Droits des victimes par pays

Malte

Vous serez considéré comme une **victime de la criminalité** si vous avez subi un préjudice, par exemple si vous avez été blessé ou si un bien vous appartenant a été endommagé ou volé, à la suite d'un incident constituant une infraction pénale au regard de la législation nationale. En tant que victime d' une infraction, la loi vous accorde certains droits individuels avant, pendant et après une procédure judiciaire (procès).

À Malte, la procédure pénale débute par une enquête sur l'infraction. Selon la nature de l'infraction, l'enquête est menée par la police ou par un magistrat instructeur.

Les infractions mineures (punies d'une amende ou d'une peine d'emprisonnement inférieure à six mois) sont instruites par un fonctionnaire de police. Si les preuves contre l'auteur présumé sont suffisantes, le fonctionnaire de police saisit la *Court of Magistrates* en vue d'un procès et intervient en tant que procureur devant cette juridiction. Au cours du procès, le juge examine les preuves et condamne ou acquitte l'auteur présumé. En cas de condamnation, ce même juge fixe la sanction à infliger.

Toutes les autres infractions pénales sont instruites par des juges d'instruction. Si les preuves contre l'auteur présumé sont suffisantes, ce dernier saisit la *Court of Magistrates*. Celle-ci examine les preuves et, si elle les considère suffisantes, transmet le dossier au procureur général. Le procureur général saisit alors la juridiction pénale en vue d'un procès. Au cours du procès, le ministère public poursuit l'auteur présumé devant un juge ou un jury. Le jury détermine si l'auteur présumé est coupable ou non. Si celui-ci est reconnu coupable, le juge fixe la sanction à infliger.

Cliquez sur les liens ci-dessous pour trouver les informations dont vous avez besoin

1 - Mes droits en tant que victime d'une infraction pénale
2 - Signalement d'une infraction pénale; mes droits au cours de l'enquête et du procès
3 - Mes droits après le procès
4 - Indemnisation
5 - Mes droits en matière d'aide et d'assistance

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1 - My rights as a victim of crime

What information will I receive from the authority after the crime has been committed (for example, from the police, the public prosecutor), but also even before I report the crime?

From your first contact with the police you should be given the following information:

The type of support you can receive and from whom;

the procedure for reporting the crime and the role of the victim in the related procedures;

how and under what conditions you can receive protection;

how and under what conditions you may seek legal advice, legal aid or any other type of advice;

how and under what conditions you may seek compensation;

how and under what conditions you are entitled to interpretation and translation;

if you reside in a Member State other than that where the crime occurred, any measure, procedure or special arrangement that are available to protect your interests in Malta;

the procedures available to file a complaint when your rights as a victim are violated by the Police;

the contact details for communications regarding your case;

the remedial justice services available;

how and under what conditions you may be reimbursed for expenses incurred in order to take part in the criminal proceedings

I do not live in the EU country where the crime was committed (EU citizens and non-EU citizens). How are my rights protected?

As a victim of a crime committed in another Member State, if you live in Malta you have the right to report the crime to the Maltese police. Once you make the report, the police in Malta are obliged to send the report without delay to the competent authority of the Member State where the crime was committed, unless they have started proceedings themselves.

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

When you report a crime the police should give you a written acknowledgement of your report, declaring the basic elements of the crime in question.

Furthermore, you are entitled to receive information about the following on request:

any decision not to pursue the investigation or to stop it altogether or not to take steps against the offender

the time and place of the criminal proceedings, and the nature of the charges against the offender

any final sentence in the proceedings

information about the situation of the criminal proceedings

the release or escape from detention of the offender and about any measure taken for your protection in the event of the release or escape of the offender

In the cases envisaged in a and c, you should be given the reasons, or a summary thereof, for the decision in question.

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

The police should ensure that you can understand and can make yourself understood. If you do not understand or speak Maltese or English, you have the right to interpretation and translation in a language you understand.

How can the authority ensure that I can understand and that I can make myself understood (if I am a minor; if I have a disability)

Communication must take place in simple and accessible language and your personal characteristics should be respected including any disability which may affect your ability to understand or to make yourself understood. Furthermore, you have the right to be accompanied by a person of your choice when you first contact the police, if due to the impact of the crime you require assistance to understand or to make yourself understood. When the victim is a person with a disability, or a minor, the police always request the assistance of the social workers from the Appoġġ Agency (*Aġenzija Appoġġ*) and if it is deemed necessary, they may also request the assistance of other professionals in the field.

Victim support services

Who provides support to the victims? Will the police automatically send me to victim support services?

During your first contact with the police the latter will give you information about the type of support you can receive and from whom, including medical support, psychological support and even alternative accommodation. Furthermore, the police should refer you to victim support services without delay.

How is my privacy protected?

The support service is confidential

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

You can access these services even before you have formally reported a crime.

Personal protection if I am in danger

What type of protection is available?

The police should immediately ensure that you are kept safe, if after a first assessment it emerges that you are in danger. If the police conclude that the offender is a dangerous person, they can arrest the offender and bring the case to court urgently and request the court to order the offender's detention.
You can also ask the police officer in charge of your case to place you in a witness protection programme. You will need to declare that you will testify against the offender during the court hearing. If the police officer is convinced that your testimony or other evidence you have are important for the case he /she will ask the Attorney General to place you in a witness protection programme. The programme may also cover members of your family and other relatives. It usually consists of measures that ensure your personal safety and/or protect your property.

Who can offer me protection?

The police

Will someone assess my case to see whether I am still in danger from the offender?

Yes, the police carry out this assessment.

Will someone assess my case to see whether I am in any other danger from the criminal justice system (during the investigation and the trial)?

If during the proceedings it emerges that there is still danger, the police may ask the court to issue a protection order for you and your family.

What type of protection is available for extremely vulnerable victims?

In case of domestic violence victims are placed in dedicated shelters

I am a minor – do I have any special rights?

If you are a minor, your parent or guardian can report the crime instead of you.
As a minor, if your parent or guardian cannot represent you due to a conflict of interest or if you are unaccompanied or separated from your family, the court will, on its own initiative, appoint a child advocate or an advocate for legal aid to represent your interests.

A member of my family died as a result of the crime – what are my rights?

You are considered a victim and have the same rights as a victim of crime.

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

You can report the crime instead of the victim if they are your spouse, parent, child or sibling, or you are their guardian.

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

Mediation between the victim and the offender will be available during the criminal proceedings when the offender admits the crime or is found guilty thereof. In the event of an admission or a guilty verdict, there are various ways to access mediation through the Courts of Justice (*Qrati tal-Ġustizzja*). Access to mediation services can be provided by making a request to the Court, through legal action, by the prosecutor and/or the defence lawyer and/or the probation officer, so that the case could proceed to mediation.
If the Court accepts the request, the case will be referred to the Victim Offender Mediation Committee (Committee) within the Probation and Parole Department. That Committee will decide whether the case merits mediation or not once it has examined all the relevant information. If the Committee decides to proceed with the mediation, the case will be assigned to a mediator. The mediator contacts both the victim and the offender and meets with them individually with the aim of organising a third meeting. to be attended by both parties. In order for the mediation process to go ahead, the mediator must ensure that both parties will benefit from the process and that there is no risk of secondary victimisation.

Where can I find the laws that stipulate my rights?

The law that stipulates your rights is the Victims of Crime Act (*Att dwar il-Vittmi tal-Kriminalità*) - Chapter 539 of the Laws of Malta -
With regard to mediation, the applicable law is the Restorative Justice Act (*Att dwar il-Ġustizzja Riparatriċi*) - Chapter 516 of the Laws of Malta

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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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3 - My rights after trial

Can I appeal against a sentence?

The trial before the court concludes with a court decision convicting or acquitting the defendant from the charges. If the defendant is found guilty the judge will sentence them. According to Maltese law only the defendant and the Attorney General have the right to appeal against the conviction/acquittal and/or the sentence before the Court of Criminal Appeal.
However, if an appeal has been submitted and you have been a civil party during the first trial, your lawyer will be allowed to examine all the relevant documents related to the appeal proceedings.

What rights do I have after the sentence?

After the sentence enters into force, you have the right to receive a copy of the court decision. If the court sentences the offender to imprisonment, you have the right to be informed when the offender is released or else if they escape.

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

You have the right to support or protection after the criminal proceedings are over, during the trial and for an appropriate time.

What information can I be given if the offender is convicted?

You will be given a copy of the final sentence.

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

Yes, you will be informed when the offender is released or escapes.

Will I be involved in decisions regarding their release or their conditional release? For instance, can I make a statement or file an appeal?

You will not be involved in such decisions although you will be informed about them.

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4 - Compensation

What is the procedure for claiming damages from the offender? (for example, a court case, civil action, claim for damages)

The legal procedure to claim compensation from the offender is to open a civil action for damages against them, unless the criminal court has already issued an order against the offender to pay the victim.

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

When there is such an order, you have the right to execute that order as if the civil court had ruled in your favour: consequently, you may even request the issue of a seizure warrant or a writ of attachment.

If the offender does not pay, can the State pay me an advance? Under which conditions?

If the offender does not pay, there is a possibility for the Government to pay the victim an advance under certain conditions which may be laid down at the discretion of the Attorney General.

Am I entitled to compensation from the State?

Yes, you are entitled to apply for compensation from the State under the Criminal Injuries Compensation Scheme.

http://www.justiceservices.gov.mt/DownloadDocument.aspx?app=lom&itemid=8983&l=1

Electronic form available: https://eforms.gov.mt/pdfforms.aspx?fid=pjd010e

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

There is a right to compensation even when the offender is not convicted or is unknown.

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

In exceptional cases, emergency payments may be made pending a final decision on the compensation claim.

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5 - My rights to support and assistance

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

The Police

Website: https://pulizija.gov.mt/en/Pages/Home.aspx

National social welfare agency for children and families in need, Appoġġ

Website: http://fsws.gov.mt/en/appogg/Pages/welcome-appogg.aspx

The Justice Department - for assistance regarding compensation for injuries caused by crime

Contacts:

Email address: info.justicedepartment@gov.mt

Telephone number: +356 25674330

Address: 21, Triq l-Arċisqof, Valletta VLT1443

Legal Aid Malta Agency

Website: https://justice.gov.mt/en/Pages/justice.aspx

Hotline for victim support

Supportline 179

Is victim support free of charge?

Yes, victim support is free of charge.

What kind of support can I receive from the State services or from the authorities?

You have the right to receive support services consisting of the following:

information, advice and support related to victims' rights, including access to criminal injuries compensation schemes and information on your role in the criminal proceedings, including preparation to attend the criminal proceedings;

information about or direct referral to any relevant support service available;

emotional, and where available, psychological support;

advice in relation to financial and practical issues;

advice related to the risk and prevention of secondary or repeat victimisation, intimidation and retaliation.

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

From **Victim Support Malta** you can receive emotional support to overcome trauma caused by a crime, legal information about criminal procedures related to victims of crime and practical aid such as assistance with communication with the police.

Website: https://victimsupport.org.mt/

St Jeanne Antide Foundation

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