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2 - My rights during the trial

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How can I be involved in the trial?

If you have indicated that you wish to be informed about the progress of your case you will receive a notification about the date and place of the court hearing. You can be present during all public hearings. If the judge decides to hold a non-public hearing you have to ask him/her for permission to attend. If the suspect is a juvenile, court hearings are always non-public, but victims and bereaved relatives are allowed to be present, unless the court decides differently. Your presence in the courtroom is not obligatory unless you have been called for an interview as a witness.

When you have missed the opportunity to file a civil claim during the investigation you can still do it during the trial. You can deliver a written claim to the court or make an oral claim during the hearing. In any case your claim must be made before the speech of the public prosecutor.

If you have presented a civil claim you will be allowed to speak after the public prosecutor and explain your claim. You can present new evidence supporting your claim. In practice, such new evidence can be only in the form of documents because you will not be allowed to bring witnesses or experts.

You cannot directly question the defendant, the witnesses or the experts but you or your lawyer may ask the judge to pose certain questions to them. From January 1, 2011, you have the right, both as a civil claimant and as a victim, to consult the case file, but this can be refused by the public prosecutor on certain important grounds, such as the interests of proper procedure. You can appeal to the court against such a refusal.

If you have suffered from a serious crime you have the right to speak before the court to explain the consequences of the incident on your life. This is called a Victim Impact Statement. The court will usually allow you to speak for 10-15 minutes. You have to make the statement yourself. The court will not allow another person to make the statement instead of you. However, if you have given a written statement during the investigation you may decide not to speak during the hearing. Sometimes your statement is read out loud, partly or as a whole, by the public prosecutor or the presiding judge.

During the trial you can use a lawyer but you have to pay for his/her services. You can add these expenses to your civil claim. If you have a low income you can receive legal aid, which is partly free of charge.

What are my rights as a witness?

If you have been called for an interview as a witness you have to go to the court and attend the court hearing. If you have serious reasons preventing you to go to the court you have to inform the, public prosecutor who has called you in advance and he/she will decide whether your presence is mandatory. In court the presiding judge may also decide that your presence is not essential.

If you feel uncomfortable speaking in public you can ask the judge to hold a non-public hearing.

During the interview the judge will first ask you to state your name, date of birth, occupation, place of residence and any relation to the defendant. Then you will be asked to swear that you will tell the truth and to give your testimony. After your testimony you may have to answer some additional questions. For more information about your rights as a witness please consult the brochure [Being a Witness in a Criminal Trial](#).

I am a minor. Do I have additional rights?

If you are a child and you have to be interviewed during the hearing the court can conduct the interview in a non-public session. Also, if your interview during the investigation has been taped you may not be asked to appear before the court as a witness.

Can I receive legal aid?

You can use the assistance of a lawyer during the trial proceedings, and he/she can also represent you if you authorise him/her to do so. The costs of legal aid are for your account: legal aid is only partly free of charge depending on your income.

To receive legal aid you need to go to the nearest Legal Services Counter where you will obtain some initial information and a referral to a lawyer. If you are a victim of a severe violent or sexual crime you could qualify for free legal aid. The Legal Services Counter can inform you on this.

How can I get protection, if I am in danger?

You can receive special protection if you are a witness and you are afraid of possible repercussions as a result of your testimony. In this case a judge will interview you during the investigation and you will not be required to appear before the court during the trial. Your identity will be kept secret and your personal data will be available only to the judge and will be omitted from the documents in the case file.

How can I claim damages from the offender or receive compensation from the State?

When you report a crime to the police they will ask you whether you want to receive monetary compensation for damages from the offender if he will be found. If you want that, the police are obliged to try and settle the damages for you by inviting the offender to pay for the damages directly (through a government account). If this does not succeed you can receive compensation from the offender by submitting a civil claim. You can claim both property and psychological damages. Property damages include costs for medical services, lost profit, damaged property, etc. Psychological damages include the pain and suffering caused by the offence.

The civil claim is usually prepared and submitted during the investigation, but if you have missed this opportunity you can submit it in writing or orally during the court hearing before the speech of the prosecutor. Together with your claim you have to present all documents you consider relevant to the case (e.g. medical certificates, receipts from consultations, etc.). In your claim you can also include all expenses you have made in relation to your participation in the procedure.

If the court finds the offender guilty it will order him/her to pay you compensation. Compensation is usually financial and the court will specify the exact amount you will receive. In practice, you will get full compensation for all your property damages together with a certain amount to cover your psychological damages that the court finds fair.

When the court orders the suspect to pay the damages you claimed with your civil claim, it will often also impose a compensation order that will be executed by the Central Fine Collection Agency and will be transferred to your account. From January 1, 2011, the state will fully compensate your damages if you are a victim of a violent or sexual crime and the convicted offender has not done so within eight months. The state will then take regress on the offender.

As a victim of violent crime you can also apply for financial compensation from the State. Your application has to be submitted to the [Compensation Fund for Violent Crime](#) within three years of the crime. Please consult the factsheet on compensation to victims of crime in the Netherlands (available in [English](#), [Dutch](#) and multiple other languages) of the European Judicial Network.

Are there opportunities to reach settlement/conciliation or to start mediation between the offender and myself?

During the trial there are no opportunities for mediation or any other form of conciliation between you and the offender. Outside the criminal procedure you can request to have a 'victim-offender conversation' organised by SIB (Victim in Focus).

I am a foreigner. How are my rights and interests protected?

If you are a foreigner you have all the rights explained above but you also have some additional rights to facilitate your participation in the trial.

If you have filed a civil claim you can use the assistance of an interpreter when explaining your claim during the hearing. Interpretation will not be free of charge, but you can add the expenses to your claim so that the offender can be ordered to cover them if convicted.

If you are not a civil claimant, you will have the right to use the assistance of an interpreter free of charge from January 1, 2011. You must ask the public prosecutor for interpretation assistance before the start of the trial.

More information:

- Code of Criminal Procedure (Wetboek van Strafvordering) - in [Dutch](#)
- Act of December 17, 2009 to change the Code of Criminal Procedure, the Criminal Code and the Act on Compensation for Violent Crimes to strengthen the position of victims in the criminal procedure (Wet van 17 december 2009 tot wijziging van het wetboek van strafvordering, het wetboek van strafrecht en de Wet schadefonds geweldsmisdrijven ter versterking van de positie van het slachtoffer in het strafproces)
- Legal Aid Act (De wet op de Rechtsbijstand) - in [Dutch](#)
- Act on Compensation for Violent Crimes (De wet Schadefonds Geweldsmisdrijven) - in [Dutch](#)
- Youth Care Act (Wet op de jeugdzorg) - in [Dutch](#)
- Instruction on Care of Victims (Aanwijzing slachtofferzorg) - in [Dutch](#)
- Instruction on the Right to Speak and the Written Victim Impact Statement (Aanwijzing spreekrecht en schriftelijke slachtofferverklaring) - in [Dutch](#)
- Instruction on Domestic Violence (Aanwijzing huiselijk geweld) - in [Dutch](#)
- Instruction on Detection and Prosecution of Sexual Abuse (Aanwijzing opsporing en vervolging inzake seksueel misbruik) - in [Dutch](#)
- Instruction on Detection and Prosecution of Child Maltreatment (Aanwijzing opsporing en vervolging inzake kindermishandeling) - in [Dutch](#)

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