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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 Procedure Code (*Nakazatelno-procesualen kodeks*) of the Republic of Bulgaria lays down the procedure for crime victims to bring actions for damages in criminal proceedings. If the victim does not claim damages in the criminal proceedings or believes that the compensation awarded does not cover all damages sustained, the victim is entitled to bring an action for damages under the Obligations and Contracts Act (*Zakon za zadalzhniata i dogovorite*) before a civil court, which will examine the case under the Civil Procedure Code (*Grazhdanski procesionalen kodeks*).

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

A civil claim for damages and for the victim's civil action to be joined to the judicial proceedings must be brought before the start of the preliminary hearing before the court of first instance. The court sends out a notification of the preliminary hearing. Within 7 days of receiving the notification, the victim or their successors can apply for their civil action or private prosecution to be joined, while legal persons can do so as a civil party.

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)?

The civil claim can be filed by the victim or the victim's counsel. The application can be oral or written. The civil claim has to contain: the full name of the claimant and of the person against whom the action is brought; the criminal case in which the civil claim is being filed; the criminal offence that caused the damages and the nature and amount of damages claimed. The civil claim in judicial proceedings can be brought against the defendant and against any other persons bearing civil liability for the damages caused by the offence.

Is there a specific form for such claims?

No, there is not.

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

The evidence has to be submitted in the judicial proceedings. The party bringing the civil action is entitled to: participate in the judicial proceedings; request a protective measure to secure the civil claim; review the material in the case and obtain the necessary excerpts; submit evidence; file requests, notes, and objections and contest decisions of the court which infringe upon the party's rights and legitimate interest.

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

The victim is not required to pay court fees or other costs linked to the victim's civil claim.

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?

The victim or the party bringing civil action can appoint a lawyer. If the victim/civil party provides evidence that they cannot afford a lawyer but wants one and this serves the interests of justice, the court of first instance appoints a lawyer.

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

The court of first instance rules on the civil claim in a decision which is announced in the preliminary hearing. If the court refuses to adjudicate on the claim, it must state its reasons. The refusal is not open to appeal.

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

The refusal of a criminal court to adjudicate on a civil claim is not open to appeal. The victim is entitled to bring an action for damages before a civil court, with the case being heard under the Civil Procedure Code. If the criminal proceedings are ongoing, the civil claim before a civil court will be stayed until the criminal proceedings have come to an end.

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?

Once the offender has been convicted, the victim can file an application with the court for a writ of execution. A writ of execution allows the victim to instruct a bailiff for the purposes of obtaining the compensation awarded by the court.

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