

# Real Rights: young people engaging with law enforcement

 Hungary



Developed by Baker McKenzie and the Global Initiative on Justice with Children, Real Rights provides young people – especially young people in vulnerable populations – with legal information for when children encounter police in public settings. Thanks to the pro bono work of over 1,500 volunteer professionals, this database provides answers for children in contact with the police from initial contact to searches and questioning.

## Rights:

What rights do I have when I encounter law enforcement?

### Question Asked

- Stopped By The Police On The Street, Now What?
- When Can Police Search You and Your Surroundings?
- Reasons Police May Detain or Arrest You
- The Difference Between Police TELLING Me What To Do And Asking Me To Do Something
- Do Police Need A Warrant To Arrest You?
- How Do You Know If You Are Under Arrest?
- What To Do After Being Warned of Your Rights
- Police Questioning You
- How do I Contact A Lawyer and When?
- Do Police Always Have To Tell The Truth?
- How do I make a complaint if I have questions or feel my rights have been violated?
- What if I feel I was a victim of discrimination or racism?
- How can I respond to circumstances involving discrimination?
- What can you do if the police perform an improper search? Or I was improperly detained?

## Stopped by the police on the street, now what?

### Proposed Information

It is important to follow this advice:

- Stay calm. It is not a good idea to run. Speak carefully and clearly. Cooperate with the police and answer their questions, unless your answers might incriminate you. Anything you say can be used against you in a court of law.
- It is not a good idea to touch the officers. Keep your hands where the police can see them.
- It is not a good idea to resist, even if you're innocent or if you think the police are acting unfairly or unlawfully.

## Can the police arrest you for refusing to answer questions?

You should answer police officers' questions unless your answers might incriminate you. If you refuse to answer without a legitimate reason, the police might even bring you before a competent authority or public body.

You are always required to identify yourself at a police officer's lawful request [*Section 29 (2) of the [Act on the Police](#)*] and comply with police officers' lawful measures and requests [*Section 19 of the [Act on the Police](#)*]. If the police cannot properly identify you, they may take your fingerprints, take a photo of you and/or record your external physical characteristics by observation and measurement [*Section 29 (4) of the [Act on the Police](#)*]. Furthermore, in such case, the police might even bring you before a competent authority or public body. The police may also take this measure – or similar ones – in other cases, e.g., if they suspect that you have committed a crime.

Furthermore, police officers are entitled to ask questions from anyone who may have information relevant to the police officers' duty. If a police officer asks you such questions, you cannot refuse to answer them, unless there is a special circumstance (e.g., the answer might incriminate you as explained below). For the time of such questioning, police officers may detain you [*Section 32 of the [Act on the Police](#)*].

If the police questions you as a suspect of a potential crime or misdemeanor, you cannot be obligated to give a self-incriminating testimony or to provide evidence against yourself [*Section 7 of the [Act on Criminal Procedure](#) and Section 33 of the [Act on Misdemeanors](#)*]. Therefore, the police cannot arrest you only for refusing to give answers that might incriminate you. Naturally, there might be other reasons for which an arrest may be lawful (e.g., the police caught you doing something illegal or the police suspect that you did so).

## What if the officers do not identify themselves?

Before police officers may take any measure, they must

- state their name, ID number and the fact and purpose of any measure; and
- present their ID card or badge.

As an exception, if the above-mentioned identification would endanger the results of the police officers' measures (e.g., because they must take immediate action), they may identify themselves after taking the measures. [*Section 20 of the [Act on the Police](#)*].

If a police officer did not do these things, you can make a complaint at the nearest police station or with the commissioner of fundamental rights (ombudsperson). [*Section 92 (1) of the [Act on the Police](#) and Sections 39/F-39/L of the [Act on the Commissioner for Fundamental Rights](#)*].

## What if an officer just begins speaking to me but does not order me to do anything?

You can ask the officer why you are being asked and to identify themselves.

If the officers answers properly, you should cooperate with the officer, unless they ask you questions to which your answers might incriminate you (see more details under points 1.a.-b. above).

## What if the officer is not in uniform or identified as an officer, but I think they are one?

Police officers must identify themselves before (or in exceptional cases, after) they may take any measures concerning you (see more details in point 1.b. above).

As an exception, if the police officer is part of an undercover mission, they may conceal that they are a police officer [*Sections 222 to 225 of the [Act on Criminal Procedure](#)*].

## Can I tell the police I do not want to speak without a lawyer?

If you are a suspect or under investigation, you always have the right to request the presence of a lawyer (this is called your right of defense). If you are being summoned as a witness, depending on the situation, the presence of your parent or legal guardian may be required or the police may be required to notify them of the fact that you were summoned.

## If I sit down, am I resisting?

This might be considered as resistance unless you are sitting down for obvious reasons – for example, you are feeling unwell.

It is not a good idea to resist, even if you're innocent. . During a police measure, the legality of a police measure should not be questioned, unless you are absolutely sure that the police are doing something illegal (you are sure "beyond reasonable doubt") [*Section 19 of the [Act on the Police](#)*].

## If I am stopped in a group, and some kids run, can I run?

No, you shouldn't. You are always required to identify yourself at a police officer's lawful request [*Section 29 (2) of the [Act on the Police](#)*] and comply with police officers' lawful measures and requests [*Section 19 of the [Act on the Police](#)*].

If you resist a police measure (e.g., you run away), the police officer may use coercive means on you, such as physical coercion or handcuffs. If you are under 14, police officers cannot use any other forms of coercive means on you, except if they are acting in cases of legitimate defense [*Sections 47, 48 and 61 (2) of the [Act on the Police](#)*].

## Can I tell others (siblings, for example) to run?

No, please stay calm and follow legal orders of the police officers. This could be seen as obstructing police measures. You should cooperate with the police officers.

## If the officer's language is not my first language, can I tell them without waiving my rights?

Yes, you should tell the police officer this and in this case the officer should engage an interpreter [*Section 21 of the [Act on General Public Administration Procedures](#), Section 67 of the [Act on Misdemeanors](#), Section 78 of the [Act of Criminal Procedure](#)*].

## If I did not do anything, can they stop me?

Yes. The police officers' actions must always have a legitimate purpose, but they may stop you for various reasons even if you have not done anything wrong. For example, they might be looking for a suspect who resembles you, requesting information about a recent crime or misdemeanor nearby, conducting traffic checks, ensuring that you are legally situated in Hungary or performing other measures for the purpose of public security or crime prevention [*Section 29 (1) of the [Act on the Police](#)*].

# When can police search you and your surroundings?

## Proposed Information

It is important to follow this advice:

If your belonging may serve as evidence for a procedure concerning a crime, a misdemeanor or an administrative infringement, the police may search you and your surroundings.

## What if a police officer wants to search my phone?

If the police officers want to search your phone and you don't cooperate, they might lawfully take it. However, such immediate measure is lawful under certain conditions, most

importantly: if taking the phone immediately is essential to investigate a breach of law or if the police officers reasonably think that the phone is stolen [*Section 29/B (1) of the [Act on the Police](#)*]. During a police measure, the legality of a police measure should not be questioned, unless you are absolutely sure that the police are doing something illegal (you are sure "beyond reasonable doubt") [*Section 19 of the [Act on the Police](#)*]. If the police takes your phone, you should make sure that you get an acknowledgement of receipt from the police [*Section 29/B (1) of the [Act on the Police](#)*].

### **What if a police officer asks me for my password to my phone?**

If the data on the phone may relate to a potential crime and the police need to access data on your phone (and they have a legal reason to do so), they can order you to provide them with access to your phone. If you refuse to do so but the phone relates to a criminal procedure, you might be fined, unless you are a suspect of the relevant crime, or you have the right to lawfully reject providing a testimony or you cannot be heard as a witness.

If you refuse to provide the police with access to your phone, the police might access your phone anyway by engaging technical experts. [*Section 312 of the [Act on Criminal Procedure](#)*].

### **What if they tell me to give them my password or other access to my phone?**

See point 2.b. above.

### **Do I have to give them my device password if they demand it from me if I am not under arrest? What if they just ask for it?**

See point 2.b. above.

### **What tools can the police use to search me? What technology? (Facial recognition, hidden cameras, finger print searches, etc.)**

#### **Searches**

The police may inspect your cloth, luggage and/or vehicle if the police suspects that it may hold physical evidence in relation to a potential misdemeanor or a crime. In case of potential crimes, the police might also inspect your body [*Section 74 of the [Act on Misdemeanors](#); Sections 302 and 306 of the [Act on Criminal Procedure](#)*].

The police may also

- search your luggage and/or vehicle where such measure is necessary to look for the perpetrator of a crime or to prevent or stop an event endangering public safety [*Section 30 (1)-(2) of the [Act on the Police](#)*]; and
- search your clothes to prevent or stop unlawful acts that endanger the safety of the event, traffic or the public space determined by the head of the police [*Section 30 (3) of the [Act on the Police](#)*];
- search your clothes to check whether you are not bringing, into an event or a private place, any material or equipment that may pose threat to public safety or that is prohibited at the event or in the private place [*Section 30 (3) of the [Act on the Police](#)*]; and
- search the clothes of someone already arrested to seize a potential physical evidence [*Section 31 (3) of the [Act on the Police](#)*].

#### **Identification**

If you refuse to identify yourself to the police officers, they may take your fingerprints, take a photo of you and/or record your external physical characteristics by observation and

measurement. The police may also analyze the photo of you with an automated face-analyzing system [Section 29 (4) and 29 (4a) of the [Act on the Police](#)].

### Cameras and sound recorders

In connection with police action or the duty performed, the police may record images, audio and/or video recordings of the person concerned by the action, their surroundings, and/or of circumstances or objects relevant to the police action. The police may also place a video recorder and make recordings in a public place where it is necessary for public security, crime prevention or law enforcement purposes, in a manner that the video recorder is clearly visible to any person [Section 42 (1)-(2) of the [Act on the Police](#)].

### Can the police search my backpack or another item I am carrying?

Yes (see more details under point 2.e. above).

### Can the police take my picture or record me?

Yes (see more details in 2.e. above).

### Can the police ask me where I am going and why?

Yes. You should cooperate with the officer, unless they ask questions to which your answers might incriminate you (see more details under points 1.a.-b. above).

## Reasons the police may detain or arrest you

### Proposed Information

It is important to follow this advice:

- There are different forms in which the police may be entitled to temporarily limit your personal freedom (i.e. to take and keep you in their custody). The main forms of these are: **capture and production** ("elfogás" és "előállítás") for maximum 12 hours (8 + 4 hours extension); **detention / custody** ("őrizet") for maximum 24 hours; and **arrest** ("letartóztatás") the length of which depends on a judge's decision, but before formal accusation, its duration may be maximum 1 month, and the judge decides on its extension later on).
- The police officer shall **capture** ("elfogás") and bring you before an authority for further action (**production** – "előállítás") if:
  - you have been caught committing an intentional crime;
  - an arrest warrant ("elfogatóparancs") has been issued against you;
  - your custody ("őrizet") or arrest ("letartóztatás") has been ordered;
  - you escaped during or withdrew yourself from the execution of custody, arrest, imprisonment or confinement ("elzárás");
  - your production ("előállítás") is ordered (you have to appear before an authority for further action);
  - you are illegally staying in the territory of the country;
  - you are required to be detained in prison.

(Section 33(1) of the Act on Police)



- The police officer may bring you before a competent authority (**production** – "előállítás") if:
  - you, when ordered by the police officer, are unable to credibly identify yourself or refuse to do so;
  - you are suspected of committing a crime;
  - a urine sample or blood sample for a blood alcohol test, etc. is required from you;
  - you withdrew from parental supervision / guardianship;
  - you violated the rules of probation supervision ("pártfogó felügyelet");
  - you continue to engage in an act of minor offence ("szabálysértés") even after being asked to stop;
  - material evidence must be obtained or an item subject to confiscation must be withheld from you.

(Section 33(2) of the Act on Police)

- The police may, in the event of a well-founded suspicion of a crime punishable by imprisonment, order your **detention / custody** ("őrizet") if you are reasonably suspected of having committed the crime, and e.g.
  - you have been caught in the act, but your identity cannot be established, or
  - if it is probable that your arrest will be ordered by the court.

(Section 274(2) of the Act on Criminal Proceedings)

- Your **arrest** ("letartóztatás") may be ordered by the court, in proceedings for a criminal offence punishable by imprisonment, if you are reasonably suspected of having committed a criminal offence or charges have been brought against you, and this is unavoidably necessary in order to
  - prevent you from escaping or hiding from the authorities,
  - prevent you from making heavier or circumventing the evidentiary process by intimidating or unlawfully influencing any person, or destroying, falsifying or concealing any evidence, or
  - prevent you from repeating a criminal act, either by performing or carrying on with the underlying crime, or committing a new one.

(Sections 276 and 277(4) of the Act on Criminal Proceedings)

- Most of the times police should have an official order or warrant for capture / arrest (except for being caught in the act etc.). You should be clear on what kind of order / warrant is being presented to you if that is the case.
- You should review any paper from police/warrant carefully, to ensure you understand what exactly is covered.
- If arrested, you may be charged with a felony for a more serious intentional crime (punishable by more than 2 years imprisonment), a misdemeanor for a less serious crime (punishable up to 2 years imprisonment or by other sanctions) or a minor offence ("szabálysértés").
- If the police arrest you, they also have the right to search you. Anything found during this search may be used as evidence against you. (See also point 2. e) above.)

## **What if I did not do anything illegal, must I speak with the police and answer questions?**

See point 1. a)

## **What if the police tell me something they are investigating that is wrong? Must I correct them?**

You do not have to correct the police if they tell you something wrong about their investigation. \* Article 6 (3) of the European Convention on Human Rights (ECHR)

You have the right to remain silent and the right against self-incrimination, so you can choose not to answer any questions without fear of legal consequences. (See point 1. a) above)

Always consider consulting a lawyer before making any statements, especially if the police seem to be investigating something incorrectly. (Sections 3(2), 57(2) point g) and 58(3) of the Act on Criminal Proceedings)

You should avoid providing false or misleading information, especially to make false accusation or false testimony, as these could lead to serious legal consequences. (False accusation - Sections 268-270; Providing misleading information to authorities – Section 271; False testimony – Sections 272-275 of Act on the Criminal Code)

In short, while it may feel tempting to correct a misunderstanding, your best course of action is often to remain silent and consult with lawyer before making any decisions or statements.

## **What if an officer just begins speaking to me, but does not order me to do anything?**

If a police officer is simply speaking to you without issuing a formal order, you are not legally obligated to respond or comply unless they are lawfully exercising their authority (e.g., asking for identification).

You have the right to remain silent and are free to leave unless the officer is formally detaining you.

Always ask if you are free to go if you're uncertain about whether you're being detained. (Also see point 1. a) above).

If a situation escalates into a formal investigation, you have the right to legal representation before answering any questions. (Sections 3(2), 57(2) point g) and 58(3) of the Act on Criminal Proceedings)

In informal situations, feel free to remain silent or disengage politely if you prefer. You can ask the police to explain why they have stopped you and if you do ask them this they are required to provide you with a reason.

Everyone is obliged to submit to police measures taken to enforce legal provisions and to obey the police officer's instructions. The legality of a police measure cannot be questioned, unless the illegality can be established without consideration and beyond doubt. In the event of resistance to the lawful action of the police, they can apply certain measures and coercive means. (Sections 19(1) and (2) of the Act on Police)

The police officer is identified during the action either by his/her uniform and the identification badge placed on it, or by his/her service card and identification badge. The police officer shall state his/her name, identification number, and the fact and purpose of his/her measure, as well as present his/her service card or identification badge, generally before commencing the measure, but at the latest upon its completion (if preliminary disclosure would jeopardise the effectiveness of the police measure). If you experience any conduct during the police officer's measure that you assume might be deemed as unlawful, always ask for such information disclosure by the acting officers, and record their names, identification number, and the details of their measures. After applying the measures, the police officer shall inform



you about the possibility of a complaint against the applied measures, and the deadline for submitting such a complaint. (Sections 20(1)-(4) of the Act on Police)

In order to stay safe, it might be a good idea to listen to what the police say and not behave in a way that looks like you are resisting arrest or disobeying any instructions they give you, even if you think they are wrong or acting against the law. Later, you can file a complaint.

In general, you are not allowed to take pictures or videos of police officers without their approval. However, exceptionally, when acting in their official capacity and performing official measures (exercising official power) against you, it might be acceptable to make such records of the police officers in order to prove that they have acted unlawfully (against the law). However, it is advisable to make any such recording only in those extraordinary cases in which it is obvious that the officers are clearly acting in violation of the applicable rules, e.g. they apply unjustified coercion, physical abuse, threaten or force you to make a statement, use disparaging phrasing, etc.

### **What is the legal difference between talking to the police if they do not tell me I am under arrest versus after they inform me that I am under arrest?**

**Before you are under arrest**, you are generally free to leave, and while you have the right to remain silent, any information you provide is voluntary. You are not under obligation to speak, but anything you say can still be used later if the situation escalates. However, if you cannot identify yourself, or reject to do so, this could result in you being captured by the police officers and produced for identification purpose (see point 1. a) above as well).

**After you are informed that you are under arrest**, your legal status changes, and you are officially detained as a suspect. You have the **absolute right to remain silent** and **the right to legal representation**. Anything you say after arrest can be used as evidence against you in court, and it's highly advisable to wait until you've consulted with a lawyer before making any statements.

In both cases, the best course of action is to exercise your right to remain silent and consult with a lawyer to protect your rights.

(Sections 3(2), 57(2) point g) and 58(3) of the Act on Criminal Proceedings)

## **The difference between police TELLING me what to do and asking me to do something.**

### **What is the difference between the police deciding to search me or my belongings (phone, person, backpack, etc.) and me agreeing to the search?**

When identifying you, the police may search your clothes and vehicle if it is necessary to establish your identity, to prevent a threat to public order or public safety, or in case of a suspected crime or violation. (Section 29(6) of the Act on Police)

In order to prevent and deter illegal acts that endanger the safety of an event, traffic, or the public order, the police may search your clothing and vehicle if you enter and stay in a specific area, and may seize materials and devices that pose a threat to public safety, or prohibit their entry into the event or venue. (Section 30(3) of the Act on Police)

If the police restricts your personal freedom (e.g. captures you, take you into custody or arrest you), the police officers may search your clothing in order to seize any item that may be seized as evidence, used for assault or self-harm, or that is in unauthorized possession, after your prior warning. The clothing search may be carried out – except in cases of urgency – by a person of the same sex as you, and such a measure may not be carried out in a manner that is indecent. (Section 31 of the Act on Police)

Your body may also be searched for the purpose of finding any of the above items. However, the examination of body cavities may only be carried out by a doctor, and a healthcare

worker may also be present during the examination. Further, in general, an adult person present at the scene of the examination and designated by you may also be present during your search. With the exception of the doctor carrying out the examination of body cavities, the assisting healthcare worker, and the adult person designated by you, only persons of the same sex as yourself may be present during your search. (Sections 306-307 of the Act on Criminal Proceedings)

Everyone is obliged to submit to the search and refrain from obstructing it. The police may enforce this by physical force, and even (with the exception of the accused and the person reasonably suspected of having committed a crime) by disciplinary action. (Sections 127-129 of the Act on Criminal Proceedings).

### **What is the difference between the police telling me to give them information versus them asking and me providing answers voluntarily?**

During the performance of his duties, a police officer may ask questions or request information from you, if it can be reasonably assumed that you may make a statement that is necessary for the performance of police duties. You as a questioned person may be detained for the duration of the request for information. If the police officer asks you for information, you cannot refuse to answer the facts and data known to you.

Although cooperation should not be rejected, but you should always refrain from giving extra details without being asked. Further, you are entitled to reject replying to questions to which the answers might incriminate you. (See point 1. a) above)

## **Do police need a warrant to arrest you?**

### **Proposed Information**

It is important to follow this advice:

- No. Police officers can legally arrest you without a warrant in several circumstances:
  - When the crime is committed in front of the police officers; or
  - When the officer has probable cause (reason to suspect) that the suspect committed a felony, whether or not the act was done in front of them.

### **If I did not do anything, can they stop me?**

As a general rule, the police can take you into "short-term custody" ("előállítás") for up to 12 hours (8 + 4 extended) in order to find out your identity. No warrant is needed, since this does not count as arresting or detaining. (Section 33(3) of the Act on Police)

### **Can I ask for the reason they stopped me?**

Yes, and they are required to respond. You should also be informed of your arrest if you are taken into "short-term custody" (előállítás), which can take place if you are caught in the act of committing a crime.

You have the right to be informed about the nature of the accusations against you, and to be given a brief summary of the crime of which you are accused. You should, in particular, be informed which parts of the Hungarian Criminal Code you are suspected of having violated. Also, you must be given a certification on the duration of your "short-term custody". (Section 33(4) of the Act on Police)

### **Can I advocate for another young person stopped by police if we are stopped together?**

In order to stay safe, it might be a good idea to listen to what the police say and not behave in a way that looks like you are resisting arrest or disobeying any instructions they give you, even if you think they are wrong or acting against the law. If you are not a legal

representative of the minor, then you cannot advocate but still, it might be useful to provide common sense advice and reassurance.

### **If I think the stop is unjustified, what can I do?**

In order to stay safe, it might be a good idea to listen to what the police say and not behave in a way that looks like you are resisting arrest or disobeying any instructions they give you, even if you think they are wrong or acting against the law. Later, you can file a complaint. (Sections 20(1)-(4) of the Act on Police)

In general, you are not allowed to take pictures or videos of police officers without their approval. However, exceptionally, when acting in their official capacity and performing official measures (exercising official power) against you, it might be acceptable to make such records of the police officers in order to prove that they have acted unlawfully (against the law). However, it is advisable to make any such recording only in those extraordinary cases in which it is obvious that the officers are clearly acting in violation of the applicable rules, e.g. they apply unjustified coercion, physical abuse, threaten or force you to make a statement, use disparaging phrasing, etc.

### **Can I get the officer's identifying information for a future complaint?**

Yes, right after they stop you, they should identify themselves by giving you their name, badge number, ranking and any other relevant information. (Section 20 of the Act on Police)

If they do not do it, or if you feel they are not following any rules, you should file a complaint at the nearest police station within 30 days from the underlying measure, or to the office of the commissioner of fundamental rights (ombudsperson), within 1 year. (Sections 92 and 93/B of the Act on Police; and Sections 39/F-39/L of the Act on the Commissioner for Fundamental Rights)

The police officer is also required by the law to inform you about the possibility to file complaint and the deadline to file a complaint against anything he does. (Section 20(2) of the Act on Police)

## **How do you know if you are under arrest?**

### **Proposed Information**

It is important to follow this advice:

- You are under police custody if you do not feel free to leave an officer's presence, or if a reasonable person in your shoes would not feel free to leave.
- If the following happens, you are likely under arrest under the law:
  - an officer handcuffs you;
  - an officer forcibly holds you down;
  - an officer forcibly puts you into the back seat of a police car; or
  - you are in long-time investigation with lodging.

(Sections 47-48 of the Act on Police)

- An officer only has to warn you of your rights before the police question you. This means an officer can arrest you before warning you of your rights.
- An arrest without rights warnings is still a valid arrest; it just may mean that evidence collected from it will be inadmissible in court later.

### **What if I do not know if I am under arrest?**

If you are not sure whether you are arrested or not, you should politely ask. All arrests require a warrant. (Section 276 of the Act on the Criminal Procedure)

However, police officers can legally take (keep) you in "custody" ("örizet") without a warrant, if you committed a crime in front of them, or it is probable that your arrest will be ordered by the court until you are put on trial. (Section 274(2) of the Act on Criminal Proceedings)

An officer only has to warn you of your rights before they question you. This means an officer can arrest you before warning you of your rights. If you are not told about your rights (including before being questioned) the arrest is still a valid arrest - it just means that evidence that the police got during the arrest and questioning may not be used in court. (Section 185 of Act on Criminal Proceedings)

### **What is the difference between detention and arrest?**

Detention is ordered by the court or the investigative authorities. You can be held in custody for up to 72 hours. (Sections 274-275 of the Act on the Criminal Proceedings)

Arrest can be ordered only by the court, and its duration may depend on the judge's decision. When ordering the arrest before formal accusation, its duration may not exceed 1 month, and later on the judge decides on its extension. Until 1 year from its ordering, the duration of the arrest may be extended by a three-months period per each occasion, while after 1 year, by a two-months period per each occasion. Generally, depending on the gravity of the crime, the maximum duration of the arrest may vary between 1 to 5 years (and this latter upper limit may be extended by another 1 year in case of certain factors). (Sections 296-300 of the Act on Criminal Proceedings)

*For detailed discussion see:*

[https://www.researchgate.net/publication/367471635\\_DETENTION\\_IN\\_THE\\_CRIMINAL\\_PROCEDURE\\_LEGISLATION\\_OF\\_HUNGARY](https://www.researchgate.net/publication/367471635_DETENTION_IN_THE_CRIMINAL_PROCEDURE_LEGISLATION_OF_HUNGARY)

### **If I am handcuffed, am I arrested?**

No, being handcuffed does not automatically mean that you are arrested or are being detained. The police can also handcuff you if you may hurt yourself or others, run away, etc. (Section 48 of the Act on the Police and Section 41 of the Order of the Ministry of Internal Affairs no. 30/2011. (IX. 22.) BM on Police Service Regulations)

### **If my liberty is restricted, am I under arrest?**

This does not always mean that you have been arrested, it can also mean that you are being detained. If you are younger than 14 years old, and you are stopped by the police during a school day, they can take you back to school if you are skipping classes without permission (from your parents/teachers). (Section 34/A of the Act on Police)

### **What's the difference between a police officer just talking to me versus collecting official information?**

You can ask the police officer why you are being asked and to identify himself/herself. If the officer answers properly, you should cooperate with him/her, unless he/she asks you questions to which your answers might incriminate you (see more details under points 1.a.-b. above). If you refuse to answer without a legitimate reason, the police might even bring you before a competent authority.

You are always required to identify yourself at a police officer's lawful request (Section 29 (2) of the Act on Police) and comply with police officers' lawful measures and requests (Section 19 of the Act on Police). If the police cannot properly identify you, they may take your fingerprints, take a photo of you and/or record your external physical characteristics by observation and measurement (Section 29 (4) of the Act on Police). Furthermore, in such a

case, the police might even bring you before a competent authority. The police may also take this measure – or similar ones – in other cases, e.g., if they suspect that you have committed a crime.

Furthermore, police officers are entitled to ask questions from anyone who may have information relevant to the police officers' duty. If a police officer asks you such questions, you cannot refuse to answer them, unless there is a special circumstance (e.g., the answer might incriminate you as explained below). For the time of such questioning, police officers may detain you (Section 32 of the Act on Police).

If the police questions you as a suspect of a potential crime or misdemeanor, you cannot be obligated to give a self-incriminating testimony or to provide evidence against yourself (Section 7(3) of the Act on Criminal Proceedings and Section 33 of the Act on Minor Offences). Therefore, the police cannot arrest you only for refusing to give answers that might incriminate you. Naturally, there might be other reasons for which an arrest may be lawful (e.g., the police caught you doing something illegal or the police suspect that you did so).

## What to do after being warned of your rights

### Proposed Information

It is important to follow this advice:

- You can use your right to remain silent or any of your other rights (e.g., the right to an attorney) by saying that you want to use that right. For clarity, to use right to remain silent, you don't have to tell to do.
- You are also able to waive your rights (that is, not use them) by, for example, saying 'Yes, I understand my rights but I am ready to talk to you'. This is not a good idea without a lawyer's advice.
- Make sure you know what you're doing in giving up your rights.

### How do things change if I am read my rights by the police?

Once the policeman read you your rights, the situation becomes formal, and you are being treated as a suspect.

Key changes:

- The police believe you may be involved in a crime and are questioning you as a suspect.
- Anything you say can be used as evidence against you, so it's crucial to be careful. It is advisable to remain silent and not answer any questions without first consulting with a lawyer. You should immediately request a lawyer to protect your rights and guide you through the questioning process.

At this point, it's almost always in your best interest to remain silent and consult with your lawyer before continuing to interact with the police. This ensures that your rights are protected, and you avoid making any statements that could later be used against you.

As a minor (younger than 18 years old) you must be treated with special treatment in the criminal proceedings. This means, among other things, that you – either as a suspect, a victim or a witness – shall be allowed to contact a "supporter". (Sections 82 point a) and 85(1) point e) of the Act on Criminal Proceedings) If you are a suspect in the case, you are entitled for the assistance of a "supporter" in addition to your basic right for defense (an attorney).

A "supporter" could be your legal representative (your parent), an adult relative, your legal guardian, caretaker, authorized representative, the adult you have asked for, a lawyer acting on behalf of a witness, etc. (Section 59 of the Act on Criminal Proceedings)

Further, if you, as the suspect or the victim, are a minor, the court/prosecutor/investigating authority must treat you in accordance with the requirement of special treatment, and must take into account your personality and maturity, your background (social, family and financial) and any specific vulnerabilities (including disabilities) you may have. (Section 81 of the Act on Criminal Proceedings)

**Does it matter where I am when the police read me my rights? (street, station, police car, etc.)**

No, in principle it does not matter. The focus is on ensuring that individuals, especially minors, understand their rights when they come into contact with law enforcement. The specific location is typically less critical than the manner in which the rights are communicated. The key is that you must understand your rights, which might require additional consideration of your age, maturity, and the environment to ensure comprehension.

This can happen on the street, at the police station, in a police car, or any other location where the police interact with the child. However, the context and environment might impact the child's comprehension and comfort. In practice, ensuring a calm and less intimidating environment can help in ensuring that the child fully understands their rights.

**How do things change if I am read my rights by police?**

See point 7. a.

## Police questioning you

### Proposed Information

It is important to follow this advice:

- In case the police conducts an "identity check", you must identify yourself by presenting a valid identification card (for e.g. your ID, passport or driving license);
- You are not required to make a statement or answer police questions, and unless the police arrests you, you never have to go anywhere with them.
- If police has arrested you and if you are under the age of 18, police must notify your legal guardian (parent, caretaker or other legal guardian) immediately.

**Am I required to make a statement?**

No, you are not required to make any statement besides identifying yourself (Section 29 (2) of the [Act on Police](#)).

Before the police question you, you must be informed of your rights (Section 185 of the [Act on the Criminal Procedure](#)), including your right to remain silent. There must be no negative consequences of your silence during the criminal proceedings, however, any statement you make may be used against you (Section 185 (1) c) of the [Act on the Criminal Procedure](#)). Therefore, you should seek your lawyer's advice before talking to the police or making any statement.

<https://www.fairtrials.org/app/uploads/2022/01/Criminal-Proceedings-and-Defence-Rights-in-Hungary.pdf>



## Must police notify my guardian?

Only in case if police have arrested you and if you are under the age of 18. In such case, they must immediately notify your parents, caretakers or legal guardians. [Section 18 (1) of the [Act on the Police](#)]

## Must I confess?

You have the right to remain silent. You are not required to confess to a crime and you are not required to make any statement either. [Section 185 of the [Act on the Criminal Proceedings](#)]

## What adults can I ask to be with me?

As a minor (younger than 18 years old) you must be treated with special treatment according to the Criminal Procedure Act. [Section 81 (2) a) of the [Act on the Criminal Proceedings](#)]. This means, among other things, that you have the right to ask for a "supporter" to be present.

A "supporter" could be your legal representative, an adult relative, your legal guardian, or other adult you have asked for. [Section 59 of the Act on the Criminal Proceedings]

Furthermore, in case the police arrest you, you have the opportunity to request notification of a relative or any other person.

## Who do the police have to contact if I am a legal minor?

Police must notify your legal guardian (parent, caretaker or other legal guardian) according to Section 18 (1) of the [Act on the Police](#).

# How do I contact a lawyer and when?

## Proposed Information

It is important to follow this advice:

- **You should always contact a lawyer before making any statements to police or anyone else in a criminal case or investigation.**
- This applies even if you are told that (i) police officers only want to question you and/or (ii) you are only a witness.
- The authorities must involve a lawyer in the criminal proceedings if you are a minor (under 18 years old) (Section 682 (1) of the [Act on the Criminal Proceedings](#)). If you cannot afford your own lawyer, the court will appoint a lawyer for you (Section 46 (1) of the [Act on the Criminal Proceedings](#)). While this may take some time, you should still ask for a lawyer as soon as you are questioned or arrested by the police. If you are arrested, you have the right to remain silent. In addition, you have the right to appoint a lawyer and to consult with him/her without any officials being present (Section 39 (1) of the [Act on the Criminal Proceedings](#)).

## What if I am just a witness?

Even if you are a witness, you still have the right to appoint a lawyer (Section 168 (4) of the [Act on the Criminal Proceedings](#)). You should always contact a lawyer before making any statements to the police or anyone in a criminal case or investigation, even if you are told that police officers only want to question you and/or you are only a witness.

As a witness, you are obliged under law to tell the truth and can only deny making a witness statement if you are a relative of the defendant (Section 171 of the [Act on the Criminal Proceedings](#)) and can only deny giving an answer to a questions during your witness

questioning if you would accuse yourself or a relative of committing a crime (Section 171 of the [Act on the Criminal Proceedings](#)). You must not accuse anyone falsely of any crime (Section 272 of Act C on the [Criminal Code](#)).

### When do you contact a lawyer?

You should contact a lawyer immediately if you get in contact with the authorities in relation to any criminal case.

You can get in touch with the national or local bar associations, in case they can help you identify a suitable attorney. Both the Hungarian Bar Association and the Budapest Bar Association have online directories of local attorneys at laws.

If you are not a Hungarian citizen, your embassy or consulate may also be able to help you find a local lawyer who speaks your language.

You can also request the authority appoint an attorney for you anytime (even if you are not a minor) (Sections 44 (f) and 46 (1) of the [Act on the Criminal Proceedings](#)).

<https://www.fairtrials.org/app/uploads/2022/01/Criminal-Proceedings-and-Defence-Rights-in-Hungary.pdf>

## Do the police always have to tell the truth?

### Proposed Information

It is important to follow this advice:

- No. Although a confession obtained through a lie by police may not be admissible as evidence at trial pursuant to certain court precedents, the police may lie to you during the course of an investigation, including lying about the strength of the case they have against you and particular evidence they have in their possession.
- Sometimes police will lie to try and get you to talk more.
- **The police are not allowed to ask you questions that contain false facts (lies).**

### Can the police lie to me?

Yes, they can lie to you but they are not allowed to ask you a question using a false fact. [Sections 180 (4) c) and 186 (3) c) of the [Act on the Criminal Procedure](#)]

### Do I have to tell the police the truth?

In case you are a defendant, you are not obliged to tell the truth. However, you cannot r falsely accuse another person of committing a crime. You also cannot damage someone's reputation or good name with your false testimony (meaning, false answers). [Section 185 of the Act on the [Criminal Procedure](#)].

You can also choose to remain silent and not answer any questions or make a statement.

However, if you are questioned as a witness, you are obliged to tell the truth, except if you would accuse yourself or a relative of committing a crime (Section 171 of the [Act on the Criminal Proceedings](#)). You can also deny making a witness statement if you are a relative of the defendant (Section 171 of the [Act on the Criminal Proceedings](#)).

<https://www.fairtrials.org/app/uploads/2022/01/Criminal-Proceedings-and-Defence-Rights-in-Hungary.pdf>

## Am I allowed to question the information that the police officer tells me?

You should cooperate with the police during their procedure (Section 19 of the Act on Police). However, if you have concerns about the information that the police officer tells you, you should make a complaint at the nearest police station or the commissioner of fundamental rights (ombudsperson) (Section 92 of the [Act on the Police](#)).

## How do I make a complaint if I have questions or feel my rights have been violated?

### Proposed Information

It is important to follow this advice:

You may make a complaint at the nearest police station or the commissioner of fundamental rights (ombudsperson) (Section 92 of the [Act on the Police](#)).

#### 3 Different Ways to Make a Complaint - Verbal, Written, Online

- (1) Verbal: Go to the nearest police station, or make an appointment at the commissioner of fundamental rights (ombudsperson) through their website (<https://www.ajbh.hu/en/web/ajbh-en/making-an-appointment1>) and ask to file a complaint;
- (2) Written: You may send a letter with your complaint either to the address of the Inspection Branch of the nearest police station (addresses are available here <http://www.police.hu/hu/ugyintezes/szerv/orszagos-rendor-fokapitanysag>), or to the commissioner of fundamental rights (ombudsperson) (address: <https://www.ajbh.hu/en/web/ajbh-en/contacts>);
- (3) Online: Form no. RK-0101 needs to be filled out through the police website, choosing the subcategories (<https://ugyintezes.police.hu/en/uj-ugy-inditasa>). This process requires a Hungarian Customer Gateway (in Hungarian: "Ügyfélkapu") account and a digital signature, or the online complaint can also be submitted via the website of the commissioner of fundamental rights (ombudsperson) without an online account or digital identification (<https://www.ajbh.hu/en/web/ajbh-en/lodge-a-complaint>). For a general step-by-step guide filing a complaint through the website of the police see also: <https://ugyintezes.police.hu/en/home>)

If you hire a lawyer, they can also file a complaint on your behalf as your legal representative.

## What do I do if I think I've been treated unfairly?

### Proposed Information

It is important to follow this advice:

You should file a complaint at the nearest police station or the commissioner of fundamental rights (ombudsperson) (Section 92 of the [Act on the Police](#)).

## What if I feel I was a victim of discrimination or racism?

### Proposed Information

It is important to follow this advice:

You should file a complaint at the nearest police station or the commissioner of fundamental rights (ombudsperson) (Section 92 of the [Act on the Police](#)).

## What should I say or do so I don't unintentionally make my situation worse?

### Proposed Information

It is important to follow this advice:

You should avoid any direct confrontation or making any statements that may qualify as falsely accusing another person of committing a crime and/or damaging someone's reputation or good name. You should immediately seek legal remedy and file a complaint as soon as possible at the nearest police station or the commissioner of fundamental rights (ombudsperson) (Section 92 of the [Act on the Police](#)).

## How can I respond to circumstances involving discrimination?

### Proposed Information

It is important to follow this advice:

You should file a complaint at the nearest police station or the commissioner of fundamental rights (ombudsperson) (Section 92 of the [Act on the Police](#)).

You can file a specific complaint at the Directorate General for Equal Treatment of the commissioner of fundamental rights (ombudsperson) (Section 13 of Act CXXV of 2003 on [Equal Treatment and the Promotion of Equal Opportunities](#)), by addressing your complaint directly to such directorate general. The steps of filing such complaint are the same as detailed in questions 11.a above.

## What can you do if the police perform an improper search? Or I was improperly detained?

### Proposed Information

It is important to follow this advice:

You should file a complaint at the nearest police station or the commissioner of fundamental rights (ombudsperson) (Section 92 of the [Act on the Police](#)).

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Law is generally described as of April 2025.

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