



# **INFORMATION PACKAGE**

# INTRODUCTION

## EVERYONE CAN BE A VICTIM OF CRIME

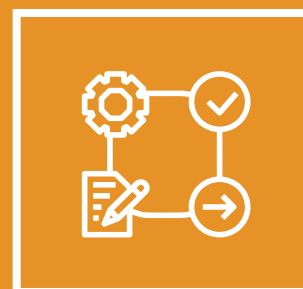


Being the victim of a crime is a negative event that can happen to everyone in their lifetime.

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

what you are supposed to do. Here you will find a short description of the phases which compose a criminal procedure. We will try to give you short simple answers to questions such as "How do I report a crime?", "How is the investigation carried out?", "What does it happen in a court?", "What is an appeal?" and many others.

## 1.1 THE CRIME

A crime is understood as voluntary behavior, in some cases, negligent behavior) that infringes the Criminal Code. All anomalous behaviors, which are not considered crimes, may constitute other examples of legal violations (administrative or civil), or may only constitute annoying acts which are not legally relevant. Therefore, any voluntary human behavior that creates an offense (damage or danger) to a fundamental social interest, becomes a crime.

### CRIME CATEGORIES

**The Criminal Code divides crimes into two categories:**

- a) **Crimes:** they represent the most serious infringement of the law and their authors are punished in one of the following ways:
  - **by life sentence:** it's the most serious punishment and it consists in putting somebody lifelong in prison;
  - **by imprisonment:** it's the deprivation of liberty from 15 days to 24 years (without the aggravating circumstances);
  - **by a fine:** it's a sum of money which can range from € 50 to € 50,000.
  
- b) **Fines:** they represent the less serious infringement of the law and their authors are punished as follows:

- **by arrest:** it's the deprivation of personal freedom from 5 days to 3 years;
- **by a financial penalty:** it consists in a sum of money which range from € 20 to € 10,000.

### The crimes provided by the Penal Code can also be ranked by types:

- **against the state;**
- **against the Public Administration** (for example: corruption, bribery, embezzlement, abuse of the Public Official). According to these crimes, the victim is the national or local Public Administration;
- **against the Administration of Justice** (for example: false witness, false denunciation, corruption of the magistrate, slander). According to these crimes, the victim is the good course of justice;
- **against Religious Feelings and against the Mercy of the Dead.** It is about those outrageous behaviors towards all religions and the memory of the dead;
- **against Public Order and Public Safety** (for example: criminal association, fire, massacre, disaster). In case of these crimes a victim can also be identified in the person who has suffered a damage;
- **against the Public Faith** (for example: forgery of documents and deeds, forgery of coins and banknotes).
- **against Sentiment for Animals** (for example: killing and mistreatment of animals).
- **against the Family** (for example: failure to provide family assistance, violent correction of minors, ill-treatment of cohabitants). When these crimes happen, the victim is the family member or cohabitant who has suffered damage.
- **against the Person** (for example: murder, injuries, defamation, child prostitution, child pornography, slavery, persecutory acts, sexual violence, kidnapping, breach of confidentiality).
- **against Assets** (for example: theft, robbery, fraud, extortion, damage, receiving).

# 1.2 THE COMPLAINT

Reporting a crime is always the first step. Only through the complaint the authorities can learn about the crime and can therefore start the investigation.

## The importance of a crime complaint

If you were the victim of a crime, it is very important that you report it to the authorities. If you do it, it is more probably that the offender will be caught and taken to trial. It is also probably that this person won't be able to harm you or someone else anymore.

### Complaint is essential for:

- 1. proceeding in legal terms with the offender:** It is possible to proceed against the offender only through the complaint.
- 2. obtaining the damage compensation or the repair:** Only by the complaint it is possible to ask for the damage compensation or for the stolen goods return.
- 3. stopping the offender:** Only through the complaint the police can prevent the offender from carrying on committing other crimes.
- 4. protecting the victim from other crimes:** Protective measures can be activated in favor of the victim only through a complaint.
- 5. having a clear understanding of the criminal phenomenon:** The complaint is also important for the compilation of criminal statistics. Knowing the statistics of the crimes can help and guide the authorities to implement more effective prevention and enforcement policies.



# 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.

**“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.

**“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 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.

**“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’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 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.

**“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.

**“I have to appoint a lawyer”:** A lawyer is not required to file a complaint. The lawyer is only necessary if the victim wants to become a civil party in the process to obtain compensation for the damage. If the victim turns to the centers for assistance to victims, he/she can receive free legal instructions and advice.

**“I am clandestine, so I can't report”:** An illegal immigrant can think that his complaint could put him in a bad administrative-legal situation. It is important to know that being illegal immigrants doesn't fail the fundamental human rights. There are cases in which a residence permit can be granted owing to reasons of justice, which allow the illegal victim to stay in Italy and exercise his/her rights in an Italian Court.

Whatever you decide, keep in mind that you have always the right to receive support and help. Even if you do not report the crime you have suffered, it's very important to talk to someone about what happened and about how you feel to get all the help you need.

If you want to talk to someone before deciding, the operators of the Victim Support Centers (also at the CSV of Associazione Libra Onlus) are ready to inform and advise you.

## **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.



## 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.
- 3) Carabinieri.** At the Territorial Departments and at the Carabinieri Stations you can report both in written and oral form.
- 4) Local Police.** At the offices of the Local Police, you can report both in written and in oral form.
- 5) The offices of the Guardia di Finanza.** They mainly deal with complaints related to economic and financial crimes.

## WHICH IS THE CONTENT OF THE COMPLAINT?

### The complaint contains:

- description of the events occurred and suffered;
- possible evidences;
- personal details (name, surname, etc.) of the offender;
- personal details (name, surname, etc.) of the victim;
- possible witnesses.

## BY WHAT DATE CAN I FILE THE COMPLAINT?

There is no deadline to submit the complaint. Anyway, it's better to report the crimes suffered or assisted immediately so that the Police can start their work right away.

**N.B:** *the complaint can't be withdrawn or revoked by who presented it.*

## 1.3 THE LAWSUIT



## WHAT IS THE LAWSUIT?

**The lawsuit is a specific complaint needed to proceed against some specific crimes such as:**

- crimes against honor (defamation);
- crimes against the sexual freedom of adult victims (sexual violence);
- offenses against minor assets;
- mild personal injuries;
- crimes of persecution (stalking).

## BY WHAT DATE CAN I FILE THE LAWSUIT?

- within 90 days of the crime (or of its knowledge);
- within 6 months of the crime, in the case of sexual violence and stalking.

## WHO CAN SUBMIT THE LAWSUIT?

### **Lawsuit can be submitted by:**

- the victim of the crime.
- parents or the guardian/trustee in case the victim is under 14 or she/he hasn't got mental capacity

## WHAT MUST THE LAWSUIT CONTAIN?

### **Lawsuit must include:**

- description of the events that occurred;
- possible sources of evidence;
- possible personal information of the offender;
- personal details of the victim;
- possible witnesses;
- precise request to proceed with the punishment

**N.B:** the lawsuit can be withdrawn or revoked by the person who presented it through the act of remission of the lawsuit.

Withdrawal of the lawsuit is not permitted:

- in the case of sexual violence;
- if we are dealing with crimes of persecution

## WHY SOMEONE COULD REVOKE THE LAWSUIT?

It is generally withdrawn in case of conciliation between the victim and the offender, or in case of compensation or spontaneous reparation by the offender against the victim.

## IN WHICH CONTEXT COULD SOMEONE WITHDRAW THE LAWSUIT?

- in a non-judicial context (for example: at a police station);
- in a judicial context (for example: in front of the judge).

## IS THE VICTIM ALWAYS OBLIGED TO REPORT A CRIME SUFFERED?

The victim and the private individual are not obliged to report the crime in general.

**The victim is instead obliged to report the crime only in these following cases:**

- If a crime has been committed against the State;
- If the crime in question is punished with a life sentence;
- If the private individual has reaped goods such as money, objects, and so on from the crime

The victim who makes a complaint has the right to receive a registration certificate of the complaint. **This document confirms this presentation and reports in a written form the following items:**

- 1) type of crime suffered;
- 2) date and place of the event;
- 3) damage caused by the crime.

# 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.

## WHO CARRIES OUT THE INVESTIGATIONS?

The investigations are directed and coordinated by the Public Prosecutor, who entrusts the fulfillment of single acts to the Police.

## 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.

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<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 case proceeds, the victim must contact the police officer in charge or the Prosecutor and indicate the case number so that she/he can ask about some information.

## FORENSIC EXAMINATIONS

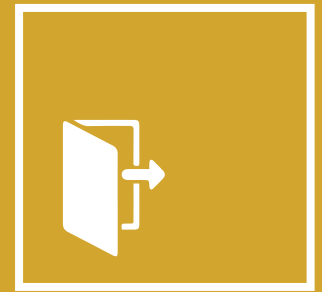
Forensic examinations are a key in the moment of legal procedures. Their aim is to verify the presence of signs that have been being produced by the violence inflicted on the victim's body, for example: scratches, redness, wounds, bruises or other injuries. These examinations also search for organic- or inorganic-traces on the victim's body or on clothes/objects that have been left by the offender, such as blood, semen, vaginal fluids, skin, hair, fibers, etc. Forensic examinations are very important for a crime victim, as they can represent relevant evidence in the criminal trial.

## 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*.

# 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 Public Prosecutor;

## HOW CAN YOU CHALLENGE THE PUBLIC PROSECUTOR'S DECISION ABOUT ASKING THE DISMISSAL OF THE CRIME REPORT?

You can do it by submitting an opposition act to the dismissing request. The opposition act must be in written form and must contain the justified criticisms against the decision of the Public Prosecutor. For example, it can be affirmed that the Public Prosecutor has neglected to investigate some lines of inquiry or has not heard relevant witnesses to reconstruct the facts.

The opposition act must be presented to the Public Prosecutor within 20 days from the receipt of the notice, or within 30 days in cases of crimes

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<sup>2</sup> IMPORTANT! The law has placed a guarantee in favor of the victim. As a matter of fact, the Public Prosecutor doesn't have the power to file the complaint. To definitively close the case the Public Prosecutor must be authorized by the Preliminary Investigations Judge. This means that a review by a judge must be performed on the dismissal procedure.



against person or burglary. To present an opposition act to the dismissal motion it isn't needed to ask the assistance of a lawyer, even if it is highly recommended.

## WHAT HAPPENS AFTER THE PRESENTATION OF THE OPPOSITION ACT TO THE DISMISSAL REQUEST?

After the presentation of the opposition act to the dismissal request, the case passes to the Judge for Preliminary Investigations. The Judge sets a hearing in which both the victim who submitted the opposition and the suspect participate. After the discussion at the end of the hearing, the Judge has three different ways to behave:

- a) he may consider the request of the Public Prosecutor as valid, and therefore he may reject the opposition. The case is over, and the complaint is dismissed;
- b) he may believe that the Public Prosecutor hasn't carried out all the necessary investigations, and therefore he may order him to carry out further investigative acts;
- c) he may believe that the crime report is founded, and then he may order the Public Prosecutor to bring the case to the trial.

If the complaint is dismissed, it means that the circumstances for supporting the accusation and for asserting the defendant's criminal accountability are missing. In this case it can't be ruled out that the fact suffered by the victim has a civil relevance: therefore, it will be possible to turn to the Civil Judge for compensation to damages. Anyway, the case can be reopened if the victim brings to the attention of the Public Prosecutor new sources of evidence that convince him to reopen the investigation.

## 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.

## 2.2

# THE ROLE OF THE VICTIM IN THE TRIAL

### WHAT CAN THE VICTIM DO AFTER RECEIVING THE NOTIFICATION OF PRELIMINARY HEARING?

The victim can participate in the preliminary hearing and can become a civil party.

### WHAT DOES IT MEAN BECOMING A CIVIL PART?

It means becoming a part of the trial and exercise procedural rights to obtain compensation for damages<sup>3</sup>, or to obtain the return of what has been stolen by the defendant.

### WHAT SHOULD BE DONE TO BECOME A CIVIL PART?

It is necessary to contact a lawyer. If the victim has an annual income of no more than € 11,493.82 per year, he can request a legal aid. If you require a legal aid, the lawyer's expenses are paid by the State, and the victim doesn't have to pay anything. To have legal aid it's necessary to go to the office of the "Council of the Bar Association" where you can get all the information you need about.

### WHAT SHOULD YOU SAY TO THE LAWYER?

First, you must bring to the lawyer the notified deed that sets the preliminary hearing. Then you must report him the facts occurred and describe the damages suffered. It will be necessary to bring to the lawyer all the documents that can demonstrate the damages suffered.

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<sup>3</sup> Damages are a remedy in the form of a monetary award to be paid to a claimant as compensation for loss or injury.

## WHAT DO YOU HAVE TO SIGN BY THE LAWYER?

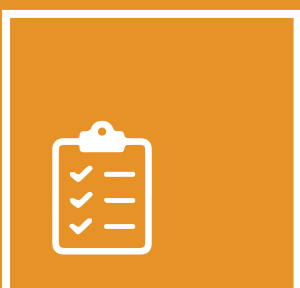
The lawyer will let you sign:

- a) the professional contract;
- b) the professional fees estimate. It is necessary that the lawyer releases a regular invoice for each payment. If the victim has got the legal aid, she won't have to sign any estimate
- c) the Power of attorney, which is the assignment of taking legal action and to becoming a civil part.

## 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

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 HEARING



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

On the notice which sets the preliminary hearing's date it is also generally indicated the precise Preliminary Hearing Judge's room.

During the preliminary hearing the victim's lawyer will file the constitution deed of civil part and will participate in the discussion asking for the defendant's commitment for trial. At the end of the discussion the Judge for the Preliminary Investigations (GIP) can:

- a) order the defendant's commitment for trial;
- b) declare the non-place to proceed, which is a measure that represents a kind of early absolution of the defendant by considering him not guilty.
- c) arrange the search for other evidence and set a new hearing for this.

In case of a non-place to proceed sentence, this last one can be run by the Public Prosecutor or by the civil party. In case of committed for trial, the Judge will fix the hearing in front of the Court that will begin it. For the less serious crimes, the Public Prosecutor skips the phase of the Preliminary Hearing and proceeds to summon directly the defendant before the Monocratic Court (Single Judge). With the summons of the defendant, the Public Prosecutor also summons the victim so that she can become civil part.

# 3.3 THE ALTERNATIVE TRIAL PROCEDURES

In some cases, the trial can be defined with alternative procedures, in order to accelerate, simplify and also to reduce process' cost:

## 1) Summary judgment

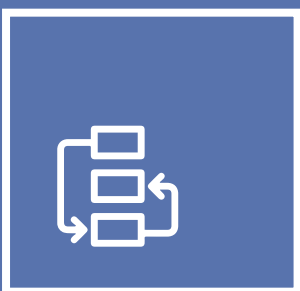
During the summary judgment, the defendant asks to be judged according to the content of the Preliminary Investigations file and with an eventually a defensive integration request. If the defendant will be sentenced in a summary judgment, he/she will get a penalty reduction of one third. The civil party can participate in the summary judgment and it will conclude with the request for damage compensation. The civil part who won't accept the summary judgment will leave the trial and may assert his reasons before the Civil Judge.

## 2) The plea bargains

The plea bargain is a criminal proceeding in which the defendant and the Public Prosecutor reach an agreement together on the amount of penalty to be applied. Then, the judge will approve it.

*What is the victim position in the plea bargain?*

Sometimes the victim who participated as civil party can ask for a legal charges refund. We would like to stress that the plea bargain is allowed only for lower gravity crimes.



## 3.4 STEP 2: THE DEBATE



The trial against the defendant begins and the case will be run by the Court of Judicature. The trial develops in a sequence of hearings, which take place in the specific courtroom. This sequence is made of:

- a) the defendant and his defense lawyer;
- b) the Public Prosecutor;
- c) the civil party and the relative lawyer.

The hearings are directed by the President of the Court.

The goal of the trial is to establish whether the evidence collected by the Public Prosecutor are enough to declare the defendant's criminal responsibility so that the offender will have to pay to the civil party an amount of money.

### WHAT MUST BE DONE BEFORE THE DEBATE?

Seven days before the date set for the debate, the lawyer of the victim / civil party must file the list of witnesses at the Registry of the Court. The witness list is an act compiled by the lawyer in which are indicated the names of the witnesses in favor of the civil party. These people must present themselves to the Court at the hearing set.

### WHO IS A WITNESS?

The witness is a person who knows the facts relating to the crime. This person is convoked by the civil party to report the same facts during the debate.

## 3.5 THE TRIAL



It is important that the victim will be present at the trial on the day, time and place indicated.

You must plan your journey, find the exact location and calculate the time needed to reach the court. If you can, you should arrive a few minutes in advance because the security check can take time especially in the larger courts, and the victim may need time to find the exact place to go. In case of doubt, you will have to ask a court clerk, who will be able to tell you where to go. Once arrived in the exact place, she will have to wait until her lawyer arrives and, with him, takes a seat in the courtroom.

Sometimes the trial start can be delayed either because all the people who must participate have not yet arrived or because the previous trial has not yet ended. In any case, you must wait. It's a good idea to bring along a book, a newspaper or a magazine to read while you are waiting also listening to music could be a good idea to pass the time. It is normal to feel anxious before the trial. The victim can be accompanied to hearings by relatives or people who are important for him/her. The victim can contact a Victim Support Center to request information and to be supported even during the hearing.

On the trial day, the victim will probably meet the defendant. It is necessary to be prepared for this possibility. If the defendant threatens or intimidates the victim, he/she will approach to the Judge who presides the court, who can also expel the defendant from the courtroom.

At the trial, the victim will be interrogated as a witness. He/she will be interrogated by:

- a) the Public Prosecutor;
- b) the defendant's lawyer;
- c) by her/his lawyer.



Then if it is necessary, the victim can be interrogated for clarification by the Court President. The victim hired to testify must always answer sincerely declaring the truth. If the witness is asked to reply some answers concerning facts he doesn't remember, he must answer "I don't remember".

## WHAT HAPPENS IF YOU DO NOT TAKE PART TO THE TRIAL?

If the victim, hired as a witness, can't be present for the hearing indicated, she will need to inform the Court President of the impediment in written form. In this case the President will postpone the witness examination to another hearing. Ordinary work commitments don't represent valid justifications for not being present at the hearing. Valid justifications for not being present at the hearing are health problems or absence from the Italian territory. Don't try to miss the process! Your presence is very important! Your knowledge of what happened is essential and can be decisive for the Judge's decision. Missing the process will delay it or hinder the truth check for justice to be done.

## WHO CAN ATTEND THE HEARINGS?

The hearings are almost always public: everyone can enter in the courtroom and participate to the hearings. The Court President supervises the peaceful evolution of the hearing. There are some exceptions where the trial is carried out behind closed doors. This happens in case of sexual crimes, or if a public hearing may prejudice the security and confidentiality of the parties involved.

# 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

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).

The trial opens with the identification of the parts.

The Judge calls:

- a) the defendant who gives his presence together with that of his lawyer.
- b) the offended party who, if she is a civil party, gives his presence together with that of his lawyer.

Then the Judge exercises a formal control over the trial papers to evaluate, prevent and correct any procedural errors and preliminary questions.

Subsequently the Judge:

- a) Turns it over to the Public Prosecutor, who makes his requests for evidence. That is, he asks the witnesses in favor of the prosecution to be heard;
- b) Turns it over to the victim defense lawyer who has become a civil party, who makes his requests for evidence. That is, he asks the witnesses in favor of the civil party to be heard;
- c) Turns it over to the defendant's defense lawyer, who makes his requests for evidence. That is, he asks the witnesses in favor of the defendant to be heard;

At the end the Judge decides on the requests for evidence of the parties. Once the probative themes and the proof tools have been identified, the Judge could also set a calendar of hearings to distribute the probative duties.

The Judge then postponed the trial to the next hearing.

## HOW DOES THE TRIAL END?

Once the proofs have been collected, the Judge declares the closure of the hearing. At that point the Judge invites the parties to the final discussion and conclusions. It is possible to identify 3 steps:

- 1) The Public Prosecutor proceeds to explain his reasons and to conclude. Generally, he asks for the conviction of the defendant, quantifying the measure of the custodial sentence and the measure of the pecuniary penalty. If the Public Prosecutor believes that he has not reached evidence of the defendant's guilt, he should ask for his acquittal.

- 2) Subsequently the civil party lawyer proceeds to explain the reasons of the victim and to conclude. In this case he will ask for the declaration of criminal and civil responsibility of the defendant and quantify the monetary amount of the damage suffered. As last activity, the lawyer of the civil party must deposit to the Judge his written conclusions, the precise indication of the quantification of the damage and the quantification of the

expenses sustained for the defense.

3) At least the lawyer of the defendant will speak. He will explain either the reasons for the innocence of his client asking for the acquittal or he will try to minimize his behavior by asking for a light sanctioning treatment.

If the victim is present in the courtroom, he/she must listen carefully to the discussion, can't intervene, can't speak and can't make signs of approval or disapproval.

a) At the end, the Court retires itself to the council chamber and decides.

b) Once the decision is made, the Court returns to the courtroom where all the parties are waiting for her up (as a sign of respect) and remain standing.

If the case looks simply, The Court President can pronounce the ruling of the sentence and enunciate the reasons at the same time.

## 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:

- 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 prohibitions 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 becomes a 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 compensation (called provisional execution) and will send it back to the Civil Judge for the complete quantification of the damage.

## WHICH PARTS IS THE SENTENCE COMPOSED OF?

The sentence consists of two parts: the **ruling** and **the motivation**.

- a) The ruling contains the core of the sentence. For example: "*The Court acquits the defendant from the alleged crime because the fact does not constitute a crime.*" Or: "The Court declares the defendant guilty of the alleged offense and convicts him to a penalty of two years' detention, convicts him to pay the civil part the executive provision of € 20,000.00 and refers to the Civil Judge for the complete quantification of the damage. He is also convicted to the payment of the civil party legal fees that is quantified in € 2,000, in addition to fiscal accessories".

- b) The motivation is the written statement of the reasoning that led the Court to take the decision contained in the ruling. A correct motivation

describes the development of the trial, the reconstruction of the facts based on the proofs obtained and the explanation of the rules application related to the considered case.

## 4.1 APPEAL OF THE SENTENCE



Sentences can be criticized and challenged, but criticism can only be carried out in the ways and forms prescribed by law. If the civil party, if the Public Prosecutor or if the defendant doesn't agree with the contents of the first instance sentence, they can propose an appeal.

The appeal is the request that makes the sentence (which is called sentence of first instance) to be reviewed by a second-degree Judge, who has the power to modify it.

### HOW DO YOU CHALLENGE A SENTENCE?

The civil party must contact its lawyer who must write and present an appeal, which is a written document that must indicate:

- a) the reasons why the first instance sentence is not considered correct or does not follow the law;
- b) the conclusions, or the request to the second-degree Judge to modify the sentence challenged.

The appeal will then be lodged in the chancellery of the Judge who issued the sentence. Subsequently the chancellery will transmit the appeal to the second-degree Judge at the Appeal Court<sup>4</sup>.

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4 The Appeal Court is not always based at the Courthouse that issued the sentence. In Italy there are 26 branches of the Appeal Court called Districts. This is important to know: the civil part who wants to follow the new trial, must sometimes go to a different branch than the Court that issued the sentence of first instance.

## THE APPEAL COURT

The Appeal Court is composed of three Judges, who are called the Councilors. Each seat of the Appeal Court is chaired by a Chairman Councilor.

At the hearing before the Appeal Court participate as parties:

- a) the General Prosecutor of the Republic acting as Public Prosecutor;
- b) the civil party and his lawyer;
- c) the defendant and his lawyer.

The victim who is not a civil part can in any case file defensive and illustrative briefs to the attention of the Court.

The trial before the Appeal Court can have two different developments:

- a) the parties present may make their defense orally and the Court will immediately issue the second instance sentence;
- b) if the Court deems it necessary, other evidence may be collected.

Subsequently, based on the evidence gathered, the parties will proceed to the final discussion. At the end, the Court will issue the sentence of second instance.

## THE SENTENCE OF SECOND INSTANCE.

The sentence of second instance can have the following content:

- a) confirmation content: The Court confirms the sentence of first instance;
- b) total reform content: Whether the sentence of first instance establishes the guilt of the defendant, the sentence issued by the Appeal Court can establish its innocence;
- c) content of partial reform: Whether the first instance sentence condemned the defendant to two years of detention, the sentence issued by the Appeal Court may reduce the sentence to one year and ten months

of detention. If the sentence of second instance reduces the penalty to the defendant, the compensation for damages established in favor of the civil party at first instance is not reduced.

## A FURTHER CHALLENGE.

The sentence issued by the Appeal Court can be challenged, only for reasons relating to the procedure and the correct application of the law rules, before the Supreme Court of Cassation. The Court of Cassation is based in Rome.

## EXTRAORDINARY CHALLENGE.

Once the phase before the Court of Cassation is over, the sentence becomes final and can no longer be questioned. There is only the instrument of the sentence review, which can be used in the case where new evidence, previously unknowable, emerges.

## 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.



**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.

**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.

**14.**

**TRY TO STAY CALM AND NOT LET IT AFFECT YOU.**

It is natural that during the trial some of what is said or some of the questions you are asked may cause you discomfort, if you feel that what you went through is being challenged. Keep in mind that this may be part of the defendant's defence strategy, so try to stay calm and not let it affect you.

**15.**

**YOU ARE NOT RESPONSIBLE FOR THE COURT'S DECISION:**

Remember that you are not responsible for the court's decision about the defendant. Carry out your role: tell what you know about what happened. The decision as to whether or not to convict the person accused of committing the crime always lies with the judge.

**16.**

**YOU CAN REQUEST A BREAK:**

If you feel tired or overly nervous, you can either request a break to go to the toilet or ask for a glass of water and a tissue.

**17.**

**YOU MAY NOT TALK TO OTHER WITNESSES:**

After you testify, it is possible that the trial will proceed and that other witnesses will be questioned by the judge. You can either stay and watch the rest of the trial or leave the court. You may not talk to other witnesses who haven't testified yet about what you know or what happened when you testified.

**18.**

**YOU DON'T HAVE TO ATTEND, BUT YOU MAY IF YOU WISH.**

After all the witnesses have testified, the judge announces the day and time for reading the judgment. You don't have to attend, but you may if you wish.

**19.**

**BEING ACQUITTED IS NOT THE SAME AS BEING INNOCENT.**

If the defendant is acquitted, it doesn't mean that the judge didn't

believe your testimony. Being acquitted is not the same as being innocent. It means that the evidence gathered and given at the trial was not enough (and valid) for the judge to make a sound decision about the defendant's guilt.

20.

### **REPORT IT TO THE POLICE IMMEDIATELY:**

If anyone threatens or intimidates you or tries to attack you after you testify, report it to the police immediately. If someone has threatened or intimidated you or tried to attack you before you testify, then, besides reporting it to the police, you should also inform the court.

## **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.

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 you by providing information about your rights, how to exercise them and how to obtain information about the case.

## 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 compensation from the offender**;
- In the case of violent crime or domestic violence, how and under what conditions a **compensation** can be obtained **from the State**;
- how to obtain interpretation and translation services;
  - If the victim does not reside in Italy what special procedures exist to defend his interests in that country;
  - how and when claiming reimbursement of expenses for

participating in the proceedings and when this is applicable;

- What are **the contacts of the authorities** that the victim must use to transmit or request information about the trial;
- Which **mediation services** are available;
- How and under what conditions can be requested the **expenses incurred reimbursement** as a result of your participation in the proceedings,

This information may vary depending on the specific needs and personal circumstances of the victim and on the type of crime. Additional information is available at different stages of the case.

### 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

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 acknowledgement is evidence that the complaint or the report was filed and contains a description of the essential facts of the crime, including the type of act, the date and place of this occurrence and the damage caused. Victims who don't speak Italian are entitled to receive this written acknowledgement either in their own language or in one they understand.

#### **5. RIGHT TO TRANSLATION**

In all case procedures, whether verbal, such as interviews with witnesses, or written, such as letters notifying participants to attend the trial, the language used is Italian.

When a victim doesn't speak Italian and must participate in any procedure, they are entitled, upon request to the authority responsible for the procedure in question, to an interpreter who speaks both the Italian language and the language spoken by the victim. For example, if the victim is Russian and does not speak Italian, an interpreter will be appointed to translate into Italian what the victim says, and to translate into Russian or another language which the victim understands what is said or asked in Italian. If a victim is participating in the proceedings as a civil party or as an assistant, they are also entitled to receive translations in a language they understand of all the information in the case that is essential to the exercise of their rights, such as the judgment. If a victim is deaf or hard of hearing, a sign language interpreter will be appointed. If the victim is dumb, the questions are asked orally, and the victim responds in writing. The role of the interpreter in all these situations is very important to ensure that victims understand what is conveyed to them and enable them to participate actively in the criminal proceedings. The appointment of an interpreter does not involve any cost for the participants.

## 6. RIGHT TO VICTIM SUPPORT SERVICES

Victims are entitled to confidential victim support services free of charge before, during and after the case **Associazione Libra Onlus manages the Support Center for Crime Victims for the province of Mantua, with its professionals offers emotional support, legal information, social references and practical assistance to all citizens who have been or are victims of crimes.** Victims are entitled to victim support services even if the crime was not reported.

## 7. RIGHT TO BE HEARD

During any criminal case, the victim is entitled to be heard and to provide information that may be important for the investigation and submit evidence. When the crime is first reported (if this is done by the victim), he/she can provide as much relevant information and evidence as possible to the authorities receiving the report. Later on in the investigation, the victim will be called on by the police or, in some cases, by the Public Prosecution Service, to make a statement. At this time, the victim can add details that were not mentioned in the formal report or complaint. If the defendant is charged, the victim will be called upon again to give a statement and to answer the questions of the different participants in the trial. In the case of a victim of a crime of human trafficking or a crime of a sexual nature, **the Public Prosecutor must collect the testimony through the probative incident.**

## 8. RIGHTS IN THE EVENT OF A DECISION OF ARCHIVAL REQUEST

If, at the end of the preliminary investigation, the Public Prosecutor believes that there is not enough evidence to request the indictment to be put on trial, he asks the Judge for the Preliminary Investigations to dismiss the complaint or the lawsuit. If the victim does not agree with the decision of the Public Prosecutor, he can submit a notice of opposition to the Judge for Preliminary Investigations. With the opposition deed, the victim can assert new topics of investigation and new legal and factual arguments. The deadline for presenting the notice of opposition is twenty days; the term



is extended to thirty days in the event of theft with a tear and theft in the home. In the event of inaction in the conduct of investigations by the Public Prosecutor, the offended person may ask the Attorney General at the Court of Appeal for the invocation of the investigation.

## **9. RIGHT TO LEGAL INFORMATION AND PROTECTION**

Access to justice seeks to ensure that nobody is hindered in or prevented from exercising or protecting their rights because of their social or cultural background, financial means or knowledge. Victims are entitled to legal aid and advice about their role during the entire procedure. Victims are also entitled to legal aid when they have the status of assistant or of a civil party, or when, as witnesses, they would like to be accompanied by a lawyer at any procedure but cannot afford the expenses. The procedure for obtaining the assistance of a lawyer at the expense of the state must be activated by the same victim. The application must be submitted in writing to the Secretariat of the "Ordine of Avvocati" in the Court where the procedure takes place. The application must be accompanied by all the documentation relating to the procedure and the tax documentation that attests that the applicant has not exceeded the annual income limit of € 11.493,82. With the acceptance of the request, the victim is not wealthy, he will have appointed a lawyer who will be paid not by him, but by the State.

## **10. RIGHT TO COMPENSATION FOR PARTICIPATION AND TO REIMBURSEMENT OF EXPENSES**

Any victim who takes part in the proceedings as a witness is entitled to be compensated for time spent and to be reimbursed for any expenses incurred as a result. Compensation must be applied for in writing using the special form available from the courts.

## **11. RIGHT TO THE RETURN OF PROPERTY**

Some property belonging to the victim may have to be taken away for the subsequent investigation of the crime. For example, the victim's car, or clothes, may contain important evidence for the investigation. If this is the

case, the authorities can appropriate the property to be used as evidence. As soon as the appropriated items are no longer required, the victim is entitled to have them returned. In some cases, for the victim to recover his property, a written request must be submitted to request the return of the property.

## 12. RIGHT TO COMPENSATION

Those who suffer damages resulting from the commission of a crime should be compensated for the same damages. The duty to compensate falls to the offender, however, **if the offender is incapacitated from a financial standpoint or if the offender has remained unknown and in the case of violent crimes, the victim can obtain partial compensation from the state.**

The victim has the right to be compensated by those who committed the crime for the material and moral damages it has caused. As a rule, compensation must be requested in the context of criminal proceedings.

To claim compensation for damages, the victim must be a civil party in the criminal trial. The assistance of a lawyer is required for the establishment of a civil party. In any case, the victim can claim damages outside the criminal proceedings and in the context of a proceeding before the civil court. The assistance of a lawyer is also required to establish a civil proceeding. The damages that can be claimed are the following:

- **emerging damages:** concerning all expenses incurred due to the violation suffered;
- **loss of earnings:** or all lost earnings suffered as a result of the violation suffered;
- **biological damage:** the prejudice suffered by psycho-physical integrity due to the violation suffered;
- **non-pecuniary damage:** or the suffering suffered as a result of the violation.

It should be considered that the damages and the money stolen due to the infringement are also included.

## 13. RIGHT TO PROTECTION

Victims and their family members are entitled to protection from retaliatory or intimidatory acts or continued crimes against them. They are entitled to protection from acts that can endanger their lives, physical integrity, emotional and psychological wellbeing, and their dignity when giving evidence and testifying. Whenever authorities consider that there is a serious risk of acts of revenge or reliable evidence that the safety and privacy of the victim may be seriously and deliberately compromised, they should provide an adequate level of protection to the victim the victim's family and other people close to them.

If, for safety or protection reasons, any victim does not wish to provide their home address for the case file, they may choose another address to which notices can be sent, for the purposes of the trial, at the office of his lawyer.

## 14. SAFETY: CAUTIONARY MEASURES

The protection and safety of victims may be safeguarded by imposing one or more restrictive "precautionary" measures against the defendant. A restrictive measure is a constraint on the freedom of the defendant. The measure **precautionary** is a restriction on the freedom **of the suspected or accused**, which can be applied in the course of criminal proceedings if there is a danger of escape, the danger of tampering evidence of an offense, or the danger of **repetition of** criminal activity.

There are several precautionary measures such as:

- the ban on expatriation against the suspect or accused person;
- the suspension against the suspected or accused person of certain professions;
- the obligation imposed on the suspect or accused person to report to the Police periodically;
- the removal imposed on the suspect or the accused person from the family home, or from the places frequented by the victim;
- the prohibition of approach imposed suspected or accused to the places frequented by the victim;

- the prohibition or obligation imposed on the suspect or accused person to stay in a territory;
- the arrest of the suspect or accused person at his home;
- the arrest of the suspect or the accused at the prison or at a health resort.

Whenever the judge deems it necessary, the victim should be heard in case of repeal or replacement of coercive measures.

## **15. RIGHT TO PRIVATE LIFE**

The victim and his family members have the right to privacy throughout the course of the proceedings. The fact that the proceedings are made public does not mean that the data relating to private life must also be public, especially when they are not relevant elements. It is not possible to transmit images or sounds of a procedural act, the process, unless the judge allows it and there is no opposition from any of the interveners. In proceedings relating to sexual offenses or trafficking in persons, the judge can impose the closure of the hall to the public cannot publish the identity of the victims.

## **16. NO CONTACT WITH THE DEFENDANT**

Victims are entitled not to meet or have any contact with the defendant, particularly in court buildings and police stations. For that purpose, whenever possible, there should be separate entrance and exit points and waiting rooms for victims and defendants and for their family members and others close to them. Unfortunately, many Italian courts are not equipped for this and do not have the facilities to fully guarantee this right.

## **17. RIGHTS OF VICTIMS WITH SPECIFIC PROTECTION NEEDS**

Victims with specific protection needs are people who, owing to their personal characteristics, the type or nature of the crime, and the circumstances in which it occurred, are particularly vulnerable to repeated victimization, secondary victimization, intimidation or retaliation. These

victims will therefore require special care, especially regarding their level of protection. This vulnerability should be assessed on a case-by-case basis. Particular attention should be paid to victims who suffered considerable harm due to the severity and gravity of the crime, to victims of crimes committed for discriminatory reasons related to their personal characteristics, and to victims whose relationship to and dependence on the offender make them particularly vulnerable. Particular attention should therefore be paid to victims of terrorism, organized crime, human trafficking, gender-based violence, domestic violence, sexual violence and hate crimes. Regardless of the type of crime suffered, children, the elderly and people suffering from diseases or disabilities should be particularly taken into consideration when assessing specific protection needs. Where a particularly vulnerable victim must be involved in a procedural act, the Public Prosecutor or the judge must ensure that, regardless of the application of other measures, this act is carried out in the best possible conditions, in order to guarantee the spontaneity and sincerity of the answers:

- the statements of particularly vulnerable victims should be taken as soon as possible;
- these interviews should be carried out by a trained professional and, if the victim needs to be questioned more than once, the interviews should, in principle, be conducted by the same person;
- interviews with victims of sexual violence, gender-based violence or violence in close relationships, when not conducted by a judge or a public prosecutor, should be conducted by a person of the same sex as the victim, if the victim so wishes;
- all parts of the proceedings should be organised so that a particularly vulnerable witness does not meet certain participants in the same proceedings, particularly the defendant.
- When it is necessary to avoid visual contact between the victim and the accused, such a person should be heard using concealment or teleconference and his presence in the courtroom would not be necessary;
- the victim will be questioned by the judge, and afterwards, the other judges, the public prosecutor, the defense lawyer and the lawyers of the civil parties may suggest additional questions which are then asked, not directly by these people but by the judge;
- victims must not be asked questions about their private lives that are unrelated to the offence committed against them;

- in some cases, the different parts of the proceedings, including the trial, may take place without the presence of the public.

At any stage of the proceedings, the judge, at the request of the Public Prosecution Service, may decide to have particularly vulnerable victims removed from their family or closed social group and have them placed in an institution.

## **18. RIGHTS OF VICTIMS RESIDENT IN ANOTHER EU MEMBER STATE**

Being the victim of a crime in a foreign country places victims in a particularly vulnerable situation, as they do not know how criminal proceedings work or what support services are available, they have difficulty understanding another language and their stay in the country where the crime was committed is usually a short one, which makes it difficult to participate in and keep abreast of the case. People who are the victims of a crime in a country other than their country of residence should be able to avail themselves of measures that make it easier for them to participate and to be informed about the progress of the case. These measures include the authorities providing all the necessary information and appointing an interpreter to ensure the victim fully understands the different procedures in which they participate. A resident of a European Union Member State who is the victim of a crime in another Member State may report the crime to the authorities in their country of residence, if they have not reported it in the country where the crime was committed. In this case, the authorities of the victim's country of residence should promptly transmit the complaint to the relevant authorities of the country where the crime was committed.

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