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Claiming damages from the offender

Greece

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?

At the pre-trial stage of criminal proceedings, you should declare that you wish to join the criminal proceedings as a civil party (*politikós enágon*) when you submit a complaint to the appropriate public prosecutor or police authorities, in which case you should make the declaration in the complaint itself. You can also make such a declaration during the investigation of the crime, in a separate document (*dikógrafo*) giving notice to the police, the public prosecutor or the investigating authorities, and you can even make a declaration directly to the court as long as it has not begun to hear the evidence (Articles 63, 82 and 83 of the Code of Criminal Procedure).

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

A) At the pre-trial stage, as outlined above (Article 83 of the Code of Criminal Procedure)

B) In court, by simple oral statement before the hearing of evidence begins, **without the need for any written pre-trial procedure**, if you are seeking compensation for pain and suffering and moral damage suffered because of the crime committed against you, or by **serving notice** on the accused person at least 5 days before the hearing, if you are seeking compensation for material damage (Articles 66, 67 and 83 of the Code of Criminal Procedure).

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)?

In general, the declaration that you wish to join the criminal proceedings as a civil party must comprise a summary of the case, the reasons why you believe you are entitled to join the proceedings, and the appointment of a representative *ad litem* at the place where the court sits, if you are not permanently resident there.

If the declaration that you wish to join the criminal proceedings as a civil party concerns a claim for compensation for pain and suffering and moral damage, no written procedure is required. In these cases, the civil party usually applies for a symbolic sum and not the entire amount of the claim. If the court declares the accused guilty, it will order that you be paid this symbolic sum in compensation. For the remainder, you will have to bring a separate legal action before the civil courts. If your claim concerns the recovery of material damage caused to you by the offence, you must serve notice on the defendant at least 5 days before the trial, giving a breakdown into individual items.

Is there a specific form for such claims?

No specific form is provided. Your statement must contain all the above. As stated above, a specific pre-trial procedure is required only when the criminal court is asked to make good the material damage, in which case notice must be served on the accused 5 days before the hearing.

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

Before the hearing of the case, you have to produce whatever documents you have proving your claim, i.e. medical certificates, statements, witnesses and any other evidence.

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

You must pay a civil action fee of €40 (Article 63 of the Code of Criminal Procedure, as in force).

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 law (Article 41 *et seq.* of Law 4689/2020) provides for legal aid to low-income citizens of an EU Member State, third-country nationals and stateless persons if they are legally resident or have their habitual residence in the European Union. In civil and commercial cases, low-income citizens are those whose annual family income is not more than two thirds of the minimum annual personal income established in the legislation in force. In the case of a domestic dispute, the income of the other party to the dispute is disregarded. Victims of the crimes referred to in Article 41(3) of Law 4689/2020 are also entitled to legal aid in relation to any criminal or civil claims.

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

If the criminal court decides that the criminal prosecution should not proceed or should be dismissed for any reason, it cannot consider the civil action. It will also dismiss a civil action if it has not been lawfully filed as described above, or if it is without foundation in law, or if the claim is unfounded on the merits, for example because you have not suffered directly as a result of the crime or you are not the holder of the legal interest concerned.

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

You may lodge an **ordinary appeal** (*éfesi*) **against an acquittal** by the district criminal court, the single-member or three-member court of first instance or the court of appeal for an offence of intermediate gravity (*plimmélíma*) if you are ordered to pay compensation and costs, but only to that extent (Article 486(1b) of the Code of Criminal Procedure). You can also bring an ordinary appeal against a **judgment convicting the accused** if and in so far as it dismisses your claim on the ground that it has no foundation in law or awards you financial or material compensation, provided that the amount sought exceeded €100 if the appeal is against a judgment of the district criminal court, €250 if it is against a judgment of the single-member court of first instance or the single-member juvenile court, or €500 if it is against a judgment of the three-member court of first instance or the three-member juvenile court. You can bring an **appeal on a point of law** (*anáresi*) against a **judgment convicting the accused** in so far as it dismisses your claim on the ground that it has **no foundation in law** (Article 505 of the Code of Criminal Procedure) or against an acquittal if you have been ordered to pay compensation and costs (Article 506 of the Code of Criminal Procedure).

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?

The compensation awarded by the criminal court is essentially an award for a civil claim. It is therefore enforced by the enforcement process for civil judgments (*anankastikí ektélesi*).

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