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# Claiming damages from the offender

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## How can I claim damages or other means of redress/satisfaction from an offender in a trial (criminal proceedings), and who should I address this claim to?

The applicant's claim for compensation may be included in the criminal proceedings at the courts. In this case, the judge may choose to consider the claim or decline to do so. This may depend on whether or not the perpetrator disputes the claim, as well as on whether there is documentation for the claim, including for its size.

The claim must be made in court in respect of the offender either in writing or orally, so that the offender has the opportunity to respond to the claim. This can be done by personal attendance during the trial or by means of a representative (typically a lawyer ad litem).

The claim can also be submitted to the police, which then includes the claim in any court proceedings.

Although the claim has been dealt with by the courts during the criminal proceedings, the applicant can still submit the application to the Danish Criminal Injuries Compensation Board. This is particularly relevant in cases where the offender does not pay compensation under the judgment.

## At which point in the criminal proceedings should I present a claim?

Compensation claims can be submitted as early as at the first interview with the police and should be submitted no later than when the main hearing in court takes place.

## What can I ask for in the claim and how should I present it (indicate a total amount and/or specify the individual losses, lost profits and interests)?

If you have suffered a loss for which the offender is responsible, you can claim compensation for this loss. The Danish Liability and Compensation Act contains, among other things, various items that a claimant may claim compensation for.

These items include:

- Costs for treatment
- Lost earnings
- Pain and suffering
- Permanent injury
- Loss of earning capacity
- Loss of principal earner
- Funeral expenses
- Tort
- Gross violation

- Damage to property
- Pecuniary loss

## Is there a specific form for such claims?

The application form provided by the Danish Criminal Injuries Compensation Board can be used. The Board recommends that you as the applicant use the form, but this is not a requirement.

## What evidence do I need to present to support my claim?

This depends on what you are applying for compensation for. The loss should be plausible, and for some items there is a requirement for actual documentation regarding the size of the loss.

Documentation may, for example, consist of receipts for expenses incurred in connection with the criminal offence. In addition, medical records and medical reports are often used in relation to determining the extent of an injury. With regard to loss of earnings and loss of earning capacity, the applicant should submit documentation regarding his/her earnings, for both before and after the injury, in the form of payslips, annual accounts and, if applicable, a declaration from his/her employer.

If the court finds that the claim is not adequately documented, and the defender challenges payment of the compensation, the claimant runs the risk that the court will not include the claim for damages in the criminal proceedings.

## Are there courts fees or other costs linked to my claim?

No. If the claim is made in connection with the criminal case, there are no costs connected to this for the claimant.

## Can I get legal aid before and/or during the proceedings? Can I get it if I'm not living in the country where the proceedings take place?

Yes. As the claimant, you have the option, under certain conditions, of having the court appoint a lawyer ad litem for you at no expense to you.

## When would the criminal court dismiss or refuse to adjudicate on my claim against the offender?

The court may at any time during the criminal proceedings refuse to pursue a civil claim if it finds that consideration of it during the criminal proceedings cannot take place without significant inconvenience.

If the court finds that the information in support of the claim is incomplete or that the conviction or acquittal that takes place concerning the criminal offence will not result in a decision that supports the claim, the claim will not be taken into consideration.

## Can I appeal against such a decision or seek other means of redress/satisfaction?

The court's decision not to include the claim for damages during the criminal proceedings cannot be appealed or complained against.

Instead, the claimant must raise the compensation claim in a civil action or submit it to the Danish Criminal Injuries Compensation Board.

## If I am awarded damages by the court, how do I ensure the judgment is enforced against the offender and what help can I get to ensure this?

You can initially contact the offender, who may pay you immediately. By doing so, you will be able to receive your compensation quickly and have the case settled.

If the offender will not pay voluntarily, or there are more compensation claims that require longer proceedings, you can submit your claims to the Danish Criminal Injuries Compensation Board.

To be clear, it should be stated that it is not a condition that you have first attempted to recover your claim from the offender before submitting an application to the Danish Criminal Injuries Compensation Board.

The Danish Criminal Injuries Compensation Board will subsequently bring a 'recourse claim' against the perpetrator.

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■ Last update: 05/05/2022

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