

Answer by Austria to question 18

The **Criminal Procedure Code Amendment Act I 2016** (Federal Law Gazette I No. 26/2016) which entered into force on 1 June 2016 further strengthened the rights of victims. With these amendments Austria fully complies with the EU Victims' Rights Directive 2012/29/EU:

- The definition of victim according to section 65 subpara. 1 letter a CCP was broadened by also including persons whose personal dependence was abused by the criminal offence (e.g. child victims of trafficking in human beings trafficked by their parents/other relatives, situations where a position of vulnerability of the victim is abused).
- New category of "particularly vulnerable victims": Victims of sexual offences, victims for whose protection a prohibition of entry and approach could be issued for protection against violence according to section 38a para. 1 SPG (National Security Police Act) as well as victims under the age of 18 years are considered to be particularly vulnerable in any event. All other victims can be granted the status of particular vulnerability on the basis of an evaluation of the individual case where the following factors are taken into account: the victim's age, mental and health status, as well as the type and specific circumstances of the criminal offence (for more information please see answer to question 12).
- According to section 66a para. 3 CCP the public prosecution service or the criminal court has to initiate the appointment of a curator (= special representative) for the minor victim if a legal representative of the minor victim is suspected of having committed the criminal offence or if there is otherwise the risk of a conflict of interests between the minor victim and his/her legal representative, or if no legal representative can assist the minor victim in criminal proceedings.
- Beyond the right to oral interpretation during interrogations, victims can also request written translations of the relevant parts of the file to the extent it is necessary to safeguard their rights and interests (e.g. decision to stop the criminal proceedings by the public prosecutor, judgement).
- Information regarding the release of the accused person from custody and provisional custody during the investigation with details of the reasons and the conditions imposed as well as in the event of escape by the accused person: this information must be provided ex officio to victims according to section 65 subpara. 1 letter a and particularly vulnerable victims. All other victims receive this information upon request (§section 172 para. 4, 177 para. 5, 181a CCP).
- Information on the escape and recapture as well as the first unmonitored release from the institution or on a pending or an actual release of the prisoner including any instructions given to him in order to protect the victim: this right is available upon request (§section 106 para. 4, 149 para. 5 of the Prison Act).

The **Violence Protection Act 2019** further broadened the group of victims of domestic violence and also included victims who have experienced violence in any form in their close social environment such as victims of persistent stalking (section 107a CC) or victims of conflict situations in their neighbourhood.

- Moreover, the rights of particularly vulnerable victims (victims of sexual offences, of violence in residential dwellings, victims under the age of 18 years, other victims that are granted this status under certain circumstances) were further extended. These victims were granted the additional right to demand that interpreting services shall be provided by a person of the same sex during interrogations in preliminary proceedings and in the main hearing (section 66a para. 2 subpara. 1a CCP). Particularly vulnerable victims were explicitly included in the provision of

section 250 para. 3 CCP which allows questioning in a manner set out in section 165 para. 3 CCP in the main hearing (adversarial questioning of a witness in order to avoid secondary victimisation and the direct contact of the witness and the defendant). In addition, it was clarified that witnesses who meet the criteria mentioned in section 66a CCP may be heard adversely (section 165 para. 3 CCP) on their request or on the request of the public prosecutor's office.

- section 70 CCP about the victims' right to information was structured in a more understandable way. The phrase "against a particular accused" in the first sentence of section 70 CCP was removed in order to make it explicitly clear that this right is entitled to victims regardless of whether a preliminary investigation is conducted against known or unknown accused persons. Moreover, a postponement of the information to the victim should now only be permissible if there are special reasons to fear that the purpose of the investigations would otherwise be jeopardised.
- It was also clarified that victims have the right to receive a written confirmation of their report and the transcript of their interrogation free of charge.
- There were also changes in the Criminal Records Act with the intention of further protecting vulnerable persons. For example, a new Certificate of Criminal Records ("Strafregisterbescheinigung Pflege und Betreuung") was provided for persons who want to carry out a certain professional or organised voluntary activity, which mainly comprises the care and support of vulnerable persons.

The **Hate on the Net Combat Act** ("Hass-im-Netz-Bekämpfungsgesetz", HiNBG), which entered into force on 1 January 2021, further expanded the psychosocial and legal support for criminal proceedings for victims of hate on the net, but also for minor witnesses of family violence in accordance with the "Istanbul-Convention" and made it significantly easier for victims of hate on the internet to enforce their rights.