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Claiming damages from the offender

Slovenia

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?

An injured party may claim damages against the offender in criminal proceedings by filing a **civil claim** (premoženjskopravni zahtevak).

An application for a civil claim (civil party to criminal proceedings) is submitted to the authority before which a criminal complaint was brought (**Regional Public Prosecutor's Office**), or to the **court** before which the case is pending.

A civil claim may involve compensation, the return of an object or a repeal of a given legal transaction.

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

When put forward by an entitled claimant, a civil claim resulting from a criminal offence is dealt with in a **criminal procedure if this does not unduly delay this process**.

The proposal for a civil action in criminal proceedings may be submitted **no later than by the end of the oral hearing before the court of first instance**.

If a claimant does not submit the application for a civil claim in criminal proceedings before charges are brought, the claimant **will be informed** that they may do so by the end of the main hearing.

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)?

An entitled claimant must **precisely indicate the claim** and **submit supporting documents** (e.g. reports, invoices, medical documentation). Precise indication of claim means that the claimant must, as far as possible, indicate the type and amount of damage and means of redress.

Is there a specific form for such claims?

No.

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

The content of the injured party's claim must be demonstrated in the usual way (e.g. by reports, invoices, medical documentation).

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

Yes, a court fee is paid for each stage of the procedure, the amount depending on the value of the claim.

The fee for approving an application for a civil claim in criminal proceedings (in whole or in part) is payable by the defendant.

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?

In judicial procedures, foreigners (who are not residents of the Republic of Slovenia) are entitled to free legal aid (legal advice, legal representation and other legal services, or an exemption from payment of the costs of proceedings) **under the condition of reciprocity** or under the conditions **and in cases determined by international treaties** binding the Republic of Slovenia.

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

The court rules in favour of the civil claim (in full or in part) only if the offender is convicted (in a judgment finding the defendant guilty). In other cases (when the information from the criminal procedure does not provide a reliable basis for a full or partial judgment), the injured party is, in full or in part, **advised to bring a civil action**, since **the criminal court cannot reject the claim**.

Even if the court issues a judgment by which the defendant is **acquitted** or the **charges are rejected**, or the court issues a decision resulting in a **stay of proceedings** or a dismissal of indictment, it **refers the injured party** to bring its civil claim **before a civil court**.

If the court states **that it does not have jurisdiction** in criminal proceedings, it shall **inform the injured party** that they can **notify** their civil action in criminal proceedings to the competent court, which will then initiate or continue proceedings.

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

No, because the injured party may only challenge the judgment with regard to the court's decision on the costs of criminal proceedings.

The only exception are cases where the public prosecutor has taken over the prosecution from the injured party as a prosecutor. Here, the injured party may challenge the judgment in all aspects, including the decision on civil actions.

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 a decision on the civil claim is final, the injured party may request that the court of first instance issue a certified copy of the decision, indicating that the decision is enforceable.

The judgment is enforceable if it has become final and the deadline for voluntary payment has expired. The competent court enforces the final judgment, which constitutes an enforceable instrument, in accordance with the provisions applicable to the enforcement procedure. Based on the enforceable instrument (judgment), a proposal for enforcement is submitted to the competent district court, indicating the means of enforcement (e.g. attachment of earnings, funds held in a bank account, movable or immovable property).

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