

There are general protective measures that can apply to any witness (regardless of age or type of crime), for

example:

- During an interrogation the witness may, if he or she wishes, be accompanied by a trusted person (section 406f of the Code of Criminal Procedure (Strafprozeßordnung, StPO)).

- Any interrogation that takes place outside the main trial can be conducted as follows: the witness can

stay in a different room to the interviewer, with audiovisual transmission of the interview between the two

rooms (section 58b of the Code of Criminal Procedure).

- Section 68 of the Code of Criminal Procedure stipulates which information the witness has to give on

his or her personal circumstances before the court. Usually, the witness will be asked his or her name, age

and place of residence. If there is reasonable cause for concern that the legal interests of the witness might

be in danger or the witness could be exposed to unfair influence, the judge can allow that the place of

residence of the witness be kept secret. The complete identity of the witness can be kept secret in the event

of danger to the life, limb or liberty of the witness.

- It is possible to exclude the public from the trial when a danger to the life, limb or liberty of a witness is

to be feared (section 172 no. 1a of the Courts Constitution Act (Gerichtsverfassungsgesetz, GVG)).

- Questions concerning the personal sphere of life of a witness may only be posed if they are indispensable (section 68a (1) of the Code of Criminal Procedure).

- Vulnerable witnesses who are not able to adequately safeguard their interests and rights themselves

have the right to be assigned a lawyer free of charge to assist them legally during their testimony (section

68b (2) of the Code of Criminal Procedure).

- In the event of grave danger to the wellbeing of a witness to be examined by a judge, the judge can decide that the prosecutor, the defendant and his/her lawyer, who have a right of attendance, have to stay in

a separate room, to which the examination is transmitted simultaneously (section 168e of the Code of

Criminal Procedure).

- During the trial itself, witnesses are usually examined in the courtroom. Section 247a of the Code of Criminal Procedure offers the possibility that a witness can stay in a separate room during his or her examination in the event that having to testify in the courtroom before all other participants in the trial poses

an imminent danger of serious detriment to his or her wellbeing. The testimony of the witness is in this case

transmitted to the courtroom simultaneously.

There are also special procedural rules to protect children and young persons under the age of 18:

- In proceedings with minor victims, the hearings, interrogations and other investigative actions concerning the victim must be conducted in a particularly expedited manner insofar as this is necessary for

the victim's protection or to avoid the loss of evidence, taking into account the personal circumstances of the

witness and the nature and circumstances of the criminal act (section 48a (2) of the Code of Criminal Procedure).

- Examinations of young persons under the age of 18 during a trial are generally conducted only by the

judge. All other participants with the right to ask questions must ask their questions via the judge (section

241a of the Code of Criminal Procedure).

- If it is to be feared that having to testify in presence of the defendant will pose a grave detriment to the

wellbeing of a minor witness, the court can order that the defendant leave the courtroom for as long as the

witness is being examined (section 247 sentence 2 of the Code of Criminal Procedure).

- The public has to be excluded when there are minor witnesses, particularly in cases of sexual crimes,

crimes against life, and human trafficking, and the affected person applies for that exclusion (section 171b

(2) and (3) of the Courts Constitution Act).

- Audiovisual recordings of a minor victim's testimony before a judge can also replace his or her testifying in the trial in cases of crimes against life or personal liberty.

There are various legal provisions aimed at protecting minors participating in investigation and court

proceedings. Under section 48a (1) of the German Code of Criminal Procedure, where the witness is also

the aggrieved person, then account is to be taken at all times of his or her particular vulnerability throughout

hearings, examinations and other investigatory acts concerning him or her. Section 48a (2) of the Code of

Criminal Procedure provides that hearings, examinations and other investigatory acts concerning acts to the

detriment of a minor aggrieved person must always be conducted in a particularly expedited manner.

However, in the process, account must also be taken of the witness's personal situation and the nature and

circumstances of the offence in order to protect him or her or to prevent the loss of evidence.

Where children are examined/heard in person, they have to be instructed in an appropriate, child-sensitive

manner. The persons conducting such hearings/examinations must be aware of the legal and socioeducational

support available to minors and pass on that information.

A video recording of the examination of a minor witness in proceedings concerning sexual offences or abuse

is as a rule required (section 58a of the Code of Criminal Procedure) or, as a minimum, an audio recording

and a verbatim transcription. Lastly, it has to be considered whether, for reasons of witness protection,

witnesses should be permitted to state an address at which documents can be served instead of stating their

home address (section 68 (2) and (4) of the Code of Criminal Procedure).

There are a number of other protective provisions, such as section 5 of the Act on Cooperation and Information in Child Protection (Gesetz zur Kooperation und Information im Kinderschutz, KKG), pursuant to

which the Youth Welfare Office has to be informed if a substantial indication of risk to the wellbeing of the

child or young person becomes apparent in the course of criminal proceedings. Sections 247a and 168e of

the Code of Criminal Procedure are also relevant here.

The Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (Bundesministerium für Familie,

Senioren, Frauen und Jugend, BMFSFJ), the Independent Commissioner for Child Sexual Abuse Issues (Unabhängige Beauftragte für Fragen des sexuellen Kindesmissbrauchs, UBSKM), the National Council

against Sexual Violence Committed against Children and Adolescents and the Federal Ministry of Justice

have published a number of information sheets and guidelines directed at investigating authorities and public

prosecution offices, and also at aggrieved persons. They provide information on rights and obligations as

well as on psychosocial assistance in legal proceedings