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Als mijn verzoek in dit land moet worden behandeld

If my claim is to be considered in this country

Roemenië

#### Which type of crime can I get compensation for?

Financial compensation is granted to victims against whom the following offences have been committed: attempted murder and manslaughter under Articles 188 and 189 of the Criminal Code, bodily harm under Article 194 of the Criminal Code, a wilful crime resulting in the victim's bodily harm, rape, sexual intercourse with a minor and sexual assault under Articles 218-220 of the Criminal Code, human trafficking and trafficking in minors under Articles 210 and 211 of the Criminal Code, terrorism, and any other intentional criminal act committed with violence.

#### Which type of injury can I get compensation for?

Financial compensation is granted:

**to victims:** for hospitalization costs and other categories of medical costs incurred by the victim; for the material damage resulting from the destruction, degradation or the rendering of the victim's assets unusable, or from the victim's deprivation by the commitment of the offence; for the gains the victim is deprived of as a result of the offence committed;

**to the spouse, children and persons who are financially dependent on the deceased persons:** burial expenses; the maintenance the victim is deprived of as a result of the offence committed.

#### 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?

Financial compensation is granted, upon request, under this Chapter, to the following categories of victims:

the persons against whom the following offences have been committed: attempted murder and manslaughter under Articles 188 and 189 of the Criminal Code, bodily harm under Article 194 of the Criminal Code, a wilful crime resulting in the victim's bodily harm, rape, sexual intercourse with a minor and sexual assault under Articles 218-220 of the Criminal Code, human trafficking and trafficking in minors under Articles 210 and 211 of the Criminal Code, terrorism, and any other intentional criminal act committed with violence;

the spouse, children and persons who are financially dependent on the persons who has died as a result of the abovementioned 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?

**Yes**, the immediate family (heirs) up to the second-degree relatives and up to second-degree families-in-law of a victim who has not died, but who suffered serious injury as a direct consequence of an intentionally committed act of violence, may receive financial assistance.

*Financial compensation is granted, upon request, to the following categories of victims:*

the persons against whom the following offences have been committed: attempted murder and manslaughter under Articles 188 and 189 of the Criminal Code, bodily harm under Article 194 of the Criminal Code, a wilful crime resulting in the victim's bodily harm, rape, sexual intercourse with a minor and sexual assault under Articles 218-220 of the Criminal Code, human trafficking and trafficking in minors under Articles 210 and 211 of the Criminal Code, terrorism, and any other intentional criminal act committed with violence;

the spouse, children and persons who are financially dependent on the persons **who have died** as a result of the abovementioned offences.

*Financial compensation is granted to the abovementioned victims if the offence has been committed within the territory of Romania and the victim is:*

a Romanian citizen;

a foreign citizen or a stateless person who resides legally in Romania;

a citizen of an EU Member State, who is legally present within the territory of Romania on the date when the offence is committed; or

a foreign citizen or stateless person who resides within the territory of an EU Member State and who is legally present within the territory of Romania on the date when the offence is committed.

*For the victims not included in the abovementioned categories of persons, financial compensation is granted under the international conventions to which Romania is a party.*

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

**Yes**. Financial compensation is granted to victims if the offence has been committed within the territory of Romania and the victim is:

a Romanian citizen;

a foreign citizen or a stateless person who resides legally in Romania;

a citizen of an EU Member State, who is legally present within the territory of Romania on the date when the offence is committed; or

a foreign citizen or stateless person who resides within the territory of an EU Member State and who is legally present within the territory of Romania on the date when the offence is committed.

#### 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?

**No**. Financial compensation is granted to victims if the offence has been committed within the territory of Romania.

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

**Yes**. Financial compensation is granted to the victim only if they have reported to the prosecution bodies or to the court within 60 days from the commitment of the offence or, for the spouse, children and persons dependent on the deceased persons, within 60 days from the date when the victim has become aware of the commitment of the offence.

If the victim has been physically or mentally unable to report to the prosecution bodies, the 60-day time limit is calculated from the date when the inability has ceased.

The victims who have not reached the age of 18 and those who are placed under a prohibition order do not have the obligation to report to prosecution bodies in connection with the commitment of the offence. The legal representative of the minor or person who is placed under the prohibition order may refer to the prosecution bodies in connection with the commitment of the offence.

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

**No.** The victim may apply to the Commission Granting Financial Compensations to Victims of Crimes (*Comisiei pentru acordarea de compensații financiare victimelor infracțiunilor*) to receive an advance payment from the financial compensation within the limit of an amount equivalent to ten national gross minimum base salaries, as established for the year when the victim requested the advance payment.

The advance payment may be requested in the financial compensation claim or in a separate claim that may be submitted at any time after referring to the prosecution bodies or the court, but no later than 30 days from the date of submission of the compensation claim. If the advance payment is requested in a separate claim, the stage of the legal proceedings is also indicated therein.

The advance payment is granted if the victim is in a precarious financial situation.

The victim's claim for an advance payment from the financial compensation is settled within 30 days from the claim submission date by two judges of the Commission Granting Financial Compensations to Victims of Crimes.

If the financial compensation claim is rejected, the victim is bound to refund the advance payment, except where the financial compensation claim has been rejected only on the grounds that the perpetrator is not insolvent or missing.

The victim who has received an advance payment from the financial compensation is bound to return it if they have failed to submit the financial compensation claim within the set time limits.

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

**Yes.** Where the perpetrator is known, financial compensation may be granted to the victim if the latter has presented a claim; the victim has joined a civil action under the criminal proceedings; the perpetrator is insolvent or missing; the victim has not obtained full compensation for the suffered damage from an insurance company.

**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?**

**Yes.** Where the perpetrator is unknown, the victim may present the financial compensation claim if the victim has not obtained the full compensation of the suffered damage from an insurance company.

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

Where the perpetrator is known, financial compensation may be granted to the victim if the following requirements have been met:

the victim has presented the financial compensation claim within one year, where applicable:

from the date of the final judgment of the criminal court which delivered a sentence or an acquittal decision and granted civil compensation or which delivered an acquittal decision or a decision to end criminal proceedings;

from the date when the prosecutor has ordered to cease prosecution in regard to certain persons or to end prosecution;

from the date when a decision was made not to initiate prosecution;

the victim has joined a civil action under the criminal proceedings;

the perpetrator is insolvent or missing;

the victim has not obtained full compensation for the suffered damage from an insurance company.

Where the perpetrator is unknown, the victim may present their financial compensation claim within three years from the commitment of the offence.

**Which losses and expenses are covered by the compensation?**

Financial compensation is granted:

**to victims:** for hospitalization costs and other categories of medical costs incurred by the victim; for the material damage resulting from the destruction, degradation or the rendering of the victim's assets unusable, or from the victim's deprivation by the commitment of the offence; for the gains the victim is deprived of as a result of the offence committed;

**to the spouse, children and persons who are financially dependent on the deceased persons:** burial expenses; the maintenance the victim is deprived of as a result of the offence committed.

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

Assistance is granted in a single 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?**

Financial compensation **is not granted** if:

the act is found to be lacking or not provided for in the criminal law, or the act has been committed in legitimate defence against the attack on the victim;

the victim has been convicted under a final judgment for participation in an organised crime group;

the victim has been convicted under a final judgment for any of the offences of murder, manslaughter and first-degree murder, grievous bodily harm, wilful crime resulting in the victim's grievous bodily harm, rape, sexual intercourse with a minor and sexual perversion;

the court upholds for the perpetrator the mitigating circumstance that the limits of legitimate defence against the attack on the victim have been exceeded or the mitigating circumstance of provocation.

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

The financial situation is not taken into account.

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

The amounts paid by the perpetrator as civil compensation and the allowance obtained by the victim from an insurance company for the damage caused by the committed offence are deducted from the amount of the financial compensation granted by the State to the victim.

**How will the compensation be calculated?**

Financial compensation is granted to the victim for the following categories of damage suffered by them as a result of the committed offence:

for the victims against whom the following offences have been committed: attempted murder and manslaughter, bodily harm, wilful crime resulting in the victim's bodily harm, rape, sexual intercourse with a minor and sexual assault, human trafficking and trafficking in minors, terrorism, and any other intentional criminal act committed with violence;

for hospitalization costs and other categories of medical costs incurred by the victim;

for the material damage resulting from the destruction, degradation or the rendering of the victim's assets unusable, or from the victim's deprivation by the commitment of the offence;

for the gains the victim is deprived of as a result of the offence committed;

for the victims who are the spouse, children and persons who are financially dependent on the persons who have died as a result of the abovementioned offences.

burial expenses;

the maintenance the victim is deprived of as a result of the offence committed.

Financial compensation for the material damage referred to in point 2(a) is granted within the limit of an amount equivalent to ten national gross minimum base salaries, as established for the year in which the victim presented the financial compensation claim.

The amounts paid by the perpetrator as civil compensation and the allowance obtained by the victim from an insurance company for the damage caused by the committed offence are deducted from the amount of the financial compensation granted by the State to the victim.

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

Financial compensation for material damage is granted within the limit of an amount equivalent to ten national gross minimum base salaries, as established for the year in which the victim presented the financial compensation claim.

**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.** The financial claim compensation must include:

the surname, forename, nationality, date and place of birth, domicile or residence of the victim;

the date, place and circumstances under which the offence causing the damage has been committed;

the categories of damage suffered through the committed offence, which fall under Article 27(1);

where applicable, the prosecution body or the court and the date of referral thereto;

where applicable, the number and date of the judgment or act of the prosecution body, as provided for by Article 24(1)(a);

the capacity of spouse, child or dependent on the deceased person for the victims referred to in Article 21(1)(b);

the criminal record;

the amounts paid as compensation by the perpetrator or the allowance obtained by the victim from an insurance company for the damage caused by the committed offence;

the amount of the financial compensation requested.

Copies of supporting documents for the data entered in the financial compensation claim, as well as any other documents held by the victim, which are useful for the settlement of the claim, are annexed to that claim.

*There is a possibility of receiving guidance* not from the court, but from the assistance services for victims of crimes (set up within general directorates for social assistance and childcare under Law No 211/2004 regarding certain measures providing for information, support and protection of victims of crimes), under the law following an assessment purposed to determine the victim's assistance needs.

A department supporting victims of crimes is set up with a view to providing support and protection services for the victims of crimes within the organisational structure of each general directorate, where at least three specialists will work, namely: a social assistant, a psychologist, a legal adviser.

The process of information, support and protection of victims of crimes comprises the following stages:

identification: ascertaining the capacity of victim of crime for the purposes of this law;

referral - guiding the victim to the Service for Assistance to Victims of Crimes and to the social services departments and providers listed in Article 3<sup>^</sup>1;

initial information - providing the victim with general information regarding their rights and the services they may use;

assessment of the victim's situation by the Service for Assistance to Victims of Crimes and by the social services departments and providers under Article 3<sup>^</sup>1 in order to determine the support and protection measures they may use;

the provision of support and protection services;

monitoring and assessment of support and protection services.

Support and protection services are provided to the victim of a crime or to their family members by the general directorates free of charge, at the request of the victim or of their family members, and may also be provided by the public social assistance services pertaining to localities, municipalities, and communes as well as by private social services providers.

An application for assistance and protection services is addressed to the general directorate, but may also be addressed to a private or public social services provider, in which case the provider must inform in writing thereof the general directorate within the jurisdiction of which the beneficiary of the respective service has their domicile or residence.

Victims may also be referred, depending on their identified needs, to social, educational, health care services or other general interest services in the proximity, which are provided in accordance with the law.

Support and protection services granted to victims of offences and to their family members may be:

information on the victim's rights;

psychological counselling, counselling on the risks of secondary and repeated victimisation or of intimidation and revenge;

counselling on the financial and practical issues subsequent to the offence;

services of social integration/reintegration;

emotional and social support for the purpose of social reintegration;

information and counselling regarding the victim's role in criminal proceedings, including preparation for participation in the proceedings. These information and counselling services do not include free legal aid for the victims of certain offence under Articles 14-20 of Law No 211/2004 regarding certain measures providing for information, support and protection of victims of crimes or legal aid for the injured person under Law No 135/2010 on the Code of Criminal Procedure, as subsequently amended and supplemented;

the victim's guiding to other specialised services, where applicable: social services, healthcare services, employment services, education or other services of general interest provided under the law.

**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?**

**Yes.** The amounts paid by the perpetrator as civil compensation and the allowance obtained by the victim from an insurance company for the damage caused by the committed offence are deducted from the amount of the financial compensation granted by the State to the victim.

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

The victim may apply to the Commission Granting Financial Compensations to Victims of Crimes (*Comisiei pentru acordarea de compensații financiare victimelor infracțiunilor*) to receive an advance payment from the financial compensation within the limit of an amount equivalent to ten national gross minimum base salaries, as established for the year when the victim requested the advance payment.

The advance payment may be requested in the financial compensation claim or in a separate claim that may be submitted at any time after reporting to the prosecution bodies or the court, but no later than 30 days from the date of submission of the compensation claim.

The advance payment is granted if the victim is in a precarious financial situation.

If the financial compensation claim is rejected, the victim is bound to refund the advance payment, except where the financial compensation claim has been rejected only on the grounds that the perpetrator is not insolvent or missing.

The victim who has received an advance payment from the financial compensation is bound to return it if they have failed to submit the financial compensation claim within the set time limits.

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

Law No 211/2004 regarding certain measures providing for information, support and protection of victims of crimes does not impose a limitation other than that under Article 27(2), namely ten national gross minimum base salaries established for the year in which the victim presented their financial compensation claim.

If the value of the damage has increased, a new financial compensation claim may be presented.

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

Copies of supporting documents for the data entered in the financial compensation claim, as well as any other documents held by the victim, which are useful for the settlement of the claim, are annexed to that claim (e.g. judgments, any receipt, invoice or document that may serve as proof of payment, medical documents, expert's reports).

The financial compensation claim must include the following information or, where applicable, be accompanied by supporting documents showing the following information:

the surname, forename, nationality, date and place of birth, domicile or residence of the victim;

the date, place and circumstances under which the offence causing the damage has been committed;

the categories of damage suffered from the commitment of the following offences: attempted murder and manslaughter murder, bodily harm, wilful crime resulting in the victim's bodily harm, rape, sexual intercourse with a minor and sexual assault, human trafficking and trafficking in minors, terrorism, and any other intentional criminal act committed with violence;

where applicable, the prosecution body or the court and the date of referral thereto;

where applicable, the number and date of the judgment or document of the prosecution body, *where the perpetrator is known, the victim has presented the financial compensation claim within one year from the date of the final judgment of the criminal court which delivered a sentence or an acquittal decision and granted civil compensation or which delivered a decision to end criminal proceedings, or from the date when the prosecutor has ordered closure of the case;*

the capacity of spouse, child or person dependent on the deceased person, for the victims who are the spouse, children and persons dependent on the persons who have died as a result of the commitment of the following offences: attempted murder and manslaughter, bodily harm, wilful crime resulting in the victim's bodily harm, rape, sexual intercourse with a minor and sexual assault, human trafficking and trafficking in minors, terrorism, and any other intentional criminal act committed with violence;

the criminal record;

the amounts paid as compensation by the perpetrator or the allowance obtained by the victim from an insurance company for the damage caused by the committed offence.

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

**No.** The financial compensation claim and the application for an advance payment from the financial compensation are exempted from the stamp fee.

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

For national cases, the financial compensation claim is submitted to the district court in whose jurisdiction the victim is domiciled and is settled by two judges of the Commission Granting Financial Compensation to Victims of Crimes, which is established within each district court.

For cross-border cases, the Romanian decision-making authority designated in accordance with Article 3(2) is the Bucharest District Court - Commission Granting Financial Compensation to Victims of Crimes:

Bulevardul UNIRII, nr. 37, Sector 3, Bucharest, code 030823

Tel. +40 214083600, +40 214083700

Fax +40 213187731

E-mail: [tribunalul.bucuresti@just.ro](mailto:tribunalul.bucuresti@just.ro)

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

For national cases, the financial compensation claim is submitted to the district court in whose jurisdiction the victim is domiciled and is settled by two judges of the Commission Granting Financial Compensation to Victims of Crimes, which is established within each district court.

For cross-border cases, *if the offence has been committed within the territory of Romania and the victim is a citizen of an EU Member State, who is legally present within the territory of Romania on the date when the offence is committed, or a foreign citizen or stateless person residing within the territory of an EU Member State, who is legally located within the territory of Romania on the date when the offence is committed*, the Romanian decision-making authority designated in accordance with Article 3(2) is the Bucharest District Court - the Commission Granting Financial Compensation to Victims of Crimes:

Bulevardul UNIRII, nr. 37, Sector 3, Bucharest, code 030823

Tel. +40 214083600, +40 214083700

Fax +40 213187731

E-mail: [tribunalul.bucuresti@just.ro](mailto:tribunalul.bucuresti@just.ro)

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

**No.** The financial compensation claim and the claim for advance payment from the financial compensation are settled in chambers, where the victim is summoned to appear. The prosecutor's participation is mandatory.

The Commission Granting Financial Compensation to Victims of Crimes, which comprises a panel of two judges, may hear persons, request documents and take any other evidence they deem useful for the settlement of the claim.

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

One to two years.

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

The Commission may deliver either of the following solutions in a decision:

to admit the claim, determining the value of the financial compensation or, where applicable, of the advance payment therefrom;

to reject the claim if the requirements under this law for granting financial compensation or, where applicable, the advance payment therefrom have not been met.

The judgment settling the financial compensation claim or the claim for advance payment from the financial compensation is served on the victim. The judgment may be challenged before the court of appeal within 15 days from notification.

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

The financial compensation claim form for cross-border cases is **annexed**  (15 Kb)  to Order No 1319/C/13 May 2008 of the Minister for Justice.

#### **Is there a special helpline or website I can use?**

TBC

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

The victim may receive free legal aid on request.

The free legal aid application is submitted to the district court in whose jurisdiction the victim is domiciled and is settled by two judges of the Commission Granting Financial Compensation to Victims of Crimes in a conclusion within 15 days from the submission date.

Copies of supporting documents for the data entered in the application, as well as any other documents held by the victim, which are useful for the settlement of the application, are annexed to the free legal aid application.

The free legal aid application is settled in a conclusion in chambers, where the victim is summoned to appear.

Where the victim has not chosen a defence attorney, the conclusion admitting the free legal aid application must also include the appointment of a defence attorney ex officio under Law No 51/1995 for the organisation and practice of the profession of lawyer, as republished, as subsequently amended and supplemented, and the Regulations of the profession of lawyer.

The conclusion settling the free legal aid application is served on the victim.

The conclusion rejecting the free legal aid application is submitted to review by the district court to which the Commission Granting Financial Compensation to Victims of Crimes pertains at the victim's request within 15 days from notification. The review is settled by a panel comprising two judges.

Free legal aid is granted to any victim throughout the proceedings within the limit of an amount equivalent to two national gross minimum base salaries, as established for the year in which the victim submitted the free legal aid application. The funds required for granting free legal aid are provided from the State budget, through the budget of the Ministry of Justice.

The abovementioned provisions are also applied accordingly to the granting of necessary amounts to enforce the judgment granting civil compensation to the victim of a crime.

Moreover, the Ministry of Justice, as the Romanian assisting authority, which is designated in accordance with Article 3(1) of Council Directive 2004/80/EC, provides the claimant with the necessary information regarding the possibilities of requesting financial compensation from the State within the territory of which the offence has been committed, the required application forms, and **information and indications regarding the completion of the application form** and the necessary supporting documents.

See Order No 1319/C/13 May 2008 of the Minister for Justice. In accordance with Article 2 of this Order, the Ministry of Justice discharges its duties as an assisting authority through the Directorate for International Law and Treaties, which may collaborate with other structures of the Ministry of Justice with relevant duties. The duties of the Ministry of Justice, as the assisting authority, when the applicant submits a financial compensation claim in another Member State, are mainly the following: receiving and acknowledging receipt of the claimant's claim; reviewing the claim and informing the claimant, where applicable, of the reasons underlying the rejection of the claim; where they find that the requirements have been met, sending the claim form to the claimant and guiding them to fill in the form; requesting the claimant to provide the necessary information and/or documents to fill in the claim; facilitating translation by an authorised translator of the judgment delivered by the decision-making authority in the State from which financial compensation is requested and having it dispatched as soon as possible to the claimant etc.

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

The free legal aid application and the claim for the amount required to enforce the judgment granting civil compensation to the victim of the crime may also be presented by non-governmental organisations whose activity involves protection of victims if they are signed by the victim, include the data provided for by the law and are accompanied by the necessary supporting documents.

Last update: 11/09/2020

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