

## **From Negotiation to Implementation:**

# **The application of the Victims' Rights Package in Germany and National Reform within the Context of Protecting Victims of Sexual Exploitation of THB and the Possibility of Measuring Related Costs**



Co-funded by the Internal Security Fund (ISF) 2014-2020 of the European Union

---

## **3. Reformed Victim Protection Act (3. Opferrechtsreformgesetz)**

- **DIRECTIVE 2012/29/EU was implemented into German Law by  
„Gesetz zur Stärkung der Opferrechte im  
Strafverfahren (3. Opferrechtsreformgesetz)“  
(BGBl. I 2015, 2525)**

## Rights for all Victims

- **Section 48 (3) The German Code of Criminal Procedure StPO**
  - Ä **During examinations, hearings and all other investigative acts attention should be paid to the particular vulnerability of the victim**
  - Ä **The need for the following measures should be considered:**
    - Ø **Separate Examination § 168e StPO**
    - Ø **Witness Examination in another Place § 247a StPO**
    - Ø **Exclusion of the public § 171b GVG**
    - Ø **Questions Concerning Degrading Facts and Previous Convictions are to be asked only if they cannot be dispensed with § 68a I StPO**

---

## **Application for Criminal Prosecution**

**All victims must be allowed to report an offence in a language they understand.**

**At the request of the victim the receipt of the reporting has to be confirmed in writing containing information on time, place and offence (§ 158 I StPO).**

**The written receipt has to be translated into a language the victim understands.  
(§ 158 IV StPO).**

## Information Rights for All Victims

- **New structure**
  - Ä§ 406i StPO Aggrieved persons shall be informed of their rights in criminal procedures**
  - Ä§ 406j StPO Aggrieved persons shall be informed of their rights outside the criminal procedure**
  - Ä§ 406k StPO Further information**
  - Ä§ 406l StPO Rights of relatives and heirs of aggrieved persons**

---

## **Information about Rights in Criminal proceedings § 406i StPO (1)**

**For all victims instruction asap, in a language they understand where possible and on a regular basis in a written form for e. g. the following rights:**

- **Notification of the aggrieved person upon application of the termination of the proceedings and of the outcome of the court proceedings and others, § 406d StPO**
  - **Inspection of files § 406e StPO**
  - **Assistance of an attorney or be represented by such attorney § 406f StPO**
  - **Psychosocial support in criminal trials § 406g StPO**
  - **Assistance for an aggrieved person entitled to private accessory prosecution § 406h StPO**
-

---

## **Information about Rights in Criminal Proceedings § 406i StPO (2)**

- **Adhesion procedure**
- **Witness compensation**
- **Victim-offender mediation**

### **Special information obligations**

- **when there are indicators of particular vulnerability**
- **for the benefits of minors and their representatives**

---

## Information about Rights in Criminal Proceedings § 406i StPO (3)

- **Under certain conditions**
  - **Ä Right to join as a private accessory prosecutor §§ 395 ff. StPO**
  - **Ä Appointment of an attorney as counsel upon application or legal aid for calling in an attorney subject § 397a StPO**
  - **Ä interpreter or a translator for an aggrieved person entitled to private accessory prosecution**



## **Rights outside the Criminal Procedure § 406j StPO**

**Notification as soon as possible, in a language the victim understands where possible and in written form about:**

- **Possibility to claim damages or claim compensation for non-material damage before civil courts**
- **Violence Protection Act (Gewaltschutzgesetz)**
- **Crime Victims Compensation Act (OEG)**
- **Right to compensation against Federal Government/Federal States (e. g. Hardship Fund for the Compensation of Victims of Extremist Attacks)**
- **Assistance provided by victim support services**

---

## Further Information § 406k StPO

- Instructions in accordance with § 406i StPO and § 406j StPO should contain information about
  - Ä where the injured person can turn for support
  - Ä who provides the services

## **Rights of Relatives and Heirs of Victims**

- **Relatives and heirs of victims also have rights of information § 406I StPO, insofar as applicable**

## Psychosocial Support in Criminal Trials (1)

- **§ 406g StPO (as of 1 January 2017)**
  - **Ä The injured person may be assisted by a psychosocial supporter.**
  - **Ä The psychosocial supporter has a right to be present during the questionings of the victim and in the trial (together with the victim)**
  - **Ä In some cases the state has to bear the costs.**
- **Regulated in the law about psychosocial support in criminal proceedings**

## Psychosocial Support in Criminal Trials (2)

- **§ 2 Principles**

- **Ä Special form of a non-legal assistance in criminal proceedings**

- **Ä For particular vulnerable injured persons**

- **Ä Before, during and after the trial**

- **Ä Provide information**

- **Ä Qualified support and assistance during throughout the length of criminal proceedings**

- **Ä Neutrality with regard to the criminal proceedings**

- **Ä Separation between consultancy and accompanying**

---

## Psychosocial Support in Criminal Trials (3)

- **Goals**
  - Ä Reduce the individual strain of the victim
  - Ä Avoid secondary victimisation
- **Information about**
  - Ä The principles of psychosocial support in criminal trials
  - Ä The missing right of the psychosocial supporter to refuse testimony

## Psychosocial Support in Criminal Trials (4)

- § 3 requirements in terms of qualifications i. a.
  - Ä University degree social education, social work, pedagogy, psychology
  - Ä Or a completed vocational training in one of these areas
  - Ä Completion of an education or training, which is recognized by one of the German Federal States

## Costs

- **In Germany, competence for costs of criminal proceedings lies with the 16 different federal states**
  - **Ä Costs for translation and interpretation are not quantified in whole in the draft of the law**
  - **Ä As well as costs for psychosocial support**
  - **Ä Federal State Rheinland-Pfalz**
    - **Ø Translation in total (65.000 € estimated for 2018)**
    - **Ø Psychosocial support (220.000 € estimated for 2018)**