

Domovská stránka>Vaše práva>Obete trestného činu>Odškodnenie>Ak sa môj nárok má posudzovať v tejto krajine
If my claim is to be considered in this country

Portugalsko

Which type of crime can I get compensation for?

The types of crimes that you can obtain compensation for are 'Violent crimes'. Crimes that have resulted in permanent disablement, temporary and absolute unfitness for work lasting at least 30 days, or death; if the crime has caused considerable disruption to the standard of living and quality of life of the victim or, in the event of the victim's death, of persons (close relatives) financially dependent on the victim or under the victim's responsibility, and who have not received redress from the offender.

For example: Murder, Grievous Bodily Harm, Rape, Sexual Abuse of Minors, Domestic Violence or Serious Physical Injury resulting from a Robbery offence.

Which type of injury can I get compensation for?

Damage to property/material injury: including the losses caused by the crime (for example, the costs of hospital treatment, consultations, medicines, etc.), as well as benefits that the victim is no longer receiving (for example, the wages they stopped receiving while incapacitated). Compensation may be obtained for losses suffered by a direct or indirect victim.

Psychological or emotional damage: although these cannot be ascribed a financial value, they can, however, be compensated financially (for example, damage that interferes with well-being, dignity, good repute, which involves physical pain, psychological disruption or emotional distress). Compensation for psychological or emotional harm suffered can only be obtained by the direct victim.

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?

Yes, financial aid may be granted to close relatives who are financially dependent on or under the responsibility of the direct victim of violent crime who has died as direct result of the intentional act of violence.

Relatives who were entitled to maintenance from the victim before the victim's death may be entitled to receive compensation: for instance, the spouse or former spouse, parents, children, siblings, aunts and uncles, stepfather/stepmother, in certain circumstances, and unmarried partners of either sex who have been living with the victim for more than two years in conditions similar to those of married couples.

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?

The indirect victims (close relatives) of violent crimes can only receive compensation in the event of the direct victim's death.

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

National or foreign victims who have suffered serious losses directly as a result of violent acts committed in Portuguese territory or on board Portuguese ships or aircraft may receive compensation, provided certain legal requirements are met.

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?

Claim for compensation:

a) Victims of crimes committed outside Portugal against Portuguese nationals or EU citizens habitually resident in Portugal:

Victims of violent crimes, including domestic violence, committed outside the national territory, whose habitual residence is situated in Portugal, may be entitled to financial compensation from the Portuguese State, provided they are not entitled to compensation from the State in whose territory the losses occurred. In this instance, the Commission for the Protection of Victims of Crimes (*Comissão de Proteção às Vítimas de Crimes*, CPVC) is responsible for verifying whether the claimant has the right to compensation in the State in whose territory the losses occurred.

b) Victims of crimes in another EU Member State, who are habitually resident in that Member State and who apply for the advance award of compensation from the Portuguese State:

If the compensation claimants who habitually reside in another EU Member State have applied to the competent authority of the State in which they habitually reside for an advance award of compensation from the Portuguese State, the CPVC may receive the claim forwarded by the competent authority of the claimant's Member State of habitual residence and decide on the award of compensation, notifying that competent authority of that fact.

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

It is not mandatory to report the crime to the law enforcement agencies. However, the authorities can only know that a crime has occurred and launch an investigation if a complaint or report has been made.

If the victim is under the age of 16, they cannot submit the complaint alone. The complaint must be submitted by their legal representatives.

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

It is not necessary to await the outcome of police investigations or criminal proceedings before making a claim. The CPVC must be contacted within one year of the crime being committed.

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

It is not necessary to first seek compensation from the offender.

Even if no civil claim for compensation has been brought within the criminal proceedings or outside such proceedings, for reasons attributable to the applicant (for example, due to not having brought the claim for compensation to court or having withdrawn it), you may still qualify for compensation, although it will be reduced by half of the maximum amount of the advance that can be awarded by the State through the CPVC.

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?

Even if the identity of the perpetrator of the violent acts is unknown or they cannot otherwise be charged and convicted, the victim is entitled to advance payment of compensation from the State through the CPVC.

In the application to be submitted to the CPVC requesting the award of advance compensation, documentation must be included to substantiate the facts claimed, namely a description of the harm suffered, unfitness for work, medical documents, etc.

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

Yes. As a rule, compensation must be claimed under the criminal proceedings. The victim must inform the police or Public Prosecutor's Office by the end of the investigation stage that they intend to apply for compensation, for example when they go to submit a statement. When notification of the charge against the defendant is received, there is then a 20-day period in which to submit the claim.

If the victim applies to the CPVC for compensation or an advance on compensation, they must do so within one year of the crime being committed. If the victim was a minor at the time the offence was committed, they may apply for an advance award of compensation from the State up to one year before reaching the age of majority or becoming emancipated.

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 lost/diminished ability to earn etc.);

loss of opportunity;

expenses linked to legal proceedings related to the incident causing the damage, such as legal fees, court costs;

compensation for stolen or damaged personal property.

- 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.

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

The advance award of compensation to a victim of domestic violence is, as a general rule, made in the form of a monthly payment over 6 months, extendible for an equal period. It may, in exceptional and duly substantiated cases of specific need and lack of means of subsistence, be paid in a single instalment.

In the case of violent crime, the advance award of compensation to the victim of the crime is made in a single instalment, which may be in the form of an annual payment.

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?

The compensation amount that can be awarded may be reduced or compensation may be refused by the commission on the basis of the victim's conduct before, during or after the commission of the acts or their dealings with the offender or their surroundings, or if the victim's conduct is contrary to the sense of justice and public order.

However, the conduct of the victim or of the claimant is not relevant for the purposes of reducing or refusing compensation where the damage caused was due to a motorised land vehicle or, in certain cases, if rules on accidents at work or in service apply.

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

The following will be taken into account when deciding on whether to award advance compensation and when determining the amount of the compensation:

For violent crimes, considerable disruption to standard of living or quality of life;

For domestic violence crimes, serious financial hardship of the victim.

In the case of violent crimes, all sums that the victim receives from other sources, namely from the offender or from social security, are also taken into account; sums received from private life or personal accident insurance are, in principle, excluded.

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

If no redress for the damage was obtained in the criminal proceedings brought against the offender, or if it is likely that the offender will not provide redress and there will be no other source of effective or sufficient redress, the decision on compensation will also take these factors into account.

How will the compensation be calculated?

In the case of victims of violent crime, the amount of compensation is calculated in accordance with principles of fairness and in the light of sums already received from other sources (such as the offender or from social security).

In the case of a claim for compensation for loss of earnings (sums that the victim stopped receiving), the CPVC also takes into account the victim's income tax returns for the 3 years prior to the commission of the offences. . If the victim dies, the tax returns of the claimant (close relative) are used as a reference or, in the absence of tax returns, calculation of compensation is based on an income not exceeding the minimum guaranteed monthly wage.

In particular, for domestic violence cases, the CPVC determines the amount in accordance with the principle of fairness. One of the qualifying criteria for advance compensation for victims of domestic violence is serious financial hardship suffered as a consequence of the crime. As such, any changes to financial or family circumstances must be notified.

Sums received by the victim as a result of private life insurance or personal accident insurance will be taken into account when determining the amount of compensation on grounds of fairness.

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

If the victim applies to the CPVC for advance payment of the compensation, they must indicate, inter alia, the amount of compensation sought.

In the case of victims of violent crime, the maximum amount that can be received by each victim in cases of death or serious injury is €34 680.

In the event of death or serious injury to several people as a consequence of the same offence, the advance payment of compensation is limited to a maximum of €30 600 for each person, and may not exceed a total of €91 800.

In the case of an advance in the form of an annual payment, the maximum limit is €4 080. Where there are several victims of the same offence, the total may not exceed €12 240.

In the case of domestic violence offences, the amount that can be awarded may not exceed the monthly equivalent of the guaranteed minimum monthly wage for a period of 6 months (extendible for an equal period). In cases of specific financial need, the award of a provision as advance compensation payment may be requested even before the conclusion of the investigation (*instrução*) of the specific circumstances, where no changes to the amount of sums to be received have been notified.

*2019 values

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?

Yes, this information is requested on the form.

In cases of compensation by another Member State of the European Union, that Member State having submitted the application for the award of compensation to the CPVC, and provided the claimant is habitually resident in Portugal, the CPVC will inform the claimant of how to complete the claim for compensation and of the supporting documents required.

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?

Following payment of the provision or of the compensation, the victim obtains, by any means, effective redress or compensation for their loss, the CPVC will require them to reimburse the sums received in full or in part.

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

An advance can be awarded, provided the following conditions are met:

a) For victims of a violent crime,

The crime occurred in Portuguese territory or was committed outside Portuguese territory against Portuguese nationals or citizens of EU Member States, provided they are not entitled to compensation from the State in which the crime was committed.

The crime caused the victim to be temporarily totally unfit for work for at least 30 days, or resulted in the victim's death,

The crime caused serious disruption to the victim's life and considerable disruption to their quality of life, these two requirements being cumulative,

Redress for the losses suffered has not been received from another source – either through the offender or through their own insurance,

The exceptions laid down by law are not applicable to the victim and in particular the victim's conduct before, during and after the crime were not contrary to the sense of public order and justice.

b) For victims of a crime of domestic violence:

If you have suffered physical or psychological maltreatment, including corporal punishment, deprivation of liberty or sexual offences, whether or not repeatedly,

If the offence was committed against a minor, in the presence of a minor, in a shared home or in the home of the victim; or

If personal data, including image or sound, affecting the privacy of one of the victims was shared on the Internet or other means of widespread public broadcast with or without their consent, and

If the victim is suffering serious financial hardship as a result of the crime and

The crime occurred in Portuguese territory or was committed outside Portuguese territory against Portuguese nationals or citizens of EU Member States, provided they are not entitled to compensation from the State in which the crime was committed (the CPVC must verify these circumstances),

The exceptions laid down by law are not applicable to the victim, in particular the victim's conduct before, during and after the crime have not been contrary to the sense of public order or of justice.

Whether the offence was a violent crime or domestic violence crime, before the CPVC concludes its preliminary assessment of the award of compensation you may also receive, immediately, a provision by way of compensation to be determined at a later date, in cases of clear financial need.

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

The CPVC has autonomy to decide on cases that involve new elements compared with previously decided cases or special features that depart from the guidelines (previously drawn up by the CPVC itself) on compensation amounts allocated according to types of circumstances.

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

a) State Compensation to Victims of Violent Crimes (*Indemnização pelo Estado a Vítimas de Crimes Violentos*) (form)

Documents required:

Claim form completed in full;

Indication of the amount of compensation sought;

Tax return showing the income of the victim (or of the claimant, where they are not the direct victim of the crime) for the year prior to the crime, the year of the crime and the year after the crime;

Extract from the criminal proceedings case-file, with a copy of the judgment and the date of res judicata effect;

Authority to act ad litem when the application is made by a representative;

Appointment of a lawyer in the case of an automatically appointed representative.

b) State Compensation to Victims of Domestic Violence Crimes (*Indemnização pelo Estado a Vítimas de Crimes de Violência Doméstica*) (form)

Documents required:

Claim form completed in full;

Indication of the amount of compensation sought;

Victim status or particularly vulnerable victim status;

Copy of the police report or complaint;

Financial, social and family report, when the victim is sheltered in a refuge.

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

No. The claim is exempt from the payment of any costs or expenses for the victim, and the documents and certificates required for this claim can also be obtained free of charge.

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

The CPVC – Commission for the Protection of Victims of Crimes (*Comissão de Proteção às Vítimas de Crimes*) is the Ministry of Justice body responsible for deciding on claims for State compensation submitted by victims of violent crimes and victims of domestic violence in national proceedings.

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

To the Commission for the Protection of Victims of Crimes (see previous answer)

Location and contacts:

Comissão de Proteção às Vítimas de Crimes

Address: Avenida Fontes Pereira de Melo, n.º 7 – Piso 7.º Dto., 1050-115 Lisbon

Tel.: (+351) 21 322 24 90

Fax: (+351) 21 322 24 91

Email: correio.cpvcs@sg.mj.pt

Opening hours:

Monday to Friday: 9.30am – 12.30pm; 2pm – 4.30pm

Further information available at <https://cpvc.mj.pt/>

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

It is not necessary to be present during the decision procedure, except where the CPVC deems such presence necessary.

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

After receiving the claim for compensation, the CPVC has a period of one month to analyse the claim and take the necessary steps; the decision on whether to grant the claim and the amount to be awarded will be taken immediately after that one-month period.

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

Yes. If the claimant believes the CPVC's decision is erroneous, they have 15 days in which to submit a complaint to the commission. By means of application, the claimant should set out the basis for their claim, together with any evidence they deem appropriate.

The CPVC then has a period of 30 days to review and decide on the complaint, and may confirm, repeal, annul, amend or replace the contested act. If the claimant is not satisfied with the decision on the complaint, they may challenge that decision before the administrative courts.

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

On the *website* of the Commission for the Protection of Victims of Crimes: https://cpvc.mj.pt/?page_id=31

There are two different forms: one for victims of violent crimes and one for victims of domestic violence.

Is there a special helpline or website I can use?

CPVC – Commission for the Protection of Victims of Crimes (*Comissão de Proteção às Vítimas de Crimes* - CPVC): <https://cpvc.mj.pt/>.

APAV – Portuguese Victim Support Association (*Associação Portuguesa de apoio à Vítima* - APAV): <http://www.apav.pt/>.

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

The State ensures that in cases of violent crimes or domestic violence, victims have access to legal advice and if necessary to subsequent legal aid, free of charge.

Are there any victim support organisations that can help me claim compensation?**Commission for the Protection of Victims of Crimes (*Comissão de Proteção às Vítimas de Crimes* - CPVC):**

In person – Av. Fontes Pereira de Melo, nº 7, 7.º dto., 1050-115 Lisbon, from Monday to Friday, 9.30am to 12.30pm, and 2pm to 4.30pm;

By post, using the form available on the commission's website;

By email: correio.cpvc@sg.mj.pt;

Online, by completing the form for victims of violent crimes (*Indemnização pelo Estado a Vítimas de Crimes Violentos*) or the form for victims of domestic violence (*Indemnização pelo Estado a Vítimas de Crimes de Violência Doméstica*) (<https://cpvc.mj.pt/>);

By telephone: (+351) 213 222 490, calls charged at landline rates, from 9.30am to 12.30pm, and from 2pm to 4.30pm;

Portuguese Victim Support Association (*Associação Portuguesa de Apoio à Vítima* – APAV):

Victim support helpline: (+351) 116 006 (9am to 9pm on working days);

Online, on the APAV's website: <http://www.apav.pt/> (available in PT, EN, Russian, Chinese); or at <http://infovítimas.pt/pt/app/>

Sign Language video interpreter service/SERV IIN – via video call (+351 12 472), 10am to 6pm on working days.

Commission for Citizenship and Gender Equality (*Comissão para a Cidadania e Igualdade de Género* - GIG):

Information Service for Victims of Domestic Violence (*Serviço de Informação às Vítimas de Violência Doméstica*) (provides information on victims' rights and on the means of redress available throughout the national territory and where psychological and social support and legal information can be obtained) –

Telephone: (+351) 800 202 148 (free, anonymous, confidential service available 24/7).

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