Nukentėjusiųjų teisės pagal šalis

Lenkija

Būsite laikomas **nukentėjusiuoju**, jei nukentėjote dėl nusikalstamos veikos, už kurią numatyta bausmė pagal baudžiamąją teisę; pavyzdžiui, buvote sužeistas arba jūsų turtas buvo sugadintas arba pavogtas. Kaip nukentėjusysis turite tam tikras teises tiek vykstant teismo procesui, tiek jam pasibaigus. Taip pat galite gauti įvairią pagalbą bei paramą ir gauti kompensaciją arba žalos, kylančios dėl nusikalstamos veikos, atlyginimą.

Lenkijoje baudžiamąjį procesą sudaro pirminis tyrimas ir teismo procesas.. Pirminis tyrimas atliekamas iki bylos nagrinėjimo teisme. Jo tikslas – nustatyti padarytos nusikalstamos veikos faktus ir nusikalstamą veiką padariusius asmenis. Policija ir prokuratūra renka įrodymus. Jeigu surinktų įrodymų pakanka, nusikalstamą veiką padariusiems asmenims pareiškiami kaltinimai. Priešingu atveju byla atmetama. Prokuratūros kaltinimą nagrinėja teismas.

Vykstant teismo procesui teismas tiria surinktus įrodymus, kad nustatytų, ar kaltinamasis yra kaltas. Jeigu kaltinamasis yra pripažįstamas kaltu pagal pareikštus kaltinimus, jis nubaudžiamas įstatymuose numatyta bausme. Priešingu atveju visi kaltinimai jam atmetami.

Norėdami surasti reikiamą informaciją, spustelėkite toliau esančias nuorodas:

1 - Mano, kaip nusikaltimo aukos, teisės

2 - Pranešimas apie nusikaltimą ir mano teisės tyrimo arba teisminio nagrinėjimo metu.

3 - Mano teisės pasibaigus teisminiam nagrinėjimui

4. Kompensacija

5 - Mano teisės į paramą ir pagalbą

Paskutinis naujinimas: 20/11/2018

Šio puslapio turinį nacionaline kalba tvarko atitinkamos valstybės narės. Vertimus atliko Europos Komisijos tarnyba. Į kompetentingos nacionalinės institucijos originale įvestus pakeitimus vertimuose gali būti neatsižvelgta. Europos Komisija neprisiima jokios atsakomybės ar teisinių įsipareigojimų už šiame dokumente pateiktą ar nurodomą informaciją ar duomenis. Daugiau informacijos apie už šį puslapį atsakingos valstybės narės autorių teisių taisykles rasite puslapyje „Teisinė informacija“.

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?

The victim is provided with information on his/her rights in writing before the first interview which takes place after the crime is reported. Before then the authority may provide the victim with information on his/her rights that will be useful in the circumstances.

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

The rights of non-EU citizens are protected in the same way as the rights of EU citizens except for the state compensation for which the victims of certain offences are eligible – compensation is granted only to EU citizens.

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

Before the first interview, the victim obtains information in writing on his/her basic rights, including his/her status in the preparatory proceedings, whether he /she can ask for certain actions to be taken (e.g. questioning of witnesses), assistance of a legal representative, including a request for a court-appointed representative, the right to refer the case to mediation, to access the file, to appeal against a decision to discontinue proceedings, the possibility of damages being paid by the defendant or of obtaining state compensation, access to legal aid, the available measures of protection and assistance, access to assistance financed from the Victim Support and Post-Penitentiary Aid Fund (*Fundusz Pomocy Pokrzywdzonym oraz Pomocy Postpenitencjarnej*), the possibility of issuing an European protection order, organisations offering support to victims and reimbursement of expenses incurred in connection with the proceedings.

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

A translator assists in proceedings in which a non-Polish speaking victim is participating. Letters to or from the victim are translated. The victim does not bear the costs of translations.

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

Children who are victims of crime are represented by their parents or by the persons caring for them. For individuals requiring assistance (e.g. the elderly), their rights may be exercised by the person caring for them. Parents or guardians should make sure that victims in their care participate in proceedings as required and, if in doubt regarding their charges' understanding of the significance of those proceedings, they may notify the authority conducting proceedings thereof.

Victim support services

Who provides victim support?

In Poland, the Victim Support and Post-Penitentiary Aid Fund accumulates financial resources for purposes such as assistance to crime victims and their closest relatives. The Fund is managed by the Minister for Justice who grants subsidies to NGOs selected by way of a competition that specialise in victim support. The aid financed by the Fund covers legal, psychological and material assistance.

Will the police automatically refer me to victim support?

The authority conducting the proceedings is required to inform the victim, before the first interview, that assistance financed by the Victim Support and Post-Penitentiary Aid Fund is available.

How is my privacy protected?

Data concerning the victim's place of residence and place of work are not available to the offender.

In relation to witnesses – in other words, as a rule, all victims – the prosecutor or court may, in especially serious cases, decide to withhold their personal data and other circumstances enabling their identification. This is possible in the event of reasonable concerns regarding a risk to the life, health, liberty or a significant part of property of that person or of that person's closest relative.

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

Access to victim support is not contingent on reporting a crime. A person wishing to access support just needs to demonstrate that a crime has been committed against him/her.

Personal protection if I’m in danger

What types of protection are available?

In the event of a threat to their life or health the victim and his/her closest relatives are entitled to:
protection in the course of proceedings;
physical protection;
assistance with relocation.

Who can offer me protection?

Protection is granted by the Chief of Police with jurisdiction over the province.

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

An assessment of the need to provide and continue providing protection and assistance is performed by the Chief of Police competent for a the province.

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 authority in charge of proceedings is required to conduct proceedings involving the victim in a manner which does not entail negative consequences. It should always react in a situation when the victim is not treated with due respect or when the victim does not feel safe.
In rape and similar cases, the victim is interviewed in a special room without the offender being present.
During the trial, the presiding judge may order the defendant to leave the room while the victim is testifying.

What protection is available for very vulnerable victims?

If the victim requires assistance because e.g. owing to his/her age or health problems he/she is unable to participate actively in the trial, his/her rights may be exercised by the person caring for him/her.

I am a minor – do I have special rights?

The rights of victims who are minors are exercised by their statutory representatives or the person caring for them. If the crime has been committed by the parents, the minor is represented in the trial by a guardian ad litem.

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

If the victim dies, his/her closest relatives may participate in the proceedings in his/her place. They have all of the victim's rights then.

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

Victims’ closest relatives are entitled to legal, psychological and material assistance financed by the Victim Support and Post-Penitentiary Aid Fund. In the most serious cases involving a risk to those persons’ life or health, means of protection and assistance may be granted to them (protection in the course of proceedings, physical protection, assistance with relocation).

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

The case may be referred to mediation at the preparatory stage or during court proceedings subject to the consent of the victim and the defendant. Mediation proceedings are conducted by the mediator in an impartial and confidential manner. In the course of mediation, the victim may present his/her position, i.e. indicate what he/she expects from the offender. Mediation does not terminate the criminal proceedings but its outcome is taken into account both by the prosecutor and by the court.

Where can I find the law stating my rights?

The provisions governing the rights of crime victims are to be found in the Code of Criminal Procedure (*Kodeks postępowania karnego*), the Criminal Code (*Kodeks karny)*, the Criminal Enforcement Code (*Kodeks karny wykonawczy*), the State Compensation for Victims of Certain Offences Act of 7 July 2005 (*ustawa z dnia 7 lipca 2005 r. o państwowej kompensacie przysługującej ofiarom niektórych czynów zabronionych*, consolidated text, Journal of Laws 2016, item 325), the Victim and Witness Protection and Support Act of 28 November 2014 (*ustawa z dnia 28 listopada 2014 r. o ochronie i pomocy dla pokrzywdzonego i świadka*, Journal of Laws 2015, item 21), the Regulation of 29 September 2015 on the Victim Support and Post-Penitentiary Aid Fund (*rozporządzenie z dnia 29 września 2015 r. w sprawie Funduszu Pomocy Pokrzywdzonym oraz Pomocy Postpenitencjarnej*, Journal of Laws 2019, item 683), and the Act of 17 June 2004 on complaints regarding the violation of a party’s right to have their case examined without undue delay in preparatory proceedings conducted or supervised by the prosecutor and in court proceedings (*ustawa z dnia 17 czerwca 2004 r. o skardze na naruszenie prawa strony do rozpoznania sprawy w postępowaniu przygotowawczym prowadzonym lub nadzorowanym przez prokuratora i postępowaniu sądowym bez nieuzasadnionej zwłoki*, consolidated text, Journal of Laws 2018, item 75, as amended).

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

How do I report a crime?

Crimes are reported in writing or verbally at the public prosecutor’s office or at a police station. A written crime report may be submitted in person or sent by post (or e-mail).

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

The person who reported the crime should be notified, within six weeks, that an investigation has been opened. If he/she does not receive such notification, he/she may submit a complaint to a senior prosecutor.

Am I entitled to legal aid (during the investigation or trial)? Under what conditions?

In preparatory and court proceedings, victims may be assisted by a professional representative – an advocate or legal counsel. Victims may appoint their representative themselves or, if their financial situation does not allow them to do so, they may request a court-appointed representative. For that purpose, the victim should submit to the court or prosecutor a letter proving they are not able to pay the representative's fee themselves.

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

If the victim has appeared in proceedings only as a witness, they are entitled to reimbursement of travel, accommodation and subsistence costs or of any loss of earnings.
If the victim has acted as auxiliary or private prosecutor, they are entitled to reimbursement of reasonable expenses, including expenses associated with appointing a representative.
To obtain reimbursement of the expenses, a request and, if possible, documents confirming the expenses incurred, must be submitted.

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

Victims may appeal against decisions to reject an application for preparatory proceedings and decisions to discontinue preparatory proceedings. Information on how to appeal is provided with those decisions.

Can I be involved in the trial?

Victims participate in preparatory proceedings as a party without having to submit a special statement.

In public prosecution proceedings, victims may act as a party (auxiliary prosecutor) if they submit a statement that they intend to do so.

In private prosecution cases, the victim is a party as private prosecutor.

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?

Victims are individuals affected by a crime.

The victim is a party to preparatory proceedings by law.

In public prosecution proceedings, victims may act as a party if they choose to do so, in which case they act as auxiliary prosecutor.

In private prosecution cases, victims act as private prosecutor.

Regardless of whether they act as a party, victims are practically always heard as a witness.

At present, criminal proceedings do not allow victims to act as a civil party.

What are my rights and obligations in this role?

Even if not acting before the court as a party, victims may participate in court proceedings that are important in order to protect their interests. Victims may take part in a trial and in a session concerning the conditional dismissal of proceedings, conviction without trial and dismissal of proceedings on the grounds that the defendant is insane or in cases involving protection measures on the grounds that the defendant is insane. During the trial, the victim may object to a request by the defendant for conviction without the taking of evidence and may apply for the defendant to be ordered to make good the damage or pay compensation.

If criminal proceedings are conditionally dismissed, the victim may apply for them to be resumed.

Having chosen to act as a party before the court, the victim may take certain procedural measures: file applications for evidence, put questions to witnesses and experts, present their position, e.g. stating what decision they expect from the court. They may appeal against judgments.

Victims summoned as a witness must appear before the court and testify. Failure to appear without a good reason is punishable.

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

Victims may file applications for evidence if they act as auxiliary or private prosecutor.

What information will I receive during the trial?

Before the first hearing, victims are informed in writing about their status as a party to preparatory proceedings and their rights in this situation.

Victims are informed in writing of the indictment referred to the court and of the dates and place of court hearings or sessions in which they may participate.

If the court orders damages, it will serve a copy of the judgment on the victim.

Will I be able to access court files?

In the course of preparatory proceedings, victims may access files with the consent of the authority conducting the proceedings.

In the course of court proceedings, victims may access files if they are acting as private prosecutor or auxiliary prosecutor. If the victim is not acting in that capacity, the files will be made available with the consent of the president of the court.

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3 - My rights after trial

Can I appeal against the ruling?

Victims may appeal against the ruling in a public prosecution if they acted as auxiliary prosecutor.

If criminal proceedings against the offender have been conditionally discontinued and a ruling is handed down in court, the victim may appeal against it even if they did not act as auxiliary prosecutor.

Victims may appeal against a judgment in a private prosecution because in such cases they act as prosecutor.

What are my rights after sentencing?

If the offender is ordered to make good the damage, the court issues a copy of the sentence to the victim. If an offender who receives a suspended prison sentence does not make good the damage, the victim may apply for the sentence to be served.

If criminal proceedings against the offender have been conditionally discontinued, the victim is entitled to take part in the hearing for the resumption of proceedings.

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

After the completion of proceedings, victims are entitled to protection and support if their life or health, or that of or their next of kin, is at risk.Protection and support are provided as long as there is a risk.

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

The court will provide the victim with the information included in the sentence – to what punishment the offender has been sentenced, what the length of sentence is and whether it has been conditionally suspended, and what obligations, including making good the damage, have been imposed upon the offender.

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

Victims may ask to be informed when the offender is released from prison. The victim will be then notified when the offender is released from prison after he /she has served the sentence, if the offender is allowed to serve the sentence under electronic surveillance, or if he/she escapes from prison, is granted leave or parole or temporarily released.

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

Victims do not take part in parole hearings and cannot appeal against these decisions.

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Puslapį jūsų pasirinkta kalba šiuo metu rengia mūsų vertėjai.

4 - Compensation

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

Crime victims can claim damages from the offender in the following ways:

they can bring an action against the offender before a civil court; civil proceedings are contingent on payment of court fees; civil proceedings may be opened regardless of whether an indictment has been lodged with the court but they may be suspended until a final ruling is handed down in the criminal proceedings; if the action brought by the victim is successful, enforcement is handled by the enforcement authority, i.e. the bailiff (*komornik*);
in the course of criminal proceedings, victims may apply for a compensation measure (*środek kompensacyjny*) to be imposed on the defendant – an obligation to make good damage or provide compensation; instead, the court may order payment of supplementary damages (*nawiązka*); the victim's request will be granted only if the offender is convicted;
if the offender is convicted and receives a suspended prison sentence, the court may order him/her to make good the damage resulting from the crime;
if the proceedings are conditionally suspended, the court must order the offender to make good the damage in full or in part.

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

If the court orders the offender to make good the damage and the offender does not comply voluntarily, the victim may resort to enforcement proceedings conducted by a bailiff.

If the offender is given a suspended prison sentence by the court or proceedings against him/her are conditionally suspended and he/she fails to make good the damage, measures may be taken to enforce the sentence or resume proceedings. These measures, especially the real threat of imprisonment, tend to galvanise offenders who, even if enforcement is ineffective, will somehow find funds to meet victims' claims. For such measures to be taken, it suffices for the victim to notify the court or probation officer (*kurator sądowy*) that the offender has failed to meet his/her obligation.

If the offender does not pay, can the state pay me an advance? Under what conditions?

If the offender fails to make good the damage, the victim cannot obtain that payment from the state.

The victim may benefit from emergency assistance financed by the Victim Support and Post-Penitentiary Aid Fund offered by organisations specialising in aid to crime victims.

Am I entitled to compensation from the state?

Victims of the most serious crimes or their next of kin are entitled to special benefits paid by the Treasury. This applies to individuals domiciled in Poland or in another EU Member State who, as a result of an offence, have suffered serious injury or deterioration of health lasting more than seven days and to the next of kin of individuals who have died as the result of an offence.

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

You are also entitled to compensation if the offender is not convicted.

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

Victims entitled to compensation may obtain security, i.e. a one-off payment made before the case is concluded. That amount may be used in part to cover the costs of treatment, convalescence or burial.

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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?

Crime victims and their next of kin are aided by NGOs who receive subsidies for that purpose from the Victim Support and Post-Penitentiary Aid Fund. The subsidies are granted by the Minister for Justice.

Victims are informed that this aid is available before they make their first statement.

A list of all the organisations that have obtained subsidies for victims and their next of kin and information (in Polish) on what the aid covers can be found on the website of the Ministry of Justice, under Co robimy - Dla obywateli - Udzielamy pomocy - Fundusz Sprawiedliwości - Pomoc pokrzywdzonym.

Victim support hotline

At present, there is a nationwide Victim Support Hotline (*Linia Pomocy Pokrzywdzonym*) in Poland: + 48 222 309 900.

Is victim support free?

Victim support is offered free of charge.

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

The authorities provide victims with information on the places where support is available. Some categories of victim are entitled to free legal assistance in the light of their age and financial situation. Crime victims are entitled to medical assistance under the general rules.

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

NGOs financed by the Victim Support and Post-Penitentiary Aid Fund offer victims legal, psychological and financial assistance, e.g. food vouchers or help with the cost of food and clothes, underwear, footwear, cleaning and personal hygiene products, temporary accommodation or shelter, education and training, measures to adapt a flat or house to crime victims' needs and travel expenses.

Another type of support is funding for the services of an interpreter, including a sign language interpreter.

Medical assistance includes covering the costs of health care, medicine and medical equipment necessary to treat the damage to health suffered as a result of the crime.

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