

[Home](#) > ... > [Your Rights](#) > [Victims of Crime](#) > [Victims' Rights - By Country](#) > 2 - Reporting a crime and my rights during the investigation or trial

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

How do I report a crime?

If you have been a victim of crime, you can report it to the police (or the public prosecutor) orally or in writing. You can also ask another person to report the crime for you, but you need to provide that person with a written power of attorney. The written and signed power of attorney will be attached to the case file.

The crime may be reported by one spouse on behalf of the other spouse or by an adult child on behalf of parents. If a child that is still a minor reports a crime, the report may be made by a representative of the child or with the consent of such a representative.

If you choose to report the crime orally, you have to go to a police station. The police officer accepting your report will write it down in a record and will ask you to sign it. Written reports must also be signed.

Your report has to include your name, occupation, home address and a detailed description of what happened. If you know who the offender is, you have to provide all the information you have about him/her, as well as any evidence related to the incident. During the investigation of the crime, you can also give additional information in the case.

If you do not speak or do not understand Romanian, you can file the report in a language you understand and the judicial body will have it translated. In this case, you may ask that any summons you receive should be issued in a language you understand.

If you are a victim of domestic violence, you can ask for a provisional protection order to be issued by the police or ask the competent court to issue a protection order. This means you have to fill in a standard application, which is submitted to the district court (*judecătoria*) with jurisdiction over your place of residence. The application can be submitted in person or, if you agree, by a person from social services dealing with violence in the family, or by a public prosecutor or police officer.

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

Following your report, the police bodies will forward the case to the public prosecutor, where it will be assigned a sole number.

Once you report the crime, you can check the progress of your case by making a written request to this end, while indicating an address in Romania or an e-mail or electronic messenger address where the authorities should send the information.

If the prosecutor decides to bring the case to court, you are entitled to consult the file at the premises of the court during court proceedings. In addition, you will be called to appear before the court.

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

If you are an injured party, you are entitled to receive legal assistance or to be represented.

a) Throughout the criminal proceedings, you are entitled to be assisted by a legal counsel of your choice paid by

you. If the offender is convicted, you will be able to recover the expenses incurred for your legal counsel from the offender.

b) If you so wish, you may be represented throughout the criminal proceedings, unless your presence is compulsory or the prosecutor, the judge or the court deems it necessary, as applicable (e.g. for hearing purposes).

c) In certain cases, legal assistance during criminal proceedings may be provided free of charge:

- if the prosecutor or the judge deems that you are not able to take care of your own defence and you have no paid legal counsel;
- if you are a minor and have not yet acquired full legal capacity (by way of marriage or judicial decision);
- if requested, if you have been the victim of any of the following crimes: attempted murder and attempted aggravated murder, bodily injury, intentional crimes resulting in the victim's bodily injury (the Criminal Code defines the meaning of bodily injury), rape, sexual assault, sexual intercourse with a minor and sexual corruption of minors;
- if requested, if you are the spouse, parent or another person dependant on the victim who has died as a result of murder, aggravated murder or of another intentional crime;
- if requested, if you are the victim of crimes other than the aforementioned and if your monthly income determined per family member is no higher than the gross minimum national wage. The application for free legal assistance should be filed with the tribunal under whose jurisdiction you are residing.

In such cases, free legal assistance is available only if you have reported the crime with the police or the public prosecutor within 60 days from the occurrence of the crime, or, if applicable, within 60 days of the date on which you became aware of the crime. If you were unable to report the crime, the 60 days runs from date marking the end of the circumstances that prevented you reporting it.

If you wish to receive free legal assistance, you need to lodge an application with the prosecutor or the court, as applicable, which will take the required actions. Free legal assistance is available to you until the end of the criminal proceedings.

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

You can claim reimbursement of your legal expenses. The court will decide what part of your expenses has to be reimbursed and by whom.

If you participate as an injured party or as a civil party in the proceedings (if your civil action is allowed) and the defendant is found guilty (even if, for certain reasons, he/she is not convicted to serve a sentence), he/she will be ordered to pay your legal expenses.

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

If the public prosecutor decides to close the case without bringing it to court, you can appeal against his/her decision within 20 days of receiving a copy of such decision. Your appeal has to be submitted to the superior prosecutor.

If the superior prosecutor dismisses your appeal, you may appeal against the superior prosecutor's decision before the preliminary chamber judge of the court of jurisdiction.

Can I be involved in the trial?

You can be involved in the criminal proceedings as follows:

As a victim (injured party)

If you have suffered an injury caused by a crime, you may participate in the proceedings as a victim and you are entitled to a number of procedural rights, as detailed below.

As a witness

If you do not wish to participate in the criminal proceedings as an injured party, you should inform the judicial body handling your case, which, if so deemed necessary, may still call you to be heard as a witness. If you are called to be heard as witness, you must be present and declare everything you know about the incident.

As a civil party

If you wish to claim compensation for the damages caused by the crime, you have to file a civil claim, thus becoming a civil party in the criminal proceedings.

In general, court hearings are open to the public and you can attend the hearings irrespective of your role in the proceedings. However, the court may decide to hold private hearings when there are sufficient reasons for this decision. In this case, you will be able to attend only if you are an injured party or a civil party.

Your presence in the courtroom is mandatory only when you are called for an interview (e.g. as a witness).

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?

If you have been a victim of crime, you may have one of the following roles in the justice system:

Victim (injured party)

If you have suffered an injury caused by a crime, you may participate in the proceedings as a victim and you are entitled to a number of procedural rights, as detailed below.

Civil party

If you wish to claim compensation for the damages caused by the crime, you may file a civil claim, thus becoming a civil party in the criminal proceedings.

Witness

If you do not wish to participate in the criminal proceedings as an injured party, you should inform the judicial body handling your case, which, if so deemed necessary, may still call you to be heard as a witness. In this case, you will be called for an interview and you will be asked to provide detailed information on the incident. Your presence during the interview is compulsory whenever you are called for this purpose.

What are my rights and obligations in this role?

If you participate in the criminal proceedings as *injured party/civil party*, you have a number of procedural rights:

During the criminal investigation:

- you are entitled to claim compensation for the damages caused by the crime. For this purpose, you need to become a civil party in the criminal proceedings or to file a separate civil action. You can become a civil party at any time of the criminal investigation.
In order to become a civil party in the proceedings, you must either request it orally before the police officer or the prosecutor or submit a written application to the police officer or the prosecutor handling the case. The application should specify what compensation you claim, the reasons and the related evidence. During the first interview, the prosecutor or the police officer will inform you that you can become a civil party in the proceedings.
- you are entitled to claim reimbursement of the legal expenses. The court will decide what part of your expenses has to be reimbursed and by whom.
If you participate as an injured party or as a civil party in the proceedings (if your civil action is allowed) and the defendant is found guilty (even if, for certain reasons, he/she is not convicted to serve a sentence), he/she will be ordered to pay your legal expenses.
- you are entitled to receive information on the progress of the investigation, as well as, if the prosecutor

decides not to refer the case to court, a copy of such decision. For this, you will need to submit a request to the police officer or the prosecutor handling the case and to indicate an address in Romania, an e-mail or electronic messenger address to receive the information. If the prosecutor decides to refer the case to court for trial, you will be summoned to court.

- you are entitled to interpreting and translation services, if you do not speak or understand Romanian. Throughout the criminal proceedings, you will be provided with an interpreter free of charge, if you do not speak Romanian.
- throughout the criminal proceedings, you are entitled to be assisted by a lawyer. In specific cases, (e.g. when the prosecutor deems that you are not able to take care of your own defence or you are a minor and have not yet acquired full legal capacity, when you are a victim of certain crimes, when your income is below a certain limit etc. - please see the answer to the previous question), you are entitled to free legal assistance.
- you are entitled to be represented throughout the criminal proceedings, unless your presence is compulsory or the prosecutor, the judge or the court deems it necessary, as applicable (e.g. for hearing purposes).
- you or your counsel can consult the file. However, the consultation of your file will be subject to specific rules, which will be communicated by the prosecutor's office registry.
- you are entitled to be called for an interview by the police officer or the prosecutor handling the case. During the interview, you may ask to be accompanied both by your legal representative, if any, and by a person of your choice whose presence during the interview you may deem helpful. The judicial body can dismiss your request only on reasonable grounds.

When you report a crime that has been committed against you, the judicial body must hear you right away. If this is not possible, you should be heard as soon as possible after reporting the crime.

If you are a victim of domestic violence, rape or other types of sexual assault, ill-treatment of minors, harassment, sexual harassment, as well as in any other cases where you feel the need to protect your privacy, you may ask to be heard by a person of the same sex as you. The judicial body can dismiss your request only on reasonable grounds.

- you are entitled to submit evidence and any other claims related to the settlement of the case. You can do this during your interview or in a separate application submitted to the judicial body handling your case.
- If the offender has been remanded in custody and then released, you are entitled to be informed of his/her release. During your first interview, you will be informed of this right and will be asked whether you wish to be informed of the offender's release.
- You can appeal against the acts undertaken in relation to your case. The appeal should be submitted to the case prosecutor, where the act was undertaken by a police officer, or to the superior prosecutor, where the act was undertaken by your case prosecutor.

If you appeal against the prosecutor's decision to close the criminal case and your appeal is dismissed, you can appeal against this decision before the preliminary chamber judge.

During the trial:

- you are entitled to claim compensation for the damages caused by the crime. For this purpose, you need to become a civil party in the criminal proceedings or to file a separate civil action.
If you have participated in the criminal investigation as a civil party, you may retain the same status during trial.
If you have not participated in the criminal investigation as a civil party, you may still become a civil party in the trial before the commencement of the inquiry. When you are called for the first court hearing, you will be informed of this.
You may request to become a civil party in the trial orally before the court or submit a written application to this effect. The application should specify what compensation you claim, the reasons and the related evidence.
- you are entitled to claim reimbursement of the legal expenses. The court will decide what part of your expenses has to be reimbursed and by whom.
If you participate as an injured party or as a civil party in the proceedings (if your civil action is allowed) and the defendant is found guilty (even if, for certain reasons, he/she is not convicted to serve a sentence), he/she will be ordered to pay your legal expenses.
- you are entitled to interpreting and translation services, if you do not speak or understand Romanian. Throughout the criminal proceedings, you will be provided with an interpreter free of charge, if you do not speak Romanian.
- throughout the criminal proceedings, you are entitled to be assisted by a lawyer. In specific cases, (e.g.

when the prosecutor deems that you are not able to take care of your own defence or you are a minor and have not yet acquired full legal capacity, when you are a victim of certain crimes, when your income is below a certain limit etc. - please see the answer to the previous question), you are entitled to free legal assistance.

- you are entitled to be represented throughout the criminal proceedings, unless your presence is compulsory or the prosecutor, the judge or the court deems it necessary, as applicable (e.g. for hearing purposes).
- you or your counsel can consult the file. However, the consultation of your file will be subject to specific rules, which will be communicated by the court's registry.
- you are entitled to be heard during court proceedings. The court will call you to appear at the hearing and you will be asked questions related to the crime. You will be also asked to recount everything you remember about the incident.
- you are entitled to ask questions to the defendant, witnesses and experts when they are heard.
- you are entitled to make objections and conclusions on criminal matters in the case.
- you are entitled to submit evidence and any other claims related to the settlement of the case.
- If the offender has been remanded in custody or convicted to serve a penalty, you are entitled to be informed of his/her release. If you have not requested to be informed of the offender's release at your first interview during the criminal investigation when you were informed of this right, you may still request it during the trial either orally before the court or in writing.
- When a ruling is available, it will be notified to you and you are entitled to appeal against it.

An injured party or a civil party or a witness in the criminal proceedings also has a number of obligations arising from the need for the judicial bodies to find out the truth in the case and for the offender to be held liable:

- the obligation to appear before the police officer, the prosecutor or the judge whenever you are called to make statements.
- the obligation to declare everything you know in relation to the incident; you should be aware that if you commit misrepresentation before the judicial bodies, you can be accused of and convicted for perjury. As the spouse or close relative of the suspect/defendant, you can decline to make statements. You may also decline to answer if the questions are related to professional secrecy that you are required to keep, where that is legally binding on judicial bodies
- the obligation to inform the judicial bodies about any change of address so that they can call you and send you any future notices on the proceedings.
- you must display civil behaviour and show respect for the solemnity of the hearing. Otherwise, the court may order you to be removed from the courtroom.

Both during the criminal investigation and during court proceedings, you are entitled to protective measures if the judicial bodies deem that you might be in danger or if you are the victim of certain crimes that might affect your privacy or dignity.

It is highly important for you to know that, if the judicial bodies deem that you might be in danger or that your privacy or dignity might be affected due to the information you provide or due to other causes, they may take, either if you request it or on their own initiative (*ex officio*), certain measures to ensure your protection, such as:

- providing surveillance or security to your home or temporary housing;
- providing escort and protection to you or to the members of your family during travels;
- protecting your identity details;
- hearing you via audio-visual means, with your voice and image being distorted, without there being a requirement for your presence, where the other measures do not suffice;
- keeping the court session private throughout your interview;

When so deemed necessary for your protection during the court proceedings, the judge may decide that the hearing should be private. You may also ask the judge to declare the hearing private.

Moreover, during court proceedings, the court may forbid any publication of texts, drawings, pictures or images that might reveal your identity.

If you are a *witness*, you are also entitled to other special means of witness protection. If you consider yourself in danger, you should inform the police officer, the prosecutor or the judge and provide as much information as possible.

Can I make a statement during the trial or give evidence? What are the conditions?

Yes. If you have chosen to participate in the trial, both the prosecutor/ police officer and the judge may hear you as an injured party/ as a civil party.

The prosecutor or the police officer will call you to be present at the premises of the police/ prosecutor's office in order to be interviewed and, during the trial, you will be called to be heard in the proceedings.

What information will I receive during the trial?

During the criminal investigation, you can receive information on the progress of the case and a copy detailing the prosecutor's decision related to the advisability of referring the case to court. For this, you will need to submit a request to the police officer or the prosecutor handling the case and to indicate an address in Romania, an e-mail or electronic messenger address to receive the information.

During the trial, you will be called at the first hearing and informed that you can become a civil party in the proceedings. You will receive no further calls for the next hearings. By attending court hearings or consulting the file, you will be informed about the progress of the case and the next hearing dates. However, you will be called whenever you must be interviewed.

Once available, a copy of the ruling will be delivered to you.

If you do not understand Romanian, the ruling minutes (a report of the court's judgement without extensive reasoning) will be delivered to you in a language you understand. The reasoning will be provided to you in Romanian and you may resort to the available interpreting services in order to have it translated.

Will I be able to access court files?

Yes, you or your counsel can consult the file. In order to do this, you need to go to the registry of the prosecutor's office or of the court which keeps your file and submit an application in this respect.

However, the consultation of your file will be subject to specific rules, which will be communicated by the registry.

You are entitled to receive information on the conditions and the procedure governing the admission to the witness protection programme.

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