

If my claim is to be considered in this country - Italy

Which type of crime can I get compensation for?

State compensation can be claimed for all offences committed intentionally with violence against the person, and in any event for the unlawful intermediation and labour exploitation defined to in Article 603-*bis* of the Criminal Code, but excluding assault (*percosse*) and bodily harm (*lesioni*) as referred to in Articles 581 and 582 of the Code unless the aggravating circumstances provided for by Article 583 are present (i.e. if the offences result in the very serious consequences specifically enumerated).

Which type of injury can I get compensation for?

Compensation can be claimed solely for medical and assistance costs, except in instances of sexual assault or homicide, in which case the victims are paid a fixed amount of compensation determined by a Ministerial Decree even if there are no medical and assistance costs to be paid.

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?

The persons **entitled to compensation** are the victim, or, if the victim has died, any children and a cohabiting spouse not legally separated or cohabiting life partner, in shares corresponding to their respective rights of inheritance; or, in the absence of any of these persons, the victim's relatives in the ascending line, provided that they were legal dependants of the victim at the time the offence was committed.

A person's entitlement to compensation is limited in certain cases:

- where the victim (or other entitled person) has been complicit, intentionally or by culpable negligence, in the commission of the offence or of other offences associated therewith within the meaning of Article 12 of the Code of Criminal Procedure;
- where the victim has been convicted, by a final judgment, of any of the offences referred to in Article 407(2)(a) of the Code of Criminal Procedure or of offences committed in breach of the legislation for the prevention of income tax and VAT evasion, or at the time the claim is submitted is the subject of criminal proceedings for any of those offences.

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?

If the victim survives, the victim's family members have the right to take action directly against the offender (Articles 2043 and 2059 of the Civil Code) for the indirect (non-material) damage they have suffered as a result of the injury inflicted on their relative; in this case, however, the law in force does not call for any compensation on the part of the State (Law No 122/2016, as amended by Law No 167/2017). The legislation on victims of violent crime provides benefits for such persons only where they are survivors of a primary victim who has died.

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

Compensation may be granted both to claimants who reside in an EU Member State other than Italy and to claimants who reside in Italy.

Can I claim compensation from this country if I live here or am from here (this is the 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?

The victim may submit a claim for compensation in Italy to the Italian deciding authorities **provided that the offence took place in Italy**.

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

No, but the claim must be submitted within 60 days following an order finding that the offence was committed by a person or persons unknown (*decisione che ha definito il giudizio per essere ignoto l'autore del reato*), or following the last step in enforcement proceedings undertaken without success, or following the date that a criminal conviction becomes final.

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

Please see above:

The claim must be submitted within **60 days** following an order finding that the offence was committed by a person or persons unknown, or following the last step in enforcement proceedings undertaken without success, or following the date that a criminal conviction becomes final.

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

As described above, the claim for compensation must be accompanied by documentation demonstrating that proceedings to recover damages from an offender have failed, or that the last step in enforcement proceedings was unsuccessful, or that the criminal conviction has become final.

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?

The claim for compensation must be accompanied by a copy of a judgment convicting for one of the offences provided for by law, or by a copy of an order finding that the offence was committed by a person or persons unknown.

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

As stated above, the claim must be submitted within **60 days** following an order finding that the offence was committed by a person or persons unknown, or following the last step in enforcement proceedings undertaken without success, or following the date that a criminal conviction becomes final.

Which losses and expenses are covered by the compensation?

For example, *will the compensation cover:*

(a) For the victim of the offence:

- Material (non-psychological) damage:

- *medical costs of injury (medical treatment – ambulant and hospital treatment, recovery)*
- *additional needs or costs arising from injury (i.e. care and assistance, temporary and permanent treatment, prolonged education physiotherapy, adaptation of housing, special aids, etc.)*
- *permanent injury (e.g. invalidity and other permanent handicaps)*
 - *loss of earnings during medical treatment and after (including lost earnings and loss of ability to earn or diminished maintenance, etc.)*
 - *loss of opportunity*
 - *expenses linked to legal proceedings related to the incident causing the damage, such as legal fees and court costs*
 - *compensation for stolen or damaged personal property*
 - *other*

- Psychological (moral) damage:

- *pain and suffering of the victim*

(b) For entitled people or relatives of a victim:

- Material (non-psychological) damage:

- *funeral costs*
- *medical costs (e.g. therapy for a family member, ambulant and hospital treatment, rehabilitation)*
- *loss of maintenance or of opportunity*

- Psychological damage:

- *pain and suffering of relatives or entitled people/compensation to survivors if the victim died*

Compensation is paid (subject to any more favourable measures that have already been put in place by other legal provisions for specific offences) to cover medical and assistance costs, except in instances of sexual assault or homicide, in which case the victims are awarded a fixed amount of compensation even if there are no medical and assistance costs to be paid.

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

In general, compensation is paid out as a single payment, by drawing on the Revolving Fund for the Support of Victims of Mafia-style Crime, Extortion, Usury and Intentional Violent Crime (*Fondo di rotazione per la solidarieta' alle vittime dei reati di tipo mafioso, delle richieste estorsive, dell'usura e dei reati intenzionali violenti*), which is managed by the Ministry of the Interior, but the amount paid must remain within the limits of the financing available in the current year.

In the event that there is insufficient financing available in the relevant year, those entitled to compensation can access the Fund for a proportion in that year, and in subsequent years for the remainder, which is distributed without any additional charges, interest or revaluations.

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 is paid out on the condition that the victim was not complicit, intentionally or by culpable negligence, in the commission of the offence or of other associated offences; that the victim has never been convicted, by a final judgment, of any of the offences referred to in Article 407(2)(a) of the Code of Criminal Procedure (wanton destruction, looting and mass murder, involvement in civil war, Mafia-style conspiracy, endangerment of public safety, homicide, robbery, extortion, kidnapping, terrorism, subversive conspiracy, armed conspiracy, possession of explosives, racketeering, drugs, enslavement, child prostitution and pornography, people trafficking, slavery, sexual assault, sexual acts with minors, sexual assault in a group) or of offences committed in breach of the legislation for the prevention of income tax and VAT evasion; and that at the time the claim is submitted the victim is not the subject of criminal proceedings for any of those offences.

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

The victim's income has no bearing on their right to compensation.

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

Compensation is paid out on the condition that the victim has not in respect of the same offence received payments of any kind totalling more than €5 000.00 from any public or private source.

How will the compensation be calculated?

The compensation will correspond to the costs incurred, subject to the limits laid down by the relevant Law and the sums fixed by the Ministerial Decree implementing that Law.

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

The Decree of 31 August 2017 issued by the Ministry of the Interior (as provided for by Article 11(3) of Law No 122 of 7 July 2016) provides as follows:

'1. The amount of compensation payable under Article 11 of Law No 122 of 7 July 2016 shall be determined as follows:

- 'a) for the crime of homicide, the amount shall be fixed at €7 200.00, or, in the event that the homicide was committed by the victim's spouse, even if separated or divorced, or by a person who is or was involved in a personal relationship with the victim, at €8 200.00, in which case the sum shall be payable only to the victim's children;
- b) for the crime of sexual assault referred to in Article 609- *bis* of the Criminal Code, and unless there is the mitigating circumstance that the offence is of lesser gravity, the amount shall be fixed at €4 800.00;
- c) for offences other than those referred to in points a) and b), the amount shall be payable towards medical and assistance costs of no more than €3 000.00.'

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?

The total amount of medical and assistance costs incurred must be indicated and documented.

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 paid out on the condition that the victim has not in respect of the same offence received payments of any kind totalling more than €5 000.00 from any public or private source.

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

No.

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

No, although it may be possible to submit subsequent claims in the event of further medical costs being incurred; this will have to be assessed by the deciding authority.

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

The claim for compensation must be submitted by the interested party, or by the other entitled persons in the event that the victim of the offence has died, and must be submitted in person or by special power of attorney (*a mezzo di procuratore speciale*); to be admissible it must be accompanied by the following documents:

- a) a copy of a judgment convicting for one of the offences listed in Article 11, or a copy of an order finding that the offence was committed by a person or persons unknown;
- b) documentation demonstrating that enforcement proceedings have been brought for damages against the offender without success; this is not necessary where the offender remains unidentified, or the offender has applied for and been granted legal aid paid for by the State in criminal or civil proceedings in which the offender has been held liable;
- c) a declaration in lieu of a sworn affidavit (*dichiarazione sostitutiva dell'atto di notorietà*) regarding the absence of any impediments;
- d) a medical certificate showing the costs incurred for health-related services, or a death certificate for the victim of the offence.

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)?

The Ministry of the Interior.

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

Ministero dell'Interno
Ufficio del Commissario di solidarietà per le vittime dei reati di tipo mafioso
Via Cavour, 6
Roma

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

No.

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

Once it has received the claim, the deciding authority in Italy must give a decision 'without delay'.

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

There are no specific mechanisms in place; as the decision is an administrative one, it can be challenged in accordance with the standard rules applying to domestic administrative measures taken by the same authority.

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

The assisting authority provides all the necessary information; the assisting authority in Italy is the public prosecutor's office (*procuratore generale*) at the court of appeal (*corte d'appello*) with jurisdiction in the claimant's place of residence. The forms are attached to Ministerial Decree No 222 of 23 December 2008 laying down rules in accordance with Article 7 of Legislative Decree No 204 of 9 November 2007 implementing Directive 2004/80/EC relating to compensation to crime victims (*Decreto 23 dicembre 2008, n. 222 "Regolamento ai sensi dell'articolo 7 del decreto legislativo 9 novembre 2007, n. 204, recante attuazione della direttiva 2004/80/CE relativa all'indennizzo delle vittime di reato"*).

Is there a special helpline or website I can use?

No.

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

No, this role is performed by the assisting authority.

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

Not to the knowledge of the office supplying this information.

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