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If my claim is to be considered in this country

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Luxembourg

Which type of crime can I get compensation for?

Compensation can be obtained for any type of crime that has caused physical injury or moral damage as a result of intentional acts that constitute either the *actus reus* of a crime or the crime of indecent assault or rape laid down by Articles 372 to 376 of the Criminal Code.

Which type of injury can I get compensation for?

- physical injury/economic loss;
- moral damage.

Can I get compensation if I'm a relative or dependant of a victim who has died as a result of a crime? Which relatives or dependants can get compensation?

A relative or dependant of a victim who has died as a result of intentional acts that constitute a crime and caused physical injury leading to the victim's death and seriously affect their quality of life (mental suffering due to the loss of a loved one) can submit a claim for compensation to the Minister for Justice where effective and adequate compensation has not been obtained. Family members, spouses, unmarried partners, civil partners or people who are particularly close to the victim can obtain compensation, provided that they have suffered reparable harm. In principle, the degree of relationship is irrelevant as only the emotional and material life shared with the direct victim is taken into account. In practice, only family members, in particular the nuclear family, are regarded as indirect victims. The nuclear family is a family comprising two adults, whether or not married, with or without children.

Can I get compensation if I'm a relative or dependant of a victim who has survived? Which relatives or dependants can get compensation in this case?

A relative or dependant of a victim who has survived intentional acts that constitute a crime and caused physical injury leading to permanent disability or total incapacity for work for more than a month and seriously affect their quality of life can submit a claim for compensation to the Minister for Justice where effective and adequate compensation has not been obtained.

Can I get compensation if I'm not a national of an EU country?

Only people who are legally resident in Luxembourg or nationals of a Member State of the European Union or the Council of Europe and who were, at the time of the crime, lawfully present in Luxembourg or victims of human trafficking can claim compensation. Otherwise, no compensation can be granted.

Can I claim compensation from this country if I live here or am from here (this is country of my residence or nationality) even if the crime was committed in another EU country? Could I do this instead of claiming compensation in the country where the crime took place? If so under what conditions?

Anyone who legally and habitually resides in Luxembourg, but was the victim of a violent intentional crime in another Member State of the European Union, is entitled to claim compensation payable from the Luxembourg budget if they are not entitled to be compensated by the other State.

In accordance with the Law of 12 March 1984 on compensation for certain victims of physical injury, you must meet the following conditions:

- The victim must either legally and habitually reside in Luxembourg or be a national of a Member State of the European Union or the Council of Europe. In addition, at the time of the crime, the victim must be lawfully present in Luxembourg or be a victim of the crime referred to in Article 382-1 of the Criminal Code.
- The injury suffered must be the result of intentional acts that constitute a crime.
- There must be a physical injury and not just material damage (which excludes, for example, compensation for simple theft).
- The injury must seriously affect your quality of life, which may be due to a loss or reduction of earnings, increased costs or exceptional expenditure, inability to work, loss of a year of schooling, physical or mental harm, moral damage or disfigurement, or physical or mental suffering. If you are the victim of a crime referred to in Articles 372 to 376 of the Criminal Code, you do not have to prove physical or mental harm as this is presumed.
- Compensation is payable by the State only if you cannot obtain effective and adequate compensation in another way.

Do I have to have reported the crime to the police first, to be able to claim compensation?

No, the victim does not have to have reported the crime to the police to be able to claim compensation.

Do I have to await the outcome of any police investigations or criminal proceedings before I can claim?

No, the decision on the award of compensation can be made by the Minister for Justice before the criminal proceedings have been decided.

Do I have to first seek compensation from the offender – if they have been identified?

If the offender has been identified and you sue them for damages as a civil party in the criminal proceedings, you must await the outcome of that claim. If the offender is insolvent, you can then submit a claim for compensation to the Minister for Justice.

The Minister for Justice can order full or partial repayment of the compensation or advance that you have been paid subsequently as effective compensation or damages for the injury.

If the offender has not been identified or convicted, can I still qualify for compensation? If so, what evidence do I need to present to support my claim?

Offender not identified

If the offender has not been identified, you can apply for compensation by sending your claim to the Ministry of Justice. This claim must be written in French, German or Luxemburgish and must indicate the date, place and exact nature of the acts of which you were the victim. Supporting documents for the acts and injury that you have suffered must be enclosed with this letter, in support of your claim. In addition, you must meet the conditions laid down by Article 1 of the Law of 12 March 1984 on compensation for certain victims of physical injury resulting from crime.

Offender not convicted

In order for you to be entitled to compensation, the offender must have been found guilty by a judgment that has become final. The Minister for Justice can, based on an opinion issued by the Victims Commission (*Commission victime*), order full or partial repayment of the compensation or advance. The Minister can make the same decision where an advance has been paid and it subsequently emerges that compensation was not warranted.

Is there a time limit within which I have to claim compensation?

The claim must be submitted within two years of the date of the acts. If the offender is prosecuted, the time-limit is extended and expires two years after the final decision of the court hearing the criminal case. If, after a decision in the criminal proceedings has become final, you obtain a decision on your civil claim for damages, this deadline is extended and expires two years after the court decision on your claim for damages becomes final. However, if you are a minor, the limitation period does not start until the date on which you reach the age of majority if the acts are punishable by criminal penalties or provided for and punishable under Articles 372, 373, 375, 382-1 and 382-2, 400, 401*bis*, 402, 403 or 405 of the Criminal Code.

Which losses and expenses are covered by the compensation?

As an example, the compensation covers:

a) for the victim of the crime:

physical (non-psychological) injury:

- medical costs resulting from the injury (medical treatment - inpatient and outpatient care, recovery);
- additional needs or costs resulting from the injury (i.e. care and assistance, temporary and permanent treatment, prolonged physiotherapy, adaptation of housing, special equipment, etc.);
- permanent injuries (e.g. disability and other permanent handicaps);
- loss of earnings during and after the medical treatment (including loss of earnings and loss of earning capacity or reduction of benefits, etc.);
- loss of professional opportunities;
- expenses arising from legal proceedings connected with the event that caused the damage, such as legal fees and other costs;
- compensation for stolen or damaged personal property;

psychological (moral) injury:

- pain and suffering of the victim;

b) for beneficiaries or relatives of a victim:

physical (non-psychological) injury:

- funeral costs;
- medical costs (e.g. therapy for a family member, inpatient and outpatient care, rehabilitation);
- loss of benefits or professional opportunities;

psychological injury:

- pain and suffering of relatives or beneficiaries / compensation for survivors in the event of the victim's death.

Is the compensation paid out in a single payment or monthly instalments?

The compensation is paid as a lump sum and not in the form of an annuity. However, if the need arises in duly substantiated cases, the Minister for Justice can award an advance to the claimant while the claim is being examined. In addition, if compensation has been paid to the victim and the injury subsequently worsens significantly, the victim can claim additional compensation within five years of the main compensation being paid.

In what way could my own behaviour in relation to the crime, my criminal record or failure to cooperate during the compensation proceedings affect my chance of receiving compensation, and/or the amount I receive?

Compensation can be refused or reduced on account of the victim's behaviour at the time of the acts.

In what way could my financial situation affect my chance of receiving compensation and/or the amount?

Any victim who has suffered an injury and meets the conditions of Article 1 of the Law of 12 March 1984 on compensation for certain victims of physical injury can claim compensation from the State, regardless of his or her financial situation, provided that effective and adequate compensation or damages have not been obtained.

Are there any other criteria that could affect my chance of receiving compensation and/or the amount?

Compensation can be refused or reduced in view of your relationship with the offender.

How will the compensation be calculated?

The Victims Commission states, in its opinion, whether the claim is justified and how much compensation should be awarded, which is based in particular on how seriously the claimant's quality of life has been affected. The Minister for Justice then decides whether or not to award compensation and sets the amount.

Is there a minimum/maximum amount that can be awarded?

The maximum amount of compensation that can be awarded by the Minister for Justice cannot exceed a ceiling set each year by Grand-Ducal Regulation. This ceiling was set at EUR 63 000 for 2017.

Am I expected to quote the amount in the claim form? If so, do I get any instructions on how to calculate it or on other aspects?

No specific form needs to be completed in Luxembourg by claimants for compensation. You only need to write a letter indicating the date, place and exact nature of the acts and enclose documents supporting the claim.

Will any compensation I receive for my loss from other sources (such as my employer's or a private insurance scheme) be deducted from compensation paid by the authority/body?

Compensation is payable by the State only if the victim cannot obtain effective and adequate compensation in another way, e.g. from the offender, social security or personal insurance. The Victims Commission may take account of any compensation received for your losses from other sources.

Can I get an advance on the compensation? If so, under what conditions?

If the need arises in duly substantiated cases, the Minister for Justice can award an advance while the claim is being examined.

Can I get complementary or additional compensation (following e.g. a change in circumstances or worsening health etc.) after the main decision?

If compensation has been awarded and the injury subsequently worsens significantly, additional compensation can be claimed. This claim must be submitted within five years of the date on which the main compensation was paid.

This additional compensation cannot exceed the maximum of EUR 63 000 less the amount of compensation previously awarded.

What supporting documents do I need to include with my claim?

Any supporting documents for the acts and injury that you have suffered must be enclosed with your letter, in support of your claim.

Non-exhaustive list:

- copy of the complaint (police report) or evidence of the claim for damages as a civil party in the criminal proceedings;
- copy of the judgment deciding the criminal proceedings;
- decision on the civil claim for damages;
- evidence of the injury: medical certificates indicating the nature of the injuries suffered, duration of the incapacity for work and, where applicable, nature of the after-effects and permanent disability;
- evidence of the medical costs resulting from the injury (medical treatment, inpatient and outpatient care, etc.);
- evidence of membership of a social security organisation;
- evidence of the amount of any compensation received through social security;
- copy of the insurance policy;
- evidence of the amount of any compensation received through the insurance company;
- evidence of loss of earnings during and after the medical treatment.

Are there administrative or other charges to be paid when the claim is received and processed?

No.

Which authority decides on compensation claims (in national cases)?

Luxembourg Ministry of Justice
13, rue Erasme
L-2934 Luxembourg

Tel.: (+352) 247 84527 / (+352) 247 84517
Fax: (+352) 26 68 48 61 / (+352) 22 52 96

Email: info@mj.public.lu
Website: <http://www.mj.public.lu/>

Where do I send the claim (in national cases)?

Luxembourg Ministry of Justice
13, rue Erasme
L-2934 Luxembourg

Tel.: (+352) 247 84527 / (+352) 247 84517
Fax: (+352) 26 68 48 61 / (+352) 22 52 96

Email: info@mj.public.lu
Website: <http://www.mj.public.lu/>

Do I need to be present during the procedure and/or when my claim is being decided?

The Victims Commission must invite the victim to attend the hearing. If he or she attends, the Commission will listen to his or her account of the acts and the injury suffered. This hearing is not public and you can be assisted by a lawyer.

How long does it take (approximately) to receive a decision on a claim for compensation from the authority?

The Minister for Justice will decide within six months of your compensation claim being submitted.

If I'm not satisfied with the authority's decision, how can I challenge it?

If the victim is not satisfied with the decision of the Minister for Justice in terms of the principle or amount awarded, he or she can take legal action against the State, represented by the Minister for Justice. This action must be brought before the District Court (*tribunal d'arrondissement*) of Luxembourg or Diekirch, as the claimant chooses.

Where can I get the necessary forms and other information on how to claim?

Information on the procedure for submitting a claim can be obtained from:

Ministry of Justice
13, rue Erasme
L-2934 Luxembourg

Tel.: (+352) 247 84527 / (+352) 247 84517
Fax: (+352) 26 68 48 61 / (+352) 22 52 96

Email: info@mj.public.lu
Website: <http://www.mj.public.lu/>

In addition, the Legal Reception and Information Service (*Service d'Accueil et d'Information juridique*) and the Victim Support Service (*Service d'aide aux victimes*) of the Central Social Assistance Service (*Service central d'assistance sociale*) offer help and advice with submitting claims.

Is there a special helpline or website I can use?

Website:

http://www.mj.public.lu/services_citoyens/indemnisation/index.html

<https://justice.public.lu/fr/aides-informations/assistance-sociale/scas-service-aide-victimes.html>

Can I get legal aid (help from a lawyer) when preparing the claim?

Anyone who can prove that they do not have sufficient income can receive legal aid free of charge, under the conditions laid down by law. A lawyer can be appointed to offer you legal advice or represent you in court, with the costs being covered by the State. Anyone can consult the bodies offering legal information and advice or mediation. You can access the Legal Reception and Information Service to obtain any legal information free of charge.

Are there any victim support organisations that can help me claim compensation?

- Service d'aide aux victimes (Victim Support Service), Service central d'assistance sociale (Central Social Assistance Service)

Bâtiment Plaza Liberty, Entrée A
12-18, rue Joseph Junck
L-1839 Luxembourg

Tel.: (+352) 47 58 21-627 / 628

Mobile: (+352) 621 32 65 95

Email: scas-sav@justice.etat.lu

- Service d'Accueil et d'Information juridique (Legal Reception and Information Service):

in Luxembourg,
Cité judiciaire – Bâtiment BC,
L-2080 Luxembourg

Tel.: (+352) 22 18 46

in Diekirch,
Justice de Paix,
L-9211 Diekirch

Tel.: (+352) 80 23 15

in Esch-sur-Alzette,
Justice de Paix,
L-4239 Esch-sur-Alzette

Tel.: (+352) 54 15 52

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