


Hate posts may constitute one of the following offences as defined in the Austrian Criminal Code [Strafgesetzbuch/StGB]:

*Duress (Section 105 StGB), serious threat (Section 107 StGB), persistent stalking (Section 107a StGB), constant harassment using telecommunication or a computer system (Section 107c StGB), sedition (Section 283 StGB), defamation (Section 297 StGB).*

In principle, police reports and criminal proceedings are free-of-charge for you.

### **Court Assistance**

Victims of online hate have a right to free-of-charge psycho-social and legal assistance by the court in certain cases.

 For more information please visit [justiz.gv.at](https://justiz.gv.at) > Service> Opferhilfe und Prozessbegleitung (Victim Support and Court Assistance > Informationsfolder Prozessbegleitung (Information Folder on Court Assistance).

There are information centres that you can turn to, such as, e.g. #AgainstOnlineHate by ZARA. Please see [zara.or.at/en/beratung](https://zara.or.at/en/beratung).

In all cases do keep a screenshot of the postings as evidence.

## How can I defend myself against "on-line hate"?

Have you recently been confronted with a vile hate post and would like to defend yourself? This folder offers a step-by-step guide on where you can do precisely that.

You have several options: first you can ask the platform directly to delete the hate post. In addition, you can petition that a court issue a cease and desist order or you may file a claim for damages. You can also file a criminal report with the police.

The internet is no legal vacuum.

### **Legal information**

Media owner, publisher and editor:  
Federal Ministry of Justice  
Museumstrasse 7, 1070 Vienna  
[bmj.gv.at](https://bmj.gv.at)  
Vienna, January 2021

## Here is how to defend yourself step by step if and when you are affected by "online hate":

### Screenshot

The very first thing you should do is take a screenshot or a photo of the post. Ensure that the date is clearly visible. In addition, you should take a photograph of the entire thread by all means. In this way you will be in a position to subsequently prove that the post existed, even if the author or the platform deletes it.

Now you can take the next few steps:

### Deletion of content by the internet platform

Major platforms are required to include a reporting system, e.g. a report button. You can directly report the hate post there. Irrespective of whether you have been offended via a private message or in a generally accessible post, you can request that the internet platform delete the post.

#### How do I do that?

- Report the post directly via the report button on the platform and request that the platform delete the post.
- The internet platform will inform you how they are going to deal with the report and notify you as soon as the post has been deleted.

- In principle the post must be deleted within 24 hours in the case of obvious unlawful behaviour (intentions of rape, threats of murder, etc.).
- If the unlawful nature of a post must be examined in more detail, the internet platform has a maximum of 7 days to do so.

If the post is not deleted, the platform will inform you about the complaints procedure available.

### In court

Generally the court in the circuit where the defendant lives has jurisdiction. If the defendant lives in another EU country, however, then you can state the court of your place of residence. To find out which court has jurisdiction please enter your postal code here: [justiz.gv.at](https://www.justiz.gv.at) > Gerichte (Courts) > Gerichtssuche (Court Search).

### Cease and desist order

If the platform does not delete the post despite your request, you can bring a claim against it. In order for the claim to be served you must state the contact details of the platform. They may be found in the Legal Information.

A cease and desist order is based on the violation of your human dignity on the internet, which includes, e.g., obscene insults, death threats or intentions of rape. Irrespective thereof, you can bring a claim against the author of the post in any case. If you do not know the name of the author, you can ask the website provider

for the name and address. Alternatively, if you know the name of the author, you can request for information from the Central Register of Residents from the town hall or municipality in person, by post or via the internet using your Citizen Card.

**i** The form for the cease and desist order may be retrieved from [justizonline.gv.at](https://www.justizonline.gv.at). You can also file your claim directly via this platform. You will have to pay approx. EUR 100 for the cease and desist order.

### Damages under the Austrian Media Act [Mediengesetz/MedienG]

In addition, you may claim damages from the media owner (e.g. owner of a Facebook or Instagram profile), for example for slander, insult, defamation or violation of privacy. For that purpose you must file a petition with the court. Such a petition costs approx. EUR 270.

### Reporting crimes to the police

If the content of the hate post is punishable under criminal law as well, you can file a report with the nearest headquarters of the state police.

Please visit [polizei.gv.at](https://www.polizei.gv.at) > Kontakt (Contact) > Dienststellenverzeichnis (Office Directory) > Ihr Bundesland (Your State).

You may also report the matter to the police if you do not (yet) know the real name of the author. In that case the Public Prosecutors' Office can officially trace the unknown suspect.