

VICTIM PROTECTION IN CRIMINAL PROCEEDINGS REPARATION FOR DAMAGES

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I. INTRODUCTION

In my first paper I described the victim's legal position in German criminal proceedings, explaining how victims of crime are involved in criminal proceedings by being given information and a participatory role and how it is ensured that the level of stress experienced is kept to a minimum.

But this is just one side of things. In many cases, victims of crime are not only confronted with having to deal with what they have been through and endure criminal proceedings. They have often also suffered physical injury or financial loss. If for example the victim of a murder is a man who is husband and father, the stability of the family can be affected in every aspect.

It is therefore not only important for the victims or the surviving relatives that the perpetrator is brought to justice. In some cases, the issue of reparation is extremely important, if not sometimes a question of maintaining one's subsistence.

In this paper I would therefore like to outline the possibilities for reparation to be made for damage caused. I have divided up my paper into two parts.

In the first part I would like to illustrate how victims can obtain reparation from offenders in criminal proceedings, whereby I will not be looking at the possibility of obtaining compensation from the perpetrator in civil proceedings, which does, of course also exist.

In the second part of my paper I would like to give you an outline of the possibilities for obtaining compensation provided by the State. It is often the case that the perpetrator does not have the financial means to pay compensation. Yet a society which embraces values of social justice cannot leave victims of violent crime defenceless when their health, capacity to work and vitality has been impaired or even destroyed. Financial support from the State is important in such cases.

II. PART 1: REPARATION BY THE OFFENDER IN CRIMINAL PROCEEDINGS

A. Termination of Proceedings Subject to the Condition of Reparation Being Made for Damage

Both in investigation proceedings and in court proceedings there is in principle the possibility of terminating proceedings subject to the condition of reparation being made (section 153a subsection 1, no 1, German Criminal Procedure Code).

Reparation can be made in the form of payment to compensate for the loss incurred, but can also take the form of payment of damages for pain and suffering.

The amount of pecuniary or non-pecuniary damages to be paid is set by the court or the public prosecution office after a thorough assessment of the case, whereby both the extent of the loss and the financial circumstances of the defendant play a role.

If the defendant is not able to make payment immediately or can only pay in instalments, it is possible for deferment of payment or payment by instalments to be granted. However, it is important to note that it is the court or public prosecution office, and not the victim, who can decide to take this approach. Thus, the

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defendant cannot exert pressure on the victim and demand that he agree to payment by instalments or even waive payment completely.

If the defendant makes payment before expiry of the time-period laid down by the court or public prosecution office, the proceedings, which had only been provisionally suspended until that point, are finally terminated. If, however, the defendant refuses to make reparation, proceedings are resumed.

If the proceedings were provisionally suspended by the public prosecution office, it will now prefer charges. If the proceedings were provisionally suspended by the court, the main hearing is continued and the defendant must reckon on being sentenced.

Termination of proceedings on condition that reparation is made only comes into consideration for petty crime and crime of a medium degree of seriousness. If, for example, the person concerned is accused of having raped the victim, termination of proceedings on condition that reparation is made is not possible under any circumstances.

Termination of proceedings on condition that compensation payments are made does not constitute a conviction. Nonetheless, it is possible for the victim's interests to be sufficiently taken account of with this approach. It is important in this context to note that the victim still has the option to assert further claims for compensation at any time in civil proceedings. Whilst it is true that termination of criminal proceedings in return for payment of compensation to the victim does mean that criminal proceedings are concluded, this in no way prevents the possibility of further civil proceedings.

B. Restitution as a Condition of Probation

If a defendant is sentenced to prison for less than two years his sentence can be suspended on probation. The court can link the suspension on probation to certain conditions. One of these conditions can be that the damage caused by the offence be made good (section 56b subsection 2, no. 1, German Criminal Procedure Code). The court then examines whether the convicted person has complied with this obligation.

If the payment of compensation or damages for pain and suffering is ordered so as to make good the damage caused by the offence, any deferment of payment or payment in instalments can only be granted by the court. Thus the authority to decide on this claim to damages lies with the court and not with the victim. Thus the victim cannot be placed under pressure by the convicted person in this situation, either.

If the convicted person fails to comply with his obligation to pay compensation, the court can revoke probation, with the consequence that he must then serve the prison sentence.

C. Victim-Offender Mediation

German law of criminal procedure allows the possibility of mediation between victim and perpetrator, which is referred to in Germany as "victim-offender mediation". Victim-offender mediation can be conducted by either the public prosecution office or the court. But victim-offender mediation also offers victims and perpetrators the opportunity to attain a satisfactory conflict resolution outside the courtroom, with the involvement of an impartial third party.

For the criminal justice system, victim-offender mediation is a new approach to dealing with crime, since the parties themselves are responsible for conducting the victim-offender mediation. In the usual case, the conduct of criminal proceedings is an official procedure over which the parties do not, as a rule, have any scope for control.

1. When can Victim-Offender Mediation take Place?

Firstly it must be borne in mind as the most important point that extra-judicial dispute resolution does not come into consideration in serious cases: it goes without saying that victim-offender mediation would not take place in the case of offences like rape. Victim-offender mediation serves the resolution of conflict in petty and less-serious cases. What is important is that both parties are willing to participate in mediation. It is not possible for victim-offender mediation to take place against the express wishes of the victim and is prohibited by law (section 155a, third sentence, German Criminal Procedure Code). Nor would victim-offender mediation make sense in a case where the defendant denies the charges brought against him and maintains his innocence.

2. Who Carries out Victim-Offender Mediation?

It is possible for the court or the public prosecution office themselves to pursue conflict mediation between the perpetrator and the victim. However, they generally do not have time to do so, which is why the law also makes provision for victim-offender mediation to be conducted by an extra-judicial agency (section 155b German Criminal Procedure Code).

In Germany there is no one single agency which is responsible for carrying out victim-offender mediation. Rather, it is up to the individual federal states (Länder) to decide who to commission with victim-offender mediation. This is why there is a large number of different organisations in Germany which deal with victim-offender mediation. It is also not necessary for the organisation to be a State agency. It is in fact the case that the majority of cases are dealt with by private organisations, which are partly funded by the State. This can take place in the form of payments from one of the justice ministries, for example, or through the assignment of fines by the public prosecution office or the court.

3. What Procedure does Victim-Offender Mediation Follow and what are the Implications of Victim-Offender Mediation for the Criminal Proceedings?

To give you an idea of how the victim-offender mediation procedure works in practice, as well as of the consequences this can have for the defendant, I would like to give you a typical example.

Offender A and Victim B both had a love affair with the same woman. One evening, A was sitting in the pub when B suddenly turned up accompanied by this lady. A realised that his lady friend was apparently being unfaithful to him and became so enraged at this that he hit Victim B over the head with a beer bottle. B suffered concussion and sustained a laceration.

A was overcome with remorse shortly after the act and already expressed his regret at his actions when he was initially interviewed by the police. The public prosecution office, to whom the case was passed on, decided that extra-judicial conflict mediation should be attempted in this case. The case was then passed to organisation O, which conducts victim-offender mediation.

The conflict advisor employed by organisation O firstly met A and B separately to establish their willingness to enter into the process of conflict settlement. Both parties were asked about how they viewed the issue of payment of damages for pain and suffering. Once both A and B had stated their willingness to enter into victim-offender mediation, the conflict advisor invited them both to take part in a meeting together. This gave A the opportunity to explain his reasons for his actions to B and to apologise for his behaviour. The two of them agreed on 2500 euro damages for pain and suffering.

Once the damages had been paid, the conflict advisor produced a report on the conflict settlement and submitted it to the public prosecution office, who, in turn, terminated the proceedings with the court's consent.

As you can see, the criminal proceedings were not concluded by the conflict advisor. This is an important point to note. Whilst it is possible for dispute settlement to take place independently of criminal proceedings, the decision on the final termination of proceedings still remains in the hands of the public prosecution office or the court. Nor is the public prosecution office obliged to terminate proceedings following mediation. It can still prefer charges if it has grounds to do so, for example if prior offences have now come to light. Reparation by the offender, expression of apology and his behaviour after the offence are, however, then taken into account as mitigating circumstances by the court when sentencing.

A further important point to be noted is that the victim still has the option of pursuing further claims, for example a greater amount of non-pecuniary damages, in a civil action. Victim-offender mediation can end criminal proceedings, but not civil proceedings.

4. What Happens if the Offender does not have any Money?

Usually, one of the focal points of the extra-judicial conflict resolution between perpetrator and victim will be reparation for damage. However, it is often the case that the offender is not able to make reparation due to his financial circumstances.

That is why a so-called "victim fund" is available at many conflict mediation centres. The offender can be granted an interest-free loan so that immediate reparation can be made. It is also possible for the offender to be paid from this fund for performing community service and for him to then use this money to pay reparation.

5. Benefits of Victim-Offender Mediation

For the victim

Victim-offender mediation can represent simplified and expedited proceedings for imposition of a penalty which spares the victim a long wait for the main hearing with its uncertain outcome. It creates the possibility of having material and financial claims met quickly and without a great deal of red tape, within a realistic framework. One must also not underestimate the importance for the victim of having the opportunity to explain his situation and his feelings of fear or anger to the offender. The expression of apology by the perpetrator and the acknowledgement of his guilt before the victim can contribute significantly to re-establishing peaceful relations between the parties.

For the offender

The offender has the opportunity to face up to the consequences of what he has done and to contribute as far as possible to putting things right. In the course of mediation he can take responsibility for his actions. Having to deal with the victim can most certainly have an influence on his future behaviour. In addition, there is the possibility of reaching termination of the proceedings and avoiding conviction as a result of victim-offender mediation.

6. Significance of Victim-Offender Mediation in Practice

The constant growth in the number of cases in which victim-offender mediation is used demonstrates its increasing acceptance. It is clear from the table in the annex that the use of victim-offender mediation has increased in almost all the federal states. For example, there were 707 cases of victim-offender mediation in North-Rhine/Westphalia in 1997, against as many as 2485 in 2000, which constitutes an increase of greater than three-fold. Victim-offender mediation is an excellent means of re-establishing peaceful relations under the law between perpetrator and victim, promoting reparation of the damage caused and, at the same time, reducing the burden on the public prosecution offices and courts. Continued positive development can thus be anticipated.

D. Ancillary (Adhesion) Proceedings

During criminal proceedings the hearing deals with the offence and the perpetrator's guilt. There is usually no decision on the victim's entitlement to pecuniary damages or damages for pain and suffering. It is up to the victim to assert such claims within the framework of civil proceedings. However, the possibility exists in Germany of asserting a pecuniary claim which has arisen as a result of the offence during the criminal proceedings, too. By means of so-called ancillary (adhesion) proceedings, a victim or his heirs can, upon application, assert claims for compensation, for example.

In order to better elucidate the benefits of ancillary proceedings I would like firstly to explain a few basic points in respect of German criminal procedure.

Unlike civil proceedings, which are governed by the parties' autonomous control to determine the subject-matter of proceedings, criminal proceedings are not adversarial. The objective of criminal proceedings is to establish the substantive truth in respect of the offence and to impose punishment on the guilty offender. As a result, the German criminal justice system differs fundamentally to that under Anglo-Saxon law, for example, which is traditionally structured as an adversarial system. This means that the public prosecution office on the one hand and the defendant and his counsel on the other have control over the proceedings, and they can exercise that control over the subject-matter of the proceedings by withdrawing the charges. The judge is merely a sort of neutral referee who gives a judgment on the basis of the evidence for the prosecution and for the defence collected by the parties.

In contrast, under German procedural law it is the public prosecution office which is initially obliged to conduct investigations and prefer charges, having examined all incriminating and exonerating factors. Once charges have been preferred, it is the judge who has the authority to direct proceedings. He must be familiar with the information contained in the files, he conducts questioning and takes all evidence which might incriminate or exonerate the defendant on his own responsibility. This obligation to clarify the facts of the case, which is enshrined in the German Criminal Procedure Code, can require of the court that it hear

exonerating evidence even if this is against the wishes of the defendant. Likewise, the court can choose to hear incriminating evidence even if the public prosecution office shows no interest in it. This does mean, however, that the defendant and the public prosecution office cannot dispense with the continuation of taking of evidence even if both parties were to agree on this. The court is under an obligation to clarify the facts of the case.

If ancillary proceedings are conducted, the victim shares this obligation to clarify the matter. He does not have to take evidence himself, but can leave it to the public prosecution office and the court to establish the defendant's guilt.

1. Circumstances in which it is Possible for Ancillary Proceedings to take Place

Firstly, the victim must file a written application, whereby an oral application is sufficient if this is made when the main hearing is being conducted. The victim must substantiate his application, which means that he must describe what he wants to obtain from the defendant and give his reasons. If the victim wishes to sue for damages for pain and suffering, however, he does not have to stipulate a specific amount. It is left up to the discretion of the court to determine the amount of damages to be paid.

The following pecuniary claims, in particular, can be asserted by the victim in ancillary proceedings:

- Claims for damages for pecuniary loss and damages for pain and suffering,
- claims for surrender and/or claims for restitution of the unjustified enrichment (for example, for return of a stolen item).

2. Possibility of being Granted Legal Aid

If the victim wishes to call on the services of a lawyer in asserting his claims, and if he does not have the means to pay for these services, he can apply for legal aid. Legal aid is granted where

- the victim is unable to pay the costs of litigation or can only pay in instalments,
- there is the prospect that the outcome of the case will be successful.

3. Advantages of Ancillary Proceedings

There are many advantages of ancillary proceedings, especially for victims of crime:

- Ancillary proceedings provide the opportunity for the consequences of the offence under both criminal and civil procedure to be dealt with in one single set of proceedings. If the victim is granted compensation in ancillary proceedings he does not have to institute civil proceedings in addition to the criminal proceedings in order to assert his claims.

- The victim has a right to be present and a right to be heard. This means that the victim is entitled to be present during the entire proceedings. He would otherwise not have such a right to be present if he were required as a witness for the proceedings and did not have the status of private accessory prosecutor. In such a case, the victim would have to wait outside the courtroom until he was called for questioning and would only subsequently have the opportunity of being present at a hearing open to the public.

- In addition, the victim has the option of filing applications for the taking of evidence, objecting to orders given by the presiding judge or asking questions. Under section 257 German Criminal Procedure Code the victim also has the right to make statements after the defendant has been questioned and after each item of evidence is taken.

- The fact that the principle of official investigation applies in criminal proceedings is particularly advantageous to the aggrieved person. According to this principle, in order to establish the truth the court must, of its own motion, extend the hearing of evidence to cover all facts and evidence which are of significance for the decision. Unlike in civil proceedings, therefore, the aggrieved person does not have to furnish evidence but can leave it to the court and the public prosecution office to clarify the facts of the case.

- Lastly, the aggrieved person still has the possibility of asserting claims before the civil courts which he unsuccessfully asserted in the criminal proceedings. In principle, therefore, the aggrieved person can only gain by pursuing ancillary proceedings, and has nothing to lose.

4. Ancillary Proceedings in Practice

In spite of the advantages in terms of saving time and resources that arise in dealing with the civil law dispute and the criminal case in one and the same set of proceedings, ancillary proceedings lead a somewhat shadowy existence. In 2001, 402,993 convictions were imposed in the German local courts (*Amtsgerichte*), but in only 3,510 of these cases were ancillary proceedings conducted. In respect of criminal proceedings pursued in the first instance at regional courts (*Landgerichte*), ancillary proceedings were conducted in only 164 cases of 12,887 convictions.

What are the reasons for this?

One significant point is that the court is not automatically compelled, as a result of the application being made, to conduct ancillary proceedings. Thus the court can dispense with issuing a decision in ancillary proceedings if this would prolong the criminal proceedings. If the court decides to follow this course of action, the applicant does not have any means of recourse against the court's decision. The reasons why there is a cautious attitude in practice in respect of ancillary proceedings are widely known.

- Ancillary proceedings are viewed as something that is alien to criminal proceedings. Criminal proceedings serve the purpose of assessing the defendant's guilt. Assertion of claims for damages should be left up to the civil courts.

- One should not underestimate the fact that decisions made in ancillary proceedings can serve as an additional source of error which hold the danger of the judgment being set aside in appellate proceedings.

- However, the main point is that ancillary proceedings can place a further burden on the court. The increased demands that this can place on the court in terms of time and resources are said to be considerable. It is the delays in the proceedings caused by the hearing of additional items of evidence that are feared by the court and the public prosecution office. From time to time, criminal judges also find it excessively demanding having to make decisions on civil law matters that are often complex.

5. Possible Solutions

In Germany, efforts are currently being made to reform the Code of Criminal Procedure. One important focus of these efforts is victim protection and, in this connection, the strengthening of ancillary proceedings. The following approaches for solutions are currently the subject of intensive discussion:

- In future, it should not be so easy for the court to dispense with giving a decision in ancillary proceedings.

- Consideration is also being given to establishing the possibility of contesting a court's decision to dispense with a decision in ancillary proceedings.

- Victims should be better informed about the possibility of pursuing ancillary proceedings.

- The scope of possibility in ancillary proceedings is to be broadened. In future, the parties should also be able to reach a settlement, for example on the payment of damages for pain and suffering.

- In addition, there is discussion about the extent to which the criminal judgment can attain the effect of being binding on proceedings before the civil court. It is currently the case that all evidence must be heard again in civil proceedings and it is not possible for the outcome of the taking of evidence in the criminal proceedings to be relied upon.

The topic of ancillary proceedings will be the subject of much discussion in Germany in the near future. It remains to be seen which concrete regulations ultimately become law. However, the basic trend towards strengthening ancillary proceedings is clear.

III. PART 2: VICTIM COMPENSATION BY THE STATE

A. The Victims Compensation Act

If the State does not manage to completely prevent violent acts in spite of all its efforts in crime prevention, it must, in its role of protector vis-à-vis its citizens, of course assume responsibility for the victims of these crimes.

This was the governing principle behind the Act on Compensation for Victims of Violent Acts, which entered into force on 16 May 1976.

A society which embraces values of social justice cannot take an indifferent attitude to victims of violent crime. It is not enough to refer to the civil law provisions on compensation. Whilst it is true that the clear-up rate in respect of violent crime is very high, offenders are very often not in a position financially to make reparation for the damage.

It is the object of the Victims Compensation Act to compensate for the consequences in terms of health and the resulting financial consequences, and not leave the victims of violent crimes completely on their own.

1. When can a Victim Benefit under the Victims Compensation Act?

Anyone who has suffered a detriment to their health as a result of an unlawful and violent act committed with intent or of defending themselves from such an act is entitled to benefit under the Act. Family members of someone who has died as a result of such an attack also have an entitlement.

The injury suffered may not be solely of a pecuniary nature. Rather, it is the aim of the Victims Compensation Act to ease the burden of the additional expenses for the aggrieved person which are incurred as a result of the consequences of the damage caused to their health.

The offence must have been committed within the territory of the Federal Republic of Germany. If the offence was committed on board a German vessel or aeroplane, there is also an entitlement under the Victims Compensation Act. However, no compensation is granted for acts committed abroad.

The Victims Compensation Act is of course applicable to Germans, but citizens of foreign countries can also be eligible. Thus, provision under the Victims Compensation Act also applies to all citizens of the European Union. In addition, foreign citizens are also covered if they come from a country for whose nationals EU legislation or international agreements provide for equal treatment with German citizens.

The Victims Compensation Act applies to all other foreign citizens on the basis of reciprocity. This means that if a German were the victim of a violent offence in that person's country of origin, he would be granted compensation equivalent to that available under German law.

Since 1990 foreign citizens lawfully resident in Germany for more than six months have also been covered by the Victims Compensation Act and entitled to benefit in accordance with the length of residence. If a person has been lawfully resident in Germany for at least three years he is entitled to benefit on an equal footing with a German or an EU citizen.

Tourists and visitors who are victims of a violent act in Germany can be granted a one-off hardship payment if they have suffered severe injury as a result of the offence.

2. What Types of Support can be Granted under the Victims Compensation Act?

As already mentioned above, compensation for damage of a purely pecuniary nature cannot be granted under the Victims Compensation Act, nor is it possible for damages for pain and suffering to be paid. Payment is made for reimbursement of costs incurred as a result of the injury to health. The most important items provided for are as follows:

- *Medical treatment*

This includes mainly out-patient treatment, treatment by a physician, dental care, provision of medication, dressings and remedies, as well as dentures etc., in-patient treatment and provision of medical aids.

Home help and benefits in the event of long-term care dependency.

Basic pension

This is not means-tested, but is calculated according to the degree of incapacity to work. The basic pension is intended to compensate for the loss of physical integrity and the non-quantifiable increase in expenditure incurred as a result of the injury caused. A maximum of € 615 is payable monthly.

Additional severe disability allowance

In the case of a person suffering particularly severe injury, the basic pension can be augmented by payment of this allowance.

Not only the victim himself can receive compensation, but members of his family may also be entitled. If the victim died as a result of a violent attack the widow and any children can be given a pension. In certain cases it is even possible for the parents of victims of violent crime to be granted a pension.

I would like to illustrate the practical application of the Victims Compensation Act by way of an example which actually took place in Germany as described:

On 11 June 2000 a husband and father of three children was beaten to death by three men in Dessau. He was survived by his wife and his three children aged between five months and eight years. The perpetrators were found guilty of murder and sentenced on 30 August 2000. An application for victim compensation made by the surviving relatives was already submitted to the competent pensions office in June. Once the investigation files had been obtained, it was possible for this application to be granted as early as 16 August 2000, i.e. before judgment was given in respect of the perpetrators. The wife was granted a non-means-tested widow's pension of approximately € 300. The children were granted a monthly pension for the loss of one parent of approximately € 85 each. Depending on financial circumstances, this basic pension can be augmented by a means-tested compensatory pension for both wife and children.

3. Who Decides on Whether Victim Compensation is to be Granted?

It is the pensions office which is competent for deciding on whether victim compensation is to be granted. One important point of interest is that the pensions office is autonomous in its assessment of the evidence. This means that it is not bound by the assessment under criminal law when coming to its decision.

If, for example, the court merely finds the perpetrator guilty of negligence, it is quite possible that the pensions office can find that the perpetrator acted with intent and thus grant the victim compensation.

Even if the defendant is acquitted, the entitlement to victim compensation is not automatically extinguished. By the same token the fact that the perpetrator is convicted does not automatically mean that the claim will be granted.

The degree of importance of the Victims Compensation Act is demonstrated by the amount of money paid out in this connection. In 2001, the federal government and the regional governments spent a total of approximately 198 million Deutschmarks on the application of the Victims Compensation Act, which corresponds to around 100 million euro.

B. Victim Compensation Funds of the Federal State

A further form of State aid are funds which were set up so that in certain cases, victims could be given a helping hand as quickly as possible and with the least possible bureaucracy involved. However, there is no legal entitlement to payment from one of these endowment funds.

At federal level, funds were set up for victims of right-wing extremist attacks as well as for victims of terrorist crimes. These are budgetary allocations which can be included again in the national budget every year and must be reviewed annually. For this reason, material aid for victims of crime is paid in the form of one-off special payments.

1. Hardship Payments for Victims of Right-Wing Extremist Attacks

Unfortunately, the number of attacks committed against foreign citizens by violent right-wing extremists has been increasing over the last few years. The fund demonstrates the fact that right-wing extremism is deplored and is a sign of the solidarity of the State and its citizens with the victims.

There was provision in this fund for a total of 2.5 million euro for victims of right-wing extremist attacks in the federal budget for 2002.

2. Hardship Payments for Victims of Terrorist Crimes

There was provision for 10 million euro for victims of terrorist crimes in the 2002 federal budget. This fund was only set up in May 2002. The reason for this was the terrorist attack outside a Jewish synagogue on the Tunisian island of Djerba on 11 April 2002. Fourteen Germans were killed in this attack, and it left its mark on seventeen others for life, some of whom suffered severe burns. Since this act was committed abroad, it was not possible for support to be obtained under the Victims Compensation Act. So as to not leave the victims and the bereaved families of those killed completely on their own, the Federal Government decided on 24 April 2002 to make aid payments available from federal funds and established this emergency fund for this purpose. As early as 24 May 2002 the first instructions for payment from this fund were made.

It has since been possible for German victims of the terrorist attack in Bali and family members of those killed to receive payments from this fund.

C. Victim Compensation Foundations of the Individual Federal States

In addition, the individual Federal states make provision for funds in their budget in order to ensure individual support for victims of violent crime. The state of Baden-Württemberg, for example, has also made available a fund of approximately 1.3 million euro for this purpose.

An example of how this might work in practice:

A family from Stuttgart is on holiday in Scotland when the father is shot dead during a robbery. The Victims Compensation Act does not apply because the crime was committed abroad. However, since there is no terrorist or right-wing extremist connection, in this case the family can only receive assistance through payment from this fund.

D. Efforts at a European Level

I would like to conclude by outlining the direction being pursued in the European Union in respect of victim compensation. A Directive which is intended to establish EU-wide minimum standards for the compensation of victims is currently the subject of discussion. The reason for the Directive is that the level and standard of compensation varies from one EU country to another. There are even two countries, Italy and Greece, that do not have any regulations on compensation at all.

This means that if a German travels on holiday to Greece and is the victim of a violent crime, he has no entitlement to compensation. The German Victims Compensation Act would not apply because the offence was committed abroad, and in Greece there is no possibility of obtaining compensation from the State.

However, if the situation is reversed and a Greek person is the victim of a violent crime in Germany, he is certainly entitled to be given compensation under the Victims Compensation Act.

The objective of the proposed Directive is thus to ensure that all EU citizens and people lawfully resident in the EU can obtain a reasonable level of compensation for injury to their health suffered as a result of being the victim of a crime committed within the EU.

There is currently intense discussion about this proposal at the level of the EU. It may well take quite some time before this Directive is adopted, but the objective is clear: there should be equal standards for compensation across the European Union.

IV. CONCLUDING REMARKS

I hope that I have been able to give you a comprehensive survey of the possibilities victims in Germany have to obtain reparation.

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APPENDIX

Cases in Which Victim-Offender Mediation was Conducted 1997 to 2000

Federal State	1997	1998	1999	2000
Berlin	98	80	142	248
Brandenburg	2136	2174	2344	2636
Hamburg	123	145	217	239
Hesse	172	205	295	618
Mecklenburg-Western Pomerania	no data	85	87	173
Lower Saxony	no data	753	948	1449
North-Rhine/Westphalia	707	1341	1871	2485
Rhineland-Palatinate	895	505	2056	1367
Saarland	11	28	149	167
Saxony	264	326	297	342
Saxony-Anhalt	44	604	462	569
Schleswig-Holstein	530	469	688	709
Thuringia	65	90	149	119
TOTAL	5045	6805	9705	11121
Annual increase	in %	34.9	42.6	14.59
<p>Total increase since 1997 (not including Mecklenburg-Western Pomerania and Lower Saxony): 120.43 % Brandenburg and Thuringia: approximate figures.</p>				