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Claiming damages from the offender

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How can I claim damages or other means of redress/satisfaction from an offender in a trial (criminal proceedings), and who should I address this claim to?

A claim for damages resulting from a crime is heard at the proposal of the injured party in the course of criminal proceedings, if this does not significantly delay the proceedings. (Article 153(1) of the Criminal Procedure Code (*Zakon o kaznenom postupku*))

The injured party may file a claim for damages as part of criminal proceedings. (Article 154(1) of the Criminal Procedure Code)

A claim for damages filed as part of criminal proceedings can be lodged with either the body that handled the criminal complaint or the court hearing the proceedings. (Article 155(1) of the Criminal Procedure Code)

At which point in the criminal proceedings should I present a claim?

A claim for damages may be presented any time before the end of the evidence-taking procedure before the court of first instance. (Article 155(2) of the Criminal Procedure Code)

What can I ask for in the claim and how should I present it (indicate a total amount and/or specify the individual losses, lost profits and interests)?

An application to join a civil action to proceedings may refer to a claim made in the course of the lawsuit. (Article 153(2) of the Criminal Procedure Code)

Is there a specific form for such claims?

There is no specific form for such claims.

What evidence do I need to present to support my claim?

The person authorised to submit the claim must indicate their claim and present evidence. (Article 155(3) of the Criminal Procedure Code) The type and amount of evidence is not specified by law.

Are there courts fees or other costs linked to my claim?

There are no court fees or other costs linked to filing a claim for damages as part of criminal.

Can I get legal aid before and/or during the proceedings? Can I get it if I'm not living in the country where the proceedings take place?

Victims of a crime punishable by a term of imprisonment of more than five years who suffer from severe consequences of the criminal offence, are entitled to free counsel when filing a claim for damages. (Article 43(2) of the Criminal Procedure Code) This right is not restricted by the injured party's place of residence.

When would the criminal court dismiss or refuse to adjudicate on my claim against the offender?

A court finding the defendant guilty may award the injured party full damages or grant it partial damages and advise the party to bring a civil action. If the information available during the criminal proceedings is insufficient for the court to award damages in full or in part, the court advises the injured party to bring a separate action.

When the court acquits the defendant, dismisses the charges or terminates the proceedings, it advises the injured party to bring a separate action for damages. If the court declares itself incompetent it advises the injured party to initiate or continue the criminal proceedings before a competent court and file the claim for damages there. (Article 158(2) and (3) of the Criminal Procedure Code)

Can I appeal against such a decision or seek other means of redress/satisfaction?

The injured party may appeal against the ruling in the part concerning the court costs and in the part concerning the claim for damages. If the state attorney has taken over prosecution from the injured party, the latter may appeal on any grounds on which a ruling may be challenged. (Article 464(4) of the Criminal Procedure Code)

If I am awarded damages by the court, how do I ensure the judgement is enforced against the offender and what help can I get to ensure this?

If so requested by the authorised person, interim measures may be imposed during criminal proceedings (on the basis of the relevant enforcement provisions) in order to secure the claim for damages resulting from a crime.

The decision referred to in the paragraph above is issued by the investigating magistrate. Following the indictment, a decision is issued by the indictment division or, at the hearing, by the court hearing the case. An appeal against an interim measure does not delay its enforcement. (Article 160 of the Criminal Procedure Code).

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