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## 2 - Reporting a crime and my rights during the investigation or trial

### How do I report a crime?

You can file a complaint with the police or gendarmerie, which will forward it to the public prosecutor of the place where the crime was committed or the place of residence or arrest of the perpetrator.

You can also approach the public prosecutor directly, by a simple letter, explaining the harm you have suffered, giving the dates and places of the offences, and specifying your name and address.

Anyone who is not a victim may also report a crime under the same conditions.

### How do I find out what's happening with the case?

#### Information for the victim on the progress of the investigation

A victim may ask the police or gendarmerie, the prosecutor or the investigating judge (if the case is referred), about the progress of the investigation affecting him or her.

In the case of a crime, and for certain offences, a victim who is a civil party to the proceedings will receive a progress report from the investigating judge every six months

#### Information for the victim on the outcome of an investigation

When the investigation is over, the victim is informed of the decision taken: dismissal, an alternative to prosecution, opening of a judicial inquiry, summoning of the defendant in court. If a trial is to take place, the victim is informed of the crimes filed against the suspect and of the date and place of the hearing.

#### Information for the complainant

Anyone who has reported a crime is informed by the public prosecutor of the follow-up.

### Am I entitled to legal aid (during the investigation or trial)? What are the conditions?

If you do not have a lawyer, you can get information about your rights and obligations by going to the courts, the law centres (*maisons de la justice et du droit*), the legal information desks (*points d'accès au droit*), town halls and community centres in which victim support associations hold drop-in sessions. You can also benefit from free legal advice, regardless of your age, nationality or financial means, provided by legal professionals, including lawyers, in these locations.

You can benefit from legal aid if you meet the following conditions:

- you are a French national or a national of a Member State of the European Union or a State that has signed an international convention with France, or if you are normally resident in France and are in the country legally (this condition is not applied if you are a minor or a civil party);
- your financial resources [1] do not exceed a maximum threshold, as determined by the Finance Act. This condition is not applied if you are the victim of a particularly serious crime (intentional attempt on your life,

torture or acts of cruelty, act of terrorism, rape, etc.), if you benefit from the active solidarity income (RSA) or the solidarity allowance for the elderly and have no other sources of income, or if your situation appears particularly noteworthy in view of the subject of the dispute or the likely costs of the proceedings.

Legal aid covers:

- lawyer's fees;
- bailiff's charges, if any;
- charges for expert opinions, etc.;
- any deposit that you may have to pay.

Legal aid may be total or partial. It is important to apply for legal aid from the beginning of the proceedings because costs incurred prior to the application will not be reimbursed.

You can obtain information and the application form for legal aid from your lawyer, in a law centre, at a town hall, at the court of your place of residence or at the court dealing with the case. The form can also be downloaded from the following link: <https://www.service-public.fr/particuliers/vosdroits/R1444>.

[1] *Financial resources conditions for obtaining legal aid:*

*In order to assess your legal aid needs, the authorities take into consideration the resources you received between 1 January and 31 December of the year prior to your application. These resources include income of all kinds, excluding family benefits and certain social benefits. Also taken into account are the resources of your spouse, partner, dependent child(ren) and all persons who usually live under your roof.*

## Can I claim costs (for taking part in the investigation/trial)? Under what conditions?

Costs related to particular proceedings may, subject to certain conditions, be covered by your legal protection insurance if this covers some or all of the legal fees, bailiff charges, costs of proceedings or transactions or expert opinion fees.

Failing this, when sentence is pronounced, and during the settlement of damages by the court, such expenses are charged to the convicted party at your request.

## Can I appeal if my case is closed before going to court?

If the public prosecutor decides to dismiss the case at the end of the investigation, you may lodge an appeal by applying to the prosecutor general of the court of appeal in the jurisdiction where the court that dismissed the case is located.

If the prosecutor general believes that legal proceedings are necessary, he or she can order the prosecutor to bring a prosecution. If the prosecutor general considers your claim unjustified, you will be informed that no further action will be taken on your appeal.

In addition, if a complaint filed with the public prosecutor has been dismissed, or if a period of three months has elapsed since this complaint, you may file a complaint directly with the competent investigating judge, by becoming a civil party.

Finally, you may have the alleged perpetrator directly summoned before the court by asking a bailiff to hand him or her a summons, in which case you will have to pay a deposit, the value of which is set by the court according to your financial resources.

## Can I be involved in the trial?

You are notified of the trial date and can attend the hearing. In some cases, the trial is not public, and you will be able to remain in the room only for the duration of your testimony. You will not be allowed to attend the entire trial if it is not public (behind closed doors), unless you are a civil party to the proceedings.

You have the unconditional right to be assisted throughout the trial by a victim support association. The members of these associations can help you at the time of your application to become a civil party, they can be present during various hearings and can help you to understand the acts and decisions of the magistrates.

An interpreter will be called for you if you have difficulty understanding or expressing yourself in French.

At the hearing, the civil party can call witnesses or object to certain witnesses being heard.

The victim or a civil party can put questions to the witnesses and the accused/defendant through the President of the court.

Finally, you can file conclusions (written remarks) on the technical aspects of the proceedings, the law and/or the facts of the case, to which the judge must respond;

## What is my official role in the justice system? For example, am I or can I choose to be a: victim, witness, civil party or private prosecutor?

Once the facts have been brought to the attention of the justice system or the police and gendarmerie, the victim is contacted for an interview.

The victim is not responsible for finding the accused or proving his or her guilt, that is the role of the public prosecutor. The victim may, however, be requested to provide any details or evidence to help establish the truth (medical certificates, identities of the witnesses etc ...)

The victim may choose to become a civil party, which gives him or her the right to claim financial compensation for the harm suffered and to be assisted by a lawyer.

## What are my rights and obligations in this role?

As soon as an investigation is referred to the police or gendarmerie they will interview the victim. On this occasion they will always inform him or her of their right:

- To obtain damages or other appropriate compensation for their loss, including, where appropriate, a restorative justice measure;
- To become a civil party either in the context of an action instituted by the public prosecutor, or by a direct summons of the perpetrator before a competent court or a complaint brought before the investigating judge;
- If they wish to become a civil party, to be assisted by a lawyer of their choice or appointed, at their request, by the president of the bar association at the competent court, the costs being borne by the victim, unless they meet the conditions for access to legal aid or have legal protection insurance;
- To be assisted by a service belonging to one or more public authorities or by an approved victim support association;
- To apply, where appropriate, to the crime victims compensation board, in the case of certain offences;
- To be informed about the protective measures available to them, including protection orders. Victims are also informed of the penalties incurred by the perpetrators of violence and the conditions of execution of possible convictions that may be imposed;
- For victims who do not understand French, to benefit from an interpreter and a translation of information essential to the exercise of their rights;
- For each to be accompanied, at their request, during all stages of the procedure, by their legal representative and by an adult of their choice, unless otherwise reasonably decided by the competent judicial authority;
- To declare as their address the address of a third party, subject to the express agreement of the latter.

The victim must appear in court and testify if summoned as a witness.

A civil party does not have to be present in person if represented by a lawyer. However, if a civil party is absent and is not represented, they will be assumed to have given up their claim, unless they have written to the court to state their claim.

A civil party, and a victim called to give testimony before the court, may reclaim the costs of attending the hearing if they so request during the trial.

## Can I make a statement during the trial or give evidence? Under what conditions?

You can make statements at the hearing and present evidence; however this must respect the adversarial principle and be forwarded to the defence beforehand (the alleged perpetrator and/or his or her lawyer) as well as to the public prosecutor.

You can become a civil party either alone or with the help of a lawyer.

You must quantify your claim for damages/interest (sum of money intended to repair material damage, suffering, time lost as a result of the acts of which you were a victim). A victim support association can guide you through this process.

## What information will I receive during the trial?

During the trial, the victim is informed of his or her right to become a civil party, to benefit from the assistance of a lawyer and to benefit under certain conditions from legal aid, as well as of the possibility of being accompanied by a victim support association.

A victim who is established as a civil party will be informed that in certain cases he or she may apply to the crime victims compensation board (CIVI) for payment of damages and interest if the court has so ruled.

## Will I be able to access court files?

At the Criminal Court and the Police Court, you will not be able to access the files directly; you must first obtain the consent of the Prosecutor.

However, if you are a civil party, you may consult them directly or through your lawyer as the case may be, or request a copy of them.

At the Court of Assizes, you can obtain free copies of the police reports recording the offence, written witness statements and expert opinions and obtain copies of the other documents relating to the proceedings.

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