

# Siegmund Karner v. Austria

[Case Law](#), [Legal Protection](#), [Anti-discrimination](#), [Austria](#), [European Court of Human Rights](#), [Family](#), [Sexual Orientation](#), [Strategic Litigation](#)

## Tenancy for surviving same-sex partner

(Application No. 40016/98), 12 March 2002

[Find Court's judgement here.](#) (Violation of Article 14 of the Convention taken in conjunction with Article 8)

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- The applicant claimed to have been a victim of **discrimination** on the ground of his sexual orientation in that he was denied the status of “life companion” of the late Mr W., thereby preventing him from succeeding to Mr W.’s tenancy.
- ILGA-Europe, together with Liberty and Stonewall, submitted the following:
  - There is a sufficiently broad European consensus that unmarried same-sex partners (with or without children) enjoy “**family life**” in the same way as unmarried different-sex partners (with or without children).
  - This requires that, where an unmarried different-sex partner qualifies to succeed to the tenancy of an apartment or house after the death of their partner (the legal tenant), an unmarried same-sex partner must receive the **same protection** against having the loss of their partner, and the trauma of bereavement, compounded by the hardship of suddenly losing their home.
- The European Court of Human Rights delivered its [judgment in 2003](#).
- The Court recognised that the subject matter of the application involved an important question of general interest not only for Austria but also for other States Parties to the Convention. In this connection the Court referred to the submissions made by ILGA-Europe, Liberty and Stonewall, whose intervention in the proceedings as third parties was authorised as it highlighted the general importance of the issue (para 27). The Court reiterated that **differences based on sexual orientation require particularly serious reasons by way of justification**. It found that the Government had not offered convincing and weighty reasons justifying the discriminatory treatment against the partner of the same sex, which thus constituted a **violation of Article 14 of the Convention taken in conjunction with Article 8**.