

I N F O R M A T I O N

ABOUT THE RIGHTS OF VICTIMS IN CRIMINAL PROCEEDINGS

I. Rights all victims of crime are entitled to

1. May I have someone accompany me to the hearing of witnesses?

You may take a person you trust (e.g. a member of the family) along to your hearing. On request, that person may be present during your hearing, unless the police officer, prosecutor or judge questioning you determines that the presence of that person could jeopardise the purpose of the hearing.

2. Can I find out what's happening in the proceedings?

You may request to be informed about the dismissal of the proceedings and the outcome of the trial, as far as you are concerned. You may in particular request to be informed whether the convicted person has received instructions not to contact you or communicate with you.

In addition, you may petition the prosecutor's office or the court to be informed whether the defendant or convicted person has been sentenced to a term of imprisonment, if such term is coming to an end or if the convicted person has been granted privileges or furlough for the first time. In your petition you must demonstrate a legitimate interest.

You may further petition the prosecutor's office or the court to receive information and transcripts from the files. In this petition, too, you must demonstrate a legitimate interest. However, only your lawyer may examine the files or exhibits given in evidence. Please make sure - if possible - to always state the first and last name of the defendant and the reference number of the prosecutor's office or of the court or the number of the police report when filing a petition.

3. Can I hire a lawyer?

You may at any time hire a lawyer to counsel and represent you. Only your lawyer has the right to examine files and exhibits given in evidence; he/she may also be present and support you any time you are questioned as a witness by the prosecutor or judge.

Under certain circumstances the court may appoint a lawyer to look after your interests for the duration of the hearing of witnesses; you are in particular entitled to this in case of serious offences against your right to sexual self-determination. Such appointment will not incur any costs for you.

As a rule, you will have to bear the costs for your lawyer otherwise. There are exceptions to this; in this respect please take note of the detailed information regarding costs set out in Section II No. 3.

4. Can I claim for damages in the criminal proceedings?

As a victim or his/her heir you may assert a pecuniary claim (e.g. claim for damages or for pain and suffering) in the criminal proceedings against the defendant if the latter was at least 18 years of age at the time of the crime.

You may assert such claim in writing, have it recorded by the registrar of the court or assert it verbally during the trial. When asserting such claim you must clearly show what you expect to receive from the defendant and why. Furthermore such claim should include the necessary evidence.

II. Additional rights in certain cases

1. What are these cases?

You have additional rights if the offence violated

- your right to sexual self-determination (e.g. rape, sexual abuse),
- your right to personal honour (e.g. libel),
- your right to life and physical well-being (e.g. malicious bodily injury, negligent bodily injury with serious consequences),
- your right to habeas corpus (e.g. trafficking in human beings, serious forms of deprivation of liberty),
- a court order under the Protection against Violence Act, or if the offence constitutes
- stalking, or if
- a close relative (parent, child, sibling, spouse or common-law spouse) was killed**.

2. What additional rights do I have in these cases?

- If you want to get information or a transcript from the files, you won't have to state any reasons.

** This is subject to the following legal provisions: Sections 174 to 174 c, 176 to 181a, 182; 185 to 189; 211, 212, 221, 223 to 226, 340; 232 to 233 a, 234 to 235, 238, 239 (3) , 239 a and 239 b of the Criminal Code as well as Sect. 4 of the Protection against Violence Act.

- If you request information regarding the question whether the defendant or convicted person has already been imprisoned or is still imprisoned, you won't have to demonstrate a legitimate interest in the information, if the offence violated your right to sexual self-determination, your right to life and physical well-being or your right to habeas corpus.
- Your lawyer has the right to be present during pre-trial questioning of the accused or of a witness by the judge.
- You and your lawyer may participate in the entire trial.
- You may become a joint plaintiff upon application. As a joint plaintiff you may, among other things, pose questions during the trial and file petitions.
- A joint action in criminal proceedings against offenders under 18 years of age is only permitted in cases of certain serious offences. These are crimes against the right to life, physical well being and sexual self-determination, crimes of deprivation of liberty to the extent that these continued for more than one week or led to a serious deterioration of the victim's health (Sect. 239 (3) Criminal Code), crimes of extortionate kidnapping or hostage taking (Sections 239a, 239b Criminal Code) insofar as this caused serious psychological or physical harm to the victim or the victim was exposed to the risk thereof, as well as crimes of robbery resulting in death (Sect. 251 Criminal Code), also in conjunction with Sect. 252 of the Criminal Code (robbery-like theft) or Sect. 255 of the Criminal Code (robbery-like extortion).

3. Who will bear my costs in these cases?

If the defendant is convicted, he must, as a rule, reimburse the incurred costs (e.g. for the lawyer) insofar as he/she is able to do so. Otherwise you must bear the costs yourself.

Taking account of your financial circumstances you may be granted legal aid and a lawyer will be appointed for you upon application. In this case you won't have to pay for the lawyer's activities or the state will advance you the costs which you pay back later in instalments.

You will be granted legal aid if your income is low and

- the facts of the case or the legal position are difficult,
- you are not able to sufficiently look after your interests without a lawyer or
- you cannot be expected to participate in the criminal proceedings without a lawyer.

What is also important is that the court may already appoint a lawyer of your choice for you immediately after the crime, even if you have not yet been granted legal aid.

In certain cases, in particular crimes against your right to sexual self-determination or attempted murder, the court must appoint a lawyer for you upon application, irrespective of your financial circumstances. As a rule, you do not incur any costs for the lawyer's activities.

III. Where can I get further information

Should you have further questions, please contact the legal aid office (legal claims office) at the district court, a lawyer or an office of the victims' aid society. Among other things, you may ask for the addresses of such institutions at a legal aid office.

In cases of malicious bodily injury, injury to health or deprivation of liberty or threats in this regard, breach of peace of the home as well as in cases of unreasonable harassment by persistent stalking, also through the use of telecommunications, you may call on the district court to provide future protection under civil law. Insofar as you do not wish to hire a lawyer in this regard, you can get further information at the **legal claims office** of your district court.

Under the Law on Compensation for Victims of Violence, persons who have suffered damage to their health due to an act of violence, or their surviving dependents, shall receive pension benefits upon application due to the health-related and financial consequences of the damage. To clarify any claims you may have, please contact the responsible Amt für Versorgung und Soziales (Pension and Social Services Office).

Please always state:

	Place	report number/ reference number
a. of the police station	_____	_____
b. of the prosecutor's office	_____	_____
c. of the court	_____	_____