances. If you participate in the proceedings as a victim, the court will invite you to a hearing as a witness. Each person who is called as a witness is obliged to respond to the summons and testify.

Under the circumstances provided by law, any person may find themselves in any of the above procedural roles, but note that certain rights that belong to you as the injured party or the victim of a criminal offence can be exercised only if you request them yourself (e.g., if you wish to receive notice of the perpetrator's release from pre-trial detention or serving a prison sentence).

What are my rights?

You should be aware that, as a victim of hate crime, you are entitled to not only the rights that all victims of crime and misdemeanors have, but also additional rights established through the process of individual assessment performed by the police, the State Attorney's Office and the court. For more on individual assessment and special protective measures, see the chapter "Additional rights for victims of hate crimes – special protective measures."

Another important thing you need to know is that some of the rights you are entitled to in the proceedings can only be exercised if you request them yourself: the right to be accompanied by a person of trust, the right to participate in the proceedings as an injured party, the right to be notified by the state attorney of actions taken on the basis of the criminal report, the right to be notified of the perpetrator's release from custody/pre-trial detention and the right to be informed of any decision terminating the proceedings.

You have the following rights:

1. The right to access support services for victims of criminal offences

You have the right to be informed of all your rights and how to exercise them, as well as receive emotional support throughout the proceedings. If criminal charges have been filed and you need to be questioned at an evidentiary hearing, you will, as a rule, be contacted by the court's Victim and Witness Support Department. However, you can also always turn to the Department for help, support and counsel yourself.

Assistance and support for victims and witnesses in courts is provided by departments at county courts in Zagreb, Vukovar, Osijek, Zadar, Split, Sisak and Rijeka. Their purpose is to alleviate the stress of testifying and spending time in court by:

- providing emotional support before, during and after testifying in court,
- providing practical information and informing you of your rights in the course of the proceedings,
- providing information on the stages of criminal and misdemeanor proceedings,



- securing stay in special rooms during questioning,
- securing accompaniment during testifying,
- providing practical information and referring to specialized institutions depending on your needs.

Victim and Witness Support Departments also participate in the individual assessment process by proposing to the court special protective measures that need to be implemented. If you want to exercise a right yourself (e.g., wish to be questioned in court via an audio-video link), you can express your wish for such a method of questioning and the Department will propose this to the court by means of an individual assessment proposal.

If there is no Victim and Witness Support Department at a county court anywhere near your place of permanent/temporary residence, you can directly contact civil society organizations participating in the “**Network of Support and Cooperation for Victims and Witnesses of Criminal Offences**” program. These organizations will help you face psychological, emotional, social and practical losses and provide you with emotional, psychological and/or practical assistance, protection, advice and information.

The civil society organizations included in the “Network of Support and Cooperation for Victims and Witnesses of Criminal Offences” are:

- **CGI Poreč – Centre for Civil Initiatives Poreč / Centar za građanske inicijative Poreč** – Istria County (contact: 095/3500 733)
- **Center for Support and Development of Civil Society DELFIN / Centar za podršku i razvoj civilnog društva DELFIN** – Požega-Slavonija and Bjelovar-Bilogora counties (contact: 034/411 780)
- **CESI – SOS telephone and counseling / CESI – SOS telefon i savjetovalište** – Krapina-Zagorje County (contact: 049/492 688)
- **DEŠA – Dubrovnik** – Dubrovnik-Neretva County (contact: 020/311 625)
- **Information Legal Center / Informativno pravni centar** – Brod-Posavina County (contact: 035/448 533)
- **S.O.S. Virovitica – Counseling, Empowerment, Cooperation / S.O.S. Virovitica – savjetovanje, osnaživanje, suradnja** – Virovitica-Podravina County (contact: 033/721 500)
- **Association HERA Križevci – For the Protection and Promotion of Human Rights / Udruga HERA Križevci – za zaštitu i promicanje ljudskih prava** – Koprivnica-Križevci and Bjelovar-Bilogora counties (contact: 048/271 335)

- **Victim and Witness Support Service / Udruga za podršku žrtvama i svjedocima** – Varaždin and Međimurje counties (contact: 095/116 00 66)
- **Association Zvonimir / Udruga Zvonimir** – Šibenik-Knin County (contact: 022/662-554)
- **Women's Group Karlovac KORAK / Ženska grupa Karlovac KORAK** – Karlovac and Lika-Senj counties (contact: 047/600 392)
- **The Women's Room / Ženska soba** – Centre for Sexual Rights (contact: 01/6119 174)
- **National Call Center for Victims of Crime** (toll-free number 116 006)

2. The right to effective psychological and other expert assistance from support organizations and from bodies, organizations or institutions providing support to victims of criminal offences in accordance with the law

Additionally, you can contact other bodies for psychological and other professional assistance, including general practitioners, centers for social welfare, hospitals, other healthcare institutions and civil society organizations involved in the protection and promotion of the rights of vulnerable social groups, such as the rights of national, ethnic and religious minorities, LGBTIQ persons, persons with disabilities, migrants and refugees, victims of gender-based violence, etc. Keep in mind that there is no support system intended exclusively for victims of hate crime in the Republic of Croatia, but the existing forms of support available to all victims of criminal offences are at your disposal too.

For additional help and support, you can contact some of the following organizations involved in the protection and promotion of:



The rights of national minorities:

- **The Serb National Council (SNC) / Srpsko narodno vijeće (SNV)** provides free legal aid to members of the Serbian national minority (contact: 01/4886 368, 01/4886 372, e-mail: ured@snv.hr, web: www.snv.hr).
- **The Centre for Peace Studies (CPS) / Centar za mirovne studije (CMS)** provides assistance in cases of discrimination, especially on the grounds of race/skin color, ethnicity, religion, national origin and with status issues related to citizenship, residence, asylum and subsidiary protection in Croatia (contact: 01/482 00 94, mob: 091/3300 181, e-mail: cms@cms.hr, web: www.cms.hr).
- **Croatian Romani Union “Kali Sara” (Savez Roma u Republici Hrvatskoj “Kali Sara”)** is an umbrella Roma organization that brings together the largest number of Roma associations and Roma national minority councils at local and regional level. In its work it provides information and support to members of the Roma national minority (contact: 01/8887 673, 095/ 8265 806, e-mail: kalis-ara@kalisara.hr, www.kalisara.hr).
- **The Roma National Council (RNV)** promotes human and minority rights and works on the protection, informing and inclusion of Roma in Croatia while respecting the Roma identity and historical and cultural heritage (contact: 01/5802 699, e-mail: info@promijeni.net, web: www.promijeni.net and www.romi.hr).
- **Roma Youth Organization of Croatia / Romska organizacija mladih Hrvatske** advocates for the social inclusion of Roma and supports the specific needs of further marginalized groups within Roma communities including the youth, women and children (contact: 095 3456 560, 099 400 7011, e-mail: info@romhr.hr, web: www.romhr.hr).
- **Civil Rights Project Sisak (CRP Sisak) / Projekt građanskih prava Sisak (PGP Sisak)** provides free legal aid, relevant information and humanitarian aid, works to protect minorities and promotes ethnic and religious cooperation (contact: tel.: 044/571 752, free legal aid: 0800 200 098, e-mail: pgp-sisak@crpsisak.hr, web: www.crpsisak.hr).
- **Center for Peace, Non-Violence and Human Rights Osijek / Centar za mir, nenasilje i ljudska prava Osijek** provides free legal aid to all citizens (contact: 0800 900 880, e-mail: center-za-mir@centar-za-mir.hr).

The rights of LGBTIQ persons:

- **Lesbian Organization LORI / Lezbijska organizacija LORI** provides psychological counseling services for members of sexual and gender minorities (contact: 051/212 186, 091/4934 133, 091/5934 133, www.ori.hr).
- **Zagreb Pride** provides legal and psychosocial support and legal representation to LGBTIQ persons, including LGBTIQ asylum seekers (contact: 01/580 65 60, e-mail: info@zagreb-pride.net, www.zagreb-pride.net).
- **kolekTIRV** | For the rights of trans, inter and gender variant persons (contact 095/4072 841, email: info@kolektirv.hr; web: www.kolektirv.org)

Asylum seekers:

- **The Centre for Peace Studies (CPS) / Centar za mirovne studije (CMS)** provides assistance in cases of discrimination, especially on the grounds of race/skin color, ethnicity, religion, national origin and with status issues related to citizenship, residence, asylum and subsidiary protection in Croatia (contact: 01/482 00 94, mob: 091/3300 181, e-mail: cms@cms.hr, web: www.cms.hr).
- **Croatian Law Center (CLC) / Hrvatski pravni centar (HPC)** provides free legal aid through legal counselling (contact: tel.: 01/4854 934, e-mail: hpc@hpc.hr, web: www.hpc.hr).
- **Jesuit Refugee Service (JRS)** is a non-governmental, humanitarian, non-profit organization based in Zagreb with a mission to monitor, serve and advocate for the rights of refugees and other forcibly displaced persons. JRS's activities include assisting asylum seekers in centers for asylum applicants and reception centers for foreigners; advocating, lobbying, assisting refugees in the process of integration, etc. (contact: 098 9792 298, email: info@jrs.hr, web: www.jrseurope.org/en/country/croatia/).



- **Borders:none** supports refugees through their projects. They believe in integration through connecting with like-minded individuals and learning new skills. (contact: e-mail: info@bordersnone.com, web: www.bordersnone.com).
- **Law Clinic / Pravna klinika** of the Faculty of Law, University of Zagreb, participates in an integrated system of providing free legal aid to persons who have a legitimate interest in legal aid and either cannot obtain it from other sources or in cases when this would be possible only by spending funds necessary for their own subsistence or the subsistence of persons who they are legally obliged to support (contact: mob.: 097/6529 891, 097/6529 892, 097 6529 902, e-mail: klinika@pravo.hr, web: www.klinika.pravo.unizg.hr).
- **Civil Rights Project Sisak (CRP Sisak) / Projekt građanskih prava Sisak (PGP Sisak)** provides free legal aid, relevant information and humanitarian aid, works to protect minorities and promotes ethnic and religious cooperation (contact: tel.: 044/571 752, free legal aid: 0800 200 098, e-mail: pgp-sisak@crpsisak.hr, web: www.crpsisak.hr).

The rights of victims of gender-based violence:

- **Autonomous Women's House Zagreb / Udruga Autonomna ženska kuća Zagreb** provides free legal and psychological assistance to women who survived violence and safe shelter for women and their children (contact: 0800 55 44, e-mail: azkz@zamir.net, web: www.azkz.net).
- **B.a.B.e.** provides free legal and psychological aid in solving issues directly or indirectly related to violations of human rights (contact: 01/4663 666, e-mail: babe@babe.hr, web: www.babe.hr).
- **White Circle Croatia / Bijeli krug Hrvatske** provides legal, social and psychological counseling to victims of all forms of violence with an emphasis on domestic violence (contact: 0800 63 29, 021 783 449, e-mail: bijeli.krug@gmail.com, web: www.www.bijelikrug-hrvatske.hr).
- **Centre for Women War Victims – ROSA / Centar za žene žrtve rata – ROSA** provides psychological and legal support to women who survived human trafficking for the purpose of sexual exploitation and prostitution (contact: 01/4551 128, SOS telephone: 08007799, e-mail: cenzena@zamir.net, web: www.czzzr.hr).

- **Women's Room / Ženska soba** provides free assistance and support to survivors of sexual violence (contact: 01/ 6119 174, mob.: 091 1505 225, e-mail: zenska.soba@zenskasoba.hr, web: www.zen-skasoba.hr).

Persons with disabilities:

- **Association for Promoting Inclusion / Udruga za promicanje inkluzije** provides free legal advice and professional assistance to persons with disabilities, their families, associations and other interested citizens (contact: 01/37 58 932, e-mail: inkluzija@inkluzija.hr, web: www.inkluzija.hr)
- **Croatian Union of Associations of Persons with Disabilities – SOIH / Zajednica saveza osoba s invaliditetom Hrvatske – SOIH**, SOS telephone for women with disabilities who survived violence provides counseling services, information and psychosocial support every Wednesday from 4 pm to 6 pm at 0800 300 200; SOIH – Centre for Legal Aid / SOIH - Centar za pravnu pomoć provides free legal information and advice every Wednesday from 3 pm to 6 pm at 01/48 12 383 (web:www.soih.hr).
- **Association for Self-Advocacy / Udruga za samozastupanje** aims to improve the position of people with intellectual disabilities

in Croatia and enable them to independently express their needs and fight for their rights (contact: 01/553 05 82, 01/553 05 56, e-mail: kontakt@samo zastupanje.hr, web: www.samo zastupanje.hr).

- **Croatian Association of Deafblind Persons Dodir / Hrvatski savez gluhoslijepih osoba Dodir** provides assistance in cases of discrimination and violation of rights of deaf-blind persons (contact: 01/4875 431, e-mail: dodir@dodir.hr, www.dodir.hr)
- **Croatian Association of Societies of Disabled Workers / Hrvatski savez udruga invalida rada** provides free legal information and advice (Monday to Friday, 9 am to 2 pm; contact: tel.:01/4812 383, e-mail: info@hsuir.hr, web: www.hsuir.hr)



3. The right to protection from intimidation and retaliation

You have the right to protect your own safety and the safety of your family members from the perpetrator, and you can exercise this right in several ways. First, the competent bodies must ensure that you have minimal contact with the perpetrator, especially when testifying in court. Moreover, you can always ask the state attorney or the court to be questioned via an audio-video link. Depending on the circumstances of the case, you also have the right to be placed in a safe house if necessary.

In practice, you most often exercise this right if certain measures need to be taken against the perpetrator in order to protect your safety and ensure that the proceedings run smoothly. In criminal proceedings, the state attorney and the court can implement two kinds of measures: precautionary measures and protective measures. The difference between precautionary measures and protective measures is that precautionary measures can be imposed both prior to and during criminal proceedings, while protective measures are imposed only after a judgment with final force and effect is reached and delivered to the parties.

Before and during the criminal proceedings, you have the right to propose (to the state attorney or the court, depending on the stage of the criminal proceedings) precautionary measures

to limit the possibility of the perpetrator to approach you, to establish contact or to approach a particular place.

Precautionary measures are:

- 1) prohibition from leaving the place of residence
- 2) prohibition from visiting a certain place or area
- 3) obligation to regularly report to a specified person or government body
- 4) prohibition from approaching a certain person
- 5) prohibition from establishing or maintaining contact with a certain person
- 6) prohibition from performing certain business-related activities
- 7) temporary confiscation of travel and other documents for crossing the state border
- 8) temporary confiscation of license to operate a motor vehicle.
- 9) prohibition of stalking or harassing the victim or other persons
- 10) removal from home
- 11) prohibition of access to the internet

On the other hand, the purpose of **protective measures** is to eliminate circumstances enabling or conducive to the commission of a new criminal offence. Protective measures apply only after the final judgment becomes enforceable (after a judgment with final force and effect is reached and delivered to the parties). Protective measures are: compulsory psychiatric treatment, com-

pulsory treatment for substance abuse, compulsory psychosocial treatment, prohibition from performing a certain duty or activity, prohibition from operating a motor vehicle, prohibition from approaching, harassing and stalking the victim, eviction from the shared home, prohibition on internet access and protective supervision upon completion of a prison sentence.

If you have information that the perpetrator is violating implemented measures, inform the police immediately!

If you want to be notified of the perpetrator's release from pre-trial detention (in which case you request/receive the notice from the police) or from serving a prison sentence (in which case you request/receive the notice from the Service for Victim and Witness Support at the Ministry of Justice), you must request it yourself!! This is where you are required to take on an active role.

4. The right to protection of dignity during examination

The police, the state attorney, the judge and other persons you come into contact with are obliged to treat you with respect and in a non-discriminatory manner. They should not exhibit the same prejudices that you were subjected to during the incident and should protect you from secondary victimization. First, you have the right to be questioned by the competent authorities in a sensitized way, without the

authorities asking you questions about strictly personal matters such as marital status, previous sex life, etc. Also, keep in mind that the competent authorities should strive to question you about the same event as few times as possible, that is, you should not, unless justified, be repeatedly questioned about the same event.

You can always request for the public to be excluded from the trial and for your person of trust to be present with you during the examination and proceedings.

5. The right to be heard after filing the criminal report without undue delay and to have further hearings conducted only to the extent necessary for the purposes of the criminal proceedings

The authorities must ensure that you are questioned about the same event as few times as possible, i.e., that you are not, unless justified, questioned by the police, the State Attorney's Office and the court about the circumstances you have already been questioned about. Questioning implies not only the questioning in the form of giving information to the police, but also the official examination that may be conducted by the state attorney and/or the court.



6. The right to be accompanied by a person of trust during whatever actions you participate in

This means that you have the right to have a person that is close to you or a person of trust (a spouse, formal/informal life partner, parent, friend, representative of a civil society organization or another adult of your choice) with you during all stages of the proceedings (from reporting the crime to the police to testifying in court). A person of trust can alleviate the stress of being in court and act as support throughout the process. However, a person who has been called or proposed to be a witness cannot participate in the same criminal proceedings as your person of trust. If a competent authority prohibits you from having your person of trust participate with you in the proceedings, immediately notify the superior within the body that denied you the participation of your person of trust.

7. The right to minimum medical procedures and only if strictly necessary for the purposes of the criminal proceedings

If the nature of the offence calls for a medical examination, such as a gynecological examination, this procedure can be undertaken only with your written consent. In case you do not want to give your written consent, the court may still order a medical examination if this is necessary for the purposes of the criminal proceedings.

8. The right to file a motion to prosecute or bring a private action

In the Croatian criminal justice system, most criminal offences are prosecuted *ex officio*. This means that the state attorney, as the body responsible for prosecuting perpetrators of criminal offences, is obliged to institute proceedings and conduct investigative actions. However, in a small number of cases, criminal prosecution can only take place if the injured person (victim or injured party) files a motion for prosecution to the state attorney.

In the case of criminal offences prosecuted in a private action, you must institute the criminal proceedings yourself by filing a lawsuit in a criminal court within three months of the incident. However, in cases of hate crimes, regardless of the crime in question, prosecution is always undertaken *ex officio*.

9. The right to participate in criminal proceedings as an injured party

It is important to note that, as a victim, you can also participate in the proceedings in the role of the injured party, if you state that you want to participate in the criminal proceedings as an injured party before the competent authorities (the police, the state attorney or the court). You should do this if you want to have a more active role in the criminal proceedings – in addition to the rights that belong to each

victim, participating as an injured party grants you additional procedural rights (e.g., the right to file an associated action for damages, have an attorney, request access to the case file, propose evidence, appeal, etc.). You can register to participate in the proceedings as an injured party until the end of the trial.

10. The right to be notified if the criminal report has been dismissed or if the state attorney decides to abandon criminal prosecution

If the state attorney finds that there are no grounds for criminal prosecution and abandons the case, you will be informed of their decision and instructed on the possibility of taking over the prosecution yourself (in which case you become the prosecutor in the proceedings and take the state attorney's place in the role of the *injured party as prosecutor*). You can do this within eight days of receiving notice of the dismissal of the criminal report or the state attorney's abandonment of criminal prosecution. The possibility of taking over prosecution is in fact a way of inspecting the state attorney's work because it allows you to continue the proceedings when you believe that the perpetrator is criminally liable despite the state attorney's decision that there are no grounds for prosecution.

11. The right to be notified by the state attorney of actions taken on the basis of your criminal report and to file a complaint to a senior state attorney

If you filed a criminal report to the state attorney, they have six months to decide on it and notify you of their decision. If the state attorney fails to do so, you can submit a complaint to a senior state attorney, as the state attorney's failure to act upon the report delays the proceedings.

However, as early as two months after filing the criminal report, you can request to receive a notice from the state attorney of the actions taken on the basis of your report or tip about the criminal offence (e.g., whether an indictment has been issued against the suspect). The state attorney is required to respond within 30 days of receiving your request. If the state attorney does not deliver the notice within the specified period or if you are not satisfied with the actions that have been taken, you can submit a complaint to a senior state attorney.



12. The right to be informed upon your request without undue delay about the perpetrator's release from custody or pre-trial detention, the escape or release of the offender from prison and measures that have been taken for your protection

If you want to be notified about the perpetrator's release from pre-trial detention or their escape from custody/prison (in which case you request/receive the notice from the police), i.e., of their release from serving a prison sentence (in which case you request/receive the notice from the Service for Victim and Witness Support at the Ministry of Justice), you must **request it yourself**. This is where you are required to take on an active role.

13. The right to be informed upon your request of any decision terminating the criminal proceedings

Criminal and misdemeanor courts will not inform you of the decision they have reached, i.e., will not deliver the judgment to you unless you request it yourself. The court will deliver the final judgment terminating the proceedings to you only if you registered to participate as an injured party.

Other rights laid down by law

14. The right to information (letter of victims' rights)

Regardless of whether you are being questioned by the police, the state attorney or the judge, you must be informed about the rights you have in the proceedings before the questioning begins. The police will always give you a written letter of rights, while the state attorney does this less often and the court almost never. If you do not understand any of your rights, feel free to ask for clarification. The competent authorities are obliged to provide you with an explanation in a way that you can understand.

All bodies mentioned above are also obliged to inform you that you have the right to participate in the proceedings as an injured party and explain the meaning of participating in the proceedings as an injured party.

15. The right to an adviser paid for by the state in case of serious psychophysical damage or serious consequences of the criminal offence, for criminal offences punishable by imprisonment of five years or more

This means that, before the examination, you have the right to request (either at the police, the State Attorney's Office or the court, depending on the stage of the proceedings) to talk to an attorney to receive help with drafting an associated action for damages and/or to an adviser from the Victim and Witness Support Department to receive emotional support and assistance before testifying. The adviser may be an attorney or one of the expert associates of the Victim and Witness Support Department. The assistance of the attorney mainly implies assistance with filing an associated action for damages, while the assistance of the Department implies emotional assistance and support before testifying. Such assistance is free of charge.

It is important to emphasize that you, as a victim, do not have the right to an attorney throughout the criminal proceedings, but only to assist you in filing an associated action for damages and only in the case of criminal offences punishable by imprisonment of more than five years. However, if you are participating in the proceedings as an injured party, you have the right to hire an attorney at your own expense.



16. The right to financial compensation from the state budget in accordance with a special law if you are a victim of a violent crime committed with intent

If you are a victim of a violent criminal offence, you are entitled to financial compensation. The compensation is paid from the state budget and implies a one-time payment in the maximum amount of HRK 35,000.00. You are entitled to compensation on the basis of the Act on Financial Compensation for Victims of Crime. The conditions that you must meet in order to receive financial compensation are:

- that you have suffered serious bodily harm or serious damage to your health as a consequence of the criminal offence;
- that you are a citizen of the Republic of Croatia or an EU Member State, i.e., that you have registered residence in the Republic of Croatia or an EU Member State;
- that you reported the criminal offence, i.e., that the incident is recorded at the police or the State Attorney's Office within 6 months from the day the criminal offence was committed, regardless of whether the perpetrator is known and regardless of whether criminal proceedings have been instituted;
- that you have submitted a request for compensation in writing on an official form, along with all the re-

quired supporting documentation. Supporting documentation includes proof of citizenship, certificate of residence, confirmation that the crime was reported, your statement that you have not received financial compensation recognized by the Act on Financial Compensation for Victims of Crime on another legal basis, medical documentation that serves as a basis for seeking compensation (hospital report, medical reports and certificates, discharge letter, sick leave report, invoices for medical services), invoices for common funeral expenses and other certificates or documents that could be relevant for the decision on compensation.

The request form is available at every police station, State Attorney's Offices, municipal and county courts and on the websites of the Ministry of Justice, the Ministry of the Interior, the State Attorney's Office and municipal and county courts. The filled-out request form for financial compensation is submitted to the Ministry of Justice.

The Committee for Compensation decides on the merits and amount of the request within 60 days of receiving the request. If the request is approved, the compensation will be disbursed within 30 days from the day you received the decision on the disbursement of compensation.

What are the special categories of victims of criminal offences?

- 1. Child victims of criminal offences**
- 2. Victims of crimes against sexual freedom and trafficking in human beings**
- 3. Victims of hate crimes – victims under special protective measures**

1. Child victims of criminal offences

If you are under the age of 18, you are legally considered a child, which means that special rules apply to you. Competent authorities need to treat you with special care. Besides all the above mentioned rights that all victims of criminal offences are entitled to, you have the following additional rights:

The right to free legal representation

This means that you have the right to an attorney throughout the proceedings, assigned to you by the court.

The right to confidentiality of personal information

Competent authorities must not reveal your identity to the public and must keep your personal information secure. Your identity must not be revealed and your pictures, family information or information about you must not be published.

The right to exclude the public

When court proceedings are instituted, only the parties to the proceedings (the accused, the state attorney and the injured party) may participate, while other persons (e.g., journalists and other persons) may be barred from participating.



If you have not yet reached the age of 14, the investigating judge will question you in a separate room without the presence of the judge, the state attorney and your attorney. They will be present in another room and listen to your testimony. The questioning will be recorded with an audio-visual device and you will be accompanied by a psy-

chologist/pedagogue and your parent or another person close to you. If the judge or your attorney want to ask you a question, they will ask the question through the psychologist/pedagogue. As a rule, they will examine you only once, but they could question you once more if there are facts that need to be further established.

2. Victims of crimes against sexual freedom and trafficking in human beings

If you are a victim of a criminal offence against sexual freedom (rape, serious criminal offences against sexual freedom, sexual harassment or prostitution) or a criminal offence of trafficking in human beings, besides all the rights already mentioned, you have the following additional rights:

The right to talk to a professional (attorney/psychologist) free of charge before the questioning

Before the questioning begins, you have the right to request (either at the police, the State Attorney's Office or the court, depending on the stage of the proceedings) to talk to an attorney to receive help with drafting an associated action for damages and/or to an adviser from the Victim and Witness Support Department to receive emotional support and assistance before testifying. The adviser may be an attorney or one of the expert associates of the Victim

and Witness Support Department. The assistance of the attorney mainly implies assistance with filing an associated action for damages, while the assistance of the Department implies emotional assistance and support before testifying. Such assistance is free of charge.

The right to a free attorney

You are entitled to a free attorney throughout the proceedings. The free attorney will be assigned to you by the court.

The right to request to be questioned by a person of the same gender at the police and the State Attorney's Office and to be questioned by the same person in the event of re-examination if possible

You can request to be questioned by a person of a certain gender at the po-

lice and the State Attorney's Office if this will make it easier for you to give a statement. However, this right does not apply when being questioned by a judge. Moreover, authorities must take care that you are not questioned about the same event more than once unless justified, which is why your testimony can be recorded with an audio-visual device.

The right to refuse to answer strictly personal questions unrelated to the criminal offence

You are not obliged to answer questions related to your previous sex life or questions unrelated to the criminal offence, e.g., questions about your family life, previous sex life, number of sexual partners, etc.

The right to request to be questioned through an audio-video link

You may request to be questioned in a separate room at the court, without the presence of other participants in the proceedings (the judge, the state attorney and the perpetrator) by having your questioning recorded via an audio-video link. The questioning is conducted by the investigating judge. As a rule, the investigating judge will not question you through an expert, but you can request to be indirectly questioned during the process of individual assessment. Keep in mind that you will either be alone in the room or with your person of trust and that you will have headphones

on, through which you can follow the course of the trial. This means that the perpetrator themselves can question you directly, which is why it is advisable to have an expert with you to receive questions instead of you and forward them to you, allowing you to avoid any contact with the perpetrator. As a rule, you may only be questioned once. The recording of your hearing will be played at the trial. Exceptionally, you may be re-examined if this is necessary to establish any disputable facts.

The right to confidentiality of personal information

Competent bodies must not reveal your identity and must keep your personal information secure.

The right to request for the public to be excluded from the trial

You may request for the public to be excluded from all or some stages of the proceedings (e.g., during your hearing). The court may exclude the public if that is necessary to protect your personal and family life.



3. Additional rights for victims of hate crimes – special protective measures

Victims of hate crimes have all the rights that victims of other criminal offences have. However, given the harmful consequences that hate crimes have not only on you but also on the entire community that identifies with you or to which you belong, you may exercise additional rights and be granted special protective measures through the process of individual assessment.

As mentioned earlier, all prosecuting bodies (the police, the State Attorney's Office and the court) are required to conduct an individual assessment. It is important to know that these bodies must take your wishes for special protective measures into account, including the wish not to use special protective measures laid down by law. However, this does not mean that your wishes must be respected. If you have discussed the incident with the Victim and Witness Support Department or civil society organizations, you can suggest the protective measures that you would like imposed to them as well. These organizations can propose to the police/the State Attorney's Office and the court that these measures be granted to you.

You can exercise the following additional rights through the process of individual assessments:

The right to talk to a professional (attorney/psychologist) before the questioning free of charge

Before the questioning begins, you have the right to request (either at the police, the State Attorney's Office or the court, depending on the stage of the proceedings) to talk to an attorney to receive help with drafting an associated action for damages and/or to an adviser from the Victim and Witness Support Department to receive emotional support and help before testifying. The adviser may be an attorney or one of the expert associates of the Victim and Witness Support Department. The assistance of the attorney mainly implies assistance with filing an associated action for damages, while the assistance of the Department implies emotional assistance and support before testifying. Such assistance is free of charge.

The right to request to be questioned by a person of the same gender at the police and the State Attorney's Office and to be questioned by the same person in the event of re-examination if possible

You can request to be questioned by a person of a certain gender at the police and the State Attorney's Office if

this will make it easier for you to give a statement. However, this right does not apply when being questioned by a judge. Moreover, authorities must take care that you are not questioned about the same event more than once unless justified, which is why your testimony can be recorded with an audio-visual device.

The right to refuse to answer strictly personal questions unrelated to the criminal offence

You are not obliged to answer questions related to your sex life or questions unrelated to the criminal offence, e.g., questions about your earlier sex life, number of sexual partners, etc.

The right to request to be questioned through an audio-video link

If you want to avoid any contact with the perpetrator, you can request to be questioned via an audio-video link. This takes place as follows: you are questioned in a separate room at the court without the presence of other participants in the proceedings (the judge, the state attorney and the perpetrator) and your examination is recorded with an audio-visual device. As a rule, the judge/investigating judge will not question you through an expert, but you can request to be questioned through such a person during the process of individual assessment. Keep in mind that you will either be alone in the room or with your person of trust and that you will have headphones on, through which you can follow the course of the

trial. This means that the perpetrator themselves can question you directly, which is why it is advisable to have an expert with you to receive questions instead of you and forward them to you, allowing you to avoid any contact with the perpetrator. As a rule, you may only be questioned once. The recording of your hearing will be played at the trial. Exceptionally, you may be re-examined if this is necessary to establish any disputable facts.

The right to confidentiality of personal information

Competent bodies must not reveal your identity and must keep your personal information secure.

The right to request for the public to be excluded from the trial

You may request for the public to be excluded from all or some stages of the proceedings (e.g., during your hearing). The court may exclude the public if that is necessary to protect your personal and family life.



What rights do I have if I participate in the proceedings as an injured party?

If you have suffered damages as a consequence of the criminal offence, you have the right to claim compensation from the person who caused it (usually the perpetrator). In that case, you can file an associated action for damages, requesting compensation for damage (pecuniary or non-pecuniary). A motion for an associated action for damages in criminal proceedings may be filed only if you are participating in the proceedings as an injured party. As a victim of hate crime, you can also participate in the proceedings as an injured party if you state before the police, the State Attorney's Office or the court that you want to participate in the proceedings as an injured party. In this case, you have the following additional rights:

1. The right to use your own language, including deaf and deaf-blind sign language, and the right to an interpreter if you do not understand or do not use Croatian, i.e., the right to a translator or sign language interpreter if you have a hearing impairment or are deafblind

You can request a free translation of the information that you need to be able to exercise the rights you are entitled to as the injured party, which in-

cludes a translation of your hearing and examination as a witness, as well as translation services needed to actively participate in the hearing.

2. The right to file on associated action for damages and motions for temporary protective measures

An associated action for damages in criminal proceedings is a request for claiming compensation for damages from the perpetrator. This can include compensation for material or non-material damage (suffered pain, fear, impairment of life skills, etc.), a return of belongings (if you as the injured party can prove that you are their legal owner or holder) or annulment of specific legal transactions (e.g., if the perpetrator forced you to conclude a contract).

An associated action for damages is discussed in criminal proceedings only if it does not significantly prolong the proceedings. In practice, the court may refuse to discuss your associated action for damages if it concludes that this would significantly prolong the proceedings and will instead refer you to a civil lawsuit. This means that you can file a lawsuit for compensation for damages to the competent civil court.

A proposal to be granted an associated action for damages in criminal proceedings is submitted to the same body as the criminal report (the police or the State Attorney's Office) or to the court in charge of the proceedings. The proposal may be submitted at the latest by the conclusion of evidentiary proceedings at the court of first instance.

You also have the right to submit a proposal for a temporary protective measure of "freezing" the property of the accused to secure your claim for damages.

3. The right to legal representation

You have the right to be represented by an attorney throughout the proceedings. However, you need to hire them yourself and at your own expense. An exception applies if you are a victim of a criminal offence against sexual freedom and trafficking in human beings motivated by hatred and/or a child victim of a hate-motivated criminal offence, in which cases you have the right to an attorney at the state's expense.

4. The right to present facts and propose evidence

At the police, the State Attorney's Office and the court, you have the right to propose evidence that is in your favor, call on witnesses to be heard and point to inconsistencies and irregularities in the proceedings.

5. The right to attend the evidentiary hearing

The evidentiary hearing is carried out by the investigating judge at the proposal of the state attorney. The investigating judge calls the state attorney, the defendant, the defense counsel and the injured party to the evidentiary hearing. If special protective measures have been implemented, you can request to be questioned at the evidentiary hearing through an audio-video link.

6. The right to attend the trial, participate in the evidentiary proceedings and make a closing statement

This means that you or your attorney can deliver an opening and closing statement in the trial, impose questions to the accused, witnesses, experts and other participants in the proceedings and propose evidence. In the closing statement, you can explain your associated action for damages and warn of evidence pointing to the accused's guilt.

7. Request access to the case file

This right may, as a rule, be granted only after you have been questioned.



8. The right to request to be notified by the state attorney of actions taken on the basis on your report and to file a complaint to a senior state attorney

Two months after filing the criminal report, you have the right to request a notice from the state attorney of the actions taken on the basis of the criminal report or tip about the criminal offence (e.g., whether an indictment has been issued against the suspect). The state attorney is obliged to respond within 30 days of receiving the request. If the state attorney does not deliver the notice within the period of 30 days, you can submit a complaint to a senior state attorney.

The state attorney must decide on whether to file criminal charges within 6 months of the entry of the criminal report into the records of criminal charges and inform you of their decision if you were the one who submitted the criminal report. If the state attorney fails to proceed in this way, you can submit a complaint to a senior state attorney as the state attorney's failure to act upon the report delays the proceedings.

9. The right to appeal

You have the right to appeal, but only against the court's ruling on the associated action for damages and the costs of the criminal proceedings. However, you have no right to appeal against the

judicial decision on the perpetrator's guilt and imposed sentence!!!

10. The right to seek restoration of the previous situation

If, for legitimate reasons, you do not appear at the session where a ruling to dismiss the charges was adopted because the state attorney has abandoned criminal prosecution, you have the right to request restoration of the previous situation within eight days and state in the request that you are pursuing criminal prosecution.

11. Be notified of the outcome of the criminal proceedings

This means that the competent authorities (the court, the State Attorney's Office, etc.) are obliged to deliver to you all decisions relating to the course and outcome of the criminal proceedings (judgments, decisions, warrants, etc.).

In conclusion

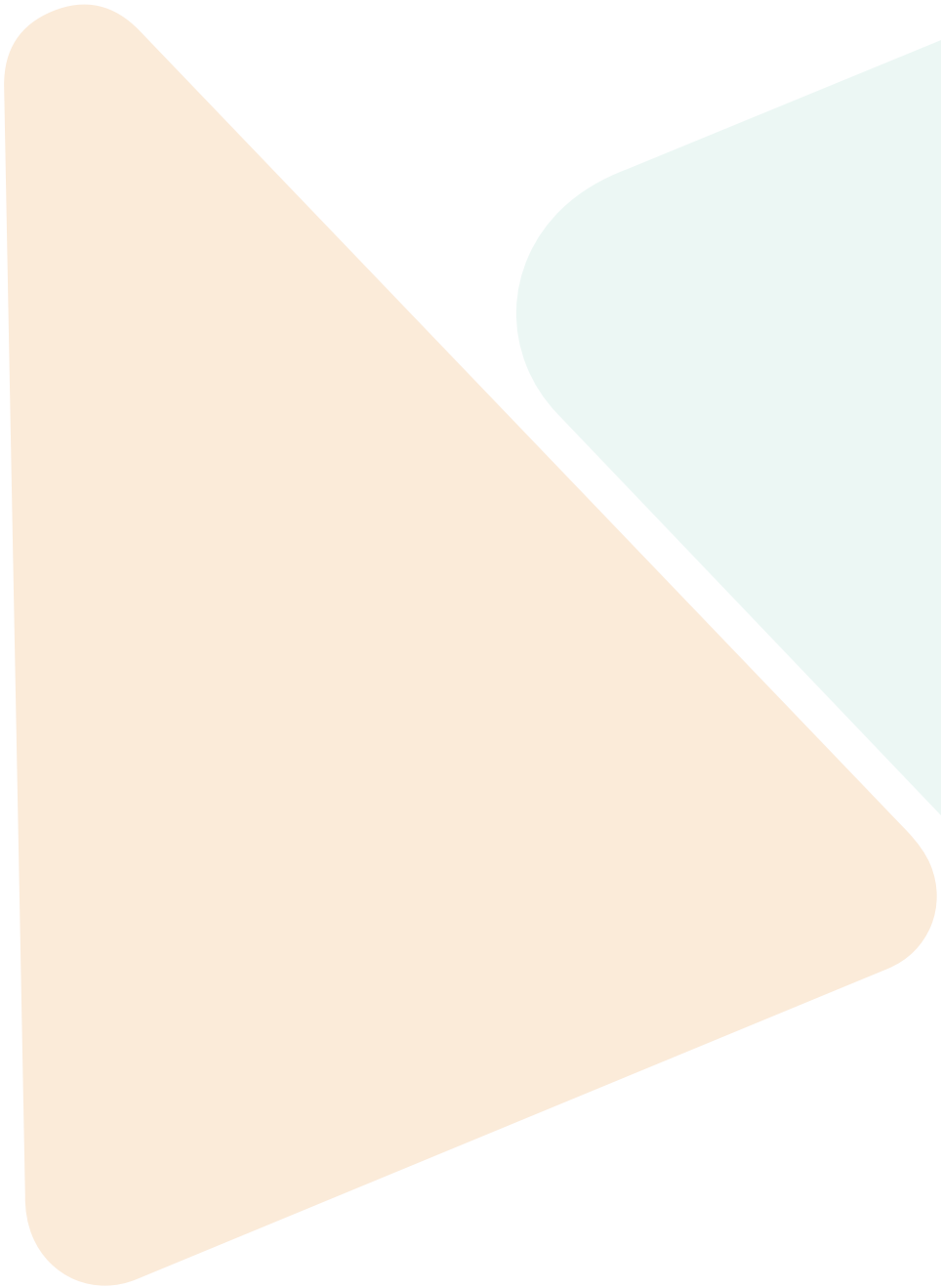
LGBTIQ hate crimes victims are never at fault for the violence and humiliation they suffer. Everyone has the right to love, kiss, hold hands and show closeness to another person regardless of sex, gender and gender expression.

Everyone has the right to look, dress and express themselves as they wish and in accordance with their own gender identity. No one has the right to endanger your dignity and personal safety. In Croatia, we unfortunately continue to witness attempts at justifying any violence against LGBTIQ persons by the victim's own actions.

The victim is never responsible for the violence committed against them! This is why it is important to know that you are not alone. No matter what you hear on the TV, from an environment that does not accept or understand you, from well-meaning but insensitive public servants, including the police, medical practitioners and the court, know that there is always someone who can understand you, even if they do not know you personally. This is why you can turn to one of the associations in Croatia involved in protecting the rights of LGBTIQ persons with trust. If you need help urgently, you can also contact the National Call Center for

Victims of Crime on the toll-free number 116 006 and get information about your rights and emotional support. You can also contact the Crisis and Suicide Prevention Center at KBC Zagreb at a 24/7 hotline at 01 2376 470. If you live in Zagreb, you can come to the Center in person between 8 am and 8 pm, without appointment or referral.









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