1 - My rights as a victim of crime

What information will I get from the authorities (e.g. police, public prosecutor) after the crime occurred but before I report it?

Before you report the crime, you can get information on your rights from the website of the Federal Ministry of Justice (Bundesministerium für Justiz) (here) and the Victims' Hotline (*Opfernotruf*) or Victims' Hotline website (0800 112 112 or here).

As a victim of a crime, you are entitled to receive information about your rights from the authorities. In principle, this information should be provided at the beginning of the investigation. If you are entitled to access victim assistance services from a victim support organisation, you will be informed about this before your first hearing. The notice to appear at the hearing will also contain information on these support services and will include the addresses of the relevant victim support organisations. In addition, you will be informed of your right to be accompanied by a confidant.

If you are a victim of a sexual offence or if you are a minor, or if a restraining order might be issued in accordance with § 38a(1) of the Security Police Act (*Sicherheitspolizeigesetz* – SPG) to protect you from acts of violence, you are regarded as a particularly vulnerable victim. That means you are granted additional rights; in particular, you must be informed before your hearing and testimony that:

- you may be heard, wherever possible during the investigation, by a person of the same sex;
- you may, when being heard during the investigation and trial, ask for interpretation services to be provided, wherever possible, by a person of the same sex;
- you may refuse to answer questions concerning details of the crime, e.g. in the case of a sexual offence, if you consider these to be unreasonable. However, you may be obliged to answer them if your testimony is of particular importance to the subject matter of the proceedings;
- you have the right to be questioned sensitively during the investigation and trial;
- you may ask for the public to be excluded from the trial;
- you may be informed if the offender escapes, is recaptured or is released from custody;
- you may be accompanied by a confidant during your hearing.

Further information can be found in the brochures produced by victim support organisations, which will be made available by the police. You can also be sure that you will be given information about your rights orally.

I don't live in the EU country where the crime took place (EU and non-EU citizens). How are my rights protected?

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA ensures that victims enjoy comparable rights in all EU Member States. These rights apply irrespective of your nationality as a victim.

To facilitate the reporting of crimes in cases where the criminal offence has been committed in another EU Member State, complaints relating to such a crime that are made in the victim's country of residence will be transmitted by the prosecutor to the competent authority in the other Member State.

There is also an entitlement to free translation services during the criminal proceedings.

If I report a crime, what information will I receive?

As a victim of a crime, you must be immediately informed about your rights. This information includes:

- your rights during the criminal proceedings;
- contact details of and services provided by victim support organisations;
- the possibility of claiming compensation from the offender;
- the possibility of applying for compensation from the state.

If you are entitled to access victim assistance services from a victim support organisation, you will be informed about this before your first hearing. The notice to appear at the hearing will also contain information on these support services and will include the addresses of the relevant victim support organisations. In addition, you will be informed of your right to be accompanied by a confidant. Further information can be found in the leaflets or brochures produced by victim support organisations, which will be made available by the police. You can also be sure that you will be given information about your rights orally.

If your sexual integrity has been violated or if you are a minor, or if a restraining order might be issued in accordance with § 38a(1) of the Security Police Act to protect you from acts of violence, you are entitled to be informed about the following rights before your hearing and testimony:

- the right to be heard wherever possible by a person of the same sex during the investigation;
- the right, when being heard during the investigation and trial, to ask for interpretation services to be provided, wherever possible, by a person of the same sex;
- the right to refuse to answer questions concerning details of a sexual offence, for example, if you consider these to be unreasonable. However, you may be obliged to answer them if your testimony is of particular importance to the subject matter of the proceedings;
- the right to be questioned sensitively during the investigation and trial;
- the right to ask for the public to be excluded from the trial;
- the right to be informed if the offender escapes, is recaptured or is released from pretrial custody;
- the possibility to be accompanied by a confidant during your hearing.

Once you have reported the crime, you will receive written confirmation of your report. This will include a reference number. If you call the competent police station and quote this reference number, you can speak to the officer in charge of your case. You can also use the police reference number to contact the public prosecutor handling your case.

The public prosecutor’s office will inform you about important developments in the process. For example, you will be notified if the authorities decide not to proceed with the prosecution or are considering ordering alternative measures to conventional criminal proceedings. You also have the right to examine the files.

The court will inform you of the time and location of the hearing if you have made a prior request for this information or if you have joined the proceedings as a civil claimant.

If you have been exposed to violence or a dangerous threat as a result of a deliberate criminal act, your sexual integrity has been violated, your personal dependence has been exploited in the commission of such a crime or if you are particularly vulnerable, you will automatically be informed by the authorities if the offender escapes, is recaptured or is released from pretrial custody. In other cases you will be informed of such developments if you have so requested. The information provided by the police or public prosecutor must include the relevant grounds for the release and indicate whether the offender has been subjected to more lenient measures as an alternative to custody.

On request, you will also be informed immediately if the offender escapes or is released from prison, as well as of the first occasion when the offender is permitted to leave detention without supervision. You will also be notified when an offender who has escaped is apprehended. If conditions intended to protect the victim have been imposed on the offender at the time of release, you will be informed of these too.

Am I entitled to free interpreting or translation services (when I contact the police or other authorities, or during the investigation and trial)?

If you do not speak German to a sufficient level, you are entitled to free interpreting services. These services will be made available during the interview or hearing. In addition, you are also entitled to a written translation of important parts of the file (written confirmation of the complaint, agreement on the closure of the investigation and the grounds on which it is based, execution of the judgment and the penalty order).

Victim assistance services include translation support and are funded by the Federal Ministry of Justice.

How does the authority ensure that I understand and that I am understood (if I am a child; if I have a disability)?

Legal instructions must always be given and interviews conducted comprehensibly. The authority therefore has to adapt its instructions and questions to the victim's needs and capabilities. After instructions have been issued, you will be asked if you have understood everything.

If you do not speak German to a sufficient level, you are entitled to free interpreting services. These services will be made available during the interview or hearing. In addition, you are also entitled to a written translation of important parts of the file (written confirmation of the complaint, agreement on the closure of the investigation and the grounds on which it is based, execution of the judgment and the penalty order).

A sign language interpreter must be present to assist deaf or mute victims. If necessary, you will also have the option of communicating in writing or another suitable manner.

Any impairments are considered when assessing whether a victim should be regarded as particularly vulnerable, a status associated with special rights. Such impairments may be compensated for by means of the entitlement to legal aid.

Victim support services

Who provides victim support?

You can contact a victim support organisation. There are specific organisations for victims of domestic violence and stalking, victims of human trafficking and juvenile victims. To help victims get in touch with the appropriate organisation, a Victims' Hotline, funded by the Federal Ministry of Justice (0800 112 112 and http://www.opfer-notruf.at/), which provides free support around the clock has been set up.

Certain victims are entitled to psychosocial and legal victim assistance services.

If you are a victim of domestic violence or stalking, you will be supported by specialist organisations, such as the domestic violence intervention centre (*Interventionsstelle gegen Gewalt in der Familie*) or violence protection centres (*Gewaltschutzzentren*). If the police have issued a restraining order, this information will be passed on to the local domestic violence intervention centre or a local violence protection centre. The employees of these organisations will contact you and offer support, including drawing up a safety plan and providing legal advice (in particular on filing an application for an interim injunction) and psychosocial support.

You can also contact the intervention centre or one of the violence protection centres directly. You do not have to wait until the police have taken action or you have reported a crime.

Will the police automatically refer me to victim support?

If you are a victim of domestic violence or stalking, you will be supported by specialist organisations, such as the domestic violence intervention centre or violence protection centres. If the police have issued a restraining order, this information will be passed on to the local domestic violence intervention centre or a local violence protection centre. The employees of these organisations will contact you and offer support, including drawing up a safety plan and providing legal advice (in particular on filing an application for an interim injunction) and psychosocial support.

In all other cases please contact the relevant victim support organisation yourself.

How is my privacy protected?

As a victim you have various rights that guarantee that your privacy will be protected as much as possible, in spite of the principle of the public nature of court proceedings.

For example, you have the right to provide an address for service that differs from your actual home address. The court must also ensure that your personal circumstances as a witness are not disclosed.

It is prohibited to publish the content of files, to make television or radio recordings or transmissions and to record videos or take photographs during the hearing.

If necessary to protect the privacy of victims and witnesses, the public may be excluded from the trial.

If you are the victim of a sexual offence, you have the right to refuse to answer questions concerning certain details of the incident, unless the details in question are essential to the proceedings. In exceptional cases it is even possible to give your testimony anonymously, if revealing your identity would put your life, health, bodily integrity or freedom, or that of others, at serious risk. When giving their testimony before the court, witnesses may even change their appearance to make themselves unrecognisable (on condition that it is still possible to see their facial expressions).

Do I have to report a crime before I can access victim support?

You do not have to report a crime to access victim assistance services. That means you can contact a victim support organisation before you have reported a crime. This organisation can help you through the process of reporting the crime, if necessary.

The services offered by the Victims' Hotline (0800 112 112) can also be accessed irrespective of whether you have reported a crime.

Personal protection if I'm in danger

What types of protection are available?

Different types of witness protection are available, offering different levels of protection depending on the threat to which the witness is exposed. Witness protection by the security police, for example, consists of preventive and protective elements, such as increased patrols, guarding of witnesses or placement in a witness protection facility. The most comprehensive form of protection is inclusion in a witness protection programme.

Who can offer me protection?

The security authorities are responsible for ensuring the personal protection of witnesses and victims.

Support and advice are available from victim support organisations. There are specific organisations for victims of domestic violence and stalking, victims of human trafficking and juvenile victims. To help victims get in touch with the appropriate organisation, a Victims' Hotline, funded by the Federal Ministry of Justice (0800 112 112 and http://www.opfer-notruf.at/), which provides free support around the clock has been set up.

Will someone assess my case to see if I am at risk of further harm by the offender?

If new circumstances emerge in the course of the proceedings (e.g. as a result of information received from a victim support organisation), the public prosecutor or the court must document the new assessment and actually grant the rights associated with your status as a particularly vulnerable individual.

Will someone assess my case to see if I am at risk of further harm by the criminal justice system (during investigation and trial)?

The criminal police, public prosecutor and court are obliged to give appropriate consideration to the rights, interests and vulnerability of victims. All authorities involved in criminal proceedings must respect the personal dignity of victims during the process and their interest in having their personal privacy protected. This general obligation to safeguard the victim's interests also includes avoiding any harm to the victim as a result of the criminal proceedings themselves. This is also ensured by means of the victim's special rights, e.g. to be questioned sensitively or to have the public excluded from the trial, and by the ban on disclosing photographs or personal data of the victim.

What protection is available for very vulnerable victims?

Victims of sexual offences, all victims who are minors, and victims for the protection of whom a restraining order might be issued in accordance with § 38a(1) of the Security Police Act are considered to be particularly vulnerable.

All other victims may also be accorded this status on the basis of their age, psychological state, health and the nature and specific circumstances of the crime.

In addition to the rights available to all victims, particularly vulnerable victims also have the right to be interviewed wherever possible by a person of the same sex during the investigation. In addition, they have the right, when being heard during the investigation and trial, to have interpretation services provided wherever possible by a person of the same sex. They may refuse to answer questions concerning details of the crime if they consider describing these details to be unreasonable, or to answer questions concerning circumstances of a highly personal nature. During the investigation and trial, particularly vulnerable victims will be questioned sensitively if they so request. They may ask for the public to be excluded from the trial. Particularly vulnerable victims may always be accompanied by a confidant during a hearing.

If there is a concern that it will be impossible for a witness to be heard at the trial for reasons of fact or law, the court must organise a hearing with cross-examination at the request of the public prosecutor. To this end, a judge responsible for incarceration and judicial protection hears witnesses during the investigation with the participation of the parties to the proceedings and their representatives (in a separate location) using technical equipment for the transmission of images and sound. Where appropriate, an expert may be asked to interview witnesses. Care must be taken to ensure that, as far as possible, the victim does not meet the accused or other parties to the proceedings. Following a hearing with cross-examination, the video material recorded may be presented at the trial instead of a further hearing. This protective examination of witnesses in the investigation procedure may also be applied at the trial.

At trial, the court may exceptionally have the defendant leave the courtroom during the hearing of witnesses – for example on the grounds of witness protection – provided that the defendant is subsequently informed of everything which occurred in their absence, and notably of all statements made in the meantime.

If the offender is released, recaptured or escapes from detention or pretrial custody, particularly vulnerable victims must be informed immediately. On request, they will also be informed if the offender escapes or is released from prison, as well as of the first occasion when the offender is permitted to leave detention without supervision.

I am a minor. Do I have special rights?

Victims who are minors are always regarded as particularly vulnerable.

During the investigation they are entitled to be interviewed wherever possible by a person of the same sex. In addition, they have the right, when being heard during the investigation and trial, to have interpretation services provided wherever possible by a person of the same sex. They may refuse to answer questions concerning details of the crime if they consider describing these details to be unreasonable, or to answer questions concerning circumstances of a highly personal nature. During the investigation and trial, particularly vulnerable victims will be questioned sensitively if they so request. Minors whose sexual integrity may have been violated must always be questioned sensitively. They may ask for the public to be excluded from the trial. During a hearing they may be

accompanied by a confidant.

If the offender is released, recaptured or escapes from detention or pretrial custody, particularly vulnerable victims must be informed immediately. On request, they will also be informed if the offender escapes or is released from prison, as well as of the first occasion when the offender is permitted to leave detention without supervision.

A member of my family died because of a crime – what are my rights?

If your spouse or registered partner, life partner, direct ancestor or descendant, sister, brother or another dependent person has been killed as a result of a criminal act, you are entitled to psychosocial and legal victim assistance services. This also applies if another of your relatives has died because of a crime and you witnessed the crime.

If your spouse or registered partner, life partner, direct ancestor or descendant, sister, brother or another dependent person has been killed as a result of a criminal act, you are entitled to psychosocial and legal victim assistance services. This also applies if another of your relatives has died because of a crime and you witnessed the crime.

If a person on whom you were dependent by law has died as a result of such a crime, you are potentially entitled to support under the Victim Compensation Act. Such requests for assistance are decided on by the Federal Office for Social Affairs and Disabled Persons (Bundesamt für Soziales und Behindertenwesen).

A member of my family was a victim of a crime – what are my rights?

In cases where the physical and/or sexual integrity of children or adolescents may be affected, their caregivers are also provided with assistance in criminal proceedings.

Can I access mediation services? Under what conditions? Will I be safe during mediation?

The police, public prosecutor or judge must take your interests into account and inform you about the course of the proceedings, including any alternative measures to conventional criminal proceedings that are ordered in the case of minor and moderately serious crimes. If the public prosecutor is considering such alternative measures, he/she must offer you the opportunity to give your opinion where this is necessary to safeguard your rights and interests, in particular your right to compensation.

The public prosecutor may ask trained mediators from relevant organisations to support offenders and victims with mediation. Mediation can start only with your consent, unless your reasons for rejecting mediation are unacceptable within the context of the criminal proceedings. If the offender is under 18 years of age, your consent is not necessary.

You may be involved in the mediation process if you wish. Your interests will be respected. Where appropriate to safeguard your interests, in particular your right to compensation, you will be invited to submit a statement.

During the mediation process you have the right to be accompanied by a confidant. You must be informed about your rights and appropriate victim support organisations at the earliest opportunity.

Where can I find the law setting out my rights?

Rights of victims in criminal proceedings are governed by the Code of Criminal Procedure (*Strafprozessordnung* (StPO)). The StPO and all other laws can be accessed free of charge from the Legal Information System of the Republic of Austria.

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