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Claiming damages from the offender

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Malta

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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?

You should file a civil action against the offender for damages caused the offence, unless the criminal court in its sentence, upon conviction, ordered the offender to pay damages.

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

The civil action for damages is separate and distinct from the criminal proceedings. A civil claim for damages needs to be instituted within two years from the act causing the damage.

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)?

You can ask the court to liquidate the damages sustained or if the amount of damage sustained is known, ask for a specific amount of damages.

Is there a specific form for such claims?

There is no specific form. The action is filed by means of a judicial act known as sworn application.

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

Evidence confirming the amount of damages claimed including receipts and employment income at the time of the crime.

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

There are court fees to be paid.

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?

Yes you can benefit from legal aid.

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

against the offender?

In the event of an acquittal or in the case that the offence is time-barred.

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

In the case of the civil action, there is a right of appeal before the Court of Appeal. In the case of a criminal action, the Police can request the Office of the Attorney General to appeal the decision. The victim (parte civile) may also make such a request.

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

By requesting the issue of an executive warrant for the execution of the judgement such as a warrant of seizure or garnishee order. Your lawyer will ensure such execution.

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