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2 - Reporting a crime and my rights during the investigation or trial

How do I report a crime?

If you have become a victim of a crime, you can report it to any police station or to the public prosecutor.

You can submit your report orally or in writing and your signature is required. The report may also be submitted by a third party. While not obligatory, it is advisable to include in the report your relevant personal details, including an address where you can be contacted, as well as personal details of the third party reporting the crime.

Additionally, it is advisable to provide any evidence and information that you may have about the suspect. This will facilitate the investigation.

The police have an official form to complete (generally computer-assisted) to record the information you provide. From this point on, your report of the crime will be part of the file.

You can report the crime to any police station or directly to the public prosecutor.

The report can be submitted in German or in one of the official regional languages.

If you do not speak German or another official language to a sufficient level, you have the right to be assisted by an interpreter.

In the case of certain crimes (e.g. violent crimes or sexual offences), you are entitled to assistance from a victim support organisation when reporting the crime.

There is no specific deadline for reporting a crime. However, after a certain period of time specified in law, the police, the public prosecutor or the court may refuse to examine the case. This period of time differs depending on the type of crime in question (limitation periods).

The authorities are obliged to start the investigation when they are informed about an alleged criminal offence (exception: crimes subject to private prosecution).

How do I find out what's happening with the case?

Once you have reported the crime, you will receive written confirmation of your report. This will include a reference number. If you later get in touch with the competent police station and quote this reference number, you can contact the officer in charge of your case.

If you submit the report in writing to the police or public prosecutor, you have to ask them for the reference number. Victim support organisations will help you to find out the correct reference number.

As the victim of a crime, you have the right to examine the files. Access may be denied or limited only if the inspection of files could endanger the investigation or influence your testimony as a witness.

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, to suspend the investigation, or are considering ordering alternative measures to conventional criminal proceedings.

Am I entitled to legal aid (during the investigation or trial)? Under what conditions?

You can be supported and represented in your dealings with the law enforcement authorities by a lawyer, a member of a victim support organisation or another suitable person.

If you are entitled to legal support, lawyers, in cooperation with specialist victim support organisations, will support you free of charge in asserting your rights during the proceedings. Psychosocial and legal assistance is also available:

- for persons who may have been exposed to violence or a dangerous threat as a result of a deliberate criminal act, whose sexual integrity or self-determination may have been violated or whose personal dependence may have been exploited in the commission of such a crime;
- if you are a close relative of a person who may have died because of a crime or you are a relative who has witnessed the crime;
- for victims of terrorist offences;
- for victims of a typical 'online hate' crime. This includes stalking, continued harassment by telecommunications or an IT system ('cybermobbing'), and incitement. It also includes offences such as defamation, accusations of a criminal offence which have already been dismissed as unfounded, insults and slander, where there are certain reasons to assume that the act has been committed by means of telecommunications or using an IT system;
- for minors who have been witnesses to violent acts within their social circle (violence in the family, violence against children).

The assistance must be necessary to safeguard the rights of the victim and is guaranteed by the victim support organisation. Victims whose sexual integrity may have been violated and who have not yet reached the age of 14 are granted psychosocial support as a matter of course.

If you are not entitled to victim assistance services, you can apply to the court for free legal aid if you have joined the proceedings as a civil claimant. If the court considers legal representation to be necessary (in particular to avoid a subsequent civil claim action) and your income is insufficient to pay for a legal representative without endangering your subsistence, the application will be approved.

Can I claim expenses (for taking part in the investigation/trial)? Under what conditions?

The costs of travelling to and from the public prosecutor's office, court or place of the hearing will be reimbursed, and compensation for lost time will be paid if you have suffered a financial loss as a result. If you are a witness and have to stay overnight and have breakfast, lunch or an evening meal at a particular location, the costs of your stay will be reimbursed up to a certain amount. You need to submit your claim for this payment within 14 days.

Can I appeal if my case is closed before going to court?

If the public prosecutor drops proceedings, you must be informed. You then have 14 days to ask the public prosecutor to explain the reasons behind this decision. You can also apply for a continuation of the proceedings if:

- a law has been infringed or applied incorrectly;
- there are significant doubts about the accuracy of the facts on which the decision to terminate the proceedings was based; or
- new facts or evidence can be provided to justify the continuation.

The request has to be filed within 14 days after you have been informed about the public prosecutor's decision to terminate proceedings or have received the reasons for such termination. If you have not received such information within this period, the time limit is extended to 3 months after the decision. The request to continue the proceedings must be addressed to the public prosecutor.

If the public prosecutor considers the request to be well founded, he/she will continue the proceedings. Otherwise

the public prosecutor has to write a response and submit this, together with the file, to the court that will decide on your request. If the court approves the request, the public prosecutor must continue the proceedings. Otherwise the request is rejected.

If the public prosecutor decides to order alternative measures to conventional criminal proceedings, you cannot appeal against his/her decision.

If charges have been filed and the public prosecutor subsequently closes the case, under certain circumstances you have the right to maintain the charges as a subsidiary prosecutor. In this case you must have already joined the proceedings as a civil claimant. You then acquire the status of a subsidiary prosecutor on declaring that you will be maintaining the charges.

Can I be involved in the trial?

As a victim you are entitled to participate in the trial. You will be summoned to appear in court only if you are required to testify as a witness. A victim is obliged to comply with a summons to appear only if he/she is called as a witness.

If you take advantage of victim assistance services, the victim support organisation providing these services will be informed about the dates of the hearings.

If you gave testimony under cross-examination during the investigation, you will be informed about the date of the trial only if you have so requested. If you are a civil claimant, subsidiary prosecutor or private prosecutor, you will be given due notice about the fixed dates of hearings. Irrespective of whether the trial is public, as a victim you are entitled to be present and to be accompanied by a confidant – a lawyer, a member of a victim support organisation or another person. You have the right to put questions to the defendant, witnesses and experts as well as to be heard regarding your entitlement to compensation.

If you are a civil claimant, you may choose not to attend the hearing. However, if you are a private prosecutor and you do not attend the hearing, the court will irrefutably assume that you are no longer interested in a conviction and will close the case.

If you do not speak German (or another official language), you have the right to interpretation during the hearing free of charge.

What is my official role in the justice system? For example, am I or can I choose to be a: victim, witness, civil party or private prosecutor?

You are a victim if you fulfil the relevant statutory requirements. The following persons have the status of victim:

- persons who may have been exposed to violence or a dangerous threat as a result of a deliberate criminal act, whose sexual integrity or self-determination may have been violated or whose personal dependence may have been exploited in the commission of such a crime;
- the spouse, registered partner, life partner, first-degree relatives, brother or sister and other dependants of a person who may have died because of a crime, or other relatives who witnessed the crime; and
- any other person who has suffered damage as a result of a crime or whose legal interests, as protected by criminal law, may have been harmed in other respects.

You are a witness if you have made observations relevant to the criminal proceedings. This will be determined by the police and public prosecutor during the investigation. During the trial, this decision will be made by the court.

It is up to you whether you wish to join the proceedings as a civil claimant.

Whether you continue the proceedings as a subsidiary prosecutor in the event that charges are dropped is also your decision.

What are my rights and obligations in this role?

During the proceedings all authorities must respect your personal dignity as a victim and your interest in having your personal privacy protected. Appropriate consideration must be given to your rights, interests and specific protection needs. All victims must be informed at the earliest opportunity about their rights and the possibility of receiving assistance and compensation.

Confirmation of your report of the crime must be issued to you on request.

Every victim is entitled to representation and advice. This may be provided by a lawyer, a victim support organisation or another suitable representative. If you are entitled to victim assistance services, the person providing you with legal support will represent you in the proceedings.

If you do not meet the conditions for legal support but wish to be represented by a lawyer as a civil claimant, under certain conditions you may apply for legal aid.

As a witness you are relieved of the duty to testify if you would have to incriminate a relative. You lose this right if you are an adult and are claiming compensation as a civil claimant within the framework of the criminal proceedings.

It is possible to refuse to answer individual questions:

- if the answer would be humiliating or expose you or a member of your family to the risk of a direct and considerable financial loss;
- if the answer would concern your most personal sphere or that of another person;
- if you consider the questions concerning details of a sexual offence 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.

If there are other persons present during the interview, care must be taken not to disclose your personal data. You do not have to disclose your home address. Instead, you can give another address where the authorities can contact you.

You are entitled to examine the files if these concern your interests. You can also request copies from the file in return for payment of a fee. If you have been granted legal aid or the copies requested are the findings and opinions of experts, public bodies, services and institutions, the copies are provided free of charge.

If an offender is released from detention or pretrial custody, you must be informed if, as a result of a deliberate criminal offence, you have been exposed to violence or a dangerous threat, your sexual integrity or self-determination has been violated, your personal dependence has been exploited in the commission of such a crime, or you are a vulnerable victim. If you are the victim of another type of crime, you have to submit a request indicating that you would like to be informed of the offender's release.

You must be notified of the termination and continuation of the proceedings and of any termination of the investigation by the public prosecutor. If alternative measures to conventional criminal proceedings are being considered, you must receive comprehensive information about your rights. Under certain circumstances, you can apply for the proceedings to be continued if they have been terminated by the public prosecutor.

If you do not speak German to a sufficient level or are deaf or mute, you have the right to translation/interpreting support. You are also entitled to participate in cross-examinations, incident reconstructions and the trial, during which you have the right to ask questions and file applications.

Can I make a statement or give evidence during the trial? Under what conditions?

As a victim your rights entitle you to make statements within the context of your testimony or other participation in an interview or hearing. For example, you can declare that you are joining the proceedings as a civil claimant and would like to be awarded compensation. You also have the right to put questions to the defendant, witnesses and

experts.

You are entitled to give evidence if you are summoned to an interview or hearing.

If you are also a witness, you are obliged to comply with any summons received, and to provide truthful and complete information.

What information will I receive during the trial?

During the trial you will be informed about your rights at the beginning of your examination.

It is up to you whether you wish to participate throughout the trial.

The ruling will be pronounced at the end of the hearing. You can find out the content of the ruling by staying until the end of the hearing or examining the court file.

If you have joined the proceedings as a civil claimant, the court is also obliged to decide on your claim in its ruling. If it rules that you will receive compensation, the ruling is regarded as an order for execution under civil law and you can apply to the federal government for an advance on the compensation. However, this is subject to the condition that the person convicted is unable to comply immediately with the payment obligation as a result of serving a (custodial) sentence.

The court can also order that property belonging to the victim that is in the defendant's possession must be returned to the victim.

Will I be able to access court files?

You have the right to examine the files. Access may be denied or limited only if the inspection of files could endanger the investigation or influence your testimony as a witness.

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