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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?

The criminal court has inherent jurisdiction to award a limited amount of compensation to the victim of crime in criminal proceedings, provided that the accused is found guilty. However, that jurisdiction has barely been used and has not been used at all in recent decades.

Having said that, in such cases, the victim is entitled to seek compensation by filing an action against the offender in civil proceedings.

At which point in the criminal proceedings should I raise my claim?

The claim should be submitted after completion of the criminal proceedings in the form of a civil action. It should be noted that this is independent of, and separate from, the criminal proceedings.

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 claim compensation for any loss and damage suffered by identifying the individual types of damage, such as physical injuries, pain and suffering, loss of profits and statutory interest.

Is there a specific form for such claims?

Yes, the writ of summons. This form should be filed with the Secretariat - Registry of the Court. It can either include the claimant's entire claim or a brief outline of the claim, which will then be followed up with a more extensive claim report.

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

The evidence in support of the claim is evidence which proves the damage suffered.

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

Yes, there are fees and costs for services linked to the claim, depending on the level of compensation claimed.

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?

You can get legal aid at any stage of the proceedings, provided that you are eligible for it, i.e. when you satisfy the criteria laid down by law. In civil cases, legal aid is associated with human rights violations under Conventions specified by law. Legal aid includes free consultation, assistance and representation, and applies equally to persons residing in another country.

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

Not applicable - see above.

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

Not applicable - see above.

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?

In order to ensure enforcement of the judgment for compensation, the judgment is served on the defendant (offender) who must comply with it. In the event of non-compliance, enforcement proceedings may be brought by the claimant (victim) to oblige the defendant to comply.

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