

## Germany

### **Victim protection in Germany**

Victims, especially minors and individuals who have been subject to violent crime, domestic violence, trafficking in human beings or other traumatizing experiences, are in particular need of protection, inter alia when testifying in court against the suspected perpetrators. Also, victims may require preventive protection against violence, or may depend on compensation or State benefits for physical or economic damage they have suffered in order to be able to return to their lives. The following overview features some measures by which the system for the protection of the interests of victims of violent crime in Germany has been amended in recent years.

### **Victim protection in criminal procedures**

The German Code of Criminal Procedure stipulates a duty for the court to *interrogate victims in the fashion most respectful of the sufferings they have endured*. This can extend to the accused being excluded from the interrogation, or to allowing the victim to keep his or her identity partly or fully undisclosed. Since 1998, the option exists of recording witnesses' statements by audiovisual means and using the recording in the trial, instead of forcing the witness to undergo renewed interrogation. The witness can also make his or her statement in a different location, and the statement be broadcast into the court room via CCTV. Furthermore, a witness can be assigned legal council for the duration of the proceedings, a practise most frequently applied in case of victims of sexual offences and organised crime.

In the case of child witnesses, the conditions under which these rules can be invoked in the interest of a minor are eased. This concerns, inter alia, the exclusion of the accused from trial for the duration of the interrogation of the child. Also, interrogations of children during the pre-trial phase are supposed to be recorded. If child witnesses testify in court, the right to interrogate them is reserved to the presiding judge.

Victims of sexual offences or child abuse as well as victims of offences against life and victims of human trafficking must be provided with legal council for the duration of the proceedings if they so desire. The costs are borne by the state regardless of the victim's financial situation.

Depending on the nature of the crime, certain victims also have the right to actively participate in the trial. This concerns mainly victims of offences against life or physical integrity, including domestic violence, and victims of sexual offences or of human trafficking. The law gives them a right to participate in the trial by instituting the so-called "associated prosecution". Furthermore, the law offers a procedure for claiming damages in the course of criminal proceedings, sparing the victim the need to a second, civil trial.

### **Victim compensation by the State**

If the State, despite its best attempts, proves unable to prevent acts of violence, it must, under German law, comply with its responsibility by compensating the victims of such acts by granting certain social benefits. On the other hand, there is no State obligation to compensation for damage to property or financial loss. This is based on the concept that the government does not take the place of the perpetrator and is not actually subject to moral reproach.

According to the Federal Crime Victims' Compensation Act, victims of violent crime receive compensation commensurate with that provided for victims of war in the Federal War Victims Relief Act. The Act foresees the provision of the following benefits by the State:

- the costs for medical treatment and rehabilitation, including reintegration into the work force and compensation for disadvantages caused by lasting physical damage, e.g. in the workplace
- disability pensions or survivors' pensions
- social benefits to ensure reasonable maintenance.

Benefits are granted to German citizens as well as to citizens of EU Member States, as well as to all other foreigners who have been legally resident in Germany for a minimum of three years prior to the incident. Foreigners resident in Germany between six months and three years prior to the incident can also receive compensation, except compensation for lost income. The same applies for foreigners residing in Germany for less than six months if they are married to a German or EU citizen or directly related to such a person. Tourists and visitors who become victims of violent crimes in Germany can, under certain circumstances, also receive a lump-sum payment.

In addition, the Federal budget includes a line item for hardship compensation for *victims of terrorist crime*, and a similar item for *victims of radical (in particular racist) violence*. Benefits are granted by the State voluntarily and on a case-by-case basis where humanitarian principles require swift assistance by the state for reasons of equity. Benefits are granted in the form of lump-sum payments in case of physical injuries. In case of extremist violence, compensation can also be granted for certain kinds of moral prejudice.

## **Victim protection by law**

The Federal Act for the Protection against Violence, in force since 2002, enables courts to pass orders of restraint, in particular barring the perpetrator from access to the victim's place of abode, from trespassing beyond a certain diameter around the victim's place of abode, and/or from coming near the victim or from contacting the victim in any way. Such orders of restraint are not limited to cases of domestic violence but may also be invoked to prevent a perpetrator from stalking another person.

In the case of domestic violence, there is the possibility of assigning the victim exclusive use of the joint residence. This was welcomed as a major step forward in particular by women's organisations and child protection agencies. Most German states have followed up with a change in police laws, authorising police officers to order persons suspected of committing domestic violence off the premises in question.