

1 - My rights as a victim of crime

What information will I get from the authority (e.g. police, public prosecutor) after the crime occurred but before I even report the crime?

The Act on Criminal Proceedings requires the court, the prosecutor and the investigating authority to inform the persons subject to enforcement activities about their rights and obligations before any procedural act.

Crimes can be reported to the public prosecutor or to the investigating authority orally or in writing. The report may also be accepted by another authority or the court, which will send that report to the investigating authority. The law does not stipulate any formalities for reporting a crime; crimes can be reported by letter, post or e-mail, or in person.

Criminal proceedings are conducted in Hungarian, but a victim who does not speak Hungarian has the possibility to use his or her mother tongue or any other language of his or her choice. Even if the victim speaks Hungarian, he or she may use his or her national language in the criminal proceedings. Translation and interpreting costs are not passed on to the victim, and the victim may not be obliged to pay an advance for, or bear, such costs.

The victim of the crime is entitled to the support of the victim support service in the case of natural persons against whom a crime or an offence against property was committed in the territory of Hungary and in the case any natural persons who have suffered injuries as a direct consequence of criminal acts or offences against property committed in the territory of Hungary, in particular bodily or emotional harm, mental shock or economic loss, on condition that they are: Hungarian citizens, citizens of any EU Member States, citizens of any non-EU country lawfully residing in the territory of the European Union, stateless persons lawfully residing in the territory of Hungary, victims of trafficking in human beings or any other persons deemed eligible by virtue of international treaties concluded between their respective states of nationality and Hungary or on the basis of reciprocity.

The State provides support services for the victims after assessment of their needs, which may include: facilitating the protection of victims' interests, granting instant monetary aid, granting proof of victim status, witness protection, and providing protected accommodation. If the legally defined conditions are met, the victim is also entitled to state compensation.

In addition, the personnel protection of a victim may be ordered if acts of violence against persons or offences creating a collective danger for persons are planned or committed against the victims to impede or thwart their participation in criminal proceedings or the enforcement of their rights and performance of their obligations or if such a crime is probable. Applications may be filed or recorded at the court, general prosecutor or investigating authority conducting the criminal proceeding.

To ensure the prevention or interruption of offences against the person's physical integrity or liberty, personal protection covers the protection of the victim's private dwelling or other place of residence as well as the securing of traffic routes and safe participation in criminal proceedings and other official acts.

Personal protection is provided in particular by means of regular patrol service, technical means, continuous communication connections, provision of protective clothing and, if other methods of personal protection are ineffective, by guarding personnel, which can be provided at the place managed by the law enforcement body authorised to order and provide personnel protection.

If the protection of a victim participating in criminal proceedings of outstanding gravity cannot be ensured by means of personal protection, and that victim cooperates with the authority and is in a threatened situation and it is therefore necessary to provide special safeguarding arrangements, the victim may also participate in a witness

protection programme providing special safeguard arrangements if specific additional conditions are met.

In certain cases, the victim is entitled to representation through a litigation friend and, if acting as substitute private prosecutor, is entitled to legal aid. As a general rule, the condition of these is that the victim is in need of them, that is, taking into account the income of persons living under the same roof, the victim's monthly net income does not exceed the respective minimum amount of retirement pension determined on the basis of an employment relationship (HUF 28 500 in 2017) and she or he has no assets that could cover the legal service.

The victim may be entitled to join a civil action to seek compensation for damages arising from a criminal offence from the defendant at any stage of the criminal proceedings. In order to secure his or her civil claim, the victim may make a motion for sequestration on the defendant's property which will be ordered by the court if there are reasonable grounds to assume that the satisfaction of the claim will be frustrated. The court decides on the civil claim in a judgment, accepting or rejecting the motion. If this would considerably delay the conclusion of the procedure, or if the defendant is acquitted, or if the adjudication of the motion on its merits in criminal proceedings is precluded due to other conditions, the court orders to the enforcement of the civil claim by other legal means.

The victim has the right to participate in a mediation procedure with the defendant under specific conditions. The mediation procedure cannot be carried out without the victim's consent, and even in case of the victim's consent it is not automatic and depends on many other conditions.

The out-of-pocket expenses of the victim and his or her representative incurred in the case are costs of criminal proceedings, as are the costs of the victim incurred in connection with his or her presence as witness. While the former is not advanced by the State, the latter is reimbursed after the procedural action. The defendant is ordered to bear the costs of the criminal proceedings if the defendant is declared guilty.

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

The Act on Criminal Proceedings provides for the protection of rights in respect of proceedings falling under the jurisdiction of Hungary regardless of nationality and place of residence. The victim support service provides the same services to the nationals of any EU Member State as to Hungarian citizens.

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

The victim is only notified individually about the decision ordering the investigation if the crime was not reported by the victim. In addition, the Proceedings Act defines situations and decisions about which the victim must be notified.

The victim has the right to be notified upon his or her request, in connection with the crime concerning him or her, about the release or escape of the detained person, the release on parole, final discharge or escape as well as interruption of the execution of term of imprisonment of, the person sentenced to a term of imprisonment, the release or escape of the person sentenced to custodial arrest as well as the interruption of the execution of custodial arrest, the release or escape of the person under involuntary medical treatment, the release, leave without permission and adaptation leave of the person under involuntary medical treatment and, in case of education for young offenders, temporary or permanent release, leaving the institution without permit and interruption of education for young offenders.

The victim must be notified about the following decisions in particular: assignment of an expert, suspension of the investigation, conclusion of the investigation, termination of the investigation, indictment, partial omission of indictment, dropping of charges, and adoption of any decisions which contain provisions pertaining directly to the victim, as well as the adoption of a conclusive decision.

The victim must be informed about the place and date of all procedural actions where he or she may participate. Such actions include the hearing of an expert during the investigation, inspections, reconstructions, presentations for identification, as well as trials and open sessions in the course of court procedures.

During the investigation, the victim may learn about and, for a fee, obtain copies of any expert opinions and files on investigative actions during which he or she may be present, and may obtain copies of other documents if that

is not contrary to the interests of the investigation After the conclusion of the investigation, the victim is allowed to examine any documents pertaining to the criminal offence committed against him or her.

In course of the investigation, the victim may lodge an appeal or complaint against all decisions containing provisions pertaining directly to him or her. The victim may file a complaint against, among other things, decisions rejecting his or her report of the crime or decisions suspending or terminating the investigation.

If the report of the crime is rejected or the investigation is terminated, and in certain cases where formal charges were filed in respect of a part of indictment and the victim's complaint failed to bring the desired result, the victim may act as a substitute private prosecutor within a deadline set out by the law. The victim may also act as a substitute private prosecutor if the prosecutor does not establish, as a result of the investigation, a criminal offence which is subject to public prosecution or if the prosecutor has not taken over the representation of prosecution from the private prosecutor. A victim acting as a substitute private prosecutor may submit, by way of his or her lawyer, a motion for prosecution, and may thus file an indictment on his or her own against the defendant.

During the court procedure, the victim may appeal only against the adjudication of the civil claim in its merits, but not against the decision in its merits. During the court procedure, the victim may act as a substitute private prosecutor if the prosecutor dropped the charge.

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

Criminal proceedings are conducted in Hungarian, but not knowing the Hungarian language will not be grounds for discrimination. In criminal proceedings you may use, both verbally and in writing, your native, regional or minority language or another language that you indicate as spoken by you. In these cases, you are entitled to an interpreter and to the translation of official documents addressed to you free of charge.

How does the authority ensure that I understand and that I am understood (if I am a child; if I have a disability)?

The authority will strive to communicate with you in a simple and easily understandable way both orally and in writing. Information about your rights and warnings about your obligations will be communicated in an easily understandable way taking into account your condition and personal abilities. In the course of verbal communication, the authority is also required to ascertain whether you have understood the information communicated to you, and if not, the authority will explain such information or warning to you. If you are a minor or a disabled person, the authority must take special care when communicating with you. If you are hearing impaired, deaf-blind or speech impaired, you may ask for a sign language interpreter or you may make a written statement instead of a hearing.

Victim support services

Who provides victim support?

At state level, victim protection and legal aid functions are exercised by the government offices of the capital and the 19 counties. If you are a victim of crime, government agencies provide you with personalised assistance free of charge, as part of which you are provided with

- information about your rights and possibilities;
- emotional support;
- practical assistance and legal advice in simple cases;
- confirmation of your victim status;
- instant monetary aid may also be provided based on an application submitted within 5 days of the date of commission of the related crime.

As part of legal aid, the government offices provide free legal advice to you in cases where the facts of the case are relatively straightforward, and if you are in financial need, you may be provided with legal services (e.g.

drawing up of documents) via legal assistance outside the context of criminal proceedings and representation through a litigation friend within the context of criminal proceedings.

You can find the contact details of Budapest and county government offices at <http://www.kormanyhivatal.hu/> and further information about victim support and legal aid at <https://igazsagugyiinformaciok.kormany.hu/aldozatsegito-szolgalat> and <http://igazsagugyihivatal.gov.hu/jogi-segitsegnyujtas>.

Besides state victim support organisations, you can also turn to a number of civil organisations if you have become a victim of a crime, for example:

- WHITE RING Charitable Association, a member of Victim Support Europe, provides financial, legal, psychological and other support as well as help to the victims of crime and their relatives, mainly those who are in need because of their social situation (<http://fehergyuru.eu/>),
- the National Crisis Telephone Information Service (Országos Kríziskezelő és Információs Telefonszolgálat) provides help to the victims of domestic violence, child abuse, prostitution and human trafficking and, if needed, can arrange for their accommodation (<http://bantalmazas.hu/>),
- NGO ESZTER Ambulance (ESZTER Alapítvány és Ambulancia) provides free psychological treatment and rehabilitation for children and adults in an abused and traumatised condition, and provides legal information and advice (<http://eszteralapitvany.hu/>),
- NGO NANE Women's Rights Association operates a free helpline and provides personal legal assistance as well as psychological and social counselling for adult and minor victims of domestic violence (<http://nane.hu/>).

Will the police automatically refer me to victim support?

If you turn to the police as a victim of a crime, you will receive a written notification of the relevant victim support service from the police, and you will be informed of your opportunities for victim support, and upon request the police will issue the necessary certificate which will be handed to you or sent to the victim support service.

How is my privacy protected?

In the course of criminal proceedings your personality rights and the right of reverence of those involved must be respected, and any unnecessary disclosure of data on your privacy is prohibited. For this purpose, if your testimony as a witness is necessary, you may request that your data be handled confidentially which, from that time, will be disclosed only to the authority proceeding in the case.

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

It is not a general condition of eligibility for victim support service provided by the state that you file a report on the criminal offence committed to your injury; nevertheless you will be entitled to receive monetary aid (compensation, instant monetary aid) only if you have written proof of initiating the criminal proceedings.

Personal protection if I am in danger

You can get personal protection after the initiation of criminal proceedings. If you are in a threatened situation due to your participation in criminal proceedings, you may request the authority proceeding in the case that you as a victim or witness as well as your family members and relatives be provided with personal protection. Personal protection may be initiated by the investigating authority proceeding in the case, the prosecution or the court, and the decision will be made by the police which provides the personal protection.

If you are to be heard as a witness and your testimony relates to the substantial circumstances of a particularly serious case, you may be declared specially protected if the evidence expected by your testimony cannot be substituted and if the exposure of your identity in connection with your participation in the criminal proceedings would seriously jeopardise either your or your relatives' life, limb or personal freedom.

The investigating judge will decide on declaring the witness specially protected, which may be motioned by the prosecution, so you must initiate this kind of protection at the prosecution. If you are declared a specially protected witness, you may only be questioned by the investigating judge and you may not be summoned to the trial, your

name, personal data and place of residence will be handled confidentially and they will not be disclosed to the defendant and his defence counsel.

You may also be protected within the framework of a special Protection Programme. If you participate in such a Programme, you may be summoned to or notified about the procedural actions, or sent documents only through the body responsible for your protection, and the address of that body will be indicated as your place of residence. No one, including the authorities, may be provided with copies of documents containing information about you, unless the body responsible for your protection has permitted it. In this case, you may refuse to give testimony giving or implying information about your new identity or place of residence.

If a criminal act punishable with imprisonment was committed to your injury, you may motion the court to order the defendant to restrain from you for a period of ten to sixty days.

What types of protection are available? Who can offer me a protection?

During criminal proceedings, the court, the prosecutor and the investigating authority will constantly examine whether you are a victim who has need for special protection based on the facts and circumstances characterising your personality and living conditions and the nature or the circumstances of the criminal offence, about whom it can be established that they have special needs during the criminal proceedings. Basically, in this case, the court, prosecution or investigating authority conducting the criminal proceedings may order the measures providing your personal protection, with the stipulation that the personal protection and Protection Programme defined in Section 7 is provided by the police, while the restraining order may be issued by the court.

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

Yes. It is a fundamental function of the court, the prosecution and the investigating authority to prevent the commission of further criminal offences by the offender. This aim is realised through coercive measures focusing on the defendant and his or her personal characteristics which involve the loss or restriction of the defendant's liberty (e.g. restraining order, house curfew) and, on the other hand, through measures ensuring your due care and protection which are based on the special consideration of your interests as a victim.

Will someone assess my case to see if I am at risk of further harm by the criminal justice system (during investigation and trial)?

Yes. In criminal proceedings, procedural actions involving your participation as a witness must be prepared and conducted by the court, the prosecution and the investigating authority in such a manner that they are not unduly repeated and you do not meet the defendant unnecessarily. For this purpose, for example, your confrontation with the defendant may be omitted upon your request or ex officio, the defendant may be removed from the courtroom during the time you are questioned, and you may be questioned by means of telecommunication (even with the distortion of your facial features or voice).

What protection is available for very vulnerable victims?

If you are a victim who has need for special protection based on the facts and circumstances characterising your personality and living conditions or the nature or the circumstances of the criminal offence, the criminal proceedings will be conducted with utmost care for you, and any procedural actions affecting you (taking into account the interests of the proceedings) will be prepared and implemented by taking your needs into account as much as possible.

I am a minor – do I have special rights?

In line with the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20 November 1989, the Hungarian legal system considers a person a child if he or she is under the age of 18 years.

In criminal proceedings affecting victims who are minors, it is a general requirement for authorities and judicial bodies to ensure the full application of children's rights laid down in international conventions, particularly the principle of giving prime consideration to the '*best interests of the child*' in decisions affecting minors.

In criminal proceedings, minor victims have additional rights compared to adults, and further protection is provided

to them. If the victim is under the age of 18 at the time of initiation of the criminal proceedings, he or she will be deemed to be a 'victim with special needs' without submitting a separate request to that effect.

It is a general rule for victims with special needs that procedural actions must be prepared and implemented with the utmost care for the victim and by taking his or her needs into account as much as possible.

Victims under the age of 18 years have additional special rights compared to adults:

1. Expeditious criminal proceedings must be conducted for criminal offences committed against life and limb or health or sexual freedom and for sexual offences as well as criminal offences against the interests of children and family or violent criminal offences against other persons, if the interests of the child justify that the criminal proceedings be concluded as soon as possible. Expeditious criminal proceedings are especially justified where the physical, mental or moral development of the victim were significantly jeopardised or where the defendant is responsible for raising, supervising or caring for the victim at the time of the proceedings or otherwise lives in the victim's environment.
2. Additional care should be taken in any oral and written communication conducted with him or her. Minors must be informed about their rights and obligations in a manner appropriate to their age and maturity and, if necessary, special clarification and explanation must be given to them.
3. The ward of a minor must be notified of the subpoena, and that notification must be served together with a request to ensure the attendance of the minor.
4. The legal representative, supporter and ward of the minor may be present at the examination of the minor as a witness. The person accompanying the witness is entitled to the reimbursement of the same expenses as the witness.
5. The testimony of a minor may not be tested by instrumental credibility examination (polygraph).
6. If the obligation for personal cooperation is not prescribed by the law, the rights of the minor may also be exercised by his or her legal representative.
7. The examination may be ordered to be held by way of a closed-circuit communication system (video conference). In this case, the victim is placed in a separate room and he or she may communicate with those who are present at the venue of the trial via a device simultaneously transmitting video and voice (video conference).
8. Ex officio or upon request, the court may exclude the public from the trial to protect the minor participating in the proceedings.
9. If the prosecutor wishes to question a victim with special needs as witness in criminal proceedings conducted due to a criminal offence committed against sexual freedom, a sexual offence or an offence against the person of a relative, the victim may only be examined by a person of the same sex, provided that this is requested by the victim and it does not adversely affect the interests of the proceedings.

Victims under the age of 14 years have further special rights in addition to the above:

1. The victim may only be heard as witness if the evidence expected from the testimony cannot be substituted. The victim only has to participate in confrontation if it will not cause anxiety to him or her.
2. Subpoenas and notices on the examination of the witness must be served through their ward. The fact of the subpoena and notice must be communicated to the legal representative of the minor.
3. Prior to filing the indictment, the investigating judge will hear the minor if there are reasonable grounds to assume that questioning at a public hearing would adversely affect the minor's personal development. The hearing of the witness by the investigating judge may be motioned at the prosecutor by the legal representative, the ward and the lawyer acting on behalf of the witness. Provided that the conditions set forth by law are met, the prosecutor will motion the hearing of the minor in such a way. The defendant and the counsel of the defendant may not be present at the session held by the investigating judge.
4. The venue of the hearing of the witness is a room specially designed for hearings of minors. Derogations from this are only permitted in exceptional cases. The hearing may also be held by way of a closed-circuit communication system (video conference).
5. The hearing of a witness under the age of 14 must be recorded using a video or audio recording device. In case of minors over the age of 14 years, this is only permitted on condition that an advance is granted for the costs.
6. The minor may not be summoned for a public hearing if he or she was heard by the investigating judge before indictment.
7. If the minor was not heard by the investigating judge before indictment but later the hearing as a witness becomes necessary, the minor may only be heard out of trial. In the event that the minor reached the age of

14 at the time of the trial, he or she may also be heard by the court in the trial in an especially justified case. The notification of the defendant and the counsel of the defendant may be dispensed with in both cases.

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

Victims who died either prior to or following the institution of criminal proceedings may be replaced by a relative in direct line, spouse, life partner, brother or sister, legal representative or a dependent person supported based on agreement or legislation who may exercise the rights of the victim.

In case of multiple persons who are entitled to do so, the persons concerned may designate a person exercising the victim's rights. In the absence of such an agreement, the person who first acted in the proceedings may exercise the rights of the victim.

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

If the obligation for personal cooperation is not prescribed by the law, the rights of the victim may also be exercised by his or her legal representative. A lawyer or relative of full age may act as a representative based upon an authorisation.

If the complainant makes a verbal complaint, a person of full age designated by the complainant may be present at the hearing for the purpose of providing his or her support (including language support), provided that the presence of that person does not adversely affect the interests of the proceedings.

In case of investigative acts where your presence is obligatory or you may be present, your representative, supporter and, if it does not violate the interests of the proceedings, a person who is of age designated by you may also be present at your side. The above rule is applicable to the hearing of the victim and the examination of the victim as witness.

In case of death of the private substitute prosecutor, he or she may be replaced by a relative in direct line, spouse, life partner, brother or sister, legal representative or a dependent person supported based on agreement or legislation within thirty days.

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

The main goal of a mediation procedure is to ensure compensation for the consequences of the crime by the defendant in a way that is also acceptable for the victim. In mediation proceedings, therefore, efforts should be made to reach an appropriate agreement between the defendant and the victim for compensating the damage.

Provided that the conditions set forth by law are met, the prosecutor or, if the case is before the court, the judge may postpone the proceedings for a maximum of six months and order mediation.

Mediation may be ordered for criminal proceedings if the following conditions are met:

- it is motioned by the defendant or the victim or they voluntarily agreed to do so;
- the criminal proceedings were launched for a crime committed against life and limb or health, human dignity and other fundamental human rights, a traffic offence or a crime against property or intellectual rights and the crime is punishable by imprisonment not exceeding five years;
- according to the Criminal Code, after a successful mediation procedure the criminal proceedings may be terminated or the penalty may be reduced without limitation;
- the suspect has admitted his or her guilt before being indicted and has agreed and is able to provide restitution by way of the means and to the extent accepted by the victim;
- the criminal proceedings may be dispensed with having regard to the nature of the crime, the way it was committed and the personal circumstances of the defendant, or there are reasonable grounds that the court would evaluate the restitution provided by the defendant in the framework of the imposition of punishment.

The victim may motion for ordering mediation at any stage of the proceedings. However, a mediation procedure

may be ordered only once per case, so if the mediation process is concluded unsuccessfully for whatever reason, it may not be repeated.

A mediator trained for this purpose and employed by the State is responsible for the proper conducting of the mediation procedure. In the mediation procedure, the victim may choose to meet the defendant exclusively in the presence of the mediator, and in this regard the mediator's person provides an adequate guarantee for the victim's personal security.

Where can I find the law stating my rights?

- Act XIX of 1998 on Criminal Procedures;
- Act C of 2012 on the Criminal Code;
- Act LXIV of 1991 on the Promulgation of the UN Convention on the Rights of the Child Signed in New York on 20 November 1989;
- Act CXXXV of 2005 on the Support of Victims of Crime and State Compensation;
- Act LXXX of 2003 on Legal Aid;
- Act LXXXV of 2001 on the Protection Programme for those Participating in Criminal Proceedings and Supporting Jurisdiction;
- Act CXXIII of 2006 on Mediation Activities Applicable in Criminal Cases;
- Decree No 64/2015 of the Minister of Interior of 12 December 2015 on the Tasks of the Police Related to Victim Support;
- Government Decree No 34/1999 of 26 February 1999 on the Conditions of Ordering and Rules of Implementing the Personal Protection of those Participating in Criminal Proceedings and Members of Authorities Proceeding;
- Joint Decree No 23/2003 of the Minister of Interior and the Minister of Justice of 24 June 2003 on the Detailed Rules of Investigation Conducted by Investigative Authorities under the Minister of Interior and the Rules of Recording Investigative Acts by Means Other than Minutes;
- Decree No 25/2016 of the Minister of Justice of 23 December 2016 on the State Reimbursement of Out-of-Pocket Expenses of the Defendant and the Defence Counsel, and on the Expenses and Fees of Persons Participating in Criminal Proceedings;
- Decree No 14/2008 of the Minister of Justice and Law Enforcement of 27 June 2008 on the Reimbursement of Witnesses;
- Joint Decree No 21/2003 of the Minister of Justice, the Minister of Interior and the Minister of Finance of 24 June 2003 on the Advancing of the Costs of Criminal Proceedings;
- Order No 2/2013 of the National Police Headquarters of 31 January 2013 on the Tasks of the Police Related to Victim Support.

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