

A GUIDE TO NATIONAL PROSECUTIONS IN SWEDEN

FOR CRIMES COMMITTED IN SYRIA



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PURPOSE OF THIS DOCUMENT

If you experienced a serious violation of your rights in Syria, you might have an option to seek justice in Swedish courts. In this document, you will find the basic information needed to file a complaint in Sweden for either criminal charges against the person who perpetrated the crime or a civil action to receive compensation. Sweden has fully implemented European and international standards for international crimes and guarantees of due process and respect for human rights. Sweden has wide jurisdiction in prosecuting serious international crimes that took place outside of the country, nevertheless it is important to review this document carefully and contact Swedish police to determine if you are eligible to file a complaint.

In this Guide, You Will Learn

1. Opportunities and limits for submitting a complaint;
2. How to file a complaint;
3. The process from investigation to trial; and
4. The rights of victims and witnesses.

The Syria Justice and Accountability Centre (SJAC) is a Syrian-led, multilaterally supported nonprofit that envisions a Syria defined by justice, respect for human rights, and rule of law. SJAC promotes transitional justice and accountability processes in Syria by collecting and preserving documentation. The purpose of the documentation SJAC collects is to create a record of the conflict and to push for appropriate justice mechanisms that will respond to the needs and interests of Syrians.

The information in this document is true and complete to the best of SJAC's knowledge. This document is intended to provide helpful information on the Swedish legal system and is not meant to be used, nor should it be used, as a substitute for legal advice. It is highly recommended you contact a licensed lawyer with experience in Swedish law before initiating any proceedings. A frivolous complaint could lead to consequences, such as a defamation lawsuit or fines. Also, please be advised that litigation always carries costs and expenses. SJAC and the authors of this document are not responsible for legal actions taken in Sweden and are not liable for any costs or negative consequences incurred by any persons reading or following the information of this document.

1 | DETERMINING JURISDICTION

Does Sweden Have Jurisdiction to Hear My Case?

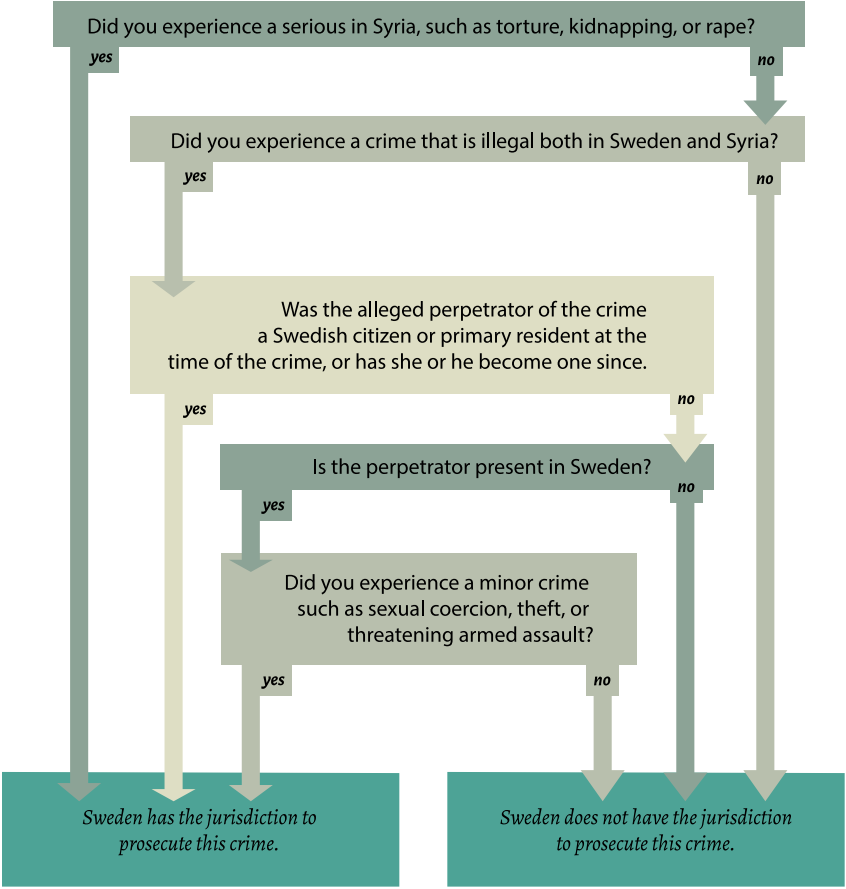
In principle, if a crime is committed within Sweden, Swedish criminal law is applicable. In addition to this general rule, other crimes may be subject to Swedish criminal law regardless of where the crime took place or the nationality, residency or current location of the perpetrator and victim. This is known as universal jurisdiction. For example, the ordinary criminal code applies to crimes committed outside Sweden if a crime would be punishable by a minimum sentence of four years under Swedish law, meaning it is sufficiently severe. Crimes that qualify include: murder, kidnapping, gross rape etc.

Additionally, Sweden has universal jurisdiction in cases of serious international crimes such as genocide, war crimes, and crimes against humanity. Acts committed in July 2014 or after are prosecuted under Sweden's Act on Criminal Responsibility for Genocide, Crimes against Humanity and War Crimes, which is modeled after the Rome Statute of the International Criminal Court. Crimes committed before July 2014 can be prosecuted as "crimes against international law" under the Swedish Penal Code. Murder, sexual and gender-based violence, torture, and kidnapping can qualify as such a crime if they took place in the context of an armed conflict or as part of a larger pattern of violations.

If the crime does not reach these thresholds, it can still be prosecuted in Sweden if the conduct in question is illegal both in Sweden and in the country where it was committed AND if the perpetrator is a Swedish citizen or had primary residency in Sweden at the time of the crime or since the crime occurred.

Is There Anyone Sweden Will Not Try?

Sweden will not prosecute a government official who has immunity under international law. This includes heads of state and government, diplomats, and foreign ministers. However, this immunity ends when a person leaves office, at which point a claim can be filed.



Is There a Time Limit for Filing a Complaint?

For many serious crimes, there is no statute of limitations, meaning that a victim can report the crime no matter how long ago it happened. Crimes that fall under this statute include murder, manslaughter, genocide, crimes against humanity (committed after July 2014), war crimes, and terrorism resulting in death, or attempts to commit any of these crimes. If you are pursuing justice for a crime not mentioned here, you should contact legal counsel in order to learn if you are still within the appropriate timeline for filing a complaint.

Does the Perpetrator Have to be in Sweden?

No. Because Sweden has universal jurisdiction, the perpetrator of a serious international crime or an ordinary crime with a minimum sentence of four years or more does not need to be in Sweden in order for an investigation to be opened. However, while Swedish courts are able to investigate and convict perpetrators in absentia (not present at trial), prosecutors will rarely choose this option, since achieving justice in such a case would be difficult. If an investigation is closed for this reason, it can be reopened in the future if the suspected perpetrator ever travels to Sweden. It is also possible for the Swedish prosecutor to issue an arrest warrant if the perpetrator travels to a country willing to extradite the person in question.

2 | FILING YOUR COMPLAINT

How Do I File a Criminal Complaint?

If you are a victim of a crime that violates the Rome Statute (i.e. genocide, crimes against humanity or war crimes), you should contact the War Crimes Unit of the Swedish police. You can do this by phone (114-14) or email. For email, send your message to registrator.kansli@polisen.se. Emails in English or Swedish are preferable, but you can also write in Arabic. If you write in Arabic, ensure that the phrase ‘War Crime’ in English or “Krigsbrott” in Swedish is included, so that the email can be sent to the correct department for translation. Generally, a complaint should include some basic information about the crime committed, but as long as you provide your contact information and say that you were a victim of or a witness to a war crime, an investigator from the unit will reach out to you within a few weeks.

If you were a victim of an ordinary crime committed in Syria that falls under Swedish jurisdiction, you can make a complaint directly to the police. You can do this by calling the non-emergency number (114-14) or in person at your local police station. Be prepared to provide your basic information, including contact information, as well as the details of the crime you are reporting, including when and where it happened. If you do not speak Swedish, the police are required to provide you with free interpretation.

What Does it Mean to be a “Civil Party”?

In the Swedish judicial system, you can elect to be a civil party to a criminal case. This means that, in parallel to the criminal proceedings, you can claim damages as a result of the crime being prosecuted and be eligible for monetary compensation. Being a civil party also increases your involvement in the trial, including your right to information about the proceedings. Alternatively, a victim can pursue a civil case for compensation through the civil court system without the initiation of a criminal case.

How Can You Become a Civil Party?

If you would like to claim damages and request compensation from the accused as part of a criminal trial, you should communicate this to the police during the initial investigation. You can ask that the police contact a prosecutor who can file a request to the court to appoint a counsel to you. A legal counsel can help you in the criminal case and with your civil claim. Should the court refuse to appoint a legal counsel the prosecutor working on the case will prepare and present your claim during the trial. A civil party can request damages, including material losses that resulted from the crime as well as compensation for the loss of dignity and mental suffering resulting from serious crimes.

It is advisable to initiate civil proceedings alongside the criminal trial. However, if you decide that you would like to pursue a civil trial later, you can initiate civil proceedings up to two years after the end of the trial, or two years after the termination of a pre-trial investigation. When filing a civil case independently, the cost of the proceedings must be paid by whomever loses the trial

3 | APPEARING BEFORE A SWEDISH COURT

What Happens Next?

Once you have filed your complaint, there are four phases of procedures:

1. Investigation
2. Indictment
3. Trial
4. Sentencing and Appeals

Phase 1: The Investigation

The War Crime Unit of the Swedish police is obligated to launch an investigation of any accusations of genocide, crimes against humanity, or war crimes against someone currently in Sweden. The police and prosecutors have discretion on whether to open an investigation against someone located outside of Sweden. Such investigations are carried out by the police in cooperation with the International Public Prosecution Authority. In most cases the investigation will be led by a prosecutor. The Prosecution Authority contains a specialized unit for the investigation and prosecution of genocide, crimes against humanity, and war crimes.

The goal of this investigation is to gather all available evidence that proves or disproves guilt. To this end, the chief investigator may conduct investigative measures such as surveillance, questioning of suspects and/or witnesses, deprivation of liberty (e.g. detention, arrest, travel restriction, reporting order, etc.), seizure of assets, seizure or interception of objects, searches and infiltration, etc. (some of the more intrusive measures may require a court warrant). Investigators can also rely upon any available videos of the incident as well as social media posts, but they will inspect and authenticate this material.

Phase 2: The Indictment

At the completion of the investigation, the prosecutor will decide whether to initiate proceedings. This decision is based on whether the prosecutor believes that there is sufficient evidence that a crime was committed and whether a guilty verdict is possible. In order to prosecute any crime that did not take place on Swedish soil, a prosecutor also needs approval from either the prosecutor general or the government.

If the prosecutor chooses not to pursue the case, the injured party can appeal the decision for review by a senior prosecutor. An investigation that has been closed can be reopened in the future if circumstances change, such as the discovery of new evidence or the arrival of the suspected perpetrator in Sweden.

If the prosecutor has decided to move forward with prosecution, the accused will be formally charged, through an indictment.

Phase 3: The Trial

Once the accused has been charged, the case will be tried by one of Sweden's 48 district courts. In criminal cases, these courts always consist of one legally qualified judge and three lay judges (if the penalty is imprisonment, the presence of lay judges is always required). There is no jury involved. The prosecutor will make a case on behalf of the government, and lawyers representing the parties will be heard. It is important to note that during the main hearing, the court will primarily rely on oral submissions to take up evidence.

As an injured party, you may receive a summons to the court for testimony. While you are required to attend, you have the right to remain silent. However, in particularly traumatic cases, the court can also make concessions if the injured party does not wish to be in court with the accused, including having the accused leave the court room before the injured party's testimony, or hearing from the injured party via video conference or telephone.

Phase 4: Sentencing and Appeals

After the hearing, the judges deliberate and vote on the case. While it is possible for the judges to issue a sentence on the same day as the main hearing, oftentimes they will do so at a later date, and a date, time and place will be immediately determined at the end of the hearing. Parties will receive notification of the judgment by post.

A decision on any accompanying civil cases is generally made at the same time as a verdict in the criminal case. If you are awarded compensation, you can choose to have the decision sent to the Enforcement Authority (this is recommended), which will be responsible for helping you obtain the payment from the perpetrator. If the perpetrator is unable to pay damages, the state may be liable for providing the compensation, in which case the claim will be handled by the Crime Victim Compensation and Support Authority. However, compensation from the state is not always possible for crimes that took place outside of Sweden.

Appeal against a judgement of the district court is possible in one of the six courts of appeal, and has to be done in writing. The court of appeal has to receive the request within three weeks from the date the initial judgement was pronounced. A request for appeal can be submitted by the prosecutor, defendant, or injured party. Recourse to the Swedish supreme court is only possible if procedural issues have arisen during the previous hearings. The supreme court does not rule on substantive issues of the case.

4 | KNOW YOUR RIGHTS

Victim Rights

You have the right to

- Be treated with respect.
- Protection and privacy. If you feel uncomfortable providing testimony in front of the accused, or another person scheduled to be in the court, you can request that appropriate accommodations be made. In some cases, the court can protect your anonymity in public, however the accused will know your identity once a trial begins.
- Information about an ongoing investigation and trial. If you are an injured party, you will need to request such updates during the investigation.
- Victim support services. The police will provide information about available support services.
- A 'support person' to be present during discussions with police and the trial, usually a family member, close friend, or social worker.
- Financial reimbursement for the costs that may be required throughout the investigation and trial. Save any relevant receipts for related expenses, and bring them to the attendant in the court reception area after the trial. You may also have the right to partial compensation for lost income. You can request such compensation from the police working on your case.

Witness Rights

You have the right to:

- Protection and privacy. If you feel uncomfortable providing testimony in front of the accused, or another person scheduled to be in the court, you can request that appropriate accommodations be made. In some cases, the court can protect your anonymity in public, however the accused will know your identity once a trial begins.

Interpretation

If you do not speak Swedish, you will be provided with translation and interpretation services when contacting the police and throughout the investigation and trial.

Legal Representation

Depending on the details of the case, you may be entitled to a 'counsel for the injured party' free of charge, who will represent your interests during the investigation and trial, and can help you prepare your claim for damages. In cases of sexual offences, violent crimes, and other serious crimes, a Counsel for the Injured Party is usually provided. If you would like such representation, you should make this request to the investigating police officer or prosecutor. Alternatively, you

can make a written request to the district court. This person will only represent you through the end of the trial, and will not be available to further assist in attaining compensation post-trial.

Below are two Swedish NGOs that may be able to assist you. Please note that while these organizations may be able to provide assistance, they have limited capacity and may not be able to provide assistance on every case.

Civil Rights Defenders

Head Office, Stockholm

Sergels torg 12, floor 12, SE-111 57 Stockholm, Sweden

info@crd.org | Phone: +46 8 545 277 30 | <https://crd.org/>

The office is open from Monday to Friday, 9.00 am to 5.00 pm (closed for lunch between 12.00 pm and 1.00 pm).

Göran Hjalmarsson

Advokatfirman Guide AB

Sveavägen 52

Box 3549

10369 Stockholm-Sweden

goran@advguide.se | Phone: +46 8 24 48 50 | <https://advguide.se/>



Photo by Lens Youngi Homs

If you are unable or unwilling to file a formal complaint but would like your experiences securely recorded with the **Syria Justice and Accountability Centre (SJAC)**, please contact SJAC at info@syriaaccountability.org. The benefits of participating in a private interview with SJAC are that you:

1. Preserve your personal experience and suffering;
2. Have lodged your personal experience with an organization that can connect you with future justice mechanisms if and when they arise; and
3. Will help build a record that can be used to drive justice and accountability overall for Syria.

Syria Justice and
Accountability Centre

