

## **I am the victim of a crime. What are my rights?**

Nobody expects to become a victim of crime. Whether you have been pickpocketed, suffered serious injury or have been the victim of another offence, one thing is for sure: You may have been injured or are simply upset, and you are probably confused about what to do next. This publication will tell you where to find help and what rights you have.

### **Who can help me?**

There are a number of victim support organisations that can offer you advice and assistance. These organisations are run by specially trained women and men who have a lot of experience in assisting people in your situation. They are there to listen and to help you. Depending on how serious your case is, these organisations can help you get additional support like counselling or therapy.



You can find an overview of who to turn to here (German only): [www.bmjv.de](http://www.bmjv.de)

You can also go to a police station or search the German Database for Victims of Crime ([www.odabs.org](http://www.odabs.org) – German only).

### **How can I report a crime and what happens next?**

If you want to report a crime, you should contact your nearest police station. Once you have officially reported a crime, the process cannot be reversed. This is because police and prosecutors in Germany are legally obliged to investigate almost all types of crime reported to them.

There is only a small number of less serious crimes that the victim can choose to prosecute or not (for example: insult or property damage). In Germany, these crimes are prosecuted “upon application.” This means that the authorities prosecute the offence only if you, the victim, specifically tell them to do so. In these cases you have a deadline of three months to tell the authorities to prosecute the offence once you have become aware of the crime and know who the offender is.

### **What happens if I don't speak German, or if my German isn't very good?**

That doesn't matter. If you want to report a crime, someone will help you! If you are interviewed as a witness, you will have the right to an interpreter.

### **What information can I receive about how my case is progressing?**

If you are a victim of crime, the authorities will not always send you information automatically about what they are doing to prosecute the offence. If you want to receive information on how your case is progressing, the best thing to do is to tell the police this when you report the crime to them. You should also tell them what information you want to get. Once you have asked for this information:

- You will receive a short document confirming that you have reported the crime to the authorities.
- You will be told if the public prosecutor's office decides to terminate the case, i.e. not to take it to court.
- If the case is taken to court, you will be told when and where the trial will take place and what the defendant is accused of.
- You will be told about the outcome of the trial. This means you will be told whether the defendant was found innocent or guilty, or whether the trial was terminated without a verdict.
- You will be told whether the person concerned is in custody.
- If the person is found guilty, you will be told whether they have been banned from contacting you.

Under certain circumstances you can also ask to receive information or copies from the case files. For example, if you have been involved in a road traffic accident, you might need drawings of how the accident happened in order to receive compensation for the damage and/or for pain and suffering. You can ask for a copy of these drawings from the case files. If you are not involved in the trial as a so-called "private accessory prosecutor" (this term is explained below!) you must explain why you need this information.

There may be exceptions to this rule in some cases.

### **Your statement as a witness**

As a victim of crime you have a very important part to play in criminal proceedings: you are a witness. In most cases you will give your witness statement to the police. In many cases you will also need to testify later on in court. Only in exceptional cases will you not be required to testify. This applies, for example, if you are married or related to the person accused of committing the crime. In these cases you do not have to say anything.

However, you must still give your name and address when asked to do so. You may not have to provide these details if you are in danger, e.g. if somebody has threatened to hurt you if you go to the authorities. In this case, you will not need to give your home address; you

can provide another address for the authorities to reach you. For example, you can give the details of a victim support organisation that you are in contact with.

Being a witness is a situation that most people are not familiar with, and can be very difficult. To make things easier, you are allowed to bring somebody along with you when you testify. This can be a relative or a friend. You can have them with you while you are being questioned as a witness. This person will be asked to leave the room only in exceptional cases. You are also allowed to have a lawyer present. In special cases the state will even pay for a lawyer to assist you during questioning. If you think you need a lawyer to help you while you testify, you should speak to the responsible police officer/prosecutor/judge before they begin asking you questions!

Children and young people who are the victims of violent or sexual offences are offered professional care and support before, during and after the trial. This is called "psychosocial assistance in court proceedings." In some cases, adult victims of serious violent or sexual offences may also receive this kind of support if they need it. Psychosocial assistance is free of charge for victims if the court has approved it. Ask at your nearest police office or victim support organisation for more details. You can also find lots of information on psychosocial assistance in court proceedings online by visiting [www.bmjj.de/opferschutz](http://www.bmjj.de/opferschutz) and clicking on "psychosoziale Prozessbegleitung" (German only).

### **Can I join the prosecution?**

If you have been the victim of certain crimes, you can join the prosecution in your case as a so-called "private accessory prosecutor." You can become a private accessory prosecutor if you are the victim of a crime like rape, sexual abuse or attempted murder, or if the crime resulted in the death of a close relative. This gives you special rights. For example, you can participate in all parts of the trial, which is not the case for other witnesses.

### **Who pays for my lawyer?**

Hiring a lawyer can be costly. If the defendant is found guilty, he or she must pay your lawyer's fees. However, not everybody who is found guilty of a crime is able to cover these costs. You might have to pay some of the fees yourself.

Under certain exceptional circumstances you can ask the court to appoint you a lawyer paid for by the state. You can do this, for example, if you are the victim of a violent or sexual offence, or a crime has led to the death of a close relative, e.g. your child, mother, father,

husband or wife. In this case, the state will pay for your lawyer even if you have the money to do so yourself.

You can also ask the court to help you pay for legal advice in other cases. This may apply if you do not earn a lot of money and you have the right to act as a private accessory prosecutor.

### **Compensation and damages for pain and suffering**

Have you suffered injury because of a crime, or would you like to receive damages for pain and suffering? Do you want to make these claims during the criminal trial? This is usually possible. In order to "add" your compensation claims to the trial, however, you must first submit an application. You can do this immediately when you report the crime to the authorities.

You can also claim compensation outside of the trial. In this case you must turn to a civil court. You can ask the court for financial assistance to obtain legal advice if your income is too low.

### **What other rights do I have?**

Have you suffered damage to your health as a result of a violent crime? If so, the law allows you to receive state benefits. For example, you can receive help to pay for medical treatment or counselling, or to buy equipment such as a cane, walker or wheelchair. You can also receive support in the form of a pension (for example to compensate for loss of earnings). You can apply for these benefits immediately when you report the crime to the police.

If you have been attacked by extremists or have been affected by terrorism, you can apply for financial assistance from the Federal Office of Justice (BfJ). You can find out more about whether you are entitled to this and how you can claim it by looking on their website (you can find this by going to an Internet search engine and typing in "BfJ victim compensation").

If you have become a victim of domestic violence, German law states that you may be entitled to additional protection. For example, you can ask the family court to prevent the person who hurt you from making any contact with you. Also, if you share your home with a person who was violent towards you, the court might give you the right to live there alone. You can submit applications to the court in writing, or you can speak to staff at the court itself and they will file your application immediately. You do not have to be represented by a lawyer.

### **What is victim-offender mediation?**

Victim-offender mediation is a process that is mainly designed to help victims of crime overcome the wrongdoing they have suffered. This is different from a normal criminal trial. In mediation, offenders must make direct and specific efforts to repair the damage and injury they have caused to the victim. The victim may have suffered financial damage, psychological harm or physical injury, or may be suffering from anxiety caused by the offence. Mediation aims to solve these problems. Victim-offender mediation is never carried out against the victim's will. Also, it can be offered only if the offender is seriously willing to accept responsibility for what he or she has done. In suitable cases, victim-offender mediation can empower victims to manage the conflict themselves, and to restore peaceful relations under the law. Police and prosecutors will often recommend this option. However, it is not part of the criminal proceedings, and takes place separately. Victim-offender mediation is offered by specialist organisations that hire trained mediators.

You can find more information about victim-offender mediation and the organisations that offer it in your area on the Internet (e.g. <http://www.toa-servicebuero.de/konfliktschlichter> or <http://www.bag-toa.de> – German only).

### **Brochures and other links**

You can find more information about victim protection on the website of the German Federal Ministry of Justice and Consumer Protection (BMJV). There you will also find links to the websites of Germany's 16 states (with information on local and regional victim support organisations) as well as links to the Online Database for the Victims of Crime (German only): <http://www.bmjv.de/opferschutz>

You will also find helpful information in the following brochures:

- *Opferfibel ("Victim Handbook" – German only)*
  - *Ich habe Rechte ("I Have Rights" – German only)*
  - *Mehr Schutz bei häuslicher Gewalt (Also available in English: "Greater Protection in Cases of Domestic Violence")*
  - *Beratungs- oder Prozesskostenhilfe ("Legal Advice and Legal Aid" – German only)*
- (See [www.bmjv.de/publikationen](http://www.bmjv.de/publikationen))

The Federal Ministry of Labour and Social Affairs also offers information on its website on the help available to victims of violent crime

*(<http://www.bmas.de/EN/Our-Topics/Social-Security/outline-german-legislation-compensation-victims-violent-crimes.html>).*

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