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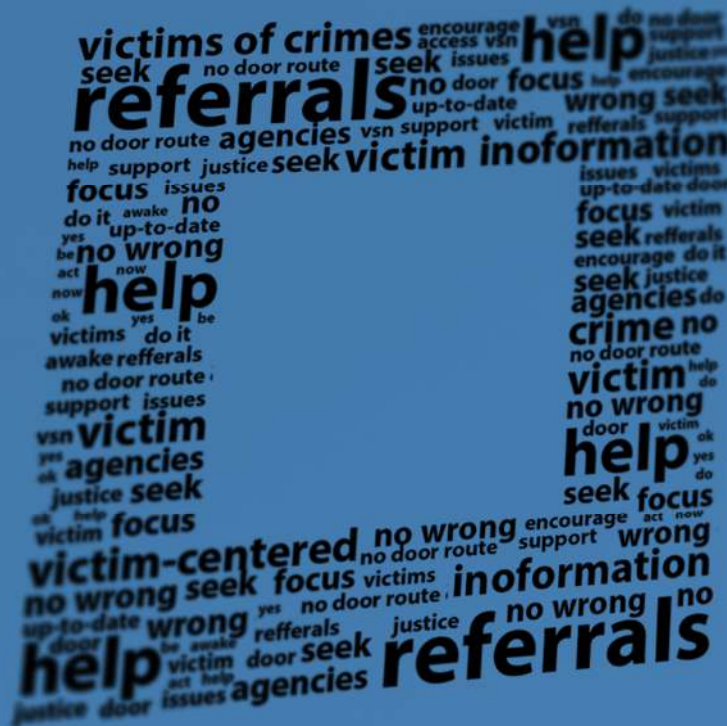


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SCANDINAVIAN
HUMAN RIGHTS
LAWYERS

BOOKLET FOR VICTIMS OF CRIMES



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Introduction

If you have been subjected to a crime, you will probably find yourself in front of an unfamiliar situation concerning the criminal legal procedures, the steps that are to be followed as part of the trial, the rights to which you are entitled.

After you will read this booklet, hopefully most of the blurs and questions will be answered and you will understand the legal steps and the rights to which you are entitled according with the legislation from Romania, Bulgaria, Germany and Sweden.

For each country are presented the main stages of the process, the rights you have. At the end of each country presentation, you will find a link towards the project website database, containing useful information on institutions and organizations with competences in ensuring protection of your rights.

Victims Booklet is a publication developed as part of the transnational project Pro Victims Justice through an Enhanced Rights Protection and Stakeholders Cooperation, financed by the Justice Programme of the European Union and implemented by Association Pro Refugiu Romania (coordinator organization), Center for the Study of Democracy Bulgaria (partner organization), Crime Prevention Council of Lower Saxony Germany (partner institution), Scandinavian Human Rights lawyers Sweden (partner organization)

Rights of Victims of Crimes, Legal Procedures in Romania

Preliminary Investigation / Prosecution Phase

Preliminary investigation, prosecution phase, have as purpose the gathering of the necessary evidences regarding the existence of the offense, the identification of the person(s) who committed the crime, the establishment of the criminal liability of these persons in order to determine if the case should be sent or not to court.

How to report to the criminal investigation body (police, prosecutor)?

- **Preliminary complaint** is the notification made by a person about an offense she / he had suffered. The preliminary complaint must be made within 3 months from the date when the injured person learned about the illegal act. If the victim is a minor or a person with no capacity of exercise, this 3-months period will be calculated from the date when the legal representative learned about the offense.
- **Denunciation** is the notification made by a person that found out about an offense committed by another person.
- **By officio** as result of special investigation made directly by the competent criminal investigation bodies.

Example of offenses for which the criminal investigation / prosecution can be set in motion at the prior complaint of the injured party

- hitting and other forms of violence.
- threats, harassment; rape; sexual aggression.
- home violation; abuse of trust.
- violation of the professional office.
- family abandonment.
- prevent the exercise of the religious freedom, etc.

What rights does the victim have at the first contact with the criminal investigation authority?

The first judicial authority (police, prosecutor) has the obligation to inform you on the followings:

- Services and organizations providing psychological counseling or any other form of assistance to the victim, according to the needs.
- Criminal investigation authority to which the victim can submit a complaint.
- The institution where the victim can turn to in order to request free legal assistance; the conditions and procedures for receiving free legal assistance.
- Procedural rights of the injured person and of the civil party.

- Conditions and procedures to benefit from the provisions of the Criminal Procedural Code concerning the protection of the injured party and of the civil party.
- Conditions and procedures for receiving state financial compensation.
- Right to be informed, if the defendant is deprived of liberty, respectively sentenced to a custodial sentence, according to the Criminal Procedural Code.

What is an injured person?

The person who has suffered physical, material or moral injury as result of an offence has the status of *injured person* in the criminal proceedings, having a series of procedural rights.

What is a civil party?

The injured person or his / her successors who manifest the desire to be compensated for the material and/or moral damages suffered as result of the offense committed.

In the criminal trial, the statement (to be a civil party) may be made until the start of the court judicial investigation.

If the person has no capacity of exercise or has a limited capacity of exercise, the civil action will be introduced by the legal representative or by prosecutor.

If the injured person or his/her successors did not requested to be civil parties in the criminal trial, they can introduce a distinct action at the civil court concerning the compensation for the damages caused by the offense.

Court Phase

The court resolves the case by guaranteeing the rights of the parties in the criminal trial, ensures a good administration of the evidences in order to find out the truth.

- Judgment at first instance
- Appeal
- Contestation
- Extraordinary ways to attack (annulment contestation; cassation appeal; revision; reopening the trial if the defendant was tried in absentia)

What rights does the victim has is she / he decides to participate in the trial (as injured person)?

- Right to bring a civil action in order to recover the damage from the perpetrator (if she/he does not wish to participate in the criminal proceedings as a civil party, the injured person may address to the civil court for damages).
- Right for compensation from the perpetrator.
- Right of access the file, under the law conditions.
- Right to be informed on the stage of the trial.
- Right to be heard; the right to ask questions to the defendant, witnesses and experts.
- Right to legal assistance and legal representation throughout the criminal proceedings.
- Right to free legal assistance in certain cases.

- Right to propose evidences, to raise exceptions and to draw conclusions, as well as to make any other requests related to solving the criminal aspects of the case.
- Right to benefit free of charge from an interpreter when she/he does not understand, does not express himself/herself well in Romanian language.
- Right to make a complaint against the acts of the prosecutor, of the court, if they have harmed his/her legitimate interests.

Who can receive free legal assistance?

If you are in one of these situations, you can request free legal assistance. You can benefit from the legal services of an ex officio lawyer.

- Victims of attempts to the offences of murder and serious murder.
- Victims of domestic violence offenses, victims of intentional offences that resulted in grievous bodily harm.
- Victims of rape.
- Victims of sexual assaults.
- Minors victims of sexual abuse / sexual intercourse.
- Victims of other offenses if the monthly income per victim's family member is at most equal to the country's gross minimum basic salary.
- Free legal assistance procedure (*Law 211/2004 and Criminal Procedural Code*): the request for free legal assistance shall be submitted *to the court in whose jurisdiction the victim has residence*.
- As a general rule, whenever the Court considers that for some reason the victim cannot defend himself/herself and has no lawyer, *orders the designation an ex officio lawyer for the court legal procedures*.

What special measures can be taken for the injured person in the criminal trial?

- Caretaking and surveillance of his/her dwelling or provision of temporary housing; accompanying and ensuring the protection of the injured person and/or his/her family members.
- Protection of identity data.
- Hearing/listening without being present, through audiovisual means of transmission with distorted voice and image, when the other measures are not sufficient.
- Non-public hearing, in court.

Can victims of crimes receive psychological counseling?

The psychological counseling of victims of crime (*Law no.211 / 2014 on certain measures for the protection of victims of crime*) is granted free of charge, upon request, to:

- Victims of attempts to the offences of murder and serious murder.
- Victims of domestic violence offenses.
- Victims of intentional offences that resulted in grievous bodily harm.
- Victims of rape, sexual assaults, sexual intercourse with a minor and sexual abuse of minors; victims of ill treatment applied to minors.
- Victims of human trafficking.

Who can obtain state financial compensation?

If you are in one of the following situations is possible to request financial compensation (*Law no.211 / 2014 on certain measures for the protection of victims of crime*)

- The victim of certain crimes (attempted murder and serious murder; the offense of bodily injury; an intentional crime that resulted in the victim's bodily injury; the offense of rape, sexual intercourse or sexual assault; human trafficking; the offense of terrorism; any other intentional offense committed with violence).
- The spouse, children and dependents of the deceased victim.

What are the deadlines and procedures for claiming state financial compensation?

State compensation shall be granted to the victim only if she/he notifies the criminal investigation bodies within 60 days of the date when the offense was committed or, if it was unable to notify the criminal investigating authorities, within 60 days from the date when the state of impossibility ceased.

If the perpetrator is known, financial compensation may be granted to the victim if the following conditions are met:

- a) *the victim submitted the claim for financial compensation within one year, thus:*
 1. from the date of the final judgment of the criminal court sentencing or acquitting the defendant, in certain cases, or granting civil compensation or the termination of the criminal trial, in certain cases.
 2. from the date when the prosecutor dropped the charges, in certain cases.
- b) *the victim filed a civil action in the criminal proceedings, except when the charges were dropped on the grounds of Criminal Procedural Code (dismissal of the case)*
- c) *the perpetrator is insolvent or absconding.*
- d) *the victim did not obtain full reparations for the losses suffered, from an insurance company.*

When the victim is in incapacity to make a claim for financial compensation, the one year deadline shall run from the date when the incapacity state ceased. Where the court ordered the separation of the civil action from the criminal proceedings, the one-year deadline starts from the date when decision to admit the civil action remained final.

According to Law no. 211/2004, victims below the age of 18 and those legally incompetent are not required to report the crime. The minor's or the legally incompetent person's legal representative may report the crime to the criminal investigation bodies.

If the perpetrator is unknown, the victim can make a claim for financial compensation within 3 years from the crime, if the requirements from Law 211/2004 are met.

When the victim is underage and his/her legal representative did not made a claim for financial compensation within the deadlines provided by the Law, as applicable, these deadlines will run from the date when the victim turned 18.

The types of losses for which financial compensations may be claimed

(a) the person subject to the crime may claim:

1. hospitalization and other categories of medical costs incurred by the victim.
2. losses resulting from the destruction, degradation or rendering useless the victim's assets or loss of possession of assets as a result of the crime.
3. earnings of which the victim is deprived as a result of the crime.

(b) the spouse, children and dependents of persons deceased as a result of crime, may claim:

1. funeral costs.
2. support that the victim is deprived of as a result of the crime.

The amount of the state financial compensation is limited to the equivalent of **10 national minimum gross base wages** for the year in which the victim made the claim for financial compensation. The moneys paid by the perpetrator as civil compensation and the indemnity obtained by the victim from an insurer for losses incurred as a result of crime are subtracted from the compensation granted to the victim by the government.

The victim may apply to the Crime Injuries Compensation Board ***for an advance*** on the financial compensation. Such advance payment may be granted, if the victim is in financial difficulty, within the limit of **10 national minimum gross base wages** for the year in which the victim requested the advance payment. The advance payment may be requested in the financial compensation claim or in a separate claim that may be filed at any moment after the crime was reported to the law enforcement authorities or the court, if applicable, and no later than 30 de days from the submission of the compensation claim, in case the advance payment is requested in a separate claim that should also indicate the status of the judicial proceedings.

The victim's application for an advance on the financial compensation shall be settled within 30 days from the application made, and if the claim for financial compensation is rejected, the victim shall be required to reimburse the advance payment, except when the claim for financial compensation was rejected only on the grounds of the perpetrator being insolvent or absconding. Also, the victim that was granted an advance on the financial compensation shall be required to reimburse it if he/she did not submit the claim for financial compensation within the deadlines provided by law.

The financial compensation claim shall be submitted to the tribunal from the jurisdiction in the area where the victim has the residence. The claim shall be settled by two judges of the *Crime Injuries Compensation Board from the tribunal in which territorial area the victim has residence/domicile.*

What the claim for state financial compensation should contain?

The claim should indicate:

- Date, place and context of the crime that generated the loss.
- Types of losses incurred as a result of the crime.
- Law enforcement authority or the court to which the crime was reported and the date of reporting, if applicable.
- Number and date of the judgment or of the prosecution document, if applicable, when a final judgment was issued in first instance.
- Capacity as spouse, child or dependent of a deceased person.
- Criminal record.
- Money paid as damages by the perpetrator or the indemnity obtained by the victim from an insurer for losses incurred as a result of the crime.
- Amount of the state financial compensation claimed.

The claim should be accompanied by documents supporting the information provided and by any other documents that the victim may have and that may be useful for settling the claim. The financial compensation claim and the advance payment claim may be formulated by the legal representative of an underage or legally incompetent person or by an NGO, if signed by the victim, and are exempted from the payment of judicial stamp duty.

Both the financial compensation and the advance payment claim shall be dealt with in chambers, by summoning the victim and with the mandatory participation of the prosecutor. In order to settle the claim, the Board may hear persons, request documents and administer any evidence deemed useful for the settlement of the claim. The decision settling the financial compensation or advance payment claim shall be notified to the victim and may be challenged with the Court of Appeal within 15 days from notification.

The rights of victims of certain crimes

Victims of trafficking in persons (*Law no. 678/2001 on preventing and combating trafficking in human beings*):

- Reflection and recovery period of 90 days.
- Protection of privacy and identity.
- Right not to cooperate with the judicial bodies.
- Right to their physical, psychological and social rehabilitation.
- Protection and special assistance of minor victims according to their age.
- Psychological support and assistance required for social integration from non-governmental associations acting in the field.
- Legal assistance.

Victims of domestic violence (*Law no. 217/2003 on the prevention and combating of domestic violence*)

- verbal violence, psychological violence, physical violence, sexual violence, economic violence, social violence, spiritual violence.

- victims of domestic violence have a number of special rights, such as:
- the right to special protection, according to their situation and needs;
- the right to counseling, rehabilitation, social reintegration, as well as free medical care.
- the authorities have the obligation to ensure, in order to accommodate the victims of domestic violence, according to their needs: *emergency reception centers; recovery centers for victims of domestic violence; centers for the prevention and combating of domestic violence.*

Protection Order (victims of domestic violence) *Law no. 217 /2003 on the prevention and combating of domestic violence*

Stakeholders Database (competent stakeholders to provide assistance, ensure rights protection for victims of crimes)

Information available on project website. Please access the following link:

<https://provictimsjustice.prorefugiu.org/ro/baza-de-date/>

Rights of Victims of Crimes, Legal Procedures in Bulgaria

How a victim is identified?

There are no official procedures in Bulgaria by which a victim of a crime can be identified as such (except very limited cases).

In case of harm by an act of crime or violence, a person can go to the police or the Prosecutor's Office, where he/she can submit a complaint. The complaint should always contain data on the person submitting and should never be anonymous.

A victim can also call *the European Emergency Number 112*.

A person can also go to social, health authorities or NGOs where he/she would also be identified as a victim and referred to the police or prosecution to submit a complaint.

What rights does a victim has in the pre-trial proceedings?

- The victim may choose to only participate as a **witness**. He/she would be obliged to appear before the authorities when called and tell everything he/she knows about the case. He/she can use notes to supply information and should be reimbursed for the work time spent testifying and for his/her expenses. He/she can request the revocation of acts harming his/her rights and interests. He/she can also receive protection in case of danger for the victim and/or close ones.
- The victim can also formally join the pre-trial proceedings as a **victim**. In this case he/she will have a number of specific rights:
 - to be officially notified about his/her rights in the criminal proceedings.
 - to receive protection for his/her and his/her relatives' safety.
 - to be informed about the progress of criminal proceedings.
 - to participate in the proceedings in accordance with the legislation.
 - to make notes and objections.
 - to have translation, if not speaking Bulgarian.
 - to appeal the acts terminating or suspending the criminal proceedings
 - to have a lawyer.
- For this, he/she should **explicitly state** the wish to participate in the proceedings and to provide an address in Bulgaria, for the summons.

What rights does a victim has in the trial proceedings?

- The victim is able to formally join the **trial** as:

- a private prosecutor, supporting the position of the Prosecutor's Office against the defendant, and/or
- a civil claimant, claiming damages from the offender.
- o As a private prosecutor or civil claimant, he/she will participate in the trial in full capacity, together with a lawyer, if he/she wishes to have one.
- o The victim also has the right to *complain about violations of his/her rights* to the monitoring or higher prosecutor, in the course of the pre-trial proceedings or the competent court, in the trial phase.
- o The protection of the victim and of his/her relatives. The court may prohibit the accused:
 - to approach the victim directly.
 - to make contact with the victim in any form, including by telephone, by electronic or ordinary mail and fax.
 - to enter certain localities, regions or sites where the victim resides or visits.
- o The prosecutor, the court shall take measures to protect the victim/witness, where there are sufficient reasons to presume that, as a result of testifying, a real danger for the victim or his/her relatives' life, health or property has arisen or may arise. Personal physical guarding may be provided by police and the victim/witness' identity may be kept secret.
- o The prosecutor or the reporting judge may also propose to include the person into a witness protection programme.
- o The victim has the right to be informed by the police/prosecutor/court on the criminal procedures.
- o The victim has the right to receive several types of assistance (medical and legal support, psychological counseling and practical support, from institutions and organizations). If the victim has died as result of the crime, support extends towards his/her children, parents, spouse or the person he/she co-habited with.

Who can receive state financial compensation?

State financial compensation can be provided only to certain type of victims

- o Victims of terrorism.
- o Victims of premeditated and attempted murder.
- o Victims of premeditated grave bodily injury.
- o Victims of sexual assault, rape.
- o Victims of human trafficking.
- o Victims of organized crime and of other crimes as a resulting element of which death or grave bodily injury have occurred.

Procedures to receive financial compensation

Financial compensation is generally given after the criminal trial. It covers material damages directly following from the crime and it includes medical treatment costs, lost earnings, court and administrative fees, lost alimony, funeral costs and other material damage.

Who can receive free legal assistance?

The right to specific state-paid primary legal aid to prepare for participation in proceedings can be granted to:

- Victims of human trafficking.
- Victims of domestic violence
- Victims of sexual violence.

State paid **representation in the criminal proceedings** is offered based on the victim's right to have a counsel and the right of indigent parties to proceedings (private prosecutor, civil claimant) to have an attorney when the interests of justice so require.

The rights of victims of certain crimes

Children victims

- Right to a special representative, to a lawyer, if their interests contradict those of their parents or guardians.
- Children's interviewing is subject to special rules on the presence of parents/guardians/psychologists and avoiding contact with the defendant.
- Children are most often interviewed using specially equipped premises – the so called 'blue rooms'.

Victims of domestic violence:

- Bulgaria offers measures against domestic violence acts by means of a civil law procedure.
- Authorities cannot act ex officio, and the launch of the proceedings depends on the victim to submit a complaint.
- For children, domestic violence also includes any act of domestic violence committed in their presence.
- If the court honors the motion, it issues a protection order with one or more of the following protection measures:
 - obliging the perpetrator to abstain from committing domestic violence.
 - removing the perpetrator from the co-habited home for a term determined by court.
 - prohibiting the perpetrator to approach the victim, his/her place of living, work, social contacts and recreation under conditions and term, determined by court.
 - temporary placement of the child with the victimized parent or the parent not having committed the violence, under certain terms and conditions, determined by the court, if that does not contradict the interests of the child.
 - obliging the perpetrator of violence to take part in a specialized program.

- referring victims to rehabilitation programs.
- a fine of 200 to 1000 BG Leva can be also imposed to the perpetrator.

Victims of human trafficking, a special law confers a number of entitlements, including a special protection statute.

- o A reflection period of one month is in place and for children it can be prolonged to two months.
- o In case of a child victim, the child protection authorities are immediately notified, the child's family is traced and representation is ensured. Children victims of human trafficking are ensured education in state and municipal schools.
- o There is a *National Referral Mechanism (NRM)* for victims of human trafficking, which provides for standard procedures in three stages: identification and referral, including special protection under the anti-trafficking law and risk assessment, protection and support, including crisis intervention and support during the reflection period and social inclusion (reintegration), including long-term psychological support and empowerment.

Victims of cross-border cases can:

- o get interpretation and translation of some procedural documents,
- o receive information about the authorities in country and abroad, from which they can receive information, support, protection and financial compensation.
- o apply for state-provided legal aid to the Ministry of Justice.

Stakeholders Database (competent stakeholders to provide assistance, ensure rights protection for victims of crimes)

Information available on the project website. Please access the following link:

<https://provictimsjustice.prorefugiu.org/bg/> база-данни/

Other useful contacts:

European emergency number 112

Complaints for most common crimes and documents under victim support law,
Ministry of the Interior - **<https://goo.gl/JAUcP5>**

Crime complaint form, Prosecutor's Office of the Republic of Bulgaria -
<https://www.prb.bg/bg>

National Commission for Combatting Trafficking in Human Beings
<http://antitraffic.government.bg/>

Rights of Victims of Crimes, Legal Procedures in Germany

The preliminary investigation phase

- During the investigation, all evidences are collected to clarify what happened. This is done by questioning witnesses and defendants, obtaining and securing documents (e.g. documents, medical certificates), traces (e.g. fingerprints, DNA traces, blood traces) or objects (e.g. photos, crime tools) and possibly calling in experts for appraisal.
- Victims of crimes, also called "injured" in the law, are as much witnesses as other persons who have witnessed, observed or heard of the events. All witnesses important for the investigation of the incident will be summoned for questioning by the police or by the public prosecutor's office. It is important to keep these dates, because in many cases (e.g. sexual offences, domestic violence or other violent crimes), the testimony is the only, but usually also the most important evidence for the exact course of a crime. During the interrogation, injured persons can be accompanied and supported by a person of trust. Further documents such as certificates may be brought along for questioning. Injured persons can also name other evidence and witnesses known to them.
- If injured persons feel threatened by the accused or by the persons close to them, they should in any case inform the police and the public prosecutor so that protective measures can be prepared and implemented. Such a protective measure is also the secrecy of a (new) place of residence or abode. Injured persons do not have to indicate this in such cases. The person can also enter another address to which she/he can be summoned in the court proceedings. The police and the public prosecutor's office, but also a lawyer, can help in the selection of an address for summons. This is particularly important in cases of domestic violence and trafficking in human beings. In these cases, specialized victim support facilities assist in the preparation and implementation of protective measures.
- In cases of non-German victims of human trafficking who do not have a valid residence permit, the public prosecutor's office - and later also the court - can in principle work with the foreign authorities to ensure that these victims of human trafficking are granted a residence permit for the duration of the criminal proceedings on humanitarian grounds, if without the victim's information it would have been more difficult to clarify the facts, the victim has broken off any connection with the accused and has declared his/her willingness to testify in the criminal proceedings for the offence, § 25 paragraphs 4a and 4b of the Residence Act. For the decision to testify in the criminal proceedings, victims who are obliged to leave the

country have a period of consideration of at least three months, § 59 paragraph 7 of the Residence Act. During this period of reflection, victims of human trafficking receive support from specialized victims' support institutions.

What rights does a victim has in the preliminary investigation / prosecution phase?

- **The information of the injured person, by the police or by the public prosecutor, with the occasion of the (first) hearing on all her/his rights in the criminal proceedings.** This is done in writing by handing over a leaflet, which is available in different languages. The rights are also explained orally. Essential rights of the injured parties, for whose protection the injured parties must submit an informal application, are :
- **The right to be informed about the case:** it refers to the appointment of a contact person at the police and at the public prosecutor's office who can be contacted for the current status of the proceedings. Information on the final decision in the preliminary investigation, i.e. termination of the proceedings or filing of an indictment, notification of the date of the main hearing, information on the judgment of the court, information on release or escape from custody, if the proceedings have not yet been finally concluded, and information on the escape or release of the convicted person from custody if sentenced to imprisonment without parole. The information is given in a language that the injured person can understand. Injured persons are entitled to assistance from an interpreter.
- **The right to have a lawyer appointed to provide legal assistance or to receive legal aid for his/her involvement:** adults, persons injured as result of violence and sexual crimes, and all the underage persons injured in addition, have the right to receive legal support at the expense of the state in the case of sexual offences and acts of violence. In the case of other offences, the injured persons may receive legal aid. In many cases, injured parties may be assisted in the criminal proceedings by a lawyer as a representative of a secondary action.
- **The right to compensation:** injured persons may apply in the criminal proceedings for compensation for the damages resulting from the offence ("adhesion proceedings"). This can take the form of a judgment or compensation within the framework of victim-offender mediation. In addition, by bringing an action before the civil court, the injured parties can assert their claim to compensation for the consequences of the crime, but bear the cost risk for this.
- **The right to assistance and help from victim support institutions:** injured persons may receive support in the form of counseling, accommodation in a shelter, medical or psychological assistance or other

psychosocial support. Since 2017, injured persons have been entitled to state-funded psychosocial support in all the cases in which a lawyer can also be assigned to them as a joint plaintiff free of charge. All other injured persons can make use of state-certified psychosocial counselors at their own expense.

- **The right to protection against re-victimization, intimidation and retaliation:** in addition to police protection measures and measures in connection with psychosocial support, the persons injured have various possibilities of not being confronted with the accused, insofar as this is legally permissible. However, the accused has the right to ask questions of the injured party at least once, either in the preliminary or main proceedings, or to have them asked by his defense lawyer.

Before the police investigation is completed, the accused is given the opportunity to comment on the investigation. The proceedings are then sent to the public prosecutor's office. The prosecutor leads the investigation and can ask the police to conduct further interrogations or other additional investigations. If no further investigation is possible or necessary, the public prosecutor's office examines whether a conviction of the accused by a court is probable, *the so-called sufficient suspicion*. If this is not the case, for example because the evidence found is insufficient to convict the accused, the public prosecutor closes the case. The persons who filed the complaint and the injured persons are informed of this. Injured persons can complain about it (the complaint can be made by themselves or with the help of a lawyer).

If a conviction of the accused is probable, but it is not a serious offence, the Public Prosecutor's Office may terminate the proceedings for minor negligence without further conditions.

If a conviction of the accused is probable, the public prosecutor's office can issue instructions to the accused if it does not consider a conviction by the court to be necessary, for example because the fault is not so severe, or the injured person has no interest in a punishment and has therefore not filed a criminal complaint. This is a possibility in proceedings for domestic violence, if the injured person wishes to keep up the relationship with the accused. In some cases, this can only be done with the consent of the court. Such an obligation can also affect the injured person. Order can be, for example:

- to make up for the damage caused.
- to pay a sum of money to a charitable institution.
- to do community service without payment.
- to carry out a victim-offender mediation with the injured person under the direction of a neutral trained person or
- to participate in a social training course in which, for example, a life without violence is learned.

If a conviction of the accused is probable and the trial cannot be terminated without or with conditions, the public prosecutor's office files a public suit (indictment).

The judicial procedure

- The judicial procedure consists of two sections, the *intermediate procedure* and the *main hearing*.

What is the intermediate procedure?

In the interim proceedings, the court examines the charges brought by the public prosecutor's office, gives the accused the opportunity to comment on them and, if it considers the charges to be conclusive, sets a date for the main hearing.

What is the main hearing?

At the trial, the defendant must be shown the facts, i.e. all evidences must be examined or heard. This usually means that all witnesses, including the injured person, must (re)testify, unless there is a right to refuse to testify. During this hearing, too, the injured persons may have a person of trust with them at their request. Additional evidence and witnesses or even experts may be appointed by the public prosecutor's office, the incidental action, the defendant may be introduced into the proceedings.

- The victim must be informed of the hearing date if she/he applied for it. The main hearing consists of the taking of evidence, the pleadings of the public prosecutor's office, side actions - if any - and defense, the last word of the accused, the deliberation of the court and the judgment of the court, which must be announced publicly.
- The main hearing starts with the determination of those present, including their identity, the reading of the charges and the hearing of the accused. In the judicial proceedings, as in the preliminary proceedings, the defendant is entitled to remain silent and does not have to say anything about his perpetrators or his discharge.
- If in the subsequent taking of evidence, all evidences has been viewed, heard, discussed and introduced and no further evidence is deemed necessary, the taking of evidence shall be closed. Then follow the pleas, the last word of the accused, the deliberation and the sentence.
- If the offence is not a crime, the court may, with the consent of the public prosecutor and the defendant and, if applicable, his defense, terminate the proceedings and issue conditions or instructions to the defendant in this connection.
- The main hearing ends with the sentence, which either sentences the defendant to a sentence or acquits him. In addition to or instead of a conviction, the court may also order the accused to be placed in a detention center, a psychiatric hospital or in preventive detention.
- Adult defendants are sentenced to a fine or imprisonment. Enforcement of the fine or imprisonment may be suspended for a period determined by the

court. In juvenile criminal law, further and other legal consequences may be considered.

The execution of sentences

Injured persons will be notified on the execution of the sentence, they are to be informed upon request if the convicted person is temporarily released from prison upon execution of a custodial sentence, either because he is fleeing or because the execution is interrupted, suspended for probation or terminated.

Stakeholders Database (competent stakeholders to provide assistance, ensure rights protection for victims of crimes)

Information available on the project website. Please access the following link:

<https://provictimsjustice.prorefugiu.org/de/datenbank/>

Other useful contacts:

<http://en.opferschutz-niedersachsen.de/>

Rights of Victims of Crimes, Legal Procedures in Sweden

What information is provided to the victim by the criminal investigation authority (police, prosecutor)?

- The victim possibilities of receiving damages and criminal injuries compensation.
- The prosecutor, if the victims so request, is usually obligated to prepare and present the victims claim for damages in court.
- The regulations governing visiting bans, legal counsel for the injured party, and a support person.
- How to apply for legal aid and legal advice.
- Which authorities and organizations can offer support and assistance.
- If the preliminary investigation is not being initiated or is being discontinued.
- Whether a legal action is being brought or not.

Cases where the prosecution is set in motion at the prior complaint of the injured party

If the decision is made by the public prosecutor or by the police to discontinue the preliminary investigation, the victim will, as the injured party, normally be notified. The same applies if the prosecutor has decided not to initiate a preliminary investigation or to waive prosecution. If the victim is not satisfied with a decision made by the police, the victim may request that it be reviewed by the public prosecutor. If the victim still is not satisfied with a decision made by the prosecutor, the victim may request that it be reviewed by a senior public prosecutor. Even if the preliminary investigation is discontinued, the victims may be entitled to damages via an insurance policy or to criminal injuries compensation.

In certain cases, even though there is probably enough evidence for a conviction, the prosecutor has the right not to prosecute but to decide instead to waive prosecution. This could be the case, for instance, if the offender has no previous convictions, and the offence in question is of a less serious nature. This could also be the case if a person has just been convicted of another crime, and the crime in question would not increase the sentence. Waiver of prosecution means that there will be no hearing. The victims may still be entitled to damages for injury via an insurance policy or to criminal injuries compensation.

If there are no grounds for pursuing the preliminary investigation, it must be discontinued. This may happen if it has been established that the act in question did not constitute a crime or because no suspect can be identified. Another reason might be that there is no line of inquiry to pursue; that is to say, there are no leads. A

discontinued preliminary investigation may be started up again if new evidence is found.

How a victim can receive legal counseling?

Victims are entitled to personal legal support in certain cases

- victims of sexual offences.
- victims of violence in close relationships.
- victims of other crimes where there is a particular need.

What is the procedure to receive legal counseling?

- o A counsel for the injured party can be appointed as soon as the preliminary investigation has been initiated.
- o If the victim wants a counsel, she/he should bring up this matter as soon as possible with the prosecutor or police officer in charge of the preliminary investigation. The victims can also direct this request to the district court.
- o The district court will decide whether the victims are entitled to a counsel, and will appoint the appropriate person. The victims are allowed to make suggestions as to whom they would like. The counsel, who is usually a lawyer, is tasked to look after the victims interests and to give victims support and assistance during both the preliminary investigation and the hearing. The counsel can also assist the victims in the prosecution and present the victims' case as regards damages.

What rights does the victim has is she / he decides to participate in the criminal proceedings?

- o The right to bring a civil action in order to recover the damage from the perpetrator (if he/she does not wish to participate in the criminal proceedings as a civil party, the injured party may address themselves to the civil court for damages).
- o The right for compensation from the perpetrator.
- o The right of access to the file, under the law.
- o The right to be informed of the stage of the criminal prosecution.
- o The right to be heard; the right to ask questions to the defendant, witnesses and experts.
- o The right to legal assistance and legal representation throughout the criminal proceedings.
- o The right to free legal assistance in certain cases.
- o The right to benefit free of charge from an interpreter when she/he does not understand, does not express himself/herself well or cannot communicate in Swedish language.
- o The right to complain against the acts of the prosecution authorities.

Can victims of crimes receive psychological counseling, medical care?

According to the Swedish health care regulations, psychological counseling is granted to victims of crime and it may also be obtained by the spouse, children and dependents of the deceased person. If a victim of crime has physical injuries as a result of a crime, it is important that the victim seeks medical care, in order to have the injuries treated and documented.

A documentation of the injuries may be required, if the victim is going to apply for compensation from the insurance company. If the victim has been subjected to a violent crime, damaged clothes may be used as evidence. If the victim has reported the crime, the police might require a forensic medical report. This report describes the injuries and may be significant during a criminal investigation. The report is also used as evidence at a court hearing. The report is compiled by a medical examiner or a doctor with special training in writing forensic medical reports.¹

How a victim can obtain damages from the defendant?

- If the court has sentenced the defendant to pay damages, this does not mean that the money will be paid to the victims automatically. In many cases, the offender cannot or may not voluntarily pay damages. If this happens, Kronofogden (the Swedish Enforcement Authority) will help to ensure that the money is paid to the victims. The court can send a copy of the sentence to the Swedish Enforcement Authority who will, sometime after the hearing, contact the victims by letter asking whether the victims would like help in collecting the damages. If the victims would like such help, they must fill in the form sent to them and return it to the Swedish Enforcement Authority who will then investigate the offender's financial situation. If he or she is found to have executable assets or income, the Authority will ensure that the victims receive the victims' damages.²
- *If the convicted offender is unable to pay the damages* and the victims do not have insurance that fully covers the amount, the victims may be entitled to compensation from the state. This is known as criminal injuries compensation, and it is dealt with by the Crime Victim Compensation and Support Authority. In order for the victims to be able to receive criminal injuries compensation in cases where the offender is unknown, it needs to be an inquiry, such as a preliminary investigation, which shows that the person have been the victim of crime and have not just suffered an accident. The crime must have been reported to the police. If the suspect has been identified, a conviction or the summary imposition of a fine is required in principle. Criminal injuries compensation covers crimes committed in Sweden, and the victims may be entitled to compensation

¹ <https://www.brottsoffermyndigheten.se/eng/help-for-victims/medical-care>

² Information to Crime Victims, The Crime Victim Compensation and Support Authority, Plakat Production, 2015, Wall Maria, Downloaded from:

<https://www.brottsoffermyndigheten.se/Filer/Broschyret/Andra%20spr%C3%A5k/Information%20to%20crime%20victims.pdf> page 28

regardless of whether the victims are residents of Sweden or are here temporarily as, say, a tourist or a student.

- *If the victims are residents of Sweden*, the victims may also be entitled to criminal injuries compensation for a crime committed abroad. As with the excess imposed by insurance companies, a corresponding amount will be deducted from the criminal injuries compensation.³

Can a victim receive compensation for the violation of personal integrity?

A number of crimes also entitle the victim to compensation for violation of personal integrity. This entitlement applies if the crime is considered to have been a serious violation of the victims' personal integrity, private life and human dignity. Almost all cases of sexual assaults entitle the victims to such compensation. Likewise, this is often the case with assault, such as violation of the privacy of the home, unlawful threat, robbery, and the breach of a visiting ban.

Can a victim receive compensation in case of damage to property and pure financial loss?

The chances of receiving criminal injuries compensation for damage to property, such as theft, or for pure financial loss, such as fraud, are very limited. Such compensation will normally only be paid if the offender, at the time of committing the crime, was an inmate of a prison, a certain kind of care institution or a police cell. The crime may have been committed when, for instance, the offender had escaped or had been granted leave. If the offender does not fall into one of the above categories or is unknown, compensation for damage to property and financial loss will only be paid in cases of particularly distressing circumstances, such as when the damage inflicted has severely limited the chances of providing for the victims self or the victims' family.

Further information on the financial compensation

Anyone who is subjected to a criminal act has in general a right to compensation. In Sweden, a victim has three main options for compensation:

1. Firstly, the victim can be awarded damages against the perpetrator according to tort law, determined by the court.
2. Secondly, compensation can be paid through various kinds of insurances, mostly private insurances, taken out by the victim with an insurance company.
3. Thirdly, the Swedish state can compensate the victim through the government compensation plan, known as Criminal Injuries Compensation, through the Crime Victim Compensation and Support Authority.

³ Ibid., 29

If the perpetrator is unknown or unable to pay the damages, or if the victim is not included in a private insurance scheme, the victim may be entitled to compensation from the government, according to the Criminal Injuries Compensation Act (Brottskadslag 2014:322). Criminal Injuries Compensation is based on principles of public law and the compensation is secondary to damages and insurances. Thus, this compensation is payable to the victim only if he or she has not been compensated from any other system.

The rights of victims of certain crimes

Victims human trafficking

- Protection of private life.
- Assistance such as emergency medical treatment.
- Counseling
- Access to education for children.
- Recovery and reflection period.
- Residence permit.
- Compensation and legal redress.

Detailed information on the special protection of victims of trafficking in human beings can be found in the Swedish National Referral Mechanism⁴

Victims of domestic violence and honor-related violence

In recent years, the legislation has undergone several major changes aimed at strengthening the protection of victims of violence, victims of sexual assault, victims of human trafficking and victims of honor violence, as well as children witnessing violence. Sexual crime legislation has become gender neutral and extended so that several violent acts are subject to the rape crime. The Social Services Act has clarified the responsibilities of the municipalities. Rules of confidentiality, visiting ban, and the right to a legal counsel for the injured party, have been revised.

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⁴ <http://www.lansstyrelsen.se/Stockholm/SiteCollectionDocuments/Sv/publikationer/2016/R2016-29-national-referral-machanism-trafficking-webb.pdf>