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Claiming damages from the offender

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Poland

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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 can be brought only before a civil court. You cannot bring an action during criminal proceedings, but there are other ways of seeking redress before a criminal court.

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

Civil proceedings against the offender can be initiated independently of ongoing criminal proceedings. However, please note that the civil proceedings may be suspended until the final conclusion of the criminal proceedings. If you bring the claim after the conclusion of criminal proceedings in which the offender is convicted, the civil court will not take evidence again and will accept as proven what the criminal court established.

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 seek damages for both actual loss and lost profits before a civil court. You should indicate the amounts you seek to obtain from the offender and explain what they concern and how you calculated them.

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?

If you present a conviction, you will not need to prove anything. The civil court will be bound by the findings of the criminal court. You can, however, seek higher damages, but you will need to prove that your claim is justified. Evidence to confirm the validity of your claims may include statements of witnesses and documents such as bills or opinions.

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

As a rule, relevant court fees are charged for filing a civil suit. However, you can apply for exemption from court costs if you prove that you are unable to pay them.

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?

If you cannot afford a lawyer, you can request a court-appointed representative. To that end, you should submit an application to the court, together with information (on a special form) about your financial situation.

You can apply for damages even if you do not reside permanently in Poland.

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

A claim can be brought only before a civil court. The court will dismiss it if you do not prove that the offender caused the damage or if you do not prove the amount of that damage. However, if you attach a criminal conviction on the basis of which the offender was found guilty, the civil court will not be able to dismiss the claim.

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

You can appeal against the judgment of a civil court of first instance (*sąd cywilny I instancji*) before a court of second instance (*sąd II instancji*). If you are not represented by a lawyer, the court will inform you how to lodge an appeal.

During criminal proceedings, you can seek redress in the following ways:

1. you can request that a compensatory measure (the obligation to redress the damage or provide compensation for the harm suffered) be imposed on the offender; if there are significant difficulties in ordering the offender to do that, the court may instead order the offender to pay compensatory damages (*nawiązka*); you can make the request orally at a hearing or in writing; your request will be accepted if the offender is convicted, i.e. found guilty of the crime resulting in the damage or harm you suffered;
2. if the offender is convicted and receives a suspended sentence of imprisonment, the court may order him or her to redress the damage you suffered as a result of the crime in full or in part, unless a compensatory measure is imposed;
3. if the proceedings are conditionally discontinued, the court must order the offender to redress the damage in full or in part.

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?

If the offender is ordered to redress the damage, the court will provide you with a copy of the decision. If the offender does not redress the damage and has received a suspended sentence of imprisonment, you can request that the sentence be enforced.

If criminal proceedings were conditionally discontinued and the offender does not redress the damage, he or she faces the resumption of the proceedings and conviction. The court decides on this at a session in which you may participate.

The judgment of the civil court awarding you damages will be enforced by an enforcement authority, namely a bailiff (*komornik*).

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