

Domestic Violence

**Police Expulsion and
Prohibition to Return**

Criminal Law

**Protective Measures
under Civil Law**



This information brochure of the Bündner Intervention Project is obtainable free of charge at every police station and from the Office of Staff for Equal Rights for men and women of Canton Graubünden.

The brochure is available on the website of the Office of Staff for Equal Rights www.stagl.gr.ch in the following languages: German, Italian, Rhaeto-romanian, Albanian, English, Portuguese, Serbo-Croatian, Spanish, Tamil and Turkish.

Domestic Violence will not be tolerated!

Violence in homely spheres is not a private matter and will not be tolerated. Justifications such as underplaying, alcohol, stress, provocation will not be accepted. The responsibility for the violence lies always with the person who does it. Persons affected by violence have the right of protection and help.

Children who grow up in an environment which is dominated with violence become strongly burdened in their development. They need special support and attention. If the police receive information on domestic violence in a family, they report this danger to child's well-being immediately to the corresponding guardianship authority.

This brochure answers the most important questions on domestic violence. You will find in the emergency card the addresses of the most important assistance offers and institutions.

These offers are at your service round the clock.

What can you do if you are affected by violence?

In a critically dangerous situation, you should immediately request the police for protection or help.

Emergency call 117

Persons who endanger others can be expelled by the police from the joint dwelling/house and its immediate vicinities. As you are the victim of violence, you and your children have basically the right to stay in your familiar surroundings.

Where can you be informed, assisted and advised?

Victim's Assistance and Counseling Office of the Canton Graubünden.

(Opferhilfe-Beratungsstelle des Kantons Graubünden) **081 257 31 50**

The counseling office informs, assists, and advises you in personal and legal matters and if necessary, recommends you the assistance of other experts and/or persons. The counseling is free of charge. Your request will be handled with confidence. The responsible staffs are subject to professional secrecy. You can stop the counseling anytime.

Do you need protection, assistance and advice?

Women's Shelter Graubünden (Frauenhaus Graubünden) 081 252 38 02

The women's shelter offers women, their children and youthful females who are affected by domestic violence, admission, protection and counseling.

Have you beaten or threatened somebody with violence?

Counseling Office for persons using violence 079 544 38 63

We will help you in developing a free of violence method to deal with conflicts. The counseling is free of charge. Your request will be handled confidentially.

Answers to the most frequent questions.

Police Expulsion and Prohibition to Return

Who does the law protect?

Every person who experiences domestic violence, regardless whether the violence takes place in the marriage, partnership or in the family is protected by law. The person affected by violence has to be residing in Canton Graubünden. Holiday-guests have the same protection in their accommodations.

Who can be expelled?

Persons who seriously endanger their fellow occupants can be expelled. Police expulsion is not applicable for minors using violence. In these cases, the applicable solution has to be met with the help of the Guardianship Authority.

How long is the police prohibition to return enforced?

It is enforced as long as the police ordered duration but a maximum of 10 days.

Can the prohibition to return be prolonged?

Yes. The endangered person has to request, within the duration of the prohibition at the district court presidium, supervisory measures within the scope of marital protection (by married couples) or the following measures to hold distance according to Art. 28b ff. of the Civil Code.

How can the expelled person defend herself/himself against the order?

The order can be appealed against during the period of the prohibition at the district court presidium.

Does the expulsion depend on the will of the victim?

No. In case the victim -out of fear or shame- does not want any expulsion, the police will nevertheless order such one if a serious danger exists. The expulsion is a police safety measure.

Does it matter who the house/dwelling belongs to? No. The police can expel any person who emanates danger.

What happens to the house/dwelling key?

The police will take away the key from the expelled person and hand it over to the victim.

Does the expelled person have to be available for the police?

Yes. He/she will be required to give an address for the service of writ and official documents.

What may a person expelled take with him?

Urgently needed items for personal use (e.g. personal documents, clothes, identification cards, medications).

What can the victim do if she/he does not have anymore money for the household due to the expulsion?

If the expelled person is obliged to provide support for the family, he/she has to ensure the necessary funds for the duration of the expulsion. Otherwise, a bridging relief has to be ensured through the public assistance.

For which area is the prohibition to return enforced?

It is enforced for the dwelling/house and the immediate surroundings. That includes e.g. ways, staircase, cellar, laundry, yard, garden and doorway or driveway to the house. The police have to indicate clearly in the expulsion order the premises of the protected area. The endangered person receives a copy of the written order of expulsion.

What happens if the violent person does not leave voluntarily?

The police can use force and remove the violent person.

Can the expulsion and the prohibition to return be enforced if the police are informed afterwards about the violence?

Yes, if the person affected by violence fears further maltreatments.

Is the observance of the prohibition checked?

The police can check the observance on their own anytime.

What can you do if the expelled person ignores the prohibition to return?

In this case, you should immediately call the police. They will remove the expelled person, if necessary, by force. Trespassing represents furthermore a punishable act (disobedience to an official order) and is punished with penalties.

Can the expelled person come back if she/he has calmed down?

No, the expelled person cannot come back within the ordered period of expulsion. Even if the victim consents a return, the expelled person is liable to punishment.

What about if the expelled person wants to pick up other things from the dwelling?

If the expelled person wants to pick up urgently needed items from the dwelling, this may be done only in the presence of the police.

Do you want to be contacted by the Victim Counseling Office (Beratungstelle Opferhilfe)?

You have to agree in writing in order to enable the police to pass on your personal data to the counseling center. They will then contact you. You can come on your own to the counseling center anytime - even though you have earlier refused to have contact.

Where can the expelled person ask for advice?

The expelled person is to be reported at the counseling center for persons using violence. The counseling center contacts the person using violence and offers counseling. The counseling can be demanded free of charge by all persons who want to work on their problematic violence.

When will the guardianship authorities be informed?

The police report the incident to the competent guardianship authorities for clarification, if children are living in the affected household.

Can the police also take a person using violence in custody?

Yes. If for example he/she is under the influence of alcohol or drugs, or it is evident that he/she will not follow the order of expulsion. The expulsion with prohibition to return is often enough to avert danger or, at least, to minimise it.

Can custody and police expulsion with prohibition to return be imposed at the same?

Yes. Even though the violent person was taken earlier in custody, an expulsion with prohibition to return can be ordered. Exactly in these cases, a police prohibition is particularly important because a return in the joint dwelling often leads to escalation.

Will I lose my residence permit if my spouse is expelled by the police?

No. For the period of the police expulsion, no withdrawal of residence permit will be considered. By a longer separation, we recommend you an individual counseling at advice centres. The evidence over the experienced domestic violence can, together with other factors, be important for the continued existence of the residence permit.

Children right in the midst – Children as witnesses of domestic violence

Children are also as witnesses always involved in the domestic violence. The experience with violence in the partnership impairs the children in the critical situation as well as in their cognitive, social and emotional development. They bear, even though they are not directly beaten, a great risk for subsequent violent experiences – either as victim or as user of violence.

In case of domestic violence, the police will make a report to the guardianship authorities regardless whether an expulsion is ordered.

The Special Office for Child Protection (Fachstelle Kinderschutz) advises and informs you over appropriate facilities for therapy.

Domestic Violence in Criminal Law

The Swiss Penal Code places many but not all forms of domestic violence under punishment. The injured parties often need also healthcare, counseling, civil right protection and financial support.

How does domestic violence look like?

For example: Slaps in the face, kicks, punches, to bite, scratch, beat up, strangle, draw a weapon, threaten, force a behavior, lock in someone, to guard, to beat with a tool, to stab with a knife, to shoot at somebody.

What does official prosecution mean?

Official prosecution of criminals means that the victim her/himself does not have to file a complaint within 3 months in order that the violent person is called to account for her/his action. The police are officially obliged to investigate regardless of the will of the victim.

Which forms of domestic violence will be officially prosecuted (official prosecution)?

Light qualified (committed with a dangerous object, poison, or a weapon) and serious physical injury, intimidation, sexual intimidation, rape, and killing offences.

Domestic violence in form of light physical injury, repeated assaults and threat between spouses, registered homosexual partners and heterosexual or homosexual pairs in concubinage will likewise be officially prosecuted. This intensified protection applies for spouses and registered partnerships until a year after the divorce or dissolution and for hetero- or homosexual life partnerships until a year after the separation.

Outside of marriage, registered partnership or concubinage, a complaint for these delicts has always to be filed.

Which of domestic violence offences will be prosecuted only on the petition of the injured party (petition for an offence)?

For example: Damage to property, single act of violence, violation of a person's privacy, misuse of telephone, sexual harassment.

What about if the children are injured?

The violence by adults against children who are under their custody or for whom they are responsible, will be officially prosecuted as a rule.

Protective Measures under Civil Law

Married couples / registered partnerships

If you want the prohibition to return to exist longer than the police ordered period, you have to be active again and file a petition for marital protection measures / temporary regulating measures at the district court's presidium. This petition can also be filed without the intervention of the police.

Which petitions can be filed?

For example:

- Assignment of the conjugal dwelling/house
- Prohibition to enter the dwelling/house and the immediate surroundings.
- Prohibition to approach or contact
- Assignment of children's custody/regulation of the right to visit
- Determination of the amount of alimony

How can violence be proven?

Domestic violence has to be substantially proven.

Possible evidences are:

- medical certificate/pictures of injuries
- letters/SMS
- (previous) penal sentences / statements of police operation/expulsion orders
- written information from advice centres and women's shelters

Will the expelled person be questioned concerning your petitions?

Yes. The expelled person has the right to be heard, file his/her own petition and means of evidence. The court decides, as a rule, after hearing both parties.

What are super provisional orders?

In case of temporal urgency, the court can give super provisional orders for the period of the proceedings before hearing the opposing party. It can decide, for example, that the dwelling be assigned to the endangered person and an entrance prohibition be valid until a definite decision is made. These petitions are important. This way you can avoid a gap between the expulsion and the marital protection measures.

Will you be confronted with the expelled person during the court proceedings?

The court can summon the parties to a hearing. If you are not in a position to meet the violent person due to psychological reasons, it is recommended to file a petition for a separate investigation and avoidance of a direct confrontation.

What about court and lawyer's fees?

In case of lack of means to pay the court and lawyer's fees, a petition for a grant of a free legal aid can be filed at the court. The indigence is to be proven with statements of financial circumstances.

What can you do if the expelled person ignores the court ordered prohibitions?

Call the police immediately and show the judicial decree. The police will remove the guilty person.

Partners in concubinage/ joint dwellings/ex-partners/stalking

You are living in concubinage or in a joint dwelling with a person using violence. You are being threatened by your ex-partner. A person with whom you do not even have any relationships, threatens you or chases you.

Since 1 July 2007, it does not matter anymore in which relationship you stand to a person who is violent against you, threatens or chases you. For protection against violence, threats or stalking, you can file at the competent district court a petition for prohibition to approach, to take up quarters and/or to contact (Art. 28b of the Civil Code). Besides, the district court can expel the violent person from the dwelling, in case you live with her/him. Precautionary, you can request for this measure. The district court prescribes a period of time during which you have to file a complaint. If you do not file a complaint, all of the ordered measures will be discontinued.

In case of temporal urgency or if a police expulsion exists, the court can give super provisional orders for the period of proceedings before hearing the opposing party. This way, you can avoid that a gap exists between the expulsion and the protective measures.

Take care of your safety!

The new legal provisions offer more protection for the persons concerned and also the possibility to stay in the familiar surroundings. They offer, however, no reliable protection against violence! In critical situations, it can be important that you and your children still leave the dwelling and find a safer accommodation (e.g. women's shelter) at least until the most dangerous time is over. Based on previous experiences, violent acts increase in times of separation and divorce. Factors that increase the endangering are: possession of weapon, alcohol- and drug consumption, threats, suicidal threats, morbid jealousy and possessiveness. Liberation from a situation of maltreatment is difficult and often takes a long time. You should, in any case, ask help from outside and build a supporting network.

Legal notice:

Concept, text, editors: Susanna Mazzetta, Bettina Joos

Expert Assistance: Round Table of the Bündner Intervention Projects against Domestic Violence, team brochure
3rd revised edition 2011

In cooperation with the cantonal police of Graubünden

Bündner Interventionsprojekt gegen Häusliche Gewalt
Loestrasse 37, 7000 Chur



EMERGENCY CARD

In case of violence in marriage, partnership and family

Do you not feel safe in your relationship?

Do you feel threatened or has anyone done violence to you?

Domestic violence is not a private problem!

There is help and support

For emergency and help on the spot: Police emergency call 117

You can get informed, supported and advised here:

Victim Counseling Office of Canton Graubünden Tel. 081 257 31 50

(Opferhilfe-Beratungsstelle des Kantons Graubünden)

Loestr. 37, 7000 Chur

24 hours available by phone

www.gr.ch

If children are affected by violence:

Cantonal Hospital Children's Clinic

Tel. 081 256 64 20

(Kantonspital Kinderklinik)

Professional Centre Child Protection

(Fachstelle Kinderschutz)

Tel. 081 257 31 50

Loestr. 37, 7000 Chur

24 hours available by phone

www.gr.ch

Telephone help for children and young people

Tel. 147

www.147.ch

If you need protection, support and advice:

Women's Shelter Graubünden

Tel. 081 252 38 02

(Frauenhaus Graubünden)

24 hours available by phone

www.frauenhaus-graubuenden.ch

If violence has been done to you,

You should ask for medical help and get a doctor's certificate.

Go to your doctor for this.

Tel.....

In emergency cases: Ambulance emergency (Sanitätsnotruf) Tel. 144

If you are sexually assaulted,

It is best to report immediately the incident

(round on the clock) at the emergency service of the

Women Hospital Fontana "Frauenspitäler Fontana"

(for women)

Tel. 081 254 81 11

or of the Cantonal Hospital (for men)

Tel. 081 256 61 11

You will receive there medical help and support.

Injuries can be treated and illness can be prevented.

A legal medical examination, which is important for a criminal proceeding later, can be undertaken. Do not wash or take a shower before the possibly important examination through a doctor is done. Traces, as tiny as it could be, help to convict the perpetrator.

For marriage protection measures and civil right protection measures turn to

District court of your residence:	Albula, Tiefencastel	Tel. 081 681 22 36
	Bernina, Poschiavo	Tel. 081 834 60 42
	Hinterrhein, Thusis	Tel. 081 650 07 30
	Imboden, Domat/Ems	Tel. 081 633 12 54
	Inn, Sent	Tel. 081 864 93 33
	Landquart, Landquart	Tel. 081 300 00 60
	Maloja, Samedan	Tel. 081 852 18 17
	Moesa, Roveredo	Tel. 091 827 33 66
	Plessur, Chur	Tel. 081 254 46 60
	Prättigau/Davos, Klosters	Tel. 081 420 27 00
	Surselva, Ilanz	Tel. 081 920 00 40

Men and women, who are violent or threat with violence, can turn to the counseling center for persons using violence. They will work out with you non-violent forms of solving a conflict.

Counseling center for persons using violence
(Beratungsstelle für Gewalt ausübende Personen) Tel. 079 544 38 63
Gäuggelistr. 16 / Brunnenhof
7000 Chur
www.gewaltberatungsstelle.gr.ch

If the central problem is addiction (e.g. alcohol) or you need further assistance,
turn to

Regional social services of your region
Residents of the City of Chur, of the circle of Trin, Rhäzüns, Churwalden and Schanfigg can turn to the Social Services for Addiction Matters (Sozialdienst für Suchtfragen), Loestrasse 37, Chur Tel. 081 257 2691

You can also turn to the Regional Social Services (Regionalen Sozialdienste), if you become financially needy after the separation.

If young people in the family use violence

Children – and Youth Psychiatric Services Tel. 081 252 90 23
(Kinder- und Jugendpsychiatrischer Dienst) (KJP)
www.kjp-gr.ch

Extended Hand (Die Dargebotene Hand) Tel. 143
www.143.ch

Information about self-help groups: Tel. 081 353 65 15
Contact office for self-help groups
Tuesday and Wednesday 9 – 11 hours
www.teamselbsthilfe.ch

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