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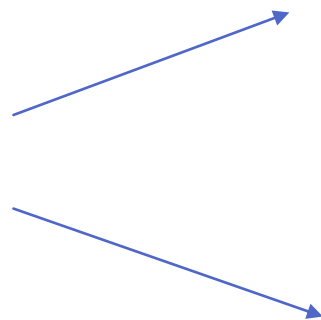
# PROVISION OF INFORMATION: THE INFORMATION PACKAGE

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Bruxelles, 20 February 2020



*information*



*Right*

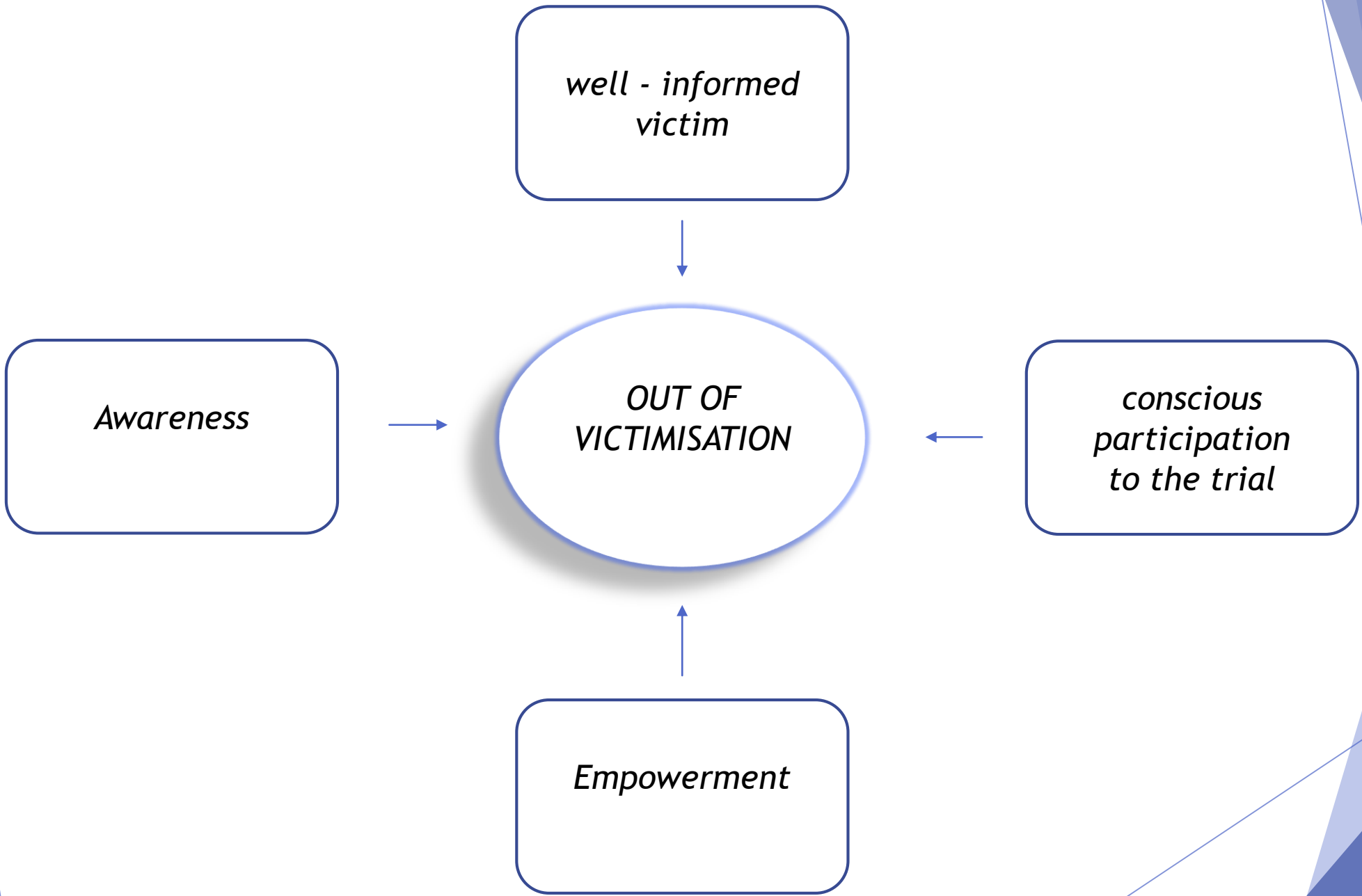
*Need*

## ARTICLE 4

### RIGHT TO RECEIVE INFORMATION FROM THE FIRST CONTACT WITH A COMPETENT AUTHORITY

*From the first moment of contact with any authority, whether it is the Public Prosecution Service or the police, the victim is entitled to be informed about the following:*

- ▶ *what kinds of support are available and who can provide them, including medical assistance, psychological counselling, specialised services and, if necessary, accommodation;*
- ▶ *how and where to file a complaint or report a crime;*
- ▶ *how and under what conditions you may obtain protection;*
- ▶ *how to obtain legal advice and legal aid;*
- ▶ *how and when to seek compensation from the offender;*
- ▶ *in the case of violent or domestic violence crimes, how and when to claim compensation from the State;*
- ▶ *how to obtain interpretation and translation services;*
- ▶ *if the victim does not live in ..., what special procedures are in place to defend their rights in this country;*
- ▶ *how to make a complaint if your rights are not respected by the authorities;*
- ▶ *contact details of authorities which the victim should use to give or ask for information about the case;*
- ▶ *which mediation services are available;*
- ▶ *how and when to claim reimbursement of expenses for participating in the proceedings and when this is applicable*



The partners of VICToRIIA project have identified specific needs in providing support services to victims, among these:

- ▶ Absence of a detailed mapping on Support Services available;
- ▶ Inconstancy of the extent and range of information provided to victims.



To address these needs, the objectives of VICToRIIA are to:

- ▶ Establishing an **information toolkit** for victims on their rights, the impact of victimisation and on the victim services available in the States of the partner organisations, at national and local level.



**INFORMATION  
PACKAGE**

*MANUAL ABOUT VICTIMS' RIGHTS, CRIMINAL  
JUSTICE SYSTEM AND VICTIMS' SUPPORT SERVICES*

A set of core information on victim's rights in a simple and accessible language

infovictims



KNOW  
YOUR **RIGHTS** AS A  
**CRIME VICTIM**



CHOOSE COUNTRY



SUPPORT SERVICES

USEFUL CONTACTS

GLOSSARY

QUIZ

SITE MAP



FREE CALL **116 006**  
VICTIM SUPPORT HELPLINE

I WAS A VICTIM OF CRIME:  
CONSEQUENCES AND REACTIONS

THE RIGHTS  
OF VICTIMS OF CRIME

CRIMINAL COURT PROCEEDINGS

WHO'S WHO  
IN CRIMINAL PROCEEDINGS

I WANT TO REPORT A CRIME: WHAT SHOULD I DO?



## ANYONE CAN BE THE VICTIM OF CRIME

**Being the victim of a crime is a negative event that can happen to anyone in their lifetime.** Apart from the physical, psychological, financial and social consequences that a crime may have, it is normal for anyone involved in court proceedings to have many questions and to feel anxious and apprehensive.

**If you were a victim of crime or if you know someone who was, this website can help you.**

Here you will find information about criminal proceedings, your rights and the public services that can provide you support.

### DISCLAIMER

Some of the information on this website has been intentionally simplified, so that it can be easily understood by the general public. This simplification does not affect the thoroughness and accuracy of the content. Owing to legislative changes and developments, different court practices and the fact that every case is different, it is advised that the information available on this website be complemented by the legal advice that is indispensable for each particular case. The content for this website was compiled by APOAV as part of the INFOVICTIMS project and co-financed by the Criminal Justice Support Programme of the European Commission – Directorate-General for Justice. The content reflects APOAV's point of view and the European Commission cannot be held liable for any use of the information available on this website.

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We hope you find this website useful and productive!

# INTRODUCTION

## EVERYONE CAN BE A VICTIM OF CRIME



Being the victim of a crime is a negative event that can happen to everyone in their lifetime.

Apart from the physical, psychological, financial and social consequences that a crime may have, it's normal for someone involved in court proceedings to have many questions and to feel anxious and apprehensive. If you are a victim of crime or if you know someone who is, this brochure can help you. Here you will find information about criminal proceedings, your rights and the public services that can provide you support.

We hope you will find this brochure useful and productive!

## CRIMINAL PROCEEDINGS



Here you will find a short description of the phases which compose the criminal procedure.

It's obvious that taking part in court proceedings can raise doubts and can make you feel anxious. You would like to know what is going to happen and



## THERE ARE SEVERAL REASONS WHY YOU MIGHT BE UNWILLING TO REPORT A CRIME

**"It wasn't important."** Even a minor crime can be distressing and upsetting. The authorities know it, and this is exactly why they will take your complaint seriously.

**"It's not a crime"**. Only the police and the judiciary can correctly assess if the tort/wrongdoing makes up a crime or not.

**"It's embarrassing."** You could be ashamed to report a crime. This usually happens in cases of sexual or domestic violence. Authorities should deal with these situations sensitively and they are not going to judge you. Whatever your gender, sexual orientation, religion, nationality or ethnicity is, being a victim of crime can be traumatic.

**"The authorities don't care"**.

The authorities have many cases to deal with and maybe they can't consider yours as quickly as you would expect, but they will give them the proper attention. They can't always be able to identify or catch the person responsible for the crime, but they always try to do their best.

**"The police don't want to receive my complaint"**. Police officers are obliged to receive all complaints from all citizens and are obliged to transmit them to the Public Prosecutor, who has the obligation to evaluate them. Should the police officers refuse to receive the complaint, they will be responsible for serious crimes and may be punished and dismissed from service.

**"The police don't believe me."** The police don't judge your story, but it merely reports the complaint. The Public Prosecutor or the judge will establish whether the facts correspond to the truth after a careful investigation.

**"The police won't listen to me"**: Police officers are obliged to listen to everybody who believes he/she has been a victim of crime. Should the police officers refuse to listen to the victim, they will be responsible for serious crimes and may be punished and dismissed from service.

**"I can't speak Italian"**: If you have difficulties in speaking and understanding Italian, you can always approach to an interpreter.

**"I'm in panic"**: It could usually happen that, if you are a victim of violent crimes, you may feel shocked, traumatized and afraid to report the crime experience to the authority. However, you must know that your story will be gently listened by competent people.

**"I'm worried about what's going to happen next"**. It is normal for you to be worried about going to the police, making statements and then going to the court to testify, but don't forget that support and help are always given to you during the whole process.

**"I'm afraid of retaliation by the author"**. In many cases you may be afraid that the offender can repeat the crime or may take revenge against your family or your property. It is an understandable fear. By the way, you must know that you can get protection measures against possible retaliation if you decide to communicate your dread.

**"It's over and it hasn't affected me"**. If the crime has not had much impact on you, all the better. Some people can deal well with these difficult situations and act as if nothing has happened, even when a serious crime was committed against them. Nevertheless, if you don't report the crime, the authorities won't be able to try to catch the offender and he/she might do it again. You should consider the fact that the next victim might not be as able as you to overcome the effects of the crime.

**"I want to protect those who mistreat me"**. Usually, in case of family maltreatment, the victim doesn't report the crime because it is emotionally attached to the perpetrator. This emotional bond could be a reason to not reporting the violence: this is a wrong attitude that must be abandoned. There is no feeling or love bond that can justify mistreatment and lack of respect.

## HOW TO REPORT THE AUTHORITIES YOU ARE VICTIM OF A CRIME

Reporting a crime doesn't need any cost. If you are a victim, you can report it to the authorities (Police, Carabinieri, etc.). You can file a complaint or a lawsuit even if you can't identify the person who committed the crime. The authorities will investigate and identify the offender. However, it's not possible to make anonymous complaints.

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## HOW CAN PEOPLE REPORT A CRIME?

- Through the complaint filed by the victim.
- Through the complaint filed by whoever knows about the crime or was involved in it.
- Through reports by people who perform a public interest function.

## WHERE CAN I SUBMIT A COMPLAINT OR A LAWSUIT?

**Complaints or lawsuits must be presented at the following offices:**

**1) Public Prosecutor's Office.** The Public Prosecutor's Office is set in every Court. In every public prosecutor's office, there is an office whose activities are receiving written complaints already prepared by the victim; there is also an office where the complaint's content can be presented orally.

**2) State Police.** At the offices of the State Police - Quests and Commissariats - you can report both in a written or in oral form.

# PRELIMINARY INVESTIGATIONS



Once the crime notice has been submitted, the authorities open a file and the investigation phase begins.

## WHAT DOES IT HAPPEN NOW?

The investigations will start to verify the facts which have been reported.

This phase has a formal start with the registration of the crime report on the Crime Report Register. This register is safeguarded at each Public Prosecutor's Office and collects the complaints in chronological order. Each complaint is identified as follows:

***R.G.N.R. or General Crime Report Register.***

***Progressive number of presentations of the complaint.***

***Year of presentation. (eg R.G.N.R. 20730/2018)***

The name of the Public Prosecutor is also indicated close to the registration number. During preliminary investigations, the victim has the possibility to:

- ask for information the Public Prosecutor about the progress of the investigations;
- deposit to the Public Prosecutor written documents to expand and better illustrate the complaint;
- indicate to the Public Prosecutor arguments for evidence like indicating names of every witnesses, depositing documents and images, depositing audio or video files.

# INVESTIGATION ACTIVITIES



During this phase, the investigating police officers will collect evidence such as:

- collection and storage of evidence;
- carrying out "urgent technical checks"<sup>1</sup>. Some of these checks are for example the chemical examination, the analysis of biological samples and the autopsy which aim is to investigate the victim's causes of death.
- Identification of the suspected. In this phase the victim or every witness are asked for a detailed description of the offender: they are asked to explain if they have ever seen the offender before and eventually where, when and how. It is useful to let the victim, or the witness, see some photos of the offender, so that they can recognize who has perpetrated the crime.
- listening to the offender;
- listening to people who know the facts reported;
- possible listening to the victim;
- Request documents that could be relevant: for example, reports from the Local Health Institution where the victim has been assisted or lists of telephone calls made by the suspect, etc.
- searches, or operations aimed to find and acquire everything that deals with the crime.

<sup>1</sup> The victim has the right to be advised of the commencement of urgent technical checks: in this way he can appoint a technician of his own confidence who can participate in the operations.

After the victim has been heard, it is normal that time passes before she/he receives information about the case. The investigation phase can take from few weeks to several months depending on the amount of evidence to collect the complexity of the investigation. During the investigation, it may be necessary to hear the victim several times. If she wants to know how the

## END OF THE INVESTIGATIONS: DISMISSAL OR COMMITMENT FOR TRIAL



At the end of the investigation, the Investigating Police Officer sends all the evidence collected to the Public Prosecutor. Currently there are 2 possibilities: *dismissal* or *commitment for trial*.

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### 1. DISMISSAL



If the defendant is still unknown, or if the crime report is unfounded, the Public Prosecutor asks the Preliminary Investigations Judge for the archiving of the complaint <sup>2</sup>.

#### WHAT IS THE ROLE OF THE VICTIM?

If the victim asked to be notified, the Public Prosecutor is obliged to notify her/him. What can the victim do when he/she receives the warning?

- a) going to the Public Prosecutor's office and examining the investigation documents which must be dismissed;
- b) taking into consideration the opportunity to challenge the decision of the

## 2. COMMITMENT FOR TRIAL



If a defendant is being identified and convincing evidence has been collected, the Public Prosecutor begins to carry out the penal action. From this moment the offender, who was until now formally qualified as a *suspect*, assumes the status of a *defendant*. Furthermore, the Public Prosecutor formulates charges against the defendant. The PP collects all those rules of the Criminal Law he thinks the defendant has violated, the short description of the facts, the place and date of the event.

### 2.1 TOWARDS THE TRIAL

As regard most serious crimes, the Public Prosecutor transmits the investigation file to the Judge for Preliminary Investigations (GIP) and asks him/her to pursue the defendant- commitment for trial. Then, the Public Prosecutor fixes a preliminary hearing in order to decide on the request for it. When a preliminary hearing is set, the victim is also informed through a letter including:

- a) the date of the hearing, the time of the hearing, the place where the hearing will be held;
- b) the description of the fact for which the defendant will be judged;
- c) the indication of proofs.

This date should be note down in the calendar, so that the person doesn't forget to participate.

## 3. THE TRIAL



### 3.1 STEP 1: PREPARATION FOR THE TRIAL



It is perfectly normal to feel anxious and insecure before the trial. You are not used to this new situation. For this reason, it is important to prepare yourself. Victim support centers such as Associazione Libra Onlus can help you. If there is the opportunity, the person should go to the courthouse a few days in advance to see the different spaces (the courtroom or the witness waiting room). If it is possible, we suggest you participate in another trial or part of it as you know how to orient yourself more easily on the trial day. On the hearing day the victim will most probably meet the defendant, his family and friends. The victim must prepare herself for this eventuality by thinking

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and choosing in advance the procedures she will adopt. She must try to stay away from them and mustn't answer to any provocation and, whether the victim feels threatened, she must immediately inform the court clerk or the police officer in the courtroom. If it is possible, it is always better to go with someone. Whatever the role of the victim in the trial is, she has the right to have a lawyer.

### 3.2 PRELIMINARY

The victim can attend the preliminary hearing but can also be replaced by her lawyer.

## 3.6 THE HEARING



In the case of more significant crimes the Court is composed of three Judges and chaired by the President. In the case of more common crimes the Court

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is composed of a single Judge. In the case of very serious crimes (such as murder or crimes against the State) the Court is called "Corte d'Assise" and is composed of two professional Judges (one of whom acts as President) and six popular Judges (common citizens).

**The following people are also present at the hearing:**

- a) **the Chancellor**, who sits next to the Court, organizes the role of the hearings and puts the statements in the minutes;
- b) **the Public Prosecutor**, who carried out the investigations and supports the prosecution before the Court. Generally, the Public Prosecutor sits on the left before the Court;
- c) **the defendant and his lawyer**. They generally sit on the left in front of the Court;
- d) **the victim/civil party and his/her lawyer**. They generally sit in the second row, on the left, in front of the Court, or next to the Public Prosecutor;
- e) **witnesses**, who are seated beside the Court and are interrogated by the parties;
- f) **experts**, consultants and interpreters of foreign languages.

### THE OPENING OF THE TRIAL

If the defendant who was regularly summoned to appear at the hearing didn't appear, the trial would be held in his absence (but still with the presence of his lawyer).

## 4. THE SENTENCE



### WHAT IS THE SENTENCE?

The sentence is the written act issued by the Court that concludes the trial and contains the decision of the case. A sentence declares the position of the defendant:

- a) it can declare that the defendant is not guilty, and therefore acquit him
- b) it can declare that the defendant is guilty, and then convict him to:

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- a custodial sentence of personal freedom (life sentence, detention, arrest) or deprivation of a part of the net worth (fine). The penalty can be effective (which means that it must be served), or it can be suspended, considering the expectation that the defendant will be able to hold a good conduct in the future.
- The sentence may also include accessory penalties, which are prohibition imposed on the defendant; for example: the prohibition of exercising a profession or a commercial activity.
- Finally, the sentence of conviction can also declare the defendant's social dangerousness and impose some limitations (security measures) after the sentence has been served.

Generally, when the sentence declares that the defendant is guilty, it also provides for the victim that become civil party.

- a) If the damage is completely proved, the sentence will convict the defendant to full compensation in favor of the victim.
- b) If a precise and complete quantification of the damage has not been reached, the sentence will convict the defendant to a provisional

# THE RIGHTS OF CRIME VICTIMS



Victims of crime are recognized to have a set of rights which they can exercise in order to meet their needs and defend their interests and expectations. **These rights are provided not only in national law, but also in instruments international law such as the EU Directive 29/2012**, which establishes minimum rights of support and protection for victims of crime. Here you can get to know these rights a little bit better and learn **how they can be put into practice**. Support centers for generalist victims, such as the Libra Onlus Association, can help you exercise some of these rights by providing you with information and clarifications, and supporting you during the institutional course.

## 1. RIGHT TO INFORMATION

The right to information is very important, because only well-informed victims can participate fully in the proceedings and exercise their rights.

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Information should be given to the victims in a simple and accessible form, so that they may fully understand it. If any victim feels fragile and needs some support, they can be accompanied by a family member, a friend, a lawyer or a victim support officer, who can help them to understand and remember the information provided. Victims of crime are entitled to receive information about their rights, the progress of the case - except for situations where this is not permitted because of judicial secrecy requirements - and the main decisions made in their case. Information should be provided to them at each stage of the proceedings by the responsible authority. In addition, victim support services have an important function as a source of information. The "Libra Onlus" Support Centre for Crime Victims can help

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## 2. INFORMATION ABOUT RIGHTS

From the first moment of contact with every authority, whether it is the Public Prosecution Service or the police, the victim is entitled to be informed about the following items:

- what kinds of support are available and who can provide them, including medical assistance, psychological counselling, specialised services and, if necessary, accommodation in safe places?
- medical assistance, psychological counselling, specialised services and, if it is necessary, accommodation How and where to **present a complaint or a lawsuit**;
- How and when people should submit a complaint or a lawsuit;
- How and under what conditions **protection** can be obtained;
- How to get **legal advice and assistance**;
- How and under what conditions it is possible to **obtain**

## 3. INFORMATION ABOUT THE CASE

The victim is entitled, upon request, to be informed about any follow-up done on the report made, including the decision to charge the defendant or to close or provisionally suspend proceedings. The victim is also entitled to be informed of the date, time and place of the trial and of the judgment.

To this end, when victims are given information about their rights, they should declare their wish to be notified of any decisions made in the criminal proceedings and the reasoning for such decisions.

Victims are entitled not to want to be informed about all the above. However, they cannot refuse to be informed if their role is proceeding as a civil party or as an assistant requires them to be notified so that the defence of their rights and interests can go ahead.

Victims are entitled to be informed if the defendant or convicted criminal is released or escapes from prison, particularly when the defendant is considered potentially dangerous to the victim and given information about key judicial decisions affecting the defendant’s status, the use of restrictive measures. This information should be provided at each stage of the proceedings by the responsible authority - the Public Prosecution Service, police, examining judge or trial judge.

Victims are also entitled to view the case file, except when judicial secrecy applies during the inquiry stage or the public prosecutor opposes the

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viewing on the grounds that it could jeopardise the investigation or the rights of the parties in the proceedings.

## 4. RIGHT TO RECEIVE ACKNOWLEDGEMENT OF THE COMPLAINT

Any victim who files a complaint or a lawsuit is entitled to receive a written acknowledgement immediately without having to request it. This



## 20 TIPS FOR VICTIMS



1.

### ALWAYS TELL THE TRUTH.:

Telling the truth is describing everything that happened in as much detail as you can remember. This is your role as a witness.

2.

### LISTEN CAREFULLY TO THE QUESTIONS YOU ARE ASKED:

Wait until the end of the question before replying.

3.

### TAKE AS MUCH TIME AS YOU NEED:

Take as much time as you need to think about the question you were asked and about your answer.

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4.

### RESPOND SLOWLY AND CALMLY:

Respond slowly and calmly to all the questions using short clear sentences.

5.

### DO NOT BE AFRAID TO SAY EVERYTHING YOU KNOW:

Do not be afraid to say everything you know and all the details you can remember. All the information you can provide may be important to finding out what happened. If, in order to describe what happened, you need to use less appropriate words, such as swear words used by the defendant during the crime, you should do so.

6.

### REPLY ONLY TO WHAT YOU ARE ASKED:

Don't try to please whoever is asking the questions by providing information about subjects with which you are not familiar.

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**REPLY ONLY TO WHAT YOU ARE ASKED:**

Don't try to please whoever is asking the questions by providing information about subjects with which you are not familiar.

7.

**DON'T REPLY TO QUESTIONS YOU DIDN'T FULLY UNDERSTAND:**

You can, and you should ask for the question to be repeated or explained better. You can say: "I'm sorry. I didn't understand. Can you please repeat that/explain that better?"

8.

**"I DON'T KNOW":**

When asked questions to which you don't know how to reply, there is only one answer: "I don't know". Remember that your role is to tell what you know about what happened. Don't make up a reply just to answer the question. Don't assume and don't give your opinion. Testify to the facts that you saw, heard, know of or learned directly. Testimonies based on rumour or hearsay are irrelevant.

9.

**TRY TO ANSWER IT THE SAME WAY:**

It is possible that you will be asked the same question more than once. Try to answer it the same way.

**10.****DON'T BE AFRAID TO SAY "I DON'T REMEMBER":**

It is only natural that you can't remember all the details or that you can't recall some things accurately. If this happens, stay calm and don't be afraid to say: "I don't remember". Forgetting some things that happened in the past is a natural memory process. This may be associated with the passage of time (very often, witnesses have to testify about something that happened many months or years ago) or with discomfort caused by recalling a negative life experience.

**11.****IT IS NATURAL TO FEEL AFRAID:**

It is natural to feel afraid, nervous and tearful. Testifying is an experience that can make anyone anxious and frightened. Talking about the crime or answering questions about the crime you witnessed (or were a victim of) is not a pleasant task, because it forces you to remember things you would like to forget and 'erase' from your memory. One of the reactions that can occur is crying. Don't feel ashamed about this. Your reaction will be understood, as it has already happened to many people in the same situation.

**12.****DON'T BE AFRAID OF THE DEFENDANT:**

Don't be afraid of the defendant or let his/her presence inhibit you. Avoid looking at him/her while answering the questions. Look only at the person asking you the question. If you'd rather speak without him/her being there, you can say so to the judge. If the judge thinks this is reasonable, the defendant may be removed from the room while you are speaking.

**13.****THE WITNESS ISN'T BEING ACCUSED OF ANYTHING:**

The witness isn't being accused of anything: the witness hasn't committed any crime. The only person being accused is the defendant. The witness is there to help the authorities gather important information so that they can make the right decisions.

*Thank you!*

*Andrea Poltronieri*