

**Potential Steps
and Legal Tips**

What can I do about hate crimes?

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Mobile Advice Centres
for People Affected by
Racist, Anti-Semitic
and Extreme-Right Violence

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Racist and extreme-right violence

This guide is intended for people who have been targeted by racist and extreme-right acts of violence, their families and friends as well as any witnesses to the attack. The first part of the brochure describes potential targets for such violence and presents the kind of help and support our advice centres provide and the principles behind our work. In addition, you will find important aspects about social positions and political intervention which we support. The second section discusses the potential psychological consequences of such attacks, both on the person directly attacked and on his/her friends and family. The third part is devoted to explaining how the law will pursue attackers. Important questions about trials and claims for damages will be explained here in more detail. The next section is directed at people who have suffered an attack who are not German nationals and their right to claim medical care after a racist attack. The final part addresses an issue which has still not been resolved by our politicians: a right to stay in Germany as a permanent resident after being the victim of a hate crime. This must become reality and soon.

This guide is intended to provide a brief look at some important questions and decisions. It cannot, however, replace speaking with professionals or having personal conversations. Please turn to us when you or someone you know has been attacked!

Who is affected by hate crime?

Anyone who is targeted for criminal and violent acts for reasons related to hate, their friends, family and witnesses of the crime. This can include people attacked based on

- race, skin colour, ethnicity,
- looking different and/or not looking like a member of the extreme right,
- their sexual orientation or identity,
- their disability,
- their social status, class or alienation,
- their religion,
- their work against extreme-right attitudes and activities.

And

- me, you, all of us

In our society, people are confronted with violence because they don't fit a neo-Nazi concept of a world where everyone looks the same and has the same values. This is an attack against the equal value of all persons and is an attack on our democratic and humanist values.

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Mobile advice for people affected by racist, anti-Semitic and extreme-right violence

We provide our services

- at no charge, confidentially and anonymously, if desired,
- independent of any state or other social institutions,
- with interpreters, if desired,
- mobile – the consultations can take place at the person's home,
- independent of any legal charges, your residency or social status.

We support those who have experienced extreme-right violence, their families and friends, and witnesses to the crime by offering support

- in taking decisions after the attack such as filing charges, deciding to move or psychological counselling,
- legal questions and rights,
- legal considerations for non-German nationals,
- claims for damages and financial compensation,
- options for social intervention.

We help you

- find an attorney and other professional advice,
- draft a statement about what happened/what you experienced,
- by organising press relations, and
- by accompanying you to court and other hearings.

You get to decide, however, how much help you need or want and when and if support is offered.

Our team will document

- racist, anti-Semitic, homophobic and transphobic attacks,
- attacks against those who don't appear to be on the extreme right, people with alternative looks, the socially disadvantaged, the homeless and people active in the struggle against those on the extreme right,
- attacks against people with disabilities.

If you have been attacked or threatened or know about an attack, we want to help you cope with this crime and move forward.

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of Racist, Anti-Semitic and Extreme Right Violence

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Racist and extreme-right violence hurts us all

and is not just the problem of the victims.

What you can do

as friends, family members, neighbours, politicians, church members, teachers, team members or members of cultural or other organisations:

Take the person's feelings seriously

It is important to take what the target of violence says seriously and to demonstrate this openly with him or her. Fears aroused by the attack can be reinforced if those around the victim fail to show support. Avoid playing down what happened or doubting what is being said. Especially avoid blaming the victim ("Why do you run around looking like that?") or expressing understanding for the attacker's actions – that will just make it harder to deal with what's happened.

Be present

People who are especially close to those involved in such crimes can have a significant influence on if and how the experience will be handled. Showing interest, being trustworthy and taking time together are the kind of support that only close friends and family can support.

Help seek advice

When it comes to questions about damages, rights and options after an attack or how to process one's experience of violence, professional advice can be very helpful for those who have been injured, their loved ones

and witnesses. Help those affected by violence to seek out professional advice and offer a listening ear yourself.

Attacks motivated by racism and extreme-right views are not everyday kinds of crime. The hatred and anti-democratic nature of the crime must be named for what it is. Hate crimes will not go away if we get used to them or just dismiss them as “boys’ being boys” or “just another brawl at the beer tent”. Concretely naming the crime for what it is ensures that it receives the attention of the society and will help those who are targeted come to terms with their experience.

Mayors, members of city councils, teachers and pastors have the opportunity to make an attack a matter of public concern. Politicians and social activities can take a public position and make it clear that the community is not going to tolerate right-wing violence. Describe the facts that distinguish a hate crime and state clearly that people in your community have been attacked for these reasons.

To name the motivation underlying the attack (racism, anti-Semitism, social Darwinism, etc.), you can consider the following circumstances:

- Those attacked belong to one of the groups targeted by right-wing extremists (such as liberals, people of colour, migrants, people with disabilities, homosexuals).
- Discriminatory slurs were heard such as “Zecke” or “Deutschland den Deutschen”.

Clearly name the crime for what it is

- The criminals were wearing clothing typical of the extreme-right scene. If you have evidence of the same, you can mention the attacker's membership in right-wing parties or organisations or their participation in Nazi activities.

Move away from the individual case and look at the whole picture

Even if extreme-right acts of violence are visible forms of hate and discrimination, they really are only the tip of the iceberg. To bring real change to the situation, avoid focussing solely on the attack. What's really needed is to put the crime into its local context. This means moving beyond attacks to discuss other right-wing activities and societal attitudes as a whole. Therefore:

- Describe local right-wing activities such as graffiti, stickers, concerts, gatherings and/or demonstrations of extreme-right parties or organisations.
- Describe where people in clothing typical of those holding extreme-right views gather or tell of anti-Semitic or racist statements heard at the footy, the village festival, or in school.

Take a democratic position

You can take a clear stand against neo-Nazism and racism and for democracy in your community:

- Express your solidarity with those targeted by extreme-right violence in a public way.
- Organise events, fundraisers or demonstrations against right-wing extremism. Support politicians who speak out against extremism.
- Report extremist attacks to our advice centres and help to fight against the normalisation of right-wing violence.

- Take a stand against racist and extreme opinions, slogans and activities in your daily life.

There is no single way to begin addressing extreme-right and racist violence in your community. We will be glad to give you advice and will work with you or your partners to develop options for dealing with your current situation.

A plea against victimisation

Many people who have been attacked don't call themselves "victims". And that's a good thing.

The concept of "victim" has its roots in criminology and social science. Those who have been attacked can experience a second victimisation when those around them act in confrontational ways after the attack, for example with trying to blame the victim, lack of response from the police and the prosecutor's office, denying the motive behind the crime, playing down the crime's severity, but also mothering the person targeted by violence and trying to speak for him or her.

This second stage in victimisation causes psychological, social and financial consequences that did not directly result from the crime itself. They result much more from the actions and statements of people in the person's life before and after the crime (parents, teachers, police, courts, etc.).

The term “victim” suggests a high level of passivity, a weakened position, a feeling of helplessness and the sole responsibility for dealing with the attack placed on the shoulders of the person attacked. To avoid making this any worse, it would be best to avoid the term and instead use terms “the person attacked”, “the person targeted” or “the injured person”. Or maybe just his or her name.

Working through the experience of a hate crime depends a lot on the individual capabilities of the person attacked, geographical distance from the attacker(s), legal investigation and prosecution, and personal circumstances or economic factors, but it is primarily dependent on

- the reactions of the person’s social network (loved ones, colleagues, neighbourhood, churches),
- the skills of the professionals on the case (police, attorneys, media, medical)
- the reactions of public and institutional leaders (from the world of politics, government, sport, culture and social work).

Potential Psychological Reactions after an Attack

Depending on external influences and previous experience, people who have experienced an attack have different coping mechanisms. The duration and intensity of the aftermath of an experience of violence can differ significantly. Physical and psychological problems can reveal themselves not only right after the event, but some time later. The following section discusses psychological reactions which the injured person might experience.

How you might feel after an attack

Thinking about what you've experienced

Some people can't escape the attack – it keeps on playing inside their mind. Thoughts race around, sometimes memories come back suddenly and you feel like you're back in the moment. Sometimes distinct images of what happened can enter your thoughts. That can leave you with a horrible feeling and burden your soul.

Avoid places and situations that relate to what you've experienced

Some people have described just how unbearable it is for them to encounter certain places, sounds or people which remind them of the attack. They suddenly “become invisible” and they avoid a certain street or house, sometimes taking lengthy detours in the process. As a result, some can't figure out how they're going to take care of their shopping or get to school. Everyday life becomes a lot harder with all of these restrictions.

Feeling insecure

The circle of thoughts and memories around the experience can leave the person deeply nervous. Feelings of unrest or fear are possible in different situations such as darkness or in large crowds. People who have been attacked are often easily startled or wake up in the middle of the night and can't get back to sleep.

When it comes time to confront one's attacker(s) in court, the person can suffer from significant anxiety. Feelings of insecurity, rage or revenge may appear.

It is possible that those who have been attacked may feel sad, helpless or unable to move on after an attack, even for a longer time. Some will withdraw from their social networks, not accept invitations from friends and family, and stop meeting obligations or pursuing hobbies. Some will consume more alcohol or drugs to be able to sleep or suppress thoughts about the attack.

Losing joy

All of these reactions are individual coping mechanisms which need time to work through. You may be suffering from post-traumatic stress and acute feelings of being overwhelmed. It is important that you take your feelings seriously, not feel ashamed and not blame yourself. If you are still showing the symptoms listed above for a longer period, then you should consult a mental health professional.

What you can do

To minimise the consequences of the attack, there are a number of options that have worked for other people who have been attacked and which help to win back your self-confidence and sense of well-being. What's especially important is that you know this: **YOU ARE NOT TO BLAME.**

Conversations and activities with friends or family can be helpful in feeling safe and well again.

Don't be afraid to seek professional advice. Our advice centres can provide support on legal, financial, therapeutic or practical decisions after the attack. You have the chance to speak with us in full confidence about the attack and its consequences.

Options for psychological support

Physical injuries require time and professional treatment to heal; injuries to your soul require the same. That's why if you're feeling mentally overwhelmed for a longer time, talk to a doctor or a therapist.

You will need a referral from your GP to see a psychologist or psychiatrist. Your insurance will cover the cost of the visit, which as a rule lasts about 45 minutes. The first five sessions are trial sessions to see if you feel comfortable with that particular therapist. If you don't feel comfortable, then change. Once you've found a therapist you're comfortable with, a treatment plan will be sent to the insurance company indicating the recommended number of sessions.

You can find more detailed information about the different types of therapy online at

www.psychotherapiesuche.de

What you can do as a friend or family member

As a friend or family member, you can offer support by

- taking the individual needs of your friend/family member seriously
- listen without pressuring him or her to speak or make decisions
- provide practical support if asked
- stand up for him or her

If you need information for yourself or need to talk to someone, please get in touch with one of our advice centres.

Getting the law involved

Only a few people who suffer attacks have had previous experiences with the German justice system. Most do know, however, that an attack is a crime which the police need to prosecute. Many are unsure, though, how to get started and what role they will have to play in the proceedings. Concepts which can be relevant to injured parties and witnesses such as calling witnesses, reporting a crime, filing charges, accessory prosecution, legal aid, damages, etc. will be explained in the section which follows.

Important measures to take right away

If you have been injured in the attack, it is important for both your physical healing and the legal process to follow that you seek medical attention immediately. The doctor will determine how severe your injuries are and write a report about your physical and mental injuries. This is often the basis for later injury claims in court and the amount of compensatory damages awarded. External wounds and bleeding should (also) be photographed.

Document injuries

Torn clothing, broken window panes, hate speech sprayed on your house wall and much more are all damages for which the attackers will be required to compensate you. They also play an important role in the trial. Take pictures and make a list of all property damage and the costs needed to replace/repair the item (with receipts if possible). Your friends, family or our staff can be helpful in putting together this list.

Document property damage

Directly after the attack, both you and the witnesses to the attack have strong visual memories of what has happened. Time will blur these memories, especially those details important to the prosecution. That's why it is important for you and your witnesses to write *separate* accounts of what happened as soon as possible. This will allow you to give more precise details when the trial is held months or even years down the road. You can't read your account in the courtroom, but it will help prepare you for your court appearance.

Write your eyewitness account

Give yourself plenty of time and use the following checklist to write down what happened during the attack. If you don't have an answer to any of the questions, that's no problem.

- How did the attack happen?
- Where and when did it happen?
- How many attackers did you see?
- What did they look like? (male/female, size, clothing, masks)
- Did you recognise anyone?
- Which attacker did what? (Who did the hitting, who was standing by and who kept an eye out?)
- How many times were you hit?
- What was said before, during and after the attack?
- Where did the attackers run off to?
- Are there other witnesses?
- How did you react during the attack?
- What injuries did you suffer? Was anybody else injured?
- When did the police arrive and what happened then?

Reporting the crime

Incident report

You file an incident report (*Strafanzeige*) when you suspect that you have been the target of a criminal act, either with the police or the prosecutor's office.

What is an incident report?

You might hear some people say that filing a report doesn't go anywhere. People who have experienced a crime may be unsure whether the police or the court will believe them or the statements of the attackers.

Do I really have to file a report?

Some people will not file an incident report after suffering a criminal attack because they

Reasons not to file a report

- fear revenge from the extreme-right
- are sceptical of working with the police, prosecutors and courts
- have had bad experiences with government institutions
- are not permanent residents of Germany or have a legally muddy status
- have been attacked before and resign.

If one or more of these points affect you, please don't shy away from coming to one of our advice centres. We accept your decision and will support you even if you decide not to file charges. We are independent of government institutions and will work with you on a confidential and, if necessary, anonymous basis.

Reasons to file a report

Despite the reality that police investigations often go nowhere, attackers aren't tried or convicted, there are still reasons for filing an incident report. The report is important because

- it sends a clear signal to extreme right attackers and their supporters that we won't cower in fear and tolerate such crimes,
- it sometimes leads the attacker to file counter-charges against the victim, claiming he or she provoked the attack. In this instance, the best protection is to have filed your own incident report so that the police have to investigate your report, too. That way what really happened can be finally be found out,
- the government will prosecute the perpetrators and let the justice system punish them,
- this is the first step away from being a "passive victim".
- this is the only way that the attack will be counted in the official police statistics on right-wing acts of violence,
- it makes it easier to seek financial damages,
- that it helps prevent attackers from feeling encouraged because they don't fear prosecution.

In our experience, filing an incident report does not lead to revenge attacks.

There is no time limit for filing an incident report and it doesn't have to be in any specific form. It can be done

How do I file a report?

- by speaking with a police officer or prosecutor in person
- by telephone
- by letter.

It can also be done anonymously at

- any police station,
- at the prosecutor's office, especially when you are afraid of speaking with the police,
- or at your local district court.

It is advisable to make it clear that you want to make an incident report to initiate an investigation. Once submitted, an incident report cannot be rescinded. Every incident report will be given a journal number by the person taking the report. Make sure you write this down – it is helpful when you have further questions, want to file charges or want to provide further details. You can bring a friend, family member or one of our staff members with you.

You can find a sample written incident report on page 50 of this brochure.

Filing Charges

What does it mean to file charges?

When you file charges (*der Strafantrag*) for a crime committed against you, you are giving your consent to its prosecution. It is only required for cases the police are not required to investigate, usually minor crimes such as petty theft, property damage or minor injuries. But we recommend leaving that decision to the professionals and always filing charges, especially if you have suffered physical injuries. There are no repercussions for the person filing charges, even if it turns out that it wasn't necessary.

Who can file charges?

As a rule, charges are filed by the person who was the direct target of the crime; parents file for minors.

How do I file charges?

You can file charges in the same way as you file an incident report either at the police station, the prosecutor's office or the court, either in writing or by having an official take your statement. What happens most often is that the police officer will ask you to sign the *Strafantrag* when you file your incident report. Unlike the incident report, though, you can change your decision to file charges, but once you, it cannot be reinstated.

You can find a sample *Strafantrag* on p. 51.

Is there a deadline for filing charges?

Charges must be filed within three months of your discovery of the crime and the perpetrators. What this means is that you have three months to file charges after the police have identified the perpetrators and have told you their identity.

Your right to be kept informed

As the injured party, you will be informed about the outcome of the investigation, but this will only be done if you have filed a request for information. The police officer or prosecutor will usually give you a request form. If this hasn't happened or if you decide later that you want to be kept informed about the outcome of the investigation, then you can write a short request letter.

You can find a sample request on p. 53.

What to do if the attacker files an incident report

To divert blame for their actions, some criminals will file their own incident reports implicating those they have attacked. If this happens, keep calm. The police and prosecutor's office are aware that this sometimes happens and will decide based on the evidence.

If you are being attacked, you have right to defend yourself (*Notwehr*). Others may also come to your assistance (*Nothilfe*). If the attacker has filed charges against you, it's possible that you will be interviewed as an accused person. Make sure you read your summons closely to see if you are being called as a witness or are being accused of a crime. If you have been called as a witness, you are not under investigation. If you are called as an accused person, then the police are investigating you. If you have been accused in an incident report, get in touch with one of our advice centres or an attorney as quickly as possible.

Police and prosecutor's office

Investigation

As soon as an incident report is filed or the police or prosecutor's office learns of a crime, they are required by law to begin investigations.

Objectivity

The investigation must be conducted from an objective point of view. This means that the police and prosecutor's office must review all circumstances surrounding the crime and shed light on what actually happened from all sides. This can sometimes mean that the police and/or prosecutor's office can interview you thoroughly several times, often requiring a significant amount of time. They can also take a critical attitude during the interview, but you also have the right to be treated in a fair and appropriate manner.

Duration and investigative procedure

The investigation must continue until the prosecutor files a criminal complaint or the case is dismissed. The police will work as long as it takes to develop a clear picture of the incident or when they determine that further investigation will not bring about any new evidence. Investigations can sometimes take a long time, such that several years may pass between the crime and the court trial.

Status inquiry

If you suspect that not much is being done about your case, you can make a status inquiry (*Sachstandanfrage*) with the police or prosecutor's office. To get a faster answer, you should add the police journal number or the prosecutor's record number.

A sample status inquiry can be found on p. 52.

Case dismissed

If the attackers can't be identified, the evidence is insufficient or other legal hindrances exist, then the prosecutor's office will dismiss the investigation.

Due to lack of evidence

The prosecutor's office or the court can dismiss the investigation if the guilt of the perpetrators is determined to be of minimal legal significance. This option is available only for crimes punishable by less than a one-year prison sentence. This applies to a variety of typical extreme-right crimes such as vandalism, verbal harassment and bodily harm.

Due to "insignificance"

The prosecutor's office or court can dismiss the case with the consent of the perpetrator in exchange for a fine or community service. What happens is the perpetrator is required to pay damages or to perform community service such as working for a social service agency. This, too, is only available for crimes punishable by less than a one-year prison sentence.

*After paying fines or
community service*

If the attack is "less significant" than the criminal's other crimes or has already been punished as part of another prosecution with a heavier sentence, the prosecutor's office can dismiss the case due to "insignificance".

*Due to "more significant"
crimes*

Appeal against the dismissal

Your rights if the case is dismissed

As the injured party, you will receive a detailed report about the dismissal of the case and have the right to file an appeal at the prosecutor's office. You will need to be specific as to why you are dissatisfied with this decision. If you have new knowledge or evidence, then you need to name it explicitly. An appeal is also possible if the prosecutor's office has not acted or declines to start the investigation.

An example of an appeal against the dismissal (*Einstellungsbeschwerde*) can be found on page 55.

Rights and duties of witnesses

What is a witness?

Witnesses in a criminal investigation testify about what they know about the attack. According to German law, those injured in an attack are to be treated solely as witnesses.

Giving testimony to the police

To investigate an attack, the police try to interview every person who can help clarify what actually happened. The first questionings will often happen at the crime scene. But then you will often be asked to repeat your testimony later at the police station or provide it in writing.

What happens during a witness interview

Witness interviews usually take place at the police station. With your consent, the police officers can also come to your home or meet you somewhere else. Make sure you give yourself plenty of time to prepare and for the

interview itself. Witnesses will first be informed of their rights and duties. The police will ask you to describe the attack from your perspective and then will ask you questions. Often these will focus on details and on the exact order of events. It's therefore helpful to have reviewed these before you go and read through your written notes made as soon as possible after the attack. If you've seen the attackers, the police may show you photos or in rare cases a line-up of suspects.

You don't have to wait, though, for the police to call you in for an interview. You have the right to make a written statement and send it by post or email to the police or the prosecutor's office. If the police don't call you or you feel uncomfortable in their presence, then this can be a good option. It is possible, though, that you will still be called in to clarify any outstanding questions.

Written witness statement

The police cannot force anyone to make a statement. But consider that you may know something important to solving this case, even if you think you don't remember much about it.

Do I have to go?

In some cases, the investigating authorities will consider your statement to be so important for the case that they will summon you to the prosecutor's office if you don't go to the police station when summoned earlier. You are required by law to obey this summons. If you don't go, you can be arrested for contempt by the police.

A summons to the prosecutor's office

Witness rights

As someone who has suffered or witnessed a criminal act, you have the right for your information to remain private, especially against the perpetrators. This is true from the beginning of the investigation by the police or prosecutor's office until you walk into the courtroom.

Protection of your home

Instead of providing your real address to the authorities, you can give them another address where you can be reached. You do have to state that you have reason to believe that by giving your actual address you might be at risk for further attacks, threats or property damage. This new rule was specifically designed to protect witnesses from being intimidated by right-wing criminals. Your alternative address can be any address where you can be easily reached by the authorities (attorney, job, postal box). If you're working with one of our advice centres, you can also use its address. The new law also allows your address to be removed from case records, even after the fact, although this may prove to be difficult in practice. To avoid having to go through this process later, we recommend that you use an alternative address from the start. Just take your driver's licence or passport to your interview. That's sufficient to prove your identity and no official will write down your address in the record.

Your right to have someone with you

You are permitted to have an attorney with you at any time that you are being questioned by the police, prosecutor's office and in court. The attorney will make sure that your rights are being observed. With the consent of the interviewer, you can also be accompanied by one of our advice centre staff members or another trusted person. The best thing to do would be to ask in advance whether this is possible. If not, we'll help you find an attorney to go with you.

If German is not your first language, you have the right to request an interpreter at any stage of the investigation (police, prosecutor's office, court). Many prefer this even if they speak German very well, because questioning can be a very stressful and emotionally confusing situation. It is also your right to give your statement in your native language. Insist on this right.

Interpreter

As a witness to a crime, you are required to help determine the truth.

Your duties as a witness

You must obey a summons from the prosecutor's office and from the court and appear at the time listed. If you are ill or can't be reached for a long time, you need to tell the office or court as soon as possible so that the date can be changed. If you do not appear, you will be subject to a fine and forced to appear by the police.

Your obligation to make a statement

As a witness, you are required by law to tell the truth. This means that you cannot knowingly lie, omit facts nor add false information. If you aren't sure of an answer or can't precisely remember, say so. Making a false statement before the court is a criminal offence.

Your obligation to tell the truth

Court Hearing

Once you get the summons to appear in court, the attack will once again flood back into your memories, even if it was months or even years ago. There's a good chance

Preparation

you'll feel uneasy and look forward to this statement with a bit of dread. Find support during this time and talk with friends or family. Our team can help you get ready for your court appearance and will explain to you what will happen in detail. A short introduction to the process follows.

Appear on time

On the day set for your witness statement, be on time and bring your written summons with you. You have to wait in the hall until you are called in. This often takes a while because the trial may be running behind.

Your obligation to tell the truth

Once you get into the courtroom, you will be seated at the witness table. The court will first inform you of your obligation to tell the truth. This doesn't mean that the court doesn't trust you, rather this is a formal reminder required by law given to all witnesses.

Witness statement and questioning

The court will then ask you to tell what happened. Speak truthfully and say if you're no longer certain about something. After you're finished with your statement, the court will ask you questions. This can sometimes feel very intense or wearying, but this doesn't mean the court doesn't believe you. Rather, the court is obligated to develop a comprehensive, concrete picture of the crime. The more intensive the court's questions, the fewer questions you can be asked by the attacker's attorney. After the court, the prosecutor's office, the attorney for the co-complainant and the defence attorney all can ask you questions. If you don't understand a question, don't hesitate to say so.

The court is obligated to intervene if you are being asked questions which are not related to the case or if the defence makes insulting or other derogatory comments. The attorney for the co-complainant, if present, can also object. If you are uncertain, you can also ask the court if you have to answer a question. If you need a break, then tell the court.

The court's duty to protect you

It can happen that one of the attorneys will read from the record of your police questions and ask if that reflects your current memory of the facts. This is an everyday occurrence in court and is not intended to accuse you of making false statements. It is much more to help you refresh your memories of a crime which often happened quite a while in the past.

Your earlier witness statement

After you are done with your testimony, you are dismissed as a witness and can ask for reimbursement for your costs (travel, lost earnings).

Costs for appearing

You are now free to leave or you can take a seat in the audience.

Other witnesses and experts will be asked to testify and photos and films may be shown. Once this is done, the evidentiary part of the trial is over. Then the attorneys for the prosecutor's office, the co-complainant and the defence make their pleas to the court. They use their pleas to interpret the evidence from their point of view and can demand a punishment. The court then retires to consider the case and will often return with a verdict on the same day.

The rest of the trial

Possibilities after the verdict

Many injured parties are disappointed by how long an investigation has taken, the brief presentation of their perspective and the motive behind the crime, as well as what appears to be a rather mild statement from the judge. Co-complainants have the opportunity to review the verdict in detail. You can also speak one of our advisers about the proceedings and the outcome and determine any further steps available.

Summary judgement and cases with juveniles

Summary judgement

In some cases it can happen that the attackers will not appear in court but are still sentenced. This summary judgement (*Strafbefehlsverfahren*) is a faster and less complicated court proceeding for crimes punishable by less than one year's imprisonment. Instead of filing a complaint with the court, the prosecutor's office will request a summary judgement and the court then approves it.

Juveniles

If the perpetrators were between 14 and 18 years of age at the time of the crime, then they are tried as juveniles. Children under the age of 14 are exempt from punishment and cannot be brought to trial. If the attackers were between 18 and 21 at the time of the crime, then they may be treated as juveniles or adults at the court's discretion.

Differences in juvenile cases

Criminal law for juveniles takes into consideration their lack of maturity and is orientated towards the juveniles' rehabilitation. The court has several less severe options available to it in addition to sentencing the juvenile to a detention centre. These include warnings, community

service, compensatory damages, required participation in social skills classes and police supervision. This is intended to give young criminals a chance to change and is viewed less as punishment as a form of education. If only juveniles are on trial, the public is excluded from the courtroom to protect the juvenile defendants.

Your rights as the injured party

Your right to information

You can look at the case files with an attorney. If the case has been dismissed, you also have the right to look at the files to determine if you have any legal recourse.

The prosecutor's office is required to inform you about your rights in the case in writing and, if at all possible, in a language you understand.

Nebenklage

As the injured party, you can take a more active role in the case if you decide to want to be named as a private co-complainant with the state against the defendant. This is called in German a "*Nebenklage*", a term we will use here. As a co-complainant, you have numerous rights in the case, including the right to have your own attorney represent you in the trial.

Viewing case files

*The obligation to inform
you of your rights*

What is a Nebenklage?

What happens in a *Nebenklage*?

As the co-complainant, you have the right, but not the obligation, to attend the entire trial, even before you are called to testify. You also won't have to sit in the audience; rather, you will your own seat next to the prosecutor. Your attorney can ask questions of the accused and any witnesses and experts called to testify. Your attorney can also submit evidentiary requests and make a final plea to the court. This gives you an active role in the case. Your perspective can take a stronger role in the evidentiary portion of the trial and can help to bring out the right-wing motivation behind the attack. When making his/her plea, your attorney can then summarise the whole from your perspective. You will also have other procedural rights. You will, for example, have the right to appeal the verdict on factual or procedural grounds and have another court review the case.

Who can file a *Nebenklage*?

People who have suffered certain crimes are entitled to file a *Nebenklage*. These include:

- all crimes against the right of sexual self-determination,
- manslaughter and murder,
- all voluntary acts of bodily harm,
- especially severe cases of duress and coercion.

In cases when the victim has been killed, the next-of-kin are entitled to file a *Nebenklage*.

Certain less severe crimes may be accompanied with a *Nebenklage* under limited circumstances. These include:

- all crimes of harassment,
- bodily harm caused by negligence,
- breaking and entering,
- all robbery and blackmail.

For these crimes, the court must be presented with grounds for a *Nebenklage*, usually because the crime has had severe consequences such that your interests need to be represented.

The law does not require you to have an attorney. But we expressly recommend that you have a lawyer for various reasons:

Do I need an attorney?

- As a co-complainant, you have a right to be present from the very beginning. Often people decide to wait outside of the courtroom until they testify. This may help your witness statement seem more credible because you haven't been present to hear the previous evidence about the accused.
- Your attorney can represent you and your interests through the entire trial.
- Attorneys have experience with witnesses and final pleas. Use their expertise.
- Your participation will be less about trial procedure than just presenting what you have experienced and the consequences.
- With an attorney, you won't need to be present for the entire trial, but your perspective and rights will be represented before the court.

You should let an attorney represent you who specialises in criminal law and cases of right-wing acts of violence. Our advice centre can help you find a good attorney.

How much does it cost?

Hiring an attorney always has some costs associated with it. If the attackers are convicted, then they are obligated to bear the entire costs of the trial, including attorney's fees. If the defendant is not convicted, then you may have to pay the fees yourself. The advice centres will be glad to help you explore alternative financing options.

Legal aid

Legal aid (*Prozesskostenhilfe*) is available to finance the costs of a *Nebenklage*. In this instance, the state will assume your legal costs if the defendant is not convicted. This will be granted if you meet the following conditions:

- Based on your personal and financial situation, you are unable to pay attorney fees in whole or in part.
- You are unable to represent your interests or it is unreasonable to expect you to do so. This can apply especially if the psychological burden you have suffered is great.

The petition for legal aid will be filed by your attorney. You will have to make a statement about your financial circumstances and provide proof.

Free initial consultation

From the "Weißer Ring e.V.", a national association offering support to crime victims, you can receive a voucher for an initial attorney consultation with a local attorney.

You can also get a voucher at the district court office if you provide proof of financial need.

You can also let your attorney know that the DAV has a foundation to cover some of the costs. You can find more information at

*Stiftung des deutschen
Anwaltsvereins (DAV)*

www.anwaltverein.de/downloads/stiftung/rat.pdf

The DAV provides support for questions about the trial, *Nebenklage*, court costs and compensatory damages.

Damages and compensation for pain and suffering

The attackers are required to compensate you for damages caused by their actions (destroyed shop, windows smashed in, broken eyeglasses, damaged clothing, etc.) and to pay compensation for pain and suffering. Actually collecting this, though, can often require a drawn-out process that isn't always successful.

Civil litigation and concurrent lawsuit

Claims for damages and compensation for pain and suffering are, as a rule, made in civil court where a plaintiff explains the grounds for such claims against others. Civil courts are subject to different rules than those in criminal court.

Deutscher Anwaltsverein (DAV)

Foundation against Extreme-
Right Violence
Littenstraße 11
10179 Berlin
Tel: 030 – 7 26 15 20
Fax 030 – 7 26 15 21 90
dav@anwaltverein.de
www.anwaltverein.de

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Civil litigation

In a civil lawsuit, you have to prove to the court that you have a claim to damages and/or compensation for pain and suffering. That's why we recommend waiting until the verdict in the criminal trial. If the civil court grants you your petition for compensation, you are given a lien (*Rechtstitel*). When the respondent does not make the payments voluntarily, you can employ the services of a bailiff (*Gerichtsvollzieher_in*), but if the respondent has no assets beyond the exemption amount, you'll come away empty.

Costs

In a civil trial, you bear the costs until your petition is granted. If the attacker is penniless after the judgement, you'll be left paying the costs. We recommend that you speak with your attorney or someone in one of our offices before you file a civil lawsuit.

Legal aid for civil lawsuits

You can petition the court for legal aid for civil lawsuits, too, if the following conditions apply:

- Based on your personal and financial situation, you are unable to pay costs in whole or in part.
- If your petition appears to have a good chance of being granted.

A preliminary hearing will be held to decide your petition's chances of success.

Concurrent lawsuit (*Adhäsionsverfahren*)

An alternative, risk-free variant is the so-called *Adhäsionsverfahren*. In this process, you can make your civil claims against your attackers during the criminal trial. A concurrent lawsuit is not possible with defendants under the age of 18.

You must petition the court for the right to pursue your legal claims during the criminal trial. This is separate from joining the prosecution (*Nebenklage*). The petition for a concurrent lawsuit must be made by you personally or by your attorney. You should discuss the advantages and disadvantages of this legal option with a staff member at one of our advice centres or with an attorney.

Petition for a concurrent lawsuit (Adhäsionsantrag)

Other options for collecting damages

Payment from the Federal Ministry of Justice

Since 2011, people who have suffered violence based on extreme-right views have been eligible for voluntary support from the federal government. This is considered an act of solidarity by the nation and its citizens and is a clear sign of societal disapproval of these kinds of attacks.

People who have suffered damage to their health as a result of extreme-right violence can receive a one-time payment. This applies both to those who were directly attacked, their survivors and those injured while trying to respond against the attack. The payment is made regardless of your nationality, age and country of origin.

Who's entitled to file a petition?

The injury can be either physical or psychological, but must have been caused by a crime with racist or extreme-right motives. Because payment requires you to prove your injuries, it is important to have a medical professional document your injuries, especially psychological issues such as sleep disorders, anxiety, fears, etc. It is not necessary to prove with this document that they were the result of hate crimes – it's sufficient to show that hate was

Conditions for filing a petition

Payments

highly likely to have been part of the motive. Even if there is no conviction or the attackers are not identified, you can file a petition if you have filed an incident report with the police or prosecutor's office.

A payment may be made for bodily injuries and for injuries to your general personhood and for insults. Lost income and professional disadvantages can even be compensated. Property damages are excluded, though, from this federal compensation programme.

Filing your petition

You file your petition using a form from the Federal Ministry of Justice found at

Bundesamt für Justiz

Referat III 2
Opferentschädigung
53094 Bonn
Tel 0228-9 94 10 52 88
Fax 0228-9 94 10 55 94

www.bundesjustizamt.de/opferentschaedigung

This form asks for precise details about what happened, including time and place and evidence of the hate crime. The injuries you suffered should also be clearly listed; affidavits and photos of visible injuries can be included. The advice centres can help you prepare your petition.

Waiver of pain & suffering

Once your payment from the federal government is approved, you will no longer be allowed to file a civil lawsuit against the attackers. The Federal Ministry of Justice will seek reimbursement for your payment from your attackers.

The Victims' Remunerations Law (Opferentschädigungsgesetz – OEG)

The OEG is a general law that governs claims for health care for injuries and harm caused by a crime.

The claim includes medical treatment, disability payments based on continuing after-effects of the crime (which are not based on your prior income) and income replacement. If the victim was killed in the attack, a claim for survivor's benefits and funeral costs can be made. If your claim is granted, your costs for medical treatment will be paid by the government. This can include new eyeglasses, dental restoration or a stay in a rehab clinic.

A claim for compensation under the OEG does not replace a petition for pain and suffering in civil court. The OEG funds will also not replace property damage.

Fundamentally, all German nationals and non-illegalised migrants have the right to claim compensation for health care. The full range of payments is available only to Germans, other EU nationals and migrants who have been legally resident for at least three years. The regulations for people with other residency statuses differ widely and are complicated. There's also some room for discretion in the government's authority. We recommend that you get our support when filing a claim under the OEG.

The claim must be filed with the Thuringia Administrative Office (*Thüringer Landesverwaltungsamt*). The form is extensive and requires concrete details about the attack, the witnesses and injuries, aftermath, legal costs and health care costs. Filing an incident report is a prerequisite for filing a claim.

If your claim is approved, your claim against the attackers plus costs will be given to the authorities.

Who's entitled to file a claim?

Filing a claim

**Thüringer
Landesverwaltungsamt**

Karl-Liebknecht-Straße 4
98527 Suhl
Tel 0 36 81-73-0
Fax 0 36 81-73-32 02
poststelle.suhl@
tlvwa.thueringen.de

Funds for Victims of Extreme-Right Violence

CURA

CURA, run by the Amadeu-Antonio-Stiftung, is a fund which makes quick grants to people who have suffered extreme-right violence without a lot of bureaucratic hassle. The fund assumes costs of treatment and attorneys and offers financial aid in emergency situations and for lost property. You can file a petition for help without forms. The work is funded by donations and therefore has limited funds.

CURA

Opferfonds der Amadeu Antonio Stiftung

*Linienstraße 139
10115 Berlin
Tel 030-24 08 86 10
Fax 030-24 08 86 22
info@amadeu-antonio-
stiftung.de*

Ezra Fund

Ezra has a small fund funded by donations. We use this to help people in true emergencies without any hurdles to jump over (see last page).

Claim for medical treatment for non-German persons targeted by violence

A claim to medical treatment for non-German citizens is based on different laws and depends on the residency status of the person.

We recommend that you turn to one of our advice centres if you are denied treatment or payment is demanded. You will also find extensive information about the rights to medical treatment for all non-German citizens on our homepage at **www.ezra.de**.

People who are here illegally can use the services of A&E (ER) in a hospital because they are exempt from the obligation to report you to the immigration authorities. A person who is illegal would not have access to normal medical care due to a lack of insurance. This is why Medinetz offers anonymous medical consultation and referrals to physicians.

Residency permit after an extreme-right, racist attack

Despite intensive protests, there still is no right for persons who have suffered an extreme-right attack and their family members to stay in Germany on a permanent basis. All too often, individual cases have to be taken to a hardship-case tribunal if no other form of residency is granted or argued in court.

Because there are many reasons to exclude hardship cases and difficulties in making a case to the hardship tribunal, we ask you to please come to one of our advice centres or go to the refugee centre in Thuringia to discuss your petition.

**Flüchtlingsrat
Thüringen e.V.**

Warsbergstraße 1
99092 Erfurt
Tel 0361-2 17 27-20
Fax 0361-2 17 27-27
info@fluechtlingsrat.de

**REFUGIO Thüringen Psychosoziales
Zentrum für Flüchtlinge**

Wagnerstraße 25
07743 Jena
Tel 036 41-22 62 81
Fax 036 41-23 81 98
koordination@
refugio-thueringen.de

Sample forms

*The incident report
(Strafanzeige)*

Sender with good contact address

Place, Date

To: State Prosecutor's Office / Police Authority

Address

Report of a crime committed by unknown/XYZ

Dear Sir, Dear Madam,

I am filing a report of a criminal incident on dd/mm/yy committed by unknown persons/by XYZ.

On dd/mm/yy, I was at the fast-food stand on Musterstraße 13. As I stood in queue, two men behind me addressed me, saying "Scheiß Ausländer Geh dahin wo Du herkommst". I didn't return their insults and only said that I am a student here and please leave me alone. They began to shove me around and one of them hit me several times with the palm of his hand in my face. They then left the stand with their friends who had gotten their food in the meantime.

I can describe the men as follows: both were between 20 and 30 years of age. The one who hit was about 180 cm tall, strapping and looked like he did a lot of sport. He had short hair with the hair gelled up like a hedgehog. He was wearing a greenish-yellow striped polo shirt and jeans. The other was a bit taller and rather gangly. He was wearing a black jacket and light blue jeans. The video camera in the stand must have captured their picture. The man at the counter saw what happened. The beating was very painful and my cheek is swollen. My doctor has diagnosed a haematoma and told me to take two days off work.

With kind regards,

Signature

Attached: medical certificate, charges (*Strafantrag*)

*Status inquiry
(Sachstandsanfrage)*

Sender with good contact address Place, Date

To: State Prosecutor's Office / Police Authority

Address

Request for update on status of crime on dd/mm/yy

Record number XXX

Dear Sir, Dear Madam,

Three months ago on dd/mm/yy, I filed an incident report and charges as the injured party in this incident. Unfortunately, I have not yet had any updates about the progress of the investigation. I would like to request that you inform me of the current status of the case.

With kind regards,

Signature

*Complaint against the police
(Dienstaufsichtsbeschwerde)*

Sender with good contact address

Place, Date

To: State Prosecutor's Office / Police Authority

Address

Complaint against police actions on dd/mm/yy

Dear Sir, Dear Madam,

I am making a complaint about the police officers who were despatched to Musterstraße at 18:30 on dd/mm/yy after a report of an attack with bodily harm.

Although the attackers were standing on the opposite side of the street, the police officers refused to arrest them even though they outnumbered the criminals. They also told me that they knew what they were doing. Because the officers did not act at the time, the perpetrators could not be identified. The case was dismissed and now I cannot make claims for damages against the people who hurt me.

I ask you to conduct a review of your officers' actions and let me know your findings.

With kind regards,

Signature

Contacts

Advice centres for people who have suffered extreme-right attacks in eastern Germany

Thüringen

**ezra – mobile advice centres
for people affected by racist,
anti-Semitic and extreme-right
violence**

Drei-Gleichen-Str. 35a
99192 Neudietendorf

Tel 03 62 02 – 77 13 – 5 10
Fax 03 62 02 – 77 13 – 5 09
opferberatung@
bejm-online.de

www.ezra.de

**AufAndHalt – Network of
People Targeted by Extreme-
Right Violence and Racist
Discrimination**

Karl-Schurz-Str. 13
07545 Gera

Tel 0365 – 7 12 89 56
Mob 01577 – 9 38 87 75
Fax 0365 – 7 12 89 58
netz.gera@gmx.de

www.aufandhalt.de

**MOBIT – Mobile Advice Centre
in Thuringia for Democracy
and against Right-Wing
Extremism**

Pfeffergasse 15
99084 Erfurt

Tel 03 61 – 2 19 26 94
Fax 03 61 – 2 19 27 34
mail@mobit.org

www.ezra.de

Sachsen-Anhalt**Mobile Advice for Victims of
Extreme-Right Violence
Miteinander e.V.**

Magdeburg Advice Centre
Coordination & Project
Management
Erich-Weinert-Straße 30
39104 Magdeburg

Tel 0391 – 5 44 67 10
Mob 0170 – 2 94 83 52
Mob 0170 – 2 92 53 61
Fax 0391 – 5 44 67 11
*opferberatung.mitte@
miteinander-ev.de*

www.mobile-beratung.de

**Mobile Advice for Victims of
Extreme-Right Violence
Miteinander e.V.**

Halle Advice Centre
Platanenstraße 9
06114 Halle

Tel 0345 – 226 71 00
Mob 0170 – 294 84 13
Mob 0151 – 53 31 88 24
Mob 0175 – 1 62 27 12
Fax 0345 – 2 26 71 01
*opferberatung.sued@
miteinander-ev.de*

www.refugio-thueringen.de

**Mobile Advice for Victims of
Extreme-Right Violence
Miteinander e.V.**

Salzwedel Advice Centre
Chüdenstraße 4

29410 Salzwedel

Tel 03901 – 30 64 31
Mob 0170 – 2 90 41 12
Mob 0170 – 6 63 87 10
Fax 03901 – 30 64 32
*opferberatung.nord@
miteinander-ev.de*

www.mobile-beratung.de

**Advice Centre for Victims of
Extreme-Right Violence
Anhalt/Bitterfeld/Wittenberg**

Parkstraße 7
06846 Dessau

Tel /Fax 0340 – 6 61 23 95
Mob 0177 – 6 28 28 60
Mob 0170 – 6 63 87 10
Fax 03901 – 30 64 32
*opferberatung@
datel-dessau.de*

www.opferberatung-dessau.de

Sachsen

RAA Sachsen e.V. Advice Centre

Dresden Advice Centre
Bautzner Straße 45/47
01099 Dresden

Tel 0351 – 8 89 41 74
Mob 0172 – 9 74 12 68
Fax 0351 – 8 89 41 93
*opferberatung.dresden@
raa-sachsen.de*

www.raa-sachsen.de

RAA Sachsen e.V. Advice Centre

Leipzig Advice Centre
Peterssteinweg 3
04107 Leipzig

Tel 0341 – 2 25 49 57
Mob 0178 – 5 16 29 37
Fax 0341 – 2 25 49 56
*opferberatung.leipzig@
raa-sachsen.de*

www.raa-sachsen.de

RAA Sachsen e.V. Advice Centre

Chemnitz Advice Centre
Weststraße 49
09112 Chemnitz

Tel 0371 – 4 81 94 51
Mob 0178 – 5 16 29 37
Fax 0341 – 2 25 49 56
*opferberatung.chemnitz@
raa-sachsen.de*

www.raa-sachsen.de

Mecklenburg- Vorpommern

Lobbi e.V.

Lobbi West Advice Centre

Hermannstraße 35
18055 Rostock

Tel 0381 – 20 09 37 70
Mob 0170 – 52 82 99 70
Fax 0381 – 2 00 93 78 00
west@lobbi-me.de

www.lobbi-mv.de

Lobbi e.V.

Lobbi East Advice Centre

Tilly-Schanzen-Straße 20
17033 Neubrandenburg

Tel 0395 – 45 50 71 80
Fax 0395 – 4 55 07 20 00
ost@lobbi-me.de

www.lobbi-mv.de

Berlin & Brandenburg

Reach Out

Victims' Support and Education Centre against Extreme-Right, Racist and Anti- Semitic Behaviour

Oranienstraße 159
10969 Berlin

Tel 030 – 69 56 83 39
Fax 030 – 69 56 83 46
info@reachoutberlin.de

www.reachoutberlin.de

Opferperspektive Brandenburg e.V.

Rudolf-Breitscheid-Straße 164
14482 Potsdam

Tel 0331 – 8 17 00 00
Fax 0331 – 8 17 00 01
info@opferperspektive.de

www.opferperspektive.de

Direct support for targets of violence

Please consider making a donation to the fund to provide assistance to people affected by racist, anti-Semitic and extreme-right violence in Thuringia. This will help them find quick and hassle-free financial assistance when they need it most.

Donation account: Opferberatung bejm
Account: 8 004 820
Bank: Ev. Kreditgenossenschaft e.G.
Bank Code: 520 604 10
Purpose: Hilfsfonds (Aid fund)

Your donations are tax-deductible. For amounts up to €100, your payment voucher is your receipt. For higher donation amounts, we will send you a donation receipt if you desire. Please contact our office to request one.

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Publisher

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bund evangelischer jugend
mitteldeutschland
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EVANGELICAL CHURCH
IN MIDDLE GERMANY

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Society, Family and Health



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Federal Ministry
for Family, Seniors, Women
and Youth



PROMOTING TOLERANCE
BUILDING COMPETENCE



Mobile Advice Centres
for People Affected by
Racist, Anti-Semitic
and Extreme-Right Violence

