Drepturile victimelor, pe țări

Austria

Sunteți considerat victima unei infracțiuni dacă ați suferit prejudicii sau dacă este posibil ca interesele dumneavoastră legale, astfel cum sunt protejate de dreptul penal, să fi fost afectate în alte privințe, de exemplu dacă ați fost rănit sau vi s-au furat ori deteriorat bunuri, iar acest act constituie o infracțiune în temeiul dreptului austriac. În calitate de victimă a unei infracțiuni, legea garantează faptul că beneficiați de anumite drepturi individuale înaintea, în timpul și după încheierea procedurilor judiciare.

În Austria, procedura penală debutează de îndată ce poliția judiciară (*Kriminalpolizei*) sau parchetul (*Staatsanwaltschaft*) încep cercetările ca răspuns la o suspiciune inițială. După finalizarea acestor cercetări, procurorul poate decide să încheie procedura, să dispună măsuri alternative la procedurile penale convenționale sau să formuleze acuzații în fața unei instanțe. Anumite infracțiuni (*Privatanklagedelikte*) sunt urmărite penal numai la cererea victimei, care, în acest caz, trebuie să formuleze ea însăși acuzațiile. În astfel de cazuri nu se efectuează o cercetare.

În cursul procesului, instanța va organiza o audiere și va examina probele. În funcție de gravitatea infracțiunii, cauzele vor fi audiate de

un judecător unic sau

un complet de judecată (*Schöffensenat*) alcătuit, în funcție de infracțiunea în cauză, din unul sau doi judecători de profesie și doi judecători consultanți, care va decide cu privire la vinovăția inculpatului și la nivelul sancțiunii impuse sau

o curte cu juraţi (*Geschworenengericht*), formată din trei judecători de profesie și opt judecători consultanți (juraţi). Juraţii decid cu privire la vinovăția inculpatului, în timp ce decizia cu privire la nivelul sancțiunii este adoptată în comun de către juraţi și cei trei judecători de profesie.

În calitate de victimă, puteți juca un rol foarte important în această procedură penală și puteți, de asemenea, să beneficiați de diverse drepturi. Puteți să participați în calitate de victimă, fără un statut juridic specific, sau să vă constituiți în parte civilă, acuzator subsidiar sau acuzator privat și să beneficiați de drepturi și posibilități suplimentare.

Faceți clic pe linkurile de mai jos pentru a găsi informațiile pe care le căutați:

1 - Drepturile pe care le am dacă am fost victima unei infracțiuni

2 - Denunțarea unei infracțiuni și drepturile mele pe parcursul cercetării sau al procesului

3 - Drepturile pe care le am după proces

4 - Despăgubiri

5 - Drepturile pe care le am în materie de sprijin și asistență

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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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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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3 - My rights after trial

Can I appeal against the ruling?

A civil claimant (1), subsidiary prosecutor (2) or private prosecutor (3) is generally entitled to appeal against the ruling.
Two types of appeal are available: An appeal for nullity (*Nichtigkeitsbeschwerde*) is concerned with the legality of the proceedings and the ruling, while an appeal (*Berufung*) contests the decision made on civil law claims. As a private prosecutor you may also appeal against the level of the penalty. In the event of an acquittal, civil claimants and subsidiary prosecutors will be referred to the civil courts to pursue their compensation claims.
As a civil claimant, subsidiary prosecutor or private prosecutor you have the right to lodge an appeal for nullity against a ruling in the following case:
if your civil claim has been forwarded to a civil court on account of the defendant's acquittal and it is evident that the denial of a motion you put forward during the trial negatively affected the court's decision on your civil claim.
As a civil claimant or subsidiary prosecutor you are entitled to lodge an appeal if:
in the event of a conviction the court forwards your claims to a civil court, even though they could have been ruled on by the criminal court, as your claims were well founded and justified.
In proceedings before a district court (*Bezirksgericht*) and before a single judge at a regional court (*Landesgericht*), civil claimants and subsidiary prosecutors can appeal against the ruling on civil claims not only if these claims are forwarded entirely to the civil courts, but also if they wish to contest the level of any award.
If you have the status of a private prosecutor in the proceedings, you can rely on the same rights of appeal as the public prosecutor. If the defendant is acquitted, you may file an appeal for nullity. In proceedings before a district court and before a single judge at a regional court, you may also contest the facts established in the ruling by lodging an appeal on the question of the defendant's guilt. If the defendant is convicted, you can appeal if you do not agree with the penalty or if your civil claims are forwarded to the civil courts. If you were not present at the hearing when the court announced its decision, you will need to examine the file to find out if the defendant was found guilty or not. The ruling must contain reasons and be signed by the judge within 4 weeks. If you have participated in the trial as a civil claimant, subsidiary prosecutor or private prosecutor and you lodge an appeal or an appeal for nullity within 3 days of

the pronouncement of the ruling, you must receive a copy of the ruling. You can apply for legal aid to file your appeal or appeal for nullity. If necessary, this can include free translation support. Legal aid will be granted by the court if legal representation is necessary, and if your income is insufficient to pay for the legal representation without endangering your subsistence.

What are my rights after sentencing?

All victims can ask to be informed about the first occasion when the offender is permitted to leave detention without supervision, if the offender escapes and is reapprehended, if the offender is due to be or has been released and of any conditions imposed in the event of a conditional release.

Victims of sexual offences and sexually motivated violence must be heard before electronic tagging is approved if they have asked to be informed about the offender leaving or being released from prison. Such victims must also be notified that electronic tagging has been approved. They are entitled to victim assistance services to support them in asserting these rights.

Otherwise you do not receive any other information from the authorities after the ruling has entered into force. However, you continue to have the right to examine the court file if your interests are affected.

Am I entitled to support or protection after the trial? For how long?

After the trial you are entitled to a concluding discussion with the organisation that has provided you with victim assistance.

Victims of crime who have received psychosocial support during the criminal proceedings are also entitled to such support during subsequent civil proceedings. This is conditional on the subject matter of the civil proceedings being related to that of the criminal proceedings and on such support being necessary to safeguard the victim's procedural rights. The victim support organisation providing the assistance will assess whether these conditions are met.

The victim may seek legal aid so that he/she can be represented by a lawyer in the civil proceedings. This support will be granted until the end of the civil proceedings at the latest.

What information will I be given if the offender is sentenced?

You can find out the outcome of the proceedings and the penalty imposed either by remaining in the courtroom until the oral ruling is pronounced or by examining the court file later.

Will I be told if the offender is released (including early or conditional release) or escapes from prison?

On request, you will 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.

Will I be involved in release or parole decisions? For example, can I make a statement or lodge an appeal?

The victim will be involved in release or parole decisions only in exceptional cases. Only victims of a sexual offence or sexually motivated violence who have asked to be informed about the offender's escape or release will be heard before a decision is made on electronic tagging.

1. Civil claimant

To become a civil claimant, you need to submit a declaration. The declaration must include a specific quantification of the claim being filed for compensation of the loss caused by the crime or the harm suffered. During the investigation the declaration has to be addressed to the police or the public prosecutor. It can be submitted in written form or made orally. During the trial the declaration has to be submitted before all the evidence has been compiled. This is also the latest point by which the claim must be quantified.

As a civil claimant you will have the following rights in addition to those of a victim:

the right to request the collection of evidence that may serve to convict the offender or to justify the claim for compensation; the right to be summoned to the trial; the right to appeal against the court's decision to close the case; the right to lodge an appeal on the basis of your civil claims.

2. Subsidiary prosecutor

To become a subsidiary prosecutor, you have to be or become a civil claimant and declare the subsidiary prosecution. If the offender is a minor, subsidiary prosecution is excluded.

You can become a subsidiary prosecutor by submitting a declaration. If the public prosecutor drops the charge during the trial, you must submit this declaration immediately if you were summoned in due form. If you have not complied with the summons or do not declare the subsidiary prosecution, the offender will be acquitted.

If the public prosecutor drops the charge outside the court hearing or if you have not been summoned in due form as a civil claimant, the court has to inform you of this development. You will then have 1 month to declare the subsidiary prosecution.

If you continue the prosecution instead of the public prosecutor, the latter can access the information regarding the court proceedings at any time and may decide to take over the prosecution again. In this case you will continue to be involved in the trial as a civil claimant.

3. Private prosecutor

Some less serious crimes are prosecuted not by the public prosecutor but by the victim himself or herself. If you are a victim of such a crime, criminal proceedings will be launched only if you bring charges privately before the court. You then acquire the status of a private prosecutor.

In this case there is, in principle, no investigation procedure, but victims of certain online hate offences (defamation, accusation of a judicially punishable criminal act or insult which has been dismissed, if these offences were committed by means of telecommunications or use of a computer system) may apply to the court for investigative measures to investigate the offender. The application must meet the requirements of a request for evidence.

As a private prosecutor, you must prove all the facts which are essential for a conviction yourself. If the accused is acquitted, you must bear the costs of the proceedings. There is an exception for victims of online hate crimes: in criminal proceedings for defamation, accusation of a judicially punishable criminal act or insult which has been dismissed, if these offences were committed by means of telecommunications or use of a computer system and the proceedings do not end in a conviction, private prosecutors or victims who make an application to investigate the offender are liable to pay compensation only if they made the accusation falsely and did so knowingly. However, this exemption from the obligation to reimburse costs concerns only the procedural costs. If the proceedings do not end in a conviction, the private prosecutor is obliged to reimburse the defendant's defence costs in main and appeal proceedings.

The cost arrangements for victims of online hate crimes are valid until 31 December 2023 and will be subject to an evaluation.

4. Victim assistance services

Certain persons are entitled to psychosocial and legal victim assistance services. Such a right exists:

for persons who may have been exposed to violence or a dangerous threat as a result of a deliberate criminal act, whose sexual integrity and self-determination may have been violated or whose personal dependence may have been exploited in the commission of such a crime;

if the death of a person may have been caused by a criminal offence and you are a close relative of that person, or if you are a relative of that person and you were a witness to the act;

for victims of terrorist offences;

for victims of a typical ‘online hate’ offence. These include persistent persecution, continued harassment by means of telecommunications or a computer system (cybermobbing) and incitement. Also included are offences such as defamation, accusation of a judicially punishable criminal act, insult or defamation which has been dismissed, if there are indications that the offence was committed by means of telecommunications or use of a computer system;
for minors who have witnessed violence in their social circle (violence in the family, violence against children).
Victim support must be necessary in order to safeguard victims’ rights and must be ensured by the victim support institution. Psychosocial victim assistance services must always be granted without the need for an application to victims whose sexual integrity may have been violated and who are under 14 years of age.
Psychosocial procedure assistance includes the preparation for the procedure of those concerned and the emotional stress related to the procedure and the assistance to hearings with the police and in court; legal assistance includes legal advice and representation by a lawyer. Providers of legal assistance are also entitled to claim compensation in criminal proceedings (the rights of the civil party).
Victim assistance services are provided by specific victim support organisations (such as child protection centres, counselling centres or intervention centres). They instruct lawyers to provide legal assistance and/or provide the psychosocial assistance by their staff. Their members of staff are social workers, psychologists or comparable professionals with additional – obligatory – legal training in the area of criminal proceedings.
The Federal Ministry of Justice funds the victim assistance services.
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4 - Compensation

What is the process for claiming damages from the offender? (e.g. court case, civil claim, adhesion procedure)

To assert financial claims (e.g. for damages for pain and suffering, treatment costs), victims can
bring a civil action against the offender or
join the criminal proceedings against the accused as a civil claimant.
To assert a claim as a civil claimant in criminal proceedings, you need to submit a declaration, in which you must quantify your claim for compensation for the damage caused by the crime or the harm suffered and demonstrate your entitlement to it (the grounds for and level of the damages/compensation). A further condition is that the defendant is convicted for the damage caused.
You should join the criminal proceedings as a civil claimant as early as possible (ideally when the crime is reported to the police). After the charges have been brought before the competent court, the declaration can also be placed on record with the competent public prosecutor or submitted in writing without any formal requirements. During the trial, the declaration has to be submitted at the latest before all the evidence has been compiled. This is also the latest point by which the claim must be quantified.

The court ordered the offender to pay me damages/compensation. How do I make sure the offender pays?

If the convicted party fails to comply with their obligation to pay the sum awarded, the creditor, i.e. the victim to whom compensation has been awarded, can institute enforcement measures with the help of the court. To this end, a written or oral application (application for enforcement (*Exekutionsantrag*)) must be filed with the competent district court. You have 30 years to assert a claim for compensation awarded in a legally binding court ruling. At the end of this period, the claim becomes time-barred.
If assets of the convicted party are declared to have been forfeited, victims have the right to request settlement of the compensation awarded to them from the assets seized by the State.

If the offender does not pay, can the State pay me an advance? Under what conditions?

An advance payment can be granted only if payment has been prevented by the serving of a sentence. This is the case, for example, if the offender is unable to earn any income as a result of serving a custodial sentence or has no funds as a result of paying a fine. A condition for receiving this advance is that the civil claimant has been awarded compensation in a legally binding court ruling as a result of death, physical injury, harm to health or financial loss. In certain cases the possibility of an advance payment is ruled out (e.g. if other entitlements to state payments exist or if the injury resulted from involvement in affray or in the event of gross negligence).
The request for an advance payment must be filed with the competent criminal court.

Am I entitled to compensation from the State?

Victims of crime can receive financial compensation from the State if
they have been unable to pursue their profession owing to illness or a follow-up treatment, etc. and consequently have suffered loss of earnings
they have had to undergo psychotherapy, crisis intervention or another treatment to improve their health
orthopaedic treatments are necessary
spectacles or dentures have been damaged
rehabilitation is necessary
they require care (in this case a care allowance can be paid)
they are blind (in this case a blind person’s allowance can be paid).
Since 31 May 2009, victims who have suffered serious physical injury can receive lump-sum damages for pain and suffering.
Surviving dependants of victims of crime receive
compensation for loss of maintenance (if the victim has died and their spouse and/or children have lost financial support needed to cover their living expenses)
therapeutic care (e.g. psychotherapy) and orthopaedic care
funeral expenses up to a specified maximum amount.

Am I entitled to compensation if the offender is not convicted?

If the offender is not convicted, the victim is referred to the civil courts and can bring a claim for compensation there.

Am I entitled to an emergency payment while I wait for the decision on my compensation claim?

No.
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5 - My rights to support and assistance

I am a victim of crime. Who do I contact for support and assistance?

In accordance with Section 66b(3) StPO (*Strafprozessordnung*, Code of Criminal Procedure), the Federal Minister for Justice has entered into contracts with appropriate, established organisations that will provide assistance to the persons referred to in Section 66b(1) of the code after verifying that the statutory conditions have been met. Details of these organisations can be found by clicking on the following link, where they have been sorted by province (*Bundesland*): victim support organisations

victim support hotline

Federal Social Welfare Office (*Sozialministeriumservice*): 0043 158831 and general victims' hotline: 0800 112 112 (and also European victim support helpline: 116 006)

Is victim support free?

Yes.

What types of support can I receive from state services or authorities?

Victims of crime receive financial compensation in accordance with the provisions of the Victim Compensation Act (*Verbrechensopfergesetz* (VOG)), Federal Law Gazette (BGBl.) 288/1972.

Under the VOG, the procedure is the same for all applicants (Austrian and foreign nationals). This is an administrative procedure during which the authority has to establish the relevant facts and reach a decision on the assistance applied for. The applicant is required to cooperate with the procedure and provide the necessary information (including for the purpose of establishing the damage).

Applications under the VOG must be filed with the Federal Social Welfare Office, which also decides on them.

What types of support can I receive from non-governmental organisations?

The following are entitled to psychosocial and legal assistance:

victims of a violent crime, sexual offence or dangerous threat, or victims whose personal dependence may have been exploited in the commission of such a deliberate criminal act;

the spouse, life partner, first-degree relatives, brother, sister and other dependants of a person who died because of a crime, as well as other relatives who witnessed the death of a relative;

victims of terrorist offences;

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;

minors who have been witnesses to violent acts within their social circle (violence in the family, violence against children).

Upon request, these victims must be granted psychosocial and legal assistance, provided that this is necessary to safeguard their procedural rights, taking their personal involvement into account as far as possible. The victim support organisations themselves are responsible for assessing whether such assistance is 'necessary'. Victims of a sexual offence who are under the age of 14 are always entitled to psychosocial assistance.

PSYCHOSOCIAL ASSISTANCE

Within the context of psychosocial assistance, victims are prepared for the psychological stress of the proceedings, supported in dealing with their experiences (anxieties, despair, grief or anger) and also accompanied during hearings as part of the investigation or trial.

LEGAL ASSISTANCE

The purpose of legal support is to assist victims in asserting their rights within the framework of criminal proceedings. This is particularly useful and necessary if specific circumstances give rise to concerns that the victim's rights will not be sufficiently respected during the proceedings. If the victim has suffered harm or damage as a result of the crime, the lawyer may claim compensation (e.g. for pain and suffering) on the victim's behalf (if the victim has the status of a civil claimant).

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