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

How do I report a crime?

Victims of a criminal offence may report an offence (file a complaint):

- to the Luxembourg Police;
- to the Public Prosecutor with jurisdiction for the area concerned.

Although anyone may report an offence, if victims intend to take part in the proceedings as a civil party, they must file a complaint either personally or through their lawyer.

Victims can also bring a private prosecution against the perpetrator before the police court or a criminal chamber of the district court.

The complaint must be lodged in one of the official languages of Luxembourg, namely Luxembourgish, French or German. Victims who do not speak any of these three languages are entitled to an interpreter free of charge. The complaint must be made preferably in writing, without having to respect a particular form, and must indicate:

- the surname, first name, place and date of birth, occupation and domicile of the complainant;
- the event giving rise to the damage suffered;
- the nature of the damage.

The period during which the victim must lodge a complaint depends, in particular, on the limitation period of the offence. The period varies between one and ten years.

How do I find out what is happening with the case?

Victims have the right:

- to be automatically informed when their case is closed and of 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;
- upon request, to obtain information on any final judgment in the prosecution.

When the complaint is filed with the Public Prosecutor, within 18 months of receiving the complaint or accusation, the Public Prosecutor will inform the victim of any action taken by way of follow-up including, where appropriate, closure of the case and the underlying reason.

Am I entitled to legal aid (during the investigation or trial)? Under what conditions?

To ensure access to justice in the event that victims do not have sufficient resources, particularly in relation to the guaranteed minimum income, they have the right to receive full legal support free of charge for the defence of their interests. This aid is provided by the Council of the Bar Association, if victims ask for it and if they are:

- a Luxembourg national,
- a foreign national authorised to settle in the country,

- a national of a Member State of the European Union (EU),
- a foreign national assimilated to a Luxembourg national in the matter of legal aid by virtue of an international treaty.

To determine financial resources, total gross income and wealth are taken into account, as well as the incomes of people living in the same household. In addition to the case of limited resources, victims can also receive legal aid if serious reasons related to their social, family or material situation justify eligibility.

An application for legal aid must be made using a questionnaire available from the Central Social Assistance Service (<http://www.guichet.public.lu/citoyens/fr/organismes/service-central-assistance-sociale/index.html>) signed by the victim and sent to the territorially competent Chairman of the Bar Association (Diekirch or Luxembourg).

The questionnaire to be completed will include in particular:

- the identity (surname, first names, place and date of birth, occupation, domicile, marital status, nationality) of the victim;
- the nature of the litigation for which the legal aid is required;
- the family situation of the victim;
- the [financial circumstances](#) of the victim.

Victims may also indicate the name of the lawyer(s) that they wish to be assigned under the legal aid scheme, or where applicable, indicate the name of the lawyer currently assigned to them.

Documents to be attached to the application by victims:

- a copy of their identity document;
- a [certificate of registration with the Joint Social Security Centre](#) (*Centre Commun de la Sécurité Sociale - CCSS*) as well as for persons belonging to their households;
- for the person concerned and each member of the household: pay slips (or a CCSS income certificate), minimum guaranteed income receipts, unemployment benefit or pension receipts or other receipts covering the last three months and indicating the gross amounts (bank statements are not sufficient);
- a zero-balance certificate from the National Solidarity Fund (*Fonds national de solidarité*) for each member of the household, if the household does not receive anything from the Fund;
- if the household receives or pays a maintenance allowance, a document indicating the amount paid or received (bank statements for the last three months, for example);
- a real estate ownership or non-ownership certificate issued by the Luxembourg Tax Administration (*Administration des contributions directes*) for each member of the household;
- where applicable, supporting documents for the ownership of real estate located abroad;
- documentary evidence of movable assets (cash, savings, shares, bonds, etc.);
- if the household is a tenant, a copy of the lease contract and rent receipts for the last three months;
- if the household is repaying a mortgage, proof of payment of the monthly amount;
- documentary evidence of income from real estate and movable property;
- documents relating to the case in question.

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

After the insufficiency of resources has been checked, the granting or refusal of legal aid will be notified by the Chair of the Bar Council or the member delegated by the Chair for the purpose, by ordinary post if it has been granted and by registered letter if it has been refused. The Chair appoints the lawyer that the victim has freely chosen or, if no choice has been made or the Chair considers the choice inappropriate, a designated lawyer.

Notaries and bailiffs are appointed *ex officio* by the court dealing with the case within the legal aid framework.

If legal aid is granted during the proceedings, the costs incurred by the victim will be reimbursed.

Unreimbursed costs

If the victim receives legal aid and is ordered to pay costs, these will be borne by the State.

In criminal cases, legal aid does not cover the costs and fines imposed on persons who are convicted.

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

If a case is closed before going to court, the notice specifies the conditions under which victims may initiate proceedings by bringing a private prosecution or a civil party claim.

If the penalties for the crimes are criminal penalties or correctional penalties, the notice includes the information that victims may apply to the State General Prosecutor, who has the right to instruct the state prosecutor to prosecute.

If the judicial council (*Chambre du conseil*) decides not to refer the criminal case to a court that would decide on the guilt of the alleged perpetrator, victims can appeal to the judicial council of the Court of Appeal. They therefore have the right to submit requests and comments to this council.

If the judicial council decides not to pursue the case for reasons of fact and not of law, victims may still apply to a civil court to obtain compensation for damage.

Can I be involved in the trial?

Just as during the enquiry/investigation, victims can take part in the proceedings without having any special status or as a civil party.

Victims may attend both public and non-public hearings, but only if they are summoned as witnesses. They may also be called as witnesses to the oral pleadings. To this end, they receive a written summons from the Public Prosecutor and must answer both the questions of the Court and the questions put by the lawyer for the opposing party. During the trial, victims sit at the back of the court room to prevent them from being in direct contact with the accused.

Civil parties receive a written summons to the oral pleadings. They also have the right to attend public and non-public hearings, and must be present to submit their applications. In principle, they intervene after the hearing of the witnesses. In addition, they may have the case argued on all matters relating to their civil interests and may give testimony on the facts.

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?

Your official role in the judicial system is that of victim without a special status. Victims have the right to join the proceedings as civil parties.

What are my rights and obligations in this role?

Victims have in particular the right:

- to the use of a language understood by them, or otherwise to have recourse to an interpreter in the case of a complaint to the police service;
- to receive, free of charge, a copy of the complaint and the documents they lodged in support of the complaint;
- to obtain a receipt in a language understood by them specifying the file number and the date and place of their complaints, to obtain an acknowledgment of receipt of their complaints made to the Public Prosecutor;
- to be assisted or represented by a lawyer;
- to be automatically informed of the 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 prosecution services of the date of the hearing at which their case will be tried;
- upon request, to obtain information on any final judgment in the prosecution;

- to ask the judge hearing applications for interim measures to make a provisional award, provided that the existence of the liability of the other party cannot seriously be called into question.

Civil parties also have the right:

- to claim compensation from the accused;
- to be involved in the investigation ordered 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, to 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.

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

Witnesses may attend hearings and reveal to the judge on oath everything they know about the facts. Witnesses must answer both the questions of the Court and the questions put by the lawyer for the opposing party.

Civil parties may have the case argued on all matters relating to their civil interests and may give testimony on the facts; a lawyer for a civil party may question experts as well as witnesses for the defence.

In principle, all evidence is admitted provided that it is recognised by reason and from experience that this can lead the judge to a conviction. Evidence can be presented provided that the parties were able to exchange views and arguments on it.

What information will I receive during the trial?

The following information will be communicated to Victim:

- on request: the state of the criminal proceedings;
- automatically: the date of the hearing at which their cases will be tried;
- upon request: any final judgment in the prosecution.

Will I be able to access court files?

When a complaint is lodged with the police, complainants receive a copy of the complaint free of charge, either immediately or within one month of lodging the complaint. Complainants may also ask the court dealing with their cases for specific procedural steps.

If complainants have joined the proceedings as civil parties, they have the right to have access to the case file, in the investigating judge's office, after the first questioning of the accused and the day before each inquiry for which legal assistance is necessary;

When the proceedings are complete, the investigating judge communicates the case file to the Public Prosecutor. As a civil party, you have the right to consult the file, at least eight working days before the case is examined by the judicial council.

Civil parties, and persons who can demonstrate a legitimate personal interest, have the right to receive a copy of the case file, except for any papers and documents seized, within a reasonable period before the appointed date of the hearing. To this end, they must make a request to the Public Prosecutor.

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