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# Annual Report 2016

## Imprint

Litigation Association of NGOs Against Discrimination

(Klagsverband zur Durchsetzung der Rechte von Diskriminierungsopfern)

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## **2016 IN NUMBERS**

**2 new member organizations** now make our network even stronger: equalizent - the training and counselling company for sign language as a supporting member and Integration Vienna as a full member.

**3 new lawsuits** were supported by Klagsverband in 2016. We have sued for racist harassment as well as for discrimination on the base of nationality and insufficient accessibility.

**3 videos in Austrian Sign Language** have been linked on [www.klagsverband.at](http://www.klagsverband.at). They invite our site's visitors to find information about Klagsverband in Austrian Sign Language.

**4 information brochures** have been published. They inform about different kinds of discrimination and the work of Klagsverband.

**4 evenings of debate** in our series *Klagsverband Debates* were organized.

**9 lawsuits** were concluded in 2016. A case of racist discrimination while searching for an apartment ended with a settlement. In a case where a group of friends was barred from entering a club for racist reasons we have received eight verdicts. For the first time, discrimination by association has been recognized in a verdict on discrimination according to the Equal Treatment Act (GIBG).

**10 opinions** to law amendments have been released.

**10 press releases** about current topics in equality politics were issued.

**10 workshops** were held for member organizations as well as for organizations and associations not in our network.

**15 Klagsverband** alerts on current topics on our website were sent out.

**73 new articles** were published on our website.

**78 inquiries on legal issues** have been revised by our lawyer. In all of these instances, she first has to clarify whether the problem described in these inquiries fall within the scope of anti-discrimination and equal opportunity laws.

## **KLAGSVERBAND AND ITS MEMBERS**

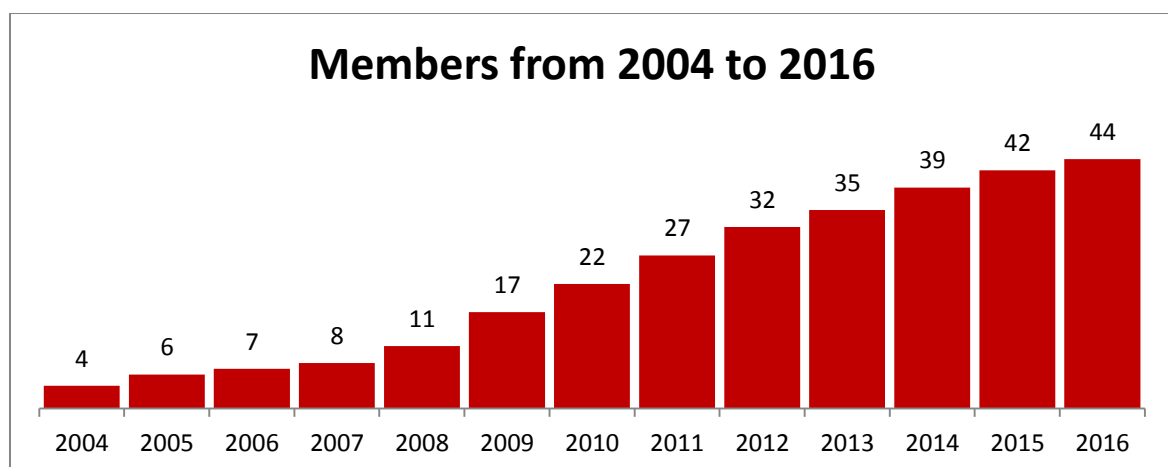
Klagsverband is an umbrella organization with currently 44 member organizations. The association was founded in 2004 by the organizations BIZEPS – Independent Living Center Vienna, ZARA – Civil Courage and Anti-Racism Work, and HOSI – Homosexual Initiative Vienna.

### **Purpose**

- model procedures according to Austrian equality law
- documentation of legislature
- legal education
- legal policy

### **Financing**

- public funds: Federal Ministry of Labour, Social Affairs and Consumer Protection, Federal Ministry of Health and Women's Affairs, the State of Salzburg, Fonds Soziales Wien
- membership dues
- donations
- project-related funding



The advisory activities of Klagsverband's member organizations cover all grounds for discrimination included in Austria's equal opportunity law.

A list of all members can be found on our website: [www.klagsverband.at](http://www.klagsverband.at)

NGOs and non-profits that work to combat discrimination may become full members of Klagsverband.

The Tyrol Service Center for Equal Treatment and Anti-discrimination assists Klagsverband as a supporting member.

**Klagsverband members receive the following services:**

- Legal counselling
- Support during arbitration proceedings and in appeals before commissions
- Legal representation in court, when legally possible
- Counsellor training
- Networking and legal expertise for lobbying
- Opinions on legislation

**FOCUS OF THE YEAR: KLAGSVERBAND DEBATES**

As of 2016, our range of activities has become richer by one: *Klagsverband Debates*. In the past year, we have spent four evenings in the company of highly competent guests and interested audiences, talking about current topics related to equality. It was important for us to think outside our own box and to be inspired by representatives of different disciplines, by activists and actors of the equality movement.

These were our four evenings:

**17<sup>th</sup> of March 2016, Vienna:** The Utopia of an equal-opportunity society

Participants of the debate were (in alphabetical order): Volker Frey (Klagsverband), August Gächter (Center for Social Innovation), Andrea Härle (Romano Centro), Karin Heitzmann (WU Vienna)

**16<sup>th</sup> of June 2016, Vienna:** Equality for intersex people

Participants of the debate: Alex Jürgen (Austrian National Association of Intersex People VIMÖ), Andrea Ludwig (Klagsverband), Eva Matt (Plattform Intersex), Lucie Veith (Intersexuelle Menschen e.V.), Wolfgang Wilhelm (anti-discrimination body for same-sex and transgender lifestyles)

**29<sup>th</sup> of September 2016, Graz:** Language bans and mandatory knowledge of German as a requirement for public services.

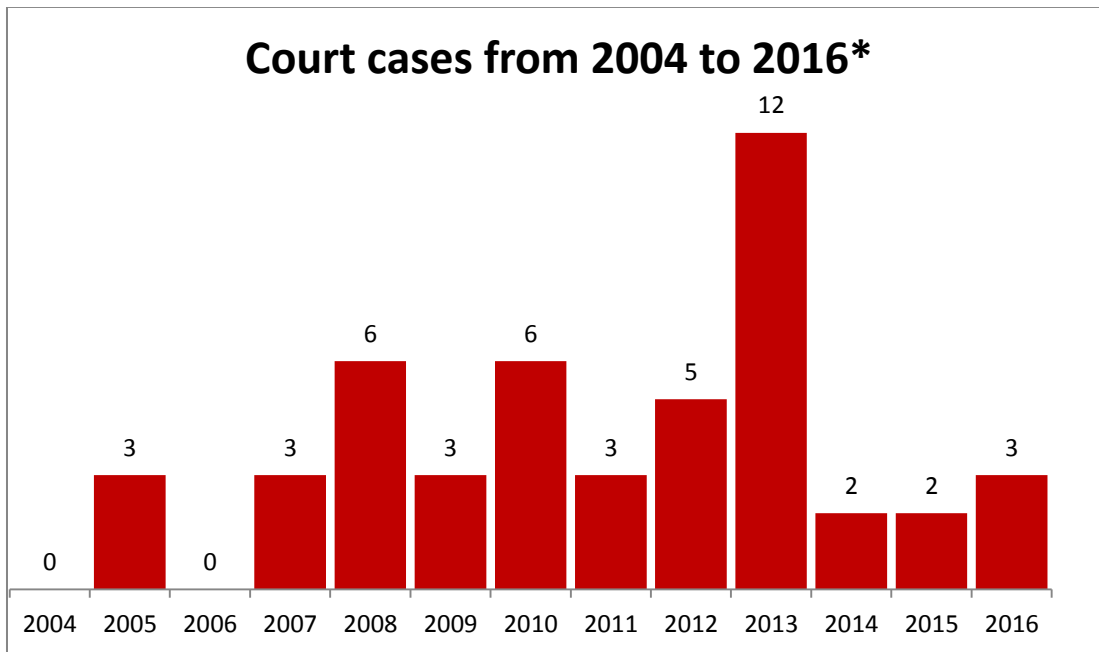
Participants of the debate: Volker Frey (Klagsverband), Daniela Grabovac (anti-discrimination body Styria), Sabine Schmolzer-Eibinger (University of Graz)

**1<sup>st</sup> of December 2016, Linz:** UN Individual Complaints. A neglected legislative instrument.

Participants of the debate: Mümtaz Karakurt (migrare), Klaudia Karoliny (Independent Living Upper Austria), Andrea Ludwig (Klagsverband), Silvia Ulrich (Johannes Kepler University Linz, Legal Gender Studies)

The debates were moderated by Daniela Almer, Klagsverband.

## JUDICIAL PROCESS



\*The number of court cases given in this graphic refers to the number of new cases in the respective year.

### New lawsuits

**Racist harassment in a hotel kitchen:** The plaintiff is a Brazilian national who at the time of the incident worked as a breakfast waiter in a hotel in Innsbruck. One day in June 2015, he ordered a breakfast egg from the sous-chef in the kitchen, to which the sous-chef responded by calling him the N-word. The plaintiff turned to his supervisor and asked to not be put into the same shift as the sous-chef. When his supervisor didn't grant his request, he felt forced to resign. After this racist humiliation, Klagsverband filed a lawsuit against the plaintiff's former colleague in 2016. The process has already concluded, but at the time of our editorial deadline, we have not yet received a decision. The plaintiff was counselled by our member organization TIGRA, which sent us this case to initiate the judicial process.

**Turkish national does not receive housing benefits in Upper Austria:** In this case, our member organization migrare, Linz, turned to us: A Turkish national sought counsel, because she did not receive housing benefits anymore. After she had had children, she was not able to prove that she had worked the required amount of time. However, only people who are not Austrian nationals or citizens of EU/EEC countries have to deliver such a proof. We filed a lawsuit for discrimination on the grounds of nationality. The court did not confirm the discrimination, appeal proceedings are currently underway.

### **Completed Proceedings**

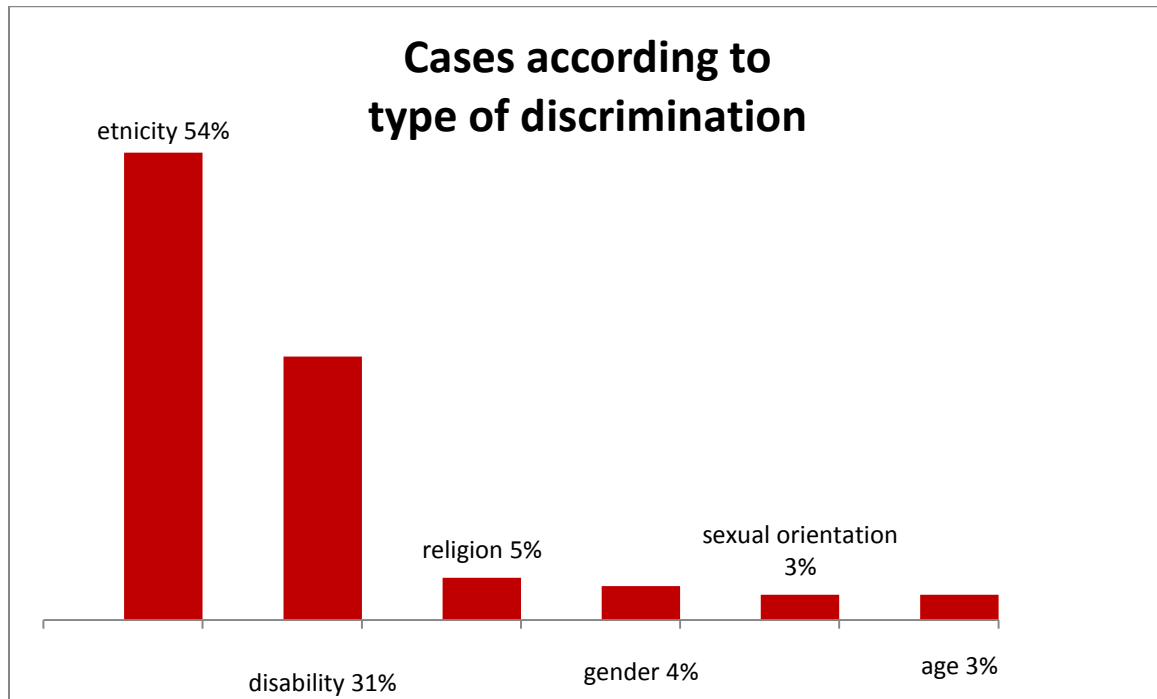
**“This apartment is taken”:** This is a sentence some people looking for an apartment know all too well. Racist discrimination in the allocation of homes might be prohibited under the Equal Treatment Act, but in reality it still happens regularly. Our plaintiff is a native of Israel and called a real estate agent to get information on an apartment she had found on the internet. Even though the ad for the apartment had only just been put online, it was already taken. The university employee was perplexed and asked a colleague to call as well a little while later. When her colleague asked in accent-free German, the apartment was vacant again. After being counselled by ZARA, the woman decided to proceed against the real estate agency with the help of Klagsverband. During the proceedings, the plaintiff decided to accept the real estate agency’s settlement offer.

### **Proceedings pending from the previous years**

**Racism at a dance club entrance:** We count this proceeding to our pending proceedings even though it was already decided, since we are still proceeding against the club owner. The proceeding revolves around the payment of compensations, which have been granted to the plaintiffs by the court: Each of the three young men must receive 600 Euro for suffering this indignity. The further five members of the group must receive damages for discrimination by association. As it is, three young men in a group of eight friends were subject to racist discrimination at the entrance. “You are the kind of people that make problems”, the doorman had told the three Austrian nationals, who he believed to have migration backgrounds due to their appearance. This was the end of the party for the entire group. Among these were another three young men, who the bouncer thought to be Austrian and who did not have any problems entering, and two young women, who were already in the club waiting for the rest of the group.

When the men did not just accept that they were not granted admission, a debate between them and the bouncer began. At this time, the two female friends had also come to the entrance to participate in this debate. In the end, not only did the three young men not gain admission, but the two women who had already paid the entry fee had to leave the club. This case was passed to us by ZARA.

**Observation tower in Vienna not accessible:** After counselling by BIZEPS, our plaintiff decided to proceed against the City of Vienna. Next to the ice rink in front of the Wiener Rathaus, the city hall of Vienna, an observation tower was built which was not accessible and thus could not be used by our plaintiff. Appeal proceedings are under way.



### A case for Klagsverband

For each inquiry passed on to us by our member organizations, it must first be determined whether the case is suitable for a lawsuit. During a personal consultation, Klagsverband determines if going to court makes sense. Klagsverband primarily pursues model case proceedings. Prior to legal proceedings, a series of questions must be answered: Which type of law is being dealt with? How high are the projected litigation costs? What does the aggrieved party expect from a trial? Above and beyond the particular case, will the verdict also be suitable for raising awareness of Klagsverband and its member organizations? Such questions are examined by the Klagsverband lawyer, who then makes a recommendation on whether it is worthwhile to go to court. An internal board has the final decision.



## **LEGAL POLICY**

Laws can combat discrimination, but they can also cause it. Klagsverband participates in political processes actively through written opinions and tries to influence legislation in the interest of equality and anti-discrimination policy. The special strength of Klagsverband in this area is to find discrimination-related aspects even in laws which are not mainly an instance of equal treatment legislation. In the past years we also increasingly contributed to the development of human rights standards through shadow reports regarding international conventions and monitoring processes.

In 2016, we wrote following opinions:

- Styrian Performances Act (Steiermärkisches Veranstaltungsgesetz)
- Federal Industrial Code (Gewerbeordnung)
- Lower Austrian Anti-Discrimination Law (NÖ Antidiskriminierungsgesetz)
- Tramway Regulation (Straßenbahnverordnung)
- State Police Act, Tyrol (Tiroler Landespolizeigesetz)
- Fisheries Act, Vienna (Wiener Fischereigesetz)
- Regulation for the basic training of municipal officials, Burgenland (Burgenländische Grundausbildungsverordnung für Gemeindebedienstete)
- Cultural Promotion Act, Salzburg (Salzburger Kulturförderungsgesetz)
- Equal Treatment Act, Tyrol (Tiroler Gleichbehandlungsgesetz)
- Compulsory Training Law (Ausbildungspflichtgesetz)

## **WORKSHOPS AND TRAINING**

### **“My rights make me strong” – Series of workshops on anti-discrimination law**

This series consists of basic workshops, which teach the basics of anti-discrimination law, and in-depth workshops, which demonstrate the possibilities of judicial process in a practically oriented way.

After this series of workshops already took place in Vienna in 2015, we were able to offer them in Upper Austria as well in cooperation with our member organization maiz between late 2015 and 2016.

The workshop series in Upper Austria was supported by the Austrian society for civic education (Österreichische Gesellschaft für Politische Bildung).

Also part of our range of training seminars are workshops for our member organizations as well as customized offers for interested associations, organizations or individuals.

## **PUBLIC RELATIONS**

### **Information brochures**

Our new brochures provide information about different kinds of discrimination and show what Klagsverband can do for its members. They are available in print and for download at <http://www.klagsverband.at/ueber-uns>.

### **Austrian Sign Language videos**

The symbol of the red hands on our website leads to three videos in Austrian Sign Language (ÖGS). They show translations of the pages “About us”, “What is Discrimination” and “Judicial Process” in sign language; the text can be simultaneously read on screen and is also reproduced acoustically. These videos are a contribution to our endeavor to make our website more accessible, which we will pursue continually.

**Klagsverband Debates:** We have already reported on this new series of discussions in detail on page 6.

**Media Outreach:** Part of the media/press outreach work of Klagsverband is the distribution of rulings in Klagsverband’s legal proceedings as well as opinions and comments to issues of legal policy.

Press releases 2016: <http://www.klagsverband.at/service/presse>

**Website as communication platform:** In the news section of [www.klagsverband.at](http://www.klagsverband.at), a new article about legislature, legal policy or equal treatment topics is posted once or twice a week on average.

**Klagsverband-Alert:** Klagsverband-Alert is a special service with which our users are informed about articles which might be interesting for an especially large number of readers.

**Inquiries:** Part of PR includes answering the many inquiries concerning issues of equal rights, anti-discrimination, and diversity. Klagsverband gladly offers its experience and expertise to students, researchers, employees of public institutions, political parties, and interested citizens. The dissemination of experience in judicial process for national and EU studies is especially important for the sustainability of verdicts and the political debates on improving the legal framework.

## **DOCUMENTATION OF LEGISLATURE**

The services of Klagsverband include documenting and commenting on national and international legislature.

## **NETWORKING**

Klagsverband lives from the vitality of its member organizations and from contacts to other organizations and NGOs that work towards abolishing discrimination. There is an ongoing exchange with the National Equality Body, the National Disability Body, state anti-discrimination bureaus, federal ministries, and other social partners. Since 2013, Klagsverband has also been a member of the Monitoring Committee of Lower Austria; as of 2016, Volker Frey is also a main member of the Monitoring Body of Vienna, Andrea Ludwig is an alternate member.

Within a European context, membership in the Fundamental Rights Platform of the European Fundamental Rights Agency (FRA) is of special importance. Since it has a central counseling function regarding human rights and anti-discrimination for the European Commission, experiences of Klagsverband can be relayed to relevant decision-making bodies.

## **FOR 2017...**

... next to a variety of proceedings, opinions and workshops, we plan to continue our series *Klagsverband Debates* and add new videos in Austrian Sign Language to our website [www.klagsverband.at](http://www.klagsverband.at).