

YOUR ROLE IN THE CRIMINAL PROCEEDINGS

Within the criminal proceedings, you are in the role of an injured party. As an injured party you have rights stipulated by law, thanks to which you can partly influence whether the offender will be sentenced for the crime or not. These rights include the right to file motions for providing supplementary evidence, the right to have access to the files, the right to attend plea bargaining, the right to attend the main hearing and open court hearing on the appeal and the right of a closing speech.

It is only up to you to decide whether you would like to exercise these rights or not, and if so, whether personally or by proxy. If you, due to various reasons, do not want to take part in the criminal proceedings as the injured party, for example because the memories of the crime invoke unpleasant feelings, you can give up your procedural rights by explicit declaration addressed to the relevant prosecuting authorities, or you can entrust your rights to a proxy holder (see above) who will represent you during all procedures within the criminal proceedings.

YOU ARE OBLIGED TO GIVE TESTIMONY

However, by giving up your procedural rights of an injured party, you are not freed from the obligation to participate in the criminal proceedings as a witness who is obliged to testify the truth; otherwise you risk a prosecution for false testimony.

You have the right to refuse to testify if your testimony would bring the danger of criminal prosecution to yourself, your relative in the direct line of descent, your sibling, adopter, adoptee, spouse or common-law spouse or other persons to whom you are related by family or similar ties an whose prejudice you would justly perceive as your own.

YOU CAN RESORT TO COURT TO EXERCISE YOUR RIGHT FOR THE COMPENSATION FOR DAMAGE

In case that you have suffered a damage as a result of crime, you as the injured party in the criminal proceedings are entitled to motion that the court imposes in the sentence of guilty on the defendant an obligation to compensate in money for the damage or non-property damage that was caused to you by the crime, or to return the unjust enrichment which the person accused gained to you detriment by committing the crime. The motion has to be filed during the main hearing at the latest, before the evidence proceedings, and if plea bargaining was negotiated then it is necessary to file the motion three days before the first proceedings on such bargain.

The motion has to include:

- reasons why you exercise your right for the compensation for damage,
- what does the claim for the compensation for damage or non-property damage amount to, or to what extent do you exercise your claim regarding the return of the unjust enrichment.

If the court cannot rule on the compensation for damage based on the results of the evidence proceedings during the main hearing, it will grant you only a partial compensation for damage, or if the defendant is acquitted then it will refer you with your claim for damage compensation or potentially its remaining part to civil proceedings. For you it means that you have to file an extra claim in front of a different (civil proceedings) court.

WHERE CAN YOU TURN TO FOR ADVICE – IMPORTANT CONTACTS

La Strada Česká republika, o.p.s. (La Strada Czech Republic) is the only specialized organization in the Czech Republic dedicated solely to the topics of trafficking in human beings and exploitation. We provide social and legal services and we also pursue preventive and training activities.

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In IUSTITIA, o.p.s. is a legal organization that is the first of its kind in the Czech Republic dealing specifically with hate violence. It provides legal assistance to specific individuals exposed to hate violence. It focuses on improving their access to justice, the main areas being criminal law, administrative law and civil law.

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Člověk v tísni, o.p.s. (People in Need) is a human rights non-governmental non-profit organization located in Prague. The main activity of its bureau in Pilsner is to provide social-integration services to people in unfavorable situations. Besides that it also organizes educational activities, information projects and cultural activities for the public.

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Bílý kruh bezpečí, z.s. (The White Circle of Safety, BKB) is a nation-wide citizens' association. The mission of BKB is threefold: to provide direct assistance to victims and witnesses of criminal offences, to participate in the prevention of criminality and to strive to improve the rights and position of the injured parties in criminal proceedings. It provides professional, free of charge and discrete assistance to the victims and witnesses of criminal offences.

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Program the Fund for Non-Governmental Organizations is financed from EEA Grants 2009-2014 and it focuses on supporting non-governmental non-profit organizations promoting public interest.

The main aim of the program is to strengthen the development of civic society and to increase the contribution to social justice, democracy and sustainable development.

The program particularly focuses on supporting democracy, human rights and gender equality and on strengthening the capacity of non-governmental non-profit organizations, as well as on specific needs of minority groups, including the Roma people.

The program is also concerned with the environment protection and climatic changes.



Handbook for Victims of Crime

La Strada Czech Republic
Prevention of trafficking in human beings, protection of the rights of trafficked persons, assistance to people exploited at work, including prostitution.

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1. 8. 2015



Supported by a grant from Iceland, Liechtenstein and Norway through the EEA Grants.
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WHO IS A VICTIM OF CRIME?

If you have, as a result of a crime,

- suffered a bodily harm,
- suffered a property or non-property damage,
- the offender enriched himself/herself at your expense,
- experienced a death of a close person,

then you are a victim of crime and you are guaranteed rights under the law. The aim of this handbook is to give you practical information on how to solve situations caused as a result of crime, to inform you about your rights and to give you a clear overview of how to proceed when exercising these rights.

FIRST, YOU SHOULD FILE A CRIMINAL COMPLAINT

You have the right to assistance, for example psychological assistance, whether you have reported the crime or not. However, if you decide to file a criminal complaint, you can exercise a number of additional rights, such as to apply for financial assistance provided by the state.

A criminal complaint can be filed by anyone. The police are obliged to investigate whether a crime was really committed or not.

A criminal complaint can be filed at any police station or Public Prosecutor's Office, either

- in an oral form,
- in a written form using e-mail, post or a data box, or
- in person, written complaint being personally delivered to a filing office.

A criminal complaint should include:

- what happened
- who committed the crime
- when was the crime committed
- where was the crime committed
- how and by what means was the crime committed
- why was the crime committed
- what consequences did the crime have for the victim

FOR THE ENTIRE TIME YOU SHOULD BE TREATED WITH DIGNITY AND RESPECT

Every person who became a victim of crime is entitled to a sensitive and individual approach from the part of the police, public prosecutors, judges, court experts, interpreters, defense lawyers, medical staff members at health institutions and helping organizations.

These people and organizations are particularly obliged to

- treat you politely and considerately,
- be forthcoming as circumstances allow,
- take into account your age, state of health, cultural identity, etc.

When reporting the crime and during the interrogation, you can ask to be questioned either by a man or a woman, depending on your choice. If the people concerned are the so called particularly vulnerable victims (children, people with disabilities and also in some other cases), the police have to comply with the request, unless some important reasons prevent them from doing so.

YOU HAVE THE RIGHT TO PROFESSIONAL ASSISTANCE

You are entitled to:

- psychological and social counselling,
- legal assistance,
- obtain information on your rights and on the course of the criminal proceedings.

You can take part in the so called restorative programs (processes aimed at restoring relationships within the society and at remedying damage caused as a result of a crime).

If you are a particularly vulnerable victim (see above), you are entitled to professional assistance provided free of charge.

The register of providers of professional assistance can be found at www.justice.cz – victims of criminal offences.

POLICIE AND OTHER ENTITIES ARE OBLIGED TO GIVE YOU INFORMATION

Who is obliged to give you information?

- police authorities
- Public Prosecutor's Offices
- providers of assistance to the victims of crime (www.justice.cz – victims of criminal offences)
- public authorities (local police forces, military police, Prison Service of the Czech Republic or customs offices)
- health institutions

These entities are obliged to inform you about your rights intelligibly. If you do not speak Czech, the information will be given to you in a language about which you declare you understand or in the official language of the state you are a citizen of.

Upon your request, information can be given to you even repeatedly.

Even without your request, the police have to inform you particularly about:

- where you can file a criminal complaint,
- where you can find professional assistance, such as psychological assistance,
- when you are entitled to protection of your safety, for instance if you are afraid of the offender
- where you can obtain further information on your criminal case,
- what stages of the proceedings follow after the criminal complaint and what role you play in them,
- where and how can you request information on the state of the criminal proceedings,
- where to obtain a decision ending the criminal proceedings,
- whether the person accused is at liberty,
- how to apply for financial assistance,
- how to proceed when your rights of a victim were violated.

The information will be provided to you by the police in writing. If you request so, the policeman is obliged to explain the given information to you orally.

Which information do you have to request in advance?

- information on the state of the criminal proceedings,
- information on the decision ending the criminal proceedings.
- You can also request to be informed that the person accused was released from the custody or jail. This also applies to situations when the person accused or convicted escaped.

IN CASE OF A THREAT, YOU ARE ENTITLED TO PROTECTION AGAINST DANGER

If you are in danger or if you are afraid of the offender, you can ask the police or the court to take measures to ensure your safety.

These measures can include for example the following:

- the so called short-term protection (for instance a temporary change of your place of residence),
- banishment of a person from a house or flat,
- the so called special witness protection – this protection is provided in connection with the criminal proceedings, in case of serious danger (this can mean concealing the identity and the visual appearance of the person acting as a witness).

The adoption of these measures always depends on the judgment of the circumstances of your case carried out by the authority entitled to decide on the preliminary measure.

YOU ARE ENTITLED TO PRIVACY PROTECTION

The prosecuting authorities (the police, Public Prosecutor, court) have to mind that the information that would reveal your identity is not made public.

If you are afraid of the offender and do not want that he/she finds out where you live or work, you can request that your personal data in the criminal investigation file are hidden. This concerns the data regarding your place of residence, delivery address, information about your employment or business activities and background information about your person, family and means. Your personal data will then be kept out of the file and only the prosecuting authorities and the officers of the Probation and Mediation Service involved in the case will have access to it.

YOU CAN REQUEST A PREVENTION OF CONTACT WITH THE OFFENDER

If you do not want to meet the offender in person, you can ask the police, Public Prosecutor's Office or court, to prevent you coming into contact with the offender. In case of children, disabled people and other so called particularly vulnerable victims, this request should be met, unless it is incompatible with the nature of the action that is being carried out. Particularly vulnerable victims are entitled to be guaranteed that during the interrogation or when giving explanation, they do not come into immediate visual contact with the offender. The police (Public Prosecutor, court) can ensure interrogation via audiovisual technologies.

YOU CAN CHOOSE TO BE ACCOMPANIED BY A CONFIDANT and REPRESENTED BY A PROXY

During the criminal procedure, you can be accompanied by a confidant who will serve as your psychological support. The confidant can be a person of your choice (unless this person also acts as a person accused, defense lawyer, witness, court expert or interpreter within the same criminal proceedings).

The confidant can be excluded from the proceedings only exceptionally, for example when his/her behavior is inappropriate or when his/her presence would jeopardize reaching the purpose of the procedure. In case your confidant is excluded, you have the right to choose a new confidant.

The confidant cannot intervene in the criminal proceedings! This is the main difference between a confidant and your representative – a proxy. The proxy is your legal representative in the criminal proceedings. His/her main task is to ensure that your rights are observed.

STATE CAN GIVE YOU FINANCIAL ASSISTANCE

Victims of crime can be provided financial assistance by the state.

In order to be eligible for financial assistance, the following prerequisites have to be fulfilled:

- you file a criminal complaint without delay,
- you give consent with criminal prosecution,
- you cooperate during the investigation (mainly by not refusing to testify),
- you are not a co-defendant,
- you file a request with the Czech Ministry of Justice (Compensation for Damage Department), it has to be submitted in a written form and within the set time limit.

The set limit is two years of the date you find out about the consequences of the crime, but the latest five years form the day the criminal offence was committed.

If you have suffered a bodily harm, you can apply for a lump sum of 10.000 CZK, or you can provide evidence of lost earnings and compensation of costs you have spent on treatment. The total sum can reach up to 200.000 CZK.

If you have suffered a heavy bodily harm, you can apply for a lump sum of 50.000 CZK, or you can provide evidence of lost earnings and compensation of costs you have spent on treatment. The total sum can reach up to 200.000 CZK.

If you are a bereaved person due to a criminal act, you can apply for a lump sum of 200.000 CZK.

If you had to undergo a psychotherapy or physiotherapy due to a criminal act, you can apply for cost claim up to 50.000 CZK.

The request can be formulated freely.

However, it has to include the following information:

- the first and the last name of the injured person, his/her personal data and contact details,
- indication of the department of the Police of the Czech Republic or other prosecuting authority which is in charge of the investigation + the last decision of the given prosecuting authority,
- information on the damage incurred and on its extent, including information about what has already been reimbursed and what has the injured party done to enforce the claimed damages,
- information on your means and your gainful occupation,
- if the person applying for the financial assistance is a bereaved person, he/she also has to indicate how many other people fulfill the criteria for obtaining financial assistance.

YOU CAN WRITE A STATEMENT ABOUT THE IMPACT OF THE CRIME

At any stage of the criminal proceedings, you have the right to make a statement about the impact the committed crime had on your existing life.

The statement can be made either in oral or written form. The written statement will be accepted by the court as a piece of evidence.

Bereaved people after victims of crime are also entitled to make a statement.

The aim of the statement is to help the victims to psychologically cope with the crime.

At the same time, this statement should help the offender to realize what he/she had done.

The statement can also be of importance to the prosecuting authorities when evaluating the gravity of the crime and as such can contribute to determining a just sentence.