

**“LAW, IDENTITY AND RESISTANCE”**

**COMPOUNDED INVISIBILITY: SYSTEMATIC BARRIERS  
FACING AFRICAN LESBIAN ASYLUM SEEKERS IN  
AUSTRIA.**

By Mastula Nakabugo

MA Capstone Thesis

Supervisor: Professor Juliana Cesario Alvim Gomes

Central European University- Private University

Quellenstrasse 51-55, 1100 Vienna

Austria

© Central European University Private University

June 2025

# Copyright Notice

Copyright © Mastula Nakabugo, 2025. “Law, Identity and Resistance” Compounded Invisibility: Systematic Barriers Facing African Lesbian Asylum Seekers in Austria- This work is licensed under Creative Commons Attribution-NonCommercial-ShareAlike (CC BY-NC-SA 4.0) International. To view a copy of this license, visit <https://creativecommons.org/licenses/by-nc-sa/4.0/>



For bibliographic and reference purposes, this thesis should be referred to as: Nakabugo, Mastula, 2025. “Law, Identity and Resistance” Compounded Invisibility: Systematic Barriers Facing African Lesbian Asylum Seekers in Austria. MA Thesis, Legal Department, Central European University, Vienna.

---

<sup>1</sup> Icon: ‘Downloads’ (*Creative Commons*) <<https://creativecommons.org/mission/downloads/>>.

## Author's Declaration

I, the undersigned Mastula Nakabugo, candidate for the MA degree in Human Rights, declare herewith that the present thesis titled “Compounded Invisibility: systematic Barriers facing African lesbian Asylum seekers in Austria” is exclusively my own work, based on my research and only such external information as properly credited in notes and bibliography.

I declare that no unidentified and illegitimate use was made of the work of others, and no part of the thesis infringes on any person's or institution's copyright. I also declare that no part of the thesis has been submitted in this form to any other institution of higher education for an academic degree.

Vienna, 16/06/2025

Mastula Nakabugo

## Abstract:

This capstone thesis examines the legal challenges faced by African lesbian asylum seekers during the asylum process in Austria. Despite the protections offered by international and European human rights frameworks, such as the UNHCR SOGIESC Guidelines, CEDAW, Yogyakarta Principles, and the EU Qualification Directive, African lesbian asylum seekers encounter significant obstacles in securing protection. These challenges include the burden of proving their sexual orientation, culturally biased credibility assessments, and the lack of gender-sensitive legal procedures. This Capstone thesis employs a qualitative methodology focused on participatory storytelling workshops, which create a platform for African lesbian refugees to share their experiences in the asylum process. Their narratives are analyzed alongside existing literature and legal texts to uncover patterns of exclusion and identify structural gaps within the Austrian asylum system. By integrating legal analysis with lived experiences, this capstone contributes to ongoing discussions about asylum reforms, intersectionality, and the protection of marginalised social groups. It advocates for more inclusive and culturally competent asylum procedures that recognise the compounded discrimination based on race, gender, and sexuality. The findings aim to inform both legal practice and advocacy efforts supporting African lesbian refugees.

**Key words:** *Asylum, Lesbian women, race, sexuality, credibility assessment, Austria*

## Acknowledgements

I want to express my gratitude to everyone who contributed to bringing this thesis to life.

First and foremost, I want to express my gratitude to the African lesbian asylum seekers who chose to share their stories with me, allowing themselves to be vulnerable in the process. I was deeply moved by your passion for justice and your desire for a more humane asylum system. I hope that in representing your narratives, I have done them justice.

I am profoundly thankful to WAST MA 13 (Bildung und Jugend) for their financial support, which made these workshops possible, and to Queer Base for providing a welcoming and safe space where the workshops could take place. Without their collaboration, the “Unghosting Lesbian project” would not have been feasible.

To my friends, Laurene, Trashpanda, and Tabya, thank you for your creative ideas and perspectives, which enriched the workshops, making them more meaningful and for helping me stay rooted in understanding the lived realities of both African and SWANA lesbian women whose stories are at the heart of this project. And to my colleagues and family members who stood by me, supported me, and encouraged me, whether by offering a listening ear, reading drafts, or validating the necessity of this work, your kindness grounded me and reminded me that justice is a collective endeavour.

Lastly, I would like to acknowledge the immense patience and guidance provided by my supervisor, Juliana Cesario Alvim Gomez. Her insights, expertise, and support challenged me to pursue depth, authenticity, and fairness in my research. This thesis belongs to everyone striving for a world where dignity, justice, and peace are not privileges, but universal realities.

# Abbreviations and Acronyms

AsylG: Asylum Act

APD: Asylum Procedure Directive

BFA: Bundesamt für Fremdenwesen und Asyl (Federal Office for Immigration and Asylum)

BMI: Bundesministerium des Innern (Federal Ministry of Interior)

BMEIA: Bundesministerium für europäische und internationale Angelegenheiten (Federal Ministry for Europe, Integration and Foreign Affairs)

BVwG: Bundesverwaltungsgericht (Federal Administrative Court)

CEDAW: Convention on the Elimination of all Forms of Discrimination Against Women

CEAS: The Common European Asylum system

CFR-EU. Charter of Fundamental Rights of the European Union

CSO: Civil Society Organisation

EU: European Union

EUAA: European Union Agency for Asylum

EU-MS: European Union Member States

EASO: European Asylum Support Office

FPG: Fremdenpolizeigesetz (Aliens Police Act)

ICCPR: International Covenant on Civil and Political Rights

NGO: Non-Government Organisation

LGBTIQ+: Lesbian, Gay, Bi-sexual, Transgender and Queer

RCD: Reception procedure Directive

SOGI: Sexual orientation and gender Identity

SOGIESC: Sexual Orientation, Gender Identity- Expression and Sexual Characteristics

RC: The 1951 Refugee Convention

TEU: Treaty of the European Union

UN: United Nations

UDHR: Universal Declaration of Human Rights

UNHCR: United Nations High Commission for Refugees

UNGA: United Nations General Assembly

UN-MS: United Nations Member States

YP: “Yogyakarta Principles 2006” & “Yogyakarta Principles Plus 10, 2017”

# Table of contents

## Contents

Copyright Notice .....	ii
Author's Declaration .....	iii
Abstract: .....	iv
Acknowledgements .....	v
Abbreviations and Acronyms .....	vi
Introduction: .....	1
1: Legal Framework for the Protection of Lesbian Asylum Seekers and Refugees in Austria .....	6
1.1 International Framework for the Protection of lesbian refugee women .....	7
1.1.1 Universal Declaration of Human Rights .....	8
1.1.2 The 1951 Refugee Convention and its Protocols .....	9
1.1.3 Convention on the Elimination of Discrimination against Women (CEDAW) .....	10
1.1.4 Yogyakarta Principles 2006 and Yogyakarta principles plus10 2017 .....	11
1.2 European Union Legal Framework .....	12
1.2.1 Charter on Fundamental Rights of the EU. ....	13
1.2.2 Qualification Directive (Directive 2011/95/EU) .....	13
1.2.3 Asylum Procedure Directive (Directive 2013/32/EU) .....	14
1.2.4 The Reception Conditions Directive (RCD 2013/33/EU) .....	15
1.3 Austrian Asylum Legal Framework .....	16
1.4 Intersectional Challenges in Credibility Assessment and Legal Barriers .....	20
1.5 Comparative perspectives: Case studies from Germany, France, Greece and the UK .....	22
1.6 Research Gap .....	23
2: Navigating Asylum: African Lesbian Refugees in Austria and their Support System .....	25
2.1 Criminalisation and lived oppression in the country of Origin .....	25
2.2 Intersectional Risks and the Decision to Seek Asylum in Austria .....	26
2.3 Navigating New Realities and Support Networks in Austria .....	28
3: Methodology and Background .....	31
3.1 Participatory Workshop as a Research Methodology .....	32
3.2 Participant Selection .....	33
3.3 Ethical Considerations .....	34
4: Analysis of Lived Experiences from the workshops .....	36
4.1 The Burden of Credibility: "Stereotypes, Silence, and Ideal Victims" .....	36
4.2 Accelerated Timeline and Retraumatisation .....	37
4.3 Interpretation and Cultural Bias .....	39
4.4 Intersectionality and its legal protection limits .....	39

Conclusion.....	41
Bibliography .....	43

## **List of Figures**

Figure 1: Austria's asylum system, Asylkoordination Österreich.....	19
---------------------------------------------------------------------	----



## Introduction:

The number of asylum applications that are based on sexual orientation, gender identity-expression, and sex characteristics (SOGIESC) has increased in recent years in the European Union (EU).<sup>2</sup> A report published in 2014 by the Organisation for Refuge, Asylum and Migration (ORAM) predicts that fewer than 2,500 lesbian, gay, bisexual, transgender and queer refugees (LGBTIQ+) receive protection annually from the 175 million LGBTIQ+ persons leaving under precarious conditions worldwide<sup>3</sup>; however, neither the United Nations High Commissioner for Refugees (UNHCR) nor the majority of the 176 jurisdictions that report asylum statistics to the UNHCR maintain records or possess any other form of data regarding this issue<sup>4</sup>. A report by Dustain and Querton highlights that asylum adjudicators, for example, have culturally biased expectations of how refugee women should behave, both in their country of origin and in their host country.<sup>5</sup> These expectations greatly affect LGBTIQ+ asylum seekers and refugees who may feel pressured to perform aspects of their identity to meet Western ideals; On the other hand, the queer asylum seekers who cannot live up to these expectations may be disbelieved despite the high risks they face in their home countries.<sup>6</sup> Additionally, within this marginalised group, lesbian women face unrealistic requirements from adjudicators for consistency in their narratives and proof of their sexual orientation, neglecting other experiences such as forced marriage, corrective rape and

---

<sup>2</sup> '2022\_10\_background\_note\_sogie\_expert\_panel\_en.Pdf'

<[https://euaa.europa.eu/sites/default/files/2023/01/2022\\_10\\_background\\_note\\_sogie\\_expert\\_panel\\_en.pdf](https://euaa.europa.eu/sites/default/files/2023/01/2022_10_background_note_sogie_expert_panel_en.pdf)> accessed 31 March 2025.

<sup>3</sup> Neil Grungras, 'Rising Numbers of LGBTI Refugees Facing Fight for Survival' (*HuffPost*, 20 June 2014) <[https://www.huffpost.com/entry/lgbti-refugees-facing-fight\\_b\\_5514737](https://www.huffpost.com/entry/lgbti-refugees-facing-fight_b_5514737)> accessed 25 December 2024.

<sup>4</sup> *ibid.*

<sup>5</sup> Moira Dustain and Christel Querton, '(PDF) Women in Refugee Law, Policy and Practice: An Introduction to The Refugee Survey Quarterly Special Issue' [2024] ResearchGate <[https://www.researchgate.net/publication/362311080\\_Women\\_in\\_Refugee\\_Law\\_Policy\\_and\\_Practice\\_An\\_Introduction\\_to\\_the\\_Refugee\\_Survey\\_Quarterly\\_Special\\_Issue](https://www.researchgate.net/publication/362311080_Women_in_Refugee_Law_Policy_and_Practice_An_Introduction_to_the_Refugee_Survey_Quarterly_Special_Issue)> accessed 6 March 2025.

<sup>6</sup> Carmelo Danisi and others, *Queering Asylum in Europe: Legal and Social Experiences of Seeking International Protection on Grounds of Sexual Orientation and Gender Identity* (Springer International Publishing 2021) <<https://link.springer.com/10.1007/978-3-030-69441-8>> accessed 10 March 2025; Jane I Freedman and others, 'Asylum, Racism, and the Structural Production of Sexual Violence against Racialised Women in Exile in Paris' 426.

domestic abuse<sup>7</sup>; thus, these compounded challenges create legal hurdles that are uniquely challenging and more difficult compared to those encountered by their non-LGBTIQ+ asylum seekers<sup>8</sup>.

My interest in this topic is both academic and deeply personal. As a recognised refugee in Austria, and through my professional work with NGOs that support LGBTIQ+ asylum seekers, I have witnessed firsthand how the asylum system struggles to address the complex, intersectional identities of African lesbian women. These women experience dual marginalisation due to the asylum system's procedural rigidities and broader structural discrimination based on race, gender, and sexuality.

The research question that guides this capstone thesis is: What are the legal challenges faced by African lesbian asylum seekers during the asylum process in Austria? To explore this question more thoroughly, the study examines two interrelated aspects, namely: How do credibility assessment procedures within Austria's asylum system impact African lesbian asylum seekers? Additionally, how do intersecting identities of race, gender, and sexuality influence their asylum experiences? Utilising a participatory and narrative-driven methodology, which includes creative workshops, this project seeks to document these obstacles while amplifying the voices of African lesbian asylum seekers and situating their experiences within the broader contexts of asylum, intersectionality, and human rights.

This study makes an important contribution to both academic literature and human rights practice by centering the voices of African lesbian asylum seekers and refugees, who within the broader LGBTIQ+ asylum discourse are quite understudied. While queer asylum seekers face unique challenges related to credibility assessments, trauma disclosure, and integration across host countries, lesbian asylum seekers and refugees encounter additional forms of

---

<sup>7</sup> Moira Dustain and Christel Querton (n 5).

<sup>8</sup> Mengia Tschalaer, 'Victimhood and Femininities in Black Lesbian Asylum Cases in Germany' (2021) 47 *Journal of Ethnic and Migration Studies* 3531.

marginalisation shaped by their gender, race, and sexual orientation. As Tschalaer notes, lesbian asylum seekers face “double discrimination” within European systems due to the interplay of these identities.<sup>9</sup> In Austria, the immigration system remains ill-equipped to accommodate the complex realities of gender and sexual minorities, particularly those from African backgrounds.

This capstone thesis is organised into four chapters, integrating legal analysis with participatory narrative research. Chapter 1 reviews the international framework, EU law, and Austrian legal systems regarding LGBTIQ+ asylum, emphasising the protection gaps faced by lesbian refugees. Chapter 2 investigates the motivations behind seeking asylum and the lived experiences in Austria, highlighting the contributions of NGOs and CSOs. Chapter 3 details the methodology, encompassing participatory workshops and ethical considerations. Chapter 4 presents the key findings, categorized by significant legal and experiential themes such as credibility, retraumatization, and intersectional exclusion.

### **Terminologies.**

This capstone thesis engages with several foundational concepts, such as gender, identity and sexuality, that are essential for understanding the experience of African lesbian asylum seekers. The term LGBTIQ+ encompasses individuals who identify as lesbians, gay, bisexual, trans, intersex, queer plus other non-heteronormative identities reflecting the diversity recognised by international legal and advocacy organisations.<sup>10</sup> The framework of SOGIESC is closely related and is increasingly used by the United Nations and international legal bodies to acknowledge the complexity of identity categories in protection claims.<sup>11</sup> Within this

---

<sup>9</sup> *ibid.*

<sup>10</sup> ‘Glossary of Terms: LGBTQ | GLAAD’ (24 February 2022) <<https://glaad.org/reference/terms/>> accessed 2 March 2025.

<sup>11</sup> ‘UNHCR Guidelines on International Protection No. 9: Claims to Refugee Status Based on Sexual Orientation and/or Gender Identity’ (UNHCR, 23 October 2012) <<https://www.unhcr.org/media/unhcr-guidelines-international-protection-no-9-claims-refugee-status-based-sexual-orientation>> accessed 23 November 2024.

spectrum are lesbian women who identify as women romantically and sexually attracted to other women; however, it is important to point out that expressions of same-sex desire and identity are shaped by cultural context and may not always align with Western definitions.<sup>12</sup> For clarity, this capstone thesis explicitly looks at any woman who identifies as lesbian within a minority category of sexual orientation, despite other references that may be attached to them, such as trans or non-binary categories.<sup>13</sup>

Sexual Orientation according to the Yogyakarta principles “refer to each person’s capacity for profound emotional, affectional and sexual attraction to, and intimate and sexual relations with, individuals of a different gender or the same gender or more than one gender” while sexual identity is how individuals conceive themselves and how they choose to express those conception which could be in terms of dressing, mannerism and speech<sup>14</sup>

Additionally, a central analytical term in this capstone thesis is intersectionality, a concept coined by Kimberle Crenshaw who describes how different forms of oppression, such as sexism, racism and homophobia, interact to create unique modes of marginalisation.<sup>15</sup>

Kimberly asserts that black women, in comparison to white women, have differing experiences and are highly influenced by race.<sup>16</sup> This capstone emphasises that African lesbian asylum seekers face compounded challenges at the intersection of race, gender and sexuality while seeking asylum in Austria.

Finally, the concept of queer resilience, introduced by Pérez, offers an insightful examination of how LGBTIQ+ asylum claimants proactively navigate exclusionary legal frameworks. The

---

<sup>12</sup> Ari Shaw and Namrata Verghese, ‘A Review of Research and Data Needs’; ‘UNHCR Guidelines on International Protection No. 9: Claims to Refugee Status Based on Sexual Orientation and/or Gender Identity’ (n 11).

<sup>13</sup> ‘Yogyakarta principles.Org – The Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity’ <<https://yogyakartaprinciples.org/>> accessed 20 January 2025.

<sup>14</sup> *ibid.*

<sup>15</sup> Kimberle Crenshaw, ‘Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics’ [1989] University of Chicago Legal Forum: Vol. 1989: Iss. 1, Article 8.

<sup>16</sup> *ibid.*

concept emphasises the strategic use of storytelling, community support, and personal narratives as tools for resistance and survival within oppressive systems. Terms such as asylum seeker and Refugee are discussed in the first chapter on legal framework

# 1: Legal Framework for the Protection of Lesbian Asylum Seekers and Refugees in Austria

Asylum is a fundamental human right that allows people who have fled their home countries because they are in danger or fear persecution to seek protection in another country, thus referred to as asylum seekers.<sup>17</sup> International law grants refugee status to such individuals once a receiving state acknowledges their need for assistance.<sup>18</sup> The refugee convention drafted in 1951 defines a refugee in Article 1 as “*someone who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of [their] nationality and is unable or, owing to such fear, is unwilling to avail [themselves] of the protection of that country; or who, not having a nationality and being outside the country of [their] former habitual residence, is unable or, owing to such fear, is unwilling to return to it."*<sup>19</sup>

In Austria, asylum seekers refer to those individuals’ seeking protection from the aforementioned reasons of the 1951 convention; thus, the process begins from the time an application is filed with the police until it is legally concluded, cancelled, and/or rendered irrelevant<sup>20</sup>. These laws and policies on asylum are primarily governed and well-explained in Austria’s *Asylum Act of 2005*<sup>21</sup> and the *Aliens Police Act of 2005*<sup>22</sup>. Before 2005, Austria's immigration and asylum laws were mostly governed by the Aliens Act 1997 and the Asylum

---

<sup>17</sup> ‘Asylum in - Austria’ (*UNHCR Austria*) <<https://help.unhcr.org/austria/asylum-in-austria/>> accessed 18 December 2024.

<sup>18</sup> *ibid.*

<sup>19</sup> ‘The 1951 Refugee Convention’ (*UNHCR*) <<https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>> accessed 28 November 2024.

<sup>20</sup> Federal Office for immigration and asylum, ‘Informationsbroschuere\_Asylverfahren\_in\_Oesterreich\_EN.Pdf’ <[https://www.bfa.gv.at/402/files/01\\_Broschueren/Informationsbroschuere\\_Asylverfahren\\_in\\_Oesterreich\\_EN.pdf](https://www.bfa.gv.at/402/files/01_Broschueren/Informationsbroschuere_Asylverfahren_in_Oesterreich_EN.pdf)> accessed 3 December 2024.

<sup>21</sup> ‘RIS - Asylgesetz 2005 - Bundesrecht Konsolidiert, Fassung Vom 28.11.2024’

(*RECHTSINFORMATIONSYSTEM DES BUNDES*)

<<https://www.ris.bka.gv.at/geltendefassung.wxe?abfrage=bundesnormen&gesetzesnummer=20004240>> accessed 28 November 2024.

<sup>22</sup> ‘RIS - Fremdenpolizeigesetz 2005 - Bundesrecht Konsolidiert, Fassung Vom 28.11.2024’

<<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004241>> accessed 28 November 2024.

Act 1991, which were fragmented and inconsistent,<sup>23</sup> lacked harmonisation with European Union (EU) standards and limited applicant procedural protections.<sup>24</sup>

This chapter integrates legal feminist theory and Queer theory with a review of normative frameworks encompassing international law, the European Union law, and Austria's asylum regulations. It also includes a comprehensive literature review on credibility assessment and intersectionality, and at the end of each section, some potential criticalities for African lesbian refugee women will be examined. The aim is to highlight the disparity between formal protections and the lived experiences of African lesbian asylum seekers, establishing the foundation for this capstone's examination of the legal challenges encountered by African lesbian refugees in Austria.

## 1.1 International Framework for the Protection of lesbian refugee women

International human rights law has long struggled with the inclusion of sexual orientation and gender identity within its protective framework. Although fundamental treaties like the Universal Declaration of Human Rights (UDHR) and the International Convention on Civil and Political Rights (ICCPR) do not explicitly list SOGI as protected categories, scholars and advocates have progressively argued that these identities fall under the umbrella of the “membership of a particular social group status” a provision included in foundational documents such as the UDHR.<sup>25</sup> Kerry O'Halloran challenges the narrow positive interpretation that the absence of explicit references to SOGI excludes them from protection.<sup>26</sup> He argues that international human rights instruments were never meant to be exhaustive and

<sup>23</sup> 'RIS - Asylgesetz 1991 § 9 - Bundesrecht Konsolidiert'

<<https://www.ris.bka.gv.at/eli/bgbl/1992/8/P9/NOR12064169>> accessed 16 April 2025.

<sup>24</sup> Gerhard Muzak, 'The Austrian Migration and Asylum Law under the Impact of the European Migration Crisis 2015' (2020) 4 University of Vienna Law Review 138.

<sup>25</sup> 'Universal Declaration of Human Rights | United Nations' (10 December 1948) <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> accessed 23 September 2024.

<sup>26</sup> Kerry O'Halloran, *Sexual Orientation, Gender Identity and International Human Rights Law: Common Law Perspectives* (1st edn, Routledge 2019) <<https://www.taylorfrancis.com/books/9780429809736>>.

that the inclusion of “other status” signals an intent to protect unnamed and evolving categories of vulnerability thus: “There’s a radical positivist assertion that no protection of sexual orientation or gender identity exists in international law since these categories are not specifically enumerated in the core international human rights treaties. However, international human rights instruments were not meant to be exhaustive in their enumeration of statuses, and the reference to “others” is the clearest indication of the intention to encompass protection of unnamed categories.”<sup>27</sup>

When it comes to lesbian refugee women, despite the absence of international treaties or conventions that directly address their protection, there are several significant documents both on the international and regional level that provide a framework for protecting individuals based on their sexual orientation and gender identity (SOGI), thus, these frameworks can be applied to lesbian women to ensure that their rights are well protected and respected. As Hathway notes that under international refugee law, “states are obliged to provide a back-up source of protection to seriously at-risk people who cannot be otherwise protected by their own states”.<sup>28</sup> This argument highlights the responsibility states have when they sign up to the various international human rights mechanisms. In the subsequent paragraphs, I will be addressing the various legal mechanisms that address international protection for women, especially lesbian women.

### 1.1.1 Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR), adopted on 10th Dec 1948 by the United Nations General Assembly (UNGA) under United Nations *resolution 217 A (III)*, *A/RES/3/217 A*<sup>29</sup>, is a foundational document in international human rights law. It sets out

---

<sup>27</sup> *ibid.*

<sup>28</sup> James C. Hathaway, ‘International Refugee Law: The Michigan Guidelines on the Internal Protection Alternative’ (*Refworld*) <<https://www.refworld.org/reference/research/umls/1999/en/32051>> accessed 25 January 2025.

<sup>29</sup> ‘Universal Declaration of Human Rights | United Nations’ (n 25).



universal principles affirming the *inherent dignity, equality, and rights* of all human beings, regardless of race, sex, nationality, or status.<sup>30</sup> Although the UDHR does not explicitly mention sexual orientation or gender identity, its core principles of universality and non-discrimination have increasingly been interpreted to encompass SOGI rights (including lesbian rights), ensuring their rights to equality, non-discrimination, privacy, and freedom from violence.<sup>31</sup> These protections have been highlighted in Articles 1, Right to equality and dignity, Art. 2 non-discrimination, and Art. 7 Equality before the law of the declaration<sup>32</sup>, which guarantees lesbian rights and the wider LGBTI+ community, reinforcing the universal dignity and protection from prejudice that applies regardless of sexual orientation or gender identity. This evolving interpretation has influenced international and regional human rights frameworks and has led, along with domestic legal developments, constitutional court decisions, and changing social views, to national reforms in many countries, including Austria.<sup>33</sup>

### 1.1.2 The 1951 Refugee Convention and its Protocols

The 1951 Refugee Convention (RC)<sup>34</sup> and the Additional Protocol of 1967<sup>35</sup> provide the cornerstone for refugee protection globally. Although the 1951 Refugee Convention does not explicitly mention sexual orientation, the UNHCR has issued guidelines such as Guideline Nr. 9, 2012,<sup>36</sup> clarifying that persecution based on sexual orientation falls under the "membership of a particular social group" and thus is grounds for refugee status. These guidelines specifically address the unique challenges faced by lesbian asylum seekers, which according

---

<sup>30</sup> *ibid.*

<sup>31</sup> Sharon Yecies, 'Sexual Orientation, Discrimination, and the Universal Declaration of Human Rights' (2011) 11 Chicago Journal of International Law <<https://chicagounbound.uchicago.edu/cjil/vol11/iss2/28>>.

<sup>32</sup> 'Universal Declaration of Human Rights | United Nations' (n 25).

<sup>33</sup> Außenministerium der Republik Österreich, 'Principles' <<https://www.bmeia.gv.at/en/principles>> accessed 15 May 2025.

<sup>34</sup> 'The 1951 Refugee Convention' (n 19).

<sup>35</sup> 'Protocol Relating to the Status of Refugees' (OHCHR) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-relating-status-refugees>> accessed 28 November 2024.

<sup>36</sup> 'UNHCR Guidelines on International Protection No. 9: Claims to Refugee Status Based on Sexual Orientation and/or Gender Identity' (n 11).

to Mengia Tschalaer include forced marriage, forced pregnancy, rape by family or community members, female genital mutilation and honor crimes.<sup>37</sup> Edwards' work on “Displacement, Statelessness and questions of Gender Equality” highlights CEDAW’s influence in the interpretation of the refugee definition that includes gender related forms of persecution, which affect many women on the move. This shift has led to the recognition of various forms of gender-based violence as grounds for asylum, which were formerly not included in the 1951 Convention.<sup>38</sup>

### 1.1.3 Convention on the Elimination of Discrimination against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is a significant international treaty established in 1979 and entered into force on September 3, 1981.<sup>39</sup> CEDAW, also known as an “international bill of rights for women”, seeks to eliminate discrimination against all women and promote gender equality in various realms, including politics, economics, social, cultural, and civil society. Art. 2 of the convention lays out precise commitments for all member states (MS) that have ratified the convention to uphold and protect women's rights, thus encouraging MS to implement comprehensive steps to break down systemic barriers at the national level that would otherwise impede women's full enjoyment of rights<sup>40</sup>. This conclusion is further supplemented by the committee’s general recommendation, NR.28,<sup>41</sup> which recognizes that discrimination based on gender identity and sexual orientation constitutes a violation of women’s rights<sup>42</sup> and

---

<sup>37</sup> Tschalaer (n 8).

<sup>38</sup> ‘Displacement Statelessness Gender Equality CEDAW, Edwards, Aug 2009’ (*PeaceWomen*, 2 February 2015) <<https://www.peacewomen.org/content/displacement-statelessness-and-questions-gender-equality-under-convention-elimination-all>> accessed 31 May 2025.

<sup>39</sup> ‘Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979’ (*OHCHR*) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>> accessed 11 January 2025.

<sup>40</sup> *ibid.*

<sup>41</sup> UN Committee on the Elimination of Discrimination against Women, ‘General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women’ <<https://digitallibrary.un.org/record/711350>> accessed 12 February 2025.

<sup>42</sup> *ibid.*

further provides a legal and ethical basis for recognizing the compounded discrimination faced by lesbian women, especially those who are racialised and seeking asylum, hence obligating states to address and remedy these intersecting vulnerabilities in law, policy and practice.

Additionally, the committee's General Recommendation No. 32 (2014)<sup>43</sup> also provides specific protection for lesbian women and Other SOGIESC asylum seekers by explicitly acknowledging sexual orientation as a ground for persecution, thus recognising the distinct vulnerabilities they face both in their countries of origin and during the asylum process.<sup>44</sup> As Alice Edwards notes, women's experiences of displacement and asylum are shaped by gender inequality and can be further compounded by lack of legal status, trauma, socio-economic marginalisation, and intersecting forms of discrimination.<sup>45</sup> This recognition is essential for African lesbian women who encounter these layers of vulnerability, creating challenges that require focused interventions. Through the implementation of these measures, member states may foster an inclusive environment that upholds the rights of this social group and promotes broader equity in society.<sup>46</sup>

#### 1.1.4 Yogyakarta Principles 2006 and Yogyakarta principles plus10 2017

The Yogyakarta Principles (YP 2006) were developed by a team of international human rights law experts in 2006,<sup>47</sup> and they explicitly articulate how international human rights law applies to SOGI persons such as lesbian women. Principle 23 specifically addresses the right to seek asylum from persecution related to sexual orientation or gender identity.<sup>48</sup> YP 2006

---

<sup>43</sup> 'General Recommendation No. 32 on the Gender-Related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of Women' (*Refworld*) <<https://www.refworld.org/legal/general/cedaw/2014/en/102146>> accessed 12 February 2025.

<sup>44</sup> *ibid.*

<sup>45</sup> 'Displacement Statelessness Gender Equality CEDAW, Edwards, Aug 2009' (n 38).

<sup>46</sup> *ibid.*

<sup>47</sup> 'Yogyakarta Principles – The Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity' (n 13).

<sup>48</sup> 'Principle 23 – Yogyakarta Principles' <<https://yogyakarta Principles.org/principle-23/>> accessed 20 January 2025.

was further complemented by the Yogyakarta Principles plus 10 (YP +109) to address gaps and emerging issues, including intersectionality and gender expression.<sup>49</sup> These principles provide a comprehensive framework for ensuring the protection and promotion of the human rights of lesbians and other LGBTIQ+ individuals; they thus serve as a guide for governments, organisations, and individuals to address and combat discrimination and violence based on sexual orientation and gender identity.<sup>50</sup> It is important to note, however, that while these principles provide a robust framework, they are non-binding and therefore not enshrined in Austrian law. Due to a lack of training in handling SOGI cases, Austrian asylum officers inconsistently apply these principles during the asylum procedure, particularly in credibility assessment and procedural fairness.<sup>51</sup>

## 1.2 European Union Legal Framework

Competence in asylum policy was passed to the European Union (EU) from MS in 1999 following the Amsterdam Treaty, which established a comprehensive framework on asylum that includes specific directives and regulations forming the Common European Asylum System (CEAS) to address the criteria for granting, adjudicating, and accessing the rights and conditions afforded to asylum seekers and refugees. The binding nature of these directives and regulations, implemented alongside Charter rights, ensures a consistent outcome for all applications submitted within the EU member states (EU-MS). For the protection of SOGI cases, different EU legal documents will be discussed below:

---

<sup>49</sup> ‘The Yogyakarta Principles Plus 10 - Additional Principles and State Obligation on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles’ (*Refworld*)

<<https://www.refworld.org/legal/resolution/icjurists/2017/en/122482>> accessed 30 May 2025.

<sup>50</sup> ‘Yogyakarta Principles Plus 10 - The Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity’ (n 13); ‘The Yogyakarta Principles Plus 10 - Additional Principles and State Obligation on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles’ (n 49).

<sup>51</sup> ‘2022\_10\_background\_note\_sogie\_expert\_panel\_en.Pdf’ (n 2).

### 1.2.1 Charter on Fundamental Rights of the EU.

The Charter of Fundamental Rights (CFR-EU 2000/C 364/01) holds a special place in the hierarchy of the EU Legal Order, i.e., between international human rights law and national law.<sup>52</sup> Since the Lisbon Treaty of 2009, Art. 6(1) of the Treaty of the European Union (TEU) places the charter on the same value as EU treaties, making it primarily EU law, hence direct applicability for EU-MS.<sup>53</sup> Art. 21(1) explicitly calls for the prohibition of discrimination on grounds such as sex, gender, and age, which is essential when assessing lesbian asylum claims. This legal framework guarantees protection against discrimination for individuals seeking asylum due to their sexual orientation, thereby strengthening their rights within the EU.

### 1.2.2 Qualification Directive (Directive 2011/95/EU)

The qualification directive 2011/ 95/EU<sup>54</sup> came as an amendment from the initial directive 2004/83/EC to align with the Lisbon Treaty's objective of establishing a unified asylum policy for refugees and other individuals in need of international protection.<sup>55</sup> The qualification directive 2011/95/EU explicitly recognises sexual orientation as a basis for international protection under asylum law in Art.10(d); thus, this explicit inclusion of sexual orientation provides a clear basis for lesbian women to claim refugee status when fleeing from persecution. However, as Freedman et al. note, European countries rely on preconceived ideas of identity and place, which affect racialised queer asylum seekers that face a double bind in the asylum process making it difficult for African queer women to prove their cases.<sup>56</sup>

<sup>52</sup> Paul Craig and Gráinne de Búrca, '5. Instruments and the Hierarchy of Norms', *EU Law* (Oxford University Press) <<https://www.oxfordlawtrove.com/display/10.1093/he/9780198915522.001.0001/he-9780198915522-chapter-5>> accessed 28 October 2024.

<sup>53</sup> *ibid.*

<sup>54</sup> European Parliament and Council of the European Union, 'Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted' [2011] 2017 <<http://data.europa.eu/eli/dir/2011/95>>.

<sup>55</sup> 'Judging the Charter' <<https://charter.humanrights.at/manual/qualification>> accessed 24 February 2025.

<sup>56</sup> Freedman and others (n 6).

### 1.2.3 Asylum Procedure Directive (Directive 2013/32/EU)

Directive 2013/32/EU also known as the Asylum Procedure Directive (APD) was adopted in 2013 as a recast of the earlier council directive 2005/85/EC and it establishes common Procedures for granting and withdrawing international protection in all EU-MS,<sup>57</sup> thus it aims to ensure that asylum procedures are fair, efficient, and consistent across member states. In ensuring protection for lesbian asylum refugees during the asylum process, Art. 15(3)(a) requires that interviews be conducted by personnel competent to “*take account of general and personal circumstances surrounding the application, including the applicant’s cultural origin, gender, sexual orientation, gender identity or vulnerability.*”<sup>58</sup> This ensures that those conducting interviews have the necessary understanding and sensitivity to consider the diverse backgrounds and experiences of applicants, hence promoting fair and equitable treatment throughout the hearing process.

The above Article is further supplemented by Art.24, which mandates special procedural guarantees for applicants with specific needs,<sup>59</sup> which can include lesbian women who have experienced trauma or gender-based violence. A study by Freedman et al. highlights a lack of insensitivity to trauma from interpreters and rushed legal procedures, which leads to re-traumatization.<sup>60</sup> For instance, they document an example of a woman from West Africa whose account of sexual enslavement was misinterpreted as “doing housework” by the male interpreter, thus erasing the violence suffered.<sup>61</sup> The special procedure guarantee would acknowledge the applicant's needs and customise the environment to suit them.

---

<sup>57</sup> ‘Directive - 2013/32 - EN - Asylum Procedures Directive - EUR-Lex’ <<https://eur-lex.europa.eu/eli/dir/2013/32/oj/eng>> accessed 25 February 2025.

<sup>58</sup> *ibid.*

<sup>59</sup> *ibid.*

<sup>60</sup> Freedman and others (n 6).

<sup>61</sup> *ibid.*

### 1.2.4 The Reception Conditions Directive (RCD 2013/33/EU)

The reception directive was adopted in 2013, replacing the Council Directive 2003/9/EC<sup>62</sup>. It deals with the living conditions of asylum seekers within the EU-MS while their cases are being processed. The RCD sets minimum standards for asylum centres so that people can live in decent conditions while their cases are being processed.<sup>63</sup> Thus, this is aimed at stopping asylum seekers from moving from one EU-MS to another because of different living conditions. Specific to lesbian refugees, Art. 18(4) of the RCD requires member states *to take appropriate measures to prevent assault and gender-based violence, including sexual harassment, within premises and accommodation centres*<sup>64</sup> which could trigger psychological trauma and stress that affects lesbian women due to their lived experiences.<sup>65</sup> This legislation is crucial for lesbian asylum seekers as it requires EU member states to enforce preventive measures against violence, including sexual harassment, in reception and accommodation centers.<sup>66</sup> These centers serve as the first point of contact for asylum seekers, and poor conditions or inadequate protection can retraumatize lesbian women who may have already escaped corrective rape, domestic violence, or community persecution due to their sexual orientation.<sup>67</sup>

Additionally, Art. 21 identifies categories of vulnerable groups, including *"persons who have been subjected to torture, rape, or other serious forms of psychological, physical, or sexual violence, such as victims of female genital mutilation,"*<sup>68</sup> highlighting the need for tailored

---

<sup>62</sup> 'Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying down Standards for the Reception of Applicants for International Protection'.

<sup>63</sup> *ibid.*

<sup>64</sup> *ibid.*

<sup>65</sup> 'Victimhood and Femininities in Black Lesbian Asylum Cases in Germany: Journal of Ethnic and Migration Studies: Vol 47 , No 15 - Get Access' (2 June 2020) <<https://www.tandfonline.com/doi/full/10.1080/1369183X.2020.1772735?scroll=top&needAccess=true>> accessed 29 October 2024.

<sup>66</sup> 'Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying down Standards for the Reception of Applicants for International Protection' (n 62).

<sup>67</sup> Freedman and others (n 6); Tschalaer (n 8).

<sup>68</sup> 'Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying down Standards for the Reception of Applicants for International Protection' (n 62).

support and protection for these individuals. This recognition underscores the importance of addressing the unique challenges faced by vulnerable social groups to foster a safer and more inclusive environment.

### 1.3 Austrian Asylum Legal Framework

Austria's asylum applications encompass individuals seeking international protection, as well as those pursuing alternative forms of protection that EU Law offers, such as those mentioned in the Qualification Directive under chapters V & VI, subsidiary protection<sup>69</sup>. These applications are evaluated by the Federal Office for Immigration and Asylum (BFA)<sup>70</sup>, which assesses the merits of each case to ensure that applicants receive the appropriate level of protection based on their circumstances. The Austrian asylum framework operates through a hierarchical relationship between the Federal Ministry of the Interior (BMI)<sup>71</sup> and the BFA<sup>72</sup>, which was established in January 2014.<sup>73</sup> The BMI sets policy direction, offers interpretative directives, and retains supervisory responsibility over the BFA<sup>74</sup>, which adjudicates individual asylum cases as the primary decision-making body and issues first-instance decisions of international protection, subsidiary protection or humanitarian stay.<sup>75</sup> Alongside the BMI and the BFA, the Federal Ministry of Europe, Integration and Foreign Affairs (BMEAI) is instrumental in advancing Austria's interests and perspectives on important international issues.<sup>76</sup> These include the promotion of women's rights, the protection of minority rights, and the education of human rights, among others.<sup>77</sup> The BMEAI also works closely with various

---

<sup>69</sup> Council of the European Union, 'Directive - 2004/83 - EN - EUR-Lex: On Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons Who Otherwise Need International Protection and the Content of the Protection Granted' (29 April 2004) <<https://eur-lex.europa.eu/eli/dir/2004/83/oj/eng>> accessed 13 December 2024.

<sup>70</sup> 'Asylum in - Austria' (n 17).

<sup>71</sup> 'Bundesministerium Für Inneres' <<https://www.bmi.gv.at/>> accessed 30 November 2024.

<sup>72</sup> 'Bundesamt Für Fremdenwesen Und Asyl (BFA)' <<https://www.bfa.gv.at/>> accessed 30 November 2024.

<sup>73</sup> 'Asylum in - Austria' (n 17).

<sup>74</sup> 'Bundesministerium Für Inneres' (n 71).

<sup>75</sup> 'Bundesamt Für Fremdenwesen Und Asyl (BFA)' (n 72).

<sup>76</sup> Außenministerium der Republik Österreich, 'BMEIA-Federal Ministry for Europe, Integration and Foreign Affairs' <<https://www.bmeia.gv.at/>, <https://www.bmeia.gv.at/home>> accessed 28 February 2025.

<sup>77</sup> *ibid*.



international human rights bodies such as the United Nations High Commissioner for Refugees (UNHCR) to establish common grounds for asylum seekers.<sup>78</sup>

Austria's general approach to asylum and legal procedures is primarily governed by the 2005 Asylum Act (AsylG, 2005)<sup>79</sup> and the Aliens Police Act 2005 (Fremdenpolizeigesetz, 2005)<sup>80</sup>, which incorporates international human rights standards concerning asylum and refugees, as well as EU standards, into national legislation. This legislation forms the backbone of Austria's asylum system and establishes the legal foundation for protection claims based on sexual orientation. Section 3 of the *Austrian Asylum Act* implements the protection grounds of the 1951 Refugee Convention,<sup>81</sup> which includes "membership of a particular social group."<sup>82</sup> Furthermore, the Asylum Act 2005 was amended in 2015<sup>83</sup> to explicitly include persecution based on sexual orientation in order to align Austria's law with the EU qualification directive Art. 10(1)(d).<sup>84</sup>

Austria employs five different procedures for handling asylum-related matters, namely: the regular procedure<sup>85</sup>, the border procedure<sup>86</sup>, the admissibility procedure<sup>87</sup>, the accelerated procedure<sup>88</sup>, and the Dublin procedure.<sup>89</sup> Each of these procedures serves a specific purpose in

<sup>78</sup> Außenministerium der Republik Österreich, 'Human Rights' <<https://www.bmeia.gv.at/en/human-rights>, <https://www.bmeia.gv.at/en/human-rights>>.

<sup>79</sup> 'RIS - Asylgesetz 2005 - Bundesrecht konsolidiert, Fassung Vom 28.11.2024' (n 5).

<sup>80</sup> 'RIS - Fremdenpolizeigesetz 2005 - Bundesrecht konsolidiert, Fassung Vom 28.11.2024' (n 6).

<sup>81</sup> 'RIS - Asylgesetz 2005 - Bundesrecht konsolidiert, Fassung Vom 28.11.2024' (n 21).

<sup>82</sup> 'RIS - Asylgesetz 2005 - Bundesrecht konsolidiert, Fassung Vom 28.11.2024' (n 5).

<sup>83</sup> *ibid.*

<sup>84</sup> European Parliament and Council of the European Union (n 54).

<sup>85</sup> 'Regular Procedure' (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/procedures/regular-procedure/>> accessed 18 May 2025.

<sup>86</sup> 'Border Procedure (Border and Transit Zones)' (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/procedures/border-procedure-border-and-transit-zones/>> accessed 18 May 2025.

<sup>87</sup> 'Admissibility Procedure' (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/procedures/admissibility-procedure/>> accessed 18 May 2025.

<sup>88</sup> 'Accelerated Procedure' (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/procedures/accelerated-procedure/>> accessed 15 March 2025.

<sup>89</sup> 'Dublin' (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/procedures/dublin/>> accessed 18 May 2025.

the asylum process, ensuring that claims are processed efficiently and fairly according to varying circumstances.<sup>90</sup> This structured approach allows Austria to manage the complexities of asylum applications while adhering to international obligations. However, while these procedures are intended to provide a fair asylum process, they also present some challenges, especially for vulnerable and marginalised groups such as women and lesbian women who face compounded challenges in proving persecution.<sup>91</sup> For example, the accelerated procedure is used in manifestly ill-founded applications, as outlined in Art 18 BFA-VG.<sup>92</sup> This includes applications from countries designated as “safe” by Austrian authorities, as well as cases where no clear reason for prosecution is provided or where statements provided are considered false or contradictory.<sup>93</sup> These factors disproportionately affect women because of their lived experiences, which make them struggle to disclose their sexual orientation. Dina Taha, in her Article on intersectionality and other critical approaches in refugee research, challenges the rigid labelling that doesn’t take into account the “messy social realities of asylum seekers and questions the refugee determination system, which is based on neoliberal and orientalised identifications describing the deserving and underserving migrant.”<sup>94</sup> This argument is significant in the Austrian context, where procedural efficiency and strict categorization can overshadow the complex realities experienced by African lesbian refugees.

---

<sup>90</sup> ‘Types of Procedures’ (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/general/types-procedures/>> accessed 16 March 2025.

<sup>91</sup> ‘UNHCR Guidelines on International Protection No. 9: Claims to Refugee Status Based on Sexual Orientation and/or Gender Identity’ (n 11).

<sup>92</sup> ‘RIS - BFA-Verfahrensgesetz § 18 - Bundesrecht Konsolidiert, Fassung Vom 14.04.2015’ (<https://www.ris.bka.gv.at/eli/bgbl/i/2012/87/P18/NOR40162447>)

<<https://www.ris.bka.gv.at/NormDokument.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20007944&FassungVom=2015-04-14&Artikel=&Paragraf=18&Anlage=&Uebergangsrecht=>>> accessed 17 May 2025.

<sup>93</sup> ‘Accelerated Procedure’ (n 88).

<sup>94</sup> Dina Taha, ‘Intersectionality and Other Critical Approaches in Refugee Research An Annotated Bibliography’.

Austria's asylum procedure is explained in the chart below.

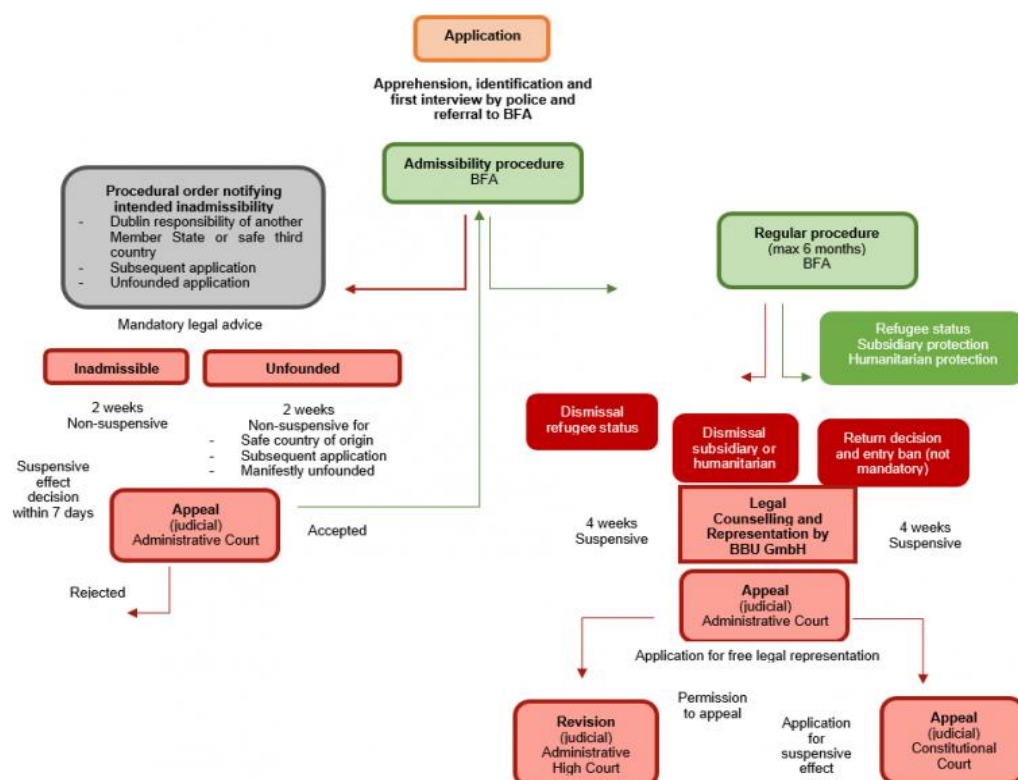


Figure 1: Austria's asylum system, Asylkoordination Österreich

Asylkoordination Österreich<sup>95</sup>

In conclusion, this section highlights that while there is both international and national legislation aimed at protecting African lesbian asylum seekers, these women still face numerous challenges. Legislation such as the Refugee Convention and Austria's Asylum Act acknowledges that refugees fleeing persecution due to their sexual orientation deserve protection. However, lesbian refugees, particularly those from Africa, encounter additional obstacles due to their gender, sexual orientation, and race, making it difficult to prove their cases before the asylum authorities, who frequently operate under Western-centric ideals. Building on the Legal frameworks, the section below will examine intersectional challenges in credibility assessments that affect lesbian asylum seekers.

<sup>95</sup> Asylkoordination Österreich, 'Flow Chart: Procedure Explained' (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/general/flow-chart/>> accessed 1 March 2025.

## 1.4 Intersectional Challenges in Credibility Assessment and Legal Barriers

Credibility assessments present a central challenge in LGBTIQ+ asylum claims, as decision-makers impose rigid, Western-centric narratives of sexual identity on applicants. According to the UNHCR and the European Asylum Support Office (EASO), now referred to as the European Union Agency for Asylum, credibility assessments are a method by which asylum decision-makers evaluate whether an applicant's statements and evidence about their fear of persecution or risk of serious harm are believable and plausible.<sup>96</sup> Khan's examination of the British asylum system for LGBTIQ+ applicants highlights the problematic reliance on Eurocentric constructs of sexuality, which fail to accommodate the diverse ways in which non-western queer individuals navigate their identities in contexts of persecution.<sup>97</sup> This bias disproportionately affects African lesbian asylum seekers, many of whom have had to conceal their sexual orientation due to severe social and legal repercussions in their countries of origin,<sup>98</sup> hence, facing difficulty in proving overlapping persecution experiences.<sup>99</sup> Furthermore, Freedman et al. explores the structural production of sexual violence against racialised women in exile in Paris, illustrating how French asylum systems perpetuate systemic exclusion through bureaucratic neglect and institutionalised racial discrimination by creating barriers such as a lack of access to welfare, housing and social services there by leaving women in extreme vulnerability and thus exposing them to exploitation and abuse.<sup>100</sup>

---

<sup>96</sup> UNHCR, 'Considering Asylum Claims and Assessing Credibility' (*Refworld*) <<https://www.refworld.org/policy/legalguidance/ukho/2012/en/102079>> accessed 13 May 2025; European Asylum Support Office and IARLJ-Europe (eds), *Evidence and Credibility Assessment in the Context of the Common European Asylum System: Judicial Analysis* (Publications Office 2018).

<sup>97</sup> Ty Khan, 'Investigating the British Asylum System for Lesbian, Gay and Bisexual Asylum-Seekers: Theoretical and Empirical Perspectives on Fairness' (PhD, The University of Liverpool (United Kingdom) 2016) <<https://www.proquest.com/docview/2454109346/abstract/CE0528A126B24AA4PQ/3>> accessed 16 February 2025.

<sup>98</sup> Guillian Koko, Surya Monro, and Kate Smith (n 3).

<sup>99</sup> Daisy Vaughan Liñero, 'Memory and Trauma in LGBTQ+ Women's Asylum Claims on Sexual Orientation and Gender Identity (SOGI) Grounds: Disregarded, Dismissed and Denied'.

<sup>100</sup> Jane I Freedman and others, 'Asylum, Racism, and the Structural Production of Sexual Violence against Racialised Women in Exile in Paris' 426.

These findings hold significant implications for Austria, where asylum adjudicators frequently demand detailed and explicit narratives of persecution from lesbian claimants, disregarding the sociocultural constraints that inhibit such disclosures.<sup>101</sup> Many African lesbian women come from hostile cultures and environments where discussing sexuality is taboo, making it extremely difficult to recount their experiences of persecution before asylum officials.

Mamani's research on gendered vulnerabilities within the Greek asylum system further examines the specific challenges and vulnerabilities faced by women in asylum and highlights how gender interacts with other factors, such as safety, healthcare access, employment opportunities, and living conditions in temporary accommodation centers leading to severe risks of sexual violence and over dependence on informal and exploitative work.<sup>102</sup>

Furthermore, Zisakou's research highlights a flawed and biased essentialist conception of sexual identity within the Greek system. This approach involves inappropriate stereotypical questioning and requires claimants to demonstrate shame and suffering as validation of their orientation. It fails to consider other intersectional factors such as race, gender, class, and ethnicity, ultimately leading to unjust decisions.<sup>103</sup> This capstone research builds upon these insights by interrogating how credibility assessment practices in Austria uniquely disadvantage African lesbian asylum seekers and refugees. By centering this specific demographic, this research contributes to a growing body of scholarship that advocates for an intersectional approach to asylum adjudication, one that acknowledges the compounded discrimination faced by applicants at the nexus of race, gender and sexuality.

---

<sup>101</sup> EUAA, 'Jurisprudence on LGBTIQ Applicants in International Protection | European Union Agency for Asylum' (14 September 2023) <<https://euaa.europa.eu/publications/jurisprudence-lgbtqi-applicants-international-protection>> accessed 28 November 2024.

<sup>102</sup> Foteini Marmani, 'Gender and Asylum Seekers- The Case of Greece' 31.

<sup>103</sup> Sophia Zisakou, 'Credibility Assessment in Asylum Claims Based on Sexual Orientation by the Greek Asylum Service: A Deep-Rooted Culture of Disbelief' (2021) 3 *Frontiers in Human Dynamics* <<https://www.frontiersin.org/journals/human-dynamics/articles/10.3389/fhumd.2021.693308/full>> accessed 13 May 2025.

In summary, this section has shown that credibility assessments are a major barrier for LGBTIQ+ asylum seekers, especially African lesbian women. As shown by Fredman et al.'s criticism of how France overlooks certain issues and Khan's study of Western biases, where asylum officials apply Western views of sexuality and ignore the complex challenges these women face, including their race, gender, and experiences of trauma. Mamana's case study of Greece further demonstrates how systematic failures in addressing gendered vulnerabilities, such as unsafe housing and exploitative work conditions, exacerbate risks for marginalized women asylum seekers.

## 1.5 Comparative perspectives: Case studies from Germany, France, Greece and the UK

Tschalaer's analysis of Black lesbian asylum seekers in Germany exposes the racialised and infantilising narratives that asylum adjudicators impose on queer women of African descent, resulting in the dismissal of their claims<sup>104</sup>. A parallel dynamic is observed in France, where Freedman et al. argue that racialised gatekeeping mechanisms function to exclude non-European asylum seekers from accessing adequate protection<sup>105</sup>. These studies indicate that Austria's asylum system does not operate in isolation but rather mirrors broader European patterns of exclusionary asylum policies that disproportionately impact racialised queer women. Furthermore, Khan's examination of the UK asylum system highlights both progress and persistent deficiencies in the adjudication of LGBTIQ+ asylum claims<sup>106</sup>. The UK Supreme Court's ruling in *HJ (Iran) v Secretary of State for the Home Department (2010)* *UKSC 31* established a significant legal precedent by affirming that LGBTIQ+ asylum seekers should not be required to conceal their sexuality to avoid persecution<sup>107</sup>. However,

---

<sup>104</sup> Tschalaer (n 8).

<sup>105</sup> Freedman and others (n 100).

<sup>106</sup> Khan (n 97).

<sup>107</sup> 'HJ (Iran) (FC) (Appellant) v Secretary of State for the Home Department (Respondent) and One Other Action - UK Supreme Court' <<https://www.supremecourt.uk/cases/uksc-2009-0054#judgment-details>>.

subsequent empirical studies reveal that asylum officers continue to rely on outdated stereotypes in credibility assessments.<sup>108</sup> For example, applicants who previously concealed their sexual orientation due to fear, societal pressure, or survival continue to be penalised for not being “open” about their identity,<sup>109</sup> despite the rulings in the HJ (Iran) (UKSC, 2010) that upheld the right not to live discreetly. This discretion is frequently misconstrued as proof that the claimant is not authentically lesbian or gay<sup>110</sup>, illustrating a fundamental disconnect between legal principles and their implementation in practice.<sup>111</sup> Austria, by contrast, has not witnessed equivalent jurisprudential advancements, leaving lesbian asylum seekers particularly vulnerable. This research seeks to bridge this gap by drawing comparative insights from these jurisdictions, identifying legal strategies that could enhance protections for African lesbian asylum seekers within Austria’s asylum framework.

## 1.6 Research Gap

Despite the increased attention to LGBTIQ+ issues in asylum research, there are notable gaps regarding the specific experiences of African lesbian asylum seekers, particularly within the Austrian context. Existing scholarship frequently addresses the broader LGBTIQ+ community, inadvertently obscuring the intersectional realities uniquely faced by lesbian Women from Africa. This oversight neglects critical dimensions of race, gender, and sexuality that significantly impact their asylum claims and outcomes. Consequently, this capstone thesis aims to fill this knowledge gap by documenting and analysing the lived legal experiences of African lesbian asylum seekers and refugees in Austria. By centering this understudied group,

---

<sup>108</sup> Zisakou (n 103).

<sup>109</sup> ‘HJ (Iran) (FC) (Appellant) v Secretary of State for the Home Department (Respondent) and One Other Action - UK Supreme Court’ (n 107); Zisakou (n 103).

<sup>110</sup> James C Hathaway and Jason Pobjoy, ‘Queer Cases Make Bad Law’ 44; Tschalaer (n 8); Freedman and others (n 100).

<sup>111</sup> ‘HJ (Iran) (FC) (Appellant) v Secretary of State for the Home Department (Respondent) and One Other Action - UK Supreme Court’ (n 107).

the research not only contributes to an academic discourse but also provides practical insights to inform more inclusive asylum adjudication policies and practices.



## 2: Navigating Asylum: African Lesbian Refugees in Austria and their Support System

Asylum is a complex and daunting process for all applicants; however, African lesbian asylum seekers encounter distinct challenges influenced by the intersecting factors of gender, race, sexual orientation, and legal status.<sup>112</sup> While international refugee law acknowledges the right to protection,<sup>113</sup> systemic barriers frequently hinder LGBTQ+ asylum seekers from accessing fair asylum determinations.<sup>114</sup> This chapter examines the motivations driving African lesbian refugees to seek asylum in Austria, the legal realities surrounding their claims, and the networks, including NGOs, that assist them in navigating asylum procedures. By highlighting both structural constraints and community-based strategies that emerge in response, this section illustrates how advocacy organisations help to bridge gaps left by state institutions, ensuring protection and dignity for marginalised asylum seekers.

### 2.1 Criminalisation and lived oppression in the country of Origin

Despite global advances in LGBTIQ+ rights, same sex relationships remain criminalised in 63 UN-Member States with penalties ranging from life imprisonment to the death penalty in countries such as Afghanistan, Iran, Sudan, Saudi Arabia, Mauritania, Nigeria, and Uganda.<sup>115</sup> These laws, prevalent in parts of Africa, the Middle East, and Asia, are enforced amid widespread social stigma,

---

<sup>112</sup> AAI Salzburg, 'Queer Border Crossing Experiences in Europe –' (30 May 2021) <<https://globalgedacht.org/queer-border-crossing-experiences-in-europe/>> accessed 20 May 2025.

<sup>113</sup> 'The 1951 Refugee Convention' (n 19).

<sup>114</sup> Tschalaer (n 8); Freedman and others (n 100); Eithne Luibhéid, 'Migrant and Refugee Lesbians: Lives That Resist the Telling', *Lives That Resist Telling* (Routledge 2021).

<sup>115</sup> 'Criminalisation of Consensual Same-Sex Sexual Acts | ILGA World Database' <<https://database.ilga.org/criminalisation-consensual-same-sex-sexual-acts>> accessed 20 May 2025; '2023 in Review: The New Laws Affecting LGBTI Communities Worldwide' (*ILGA World*, 19 December 2023) <<https://ilga.org/news/2023-in-review-new-laws-affecting-lgbti-communities-worldwide/>> accessed 21 May 2025.

resulting in systemic violence, arbitrary detention, and impunity for attacks motivated by sexual orientation bias.<sup>116</sup>

The intersection of patriarchy and heteronormativity exacerbates the dangers faced by lesbian women.<sup>117</sup> Tools of social control, such as forced marriages, so-called “corrective rape”, and reproductive violence, are increasingly common<sup>118</sup> and acts of disclosing one’s sexual identity, even in private settings, can lead to expulsion from family, loss of employment, and severe community retribution.<sup>119</sup> These circumstances foster an atmosphere of ongoing fear and enforced concealment, rendering it nearly impossible for women to live openly or safely in their countries of origin.<sup>120</sup>

## 2.2 Intersectional Risks and the Decision to Seek Asylum in Austria

African lesbian women navigate various intersecting forms of oppression that are rooted in gender, race, sexual orientation, and cultural background, which significantly shape their persecution in their home countries as well as their treatment in host societies.<sup>121</sup> As Kimberle Crenshaw’s theory of intersectionality highlights, “The marginalisation of Black women emerges from the interplay of these identities rather than from isolated factors.”<sup>122</sup> This compounded vulnerability is particularly evident in the experiences of African lesbian asylum seekers in Austria, who frequently flee countries where systemic homophobia is weaponised through both laws and violence.<sup>123</sup> For example, Amnesty International reported an increase in discriminatory laws across Africa in 2023, including Uganda’s Anti-Homosexuality Act,

---

<sup>116</sup> ‘Criminalisation of Consensual Same-Sex Sexual Acts | ILGA World Database’ (n 115); ‘Beyond Decriminalization of Same-Sex Relations | Human Rights Watch’ (6 June 2024) <<https://www.hrw.org/news/2024/06/06/beyond-decriminalization-same-sex-relations>> accessed 19 May 2025.

<sup>117</sup> Liñero (n 99).

<sup>118</sup> Shaw and Verghese (n 12).

<sup>119</sup> *ibid*; ‘Victimhood and Femininities in Black Lesbian Asylum Cases in Germany: Journal of Ethnic and Migration Studies: Vol 47 , No 15 - Get Access’ (n 65).

<sup>120</sup> Tschalaer (n 8); Moira Dustain and Christel Querton (n 5).

<sup>121</sup> Tschalaer (n 8); Marmani (n 102).

<sup>122</sup> Crenshaw (n 15).

<sup>123</sup> ‘Criminalisation of Consensual Same-Sex Sexual Acts | ILGA World Database’ (n 115).

which criminalises same-sex relationships and subjects LGBTQ+ individuals to state-sanctioned harassment, arbitrary arrests, and mob violence.<sup>124</sup> For many lesbian women, fleeing is not a single decision but the result of ongoing threats and trauma.<sup>125</sup> Some women spend years hiding their identities or are coerced into marriage before finally escaping, while others face threats from police or community leaders once their sexuality is suspected.<sup>126</sup>

Austria's reputation as a human rights advocate and its formal recognition of SOGIESC-based claims under the EU Qualification Directive (2011/95/EU)<sup>127</sup> make it a destination of hope for many African lesbian women.<sup>128</sup> However, the reality in Austria can be frustrating, particularly for African lesbian asylum seekers who face a double bind in proving their cases.<sup>129</sup> Although the legal framework offers protection, the asylum process is characterised by suspicion and cultural bias; thus, women, due to trauma and gender based violence, struggle to "prove" their sexuality in ways that align with Western expectations, hence failing to meet the standards of deserving protection.<sup>130</sup> Lesbian asylum seekers may be required to provide explicit details or recount deeply traumatic experiences, despite sexuality discussions being taboo or dangerous in their cultures of origin.<sup>131</sup> Consequently, even while seeking

---

<sup>124</sup> 'LGBTI Persons in Africa Face Discrimination Due to Their Identity' (*Amnesty International*, 9 January 2024) <<https://www.amnesty.org/en/latest/news/2024/01/africa-barrage-of-discriminatory-laws-stoking-hate-against-lgbti-persons/>> accessed 19 May 2025.

<sup>125</sup> Salzburg (n 112).

<sup>126</sup> Tschalaer (n 8); Moira Dustin and Nina Held, 'In or out? A Queer Intersectional Approach to "Particular Social Group" Membership and Credibility in SOGI Asylum Claims in Germany and the UK' <[https://sussex.figshare.com/articles/journal\\_contribution/In\\_or\\_out\\_A\\_Queer\\_intersectional\\_approach\\_to\\_Particular\\_Social\\_Group\\_membership\\_and\\_credibility\\_in\\_SOGI\\_asylum\\_claims\\_in\\_Germany\\_and\\_the\\_UK/23463953/2](https://sussex.figshare.com/articles/journal_contribution/In_or_out_A_Queer_intersectional_approach_to_Particular_Social_Group_membership_and_credibility_in_SOGI_asylum_claims_in_Germany_and_the_UK/23463953/2)> accessed 9 April 2025.

<sup>127</sup> European Parliament and Council of the European Union (n 54).

<sup>128</sup> 'Asylum in - Austria' (n 17); Nina Merhaut and Verena Stern, *Asylum Policies and Protests in Austria* (2018).

<sup>129</sup> Freedman and others (n 6).

<sup>130</sup> Liñero (n 99).

<sup>131</sup> 'Victimhood and Femininities in Black Lesbian Asylum Cases in Germany: Journal of Ethnic and Migration Studies: Vol 47 , No 15 - Get Access' (n 65); Nina Held, 'What Does a 'Genuine Lesbian' Look Like?: Intersections of Sexuality and 'Race' in Manchester's Gay Village and in the UK Asylum System', *Sexuality, Citizenship and Belonging* (Routledge 2016).

asylum, African lesbian asylum seekers in Europe frequently encounter new forms of disbelief and marginalisation within the very system that is meant to protect them.<sup>132</sup>

## 2.3 Navigating New Realities and Support Networks in Austria

Upon their arrival in Austria, African lesbian asylum seekers frequently encounter additional and unforeseen layers of difficulty. While many flee in search of legal protection and social acceptance, they soon face structural and emotional challenges that echo, and at times exacerbate the trauma they have escaped.<sup>133</sup> These challenges include the pressure to prove their sexuality within the confines of rigid asylum interview processes, the anxiety stemming from extended waiting periods in reception centres, and the sense of isolation that arises from being both racially and sexually marginalised in a predominantly white, heteronormative society.<sup>134</sup>

Insufficient access to LGBTIQ+-sensitive mental health services and the invisibility of lesbian experiences in public and legal discourse further deepen the sense of exclusion.<sup>135</sup>

Without institutional and emotional support, non-governmental organisations (NGOs) and community-based networks serve as vital lifelines.<sup>136</sup> These organisations provide safe spaces where lesbian asylum seekers can begin to reclaim their identities, foster solidarity, and resist systematic erasure.<sup>137</sup> Beyond legal provisions and state enforcement, they play a crucial role in addressing the legal and social challenges faced by African lesbian asylum seekers and refugees in Austria, particularly by bridging the gaps left by national asylum systems and supporting marginalised groups like LGBTIQ+ and lesbian refugees. In many countries, legal

---

<sup>132</sup> Zisakou (n 103); Tschalaer (n 8).

<sup>133</sup> Danisi and others (n 6); Moira Dustain and Christel Querton (n 5).

<sup>134</sup> Mengia Tschalaer, 'Victimhood and Femininities in Black Lesbian Asylum Cases in Germany' (2021) 47 *Journal of Ethnic and Migration Studies* 3531; Held (n 131).

<sup>135</sup> Freedman and others (n 100).

<sup>136</sup> Rippy Das and Divya Rani, 'The Role Played by Non-Governmental Organisations in the Protection of Refugee Women in Greece' 1.

<sup>137</sup> *ibid.*

protections and state services simply don't go far enough to address the complex realities of discrimination based on gender, race, and sexual orientation that these individuals face.<sup>138</sup> For example, research by Das and Rani in Greece shows how NGOs step in where the state falls short, offering not just legal advice, but also psychological support and practical help for refugee women navigating a system that overlooks their needs.<sup>139</sup> Similarly, Hunt's research in the UK highlights how grassroots organisations are lifelines for women asylum seekers, helping them access legal representation and build networks of solidarity that can ease the isolation many lesbian refugees experience.<sup>140</sup> In theoretical terms, Pérez's work on queer resilience within asylum processes provides a valuable theoretical framework for understanding how LGBTIQ+ asylum seekers actively resist exclusionary legal structures.<sup>141</sup> His concept of "queer resilience" highlights how asylum seekers employ strategic storytelling narratives and community-building as tools for subverting oppressive asylum practices.<sup>142</sup> In Austria, NGOs such as Queer Base,<sup>143</sup> Afro-rainbow Austria,<sup>144</sup> Diakonie, Hosi and Caritas engage in similar advocacy efforts, working to reframe asylum narratives and challenge the biases that permeate legal adjudication.<sup>145</sup> These organisations advocate for fairer policies, train service providers, and create safer spaces for lesbian and LGBTIQ+ refugees to share their stories and access justice.<sup>146</sup> This research aligns with these studies by evaluating the

---

<sup>138</sup> Crenshaw (n 15); Danisi and others (n 6).

<sup>139</sup> Das and Rani (n 136).

<sup>140</sup> Lisa Hunt, 'Women Asylum Seekers and Refugees: Opportunities, Constraints and the Role of Agency' (2008) 7 *Social Policy and Society* 281.

<sup>141</sup> Christopher J Pérez, 'Acts of Queer Resilience: Trauma as Identity and Agency in LGBTQ Political Asylum' (PhD, University of Maryland, College Park 2022)

<<https://www.proquest.com/docview/2716035524/abstract/CE0528A126B24AA4PQ/7>> accessed 16 February 2025.

<sup>142</sup> *ibid.*

<sup>143</sup> 'LGBTIQ Refugees Touching Base' (15 September 2016) <<https://queerbase.at/blog/lgbtiq-refugees-touching-base/>> accessed 30 October 2024.

<sup>144</sup> 'AfroRainbowAustria – afrorainbow.at' (28 November 2023) <<https://afrorainbow.at/>> accessed 30 October 2024.

<sup>145</sup> Mehmet, 'Good Practices Related to LGBTI Asylum Applicants in Europe | ILGA-Europe' (5 September 2014) <<https://www.ilga-europe.org/report/good-practices-related-to-lgbti-asylum-applicants-in-europe/>> accessed 2 May 2025; 'LGBTIQ+ Refugees Background Guide Challenge Topic #4' (UNHCR US) <<https://www.unhcr.org/us/what-we-do/build-better-futures/long-term-solutions/complementary-pathways-admission-third-4>> accessed 2 May 2025.

<sup>146</sup> Das and Rani (n 136); Hunt (n 140); 'LGBTIQ+ Refugees Background Guide Challenge Topic #4' (n 145).

efficacy of NGO interventions in supporting African lesbian refugees and advocating for policy reforms that enhance their legal protections. By working directly with affected communities, NGOs play a crucial role in both protecting the rights and dignity of African lesbian refugees and addressing immediate risks, while also promoting long-term social justice and systemic change.

In conclusion, this chapter has explored how the intersecting challenges women face in their countries of origin, rooted in gender-based violence and systemic discrimination, drive their need for asylum and how NGOs in host countries play a crucial role in supporting their survival, healing, and empowerment.

### 3: Methodology and Background

Participatory research methodologies are increasingly gaining recognition in migration and asylum studies as essential tools for ethically engaging marginalised communities, challenging conventional power dynamics, and generating knowledge that genuinely reflects participants' lived experiences. Central to participatory research is the active involvement of participants throughout the research process, which enables marginalised voices to influence outcomes and contribute to meaningful societal dialogue. Kindon et al. underscore the democratisation of knowledge through participatory approaches, which ensure the authentic representation of communities' perspectives by directly involving them in the inquiry process.<sup>147</sup> Similarly, Aihua Hu emphasises the unique advantages of workshops in participatory research, citing their efficacy in promoting reflective, collaborative exchanges and empowering participants through techniques such as narrative and creative expression.<sup>148</sup>

In this capstone thesis, a Qualitative participatory narrative approach was used as a data collection methodology to contribute to the limited literature available and to empower African lesbian asylum seekers and refugees whose experiences remain undocumented. By employing a participatory approach, this capstone research not only gathered valuable insights but also fostered a sense of community and agency among the participants. This chapter outlines the methodological framework underpinning this research, including the rationale for using participatory workshops, participant selection criteria, ethical safeguards, and the researcher's positionality.

---

<sup>147</sup> Sara Kindon, Rachel Pain and Mike Kesby, 'Participatory Action Research Approaches and Methods: Connecting People, Participation and Place'.

<sup>148</sup> Aihua Hu, '7. The Workshop as a Research Methodology: Lessons Learned from Workshops Utilized as a Participatory Research Method', *Metodetilnærminger og prosessuelle design i barnehageforskning* (Universitetsforlaget 2024) <<https://www.scup.com/doi/10.18261/9788215064697-24-07>>.

### 3.1 Participatory Workshop as a Research Methodology

This capstone thesis engaged with a participatory workshop methodology. This method was chosen because it creates collaborative and supportive spaces where participants feel comfortable sharing their personal stories and experiences.<sup>149</sup> I still remember the uncertainty and vulnerability of my asylum process, the lengthy hours spent waiting in unfamiliar offices, rehearsing my story with social and legal counsellors before meeting the police, and grappling with the fear that my claim might not be accepted. These memories were never far from my mind when I opted for the workshop as a research methodology, and thus, this helped build trust and openness with participants, who sensed that I understood the stakes of their journeys.

Drawing inspiration from Hu's 2021 reflections, this method is particularly meaningful for engaging marginalised voices. Workshops allow participants to express themselves creatively through storytelling, photography, and writing, capturing the emotional depth and practical realities of their asylum experiences in ways that traditional methods miss.<sup>150</sup>

The “Unghosting Lesbians” workshops were held in collaboration with Queer Base and Laurène Southe, a well-known African poet. Even though this research primarily focuses on African lesbian asylum seekers and refugees, Invitations were sent to lesbian-identifying refugees from Africa and the Southwest Asia and North Africa (SWANA) region who live in Austria, encouraging them to share their asylum experiences in a safe environment. Two in-person sessions were held on April 12 and 19, 2025, at the Queer Base Office in Vienna. For the Queer asylum seekers and refugees, the queer base offices was the most conducive space because of its intersectional solidarity and community care. Each session was carefully planned and structured to support creative emotional expressions: starting with narrative-

---

<sup>149</sup> *ibid.*

<sup>150</sup> *ibid.*



building activities using poetry, advancing visual expression through photography, and concluding with group storytelling and emotional sharing.

These exercises were consistent with Hu's view that organised but flexible workshop formats promote deeper participant engagement and reflective discourse, particularly in research with marginalised communities.<sup>151</sup> Many participants spoke openly about their experiences, not only because I had shared a similar background as an insider-outsider researcher but also because the workshops mirrored a personal storytelling narrative, a process required during the asylum interviews.

I created the participation workshops with a long-term goal in mind, which was to create a repository of narratives for public exhibitions. This campaign aims to raise awareness and understanding of the unique challenges that African lesbian asylum seekers and refugees encounter within Austria's asylum system. The Ethical considerations included explicit consent processes, confidentiality guarantees, and culturally sensitive facilitation strategies to ensure participant safety and comfort throughout the research process.

### 3.2 Participant Selection

Participants were recruited in collaboration with reputable NGOs, including Queer Base<sup>152</sup> and Afro-Rainbow Austria,<sup>153</sup> which aim to support to LGBTIQ+ asylum seekers and refugees in Austria. Several informal meetings were held with representatives from these organizations to streamline the recruitment process and ensure it was sensitive to the unique needs and experiences of participants.<sup>154</sup> These organizations contributed to ensuring that the recruitment process was built on community trust and ethical engagement methods.<sup>155</sup>

Participants who self-identified as lesbians and of African descent, and who had current or

---

<sup>151</sup> *ibid.*

<sup>152</sup> 'LGBTIQ Refugees Touching Base' (n 143).

<sup>153</sup> 'AfroRainbowAustria – afrorainbow.at' (n 144).

<sup>154</sup> Sarah Flicker and others, 'E-PAR: Using Technology and Participatory Action Research to Engage Youth in Health Promotion' (2008) 6 *Action Research* 285.

<sup>155</sup> *ibid.*

recent experiences within the Austrian asylum system, were contacted, and outreach was done through posters, digital flyers, and personal invitations distributed via Linktree and NGO networks. Participants were able to access critical information, such as the informed consent letter, the registration form, and the purpose of the study, within the Linktree portal. Materials were made available in a variety of languages to guarantee accessibility. The selection criteria underscore the significance of fostering a diverse range of experiences while prioritizing a safe and secure environment that encourages group participation.

A total of 30 women identifying as African lesbians participated in the workshops, emphasizing voluntary involvement and informed consent. These women asylum seekers and refugees came from Congo, Egypt, Ghana, Kenya, Morocco, Namibia, Nigeria, Senegal, Somalia, Tanzania, Tunisia, Uganda, and Zimbabwe. They were at different stages of the asylum process, ranging from new arrivals with first-instance clearance to final appeals, and some had their refugee status recognised. This focused recruitment method was crucial for addressing the specific issues faced by African lesbian refugees, allowing for a detailed yet thorough examination of the complex legal challenges related to their identities within the Austrian asylum system.<sup>156</sup> This approach facilitated a nuanced understanding of the unique difficulties encountered by this demographic, ensuring that their voices and experiences remained central to the research.<sup>157</sup> By concentrating on a specific group, the study aimed to highlight the complexities of their legal situations and the broader implications for asylum policies.

### 3.3 Ethical Considerations

Considering the delicate nature of the topic, ethical considerations were paramount in the design and conduct of this study. All participants were provided with informed consent forms,

---

<sup>156</sup> Tricia Ong, 'A Feminist Approach to Sensitive Research: Designing the Clay Embodiment Research Method' (*Routledge & CRC Press*) <<https://www.routledge.com/A-Feminist-Approach-to-Sensitive-Research-Designing-the-Clay-Embodiment-Research-Method/Ong/p/book/9781032405650>> accessed 8 June 2025.

<sup>157</sup> *ibid.*

which were available in various languages and distributed via a secure link and through community partners.<sup>158</sup> Participants were made aware of their rights, which included the option to withdraw at any point without repercussions, the right to therapy, and language interpretation was provided throughout all phases of the project.<sup>159</sup> The well-being of participants was fundamental to the organisation of each workshop; thus, every session was designed with an understanding of trauma, incorporating flexibility to address the emotional needs of participants.<sup>160</sup> Psychological support was organised in collaboration with partner NGOs, such as Queer Base's social counsellors, providing access to professional help in case of any distress. Privacy and data protection were strictly upheld. Pseudonyms were employed, all identifying details were anonymized, and data was securely stored on encrypted servers. Photographs were captured solely with clear consent. No financial incentives were provided; however, travel reimbursement was accessible to participants living in remote areas or camps outside Vienna.

---

<sup>158</sup> Ada L Sinacore and others, 'Methodological Considerations When Conducting Research with Vulnerable Populations'.

<sup>159</sup> *ibid.*

<sup>160</sup> Tricia Ong (n 156).

## 4: Analysis of Lived Experiences from the workshops

For African lesbian asylum seekers in Austria, their protection path is shaped by law, the stories they tell, and the identities they must prove. While Austria's legal framework formally recognizes sexual orientation as grounds for asylum,<sup>161</sup> the lived reality of these women is marked by disbelief, procedural hurdles, and the demand to fit into Westernised ideals of victimhood and queerness.<sup>162</sup> This chapter draws on the voices of workshop participants and builds on the intersectional analysis of Tschalaer to expose how race, gender, and sexuality intersect to produce unique legal and social barriers in the Austrian asylum process.<sup>163</sup>

### 4.1 The Burden of Credibility: “Stereotypes, Silence, and Ideal Victims”

One of the most challenging and recurring aspects of the workshops was the burden of proving one's identity. Many women participants expressed their frustration about the need to repeatedly share their traumatic experiences. One participant described how the asylum interview required her to provide explicit details of her sexual orientation, questioning her credibility when she struggled with disclosure due to fear or trauma. Another participant recounted being asked to prove her lesbian identity through intimate personal accounts, highlighting how credibility standards are shaped by narrow, stereotypical understandings of queer identities. Just like their German counterparts, Austrian Asylum officers expect lesbian asylum seekers to present a linear, passive narrative of victimhood, one that aligns with Westernised tropes of coming out, suffering and rescue<sup>164</sup>.

“I had to marry a man to survive. When the officer asked how I could be a lesbian and have children, I felt my whole story was dismissed.” (Sunshine, Egyptian Lesbian Asylum seeker)

<sup>161</sup> ‘LGBTIQ Refugees Touching Base’ (n 143).

<sup>162</sup> Tschalaer (n 134); Freedman and others (n 100); Zisakou (n 103); Khan (n 97).

<sup>163</sup> Tschalaer (n 134).

<sup>164</sup> ‘Victimhood and Femininities in Black Lesbian Asylum Cases in Germany: Journal of Ethnic and Migration Studies: Vol 47 , No 15 - Get Access’ (n 65).

“After the BFA rejected our application, my girlfriend and I filed an appeal with BVwG. During our interviews, we presented all the evidence of our life together in Austria, where we first met. Although we were apprehensive about sharing many of our personal accounts in light of the negative decision from the BFA, we believed it was important to submit all evidence of our relationship to the Court, along with the traumatic experiences we endured in our respective countries. To our surprise, both judges in our cases expressed skepticism, asserting that we were merely attempting to validate our relationship, yet they did not find us credible.” (Laura, Moroccan Lesbian asylum seeker)

As Tschalaer notes in her review of the German asylum system, decision-makers perceive lesbian asylum seekers' attempts to substantiate their claims, particularly regarding relationships formed in their host countries, as calculated and implausible.<sup>165</sup> This skepticism mirrors the doubt experienced by lesbian women such as Laura in the Austrian case.

When I confided in my aunt about how different I felt, she reported me to my entire family, who then reported me to the police. I was detained for three months, during which I was subjected to corrective rape by the guards, who claimed it would cleanse me. When I later shared my experience with the asylum officer, she asked for proof. She said she couldn't believe my story unless I could show evidence. (Billy, Namibian Lesbian asylum seeker)

However, for many African lesbian women, survival has meant secrecy, forced marriage, motherhood, and complex relationships that do not fit these expectations. As a result, their credibility is repeatedly questioned. The demand for “proof” of queerness through public activism, visible relationships, or traumatic disclosure ignores the realities of criminalisation and violence in their home countries.<sup>166</sup>

## 4.2 Accelerated Timeline and Retraumatisation

Although Austria's new accelerated asylum procedure aims to improve efficiency, it compromises fairness and sensitivity, especially for vulnerable groups such as African lesbian

---

<sup>165</sup> Tschalaer (n 134).

<sup>166</sup> Zisakou (n 103); Tschalaer (n 8).

women. Participants recounted being rushed through crucial interviews without adequate preparation or legal guidance, frequently encountering insensitive or even hostile asylum officials.

“My interview was rushed. I had no time to prepare. The officer was aggressive and very racist. I wasn’t even given the protocol.” (Sophia from Zimbabwe)

“The officer sent my interview invitation to the social counsellors at my facility just one day before the scheduled date. I had to cancel because I was sick. The same officer quickly set a new date for the interview, right after my sick leave ended. But when I showed up for the rescheduled interview, I was told she wasn’t there, and no one had told me it was cancelled. The whole experience was very traumatising.” (Nkena from Cameroon)

In another instance, women reported deeply intrusive practices, such as being forced to undress for physical examinations or subjected to intrusive, humiliating questions by the officers. Valie, a transwoman, shared a part of her asylum encounter that read:

“Why don't you dress like your sisters at the family party, and why do you provoke the men at the family party by wearing skinny jeans and tight-fitting T-shirts?” to which she replied, “Because I thought I could dress any way I want, and if anyone has a problem with it, it should not be me.” (Valie, from Somalia)

These procedures significantly exacerbate existing trauma, reinforcing participants' sense of powerlessness and undermining their capacity to present their asylum claims clearly and credibly.

Legal provisions such as the Asylum Procedure Directive 2013/32/EU, Art. 15(3)(a) require that interviews be conducted by personnel sensitive to applicants’ gender, sexuality, and cultural background.<sup>167</sup> In practice, however, these safeguards are inconsistently applied. As

---

<sup>167</sup> ‘Directive - 2013/32 - EN - Asylum Procedures Directive - EUR-Lex’ (n 57).

Freedman et.al and Tschalaer note, procedural rigidities and a lack of trauma-informed approaches retraumatize survivors and impede their ability to present their cases fully.<sup>168</sup>

### 4.3 Interpretation and Cultural Bias

Workshop participants highlighted significant challenges arising from cultural misunderstandings and language barriers within Austria's asylum process. Language is intended as a bridge, but it becomes a barrier. Participants indicated instances where essential details were misinterpreted or entirely overlooked during the translation process. This issue is more common, especially when translators lack training in sensitive LGBTIQ+ language and or have personal biases against the claimant's identity. For instance, a nonbinary lesbian woman described an interpreter who misgendered them, failed to understand queer or trans experiences, and even shared the prejudices of their home communities.

“The translator kept calling me ‘she’ after I told her I’m a man. She didn’t stop. I felt so invisible.”  
(Denisa from Congo)

More generally, participants expressed discomfort when assigned translators from their home communities/countries, citing potential breaches of confidentiality or gossip resulting in them withholding crucial information during the interviews. Despite EU directives mandating impartial and competent interpretation, the reality is that many lesbian asylum seekers are left without a fair hearing. Dustin & Held highlight how such cultural and linguistic biases can decisively shape the outcome of asylum claims, especially for those whose identities and experiences do not conform to dominant expectations.<sup>169</sup>

### 4.4 Intersectionality and its legal protection limits

The experiences shared in these workshops resonate with Tschalaer's analysis of “double discrimination” and highlight the inadequacies of asylum systems in recognizing the

---

<sup>168</sup> Freedman and others (n 6); Tschalaer (n 8).

<sup>169</sup> Dustin and Held (n 126).

intersectional realities faced by black lesbian women.<sup>170</sup> Legal frameworks treat gender, race, and sexuality as discrete categories; however, these women experience these identities as interwoven. Violence, forced marriage, and motherhood are not peripheral to their queerness but rather integral to the persecution they endure.<sup>171</sup>

Yet, as evidenced by the Austrian and German cases, asylum adjudicators overlook or categorize these experiences, insisting on a "pure" narrative of sexual persecution while disregarding the complex lives of African lesbian claimants. This disconnect between legal frameworks and lived experiences perpetuates a cycle of exclusion and invisibility.

In conclusion, the narratives in this chapter demonstrate that to provide genuine protection for African lesbian asylum seekers in Austria, asylum officers, interpreters, and policymakers must listen to and accept the narratives that do not align with Western expectations. This requires the implementation of culturally competent, trauma-informed, and intersectional methodologies throughout the entire process, and only then can the promise of asylum be realised for those who are most vulnerable. Furthermore, this capstone thesis finds that the overlap between legal testimony and artistic expression allowed participants to reclaim narrative control in ways rarely permitted within institutional settings.

---

<sup>170</sup> Tschalaer (n 8).

<sup>171</sup> Tschalaer (n 134); Zisakou (n 103); Marmani (n 102); 'Displacement Statelessness Gender Equality CEDAW, Edwards, Aug 2009' (n 38).



## Conclusion

This capstone thesis has investigated the legal hurdles faced by African lesbian asylum seekers within Austria's asylum and procedural systems, highlighting the continuing disparity between formal protections and their actual enforcement. Despite the existence of comprehensive international law such as the 1951 Refugee Convention, CEDAW, the EU legal framework-EU Qualification Directive, and the Yogyakarta Principles; Austria's asylum system is marred by Eurocentric credibility evaluations, procedural inefficiencies, and institutional biases that disproportionately disadvantage racialized queer women. The participation workshops showed how the overlapping vulnerabilities of race, gender, and sexuality exacerbate hurdles to protection as women struggle with demands to conform to Western narratives of queerness while facing retraumatizing interviews, biased translators, and poor accommodations.

The comparative analysis of Germany, France, and the UK demonstrates that Austria's exclusionary practices are not unique but rather indicative of broader European trends of systemic neglect. While jurisdictions like the UK have established advanced jurisprudential safeguards, such as in the *HJ (Iran) v Secretary of State for the Home Department* (2010) ruling, Austria falls short in implementing trauma-informed, intersectional methodologies. This capstone research emphasizes that legal recognition of sexual orientation as a protective group is insufficient without deconstructing the neoliberal and orientalist mindsets within asylum systems that categorise marginalised applicants as "undeserving." An inclusive and Justice framework must center the lived experiences of racialized queer women and actively confront the hierarchies of deservingness that continue to influence protection outcomes. To achieve this, Austria must adopt trauma-informed interview practices, ensure high-quality interpretation services, and provide specialised training for asylum officers in SOGIESC-sensitive procedures. Furthermore, strengthening partnerships with NGOs is essential to

ensure procedural fairness and psychosocial support throughout the process. By embedding intersectional justice into every stage of the asylum procedure, Austria can transition from symbolic inclusion to genuine protection. Such an effort is not only a legal necessity; it is a moral imperative. A future in which African lesbian refugees are seen, heard, and protected is both possible and urgent.

# Bibliography

‘2022\_10\_background\_note\_sogie\_expert\_panel\_en. Pdf’

[https://euaa.europa.eu/sites/default/files/2023-](https://euaa.europa.eu/sites/default/files/2023-01/2022_10_background_note_sogie_expert_panel_en.pdf)

[01/2022\\_10\\_background\\_note\\_sogie\\_expert\\_panel\\_en.pdf](https://euaa.europa.eu/sites/default/files/2023-01/2022_10_background_note_sogie_expert_panel_en.pdf)> accessed 16 April 2025

‘2023 in Review: The New Laws Affecting LGBTI Communities Worldwide’ (*ILGA World*, 19 December 2023) <<https://ilga.org/news/2023-in-review-new-laws-affecting-lgbti-communities-worldwide/>> accessed 21 May 2025

‘Accelerated Procedure’ (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/procedures/accelerated-procedure/>> accessed 15 March 2025

‘Admissibility Procedure’ (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/procedures/admissibility-procedure/>> accessed 18 May 2025

‘AfroRainbowAustria – afrorainbow.at’ (28 November 2023) <<https://afrorainbow.at/>> accessed 30 October 2024

Asylkoordination Österreich, ‘Flow Chart: Procedure Explained’ (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/general/flow-chart/>> accessed 1 March 2025

‘Asylum in - Austria’ (*UNHCR Austria*) <<https://help.unhcr.org/austria/asylum-in-austria/>> accessed 18 December 2024

‘Beyond Decriminalization of Same-Sex Relations | Human Rights Watch’ (6 June 2024) <<https://www.hrw.org/news/2024/06/06/beyond-decriminalization-same-sex-relations>> accessed 19 May 2025

‘Border Procedure (Border and Transit Zones)’ (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/procedures/border-procedure-border-and-transit-zones/>> accessed 18 May 2025

‘Bundesamt Für Fremdenwesen Und Asyl (BFA)’ <<https://www.bfa.gv.at/>> accessed 30 November 2024

‘Bundesministerium Für Inneres’ <<https://www.bmi.gv.at/>> accessed 30 November 2024

‘Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979’ (*OHCHR*) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>> accessed 11 January 2025

Council of the European Union, ‘Directive - 2004/83 - EN - EUR-Lex: On Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons Who Otherwise Need International Protection and the Content of the Protection Granted’ (29 April 2004) <<https://eur-lex.europa.eu/eli/dir/2004/83/oj/eng>> accessed 13 December 2024

Craig P and Búrca G de, '5. Instruments and the Hierarchy of Norms', *EU Law* (Oxford University Press)

<<https://www.oxfordlawtrove.com/display/10.1093/he/9780198915522.001.0001/he-9780198915522-chapter-5>> accessed 28 October 2024

Crenshaw K, 'Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics' [1989] *University of Chicago Legal Forum*: Vol. 1989: Iss. 1, Article 8.

'Criminalisation of Consensual Same-Sex Sexual Acts | ILGA World Database'

<<https://database.ilga.org/criminalisation-consensual-same-sex-sexual-acts>> accessed 20 May 2025

Danisi C and others, *Queering Asylum in Europe: Legal and Social Experiences of Seeking International Protection on Grounds of Sexual Orientation and Gender Identity* (Springer International Publishing 2021) <<https://link.springer.com/10.1007/978-3-030-69441-8>> accessed 10 March 2025

Das R and Rani D, 'The Role Played by Non-Governmental Organisations in the Protection of Refugee Women in Greece' 1

'Directive - 2013/32 - EN - Asylum Procedures Directive - EUR-Lex' <<https://eur-lex.europa.eu/eli/dir/2013/32/oj/eng>> accessed 25 February 2025

'Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying down Standards for the Reception of Applicants for International Protection'

'Displacement Statelessness Gender Equality CEDAW, Edwards, Aug 2009' (*PeaceWomen*, 2 February 2015) <<https://www.peacewomen.org/content/displacement-statelessness-and-questions-gender-equality-under-convention-elimination-all>> accessed 31 May 2025

'Downloads' (*Creative Commons*) <<https://creativecommons.org/mission/downloads/>>

'Dublin' (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/procedures/dublin/>> accessed 18 May 2025

Dustin M and Held N, 'In or out? A Queer Intersectional Approach to "Particular Social Group" Membership and Credibility in SOGI Asylum Claims in Germany and the UK' <[https://sussex.figshare.com/articles/journal\\_contribution/In\\_or\\_out\\_A\\_Queer\\_intersectional\\_approach\\_to\\_Particular\\_Social\\_Group\\_membership\\_and\\_credibility\\_in\\_SOGI\\_asylum\\_claims\\_in\\_Germany\\_and\\_the\\_UK/23463953/2](https://sussex.figshare.com/articles/journal_contribution/In_or_out_A_Queer_intersectional_approach_to_Particular_Social_Group_membership_and_credibility_in_SOGI_asylum_claims_in_Germany_and_the_UK/23463953/2)> accessed 9 April 2025

EUAA, 'Jurisprudence on LGBTIQ Applicants in International Protection | European Union Agency for Asylum' (14 September 2023) <<https://euaa.europa.eu/publications/jurisprudence-lgbtqi-applicants-international-protection>> accessed 28 November 2024

European Asylum Support Office and IARLJ-Europe (eds), *Evidence and Credibility Assessment in the Context of the Common European Asylum System: Judicial Analysis* (Publications Office 2018)

European Parliament and Council of the European Union, 'Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the

Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, for a Uniform Status for Refugees or for Persons Eligible for Subsidiary Protection, and for the Content of the Protection Granted' [2011] 2017  
<<http://data.europa.eu/eli/dir/2011/95>>

Federal Office for immigration and asylum,  
'Informationsbroschuere\_Asylverfahren\_in\_Oesterreich\_EN. Pdf'  
<[https://www.bfa.gv.at/402/files/01\\_Broschueren/Informationsbroschuere\\_Asylverfahren\\_in\\_Oesterreich\\_EN.pdf](https://www.bfa.gv.at/402/files/01_Broschueren/Informationsbroschuere_Asylverfahren_in_Oesterreich_EN.pdf)> accessed 3 December 2024

Flicker S and others, 'E-PAR: Using Technology and Participatory Action Research to Engage Youth in Health Promotion' (2008) 6 Action Research 285

Freedman J 1 and others, 'Asylum, Racism, and the Structural Production of Sexual Violence against Racialised Women in Exile in Paris' 426

——, 'Asylum, Racism, and the Structural Production of Sexual Violence against Racialised Women in Exile in Paris' 426

'General Recommendation No. 32 on the Gender-Related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of Women' (*Refworld*)  
<<https://www.refworld.org/legal/general/cedaw/2014/en/102146>> accessed 12 February 2025

'Glossary of Terms: LGBTQ | GLAAD' (24 February 2022)  
<<https://glaad.org/reference/terms/>> accessed 2 March 2025

Guillian Koko, Surya Monro, and Kate Smith, 'Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) Forced Migrants and Asylum Seekers: Multiple Discriminations' (2018)  
<[https://scholar.googleusercontent.com/scholar?q=cache:eAp0PoVfg60J:scholar.google.com/+asylum+claims+from+LGBTQ+REFUGEES+FROM+AFRICA&hl=en&as\\_sdt=0,5](https://scholar.googleusercontent.com/scholar?q=cache:eAp0PoVfg60J:scholar.google.com/+asylum+claims+from+LGBTQ+REFUGEES+FROM+AFRICA&hl=en&as_sdt=0,5)>

Hathaway JC and Pobjoy J, 'Queer Cases Make Bad Law' 44

Held N, 'What Does a 'Genuine Lesbian' Look Like?: Intersections of Sexuality and 'Race' in Manchester's Gay Village and in the UK Asylum System', *Sexuality, Citizenship and Belonging* (Routledge 2016)

'HJ (Iran) (FC) (Appellant) v Secretary of State for the Home Department (Respondent) and One Other Action - UK Supreme Court' <<https://www.supremecourt.uk/cases/uksc-2009-0054#judgment-details>>

Hu A, '7. The Workshop as a Research Methodology: Lessons Learned from Workshops Utilized as a Participatory Research Method', *Metodetilnærminger og prosessuelle design i barnehageforskning* (Universitetsforlaget 2024)  
<<https://www.scup.com/doi/10.18261/9788215064697-24-07>>

Hunt L, 'Women Asylum Seekers and Refugees: Opportunities, Constraints and the Role of Agency' (2008) 7 Social Policy and Society 281

James C. Hathaway, 'International Refugee Law: The Michigan Guidelines on the Internal Protection Alternative' (*Refworld*)  
<<https://www.refworld.org/reference/research/umls/1999/en/32051>> accessed 25 January 2025

‘Judging the Charter’ <<https://charter.humanrights.at/manual/qualification>> accessed 24 February 2025

Khan T, ‘Investigating the British Asylum System for Lesbian, Gay and Bisexual Asylum-Seekers: Theoretical and Empirical Perspectives on Fairness’ (PhD, The University of Liverpool (United Kingdom) 2016)  
<<https://www.proquest.com/docview/2454109346/abstract/CE0528A126B24AA4PQ/3>> accessed 16 February 2025

Kindon S, Pain R and Kesby M, ‘Participatory Action Research Approaches and Methods: Connecting People, Participation and Place’

‘LGBTI Persons in Africa Face Discrimination Due to Their Identity’ (*Amnesty International*, 9 January 2024) <<https://www.amnesty.org/en/latest/news/2024/01/africa-barrage-of-discriminatory-laws-stoking-hate-against-lgbti-persons/>> accessed 19 May 2025

‘LGBTIQ+ Refugees Background Guide Challenge Topic #4’ (*UNHCR US*)  
<<https://www.unhcr.org/us/what-we-do/build-better-futures/long-term-solutions/complementary-pathways-admission-third-4>> accessed 2 May 2025

‘LGBTIQ Refugees Touching Base’ (15 September 2016) <<https://queerbase.at/blog/lgbtiq-refugees-touching-base/>> accessed 30 October 2024

Liñero DV, ‘Memory and Trauma in LGBTQ+ Women’s Asylum Claims on Sexual Orientation and Gender Identity (SOGI) Grounds: Disregarded, Dismissed and Denied’

Luibhéid E, ‘Migrant and Refugee Lesbians: Lives That Resist the Telling’, *Lives That Resist Telling* (Routledge 2021)

Marmani F, ‘Gender and Asylum Seekers- The Case of Greece’ 31

Mehmet, ‘Good Practices Related to LGBTI Asylum Applicants in Europe | ILGA-Europe’ (5 September 2014) <<https://www.ilga-europe.org/report/good-practices-related-to-lgbti-asylum-applicants-in-europe/>> accessed 2 May 2025

Merhaut N and Stern V, *Asylum Policies and Protests in Austria* (2018)

Moir Dustain and Christel Querton, ‘(PDF) Women in Refugee Law, Policy and Practice: An Introduction to The Refugee Survey Quarterly Special Issue’ [2024] ResearchGate  
<[https://www.researchgate.net/publication/362311080\\_Women\\_in\\_Refugee\\_Law\\_Policy\\_and\\_Practice\\_An\\_Introduction\\_to\\_the\\_Refugee\\_Survey\\_Quarterly\\_Special\\_Issue](https://www.researchgate.net/publication/362311080_Women_in_Refugee_Law_Policy_and_Practice_An_Introduction_to_the_Refugee_Survey_Quarterly_Special_Issue)> accessed 6 March 2025

Muzak G, ‘The Austrian Migration and Asylum Law under the Impact of the European Migration Crisis 2015’ (2020) 4 University of Vienna Law Review 138

Neil Grungras, ‘Rising Numbers of LGBTI Refugees Facing Fight for Survival’ (*HuffPost*, 20 June 2014) <[https://www.huffpost.com/entry/lgbti-refugees-facing-fight\\_b\\_5514737](https://www.huffpost.com/entry/lgbti-refugees-facing-fight_b_5514737)> accessed 25 December 2024

O’Halloran K, *Sexual Orientation, Gender Identity and International Human Rights Law: Common Law Perspectives* (1st edn, Routledge 2019)  
<<https://www.taylorfrancis.com/books/9780429809736>>

Österreich A der R, 'BMEIA-Federal Ministry for Europe, Integration and Foreign Affairs' <<https://www.bmeia.gv.at/>, <https://www.bmeia.gv.at/home>> accessed 28 February 2025

——, 'Human Rights' <<https://www.bmeia.gv.at/en/human-rights>, <https://www.bmeia.gv.at/en/human-rights>>

——, 'Principles' <<https://www.bmeia.gv.at/en/principles>, <https://www.bmeia.gv.at/en/principles>> accessed 15 May 2025

Pérez CJ, 'Acts of Queer Resilience: Trauma as Identity and Agency in LGBTQ Political Asylum' (PhD, University of Maryland, College Park 2022) <<https://www.proquest.com/docview/2716035524/abstract/CE0528A126B24AA4PQ/7>> accessed 16 February 2025

'Principle 23 – Yogyakartaprinciples.Org' <<https://yogyakartapinciples.org/principle-23/>> accessed 20 January 2025

'Protocol Relating to the Status of Refugees' (*OHCHR*) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-relating-status-refugees>> accessed 28 November 2024

'Regular Procedure' (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/procedures/regular-procedure/>> accessed 18 May 2025

'RIS - Asylgesetz 1991 § 9 - Bundesrecht Konsolidiert' <<https://www.ris.bka.gv.at/eli/bgbl/1992/8/P9/NOR12064169>> accessed 16 April 2025

'RIS - Asylgesetz 2005 - Bundesrecht Konsolidiert, Fassung Vom 28.11.2024' (*RECHTSINFORMATIONSYSTEM DES BUNDES*) <<https://www.ris.bka.gv.at/geltendefassung.wxe?abfrage=bundesnormen&gesetzesnummer=20004240>> accessed 28 November 2024

'RIS - BFA-Verfahrensgesetz § 18 - Bundesrecht Konsolidiert, Fassung Vom 14.04.2015' (<https://www.ris.bka.gv.at/eli/bgbl/i/2012/87/P18/NOR40162447>) <<https://www.ris.bka.gv.at/NormDokument.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20007944&FassungVom=2015-04-14&Artikel=&Paragraf=18&Anlage=&Uebergangsrecht=>>> accessed 17 May 2025

'RIS - Fremdenpolizeigesetz 2005 - Bundesrecht Konsolidiert, Fassung Vom 28.11.2024' <<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20004241>> accessed 28 November 2024

Salzburg AAI, 'Queer Border Crossing Experiences in Europe –' (30 May 2021) <<https://globalgedacht.org/queer-border-crossing-experiences-in-europe/>> accessed 20 May 2025

Shaw A and Verghese N, 'A Review of Research and Data Needs'

Sinacore AL and others, 'Methodological Considerations When Conducting Research with Vulnerable Populations'

Taha D, 'Intersectionality and Other Critical Approaches in Refugee Research An Annotated Bibliography'

'The 1951 Refugee Convention' (*UNHCR*) <<https://www.unhcr.org/about-unhcr/overview/1951-refugee-convention>> accessed 28 November 2024

'The Yogyakarta Principles Plus 10 - Additional Principles and State Obligation on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles' (*Refworld*) <<https://www.refworld.org/legal/resolution/icjurists/2017/en/122482>> accessed 30 May 2025

Tricia Ong, 'A Feminist Approach to Sensitive Research: Designing the Clay Embodiment Research Method' (*Routledge & CRC Press*) <<https://www.routledge.com/A-Feminist-Approach-to-Sensitive-Research-Designing-the-Clay-Embodiment-Research-Method/Ong/p/book/9781032405650>> accessed 8 June 2025

Tschalaer M, 'Victimhood and Femininities in Black Lesbian Asylum Cases in Germany' (2021) 47 *Journal of Ethnic and Migration Studies* 3531

——, 'Victimhood and Femininities in Black Lesbian Asylum Cases in Germany' (2021) 47 *Journal of Ethnic and Migration Studies* 3531

'Types of Procedures' (*Asylum Information Database | European Council on Refugees and Exiles*) <<https://asylumineurope.org/reports/country/austria/asylum-procedure/general/types-procedures/>> accessed 16 March 2025

UNHCR, 'Considering Asylum Claims and Assessing Credibility' (*Refworld*) <<https://www.refworld.org/policy/legalguidance/ukho/2012/en/102079>> accessed 13 May 2025

'UNHCR Guidelines on International Protection No. 9: Claims to Refugee Status Based on Sexual Orientation and/or Gender Identity' (*UNHCR*, 23 October 2012) <<https://www.unhcr.org/media/unhcr-guidelines-international-protection-no-9-claims-refugee-status-based-sexual-orientation>> accessed 23 November 2024

'Universal Declaration of Human Rights | United Nations' (10 December 1948) <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> accessed 23 September 2024

'Victimhood and Femininities in Black Lesbian Asylum Cases in Germany: Journal of Ethnic and Migration Studies: Vol 47, No 15 - Get Access' (2 June 2020) <<https://www.tandfonline.com/doi/full/10.1080/1369183X.2020.1772735?scroll=top&needAccess=true>> accessed 29 October 2024

Women UC on the E of D against, 'General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women' <<https://digitallibrary.un.org/record/711350>> accessed 12 February 2025

Yecies S, 'Sexual Orientation, Discrimination, and the Universal Declaration of Human Rights' (2011) 11 *Chicago Journal of International Law* <<https://chicagounbound.uchicago.edu/cjil/vol11/iss2/28>>



‘Yogyakartaprinciples.Org – The Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity’ <<https://yogyakartaprinciples.org/>> accessed 20 January 2025

Zisakou S, ‘Credibility Assessment in Asylum Claims Based on Sexual Orientation by the Greek Asylum Service: A Deep-Rooted Culture of Disbelief’ (2021) 3 Frontiers in Human Dynamics <<https://www.frontiersin.org/journals/human-dynamics/articles/10.3389/fhumd.2021.693308/full>> accessed 13 May 2025