

You are victim



Federal Public Service
Justice

.be

You are victim of an offence¹. As this is a far-reaching event, you probably have all sorts of questions: what are my rights? How can I receive compensation? Who can help me?

This leaflet briefly outlines the course of the proceedings, the rights you can exercise in the framework of these proceedings and the steps that you can take.



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¹ An offence is any behaviour that is prohibited and punished by criminal law.



Police
Politie

REPORT TO THE POLICE SERVICES

As victim of an offence, the first service you usually come into contact with are the police services. Either because the police services visit the scene of the offence or because you go to the police station to report the offence. It is important to report the facts as soon as possible so that the police services have precise information concerning the facts (time, place, description of the suspect) and the damage that you have suffered (for example description of the stolen goods, description of your injuries, etc.).

The police services offer initial assistance. They transcribe your statement in a written record. You have the right to get a free copy of your statement. Except for certain exemptions, you receive this copy immediately. The police services also provide you with the necessary information and if you need assistance, they can involve the police service that offers assistance to victims or they can refer you to another specialized service.

The police services also provide you with a certificate of complaint. This document contains information concerning the further course of your complaint and some practical information such as the number of the written record and any useful addresses of services that can help you. It is therefore important that you keep it.

AFTER THE REPORT

Investigation and possible consequences

In principle, the police services forward your complaint to the office of the public prosecutor* who will take a decision regarding the complaint, taking into account the elements of the file, the nature of the offence and the results of the investigation. He can take one of the following decisions:

› Discontinuation without further action

The file might be discontinued without further action because prosecution is impossible (e.g. because the perpetrator cannot be found or because there is insufficient evidence) or because prosecution is not opportune (e.g. because you have received a full compensation). This decision is provisional. The investigation can be re-opened, for example if the public prosecutor* obtains new information.

› Mediation in criminal matters

The public prosecutor* can propose mediation in criminal matters, initiated by a justice assistant. In case of mediation in criminal matters, the perpetrator and the victim try to reach an agreement to restore the material and/or moral damage. In this case, all parties have to agree and participate actively.

The public prosecutor* can propose one or more additional measures to the perpetrator, such as a medical treatment or therapy, a training or a community service.

If the perpetrator and the victim reach an agreement concerning the restoration of the damage and the perpetrator has executed any other possible measures, the criminal proceedings* expire. This means that the public prosecutor* can no longer bring the case before the criminal court.

› **Amicable settlement**

The public prosecutor* can propose to the perpetrator that he pays a certain amount of money within a specified period of time. This is only possible if the perpetrator recognizes his responsibility and has compensated the damage caused.

If the perpetrator decides to pay the money, the criminal proceedings* expire. This means that the public prosecutor* can no longer bring the case before the criminal court.

› **Initiation of a judicial investigation**

The public prosecutor* can request the examining magistrate* to perform a judicial investigation* because more in-depth (investigative) measures are required (e.g. pre-trial detention or a house search). After the judicial investigation, an examining court* (the court in chambers or, in higher appeal, the indictments division) has to decide on the further course of the proceedings (e.g. discontinuation of the proceedings, referral to the competent court, etc.).

› **Prosecution**

If the public prosecutor* believes that his investigation (criminal investigation preliminary to prosecution*) has revealed sufficient evidence, he can decide to prosecute the suspected perpetrator by bringing the case before the criminal court.





Hearing

If the suspected perpetrator is prosecuted, he is brought before the competent criminal court.

The proceedings before a criminal court usually occur as follows:

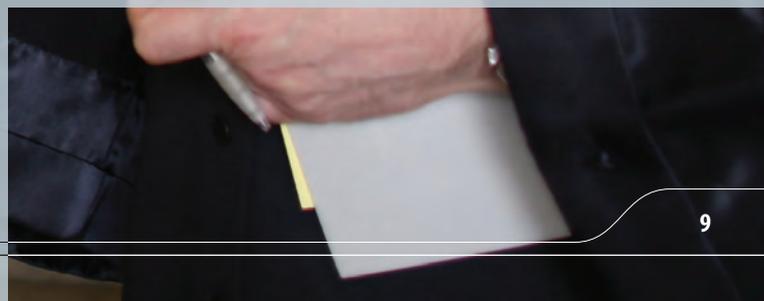
- › the president of the court briefly summarizes the case and/or questions the suspected perpetrator;
- › the potential witnesses and experts are heard;
- › the civil party, possibly assisted or represented by a lawyer, is given the floor (to explain the facts and support the claim);
- › in their action, the public prosecutor's office* clarifies its point of view on the culpability of the suspected perpetrator and a potential punishment;
- › the suspected perpetrator, possibly assisted or represented by a lawyer, conducts his defence;
- › the public prosecutor's office* and the civil parties can answer, if they please;

- › the suspected perpetrator has the last word;
- › the debates are closed.

The sentencing court deliberates without the presence of the public prosecutor's office* and the civil parties. The judgment is usually postponed to a later date. You will be informed of this date.

If the court decides that the perpetrator is guilty, it will pronounce a sentence or measure and, possibly, award a compensation to the civil parties. The court can also acquit the perpetrator, for example when it considers that the facts have not been proven.

If you or your lawyer cannot attend the hearing, please contact the registry of the criminal court.



Appeal

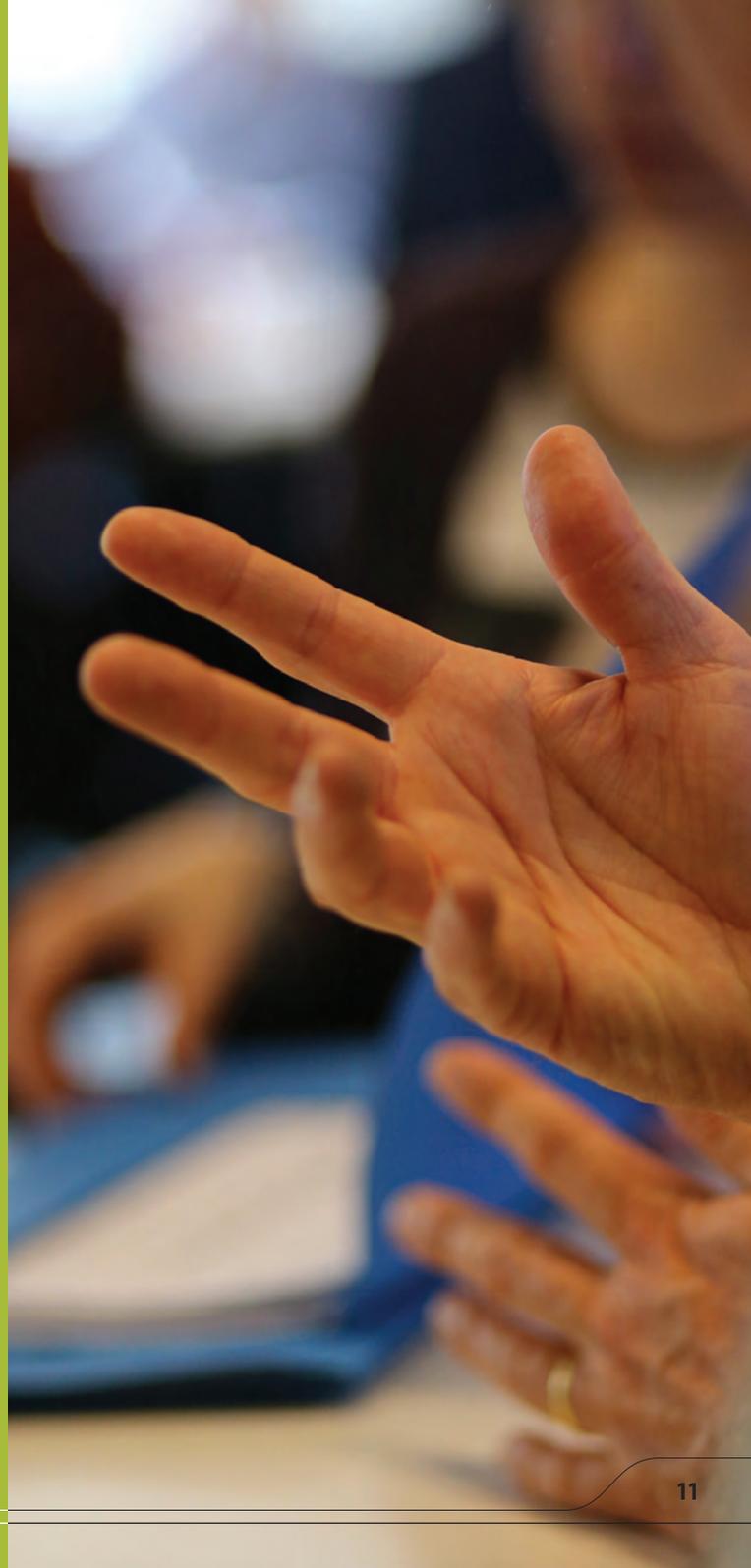
If the judge has denied your request for compensation or if you believe the amount awarded to be too low, you can lodge an appeal.

You cannot lodge an appeal against the imposed punishment or the acquittal of the perpetrator.

In principle, you have to appeal within thirty days after the judgment.

Within this period of time, you have to lodge a declaration of appeal at the registry of the court that has pronounced the judgment. Moreover, you also have to submit a petition at the same registry or at the registry of the court that will treat the appeal. This petition has to contain the reasons for the appeal (the “grievances”). At the registry, you can obtain a grievance form that can be used as a petition. This form contains a list of grievances that you can tick off (e.g. the estimation of your damage).

A higher court will then re-examine and treat the case.





The victim's rights and role during proceedings

General

Legal assistance

You are entitled to legal assistance.

Frontline legal assistance consists of free practical or legal information and initial legal advice. If necessary, you are transferred to a specialized service. Consultation meetings are held in the courthouses, the cantonal courts, justice centres, some communal administrations, most public social assistance centres and several non-profit organizations with a judicial service².

² More information concerning the locations and the consultation hours of the frontline legal assistance is available on www.advocaat.be > section 'Juridische bijstand?' > 'Gratis juridisch advies' (in Dutch).

For more elaborate legal advice or assistance, or if you want to be represented, you have to contact a **lawyer** of your choice.

In the framework of the **second line legal aid** (formerly, pro deo) you can rely on a lawyer who, depending on your income, is completely or partially free of charge. For this, you can contact the legal aid office³.

Depending on your financial means, you can use the legal aid system under certain conditions to request to be exempt from some costs of the proceedings (e.g. bailiff costs, costs for copies from the criminal file, etc.). You have to submit your request to the legal aid office of the criminal court that has been seized. If you have already applied as civil party (see page 16), you can submit this request orally or written to the criminal court handling the case.

Ask your insurance broker whether your insurance policies contain an insurance for covering legal costs.

Mediation

The law offers you the possibility to rely on free-of-charge mediation with the other persons who are involved in the offence. The mediation does not replace the judicial proceedings, but could be a useful supplement. Mediation offers you the opportunity to – with the help of a neutral mediator – exchange information with the other persons concerning the facts, the backgrounds, the meaning and the consequences of the offence. The compensation of the damage suffered can also be part of the mediation process. The content of the consultations is confidential. For more information, you can contact a recognized mediation service⁴ or a justice centre⁵.

³ The contact details of the legal aid offices are available on www.advocaat.be (in Dutch).

⁴ The contact details of the recognized mediation service are available on www.suggnome.be (in Dutch and French).

⁵ The contact details of the justice centres are available on www.justitiehuizen.be (in Dutch).

Intervention in the criminal proceedings

As victim, you have several possibilities to intervene in the criminal proceedings.

Declaration of injured person

As injured person, you have the right to be informed of the consequence of your complaint. In other words, you have the right to be informed of:

- › the possible discontinuance of the proceedings without further action and the reason thereof;
- › the initiation of a judicial investigation*;
- › the fixation of a hearing before the examining* or sentencing court.

Any document that you deem useful can be added to the file.

You can also ask permission to consult the file and to receive a copy thereof. During the investigation preliminary to prosecution*, you can address this request to the public prosecutor*. During the judicial investigation, you can address your request to the examining magistrate*.

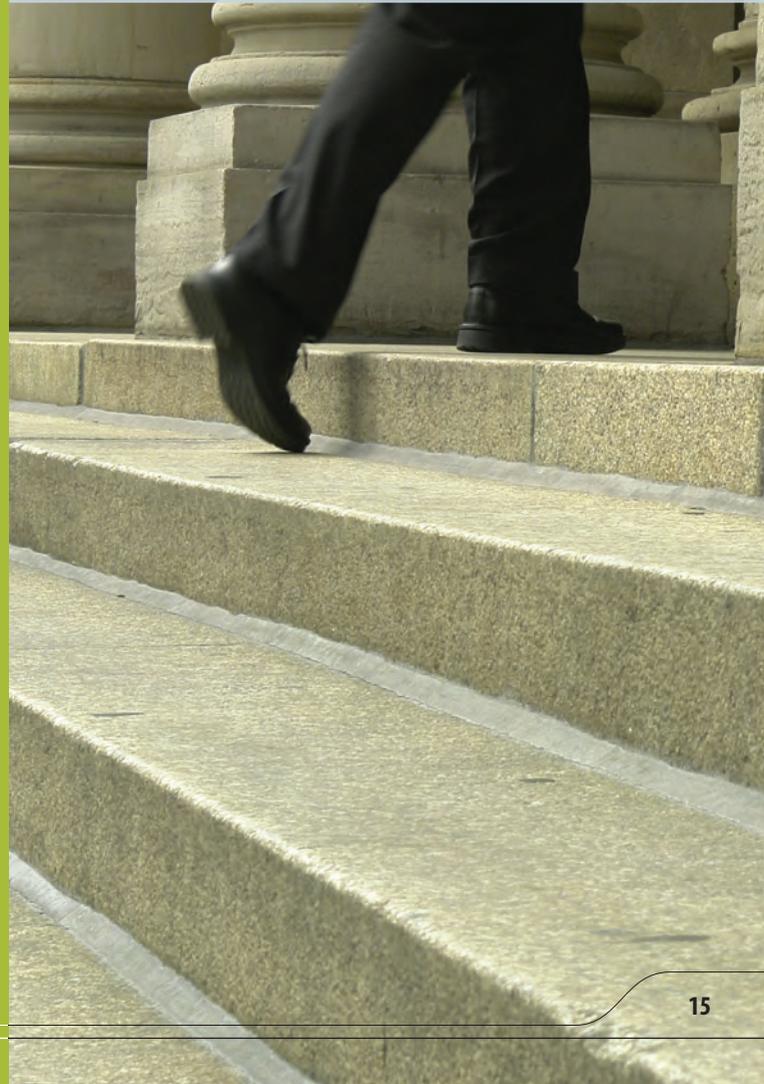
At the end of the judicial investigation*, when the examining court* handles the case, you can consult the file and/or receive a copy thereof at the registry.

How can you declare yourself an injured person?

There are different ways to declare yourself an injured person:

- › by handing in the completed form during your police interrogation; or
- › by handing in this form afterwards at a police station or the secretariat of the public prosecutor's office; or
- › by sending this form using registered mail to the secretariat of the public prosecutor's office.

You can do this in person or via a lawyer.



Civil party status application

As civil party, you cannot only claim compensation for the damage, you also have certain **rights** during the criminal proceedings:

DURING THE JUDICIAL INVESTIGATION*

- › You can ask the examining magistrate* permission to consult the criminal file and to receive a copy thereof.
- › You can ask him to perform an additional investigative act.
- › During the proceedings, you can be heard at least once by the examining magistrate, upon simple request.
- › You and your lawyer can attend a possible reconstruction of the facts.

DURING THE SENTENCE ENFORCEMENT

At this stage, you also have a number of rights (see page 22).

How can you apply for civil party status?

You can apply for civil party status in different ways and at various moments.

DURING THE INVESTIGATIVE STAGE

- › **If there is no judicial investigation* in progress:**
you can – in person or via a lawyer – address a complaint with civil party status application to the examining magistrate. In this case, you have to pay a certain amount of money to the registry as an advance payment of the legal costs. This amount is refunded if the suspect is found guilty afterwards.
- › **If a judicial investigation* has been initiated:**
 - you can apply for civil party status by making a simple statement – in person or via a lawyer – to the examining magistrate*;
 - you can also apply for civil party status at the end of the judicial investigation*, when the examining court* treats the case.

DURING THE COURT HEARING

You can apply for civil party status – in person or via your lawyer – by means of a simple statement during the hearing.

You cannot apply for civil party status for the first time if the case is already being treated in higher appeal.

Damage and civil proceedings

General

As victim of an offence, you most likely suffered some damage. That damage can be very diverse:

- › corporal damage and physical consequences;
- › moral damage and mental consequences of the offence (e.g. loss of a relative, mental suffering inflicted by the offence such as feelings of fear and insecurity, etc.);
- › material and economic damage (e.g. stolen money, damaged clothes or accessories, travel costs, medical or hospitalization costs, income loss, etc.).

Please keep all pieces of evidence carefully so that the judicial authorities can determine the damage suffered. This provides a better foundation for your request for restoration of the damage incurred, e.g. compensation. Possible pieces of evidence are: medical certificates and reports, certificates of your personal share in the medical costs, invoices, discharges, certificates of your employer or health insurance fund concerning the loss of income, etc.



Request for restoration of the damage

To receive a compensation for the damage that you have suffered as a result of the offence, you have to initiate **civil proceedings*** before the criminal or civil court.

› Before the criminal court

If the prosecutor decides to bring your case before the criminal court, the civil proceedings* and the criminal proceedings* can be combined. To do so, you must have applied for civil party status (see page 5).

› Before the civil court

The civil proceedings can also be initiated before the civil court. For example, if you do not wish to intervene in the criminal proceedings or if your case has been discontinued without further action.



Before the civil court, you have to provide proof of the error committed. If proceedings before the criminal court are in progress, the civil judge has to await the end of the criminal proceedings before he can render a judgment himself.

In both cases, it is best to compose a file to prove the extent of your damage (by referring to the damage suffered, see above). Keep a copy for yourself.

If the court declares your civil proceedings to be well-founded, the judge will order the perpetrator to restore the damage (e.g. by paying a certain amount of money as compensation or by returning a stolen good).

No compensation notwithstanding the decision of the judge

In this case, you have to rely on a bailiff to serve the judgment to the sentenced person and/or to enforce the judgment. This implies that the income or the goods of the sentenced person might be partially attached.

Always enquire about the costs of such proceedings and a potential intervention of your insurance for covering legal costs.

We recommend you consult a lawyer before undertaking any of these actions. The above-mentioned proceedings are complicated and the interests are substantial, for example financially. As victim, it is therefore important that you are well-informed.

Rights as a victim during the sentence enforcement

As victim, you can ask to be involved in the enforcement of the custodial sentence. Several modalities for the enforcement of sentences exist and can be granted to the sentenced person under certain conditions: penitentiary leave, limited detention, electronic monitoring, conditional release, etc.

Request to be involved

If you are not the direct victim of the facts and if you are not a civil party, you have to address a **written request** to the judge of the sentence enforcement court. He then decides whether you have a "direct and legitimate interest" in the case. If he agrees, you have to complete a victim declaration form (see below).

If you are the direct victim of the facts or if you have applied for civil party status and your civil proceedings* have been declared admissible and well-founded, you do not have to submit a request. In this case, you only have to complete a **victim declaration** and send it to the registry of the sentence enforcement court or the justice centre.

Via the victim declaration, you can:

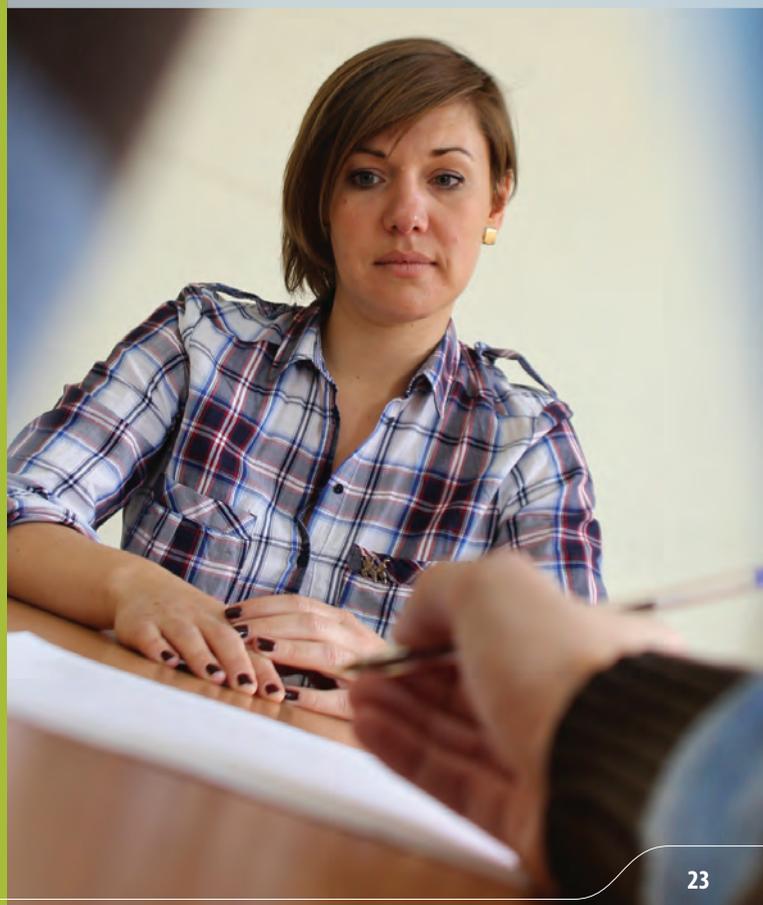
- › request to be informed when a certain modality for the enforcement of sentences is granted;
- › formulate conditions that could be imposed in your interest when a certain modality for the enforcement of sentences is granted. You can also ask a justice assistant offering victim support to formulate these conditions;
- › request to be heard by the sentence enforcement court.

Where can you find the victim declaration?

If your application for civil party status has been declared admissible and well-founded, you receive a letter from the registry with enclosed a victim declaration and an explanation of your rights.

- › You can download the declaration via www.justitie.belgium.be > section 'A-Z Onderwerpen' > 'S' (in Dutch).
- › Paper copies are available in a justice centre.

For more information concerning this document, you can contact the service offering victim support of a justice centre⁶ near you.





VICTIM SUPPORT

Police service offering assistance to victims

If you are looking for support during the first days after your report to the police because of problems resulting from the offence, you can contact the police services. They can contact the police service offering assistance to victims or refer you to another specialized service.

Justice centre⁶

There is a justice centre in each court district. There, you can consult the service offering frontline advice or the service offering victim support.

Frontline advice

If you have questions or problems concerning certain justice domains, such as the criminal proceedings and the rights of the victims, you can rely on a justice assistant to provide you with any **frontline advice**. He might also refer you to a specialized service.

⁶ The contact details of the justice centres are available on www.justitiehuisen.be (in Dutch).

Victim support⁷

The **service offering victim support** can ensure that you get the necessary attention during the judicial proceedings and that you can exercise your rights. In this framework, the justice assistant will give you specific information concerning your file and the ongoing proceedings. He also offers support and assistance during the whole judicial proceedings (for example when you consult the file or when the evidentiary items are returned to you). If necessary, he can refer you to the competent assistance services.

Victim aid⁸

If you find it hard to process the consequences of the offence, you can rely on the **service offering victim aid**. They offer psychosocial and practical help and provide information. You can also allow the police services to transfer your contact details to the service offering victim aid. In this case, the service offering victim aid will contact you as soon as possible.

Commission for financial assistance to victims of deliberate acts of violence and to persons who assist them

If you are a victim of a deliberate act of violence and sufficient compensation for your damage is impossible (for example because the perpetrator is unknown), the **Commission for financial assistance to victims of deliberate acts of violence and to persons who assist them** can grant financial assistance in certain cases and under certain conditions.



⁷ The contact details of the services offering victim support are available on www.justitiehuisen.be > section 'Slachtofferonthaal' (in Dutch).

⁸ The contact details of the services offering victim aid are available on www.caw.be > section 'CAW in je buurt' (in Dutch)



GLOSSARY

Civil proceedings

Procedure during which the injured person asks the perpetrator to restore the damage he has suffered. In this framework, he can apply for civil party status before a criminal court or initiate proceedings before a civil court.

Judicial investigation

Investigation under the direction and authority of an examining magistrate, with the aim to find the perpetrators of offences and to collect the evidence thereof.

Examining court

Court that does not decide on the merits of the case, but on the investigation itself. The examining courts consist of the court in chambers and, in higher appeal, the indictments division.

Examining magistrate

Judge at the court of first instance who leads the judicial investigation.

Public prosecutor's office

Body in the criminal proceedings that applies the criminal law and defends the interest of society (for example by prosecuting a suspect and initiating court proceedings).

Criminal investigation preliminary to prosecution

Investigation under the direction of the public prosecutor, with the aim to detect crimes, their perpetrators and the evidence thereof and to collect the elements that are necessary to enforce the sentence.

Public prosecutor

Magistrate, assisted by his substitutes, who leads the criminal investigation preliminary to prosecution. During the hearing, the public prosecutor orders the application of the criminal law. He takes any measures that are necessary for the enforcement of the pronounced sentences.

Criminal proceedings

Proceedings initiated by the public prosecutor's office, following a complaint with civil party application or by direct summons with a view to the application of the criminal law.

**MORE INFORMATION IS AVAILABLE ON
www.justice.belgium.be**

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