Práva obětí trestných činů – podle zemí

Česko

Jako tzv. **poškozený** (termín užívaný pro oběť trestného činu v trestním řádu) budete považováni tehdy, pokud vám vznikla škoda v důsledku jednání, které trestní zákon označuje za trestný čin. Škoda může mít různou podobu, například poškození či krádež věci. Jako poškozenému vám právní řád dává určitá práva před, v průběhu i po skončení soudního řízení.

Trestní řízení začíná v České republice prověřováním a vyšetřováním. V této fázi se věcí zabývá policie pod dohledem státního zástupce. Pokud je v jejich průběhu shromážděno dost důkazů nasvědčujících tomu, že byl spáchán trestný čin a že jej spáchala konkrétní osoba, státní zástupce rozhodne o podání obžaloby a tak věc přejde k soudu. V průběhu soudní fáze trestního řízení soud provádí důkazy a na jejich základě rozhodne o tom, zda obžalovaný je vinen či nikoliv. Pokud rozhodne, že obžalovaný čin spáchal, uloží mu trest. V opačném případě jej obžaloby zprostí. Trestní řízení může pokračovat na základě odvolání před vyšším soudem pokud jde o vaši zádost o náhradu škody.

V pozici poškozeného se můžete do trestního řízení zapojit v kterékoliv fázi.

Kliknutím na níže uvedené odkazy se zobrazí informace, které potřebujete:

1 - Má práva v případě, že se stanu obětí trestného činu

2 - Oznámení trestného činu a má práva v průběhu vyšetřování nebo soudního řízení

3 - Má práva po skončení soudního řízení

4 - Náhrada škody

5 - Má práva na podporu a pomoc

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Originální verzi stránky (v jazyce příslušného členského státu) provozuje daný členský stát. Překlad pořídily útvary Evropské komise. Je možné, že změny, které v originální verzi případně provedly orgány daného členského státu, nebyly ještě do překladů zapracovány. Evropská komise vylučuje jakoukoli odpovědnost za jakékoli informace nebo údaje obsažené nebo uvedené v tomto dokumentu. Předpisy v oblasti autorských práv členských států odpovědných za tuto stránku naleznete v právním oznámení.

1 - My rights as a victim of crime

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

From your first contact with the police, you will receive information that will allow you to properly exercise your rights. Specifically, you will receive information about:

the authority with which you can file a criminal complaint, and you will receive the contact details of that authority;

who you can contact with a request for professional assistance, and under what conditions the professional assistance is free of charge; you will also receive contact details of professionals providing assistance;

the conditions under which you are entitled to measures to ensure your safety;

where to get more information about the case in which you are the victim;

the stages of criminal proceedings and your role in them;

the authority where you can request more information; you will also receive the contact details of that authority;

the conditions under which you are entitled to financial assistance;

the closest shelters, intervention centres or other similar facilities you can contact;

the nearest healthcare provider you can contact;

how to seek redress if your rights have been violated by a public authority;

the measures you may request to protect your interests if you are residing in another EU Member State;

what other rights you have under the Victims of Crimes Act.

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

You are guaranteed the same rights as citizens of the Czech Republic and persons residing in the Czech Republic. If you declare that you do not speak Czech, you will be given information about your rights in a language you understand or in the official language of the state you are a citizen of.

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

If you file a complaint with the police, you must be given all the information that must be provided at the time of your first contact with the police, as specified above.

If you are filing a criminal complaint with a public prosecutor, you must always receive information about:

where you can request professional assistance, and under what conditions the professional assistance is free of charge; you will also receive contact details of professionals providing assistance;

the conditions under which you are entitled to measures to ensure your safety;

where to get more information about the case in which you are the victim.

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

When you are dealing with law enforcement authorities and you do not speak Czech, you may use your mother tongue or a language you have indicated that you speak.

If it is possible, the translation of the final decision terminating the proceedings will be handed to you at your request. To the extent necessary for the exercise of your rights in the proceedings, a translation of other documents may also be provided to you upon your reasoned request.

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

The authorities have an obligation to inform the victims in a comprehensible manner, taking into account their age, intellectual and volitional maturity, literacy and health, including their psychological state. If possible, interviews of children and persons with disabilities must be carried out by a person specially trained to do so.

Victim support services

Who provides victim support?

Victims support is provided by several groups of entities. These include the state centres of the Probation and Mediation Service, as well as private entities accredited by the Ministry of Justice to provide legal information and/or restoration programmes, and entities authorised by the Social Services Act to provide psychological and social counselling services. Legal assistance to victims is provided by some lawyers. These entities are entered in the register of victim assistance providers, which is maintained by the Ministry of Justice and accessible from the Ministry of Justice website at https://www.justice.cz/.

Will the police automatically refer me to victim support?

Yes, you will be automatically informed about victim support during your first contact with the police. You will receive contact details of the authorities providing assistance.

How is my privacy protected?

In general, law enforcement authorities are not allowed to publish information that is not directly related to criminal activity. In pre-trial proceedings, any information that may lead to your identity being revealed must not be disclosed. Special protection is granted to the privacy of persons under the age of 18. If you so request, information about your private life (your residence and delivery address, place of work or business, and your personal, family, and property situation) will be maintained in such a way that it can be accessed only by the law enforcement authorities, police officers and Probation and Mediation Service officers involved in the case. It may be made accessible only if this is necessary to achieve the purpose of the criminal proceedings or for the person against whom the criminal proceedings are conducted to properly exercise their right of defence.

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

No, professional assistance is available before the criminal proceedings begin. Even before the crime is reported, you may receive professional assistance if it is necessary and expedient.

Personal protection if I'm in danger

What types of protection are available?

There are a number of options for the protection of victims.

Police may provide you with 'short-term protection' if you are likely to be at risk of bodily harm or another serious risk. Such protection may include physical protection, change of your residence or advisory and preventive activities. The police may also order the accused person to leave the household you live in together and its vicinity for a period of 10 days if there is a risk of attack against your life or health.

If the victim's safety is at risk, the police officer carries out actions or takes measures to ensure the victim's safety. Prison Service officers, military police officers and municipal police officers have the same obligation.

In more serious situations, you are eligible under certain conditions for special protection which is provided to witnesses and other persons who are likely to be at risk of bodily harm or another serious risk in connection with criminal proceedings. Such protection includes personal protection, change of residence and assistance with social inclusion in a new environment, concealment of true identity, etc. This is a very serious measure, which should be used only when necessary.

Protection provided by courts or public prosecutors takes the form of precautionary measures used in the criminal proceedings, for example prohibiting the accused person to contact the victim or to enter the common household where the victim lives. Similar precautionary measures may also be taken by a court in civil proceedings. If protecting you, as a victim or a harmed party, requires taking the accused person into custody, he or she may be taken into custody if there are grounds to believe that the accused person will repeat the crime, complete the crime or commit a crime he or she has been preparing or threatening to commit.

In addition, you have the right to request that steps be taken in criminal proceedings to prevent your contact with the alleged offender.

At your request, you have the right to receive information about the release or escape of the accused person from custody, prison or a security detention centre, and other similar information.

If you are a witness, you may testify with your identity concealed under certain conditions.

A judicial body may also issue a European protection order for your protection.

Who can offer me protection?

Protection is offered by the authorities mentioned above, in particular the police and courts through their decisions.

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

The situation is always assessed by the law enforcement authorities. If they find any danger, they will take the necessary steps.

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

The law enforcement authorities must always act in such a way as to prevent further harm to the victim as a result of the offence or secondary harm.

If a law enforcement authority has violated your rights or you have not been able to exercise them fully, you have the right to seek redress. Above all, you have the right to apply for a review of the police authority's conduct or litigate for compensation for damage or reasonable satisfaction for non-pecuniary harm caused by a public authority in the exercise of its powers.

What protection is available for very vulnerable victims?

Especially vulnerable victims include children, the elderly or persons with disabilities and victims of certain crimes such as human trafficking, terrorist attacks, sexual crimes against human dignity, or certain violent crimes. Particularly vulnerable victims may naturally take advantage of all the possibilities of protection mentioned above, and it is often the case that the competent authority is, in principle, obliged to accept the application of a particularly vulnerable victim. The scope of rights of particularly vulnerable victims is generally broader; however, this does not apply directly to the protection of victims, which depends more on whether the victim is at risk of suffering bodily harm or another serious risk.

I am a minor – do I have special rights?

Yes, as a child (a person below the age of 18), you are a particularly vulnerable victim and you are entitled to special rights. These include the right to free legal assistance in criminal proceedings, the right to have interviews conducted in a particularly sensitive manner by a trained person, limit on repeated interviews or the right to prevent immediate visual contact with the offender, as well as limit on exemptions from some other rights pertaining to all victims.

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

If you suffer harm due to the death of a family member as a result of a criminal offence, you are considered a victim yourself, and you have the rights conferred by the status of a victim.

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

In this case, you are not considered a victim. However, you can become a victim's person of confidence if the victim chooses you as such. The victim has the right to be accompanied by a person of confidence during criminal proceedings and when giving explanation. A person of confidence may be excluded only in exceptional cases.

Can I access mediation services? What are the conditions? Will I be safe during mediation?

Yes. The Probation and Mediation Service, which is one of the victim assistance providers, provides mediation services. Mediation is free and based on the consent of both parties, i.e. the victim and the offender. Mediation is conducted by a conflict resolution expert who maintains a friendly and balanced

approach to both parties and helps to find a solution. The Probation and Mediation Service is a State organisational unit whose mission is, among other things, to mediate an effective and socially beneficial resolution of crime-related conflicts, and which, as such, is able to ensure the victim's security during mediation negotiations.

Where can I find the law stating my rights?

The main provisions are those of Act No 45/2013, on victims of crimes. The Collection of Laws may be consulted on working days at any municipal and regional authority (including the Prague City Hall). Like other legislation, this law is also available online, for example on the Public Administration Portal or on the Ministry of the Interior website

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

How do I report a crime?

You can file a criminal complaint with any police body or public prosecutor in writing, verbally in a report or electronically. In the criminal complaint, you should demonstrate what you believe constitutes evidence that the criminal offence has been committed.

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

If you so request in the criminal complaint, the competent authority must inform you of the measures taken within one month after the complaint was filed. As a victim, you are, in principle, the harmed party and, as such, you have the right to consult the file. You can also apply for information on the status of the proceedings. Such information must be provided to you by the competent authority; this does not apply if such information may be detrimental to the purpose of the criminal proceedings.

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

Yes. You can receive legal assistance even before the criminal proceedings are initiated and you can receive it throughout the proceedings as well as after its termination. Legal assistance is provided by lawyers. Particularly vulnerable victims may receive legal assistance in criminal proceedings free of charge. Additionally, it may be provided free of charge or at a reduced price to a victim who has suffered severe harm due to an intentional criminal offence, or to the survivor of a victim who has died as a result of a criminal offence; these persons must demonstrate that they do not have sufficient funds. Other victims have the right to legal assistance for a fee.

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

If you are the harmed party in criminal proceedings and you claim compensation for damage or non-pecuniary harm or the restitution of unjust enrichment, and this claim is at least partially granted to you, the convicted person is obliged to compensate you for the expenses necessary for the reasonable exercise of this claim in the proceedings. If you file a motion for such compensation, the court may still grant it even if your claim was unsuccessful.

If you are a witness, you are entitled to a witness fee. You must claim this fee within 3 days after the interview.

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

You can oppose this by filing a complaint. The complaint is a means of appeal against the decisions of the police authority and some decisions of the public prosecutor in the pre-trial proceedings, which take the form of a resolution. This way, you, as the harmed party, may oppose for example the resolution to discontinue the case and the resolution to terminate prosecution.

Can I be involved in the trial?

Yes. You (as the harmed party) will be informed of when the main proceedings will be held by the court.

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?

The Czech legal order distinguishes between the term 'victim' and the term 'harmed party'. A harmed party is one of the parties to the criminal proceedings. In principle, the term encompasses all victims, except those who are victims due to a family relationship with a person who has died as a result of a crime. Therefore, in the Czech judicial system you will be the victim and the harmed party (and hence a party to the criminal proceedings; this does not apply in the case mentioned above) – as a victim, you may claim compensation for damage, non-pecuniary harm or unjust enrichment. In principle, you will also be a witness. Private legal actions do not exist under the Czech legal order; therefore, you cannot be a private prosecutor.

What are my rights and obligations in this role?

Victims' rights are governed primarily by the Victims of Crimes Act and they are described in other replies.

The harmed party has a number of rights pursuant to Act No 141/1961, Code of Criminal Procedure, including the possibility to claim compensation for damage and non-pecuniary harm caused by a criminal offence or the restitution of unjust enrichment, or the possibility to appeal against the operative part of the decision on compensation for damage, harm or restitution of unjust enrichment. The harmed party also has the right to file motions for additional evidence, consult the files, attend the trial, attend the public session on appeals, express his or her opinion on the case before the end of the proceedings, take part in negotiating the agreement on guilt and punishment and attend the public session on its approval, the right to be represented by a representative and the right to file appeals and applications in specified cases.

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

Yes, you can make a statement about the impact of the crime on your life at any stage of the criminal proceedings, both verbally and in writing. As a victim, i. e. as one of the parties to the proceedings, you may search for, present and propose evidence.

What information will I receive during the trial?

At your request, you will receive information:

that the criminal proceedings have not been initiated;

on the state of the criminal proceedings;

on the classification of the act of which the person is accused;

the time and place of the public hearing of the case before the court;

and you will also be given the final decision ending the proceedings.

Will I be able to access court files?

Yes, as a harmed party, you have the right to consult the file. However, for serious reasons, you may be denied this right by the public prosecutor or the police authority in the pre-trial proceedings.

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3 - My rights after trial

Can I appeal against the ruling?

Yes, but as a victim, you can only appeal against the operative part of the ruling on the compensation for damage, non-pecuniary harm or restitution of unjust enrichment.

What are my rights after sentencing?

See other replies.

Am I entitled to support or protection after the trial? For how long?

Support (professional assistance) may be provided even after the end of judicial proceedings until such time as required by its purpose. Special protection (mentioned above) can often mean a lasting change in the way of life and is therefore, by its nature, provided even after the end of the criminal proceedings.

What information will I be given if the offender is sentenced?

At your request, you will be given the final ruling, which contains information on the punishment and its form. If you claim a claim for damages or non-pecuniary harm or for unjust enrichment, the ruling will always be delivered to you.

Furthermore, a prison or an institution providing security detention or protective treatment will, at your request, give you some additional information, especially about:

the release or escape of the convicted person from prison, security detention or protective treatment;

suspension of imprisonment;

extradition of the convicted person to a foreign state or his or her transfer to an EU Member State.

If the accused has been released or escaped and you are in danger due to being a witness, the competent authorities are required to immediately inform the police, who will take the necessary measures to ensure your safety and inform you.

Will I be told if the offender is released (including early or conditional release) or escapes from prison?

Yes, see above.

Will I be involved in release or parole decisions? For example, can I make a statement or lodge an appeal?

At any time during the criminal proceedings, you have the right to make a statement about the impact of the crime on your life so far.

However, you are not entitled to appeal against a decision on conditional release or on good behaviour of a conditionally convicted person.

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4 - Compensation

What is the process for claiming damages from the offender? (e.g. court case, civil claim, adhesion procedure)

A victim may claim compensation for damage from the offender by way of civil proceedings; the victim may also join the claim for compensation for damage to the criminal prosecution of the offender (‘adhesion proceedings’).

The court ordered the offender to pay me damages/compensation. How do I make sure the offender pays?

If the offender deliberately does not fulfil the obligation to provide compensation for damage imposed by the court, the person having a claim (the victim) has the right to apply to the court for an enforcement of the obligation. A law, which will become effective on 1 January 2018, also entitles the victims of crimes to request that their right to compensation for damage be satisfied by the state from the funds it has recovered from the offender as property sanctions.

If the offender does not pay, can the state pay me an advance? What are the conditions?

The Czech Republic does not pay advances for any performance arising from the offender’s obligation to provide compensation for damage caused by the crime. The Czech legal system strictly separates the victim’s right to compensation for the damage caused by the offender, which is considered to be a tort liability, and to financial assistance in accordance with Act No 45/2013, on victims of crimes, which serves as a cash benefit from the state provided for the alleviation of the social impact of victimisation.

Am I entitled to compensation from the state?

As stated above, the state does not pay damages in the strict sense of the word (it does not interfere with the property obligations of the offender, does not assume them), but offers victims of crimes financial assistance. In accordance with Act No 45/2013, on victims of crimes, financial assistance may be paid to victims who have incurred statutory minimum damage to health as a result of a crime, victims of sexual crimes against human dignity, tortured children and survivors (from a group defined by law) of those who died as a result of a crime. This assistance is most often provided in amounts ranging from CZK 10 000 (approximately EUR 370) to CZK 200 000 (approximately EUR 7 400) and is calculated either at a statutory flat rate or corresponds to the amount of proven lost earnings and costs of treatment or, where appropriate, the costs of specialised therapy used to alleviate the non-pecuniary harm suffered. The Ministry of Justice decides on applications for the payment of financial assistance, which must be submitted within 2 years from the date when the victim learned of the damage caused by the crime and not later than 5 years from the date of the crime.

Am I entitled to compensation if the offender is not convicted?

The compensation for damage caused by an offender (i.e. tort liability) cannot be claimed if the offender has not been convicted simply because he is unknown, i.e. there is no liable person, or his tort has not been proven, or the offender does not bear criminal liability for his or her actions, i.e. the accused person cannot be held liable for any harm caused by acts that he or she did not commit, which did not have the nature of a crime or for which the accused is not liable. Conversely, however, a person may become entitled to financial assistance from the state (see above) even before the conviction of the offender; the victim is so entitled even if the offender is unknown or if he or she does not bear criminal liability for his or her actions, provided that there is no doubt that the victim has incurred harm by the acts having the nature of a crime (or that the relative of the victim has died as a result).

Am I entitled to an emergency payment while I wait for the decision on my compensation claim?

Act No 45/2013, on victims of crimes, does not allow the Ministry of Justice to provide advances for financial assistance a decision on which is pending; the urgent life needs of victims are addressed in another way, from the system of state social care or support.

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5 - My rights to support and assistance

I am a victim of crime who do I contact for support and assistance?

The entities you can contact are specified in the Register of Providers of Assistance to Crime Victims. The Register is available on the website of the Ministry of the Interior at http://portal.justice.cz/Justice2/MS/ms.aspx?o=23&j=33&k=6115&d=330753.

The Register has 4 sections that contain information on all types of victim assistance providers, namely:

providers of social services;

accredited providers of legal information or restorative programmes;

lawyers; and

centres of the Probation and Mediation Service.

The Register contains relatively detailed information on providers of assistance to crime victims and allows the search of these providers by their name and district, as well as advanced search using other criteria.

Victim support hotline

(+420) 116 006 (Victims Helpline – universal line also used in other EU Member States)

Is victim support free?

To the extent set out, expert assistance is provided free of charge to particularly vulnerable victims who need it. Such victims also receive free legal assistance to the extent set out. Other victims are not entitled to free professional assistance, but such assistance may be provided free of charge at the discretion of the provider. However, the assistance provided by the Probation and Mediation Service is always free of charge.

What types of support can I receive from state services or authorities?

The Probation and Mediation Service, which is a state authority, provides victims with legal information, psychological support, and offers restorative programmes, such as mediation, which can help you resolve your situation by means of an informal out-of-court negotiation with the offender. There are 74 centres of the Probation and Mediation Service; they can be found in all parts of the Czech Republic and provide their services free of charge.

What types of support can I receive from non-governmental organisations?

Depending on their nature, non-governmental organisations and individuals provide legal information, psychological and social counselling, legal assistance, or restorative programmes.

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