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Claiming damages from the offender

Slovakia

#### 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 right to compensation against an offender can be claimed in the criminal proceedings orally in the minutes of the hearing or by a specific written petition. A victim who is entitled under law to claim compensation against the defendant for damages caused by a criminal offence is also entitled to petition the court to order the defendant to pay compensation for the damages when passing sentence; the victim must make this petition at latest by the end of the investigation or the summary investigation. The petition must make clear the reasons for the claim and the amount of compensation sought. The victim is advised of the right to compensation and the procedure for exercising this right in the course of the hearing.

If there is a reasonable concern that the satisfaction of the victim's claim for the compensation of damages caused by the crime will be obstructed or impeded, the claim up to the probable amount of the damage can be secured on the defendant's property or other property rights. The court decides on the seizure based on a petition by the prosecutor or victim; in the pre-trial, the prosecutor decides based on a petition by the victim; in the pre-trial, the prosecutor may secure the claim even without a petition by the victim if protection of the victim's interests so requires, especially if there is a risk of delay.

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

In order for the claim for compensation of damages to be awarded in criminal proceedings, the claim must be filed by the victim by the end of the investigation or the summary investigation.

#### 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 order for a court to consider a claim for damages in criminal proceedings, the victim must file the claim in a proper and timely manner. A claim for damages filed at the latest by the end of the investigation is considered to be a timely claim, which means that, in principle, it is necessary to file before the final examination of the investigation file. The asserted claim for compensation must make clear the reasons for the claim and the amount of compensation the victim is claiming. The court is then bound by the amount of damages claimed by the victim in the course of the criminal proceedings.

#### Is there a specific form for such claims?

No.

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

In the course of the investigation, it is necessary to present evidence demonstrating the reasonableness of the claim for damages and from which it is possible to reliably deduce the amount of the damage incurred. In the case of bodily harm, an expert may be assigned to assess the amount of bodily harm in the course of the investigation.

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

There are no fees linked to claiming damages in criminal proceedings.

#### 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?

Where a victim makes a claim for compensation and does not have enough resources to pay the associated costs, a solicitor may be appointed as his or her representative by the prosecutor in a pre-trial, after the charge is brought, or by the presiding judge in a trial, even without a petition if he or she considers it necessary to protect the interests of the victim. The victim must prove that he or she does not have enough resources.

At first contact with the victim, a criminal prosecution authority is required to provide him or her with information in written form on his or her rights in the criminal prosecution and on victim support organisations, including services provided by them. Legal advice is also part of these services.

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

If the outcome of the evidence is not a basis for declaring the obligation for compensation or if additional evidence going beyond the needs of the prosecution is necessary in order to make a decision on the obligation for compensation.

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

Yes, the victim may appeal against such a decision in relation to the claim for damages.

If the victim's appeal is not upheld, the victim may subsequently file his or her claim for damages directly against the offender in civil proceedings. In the case of violent crimes, the victim may request the Ministry of Justice to compensate for bodily harm and moral injury in the case of certain crimes against freedom and human dignity.

#### 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?

In the event that the offender fails to voluntarily fulfil his or her obligations, as ordered by the court in criminal proceedings, the victim acquires an enforcement order when such a court decision becomes enforceable, which he or she may apply against the offender in the scope of compulsory enforcement of the decision in enforcement proceedings. In such cases, the victim may seek legal aid from a solicitor.

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