



Merkblatt Opferhilfe (Notice – Help for Victims)

ENGLISCH

This Notice supplies information for victims within the meaning of Art. 305 of the Swiss Criminal Proceedings Order (StPO).

Please ask at the Basel City Public Prosecutor's Office or the Basel City Public Prosecutor's Office (for children and juveniles) if you have any questions, or in the event of uncertainty.

Definitions (Art. 116 StPO)

The injured person who has been directly adversely affected in his or her bodily, sexual or mental integrity by the criminal offence, is regarded as the victim.

The wife or husband, his or her children and parents as well as persons connected in a similar way, are regarded as a relative of the victim.

Particular rights of the victim (Art. 117 et seq. StPO)

Right to personal legal protection

Complete or partial exclusion of the public from court proceedings if interests exist which deserve protection (Art. 70 (1) (a) StPO).

Assurance of anonymity outside the court proceedings (Art. 74 (4) StPO).

Protection of the individual personal rights of the victim at all stages of the proceedings (Art. 152 (1) StPO).

Right of attendance of a trustworthy person

The victim has the right to be accompanied at all court proceedings by a trustworthy person in addition to the legal attorney (Art. 152 (2) StPO).

The victim may be accompanied by a maximum of three trustworthy persons if the public is excluded from the court proceedings (Art. 70 (2) StPO).

Right to protective measures

Wherever possible, the prosecuting authorities avoid a meeting of the victim with the accused person, if the victim requests this. A confrontation can however be ordered in special cases (Art. 152 (3) and (4) StPO).

Right to information

A victim within the meaning of the Swiss Criminal Proceedings Order or his or her surviving relatives are to be fully advised about their rights and duties in criminal proceedings, by the police and the Public Prosecutor's Office (Art. 305 StPO).

Right to free administration of justice

The criminal justice authorities shall grant the victim, on request, free legal assistance in whole or in part for the enforcement of his or her criminal action if he or she does not have the necessary means and the criminal action does not appear to be hopeless. The free administration of justice includes the appointment of legal counsel if this is necessary to safeguard the victim's rights. In the appeal proceedings, the free administration of justice must be applied for again (Art. 136 Code of Criminal Procedure). The victim and his or her relatives are not obliged to reimburse the costs of free legal assistance (Art. 138 para. 1^{bis} Code of Criminal Procedure).

You are receiving all necessary information on being handed this Notice!

Specialist independent consultation centres exist for victims. The consultation centre provides medical, psychological, social, financial and legal help. Help for victims is subject to the duty to maintain absolute secrecy.

The victim is informed about the ordering and lifting of custody pending trial or interim detention pending sentence, as well as an escape by the accused person (Art. 214 (4) StPO).

The charge sheet is also handed to the victim without delay by the Public Prosecutor (Art. 327 (1) StPO).

Upon express request, the victim may ask the court or the public prosecutor's office for the decision or penalty order in the case in which he or she is a victim free of charge.

The victim and his or her relatives have the right to ask to be informed by the enforcement authority about decisions and facts relating to the enforcement of penalties and measures against the convicted person (Art. 92a, Para. 1 Swiss Criminal Code (StGB)).

Special rights for young victims experiencing serious mental strain

Under-aged victims may only be required to confront the accused person face to face if the child expressly demands this, or if the right of the accused person to a fair hearing cannot be guaranteed in any other way (Art. 154 (4) (a) StPO).

The under-aged victim may not normally be questioned more than twice during the complete proceedings (Art. 154 (4) (b) StPO).

Questioning is carried out in the presence of a specialist female investigator trained for this purpose, or an appropriate male investigating officer. The questioning will be recorded in sound and picture if no confrontation takes place (Art. 154 (4) (d) StPO).

Special rights of a victim of criminal offences against sexual integrity

Victims of criminal offences against sexual integrity may demand to be questioned by a person of the same sex (Art. 153 (1) StPO).

Furthermore, the victim of a criminal offence against sexual integrity may demand that a person of the same sex be engaged for translating the questioning (Art. 68 (4) StPO).

If you want this, please say so at the latest 5 days before the date set for the questioning!

A confrontation with the accused person may only be ordered against the victim's wishes, if the right of the accused person to a fair hearing cannot be guaranteed in any other way (Art. 153 (2) StPO).

The victim of a criminal offence against sexual integrity may in all cases refuse to answer questions which concern his or her privacy (Art. 169 (4) StPO).

The court which judges criminal offences against sexual integrity must include at least one person of the same sex as the victim, if this is requested by the victim (Art. 335 (4) StPO).

Right to fair hearing (Art. 107 StPO)

The victim has the right to attend at the hearing and participate in the criminal proceedings as prosecutor or civil litigant, if he or she has expressly declared this.

This means, in particular, the right:

- (a) to inspect files;
- (b) to participate in proceedings;
- (c) to engage a legal adviser;
- (d) to comment on the case and the proceedings;
- (e) to present a motion to hear evidence.

Forms of assistance to the victim (Art. 2 OHG)

Assistance to the victim includes:

- (a) advice and emergency aid;
- (b) long-term assistance from the consultation centres;
- (c) contributions towards costs of long-term assistance given by third persons;
- (d) compensation;
- (e) satisfaction and restitution;
- (f) release from payment of court costs;
- (g) special protection and special rights in criminal proceedings.

Scope of geographical application (Art. 3 OHG)

Assistance is granted to the victim if the offence has been committed in Switzerland.

The services of the consultation centres may be obtained under certain circumstances if the offence has been committed abroad. Compensation and satisfaction is not granted at all.

Subsidiary nature of assistance to the victim (Art. 4 OHG)

Provision of assistance to victims is only finally granted if the offender or another person or institution responsible fails to provide any, or only insufficient, satisfaction.

Anyone who claims contributions towards costs for long-term assistance provided by third persons, compensation or satisfaction, must supply evidence that the conditions stated in the previous paragraph are fulfilled, unless it is not reasonable for him or her to call upon the services of a third person in view of the particular circumstances.

Compensation**Claim to compensation (Art. 19 OHG)**

The victim and his or her relatives have a claim to compensation for damages suffered as a consequence of injury to, or death of, the victim.

Damages are fixed according to Articles 45 (compensation on death) and 46 (compensation on bodily injury) of the Swiss Commercial Code.

Assessment of amount (Art. 20 OHG)

Payments which the victim has received as damages are deducted from the compensation.

Compensation amounts to CHF 120,000.00 at maximum. No compensation is paid if less than CHF 500.00 has been claimed.

Payment in advance (Art. 21 OHG)

The cantonal authority concerned will make a payment in advance if:

- (a) the person entitled to claim requires emergency financial assistance; and
- (b) the consequences of the criminal act cannot be assessed with sufficient accuracy in the short term.

Satisfaction**Claim to satisfaction (Art. 22 OHG)**

The victim and his or her relatives have claim to satisfaction if the severity of the injury justifies this.

The claim to satisfaction cannot be inherited.

Assessment of amount (Art. 23 OHG)

Satisfaction is calculated according to the severity of the injury.

It amounts at maximum to:

- (a) CHF 70,000.00 for the victim
- (b) CHF 35,000.00 for relatives

Satisfaction is awarded if the victim is severely affected and it is justified by the particular circumstances.

The effects of the crime on the victim are decisive. The responsibility of the offender is not the crucial factor.

Payments of satisfaction or restitution by third persons are deducted.

Application (Art. 24 OHG)

Anyone who wishes to claim compensation or satisfaction or wishes to receive an advance on compensation must make an application to the appropriate cantonal authority.

Time limits (Art. 25 OHG)

The victim and his or her relatives must make the application for compensation and satisfaction or restitution within five years of the crime or knowledge of the crime, otherwise the right to claim will be lost.

Information on civil claims**General conditions (Art. 122 StPO)**

The person who has been injured may make civil claims based on the crime, as private prosecutor in the criminal proceedings.

Relatives of the victim are also entitled to the same right if they pursue their own civil claims against the accused person.

The civil claim is to be asserted with an appropriate declaration addressed to the Public Prosecutor.

The private prosecutor may bring the claim before the civil courts if he or she withdraws the civil prosecution before the end of the trial at first instance.

Quantifying and substantiating (Art. 123 StPO)

The claim made in the civil prosecution is to be quantified and briefly substantiated in writing in the declaration, but at the latest, in the pleadings before the court.

Jurisdiction and proceedings (Art. 124 StPO)

The court concerned with the criminal case adjudicates the civil claim irrespective of the value of the matter in controversy.

Contact addresses

Opferhilfe beider Basel
Steinengraben 5
4051 Basel

Telephone 061 205 09 10

www.opferhilfe-beiderbasel.ch

Staatsanwaltschaft Basel-Stadt
Binningerstrasse 21
4001 Basel

Telephone 061 267 71 71

www.stawa.bs.ch

for under-age victims:

Jugendanwaltschaft Basel-Stadt
Innere Margarethenstrasse 14
4001 Basel

Telephone 061 267 74 77

www.stawa.bs.ch



Declaration by Victim

I have received the victim support leaflet.

Special measures for the protection of victims of crimes against sexual integrity:

- I want to be questioned by a person of the same sex.
- I acknowledge that I may claim this right at any time during the whole of the proceedings.

General measures for the protection of victims:

- I do not want to have to meet the accused person at the present time.
- I acknowledge that I may claim this right at any time during the whole of the proceedings.

Notification concerning detention of the accused person:

- I want to be informed about the ordering and lifting of custody pending trial or interim detention pending sentence, as well as about an escape by the accused person.
- I expressly waive receiving this information.

Service of the decision or the penalty order by the sentencing authority

- I wish the court or the public prosecutor's office to serve the decision or the penalty order in the case in which I am a victim free of charge.
- I expressly waive this service.

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Last name, first name of victim
(BLOCK LETTERS)

Place, date

Signature

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Signature of officer

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Signature of translator