

Important information

To make it easier to read this document, we have waived the need to designate people as male or female in each case. If neutral or male descriptions are used, they refer to both male and female persons.

Security checks will be made when entering the court building, thus causing delays. Please keep this in mind when planning your journey.

It is possible that not all rooms in the court building have barrier-free access. Should you need barrier-free access, please inform yourself about the local conditions for access at the court before the trial.

1. As a witness you fulfil an important obligation as a citizen. With your statement you will under circumstances contribute considerably to enabling the court to make a just decision. Even if you believe that you will not be able to render substantial information in your testimony, your appearance is nevertheless necessary for the purpose of ascertaining the truth. If you dispose of any records or any other documents which may facilitate giving answers to the questions of proof and evidence, you are requested to bring these with you to the court hearing. Your presence in this case is necessary, even if you have already been heard once before in this case.

For further information see the instructions for witnesses “Zeugen gesucht!“ (Witnesses needed!) which you can download from the Internet under <http://www.mj.niedersachsen.de>.

2. If you fail to appear at your hearing as a witness without sufficient excuse for your absence, the costs incurred will be charged to you. At the same time an administrative fine totalling up to 1,000 EUR can be charged against you and if this claim cannot be collected, an arrest for contempt of court of up to six weeks can be imposed. If you fail to appear, the court can, under circumstances, issue a police summons to bring you before the court.
3. A witness shall only be deemed to be sufficiently excused if he/she is unable to appear at the hearing for an important reason (e.g. on the grounds of a serious sickness). If you believe that you will be unable to comply with the summons for such an important reason, you are requested to inform the court thereof without undue delay stating the reasons for being prevented from appearing. The reason for your failure to appear must be credibly documented by a medical certificate or any other certificate. A **certificate of disability [Arbeitsunfähigkeitsbescheinigung]** shall not be deemed to suffice. The medical certificate must document that you are **deemed unfit to stand trial or to travel**. The court will then verify your request. If, however, you do not receive any information to the contrary, this will mean that the original summons will remain valid.
4. Please inform us **without undue delay** after receiving the summons whether any circumstances exist which may make it **particularly costly** for you to appear. Such a case might, for example, be given if you are not able to commence your firmly booked holidays as a result of being summoned to a trial and if high costs arise as a result of having to cancel your holiday booking. If, as a result of your freelance work, costs arise for a representative or if you suffer a loss of income over a period of several days, you are also requested to inform the Court of such circumstances **without undue delay** submitting appropriate proof to document these circumstances.

5. **Please also inform the court without undue delay, if you intend to travel to the hearing from another location other than that of your address stated in the summons, as you might otherwise suffer disadvantages in determining the compensation to which you are entitled.**
6. Please also inform the court of any changes in your address without undue delay, so that the court can contact you at any time.
7. By special request you will be paid a compensation for loss of income, for disadvantages in household management, for time consumed and expenses as well as compensation for travel expense and any other disbursements within the scope of the terms set forth in the Justizvergütungs- und -entschädigungsgesetzes [Judicial Remuneration and Compensation Act].

Your entitlement to compensation shall be forfeited if it is not applied for within **three months** after termination of your involvement as witness either orally or in writing at the court division of the court stipulated in the summons. In the event of a premature termination of your involvement, the deadline shall commence with the notification of completion sent to you. If you have been summoned several times in one legal instance, the last date on which you were summoned shall be deemed to be decisive in this instance with regard to the commencement of all deadlines.

8. You shall be required to document the amount of loss of income. Employees shall be required to present a certification issued by their employer on their regular gross wages (also in the case of monthly wages), on the number of regular working hours per day, on the time at which work is commenced and ended, and whether the loss of income only refers to the loss of income due to being present at the court hearing or to periods prior thereto and after the hearing. Attached you will find a template for the appropriate certification.

Freelancers, persons working on a self-employed basis etc., shall be required to present other documents (e.g. receipt on expenses for a necessary representative in their business, trade licence, craftsman's permit).

Compensation shall be paid for the lost regular gross salary including the social insurance contributions to be borne by the employer for the complete period of consultation, however, for no longer than ten hours per day and at a rate of max. 21 Euros per hour.

9. Expenses shall only be substituted if they are documented by receipts (e.g. travel tickets for the public transportation means used, receipt documenting expenses for taking care of infants).

If a regular means of public transportation is used, the actually incurred expenses will be refunded according to statutory regulations.

If you use your own car or a car provided free of charge 0.25 Euro will be refunded per kilometre driven plus any incurred expenses in cash (in particular parking fees). If any other vehicle is used the actually incurred expenses up to the amount of costs which would have arisen if your own car had been used plus any incurred expenses in cash will be refunded.

Higher travel expenses will be refunded, in so far as higher compensation amounts can be economised or if these are necessary due to special circumstances.

Avoidable expenses shall not be refunded.

10. If you will most probably have to face considerable travel expenses or other expenses, an advance payment can be granted for compensation of your travel expenses if you file an appropriate application.

You can file this application with the court designated in the letterhead, or in urgent cases at the competent district court (Amtsgericht) for your place of residence. Please file this application without undue delay after receipt of this summons.

11. Some courts offer the possibility to support witnesses prior to and during the hearing. As these services are not available at each individual court, you are recommended to contact the court designated in the summons and to ask whether such services are available.

Information for aggrieved third parties and/or joint plaintiffs:

For aggrieved third parties in summary proceedings only the following clauses 13, 18 and 19 shall apply.

12. Aggrieved third parties – in so far as applicable – shall be informed by application of the dismissal of proceedings, of the date and time of the trial, as well as of the accusations brought forward against the accused persons and of the outcome of the court proceedings. In particular aggrieved third parties are entitled to apply for information as to whether instructions were issued stating that the convicted person is not permitted to contact or consort with the aggrieved third party. If the aggrieved third party is not in command of the German language, he/she will be informed of the date and time of the trial in a comprehensible form, upon application.

Furthermore upon application, the aggrieved third party will be informed whether detention has been imposed upon the accused or convicted person, or has been terminated, or whether privileges or leave have been granted for the first time or repeatedly, if a justified interest is presented and no overriding interest of the person in concern meriting protection is contradicting thereto (Section 406d German Code of Criminal Procedure (StPO)). In exceptional cases laid down by law it is not necessary to present an overriding interest. In addition thereto the aggrieved third party is informed upon application whether the accused or convicted person has evaded detention by flight and which measures have been, if applicable, taken to protect the aggrieved third party as a result thereof.

Please observe that the notifications can be omitted, if these cannot be delivered to the address specified.

If the aggrieved third party has selected an attorney as counsel, or such a person has been appointed or if the aggrieved third party is represented by an attorney, such notifications will be made to this person.

13. In the case of a justified interest the aggrieved third party has the right to access to the records via an attorney or to obtain certain copies from the files, as well as to view officially stored pieces of evidence, unless primary interests of the accused or other persons which deserve to be protected are deemed to be opposing (Section 406e StPO).
14. The aggrieved third party is entitled to avail himself/herself at his/her own costs of assistance by a legal counsel who can be present in the hearing and can exercise certain rights for the aggrieved third party.

It is also possible in hearing the aggrieved third party as witness for a person of trust to be present upon application, unless the purpose of the investigation would be jeopardised as a result thereof (Section 406f StPO).

15. Pursuant to Section 395 StPO with regard to the right as authorised person to join as a private accessory prosecutor it is possible to avail oneself even before taking plenary action and without declaration of an attorney as legal counsel or to be represented by

such a person. You are entitled to be present in the trial even if you are to be heard as witnesses. The attorney of the person entitled to accessory prosecution is authorised to be present in the trial.

16. **Rights of the aggrieved third party beyond the criminal proceedings (Section 406i StPO):**

- a) In the case of a proprietary claim resulting from the criminal offence, the aggrieved person is entitled to assert such claim against the accused person pursuant to Sections 403 – 406c StPO and Section 81 Jugendgerichtsgesetz (JGG) [German German Youth Courts Law] in the criminal proceedings in so far as it lies within the competence of the regular courts and has not already been asserted by civil law. The appropriate application can be filed in writing or orally by declaration made to a registrar, within the scope of the trial or orally up to the beginning of the final speech of the defence. It must state the reason and subject matter of the claim and contain the evidence. Upon application the aggrieved person can be granted legal aid for the purpose of consulting a counsel.
- b) In addition thereto, the aggrieved person is entitled to the following pursuant to the regulations stated:
 - to apply for orders to be enacted against the accused in compliance with the Protection against Violence Act [Gewaltschutzgesetz],
 - to enforce a claim pursuant to the Crime Victims Compensation Act [Opferentschädigungsgesetz] and
 - to claim administrative regulations of the federal government or federal lands or, if applicable, compensation claims, to be enforced.
- c) The aggrieved person is also entitled to support and assistance by facilities for victim rights, for example,
 - in the form of counselling,
 - by providing or organising accommodation at facilities for the support and protection of victims or
 - by organising therapeutic offers, such as medical or psychological assistance or further available support offers in the psychosocial field.

17. **Powers of the aggrieved person within the criminal proceedings (Section 406i StPO):**

- a) Under the prerequisites set forth in Sections 395, 396 StPO or Section 80 subsection 3 JGG the aggrieved person is entitled to join the action brought forward by the public prosecutor (as joint plaintiff) and
 - pursuant to Section 397a StPO to apply for a legal counsel or for legal aid to be granted if a counsel is consulted and
 - pursuant to Section 397 subsection 3 StPO and sections 185 and 187 GVG to enforce a claim for an interpreter and translator in the criminal proceedings.
- b) Furthermore, the aggrieved person is entitled to the following
 - to enforce a proprietary claim resulting from the criminal proceedings and pursuant to Sections 403 to 406c StPO and Section 81 JGG in the criminal proceedings,
 - in so far as he/she is heard as witness by the Public Prosecutor or court, the aggrieved person is entitled to apply for compensation pursuant to the German Judicial Remuneration and Compensation Act (JVEG),

- pursuant to Section 155a StPO to reach a mediated agreement on compensation by way of Perpetrator-Victim-Mediation as well as
- pursuant to Section 158 StPO to inform of a criminal offence or apply for criminal prosecution.

Already permitted private accessory prosecutors are entitled to apply for a legal counsel to be appointed for the private accessory prosecution under the prerequisites set forth in Section 397a StPO.

Aggrieved persons are also able to obtain support and aid by a facility maintained by Opferhilfe [Victims Rights and Assistance]. Such organisations also provide information on psychosocial support during legal proceedings.

18. In Lower Saxony the victims of criminal offences are entitled to assistance among others from the offices of the foundation Opferhilfe Niedersachsen offering support for victims of crime.

The offices offering support for victims of crime offer concrete assistance: Psychosocial support and advice, arrangement of further support and consultation offers, accompanying to meetings at courts, authorities, attorneys and doctors as well as support in filling in applications. Victims are also provided with information on financial aid and damage claims.

You will find offices offering support for victims of crime in the following cities:

Aurich, Braunschweig, Bückeburg, Göttingen, Hannover, Hildesheim, Lüneburg, Oldenburg, Osnabrück, Stade and Verden. See under the following Internet address for the nearest office with address, contact person(s) and office hours: www.opferhilfe.niedersachsen.de.

The foundation Opferhilfe Niedersachsen cooperates closely with the national office of Lower Saxony of the association WEISSER RING e.V. (www.weißer-ring.de). Besides that there are a multitude of additional institutions offering support for victims which are active on regional level.

19. You can download further information in a special brochure prepared by the Federal Ministry of Justice (Opferfibel) which you can download from the Internet under the following link <http://www.bmjv.de/opferschutz>.
20. If the aggrieved party is not in command of the German language or suffers from a hearing or speech impairment, it is possible to book the services of an interpreter for the complete criminal proceedings. These services are free of charge. It is furthermore possible to demand a written translation of court orders regarding imprisonment as well as of bills of indictment [Anklageschrift], penalty orders [Strafbefehl] and court judgements which have not yet become final and conclusive.