

1 - My rights as a victim of crime

What information will I get from the authorities (e.g. police, Public Prosecutor's Office) after the crime occurred but before I even report the crime?

The police or Public Prosecutor's Office informs victims of the following without delay and in accordance with Article 3(7) of the Code of Criminal Procedure, in a language understood by them:

- the type of support they can obtain and from whom, including, where relevant, basic information about access to medical support, any specialised support, including psychological support, and an alternative accommodation;
- the procedures for making complaints with regard to a criminal offence and their role in connection with such these procedures;
- how and under what conditions they can obtain protection;
- how and under what conditions they can access lawyers and legal aid under the conditions provided for by law and any other sort of advice;
- how and under what conditions they can access compensation;
- how and under what conditions they can exercise the right to interpretation and translation;
- the available procedures for making complaints where their rights are not respected;
- the contact details for communications about their case;
- opportunities for mediation and restorative justice;
- how and under what conditions expenses incurred as a result of their participation in the criminal proceedings can be reimbursed;
- their right to an individual assessment with the victim support service to verify the need for specific handling to prevent secondary victimisation;
- depending on their needs, additional details will also be provided to the victim as appropriate at each stage of the proceedings;
- their right to be accompanied by a person of their choice where, due to the impact of the crime, they require assistance to understand or be understood.

In addition, the Legal Reception and Information Service, the Victim Support Service of the Central Social Assistance Service and the Ministry of Justice also offer help and advice.

I don't live in the EU country where the crime took place (EU and non-EU citizens). How are my rights protected?

Where victims are foreigners (European and third-country nationals), they can take advantage of the rights set out above and they are informed about how to exercise their rights when residing in another EU Member State, i.e. their right to lodge a complaint before the Luxembourg police authorities.

If I report a crime, what information will I receive?

Victims are entitled in particular:

- to be automatically informed when their case is closed and the reasons why;
- on request, to be informed that their case is under judicial investigation;
- on request, to be informed about the state of the criminal proceedings;

- to be automatically informed by the Public Prosecutor's Office of the date of the hearing at which their case will be tried;
- on request, to obtain information on any final judgment in the prosecution.

Am I entitled to free interpreting or translation services (when I contact the police or other authorities, or during the investigation and trial)?

As victims or civil parties who does not speak or understand the language of the proceedings, victims are entitled to assistance free of charge from an interpreter in a language which they understand and the right to a free translation of all the documents that will be notified or served or to which they have a right of access.

How do the authorities ensure that I understand and that I am understood (if I am a child; if I have a disability)

If victims do not speak or understand the language of the proceedings, they have the right to assistance free of charge from an interpreter. If victims have a speech or hearing impediment, they are assisted by a sign language interpreter or by any qualified person having a language, method or device enabling communication with them.

If victims are children, they have the right to be accompanied by their legal representative or by a person of their choice.

Victim support services

Who provides victim support?

Victims have the right to be assisted by several victim support services. Assistance is provided by the State, through the central assistance service of the Public Prosecutor's Office, which will receive the victim and provide free social, psychological and legal support. There are also NGOs that offer help to victims if the victim is a female or child victim of violence, a vulnerable person, etc.

Will the police automatically refer me to victim support?

It is the duty of the police to inform victims of their rights and to seek to act as an intermediary for the victim support associations. The police will systematically and compulsorily supply an information leaflet entitled '*Information and assistance to victims*' (<http://www.police.public.lu/fr/aide-victimes/flyer-aide-victime-fr.pdf>) available in Luxembourgish, French, German, English and Portuguese and an information sheet '*Infodroit*'. (<http://www.police.public.lu/fr/aide-victimes/infodroit-victime.pdf>).

How is my privacy protected?

The privacy of victims is protected by the Luxembourg Constitution. Article 11(3) states that '*the State guarantees the protection of privacy, with the exceptions established by law*'.

The police and the justice system have an obligation to offer victims protection in the event of threats or acts of revenge committed by the perpetrator, among others. This protection should be available from the beginning of the investigation and during its entire duration. Victims also have the right to be protected from all intrusions into their private lives, and in any case directly after the crime.

Do I have to report a crime before I can access victim support?

The victims assistance service is intended for all victims (children, adolescents, adults) who have suffered physical and/or mental injury following a criminal offence. The team provides psychological and psychotherapeutic counselling and informs victims of their rights and may accompany them during the judicial proceedings. The service also offers a therapy group for victims of domestic violence. The service also offers services to all those who, in view of their relationship with the victim, have had to share their suffering, or to witnesses of criminal offences. The individuals in question are not required to have lodged a complaint in order to have access to the victim assistance service.

Personal protection if I am in danger

What types of protection are available?

Holding the accused in pre-trial detention

- if the offence is punishable by a maximum sentence of at least two years' imprisonment;
- if there is a risk that the accused will reoffend;
- if there is a risk of absconding.

Who can offer me protection?

The Luxembourg Police can protect victims.

Will someone assess my case to see if I am at risk of further harm from the offender?

The various elements are taken into account when deciding on possible pre-trial detention of the perpetrator.

What protection is available for very vulnerable victims?

Under Article 48(1) of the Code of Criminal Procedure, child victims receive the following protection:

- A sound or video recording may be made of the hearing of a witness or of any child, with the authorisation of the State Prosecutor.
- Recordings are made after having obtained the consent of the witnesses or children, if they have the necessary judgement, otherwise of the child's legal representative. Where there is a risk of a duly established conflict of interest between the child's legal representative and the child, the recording may be made only with the consent of the guardian ad litem (*administrateur ad hoc*), if one has been appointed for the child, or, if no guardian ad litem has been appointed, only with the express and duly reasoned authorisation of the Public Prosecutor.
- By way of derogation from the foregoing, where a child is a victim of crimes referred to in Articles 354 to 360, 364, 365, 372 to 379, 382(1) and 382(2), 385, 393, 394, 397, 398 to 405, 410(1), 410(2) or 442(1) of the penal code or when a child is witness to crimes referred to in Articles 393 to 397, or 400 to 401a of the penal code, a recording must be made in the manner referred to in paragraph 1 unless, since the child or his legal representative or, where applicable, the guardian ad litem objects to such a recording being made, the Public Prosecutor decides there is no need to do so.
- The recording serves as evidence. The original is placed under seal. The copies are inventoried and added to the file. Recordings may be listened to or viewed, without being moved, by the parties and by an expert with the authorisation of the Public Prosecutor and at a place designated by him or her.
- Any child referred to in paragraph 3 has the right to be accompanied by the adult of his choice at the hearing, unless the State Prosecutor decides otherwise by a reasoned decision regarding the person concerned taken in the interests of the child or of establishing the truth.

Victims of human trafficking or domestic violence receive special protection under certain conditions.

I am a child - do I have special rights?

Victims who are children have a number of additional rights:

- to a limitation period, i.e. the period of time after which the offences can no longer be prosecuted, that not begin to run until the day they turn 18 for offences such as indecent assault, rape and human trafficking, sexual exploitation, manslaughter, assault and battery, abuse and administration of drugs committed against the victim;
- to the appointment of a special representative called an *administrateur ad hoc* (guardian ad litem) by the State prosecutor or investigating judge where their interests are not fully protected by at least one of their legal representatives. This special representative protects the victim's interests and exercises his or her rights as a civil party;
- to be informed of the opening of the criminal proceedings and of the right to bring a civil action through their legal representative or guardian ad litem;

- to have a video or sound recording made of their hearings to avoid being traumatised by having to repeat statements several times during the proceedings, with the authorisation of the State Prosecutor and after obtaining the consent of the victims or of their legal representatives or guardians ad litem. Recording is mandatory for crimes relating to indecent assault and rape, prostitution, exploitation and trafficking in human beings, murder, voluntary homicide, assault and battery, unless, because the victim or the victim's representative object, the public prosecutor decides not to make such a recording;
- to be accompanied at hearings by their legal representative or by a person of their choice.

My family member died because of the crime - what are my rights?

Anyone whose relative has died as a result of a criminal offence and who claims to have been injured has the right to complain by filing a civil action before the competent investigating judge.

In this case they have the right in particular:

- to claim compensation from the accused;
- to be involved in the investigation conducted by the investigating judge;
- to ask the investigating judge to order additional inquiries;
- to appeal against certain inquiries which have an impact on their civil interests before a chamber of the court;
- to be interviewed only if they so wish;
- to be brought face to face with the accused if necessary;
- to have access to the file at the investigating judge's office after the first questioning of the accused and the day before each inquiry for which legal assistance is necessary;
- to ask the investigating judge for a copy of the file when the investigation has been completed;
- to ask for an expert's report, to hear witnesses and the return of seized objects;
- to attend the inspection of the scene of the crime.

My family member was a victim of crime - what are my rights?

A third party affected by an offence committed against a relative has the right:

- to request from the public prosecutor's office a copy of the report giving an account of the crime affecting this person as a third party;
- to be automatically informed by the public prosecutor's office of the date of the hearing at which the case will be tried;
- to request the judgment that was given in the case from the Registry of the chamber of the district court or of the police court, as appropriate.

Can I access mediation services? Under what conditions? Will I be safe during mediation?

Criminal mediation is an alternative to criminal prosecution; in principle it allows a dispute to be settled without the intervention of the courts. Mediation between the perpetrator and the victim is possible only before criminal proceedings have been initiated. The Public Prosecutor may decide to resort to mediation if it appears to him/her that it is likely to secure compensation for the damage that has been caused, or to put an end to the disturbance resulting from the offence or to contribute to the rehabilitation of the offender. Mediation is ruled out if the offender is a person with whom the victim cohabits. This option requires the agreement of both the offender and the victim.

Where can I find the legislation setting out my rights?

In the Code of Criminal Procedure on Legilux.

http://legilux.public.lu/eli/etat/leg/code/procedure_penale

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