

## PROSECUTOR'S OFFICE

AT THE SIENA COURT

### OFF-PARTICIPATING INFORMATION (article 90 bis Criminal Procedure Code)

This information is intended for the person who has been offended by the offense and is intended to provide full and clear indications of his / her rights so that he or she can exercise it consciously in the implementation of the Decree Law 15 December 2015, no. 212. The Rite Code provides for a number of rights and faculties for the offender (Article 90a cpp), who may exercise them personally or by means of a defense lawyer. In the case of the death of the offender, the rights are exercised by the next members: for close relatives are the parents, children and brothers, spouse and parents and siblings, uncles and nephews and other relatives of the victim indicated by Criminal Code (Article 307, fourth paragraph of the Criminal Code) 01 of the Code of Criminal Procedure provides that from the beginning of the criminal proceedings the Public Prosecutor and the Judicial Police inform the person offended by the offense of the faculty of appointing a defender. There are rights that apply to all offended people. Other rights are only for victims of certain categories of offenses, especially those committed with violence to the person.

#### Rights of the person offended by any offense

The injured party has the right to file memories (defensive writings, even personally written, addressed to the Judicial Authority) and to indicate evidence (like people to hear, documents to be acquired, etc.). This right can be exercised both in the investigation phase and at a later moment when the actual process has already begun (Article 90 cpp).

The offender may check whether the prosecutor's office has opened criminal proceedings to identify the perpetrator of the crime committed against her. To receive this news - which is defined by law as information on registrations in the Register of Crime News (Article 335 cpp) must submit a written question (by filling out a form already prepared) at the secretariat of the Public Prosecutor's Office. These news can not be fomented in cases of organized crime and for some offenses against the person.

The victim of the offense must be notified of the completion of non-repeatable technical investigations (Article 360 cpp: for example, autopsy or certain findings to reconstruct the road accidents) to which he can participate by appointing his own advisers.

The injured party may also ask the Public Prosecutor to collect evidence that may be at risk (eg testimonials of people exposed to threats or pressures, inspections of sites subject to change, etc.) in advance of a "probative incident".). In order to obtain some other rights, the victim must make specific requests. In particular, the offending party must be required to be informed:

- the request for extension of investigations (Article 406 cpp), which the Public Prosecutor submits to the Judge when he is unable to close the investigation within the time prescribed by law (usually six months);
- the request for filing the proceedings (Article 408 cpp), which the Public Prosecutor asks the Judge when he considers that the offense is unfounded, that the suspect has not committed or does not have sufficient evidence to initiate a trial.

The Public Prosecutor's Office may also request filing for a particular tenuity of the fact (Article 131 bis cp): in this case, he informs the offender (and the indicted) that he may represent, in the following ten days, the specific reasons for the dissent.

The injured party may be required to be notified of the request to extend the investigation or filing either directly in denunciation or by a subsequent act. When a trial is celebrating, the offending offense has the right to be informed, indicating the place, date and time of the first hearing; For subsequent hearings you will not be notified and you must be informed about the date of referral to the Court. The offending party

has no obligation to attend the hearings except when he has to give his testimony: in this case, he will receive a special convocation, which will specify that he has an obligation to present himself. If the offended does not speak the Italian language, the Court appoints an interpreter to make the testimony in the mother tongue (Article 143a, paragraph 2, cpp).

The offended party of the offense since the conclusion of the investigations onwards has the right to see all acts of the proceedings and hunger for the copies. In the investigation phase, on the other hand, it can not, of course, do so, even if in some cases the Public Ministry - if there are specific reasons of interest, even for individual acts - may authorize it, provided there are no profiles of investigation secrecy.

When a criminal offense is celebrated, the offending party deemed to have been harmed by the offender may sue for compensation - without the need to initiate a separate civil case and to participate actively in the proceedings, including (witnessing, through the "constitution of a party Civilian ", which must necessarily take place at the beginning of the trial and requires the assistance of a lawyer.

The victim of the offense may choose to appoint a defense lawyer for the protection of his rights. In this case you should know:

1. Who may appoint a defender in the forms provided for in art. 96, paragraph 2, cpp (declaration made to the police authority, even to the judicial police when filing complaints or appeals, or delivered to the same by the defense counsel or sent by registered letter), for exercising the rights and faculties to you attributed. The appointment can be made immediately, without the need to wait for warnings from the Judicial Authority or the police.

**When the victim of the crime appoints a defender, all legal warnings are made directly to the lawyer.**

2. The offended is entitled to avail himself of the legal expenses of the State if it is below the legal limit (currently 11,528.41 euros per year plus 1.032,91 euro for each component of the law). Family, income from family members is not calculated in cases of conflict of interest in criminal proceedings). In practice, in these cases you will not have to pay the lawyer, who will be in charge of the state, and will not have to pay any advance or charge (eg for stamps, copy of acts). In order to be eligible for sponsorship at the expense of the State, a specific application must be filed with the Tribunal, even at the stage immediately following the complaint. Information about the procedure can be requested from the Council of the Bar of Siena.

3. To be sure of receiving legal communications and to exercise certain specific rights, the offending party must "declare or elect domicile", where to report to the Public Prosecutor or the Judicial Police to which you have filed your complaint or That of the person at whom he / she wants to be sent all the procedural alerts. You must also report any change of this address during the criminal proceedings, otherwise you will continue to receive the files from there originally indicated. This communication is not necessary if you have appointed a defender, because in this case all alerts will be sent to your lawyer.

**Rights of the victim in the case of offenses committed with violence against the person:**

Some specific rights do not apply to all victims of any crime, but only to victims of violent crimes (especially if committed in family or sentimental relationships). These offenses have greater protection and greater rights. Let's see what:

1. Offenses committed with violence can have traumatic effects on the person, so the victim may be addressed to the appropriate public services of the ASL (for example, family counseling) and the City of Residence (social services). If there is a minor between the victims, a report to the Juvenile Court should be made, which will assess the situation and the protection measures.

Domestic violence victims have the right to obtain information from police forces, from the time they complain, about the anti-violence centers in the area.

If the victim asks for it, the police forces (police, state police, city guards, etc.) have the obligation to contact them at any time with such centers (not just giving an address or phone number) .

Some anti-violence centers have secured residences where, in the most serious cases, victims of crime can be accommodated to escape further violence. In order to obtain information and / or contact the anti-violence center in the country, you can also contact it with a public utility number 1522, managed by the Presidency of the Council of Ministers.

A victim who is in a state of personal difficulty can also ask for assistance from a Support Administrator: a person working under the direction of the Judge of the Civil Service Tribunal and has the task of assisting - free of charge - people in difficulty , Even temporarily, to provide for their own interests.

You can apply directly to the Civil Tribunal or make your own difficulties at the Social Services of the City Council for informing the Public Ministry of Civil Affairs, who will be able to bring the appeal in the interest of the weak person. Further information can be obtained at the following web address:

[Http: // w ww\\_giustizia. It / gi ust izia / en / mg\\_3\\_2\\_\\_ 1 wp? Tab = d](http://www.giustizia.it/giustizia/en/mg_3_2__1_wp?Tab=d)

2. In the most serious cases, in order to protect the victim from further offenses, the Tribunal may impose restrictions on the freedom of the perpetrator, from custody to imprisonment, to less serious safeguards, such as the prohibition on approaching places frequented by the offender Or the departure from the family home. The application of these measures (removal of the offender from the family home or prohibition of approach) must be communicated to the offender so that he knows exactly what the restrictions are in force and that he / she may report any violation (Article 282c cpp).

It is important to emphasize that in this case the offender can also ask that the judge, by the measure by which he has the expulsion from the family home or at a later date, oblige the perpetrator of the offense to pay a maintenance allowance (Article 282a cpp).

There is also a similar civil procedure that can be directly prosecuted by the victim before the Court of Appeals by filing an appeal (with the assistance of a lawyer) for which he asks for a "protection order" against family abuses that prohibits the perpetrator of the offense of Approaching the victims.

Similar powers lie at the competent police headquarters, where there is a special office. 3. The victim of violent crimes has the right to have news of requests for revocation or replacement of the precautionary measures applied to the perpetrator (eg imprisonment, detention of prisoners, prohibition of approaching places visited by the offender, etc.). In this way, he has the opportunity and the right to make known his opinion by presenting (within two days) defensive memories to oppose or in any case to make his point of view known (Article 299 cpp).

It is also entitled to be informed of the Judge's actions on the modification, revocation or replacement of the precautionary measures against the suspect. In this way the victim and under conditions to know whether the person designated as the perpetrator of the offense is free or subjected to constraints and limitations of his liberty movement.

It is important to point out that this information is provided only to the offender who has made the election or declaration of domicile or appointed a defender.

4. The person who has been subjected to a violation of the offense also has the right to be informed in case of a request for filing the proceedings, even if he does not make an explicit request and has twenty days from the notification of the notice to take a look Of the acts and to submit a reasoned request for the continuation of preliminary investigations (Article 408, paragraph 3a, cpp).

5. Victims of family mistreatment and persecution ("stalking") have the right to receive notice of the completion of investigations (Article 415a cpp); Following this notice they will be able to obtain copies of the files, file defensive memos or documents, ask the Public Ministry to conduct further investigations.

6. Victims of crimes of family abuse, acts of persecution, sexual violence and other offenses under the law that are under "special vulnerability" have the right to testify in a protected manner. Attempts can be made, for example, to prevent the defendant from seeing or entering anything in contact with them, during the probationary incident and during the hearing. When it comes to minors, these arrangements are always adopted. If, on the other hand, the victim of the offense is a majority and wants to be heard in these protected ways, he must ask the judge, explaining the reasons why he wants to make his testimony in this way.

7. Victims of some offenses have the right to be admitted to the law at the expense of the state, even if they have an income higher than the limits laid down by law: these are offenses of ill-treatment against family members or cohabitants, female genital mutilation, sexual violence, Sexual acts with minors, group sex violence, persecutory acts ("stalking"). In these cases, the victim always has the right to the state to pay his lawyer. At the Council of Lawyers of Siena a list of defenders specializing in the matter of family violence, and in particular the assistance of the ... Illegible ... admission to patronage at the expense of the State without income limits is only available if the victim Offenses under Article 600 (reduction or maintenance of slavery or servitude), 600-bis (juvenile prostitution), 600-ter (juvenile pornography), 600-quinquies (tourism initiatives aimed at the exploitation of Prostitution of minors), 601 (dealing with people), 602 (acquiring and disposing of slaves), 609-quinquies (minor bribery) and 609-undecies underage minors) of the criminal code.