

The Norwegian Criminal Cases Review Commission

Information to victims and their surviving next-of-kin

The victim's position in the case of a petition for the reopening of a criminal case

According to the Criminal Procedure Act, the victim or his/her surviving next-of-kin as stated in the Act are given a strengthened position in the case of a petition from a convicted person to reopen a criminal case. This means that the victim/surviving next-of-kin are to be given information on and the right to see the case documents and an opportunity to make a statement regarding the case.

In some serious cases, the Commission may appoint a counsel for the victim/surviving next-of-kin if this is desirable.

Even if a victim/surviving next-of-kin does not wish to exercise his/her rights pursuant to the Act, the Commission may wish to contact the victim/surviving next-of-kin, for example to conduct a witness examination.

Objective assessment

The Commission is an independent body whose members have a wide range of experience. The Commission is to decide, following an objective assessment, whether the conditions for reopening the case are present. It determines its own working procedures and cannot be instructed as to how to exercise its authority.

Conditions for reopening a case

The most important reasons for a final and enforceable conviction in a criminal case being retried in court are:

- There is new evidence or a new circumstance that seems likely to lead to an acquittal or a substantially more lenient sanction.
- An international court has concluded that the decision on or hearing of the convicted person's case conflicts with a rule of international law, so that there are grounds for assuming that a retrial will lead to a different result.

- Someone who has had crucial dealings with the case has committed a criminal offence that may have affected the judgment.
- There are special circumstances that cast doubt on the correctness of the judgment and weighty considerations indicate that the case should be retried.

Thorough review

The Commission is responsible for ensuring that there is a thorough review of the legal and factual aspects of the case, and it may gather information in any way it sees fit. Among other things, the Commission may summon the convicted person and witnesses, including the victim, for questioning and it can make compulsory disclosure orders and appoint expert witnesses.

The Commission has its own secretariat with investigators who assist in the investigation of the cases. The Commission's chairperson may reject a petition if, due to its nature, the decision cannot be reopened or if the petition clearly cannot succeed. Other cases are to be determined by the Commission.

The victim's rights

If the petition is not rejected by the Commission and is reviewed in greater detail, the victim/ surviving next-of-kin of the victim is to be informed that a petition to reopen the case has been received. As a victim/surviving next-of-kin you:

- Are usually entitled to see the criminal case documents.
- Are entitled to make a written statement regarding the petition.
- Are entitled to ask to make a statement to the Commission.
- Are usually entitled to see the information which the Commission has gathered during its review.
- Are entitled to state your views on the material which has been obtained.
- Are entitled to be told of the outcome of the Commission's review.

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The Commission is an independent body that is to decide whether a convicted person is to have his/her case retried in court. If the Commission decides to reopen the case, the question of guilt and/or the sentence is to be re-examined by a court other than the one which handed down the conviction.

The chairperson is appointed for a period of seven years and may not be reappointed. The members are appointed for a period of three years and may be reappointed once.

The members have in total sound, wide experience from the courts, prosecuting authority, defence counsel activities, research and civic life in general.

The Commission's members

The Commission is appointed by the King in Council and has five permanent members and three alternate members. The chairperson, vice chairperson and one of the members must have law degrees.

Own investigators

In addition to the chairperson, the Commission has a secretariat consisting of 10 employees, of whom eight are investigators and two are office staff. Six of the investigators are lawyers while two have police backgrounds.

Relevant provisions in the Criminal Procedure Act

§ 397, fifth subsection.

The Commission informs the victim or his/her surviving next-of-kin of the petition in the order stipulated by law unless the petition is rejected pursuant to the third subsection. The victim or surviving next-of-kin in the order stipulated by law is to be made aware of his/her right to see documents, state his/her views and ask to make a statement to the Commission, and of the opportunity to have a counsel for the victim/surviving next-of-kin appointed.

§ 398, second subsection

The victim or surviving next-of-kin in the order stipulated by law shall be given an opportunity to state his/her views on the petition in writing. The victim or surviving next-of-kin may ask to state his/her views to the Commission in accordance with the rules stated in section 398a.

Contact information

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If you have any questions concerning your rights as a victim (surviving next-of-kin of a victim) or the procedures involved, please contact the Commission.