

This information sheet is intended for victims as defined in Art. 305 para. 1 the Swiss Criminal Procedure Code (CPC). **If you wish to pursue a legal claim or if you have any questions, please speak to your contact person in the police or in the prosecution service or to one of the advice centres listed at the end of this information sheet.**

Who is defined as a victim under the Criminal Procedure Code (CPC) and Victim Support Act (VSA)?

A victim is a person whose physical, sexual or psychological integrity has been directly and adversely affected by a criminal act.

If the next-of-kin of the victim wish to pursue a civil claim, they have the same legal rights as the victim. The next-of-kin of the victim are his or her spouse, children and parents as well as persons who are closely related to him or her in a similar manner.

Rights of the victim in the criminal proceedings (Art. 117 et seq. CPC)

• Right to information

At the first hearing, the police and the prosecution service are required to provide victims and their next-of-kin with comprehensive information on the victim's rights and duties in criminal proceedings (Art. 305 para. 1 CPC). They also provide information on:

- a. the addresses and services offered by the victim advice centres;
- b. the financial compensation available under the Victim Support Act and
- c. the deadlines for filing applications for compensation for financial losses and for pain and suffering.

This information sheet provides all the information you need!

Unless the victim has made an express request to the contrary, he or she will be informed when the accused is placed in or released from pre-trial or preventive detention and in the event that the accused escapes or absconds (Art. 214 para. 4 CPC).

The prosecution service will also provide the victim with a copy of the indictment as soon as it is available (Art. 327 para. 1 CPC).

Victims and relatives of victims may make a written request to the executive authority for the following information:

- the time of execution of the sentence or measure imposed on the offender, institution responsible for execution, the form of execution, interruptions and relaxations in the sentence or measure, parole and final release, and the reactivation of the execution of a sentence or measure;
- immediate notification of the escape of an offender and of his or her recapture.

(Art. 92a of the BG on the information right of the victim)

• Right to protection of privacy

The criminal justice authorities must safeguard the privacy of the victim at all stages of the proceedings (Art. 152 para. 1 CPC), in particular:

- the court may require the public to be excluded from the entire court proceedings or part thereof in order to protect the privacy of the victim (Art. 70 para. 1 let. a CPC).
- outside the court proceedings, authorities and private individuals may only disclose the identity of a victim or information that permits his or her identification in exceptional cases and subject to very specific requirements (Art. 74 para. 4 CPC).

- **Right to be accompanied by a confidant**

The victim has the right, in addition to his or her legal adviser, to be accompanied during all procedural activities by a confidant (Art. 152 para. 2 CPC).

Where the public is excluded from the court, the victim may be accompanied by up to three confidants (Art. 70 para. 2 CPC).

- **Right to protective measures**

The criminal justice authorities must where possible prevent the victim from meeting the accused if the victim so requests (Art. 152 para. 3 CPC).

Additional rights of victims of sexual offences

The victim of an offence against sexual integrity may:

- request to be interviewed by a person of the same gender (Art. 153 para. 1 CPC);
- request that any interpreter at the hearing be of the same gender (Art. 68 para. 4 CPC; *if you wish to have an interpreter of the same gender, please inform us as soon as possible so that we can arrange the interpreter in good time*);
- refuse to answer questions that relate to intimate matters (Art. 169 para. 4 CPC).

A confrontation hearing with the accused may be ordered against the will of the victim only if the accused's right to be heard cannot be guaranteed in some other way (Art. 153 para. 2 CPC).

Where the case to be judged by the court involves offences against sexual integrity, at the request of the victim at least one member of the court must be of the same gender as the victim (Art. 335 para. 4 CPC).

Special measures for the protection of minors (Art. 154 CPC)

These measures apply to victims who at the time of the interview or confrontation hearing are minors.

The police and prosecution service may exclude the confidant from the proceedings if the confidant could exert an undue influence over the minor victim.

If the interview or confrontation hearing could place a serious psychological burden on the minor victim, the following rules also apply:

- victims who are minors may only take part in a confrontation hearing with the accused if this is expressly requested by the minor (Art. 154 para. 4 let. a CPC).
- victims who are minors should not normally be questioned more than twice in the course of the entire proceedings (Art. 154 para. 4 let. b CPC).
- interviews must be conducted in the presence of a specialist by a specially trained investigation officer and audio and video recordings of the interview must be made (Art. 154 para. 4 let. d CPC).

Private claimants

- **Right to be heard (Art. 107 CPC)**

After the investigation has been opened by the prosecution service, a victim who has expressly declared that he or she wishes to participate in the criminal proceedings as a criminal or civil claimant has the right to be heard. This means in particular the right:

- a. to have access to files;
- b. to participate in the proceedings;
- c. to appoint a legal representative;
- d. to comment on the evidence and the proceedings;
- e. to request that evidence be heard.

- **Remarks on civil actions (Art. 122 et seq. CPC)**

The victim may file civil legal claims arising from the criminal act as a private claimant in criminal proceedings.

The victim's next of kin have the same right where they file civil claims against the accused.

The civil action is initiated by making the relevant declaration to the prosecution service. The claim being made in the civil action must be quantified in the declaration and briefly substantiated in writing.

If the private claimant withdraws his or her civil action before the conclusion of the principal hearing at first instance, he or she may file the action again in civil proceedings.

Tasks of the victim support advice centres (for addresses and services provided, see the final page)

The advice centres provide victims with information and advice on their rights and, depending on what may be needed, provide or arrange medical, psychological, social, material and legal help. The services provided by the advice centres are free of charge.

Provided the victim agrees, the police will pass on the name and address of the victim to a victim support advice centre immediately (Art. 305 para. 3 CPC). The advice centre will contact the victim as soon as it receives the police report.

Forms of victim support (Art. 2 Victim Support Act (VSA))

Victim support includes:

- a. advice and emergency aid;
- b. longer term help from the advice centres;
- c. contributions to the cost of long term help provided by other agencies;
- d. compensation for financial loss;
- e. compensation for pain and suffering;
- f. relief from procedural costs.

Victim support as defined in Art. 2 VSA is provided if the offence was committed in Switzerland. If the offence was committed abroad, the advice centres will still provide help if requested; however, compensation for financial losses or pain and suffering will not be paid.

Compensation for financial losses (Art. 19 et seq. VSA)

Victims and their next-of-kin are entitled to compensation for financial losses incurred as a result of the injury or death of the victim.

Any payments that a victim has received in damages will be deducted from the compensation. The amount of compensation is subject to a limit of CHF 120'000; no compensation is paid if the sum due is assessed as being less than CHF 500.

The competent cantonal authority may make an advance payment if:

- a. the eligible claimant requires immediate financial assistance and
- b. the consequences of the offence cannot be assessed with adequate certainty in the short term.

Compensation for pain and suffering (Art. 22 et seq. VSA)

Victims and their next-of-kin are entitled to compensation for pain and suffering (compensation for non-pecuniary losses) where this is justified by the seriousness of the injury.

The amount of compensation awarded for pain and suffering is assessed according to the seriousness of the injury. It amounts to a maximum of:

- a. CHF 70'000 for victims;
- b. CHF 35'000 for next-of-kin.

Compensation for pain and suffering is awarded where the victim is seriously affected and an award is justified in the specific circumstances. The decisive factor is the effect that the crime has had on the victim, and not the degree of blame that may be attributed to the offender.

Applications and deadlines (Art. 24 et seq. VSA)

Any person who wishes to claim compensation for financial losses or for pain and suffering or who wishes to obtain an advance payment of compensation must apply to the competent cantonal authority.

Victims and their next-of-kin must submit the application for compensation for financial losses or for pain and suffering **within five years of the date of the offence or of the date on which they became aware of the offence**; applications submitted after this deadline will not be considered.

Compensation payments made by Victim Support are a secondary "safety net" for victims and are only made if the offender(s) or another liable person or insurance company has failed to pay compensation or such compensation is inadequate.

Advice centres in the Canton of Thurgau

- **Fachstelle Opferhilfe Thurgau, Stiftung BENEFO (Victim Support Advice Centre), Zürcherstrasse 149, 8500 Frauenfeld, Tel. 052 723 48 26, opferhilfe@benefo.ch**
General advice centre for victims.
- **Die Dargebotene Hand, Tel. 143**
Anonymous telephone advisory service in crisis situations providing a **24 hour service for any form of violence**.