[DE] Bill to prevent perpetrators from deriving immoral profits from commercial exploitation of their actions in the media

IRIS 1997-3:1/24

Valentina Becker
Institute of European Media Law (EMR), Saarbrücken/Brussels

The Free State of Bavaria has submitted a Bill on compensation for crime victims to the Federal Council. The Bill not only aims at improving the procedural position of victims of acts of violence, but also at ensuring that the perpetrators can derive no immoral profits from commercial exploitation of their actions in the media. Fees paid for film treatments or talkshow appearances are now to go, on certain conditions, to the victims. So far, such assets have not usually been available to meet the legitimate civil law claims of victims, although publicising the crime often interferes with their legally protected right to privacy. This is why the Bill now intends to give them a protective guarantee, in the form of a claim on profits derived by criminals from public portrayal of their actions. The Bill expands the content of the Act on compensation for the victims of crime to include a civil law element. A new second paragraph will contain regulations on the creation and enforcement of legal claims on profits derived by criminals from public portrayal of their actions. Extensive references to the Civil Code ensure uniformity with the rest of civil law. This protective guarantee applies only to victims who are entitled to claim civil compensation from the criminal. If there are several victims of the same publicised crime, all will have equal claims. There can be no constitutional objections to giving the victims of crime a claim on such profits. The media's freedom to report is not restricted by the new measure. There is no interference with freedom of the press, as protected by Article 5, para. 2 (2), of the Basic Law, since possibilities for press, radio and television coverage are not affected. Nor is any influence exerted on decisions concerning the nature, amount and recipients of fees for coverage in specific cases. The only thing is that, once this claim exists in law, the agreed fees may no longer be paid unexamined to the criminal.

Nor can there be any reservations under the equal treatment principle (Article 3, para. 1 of the Basic Law). It is true that the new measure puts the victim of a crime in a better position than the criminal's other creditors, but the fact of its being limited to profits derived from public portrayal of the crime means that treating victims and other creditors differently does not violate the equality principle.

© European Audiovisual Observatory (Council of Europe) 2026

Entwurf eines Gesetzes zur Änderung des Opferentschädigungsgesetzes vom 22. Oktober 1996, BR-Drucks. 787/96.

Bill to amend the Act on compensation for victims of 22 October 1996, BR-Publication. 787/96.

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026