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

How can I report a crime?

If you were the victim of a crime you can report it to the police. Your spouse, parents, children, siblings or guardian can report the crime on your behalf. You can also inform the police if you have learned about a crime even when you are not the victim of that crime.

You can report a crime orally, by going to the nearest police station or by calling the emergency number 112 in cases which require immediate assistance, or by handing in a report at the police station or sending a letter. If you choose to send a written report you can draft it yourself or you can ask a lawyer to assist you. There is no obligatory form you have to follow. Usually the report is made in English or Maltese but, if you do not understand or speak any one of these languages, you have the right to make the report in a language you understand or with the help of an interpreter. You need to include your personal details. Anonymous reports are accepted in principle, but the police will open an investigation on such a report only if the crime is a very serious one.

There is no deadline for reporting a crime. However, the law states that if a certain period of time has elapsed after the crime was committed, the offender can no longer be prosecuted. The period differs according to the nature of the crime and ranges from three months for the least serious offences (e.g. verbal insult) to twenty years for particularly serious crimes (e.g. homicide). After that period you can still file a report but the police will not investigate the crime. Even if they conduct an investigation, the court will acquit the offender.

For some minor offences you need to file a special complaint with the police, namely in cases where the police may not open an investigation if no complaint has been filed. Complaints are usually, but not necessarily, submitted in writing. You can ask a lawyer to draft the complaint for you. Your complaint must include: your personal details (name, address, identity card number), information about the offender, description of the incident, and a list of witnesses you wish the police to interview including their addresses. It is also recommended, but not obligatory, to include a reference to the legal provision you think the offender has violated.

How can I follow up what is happening with the case?

When you report a crime you will receive a reference number. You can use this number to check the progress of your case. In practice, you can also check by using the date on which you submitted your report. You can receive information about the investigation by going to the police station or calling by phone.

Do I have a right to legal aid (during the investigation or the trial)? On what conditions?

Crime victims are entitled to legal aid

Can I claim any expenses incurred (to take part in the investigation/in the trial)? On what conditions?

Yes, you can claim expenses incurred.

Can I appeal if my case is closed before reaching the court?

If after the police investigate the crime, they decide to close the case without taking it to court, as a victim you can appeal against this decision before the Court of Magistrates (*Qorti tal-Maġistrati*). The Court of Magistrates will ask you to confirm on oath the information you have provided in your report and to declare your readiness to testify in court. You will also have to pay a certain sum specified by the court as a guarantee that your intention to have the offender prosecuted is serious. The Court of Magistrates will examine the evidence and if it finds it sufficient will order the police to continue with the proceedings.

Can I be involved in the trial?

You can participate in the proceedings as a civil party. To join the proceedings as a civil party you need to submit an application to the court. The court will examine your application and decide whether to allow you to become a civil party. As a civil party you can attend all court sessions, even those that are non-public and even if you will be giving your testimony in the proceedings.

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

You can be a witness or civil party, as explained above.

What are my rights and obligations in this role?

Your rights and obligations during the trial before the criminal court depend on the court that hears your case:

- if your case is prosecuted by a police officer before the Court of Magistrates you have almost the same rights as the defendant: you or your lawyer can present evidence, cross-examine witnesses (by asking the questions through the prosecuting police officer), etc.
- if your case is prosecuted by the Attorney General, the Deputy Attorney General or a public prosecutor before the Criminal Court, you can only attend the hearing and present arguments related to the sentence if the jury has found the offender guilty.

Can I make a declaration or testify during the trial? on what conditions?

During the criminal proceedings you will probably be called to testify because the court would want to hear your testimony as a victim of the crime.

What information will I receive during the trial?

You will have the right to be kept informed about the progress of the trial as well as to be informed about the final sentence.

Can I have access to the Court files?

As a civil party you will have access to the court acts and documents.

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