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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 only prerequisite is an 'adhesion claim' [civil law claim in criminal proceedings] in which the subject and grounds of the claim are outlined in full (see question 3 for details). The claim can be addressed to the police, the public prosecutor's office or the competent court (see question 2).

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

The claim can be presented in writing when the crime is reported to the police. It can also be submitted later in writing to the public prosecutor's office or the court, or recorded by the clerk of the court (at the Rechtsantragsstelle (a department in German courts to which claims and other declarations can be submitted)). A claim can also be presented orally in the main hearing.

It is generally recommended that a claim be made as early as possible, not least to avoid a situation where no decision is taken on account of considerable procedural delay.

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 claim should clearly present what you demand from the defendant and why. As a rule, if you require an amount of money to compensate for financial loss (e.g. loss of earnings, damaged property), you should quantify this precisely. The amount of compensation for pain and suffering (Schmerzensgeld), on the other hand, can be left to the discretion of the court. However, even then you should give an approximate figure and present the basis on which the amount of Schmerzensgeld should be calculated or estimated. You must present the facts to justify your claim in as much detail as possible (e.g. description of the offence, information on the injuries and damage to property incurred).

Is there a specific form for such claims?

No. There is no specific form.

An example of a claim under the adhesion procedure can be found on page 63 (example 5) of the English 'Guide for victims' (in German: Opferfibel) published by the Federal Ministry of Justice and Consumer Protection. The Guide for victims on the rights of injured parties in criminal proceedings can be found *inter alia* at <https://www.hilfe-info.de/> under the heading 'Publications' on the English version of the website.

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

You should enumerate or present all the available evidence that is required to prove and support your claim (e.g. invoices, certificates). You can also refer explicitly to the reports and witness statements you gave to the police or to the indictment itself.

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

If you as the claimant are awarded the requested compensation, you will not be charged any court fees; any expenses you have had to incur, e.g. loss of earnings due to participation in court proceedings, are borne by the defendant.

If your claim is not granted or is only partially granted, if you withdraw your claim or if the court refrains from making a decision, the court will decide, after due consideration, who is to bear the court's expenses and the parties' costs (e.g. legal costs).

Unlike in civil cases, even if the compensation claim is unsuccessful, as the injured party you do not have to pay any court fees.

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?

It is not absolutely necessary to hire a lawyer, but it may be recommended in certain cases. For example, if it is a complex case involving several offenders, if there are difficult civil liability issues, or if the court decides that awarded claims (e.g. a sum of money) have to be enforced by means of an execution procedure. If the legal conditions are met (particularly neediness), legal aid can be provided to cover the costs of a lawyer.

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

The court will not decide on the compensation claim if the defendant is acquitted or the proceedings are stopped, if the claim is inadmissible or unfounded in the court's view, or if, as a matter of exception, it is not appropriate to settle the claim as part of criminal proceedings.

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

An immediate complaint may be filed against the court's decision to refrain from making a decision on the claim because it deems that the conditions for a decision on the claim have not been met.

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?

Adhesion rulings and settlements reached in the adhesion procedure can be enforced according to the general rules for enforcement. Enforcement is carried out on the basis of an enforceable copy of the ruling or of the settlement reached, which are issued by the clerk of the criminal court.

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