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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?

You should first go to the police or the prosecutor's office. They also have an obligation to investigate claims for damages from an injured party. If you do not have assistance of an own legal representative during the trial, the prosecutor must generally also help to pursue the plaintiff's claim against the offender if this is done in conjunction with a criminal case.

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

It should be submitted as early as during the police investigation so that the claim can be investigated and evidence gathered. It is possible, however, to submit a claim right until the start of the main proceedings in the criminal case.

## 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 interest)?

Swedish tort law is based on reparations – an injured party must, as far as possible, be placed in the same financial situation as if the damage or injury had not occurred. This means that damages may be claimed for all financial losses caused by the damage or injury in question. The injured party does, however, have an obligation to limit the damage where possible.

Damages may be awarded for:

- personal injury, which includes costs (for healthcare, etc.), compensation for loss of earnings, physical and mental suffering of a temporary nature (pain and suffering), compensation for permanent deformities (disfigurement) and permanent disabilities (incapacity);
- violation of personal integrity, where the crime targets the victim's person, freedom, peace or honour and the violation is serious;
- material damage, e.g. from stolen or damaged property;
- purely financial damage, i.e. purely financial harm arising, for example, in the event of fraud or embezzlement.

The claim should be specified under the relevant headings and then a summary of the whole claim should be provided. The claimant is entitled to interest from the day of the crime or another, subsequent, date on which the damage occurred. A claim for interest must also be submitted in order for the court to rule on it.

## Is there a specific form for such claims?

The police and the prosecutor's office have specific forms for tort claims that you may use.

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

Some of the evidence that is necessary for receiving damages is usually included in the police investigation and can be relied upon by the prosecutor to support the allegation. For example, this applies to the circumstances surrounding the crime and the damage caused by the crime.

The plaintiff needs to be able to submit evidence covering his/her claims, for example, evidence of costs (receipts), loss of earnings (evidence of the injury/sick leave and the income that has been lost), material damage (documentation showing the value of destroyed property or the repair cost/depreciation for damaged property).

In the case of damages for a violation, the plaintiff does not need to submit any special evidence. Compensation for a violation will be in line with the assessment of the crime.

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

No; there are no fees when a claim for damages is brought in conjunction with a criminal case.

## 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?

As the plaintiff/injured party, you are entitled to your own legal assistance during the criminal proceedings. For example, this applies in the event of serious violent crime, sexual crime, domestic abuse, or other cases where there is a clear need for assistance. If you would like to receive such legal assistance, you can notify the police or the prosecutor's office, who will then forward your request to the court, which will in turn decide whether or not you will be given a plaintiff's counsel. The plaintiff's counsel can provide help and support throughout the process, and will also prepare and pursue the action for damages. If you are given a plaintiff's counsel, the State will pay for it.

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

It is highly unusual for the court to dismiss a tort claim pursued in conjunction with a criminal case, even if it is formally possible.

What sometimes happens is that the court separates the processing of the criminal case and the tort case. This can happen if the claim for damages is complicated or has not been prepared properly and the processing of the criminal case is delayed as a result. The fact that these matters are separated means that the criminal case is decided upon first, and the court hears the tort case at a later date. A consequence of this is that the prosecutor can no longer help to pursue the tort claim. It is generally better for the injured party if the tort case is sufficiently prepared so that it can be decided upon in conjunction with the criminal case.

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

The court must always provide instructions on how to appeal. These instructions set out the conditions for appealing in the relevant situation.

Insurance compensation is usually not subject to the tort case having been heard in court, which means that the damage or injury can be reported to the insurance company.

The following applies with regard to compensation for criminal damage. If an offender is able to pay the

damages, the claim must always be made against the offender first. If the offender is not able to pay, and the injured party cannot be otherwise compensated for the damage or injury that he/she has sustained, compensation for criminal damage may be paid out even if the injured party has not pursued a tort claim against the offender.

## 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?

Once the judgment has taken legal effect, the court sends it to the Swedish Enforcement Authority (*Kronofogden*). The Swedish Enforcement Authority will then ask whether you want any help with enforcing your claim. If you say yes, the Swedish Enforcement Authority will investigate the offender's assets. If he/she is able to pay, the claim will be paid. If, however, the offender is unable to pay, you will be notified by the enforcement officer. If your damage or injury has not been compensated by your insurance, you are entitled to State compensation for criminal damage.

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