Uveljavljanje odškodnine zoper storilca kaznivega dejanja

Informacije o tem, kako zahtevati odškodnino od storilca kaznivega dejanja

Zadevni instrument zakonodaje EU je Direktiva 2012/29/EU Evropskega parlamenta in Sveta z dne 25. oktobra 2012 o določitvi minimalnih standardov na področju pravic, podpore in zaščite žrtev kaznivih dejanj ter o nadomestitvi Okvirnega sklepa Sveta 2001/220/PNZ (direktiva o pravicah žrtev).

Člen 16 direktive o pravicah žrtev določa, da so vse žrtve kaznivih dejanj med kazenskim postopkom upravičene pridobiti odločitev o odškodnini, katere plačilo se naloži storilcu.

Tukaj so na voljo informacije o tem, kako lahko med sojenjem (kazenskim postopkom) **zahtevate odškodnino od storilca kaznivega dejanja**.

Da bi našli informacije, ki so relevantne za vašo zadevo, preberite informacije o državi EU, v kateri bo potekal kazenski postopek.

Za podrobnejše informacije o posamezni državi izberite ustrezno zastavico.

Zadnja posodobitev: 08/10/2020

Stran vzdržuje Evropska komisija. Informacije na teh straneh ne izražajo nujno uradnega stališča Evropske komisije. Komisija ne sprejema nobene odgovornosti v zvezi z informacijami in podatki, vsebovanimi ali navedenimi v tem dokumentu. Pravila glede avtorskih pravic spletnih strani EU so navedena v pravnem obvestilu.

Claiming damages from the offender - Bulgaria

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 Criminal Procedure Code (*Nakazatelno-procesualen kodeks*) of the Republic of Bulgaria lays down the procedure for crime victims to bring actions for damages in criminal proceedings. If the victim does not claim damages in the criminal proceedings or believes that the compensation awarded does not cover all damages sustained, the victim is entitled to bring an action for damages under the Obligations and Contracts Act (*Zakon za zadalzheniata i dogovorite*) before a civil court, which will examine the case under the Civil Procedure Code (*Grazhdanski procesionalen kodeks*).

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

A civil claim for damages and for the victim's civil action to be joined to the judicial proceedings must be brought before the start of the preliminary hearing before the court of first instance. The court sends out a notification of the preliminary hearing. Within 7 days of receiving the notification, the victim or their successors can apply for their civil action or private prosecution to be joined, while legal persons can do so as a civil party.

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 civil claim can be filed by the victim or the victim’s counsel. The application can be oral or written. The civil claim has to contain: the full name of the claimant and of the person against whom the action is brought; the criminal case in which the civil claim is being filed; the criminal offence that caused the damages and the nature and amount of damages claimed. The civil claim in judicial proceedings can be brought against the defendant and against any other persons bearing civil liability for the damages caused by the offence.

Is there a specific form for such claims?

No, there is not.

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

The evidence has to be submitted in the judicial proceedings. The party bringing the civil action is entitled to: participate in the judicial proceedings; request a protective measure to secure the civil claim; review the material in the case and obtain the necessary excerpts; submit evidence; file requests, notes, and objections and contest decisions of the court which infringe upon the party’s rights and legitimate interest.

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

The victim is not required to pay court fees or other costs linked to the victim’s civil claim.

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 victim or the party bringing civil action can appoint a lawyer. If the victim/civil party provides evidence that they cannot afford a lawyer but wants one and this serves the interests of justice, the court of first instance appoints a lawyer.

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

The court of first instance rules on the civil claim in a decision which is announced in the preliminary hearing. If the court refuses to adjudicate on the claim, it must state its reasons. The refusal is not open to appeal.

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

The refusal of a criminal court to adjudicate on a civil claim is not open to appeal. The victim is entitled to bring an action for damages before a civil court, with the case being heard under the Civil Procedure Code. If the criminal proceedings are ongoing, the civil claim before a civil court will be stayed until the criminal proceedings have come to an end.

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 the offender has been convicted, the victim can file an application with the court for a writ of execution. A writ of execution allows the victim to instruct a bailiff for the purposes of obtaining the compensation awarded by the court.

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Claiming damages from the offender - Czechia

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?

You have the right to join criminal prosecution of the offender with your claim for compensation. In such a case, in its final decision the court may, in addition to the punishment, also oblige the offender to pay damages. In addition, you may also claim your right to compensation separately in civil litigation.

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

At any point before the first hearing in court, before taking evidence.

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)?

It is necessary to specify in detail what the person who has incurred damage is seeking and to claim and prove the individual injuries.

Is there a specific form for such claims?

No.

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

It is solely at your discretion what evidence you present to the court to support your claim. Of course, full and persuasive evidence is required for the decision to be in your favour.

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

No.

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?

yes, at your own cost.

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

If you have not proven the amount of the damage or if the necessary taking of evidence prolongs the criminal proceedings. In such a case, the court will refer your claim for damages to civil law remedies.

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

You have the right to appeal until the judgment on damages.

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 does not do what he has been ordered to do, you may apply with the court to have the decision enforced by a court enforcement officer.

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Claiming damages from the offender - Denmark

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 applicant's claim for compensation may be included in the criminal proceedings at the courts. In this case, the judge may choose to consider the claim or decline to do so. This may depend on whether or not the perpetrator disputes the claim, as well as on whether there is documentation for the claim, including for its size.

The claim must be made in court in respect of the offender either in writing or orally, so that the offender has the opportunity to respond to the claim. This can be done by personal attendance during the trial or by means of a representative (typically a lawyer ad litem).

The claim can also be submitted to the police, which then includes the claim in any court proceedings.

Although the claim has been dealt with by the courts during the criminal proceedings, the applicant can still submit the application to the Danish Criminal Injuries Compensation Board. This is particularly relevant in cases where the offender does not pay compensation under the judgment.

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

Compensation claims can be submitted as early as at the first interview with the police and should be submitted no later than when the main hearing in court takes place.

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)?

If you have suffered a loss for which the offender is responsible, you can claim compensation for this loss. The Danish Liability and Compensation Act contains, among other things, various items that a claimant may claim compensation for.

These items include:

Costs for treatment

Lost earnings

Pain and suffering

Permanent injury

Loss of earning capacity

Loss of principal earner

Funeral expenses

Tort

Gross violation

Damage to property

Pecuniary loss

Is there a specific form for such claims?

The application form provided by the Danish Criminal Injuries Compensation Board can be used. The Board recommends that you as the applicant use the form, but this is not a requirement.

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

This depends on what you are applying for compensation for. The loss should be plausible, and for some items there is a requirement for actual documentation regarding the size of the loss.

Documentation may, for example, consist of receipts for expenses incurred in connection with the criminal offence. In addition, medical records and medical reports are often used in relation to determining the extent of an injury. With regard to loss of earnings and loss of earning capacity, the applicant should submit documentation regarding his/her earnings, for both before and after the injury, in the form of payslips, annual accounts and, if applicable, a declaration from his/her employer.

If the court finds that the claim is not adequately documented, and the defender challenges payment of the compensation, the claimant runs the risk that the court will not include the claim for damages in the criminal proceedings.

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

No. If the claim is made in connection with the criminal case, there are no costs connected to this for the claimant.

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?

Yes. As the claimant, you have the option, under certain conditions, of having the court appoint a lawyer ad litem for you at no expense to you.

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

The court may at any time during the criminal proceedings refuse to pursue a civil claim if it finds that consideration of it during the criminal proceedings cannot take place without significant inconvenience.

If the court finds that the information in support of the claim is incomplete or that the conviction or acquittal that takes place concerning the criminal offence will not result in a decision that supports the claim, the claim will not be taken into consideration.

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

The court's decision not to include the claim for damages during the criminal proceedings cannot be appealed or complained against.
Instead, the claimant must raise the compensation claim in a civil action or submit it to the Danish Criminal Injuries Compensation Board.

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?

You can initially contact the offender, who may pay you immediately. By doing so, you will be able to receive your compensation quickly and have the case settled.
If the offender will not pay voluntarily, or there are more compensation claims that require longer proceedings, you can submit your claims to the Danish Criminal Injuries Compensation Board.
To be clear, it should be stated that it is not a condition that you have first attempted to recover your claim from the offender before submitting an application to the Danish Criminal Injuries Compensation Board.
The Danish Criminal Injuries Compensation Board will subsequently bring a 'recourse claim' against the perpetrator.

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Claiming damages from the offender - Germany

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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Izvirna jezikovna različica te strani et je bila pred kratkim spremenjena. To jezikovno različico trenutno prevajajo naši prevajalci.

Claiming damages from the offender - Estonia

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?

You have the right to file a civil action for damages against the accused as part of criminal proceedings. An investigative body or the prosecutor's office must explain to the victim the procedure for filing a civil action, the essential requirements for a civil action, the deadline for filing a civil action, and the consequences of allowing this deadline to pass.

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

You have the right to file a civil action no later than 10 days after examining the criminal file. It is possible to apply to the prosecutor's office for an extension of this deadline.

If the deadline is exceeded the civil action will be returned, but in this case you can bring a claim for compensation before a civil court.

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 a civil action, you can raise a claim the objective of which is to restore or remedy the condition of well-being infringed by the act forming the subject of the criminal proceedings. The factual circumstances underlying such a claim must substantially overlap with the facts of the offence being dealt with and it must also be possible to hear such a claim in civil proceedings.

A civil action must be filed in writing and must give details of the plaintiff and the defendant and set out the clearly expressed claim of the victim and the factual circumstances and evidence on which the victim's claim is based. The claim must be complete (i.e. it must include the amounts of all types of damage for which the victim is claiming compensation). In an action for compensation of non-material damage, the amount of the compensation claimed may be left unspecified and fair compensation at the discretion of the court may be requested.

The body conducting proceedings may set a deadline for the elimination of deficiencies in the civil action.

Is there a specific form for such claims?

No specific form has been established for civil actions.

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

A civil action must be accompanied by proof of the facts forming the basis of the claim of the victim and upon which the victim intends to rely regardless of the set of evidence presented by the prosecutor's office.

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

Hearing of a civil action in criminal proceedings is exempt from State fees, with the exception of a civil action for the compensation of non-material damage, if the claim for such compensation is based on reasons other than the causing of bodily injury or other health disorder or the death of a provider.

If the civil action is dismissed, expenses related to the proceedings of the civil action or proof of claim in public law are borne by the victim. If the civil action is granted in part, the court divides the expenses related to the proceedings of the civil action between the victim, the accused and the defendant, considering all of the circumstances. The court may also decide that the expenses of the victim related to the proceedings of the civil action are to be borne in part or in full by the victim, if ordering payment of the expenses by the adverse party would be extremely unfair or unreasonable in respect of the latter.

If the court refuses to hear the civil action due to a judgment of acquittal or termination of criminal proceedings, the expenses related to the proceedings of the civil action are borne by the State. If the court refuses to hear the civil action for any other reasons, the court will divide the expenses related to the proceedings of the civil action between the victim and the State, considering all of the circumstances.

Can I obtain legal aid before and/or during the proceedings? Can I get it if I do not live in the country where the proceedings take place?

You will receive State legal aid if the grounds provided for in the State Legal Aid Act exist. If the court finds that your essential interests may be insufficiently protected without the assistance of a lawyer, the court may, on its own initiative, decide to grant you State legal aid on the basis of and according to the procedure provided for in the State Legal Aid Act.

A person may receive State legal aid if their financial situation at the time they require legal aid means that they are unable to pay for competent legal services or if they are able to pay for legal services only partially or in instalments or if their financial situation does not allow them to meet basic subsistence needs after paying for legal services.

State legal aid is granted to persons who, at the time of submission of the application for State aid, has residence in the Republic of Estonia or another Member State of the European Union or is a citizen of the Republic of Estonia or another Member State of the European Union. Other persons are granted legal aid only if this results from an international obligation binding on Estonia.

The Act sets out the grounds for refusal to grant State legal aid. State legal aid is not granted if, for example, the applicant is able to protect their rights on their own; if the applicant owns property which can be sold without major difficulty to cover the costs of legal services; and if the costs of legal services are not presumably more than double the applicant’s average monthly income, minus taxes and compulsory insurance payments, amounts earmarked for fulfilment of a maintenance obligation arising from law as well as reasonable housing and transport costs. Neither is State legal aid granted if, under the given circumstances, it is clearly unlikely that the applicant will be able to protect their rights; if State legal aid is applied for in order to file a claim for non-material damages and there are no overriding public reasons in the case; or if the possible gains for the applicant upon adjudication of the case are unreasonably small, in comparison with the estimated legal aid expenses of the State.

State legal aid is granted on the basis of the person’s application. If a person applies for State aid as a victim in criminal proceedings, the provision of State legal aid to the person is decided upon by the court hearing the matter or, during the pre-trial investigation of a criminal case, the court that will have jurisdiction to hear the criminal case.

An application for State legal aid must be submitted in Estonian, using the relevant application form. An application may also be submitted in English if legal aid is sought by a natural person who has residence in another Member State of the European Union or who is a citizen of another Member State of the European Union.

A person who applies for State legal aid must append to their application a duly executed and signed statement of the applicant’s financial situation, and if possible, other evidence of this situation. If a person’s residence is not in Estonia, they must append to their application a statement concerning their income and the income of members of their family during the last three years, issued by the competent authority of the person’s country of residence. If this statement cannot be submitted for reasons independent of the applicant, the provision of State legal aid may be decided upon without the statement.

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

A court may refuse to hear a civil action, in particular, if the action does not meet the relevant requirements, if the criminal proceedings are terminated, or if a judgment of acquittal is made. A court may also refuse to hear a civil action if the victim or the civil defendant does not appear at the session and the case cannot be heard without their presence. In addition, a court may refuse to hear a civil action if a criminal conviction is made.

A civil action is dismissed if there are no grounds for granting it.

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

If the court has refused to hear your civil action, you can claim damages in a civil court. You have the right to file an appeal against the ruling of the court of first instance with a district court.

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 convicted offender fails to pay the amount awarded by the judgment, you are entitled to turn to a bailiff on the basis of the judgment, and the bailiff will arrange enforcement proceedings.

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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 (plimmélima) 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** (anaíresi) 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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Claiming damages from the offender - Spain

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?

In Spanish law, the normal procedure for claiming compensation for damages suffered is that of criminal proceedings, in which civil liabilities as well as criminal ones are analysed. For that reason, the local criminal court (*Juzgado de Instrucción*) offers civil action to the injured party, so that they can state whether they wish to make a claim during the criminal proceedings or reserve the right to claim for the injury suffered through civil proceedings.

If the injured party states that they wish to claim in the criminal proceedings, they can either opt for civil action taken in their name by the public prosecutor (this will also happen if they do not state a preference) or, if they wish, attend in person (through a lawyer and the court representative).
If the injured party chooses to claim for damages outside the criminal proceedings, they must begin civil proceedings under the rules for these proceedings.
Consequently, the victim can lodge a claim for compensation for damages with the court, either in person on the statement received when they are offered the possibility of entering the proceedings as a private party, or in writing declaring their claim, or through a lawyer or court representative. This written representation is not essential: if not made, the public prosecutor will bring the civil as well as the criminal proceedings.
You can get help in preparing the application from the Crime Victim Support Offices (*Oficinas de Asistencia a las Víctimas del delito*) found in all the autonomous communities, in almost all provincial capitals and also in other cities; for terrorism offences you can get help from the National High Court's Information and Support Office for Victims of Terrorism (*Oficina de Información y Asistencia a Víctimas del Terrorismo de la Audiencia Nacional*).

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

You can present a claim at any point in the proceedings provided it is before the beginning of the oral trial. The local criminal court offers you the chance to make the claim during the investigation stage once it is notified of the existence of an injured party.

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 profit and interest)?

The claim should specify the damages caused - the amount - and contain the relevant invoices or quotations supporting your claim, which will later be examined by the court expert.

Is there a specific form for such claims?

No.

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

In support of the claim for damages you should provide the relevant invoices or quotations supporting your claim. If you have applied for legal aid, you will be required to provide evidence of your income and assets.

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

No.

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?

As a victim applicant, from the time of your first contact with the authorities and officials you have the right to receive information about the procedure for obtaining legal advice and defence, and if applicable the conditions for obtaining them free of charge. The Crime Victim Support Offices will also provide you with this information.
As a victim applicant you will be able to submit your request to have your entitlement to legal aid recognised to the official or authority who has given you the information about the procedure for obtaining legal advice and defence and, where appropriate, obtaining this free of charge. The official or authority will forward it, together with the documentation provided, to the relevant bar association.
Your request may also be submitted to the Crime Victim Support Offices, which will forward it to the relevant bar association.
In general, as a victim applicant you can benefit from legal guidance services that offer information about the law to all citizens. These services are organised by bar associations in each judicial area.
To access them, you have to complete a form that can be found in courts, at the Ministry of Justice and at other State offices and prove that your means of living are insufficient. You must submit your request to the bar association in the area of the respective court or at the court in the area where you reside, if the criminal proceedings have not yet begun. Once the criminal proceedings have begun, you can obtain free legal aid at any time, provided that as victim you appear in person at the proceedings.
If you are a victim of a crime of gender-based violence, you do not need to first prove that your means are insufficient to obtain legal aid.
If you are a victim of terrorism, you can also obtain legal aid.
As a victim of crime you may apply for legal aid in Spain if you are a citizen of any EU Member State and demonstrate that your resources are inadequate.
Regardless of the existence of resources to institute legal proceedings, your right to legal aid will be recognised and this aid will be provided to you immediately if you are a victim of gender-based violence, terrorism or human trafficking in any proceedings that are linked to, derived from or a result of your status as victim, or if you are a minor or have an intellectual disability or mental illness when you are the victim of situations of abuse or mistreatment.
This right will also apply to beneficiaries of any kind of aid in the event of the victim's death, provided that they were not involved in the acts.
For the purposes of granting legal aid, as applicant you will be considered a victim when a complaint or action is lodged, or when criminal proceedings are initiated, for any of the crimes mentioned, and you will maintain this status as long as the criminal proceedings are in force or where a guilty verdict has been issued following the conclusion of the proceedings.
The right to legal aid will be lost once an acquittal becomes final, or following the temporary stay or dismissal of proceedings because the criminal acts are not proven, with no obligation to repay the cost of any benefits enjoyed free of charge up to that point.
In the different proceedings that may be initiated as a result of your status as victim of the crimes identified and, in particular, in gender-based violence proceedings, it must be the same lawyer who assists you, provided that your right of defence is thus duly guaranteed.
You have the right to legal aid if your yearly income and income per family unit do not exceed:
Twice the Public Multiple Purpose Income Indicator (*Indicador Público de Renta de Efectos Múltiple*s – IPREM) in force at the time of making the request, where the persons in question are not a part of any family unit. The IPREM is an index that is fixed annually and used to determine the amount of certain benefits or the threshold for accessing certain benefits, entitlements or public services.
Two and a half times the IPREM in force at the time of making the request, where the persons in question are part of any of the types of family unit with fewer than four members.
Three times the IPREM where the family units in question are formed of four or more members.
If as victim you are granted the benefit of legal aid, you will not have to pay the following costs:
Prior legal advice.
Lawyer and court representative fees.
Costs arising from the publication of advertisements in official newspapers.
The deposits required to lodge certain appeals.
Payments for experts.
In addition, you will benefit from an 80 % reduction on the cost of notarial deeds and certificates from the land and trade registers.

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

In general, in the case of **violent crimes and sexual offences**, the court needs to assess the existence of a wilful (intentional) violent crime or sexual offence and establish this in the judicial decision which ends the criminal proceedings. In this final judicial decision in the criminal proceedings, the causal relationship between the offence and the injuries or damage to health or, if applicable, the death, must be clearly determined.

It is also possible that the judicial decision that puts an end to the criminal proceedings may order the temporary stay of proceedings or the closing of the proceedings .
According to Spanish legislation on criminal matters, the temporary stay of proceedings is appropriate if the perpetration of the crime that resulted in the court case is not duly proven, or if it is concluded that a crime was committed but there are not sufficient reasons to accuse (a) particular person(s) as perpetrators, accomplices or accessories.
The closing of the proceedings is appropriate if there is no reasonable indication of the act giving rise to the court case having been committed, if the act did not constitute a crime or if those tried as perpetrators, accomplices or accessories appear to be exempt from criminal liability.
In the case of **terrorism offences**, it is generally necessary for the court to assess whether there is civil liability for the acts and the damages provided for in the applicable legislation. The granting of the aid and benefits recognised under Spanish legislation on terrorism is subject to the principles on compensation set out in the European Convention on the Compensation of Victims of Violent Crimes.

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

If the examining magistrate (in a court or judicial body) decides to close the proceedings - that is, order dismissal - the victim can appeal if they have appeared in person at the proceedings and it is a private prosecution.
According to Spanish legislation on criminal matters, a temporary stay of proceedings is appropriate if the perpetration of the crime that resulted in the court case is not duly proven, or if it is concluded that a crime was committed but there are not sufficient reasons to accuse (a) particular person(s) as perpetrators, accomplices or accessories.
The closing of the proceedings is appropriate if there is no reasonable indication of the act giving rise to the court case having been committed, if the act did not constitute a crime or if those tried as perpetrators, accomplices or accessories appear to be exempt from criminal liability.
In the case of **violent crimes and sexual offences**, a judicial decision that puts an end to the criminal proceedings and against which no further remedy is available is generally necessary in order to apply for the different kinds of aid provided for legally. To that end, the final decision of the criminal proceedings may be appealed against within the set term and by lodging the appeals as indicated in that decision.

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 State will pay all or part of the aid if the offender has been declared partially insolvent.
The State will subrogate itself to your rights against the party civilly liable for the crime, up to the full amount of the provisional or final aid you have been granted as victim or beneficiary.
The State may bring an action for recovery against the party civilly liable for the criminal act to demand the full or partial reimbursement of the aid granted.
This action will be carried out, where appropriate, by means of the administrative enforced recovery procedure and will apply in the following cases, among others:
Where the final judicial decision rules the absence of a crime.
Where after payment of the aid, both you as victim as well as your beneficiaries obtained, on any grounds, full or partial redress for the damages suffered in the three years following the granting of the aid.
Where the aid was obtained based on the provision of false or deliberately incomplete information or by any other fraudulent means, as well as the deliberate omission of circumstances that would lead to the refusal or reduction of the aid claimed.
Where the compensation awarded in the judgment is less than the provisional aid.
This action will be brought by the appearance of the State in the criminal or civil proceedings being conducted, without prejudice to the civil action that may be brought by the public prosecutor.
Victims may be assisted through the relevant Crime Victim Support Offices, or in the case of terrorism offences, through the National High Court's Information and Support Office for Victims of Terrorism, with any information they need on these matters as victims of crime.
The Crime Victim Support Offices will provide information about the possibility you have as victim to participate in the prison sentence and will carry out whatever assistance activities are needed so you can exercise the rights recognised by law.
If you are a victim of terrorism, the National High Court's Information and Support Office for Victims of Terrorism will provide you with the information channels necessary for you to find out everything related to the prison sentence enforcement up to the time the sentences have been fully served, especially in cases where benefits are granted or the convicts are released. In addition, within the scope of the processing of compensation cases it will provide information to you as victim on obtaining certificates of the final judgments, orders not to enforce civil liabilities and other documents required to process the legally established aid.

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Claiming damages from the offender - France

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?

If you are the victim of damage caused by an offence, you can bring the matter before a court for the offender to be ordered to compensate the injury done to you. In this way, you will obtain damages. Your claim can be presented in civil proceedings or in criminal proceedings.
Civil proceedings
You can bring the matter before a civil court irrespective of whether or not the person responsible for the damage has committed a criminal offence.
The type and amount of the claim determines the competent court:
- for a claim of less than EUR 10 000, it is the district court (*tribunal d'instance*).
- for a claim of over EUR 10 000, it is the regional court (*tribunal de grande instance*) (Directory).
Criminal proceedings
If the person responsible for the damage has committed an offence, you can claim compensation in the criminal proceedings. You can ask to be recognised as a civil party to the criminal proceedings (*partie civile*) by making a request to the investigators, the public prosecutor (*procureur de la République*), the investigating judge (*juge d'instruction*) or the court.
You must have personally suffered damage caused directly by the offence that is to be tried.
A minor may not apply for recognition as a civil party to criminal proceedings in their own right; their parents must do so on their behalf.
Once the sum in damages has been awarded by the civil or criminal court, the victim has a claim on the person convicted, who becomes liable. The claim is a right that the victim can enforce.
In the event of difficulty in recovering sums, it is possible to:

petition the court to obtain an order for payment;
engage a bailiff who will be able to seize property.
The Victims of Crime Recovery Assistance Service (*Service d'aide au recouvrement des victimes d'infractions* - SARVI) of the Guarantee Fund for Victims of Terrorism and Other Offences (*Fonds de garantie des victimes d'actes de terrorisme et d'autres infractions* — FGTI) can help you to recover the damages awarded by the court only at the end of a criminal trial.
It is intended for victims who have suffered minor personal injury or certain kinds of material damage who cannot be compensated by the Crime Victims Compensation Boards (*Commissions d'indemnisation des victimes d'infractions* — CIVIs).

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

You may file your claim during the preliminary investigation led by a public prosecutor and then during the investigation by an investigating judge.
The claim can be filed prior to the court hearing in writing (the letter must arrive 24 hours before the hearing).
You may also present it directly at the hearing, during the trial before the court. In that case you can present your claim in writing or orally. You must do so before the prosecutor addresses the court to present the prosecution's view and propose a sentence.

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)?

Your claim should seek compensation for all of the damage that you have suffered. Three types of damage can be compensated:
personal injury, which is damage to a person's health or physical or mental integrity;
moral damage, which is damage to emotional well-being, honour or reputation;
material damage, which concerns damage to a person's property and financial interests.
Your damage must have been caused by a specific event (an accident, a delivery error, etc.);
the person from whom you are seeking compensation must be the person responsible for it and the damage must be real (the fault caused you unquestionable damage), direct (concerns you personally) and specific.
You must accurately define it and provide evidence of it (invoices, accident photos, etc.). Your claim must specify a figure, because there is no minimum or maximum. The court cannot order the party against which proceedings have been brought to pay an amount higher than what you are claiming.
Your claim can be presented in writing, with no specific formalities, or orally before the court.

Is there a specific form for such claims?

No.

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

You must provide any information proving your damage (photos, invoices, witness statements, etc.) and the liability of the person from whom you are seeking compensation.

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

In principle, there are no specific costs.
However, if the public prosecutor does not initiate an investigation even though the victim believes that an offence has been committed and wishes to obtain compensation, the victim may under certain conditions petition an investigating judge direct, by lodging a criminal complaint together with an application for recognition as a civil party to the criminal proceedings. This initiates criminal proceedings and the civil proceedings that make it possible to seek compensation from the offender.
The investigating judge may then ask the complainant to deposit a sum of money, the amount of which is set by the judge based on the complainant's income. The sum deposited is called a *consignation*. It must be paid by a deadline set by the judge under penalty of rejection of the complaint.
Likewise, if the public prosecutor does not bring court proceedings, the victim can issue a 'direct summons to appear' (*citation directe*) before the criminal court, and initiate criminal and civil proceedings against the defendant. In that case, a deposit may be required by the court.

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?

For people with limited means, legal aid may be granted, so that the legal fees and court costs incurred during the trial are paid in part or in full by the state. .
For the most serious crimes legal aid is granted without means testing (see the list in Article 9-2 of Law No 91-647 of 10 July 1991 on legal aid (*Loi n° 91-647 du 10 juillet 1991 relative à l'aide juridique*)).
You are entitled to legal aid if you are a French national or a European Union national even if you are not residing in France, or if you are a foreign national habitually and legally resident in France.
Certain bodies for access to legal services such as law centres (*maisons de la justice et du droit*) or legal information desks (*points d'accès au droit*) provide free consultations on legal matters and can help you, irrespective of your nationality, in completing any formalities with a view to the exercise of a right, and assist you in non-judicial procedures.
The same applies for the victim support associations, which provide free legal support in particular.

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

The court may rule the application for recognition as a civil party to the criminal proceedings inadmissible if the claim does not qualify, in particular if the court considers that the person has not been affected by the offence to be tried. It may rule on the criminal proceedings (guilt, prison sentence and/or fine) and on the civil proceedings (compensation) at the same time. The court may also rule on the civil proceedings at a later stage if it considers that it does not have all the facts.

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

If you are not satisfied with the court's decision, you may request re-examination by the court of appeal within whose jurisdiction the first court falls.

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 the sum in damages has been awarded by the civil or criminal court, the victim has a claim on the person convicted, who becomes liable. The claim is a right that the victim can enforce.
In the event of difficulty in recovering the sums, it is possible to:
petition the court to obtain an order for payment
engage a bailiff who will be able to seize property.
The SARVI can help you to recover the damages and interest (and the sums in respect of legal costs) awarded by the court only at the end of a criminal trial. This service pays a sum to the victim (the amount of which depends on the level of the sentence handed down) and itself recovers the sums due from the convicted person. The SARVI is a free and confidential service.
It is intended for victims who have suffered minor personal injury, or certain material damage, who cannot be compensated by the CIVIs.
You may be entitled to the assistance of the SARVI if:
you are an individual and have obtained a judgment from the criminal court awarding damages and possibly the reimbursement of all or part of the legal costs;
you are not entitled to compensation from the CIVI; and

the person convicted has not paid the sums due within the two months following the final sentence.
What you can obtain:
If the amount of your claim is less than or equal to EUR 1 000: the entire sum.
If the amount of your claim is higher than EUR 1 000:
Ø 30% of the sum, with a minimum of EUR 1 000 and a maximum of EUR 3 000;
Ø assistance with recovery, i.e. the SARVI obtains the remainder due from the convicted person on your behalf. You will be notified every quarter of the outcome of the steps taken on your behalf. Consequently, this procedure precludes you from engaging a bailiff. The SARVI uses the legal tools given to it by law. Its activities nevertheless remain limited by the ability to pay of the convicted person, to whom it applies a penalty.
The portion paid by the SARVI is settled within two months of receipt of the complete file.
What are the deadlines for filing your claim?
You must file your claim no later than one year after the delivery of the final judgment.
If your claim for compensation has been rejected by the CIVI, you have one year, from the notification of the rejection, to contact the SARVI.
There is a form for recovery requests. Legal representation is not mandatory.
A list of the supporting documents to be enclosed with your claim is given on the form to be sent to:
Fonds de Garantie - SARVI
TSA 10316
94689 VINCENNES CEDEX
You can obtain additional details here.
The SARVI may reject your request for recovery against the convicted person, or refuse to take a decision on it, if you do not meet the necessary requirements.
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Claiming damages from the offender - Croatia

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 for damages resulting from a crime is heard at the proposal of the injured party in the course of criminal proceedings, if this does not significantly delay the proceedings. (Article 153(1) of the Criminal Procedure Code (*Zakon o kaznenom postupku*))
The injured party may file a claim for damages as part of criminal proceedings. (Article 154(1) of the Criminal Procedure Code)
A claim for damages filed as part of criminal proceedings can be lodged with either the body that handled the criminal complaint or the court hearing the proceedings. (Article 155(1) of the Criminal Procedure Code)

At which point in the criminal proceedings should I present a claim?
A claim for damages may be presented any time before the end of the evidence-taking procedure before the court of first instance. (Article 155(2) of the Criminal Procedure Code)

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 application to join a civil action to proceedings may refer to a claim made in the course of the lawsuit. (Article 153(2) of the Criminal Procedure Code)

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?
The person authorised to submit the claim must indicate their claim and present evidence. (Article 155(3) of the Criminal Procedure Code) The type and amount of evidence is not specified by law.

Are there courts fees or other costs linked to my claim?
There are no court fees or other costs linked to filing a claim for damages as part of criminal.

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?
Victims of a crime punishable by a term of imprisonment of more than five years who suffer from severe consequences of the criminal offence, are entitled to free counsel when filing a claim for damages. (Article 43(2) of the Criminal Procedure Code) This right is not restricted by the injured party's place of residence.

When would the criminal court dismiss or refuse to adjudicate on my claim against the offender?
A court finding the defendant guilty may award the injured party full damages or grant it partial damages and advise the party to bring a civil action. If the information available during the criminal proceedings is insufficient for the court to award damages in full or in part, the court advises the injured party to bring a separate action.
When the court acquits the defendant, dismisses the charges or terminates the proceedings, it advises the injured party to bring a separate action for damages. If the court declares itself incompetent it advises the injured party to initiate or continue the criminal proceedings before a competent court and file the claim for damages there. (Article 158(2) and (3) of the Criminal Procedure Code)

Can I appeal against such a decision or seek other means of redress/satisfaction?
The injured party may appeal against the ruling in the part concerning the court costs and in the part concerning the claim for damages. If the state attorney has taken over prosecution from the injured party, the latter may appeal on any grounds on which a ruling may be challenged. (Article 464(4) of the Criminal Procedure Code)

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?
If so requested by the authorised person, interim measures may be imposed during criminal proceedings (on the basis of the relevant enforcement provisions) in order to secure the claim for damages resulting from a crime.
The decision referred to in the paragraph above is issued by the investigating magistrate. Following the indictment, a decision is issued by the indictment division or, at the hearing, by the court hearing the case. An appeal against an interim measure does not delay its enforcement. (Article 160 of the Criminal Procedure Code).
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Claiming damages from the offender - Italy

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 offender is obliged to make good the damage caused to the victim. Article 185 of the Criminal Code states that for all offences restitution must be made, in accordance with the rules of civil law. Wherever a criminal offence has caused material or non-material injury, compensation must be paid by the offender and any other person who, pursuant to civil law, is liable for the offender's actions. In civil law, damage caused by a criminal offence is one of the circumstances in which non-material injury may have to be compensated for (Article 2059 of the Civil Code).

The victim has a choice between two different avenues for obtaining reparation of the injury they have suffered.

They may join the criminal proceedings as a civil party, which means that they bring their civil action as part of the criminal proceedings (*costituzione di parte civile*): at the end of the criminal proceedings, the criminal court will assess the injury and award damages, or merely make a finding that there is a right to damages and refer the parties to the civil courts in order to determine the amount owed. Article 74 of the Code of Criminal Procedure provides that during the criminal proceedings a civil action for damages in accordance with Article 185 of the Criminal Code may be brought by anyone who has suffered injury as a result of the offence, or by their heirs, against the defendant and any person liable in civil law.

On the other hand, the victim may also bring civil proceedings direct, by filing a claim for damages in the ordinary civil courts.

The relationships between civil actions and criminal actions are governed by Article 75 of the Code of Criminal Procedure. A civil action brought in a civil court may be transferred to the criminal proceedings at any time until the civil court gives judgment on the substance, even if that judgment is still open to appeal. In that case the civil action is discontinued, and the criminal court will also rule on the costs of the civil proceedings. A civil action will continue in the civil courts if it is not transferred to the criminal proceedings, or if it was brought at a stage when it was no longer possible to join a civil action to the criminal proceedings. If a civil action against a party who is a defendant in criminal proceedings is brought in the civil courts after a civil action has been joined to the criminal proceedings, or after a criminal judgment at first instance, the civil proceedings are suspended pending a final criminal judgment, save for the exceptions provided for by law.

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

A civil action may be joined to the criminal proceedings up to the time of the preliminary hearing, or even thereafter, until the completion of the preliminary steps that have to be taken under Article 484 of the Code of Criminal Procedure before the beginning of the trial proper. Once that stage is reached a civil action can no longer be joined to the criminal proceedings. If a civil party joins the criminal proceedings after the expiry of the deadline for the summoning of witnesses, experts and advisers laid down in Article 468(1) of the Code of Criminal Procedure, the civil party cannot exercise the right to submit lists of witnesses, experts or technical advisers. Once the civil party has joined the civil proceedings, they are a party to the trial at first instance and any appeals, unless they are excluded or voluntarily withdraw. A civil action joined to criminal proceedings is extinguished in two cases: 1) an application for a civil party to be excluded may be submitted by the public prosecutor, the defendant or a party liable under civil law (Article 80 of the Court of Criminal Procedure), or the court may of its own motion make an order excluding a civil party at any time until the trial at first instance opens (Article 81 of the Code of Criminal Procedure); 2) the civil action may be expressly withdrawn, at any stage of the proceedings, by way of a verbal or written statement made by the civil party or their special representative (*procuratore speciale*); the civil action is considered to have been tacitly withdrawn if no pleadings are submitted, of if an action is brought in the civil courts (Article 82 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)?

A civil action joined to the criminal proceedings may seek compensation for any injury, material or non-material, medical expenses, legal assistance, technical advice and other expenses incurred and documented, provided that they arise out of the offence committed.

Is there a specific form for such claims?

There are no official forms in Italian criminal proceedings, but the following requirements must be fulfilled.

The civil party must have capacity to sue (*capacità processuale*). The declaration that the party wishes to join the criminal proceedings as a civil party must be filed with the registry of the relevant court or submitted at the hearing; in order to be admissible it must contain: a) particulars of the natural person or the name of the association or body asking to join the proceedings as a civil party and particulars of their legal representative; b) particulars of the defendant against whom the civil action is being brought, or other personal information which serves to identify them; c) the full name of the lawyer representing the civil party and details of their authorisation to act; d) a statement of grounds for the claim; e) the lawyer's signature. If it is submitted otherwise than at a hearing, the declaration must be notified by the civil party to the other parties, and takes effect with respect to each party from the day on which the notification is served. If the lawyer's authorisation to act is not affixed at the foot or in the margin of the declaration that the civil party wishes to join the proceedings, and is instead conferred in one of the other forms provided for by Article 100(1) and (2) of the Code of Criminal Procedure, it must be filed with the registry or submitted at the hearing together with the declaration.

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

In criminal proceedings, the civil action is ancillary to the proceedings to determine the defendant's innocence or guilt. It is the public prosecutor's office that has the task of proving that the defendant is guilty. The civil party may however play a part in the evidentiary process, especially with regard to evidence of the type of injury suffered, the magnitude of the injury, etc. In civil proceedings, on the other hand, it is the victim who generally bears the burden of proof when it comes to providing evidence (e.g. medical certificates) showing the magnitude of the injury suffered, though the burden of proof may be discharged by showing that there is a legal presumption in the victim's favour.

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?

State-funded legal aid is available to persons whose annual income does not exceed a certain threshold: it is granted provided that the proceedings take place in Italy, and is open to both Italian and non-Italian nationals. This issue is governed by Presidential Decree No 115/2002.

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

In criminal proceedings, the civil claim will not be granted if the defendant is acquitted. When during the preliminary investigations a request is made for the application of an agreed penalty (*richiesta di applicazione di pena*), an application to join the criminal proceedings as a civil party cannot be accepted at the hearing that follows. Nor can such an application to join the proceedings be made at the hearing following a request for the application of an agreed penalty in proceedings on an objection to a sentence imposed without seeking to hear the defendant (*opposizione a decreto penale*) or on an objection to an order for immediate judgment (*opposizione a decreto di giudizio immediato*). The law also expressly precludes joining the criminal proceedings as a civil party in certain other cases, such as trials of minors.

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

At the end of the trial, following the judgment at first instance or on appeal, the civil party may take the view that the final decision does not properly address the injury they have suffered, and if so the civil party may challenge the judgment – once again through their lawyer – but only in respect of the sections or

provisions that concern the civil claim for damages. A subsequent judgment may then vary the judgment at first instance with respect to the civil aspects (and thus with respect to damages). Such a judgment can reverse the detrimental effects of the judgment with regard to the reparation of injury, but has no impact on the findings concerning the criminal liability of the defendant: a defendant who was found not guilty for purposes of the criminal law continues to be not guilty even after the judgment has been varied in the civil party's favour. Thus the decision of the criminal court regarding the criminal liability of the defendant stands intact if a judgment acquitting the defendant is contested only by the civil party. There can therefore be an objective and tangible conflict between the findings of a judgment at first instance that acquits the defendant for purposes of criminal law and the findings of a judgment on appeal, following a challenge lodged by the civil party, that considers the same facts as a basis for a ruling on the reparation of injury. It will be seen that this is an extremely delicate and technical matter.

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?

At the request of the civil party, and provided there are proper grounds, the court will declare its order to make restitution and compensate for injury to be provisionally enforceable. An order to make a provisional first payment (*provvisionale*) is always enforceable immediately. Once the judgment becomes enforceable, the party can enforce it in accordance with the ordinary rules of civil procedure.

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Claiming damages from the offender - Cyprus

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 criminal court has inherent jurisdiction to award a limited amount of compensation to the victim of crime in criminal proceedings, provided that the accused is found guilty. However, that jurisdiction has barely been used and has not been used at all in recent decades.

Having said that, in such cases, the victim is entitled to seek compensation by filing an action against the offender in civil proceedings.

At which point in the criminal proceedings should I raise my claim?

The claim should be submitted after completion of the criminal proceedings in the form of a civil action. It should be noted that this is independent of, and separate from, the criminal proceedings.

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 claim compensation for any loss and damage suffered by identifying the individual types of damage, such as physical injuries, pain and suffering, loss of profits and statutory interest.

Is there a specific form for such claims?

Yes, the writ of summons. This form should be filed with the Secretariat - Registry of the Court. It can either include the claimant’s entire claim or a brief outline of the claim, which will then be followed up with a more extensive claim report.

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

The evidence in support of the claim is evidence which proves the damage suffered.

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

Yes, there are fees and costs for services linked to the claim, depending on the level of compensation claimed.

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?

You can get legal aid at any stage of the proceedings, provided that you are eligible for it, i.e. when you satisfy the criteria laid down by law. In civil cases, legal aid is associated with human rights violations under Conventions specified by law. Legal aid includes free consultation, assistance and representation, and applies equally to persons residing in another country.

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

Not applicable - see above.

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

Not applicable - see above.

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 order to ensure enforcement of the judgment for compensation, the judgment is served on the defendant (offender) who must comply with it. In the event of non-compliance, enforcement proceedings may be brought by the claimant (victim) to oblige the defendant to comply.

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Claiming damages from the offender - Latvia

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?

You are entitled to receive information about the provisions on claiming and receiving compensation, including State compensation, from the person directing the proceedings (the police, the prosecutor's office, the court), and to submit an application for compensation of damages in the criminal proceedings.

You can apply for compensation of damages at any stage of the criminal proceedings until the initiation of examination of the case at the first instance court.

You may submit your application in writing or verbally. A verbal application will be recorded in the minutes by the person directing the proceedings (the police, the prosecutor’s office, the court).

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

You can apply for compensation of damages at any stage of the criminal proceedings until the initiation of examination of the case at the first instance court.

If the person to be held criminally liable has not been identified, this does not limit your right to submit a claim for compensation.

The victim is entitled to withdraw the submitted claim for compensation at any stage of the criminal proceedings until the court retires to deliberate on judgment.

What can I ask for in the claim and how should I present it (indicate a total amount and/or specify individual losses, lost profits and interests)?

You are entitled to receive information about the provisions on requesting compensation from the person directing the proceedings (the police, the prosecutor' s office, the court).

You may submit your application in writing or verbally. A verbal application will be recorded in the minutes by the person directing the proceedings (the police, the prosecutor's office, the court).
In your application, you must provide evidence in support of the amount of compensation for any material loss claimed, but, for moral injury and physical suffering, you only have to indicate the amount of compensation claimed. In your claim, you may specify the payment institution account number to which compensation for damages should be transferred.

Is there a specific form for such claims?

You may submit your application in writing or verbally. A verbal application will be recorded in the minutes by the person directing the proceedings (the police, the prosecutor's office, the court).

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

In your application, you must provide evidence in support of the amount of compensation for any material loss claimed, but, for moral injury and physical suffering, you only have to indicate the amount of compensation claimed.
The court will determine the amount of compensation by assessing your claim and taking into consideration the amount of the material loss, the severity and nature of the criminal offence, the physical suffering caused, permanent mutilation and disablement, the level and public nature of the moral injury, and psychological injury.
Direct damages will be assessed at the price levels assumed in the prosecution.

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

You will not be charged for filing a claim in criminal proceedings.
If you believe that the damage has not been compensated in full, you are entitled to claim compensation as laid down by the Civil Procedure Law (*Civilprocesa likums*). In determining the amount of compensation, compensation received as a result of the criminal proceedings must be taken into consideration.
Upon applying for compensation in a civil procedure, the victim is exempt from the payment of the State fee.

Can I get legal aid before and/or during the proceedings? Can I get it if I am not living in the country where the proceedings take place?

If the protection of the rights and interests of a minor is encumbered or otherwise is not ensured, or the representative submits a reasoned request, the person directing the proceedings (the police, the prosecutor's office, the court) decides on appointing a lawyer to represent the minor victim. In exceptional cases, where the protection of the rights and interests of the person in the criminal proceedings cannot be otherwise ensured, the person directing the proceedings (the police, the prosecutor's office, the court) decides on appointing a lawyer to represent a poor or disadvantaged adult. The person directing the proceedings (the police, the prosecutor's office, the court) appoints a lawyer also in cases where none of the relatives can represent the victim. In these cases, the Legal Aid Administration (*Juridiskās palīdzības administrācija*) covers the lawyer's fees for providing State legal assistance in the criminal proceedings.

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

If the court hands down a judgment of acquittal, the claim for damages resulting from the criminal offence is not examined. If the court does not examine your claim, you may bring a claim regarding compensation as laid down by the Civil Procedure Law .

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

If the court does not examine your claim, you may bring a claim regarding compensation as laid down by the Civil Procedure Law .

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 it?

Rulings on the recovery of compensation for damages to the victim are enforced by court-registered bailiffs who initiate enforcement based on a written application from the collector based on an enforcement order.
To enforce a court decision in part regarding the recovery of compensation for damages to the victim, the court issues a writ of execution to the victim upon his or her request.
Collectors of claims arising from personal injury resulting in disability or other injuries to health or the death of a person are exempt from the enforcement fees payable to court-registered bailiffs.
The court-registered bailiff at his or her initiative carries out the necessary actions and uses the means and methods provided for to enforce court decisions quickly and efficiently . The court-registered bailiff will explain the rights and obligations for the exercise of the procedural rights of the parties in good faith.

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Claiming damages from the offender - Lithuania

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?

You may request compensation for damage incurred due to a crime by bringing a civil claim in criminal proceedings. A civil claim may be brought in the pre-trial phase, by submitting it to the officer conducting the pre-trial investigation or the prosecutor, and when the case is being heard, by submitting it to the court. If a civil claim was not brought or if it was not examined in the course of the criminal proceedings, you may bring a civil claim in civil proceedings.

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

A civil claim may be brought at any point in the criminal proceedings up to the start of consideration of the evidence by the court.

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)?

By bringing a civil claim you may claim compensation for material or non-material damage incurred due to the offence committed by the suspect or accused. Your civil claim must specify the exact amount claimed as well as state the circumstances supporting it.

Is there a specific form for such claims?

There is no special form for civil claims. Only the general requirements for procedural documents submitted to the court apply.

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

You should present written, material or other evidence to support the amount of damage incurred.

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

A civil claim brought before a court for compensation for material and non-material damage incurred due to an offence is exempt from the stamp duty.

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?

Yes, citizens of the Republic of Lithuania, citizens of other European Union Member States and other natural persons lawfully residing in the Republic of Lithuania and other European Union Member States are entitled to secondary legal aid in cases relating to compensation for damage incurred due to crimes. Decisions on the provision of legal aid shall be taken by the State Guaranteed Legal Aid Service (*Valstybės garantuojamos teisinės pagalbos tarnyba*).

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

A civil claim is dismissed if there is no evidence that the accused participated in a criminal offence.
A civil claim is not examined if the accused is acquitted because no act has been committed which has the constituent elements of a crime or misdemeanour or if the civil claimant or his/her representative does not attend the court hearing. In such cases the civil claimant is entitled to bring a claim in civil proceedings.
In exceptional cases, where it is not possible to quantify precisely the amount to be awarded because additional material is needed, the court may recognise the civil claimant's right to have his/her claim satisfied when handing down a conviction and transfer consideration of the amount of the claim to civil proceedings.

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

Yes, you can appeal against such a court decision before a court of appeal in accordance with the procedure set out in the Code of Criminal Procedure (*Baudžiamojo proceso kodeksas*).

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?

When the judgment awarding compensation for damage becomes final, you are entitled to obtain a writ of execution, which you may submit to the bailiff, who will enforce recovery of the amount. If all the applicable conditions are met, State guaranteed secondary legal aid may be provided during enforcement proceedings as well.

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Claiming damages from the offender - Luxembourg

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?

There are several ways of claiming damages from an offender.
In order for the criminal court to have cause to rule on compensation, the victim must sue for damages in the criminal proceedings as a civil party and claim fair compensation from the offender, where the latter is found guilty. The victim does not have to appear at the hearing. He or she can be represented by a lawyer and submit his or her claims in writing before the hearing.
In addition, the amended Law of 12 March 1984 on compensation for certain victims of physical injury resulting from crime entitles certain victims of crime to claim compensation from the State budget. This is an important measure for victims in cases where: the offender has not been identified; although identified, the offender cannot be found; the offender is insolvent. In such cases, the victim must submit a claim for compensation to the Minister for Justice, who will decide on it within six months.
Compensation is payable by the State only if the victim cannot obtain effective and adequate compensation in any other way *(e.g. from the offender, social security or personal insurance)*.
Where the State compensates the victim, the latter can still sue for damages in the criminal proceedings as a civil party and claim additional sums from the offender if the victim believes that that compensation is insufficient. In this case, the victim must inform the court that a claim for compensation has been submitted to the State or that compensation has been obtained from the State.

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

The victim is entitled to sue for damages in the criminal proceedings by sending the investigating judge a letter informing the latter that the victim is suing as a civil party in order to claim compensation for the injury that has allegedly been suffered. This claim may be made at any point in the proceedings. The victim can also submit this claim at the time of the criminal hearing.
However, it should be borne in mind that, if the victim decides to sue for damages as a civil party before the hearing, he or she can no longer be heard as a witness.
If the victim does not sue for damages in the criminal proceedings or submit any claims, the criminal court cannot automatically award damages to the victim. However, the victim who does not sue for damages as a civil party at the time of the criminal hearing does not lose the right to compensation. The victim can still bring a legal action against the offender before the civil courts, provided that this action is taken within the applicable civil limitation period and it is proven that the acts in question constitute a civil wrong.
The claim for compensation submitted to the Minister for Justice can be made before the criminal proceedings have been decided. In addition, the claim must be submitted within two years of the date of the acts. If the offender is prosecuted and the victim sues for damages in the criminal proceedings as a civil party, the time-limit for submitting this claim is extended and expires two years after the final decision of the court hearing the criminal case. If the victim does not sue before the criminal court and the decision made in these proceedings becomes final, the victim can bring a legal action before the civil courts to obtain a decision on damages. In this case, the time-limit is extended and expires two years after the court decision on damages becomes final. However, if the victim is a minor, the limitation period does not start until the date on which the victim reaches the age of majority if the acts are punishable by criminal penalties or provided for and punishable under Articles 372, 373, 375 *(indecent assault and rape)*, 3821 and 3822 *(human trafficking)*, 400, 401*bis*, 402, 403 or 405 *(culpable homicide not classified as murder and intentional bodily injury)* of the Luxembourg Criminal Code.

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 the criminal proceedings, the victim must submit the claim containing his or her precise demands either in writing or orally during the hearing, although it can be submitted in writing before the hearing. In any event, the victim must prove the physical injury suffered by means of evidence (medical certificates, invoices, etc.). In practice, during the hearing, the court will first hear the witnesses and alleged offender before anyone suing for damages as a civil party. At that point, the victim, or the lawyer acting on behalf of the victim, states that he or she is suing for damages as a civil party and submits the document containing the precise demands to the court, prosecutor and parties to the proceedings. The victim does not have to appear at the hearing and can be represented by a lawyer.
The claim can be made on plain paper and contain a list of the various injuries suffered (physical injury/economic loss and/or moral damage) with precise amounts. If an injury cannot be quantified or the amount is not yet known, the amount is then indicated as being 'for the record'.
In most cases, it is the court responsible for trying the offender that sets the amount of damages awarded to the victim as compensation for the injury, if it finds the accused guilty.
The losses and expenses covered by the compensation are for the victim of the crime:
physical (non-psychological) injury:
medical costs resulting from the injury (medical treatment - inpatient and outpatient care, recovery);
additional needs or costs resulting from the injury (i.e. care and assistance, temporary and permanent treatment, prolonged physiotherapy, adaptation of housing, special equipment, etc.);

permanent injuries (e.g. disability and other permanent handicaps);
loss of earnings during and after the medical treatment (including loss of earnings and loss of earning capacity or reduction of benefits, etc.);
loss of professional opportunities;
expenses arising from legal proceedings connected with the event that caused the damage, such as legal fees and other costs;
compensation for stolen or damaged personal property;
psychological (moral) injury:
pain and suffering of the victim;
loss of enjoyment of life (where the victim can no longer lead the same life as before the crime);
disfigurement (scars, loss of a limb or something else);
sexual harm.
The court can order an expert to calculate the exact figure for the injuries suffered. This often happens, particularly in cases of serious bodily injuries.
In this case, the court can award an advance.
After the expert opinion is given, a judgment is made on the damages, setting the amount to be paid.
The maximum amount of compensation that can be awarded by the Minister for Justice cannot exceed a ceiling set each year by Grand-Ducal Regulation. This ceiling was set at EUR 63 000 for 2017. The Minister can also grant an advance.

Is there a specific form for such claims?

There is no specific form in the Grand Duchy of Luxembourg for compensation claims.
Claims are made on plain paper.
Compensation claims submitted to the Minister for Justice must be written in French, German or Luxemburgish and must indicate the date, place and exact nature of the acts.

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

For a claim made before the court deciding the case, the claim for damages and any evidence proving the injury (see below for specific examples) must be submitted.
For a compensation claim submitted to the Minister for Justice, any supporting documents for the acts and injury that the victim has suffered must be enclosed with this letter, in support of the claim.
Non-exhaustive list:
copy of the complaint (police report) or evidence of the claim for damages in the criminal proceedings;
copy of the judgment deciding the criminal proceedings and the claim for damages as a civil party (if this was submitted);
decision on the claim for damages (for example, following an expert opinion);
evidence of the injury: medical certificates indicating the nature of the injuries suffered, duration of the incapacity for work and, where applicable, nature of the after-effects and permanent disability;
evidence of the medical costs resulting from the injury (medical treatment, inpatient and outpatient care, etc.);
evidence of membership of a social security organisation;
evidence of the amount of any compensation received through social security;
copy of the insurance policy;
evidence of the amount of any compensation received through the insurance company;
evidence of loss of earnings during and after the medical treatment.

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

In criminal proceedings, each party must pay its own legal fees, regardless of the trial's outcome. However, a party in need can apply for legal aid. In this case, the State covers all costs.
The victim can also claim procedural compensation. Expert costs are normally covered by the accused.
There are no court fees for a compensation claim submitted to the Minister for Justice.

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?

A victim can get legal aid before and/or during the proceedings, as determined by Luxembourg law, by completing a national form that can be downloaded from the Luxembourg Bar Association (*Barreau de Luxembourg*) website: https://www.barreau.lu/le-barreau/assistance-judiciaire/formulaire-d-assistance-judiciaire. This form must be accompanied by supporting documents proving that the victim does not have sufficient funds to assume the costs of his or her defence. The application must be sent to the president of the bar association in the judicial district where the applicant resides, who will decide whether or not legal aid should be granted.
Anyone can consult the bodies offering legal information and advice. You can access the Legal Reception and Information Service (*Service d'Accueil et d' Information juridique*) to obtain any legal information free of charge. https://justice.public.lu/fr/aides-informations/accueil-info-juridique.html

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

Where the victim has submitted a claim for compensation and the offender is acquitted in the criminal proceedings because the acts do not constitute a crime, the court will still decide whether the accused's wrongdoing is at the root of the injury suffered by the victim. If it is, the accused will be ordered to pay damages. If, however, the victim has failed to prove the causal link between the accused's behaviour and the injury suffered, the court will dismiss the victim' s claim.

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

The victim can appeal against the decision of the criminal court.
In addition, the victim can submit a claim for compensation to the Minister for Justice and is entitled to compensation if the offender has not been convicted, provided that the victim is the victim of a crime, and if the offender has not been identified or, although identified, cannot be found or is insolvent.
If there is no trial, based on the compensation determined by the court, the Minister for Justice may award a fixed amount and/or order an expert opinion, at the Ministry's expense, in order to set the amount of compensation to be awarded to the victim.

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 role of the criminal court is to quantify the injury suffered by the victim, but not to get involved in ensuring payment of damages awarded and any interest.
Once the final decision has been made, it is for the victim to take steps to secure payment of these damages and any interest from the offender.
More often than not, the victim's lawyer will take charge of supervising the recovery of damages, initially through amicable means, by contacting the convicted offender's lawyer, but subsequently by enforcement of the judgment through a bailiff.
Where the court convicts the offender and issues a suspended sentence with probation including the obligation to pay compensation, the Chief Public Prosecutor in charge of enforcing sentences will check whether the convicted offender is complying with that obligation.

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Claiming damages from the offender - Hungary

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?

In the course of criminal proceedings, the victim may claim civil damages for an injury or loss resulting from an offence primarily during court proceedings after a charge has been made; such claim may be for compensation, the restitution of an item or the payment of money. The victim may bring this claim before the court of first instance at the latest at the procedural step where the victim may first appear; the court notifies the victim of such procedural steps. If the victim neglects to do so, no justification for not doing so will be accepted later on.

A civil claim has formal elements specified and required by law. It must indicate the accused person against whom the victim is lodging the civil claim, an express request for the court to pass judgment, in particular the amount or quantity claimed, the right on which the civil claim is based, the facts supporting the right asserted and the request for judgment, as well as the method and place of execution in the event that the court rules on the substance of the civil claim.

In addition, the victim may state his intention to lodge a civil claim even before a charge is brought, that is, prior to the court phase of criminal proceedings. In case a charge is brought, the public prosecutor's office transmits the victim's statement to the court.

The court rules on the substance of the stated civil claim in the criminal proceedings, or if this is not possible for reasons specified by law, refers the civil claims to be satisfied in another lawful manner, as a consequence of which the claim cannot be enforced in criminal proceedings.

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

A civil claim may be lodged after a charge is brought, but the intention to lodge a claim may also be stated prior to charges being brought, during the 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)?

The Code of Criminal Procedure specifies the substantial elements of a civil claim and does not prescribe any special formal requirements.

With regard to its substance, a civil claim may be for compensation, the restitution of an item or the payment of money. The accused person against whom the claim is being brought must be indicated in the civil claim and an express request for the court to pass judgment must be included in the submission. The submission must include the amount or quantity claimed. In such a submission, a request may also be made for compensation under civil law for damage suffered by the person injured as a direct result of a crime. Besides decreases in the value of assets, this may include loss of revenue and interest on the claim for damages. Moreover, the civil claim must indicate the right being asserted by the injured person and the grounds of the claim.

If the civil claim does not include the above-mentioned three most important elements necessary for adjudication (an indication of the accused person, an express request and the right asserted) the court refers the claim to be satisfied in another lawful manner immediately upon detecting these shortcomings. At the same time, the absence of other elements of a civil claim (facts supporting the claim and the right asserted, an indication of the method and place of payment) also lead to the same consequences, with the difference that the court will make the referral only in its final decision instead of immediately upon detecting the shortcomings.

Is there a specific form for such claims?

Legislation does not provide for a form for such claims.

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

The law does not specify what evidence is needed to support a claim. When a court handles and enforces a civil claim, the files of the case are taken into account ex officio, regardless of whether the evidence was provided by the injured person or was obtained from another source. The probative force of evidence is not determined by law, any evidence defined by law may be used freely in criminal proceedings.

Thus the law does not prescribe what evidence must be presented to support a civil claim beyond making the presentation of facts supporting the civil claim compulsory.

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

If an injured person files a civil claim in the course of criminal proceedings, only a fee for the claim and the appeal need to be paid on this basis. However, in such cases the victim has a right of pre-notation of duty, exempting him of pre-payment of the fee.

As a general rule, the fee is calculated on the basis of the value of the object of a civil claim at the time when the proceedings are initiated. The fee is 6 % of the basis of calculation, but at least HUF 15 000 and no more than HUF 1 500 000.

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 victim is entitled to be informed of his rights and obligations by the court, the public prosecutor's office and the investigating authority. If, in addition, the advice of a specialist legal aid solicitor is needed or a submission (petition, application, report, motion for prosecution, etc.) needs to be drawn up in order to initiate proceedings to remedy damage caused by an offence or an impairment of rights or interests arising from an offence, the State will provide a legal aid solicitor or legal services on request. The costs of such services are borne by the State instead of the victim, if the victim's monthly net disposable income does not exceed the minimum retirement pension and he has no assets or the use of such assets would be disproportionate to the benefits that could be attained through the legal services. The rights of the victim do not depend on nationality or residence.

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

The court refuses to adjudicate on the enforcement of a civil claim in the course of criminal proceedings by referring the claim to be satisfied in another lawful manner in the cases determined by law, as listed below. In such cases the victim's claim cannot be enforced in criminal proceedings, only in civil proceedings. The court makes a referral for the satisfaction of a civil claim in another lawful manner in cases where the liability of the accused person under criminal law or for a minor offence was not established because the proceedings were terminated or the accused was acquitted. The same will happen if the enforcement of a civil claim is excluded by law or the claim was lodged late. If a specific property offence was committed against real property and the victim also requested the property to be vacated as a provisional measure, a simultaneously filed civil claim cannot be adjudicated in the criminal proceedings. Neither can a civil claim be enforced in criminal proceedings if there is an obstacle under civil procedural law. If the victim files a notice on grounds for the disqualification of the judge or the court defined under the Act on Civil Procedure but not listed under the Act on Criminal Procedure, this may constitute such an obstacle. The same applies if, in another action based on the same facts and grounds, the legal consequences of having lodged the action have taken effect or a final judgment has been passed, or if the victim or the accused person lacks legal capacity in civil proceedings. Civil claims unenforceable in a court of law cannot be enforced in criminal proceedings either. If the person filing a civil claim is not a victim under criminal procedural law, he cannot assert his claim in criminal proceedings. Neither can an agreement reached between the victim and the accused person in civil proceedings be adjudicated in

criminal proceedings. Furthermore, a civil claim cannot be adjudicated on its substance if that would considerably delay the criminal proceedings or if any other circumstance excludes it. A civil claim which does not fulfil the requirements cannot be adjudicated in criminal proceedings either, therefore such civil claims will be referred for other lawful means of satisfaction by the court.

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

The referral of the civil claim for other lawful means of satisfaction is not subject to appeal.

Satisfaction of a civil claim in criminal proceedings may be facilitated through a number of other means of compensation. Their common characteristic is that in such cases it is not the enforcement of the victim's claim under civil law which is to take place, rather the public prosecutor's office may order, in certain cases, the satisfaction of the civil claim by the accused person with the consent of that person and such performance may lead to a lighter penalty or the termination of criminal proceedings. All such measures fall under the discretionary powers of the public prosecutor's office; however, the victim has the right to file for such decisions to be taken. These include the suspension of proceedings in order to conduct mediation, conditional suspension by the prosecutor or an agreement or settlement between the accused person and the public prosecutor's office. This does not result in the victim being able to enforce his claim through direct State compulsion, but the accused person may be considerably more motivated to satisfy the victim's claim voluntarily.

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 order to ensure a civil claim, the victim may file a motion to order the precautionary seizure of the accused person's property or assets due to the victim even before the civil claim is adjudicated in criminal proceedings. This is possible even before a charge is brought, if the victim has stated his intention to assert a civil claim and the statement contains the formal elements of a civil claim. In such cases precautionary seizure may be ordered by the court and in cases where delays are unacceptable, in a provisional manner, by the public prosecutor's office or the investigating authority.

At the request of the victim who applied for enforcement, the court issues an enforcement order after the civil claim has been upheld in a final decision. If the enforcement order cannot yet be issued in order to satisfy the claim, but the victim applying for enforcement projects a risk that the claim may not be enforced later, the court may secure funds claimed or seize specific objects at the request of the victim in the form of a precautionary measure.

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Claiming damages from the offender - Malta

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?

You should file a civil action against the offender for damages caused the offence, unless the criminal court in its sentence, upon conviction, ordered the offender to pay damages.

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

The civil action for damages is separate and distinct from the criminal proceedings. A civil claim for damages needs to be instituted within two years from the act causing the damage.

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 ask the court to liquidate the damages sustained or if the amount of damage sustained is known, ask for a specific amount of damages.

Is there a specific form for such claims?

There is no specific form. The action is filed by means of a judicial act known as sworn application.

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

Evidence confirming the amount of damages claimed including receipts and employment income at the time of the crime.

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

There are court fees to be paid.

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?

Yes you can benefit from legal aid.

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

In the event of an acquittal or in the case that the offence is time-barred.

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

In the case of the civil action, there is a right of appeal before the Court of Appeal. In the case of a criminal action, the Police can request the Office of the Attorney General to appeal the decision. The victim (parte civile) may also make such a request.

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?

By requesting the issue of an executive warrant for the execution of the judgement such as a warrant of seizure or garnishee order. Your lawyer will ensure such execution.

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Claiming damages from the offender - Netherlands

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?

Compensation can be claimed in criminal proceedings. If you wish to claim compensation from the suspect in a criminal case you can complete the Application for compensation form (*Verzoek tot schadevergoeding*). Information and advice on completing the form can be found on the website of Victim Support Netherlands (*Slachtofferhulp Nederland*). Victim Support Netherlands can help you specify the loss or damage.

It is also possible to claim compensation from the offender in civil proceedings. Such proceedings are usually started only when it has proved impossible to obtain compensation in other ways.

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

If the public prosecutor decides to prosecute the suspect there will be a criminal trial. You will be sent the Application for compensation form by post. The Public Prosecution Service will ask you to return the completed form within 14 days. If you are unable to return the form within 14 days, you should contact the Victim Support Desk (*Slachtofferloket*) to request an extension.

Information and advice on this matter can be found on the Victim Support Netherlands website.

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 interest)?

You should specify the losses you have suffered on the Application for compensation form. Material losses, i.e. losses that can be expressed in financial terms, should be entered in question 4a of the form. If you also suffer from psychological and/or physical complaints, you can claim compensation for non-material damage caused by the pain and suffering after the incident. Such non-material damage should be reported in question 4b. In question 4c of the form you should report emotional damage. This refers to the pain, grief and loss of amenity suffered by a person when a loved one dies or is injured. In some cases, the next-of-kin of a deceased victim or a relative of a victim who suffers serious and permanent injury may obtain compensation for emotional damage. Further information about how to complete the form can be found on the website of Victim Support Netherlands. Victim Support Netherlands can help you specify the loss or damage.

If you are not the victim yourself, but have incurred costs for the victim (for example travel costs, medical costs or an invoice for repairs), you can also use the form to declare these costs. In that case, this 'displaced damage' should not be declared on the victim's application form; instead you should request a form of your own from your local Victim Support Desk.

Is there a specific form for such claims?

If you wish to claim compensation from the suspect in a criminal case you can complete the Application for compensation form. Further information about how to complete the form can be found on the website of Victim Support Netherlands.

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

Information and advice on this matter can be found on the Victim Support Netherlands website.

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

Information about court fees and other costs can be found on the Victim Support Netherlands website.

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?

Information about legal aid before and/or during the proceedings can be found on the Victim Support Netherlands website.

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

Information and advice on this matter can be found on the Victim Support Netherlands website.

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

Yes, you can appeal against such a decision.

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?

Enforcement of the sentence will begin as soon as the offender's conviction is final. If the offender is required to pay you compensation, the Public Prosecution Service will instruct the CJIB (Central Judicial Collection Agency) to collect the compensation on your behalf. If the offender has still not paid the amount owed 8 months after the decision by the public prosecutor or the court, the government can pay you part of the compensation in the form of an advance. The CJIB will write to you about this. If you have any questions about receiving an advance, please contact Victim Support Netherlands.

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Claiming damages from the offender - Austria

There is no specific form for the declaration to join the criminal proceedings as a civil party. There are no requirements as to what form the declaration must take. Existing witness statement forms contain a question which asks whether the person wishes to join the criminal proceedings as a civil party. It is enough for the person to state yes and provide a brief explanation for them to be joined.

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 victim of a crime has the right to seek damages for the suffering caused or compensation for impairment of his/her legal rights protected under criminal law. In order to make a claim, the victim may declare that he/she wishes to join the criminal proceedings as a civil party. This declaration (for joining the criminal proceedings as a civil party) joins the victim as a civil party to the criminal proceedings. If, at a later stage, the public prosecutor drops the charges, the civil party can continue proceedings via what is known as an 'associated prosecution' (*Subsidiaranklage*).

Depending of the status of the proceedings, the declaration to join proceedings as a civil party may be submitted to the criminal police (*Kriminalpolizei*), the public prosecutor or the court, either verbally or in writing. There are no requirements as to which form the declaration should take (Section 67(3) of the Code of Criminal Procedure (*Strafprozessordnung*, StPO).

Alternatively, victims can make claims as part of a civil case.

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

The declaration to join the criminal proceedings as a civil party may be submitted up until the taking of evidence has been completed as part of the main hearing. As certain participation rights which go beyond the rights of the victim are linked to this under criminal proceedings (e.g. the right to apply to take evidence, summons to the main hearing), it may make sense to make the declaration to join the criminal proceedings as a civil party at an early stage in the proceedings.

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 claims must be justified in the declaration to join the criminal proceedings as a civil party. A concrete estimate for the claim must be provided by the end of the evidence-taking procedure in the main hearing. However, only a proportion of the damages can be claimed.

Is there a specific form for such claims?

There is no specific form for the declaration to join the criminal proceedings as a civil party. There are no requirements as to what form the declaration must take. Existing witness statement forms contain a question which asks whether the person wishes to join the criminal proceedings as a civil party. It is enough for the person to state yes and provide a brief explanation for them to be joined.

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

Evidence should preferably be presented or submitted when the crime is reported or during questioning by criminal police. At the very latest, it should be submitted by the hearing. Evidence includes:

photos,
medical diagnoses,
bills or invoices,
quotations, etc.

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

Civil parties usually do not incur any costs as part of the criminal proceedings (apart from the cost of their selected representatives). Costs are only incurred if the civil party knowingly gives a false statement which initiates criminal proceedings or if the defendant is acquitted in the event of an 'associated prosecution'.

Can I get legal aid (help of a lawyer) before and/or during the proceedings? Can I get it if I'm not living in the country where the proceedings take place?

Civil parties do not have to use the services of a lawyer as part of the criminal proceedings. Some victims, especially those that may have been exposed to violence or dangerous threats or had their sexual integrity or ability to make decisions in relation to their sexuality undermined as a result of the crime, may request support during the legal proceedings (legal advice and representation by a lawyer) if this is necessary in order to safeguard their procedural rights, taking their personal involvement into account as far as possible (Section 66(2) StPO). This support is free of charge for victims.

Where there is a genuine financial need, other victims may also request assistance from a lawyer under the system of procedural support if this is necessary for the administration of justice, particularly for the enforcement of the right to avoid subsequent civil proceedings (Section 67(7) StPO).

In the context of criminal proceedings in Austria, this also applies to individuals living abroad and individuals who do not have Austrian citizenship.

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

The declaration to join the proceedings as a civil party will be rejected if it is clearly unwarranted, submitted late or if an estimate of the compensation amount or damages is not given in time (Section 67(4) StPO). Up until the charges have been brought before the court, it is the public prosecutor that decides whether to reject the declaration. Once charges have been brought, it is the court that decides (Section 67(5) StPO).

If the main hearing leads to a judgment, the court must also make a decision on civil claims that have been filed. If the defendant is acquitted, the civil party must file his/her claims in a civil court, as in such instances the civil party cannot be awarded compensation or damages as part of criminal proceedings. If the defendant is found guilty, (i) the claim may be granted (either partially or in its entirety) or (ii) the claimant may be told to file his/her claims in a civil court.

Civil action despite a guilty verdict is necessary if the civil claims are deemed unwarranted after the basis for the decision has been fully investigated or if the outcome of the criminal proceedings does not allow for even a partial assessment of the civil claim, unless an evidence-taking process which does not significantly delay the decision in relation to the defendant's guilt and sentencing allows the basis for the decision to be investigated further.

Civil claims cannot be dismissed as part of the criminal proceedings, i.e. the civil party can still file his/her claims in a civil court.

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

If the declaration is rejected by the public prosecutor, an appeal may be lodged on the grounds of infringement of rights (Section 106 StPO). If the declaration is rejected by the court, a complaint may be lodged (Section 87(1) StPO).

The civil party may (but only in certain cases) lodge an appeal for nullity or appeal against the referral to the civil court due to the acquittal of the defendant. If the party is referred to the civil court despite the defendant having been convicted, an appeal may be lodged on the basis of the civil claims.

Outside the criminal proceedings, civil claims can always be filed in the civil courts.

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 accordance with the first sentence of Section 1 of the Enforcement Order (*Exekutionsordnung*, EO), legally-binding conclusions of the criminal courts in relation to civil claims constitute writs of enforcement within the meaning of the EO. Each enforcement procedure requires a valid writ of enforcement.

Enforcement must be requested via the competent district court (*Bezirksgericht*). If all the requirements for an enforcement are met, it will be granted.

Enforcement action (e.g. the sale of movable property, the transfer of claims to the enforcing creditor or the forced sale of property) is taken upon the request of the claimant.

The forms for the enforcement procedure can be accessed via the following link on the website of the Austrian Ministry of Justice.

Once the enforcement action has been approved, the enforcement procedure is generally managed by a judge or judicial officer. The enforcement action is carried out by bailiffs, who in Austria are court officers. The creditor will only be asked to submit further applications if the court or bailiff is unable to continue the procedure without these or if the action entails costs.

The enforcement action is carried out until it has been successfully concluded or terminated, i.e. because the debtor has paid his/her debt to the creditor during the procedure.

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Claiming damages from the offender - Poland

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:

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;

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;

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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Claiming damages from the offender - Portugal

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?

In Portugal, as a rule, damages must be claimed under the criminal proceedings. As such, the offences that form the object of the criminal proceedings may also be grounds for civil liability, insofar as they harm interests that may be subject to redress for damage to property, pursuant to civil law.

The Code of Criminal Procedure (*Código Processo Penal* - CPP) establishes the principle of adherence, under which a civil claim for damages on the basis of the commission of a crime must be brought within the respective criminal proceedings, and may only be decided separately before a civil court in the instances provided for in law and set out in the CPP.

In circumstances where the victim is resident in another Member State of the European Union and is the victim of a crime in a State other than that of their residence, they may submit the claim for damages to the authority responsible for examining and deciding on such claims in their State of residence. The latter must forward the claim to the competent authority of the State where the crime took place.

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

The victim must state their intention to present a claim for damages as soon as they present their complaint, or before the investigation is concluded. They will then be notified of the bill of indictment and will have 20 days to submit their claim for damages.

Even if no claim for damages has been brought, the judge may, at their own initiative, and taking into account the victim's circumstances, order the defendant to pay the victim certain damages for harm suffered, unless the victim themselves objects.

For victims of violent crimes, the claim for damages may be submitted up to one year after the final decision.

If the victim was a minor at the time the crime was committed, they may present the claim up to one year after reaching the age of majority or becoming emancipated.

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 for damages may be made on the basis of the occurrence of:

Damage to property: including losses caused by the crime (for example, the costs of hospital treatment, consultations, medicines, etc.), and benefits that the victim is no longer receiving (for example, the pay they stopped receiving while incapacitated).

Psychological damage: although this cannot be ascribed a financial value, it can .be compensated financially (for example, damage that interferes with well-being, dignity or good repute, involving physical pain, psychological disturbance and emotional distress).

Is there a specific form for such claims?

No. The application must simply contain a brief description of the facts on which the claim is based and indicate the losses suffered and the value thereof. However, if the claim involves an amount greater than €5 000, a court fee is payable and the claim must be presented by a lawyer.

Damages paid by the State

In the case of violent crimes, an advance may be paid by the State. A specific form must be completed stating the amount of damages claimed and specific documents must be attached, such as the victim's income tax return and that of the claimant (if not the same as the victim) for the year preceding the commission of the crime, as well as documents substantiating the costs indicated on the form.

For domestic violence cases, they may be an advance from the State and a specific form must be completed. The same documents referred to in a) must be attached.

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

The victim must present all documents that provide evidence of the losses suffered (see paragraph 1.1). They must also produce witnesses that can corroborate and confirm that the victim suffered the losses they are claiming.

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

If the claim is less than €5 000, there is no fee payable, and the claim can be submitted by the victim themselves.

If the claim is greater than €5 000, the claim must be submitted by a lawyer representing the victim and is subject to the payment of a court fee, unless the victim is receiving legal aid.

For victims of violent crimes and domestic violence crimes, the claim for advance payment is sent to the Commission for the Protection of Victims of Crimes (*Comissão de Proteção às Vítimas de Crimes* - CPVC) and is exempt from the payment of any costs or charges by the victim.

If the crime was committed in the territory of another EU Member State, the claim may be submitted to the CPVC, provided the claimant has their habitual residence in Portugal.

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?

Yes, you can apply for legal aid in certain circumstances.

The victim is entitled to legal advice and guidance concerning their role during the proceedings.

If you wish to join the proceedings as a civil party, you must apply for legal aid at an early stage of the proceedings or when, as a witness, you wish to be accompanied by a lawyer and do not have the financial means to cover the respective costs.

You may also apply for legal aid for:

Full or partial waiver of payment of the court fee;

Appointment and payment of lawyers' fees; or

Phased payment of the court fee or of lawyers' fees.

Note: The decision on applications for legal aid is made by the social security authorities, on the basis of a calculation formula that takes into account the applicant's assets, income and expenditure. The application for legal aid must be submitted using forms that are available free of charge from the social security services. The form may be submitted in person, by fax, post or via the Internet, in the latter case by completing the respective digital form. The application must be accompanied by a set of documents that confirm the applicant's financial hardship. The decision will be taken within 30 days. The submission of this application does not entail any costs to the victim.

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

If there was no conviction for the commission of the crime.

If the victim cannot prove the losses they have suffered.

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

Yes. You may appeal against the decision if you have joined the proceedings as a civil party.

You may also resort to conventional means (the civil courts) if, for any reason, the claim has not been considered.

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?

Yes. If the defendant does not pay the damages voluntarily, the victim may take enforcement action, that is, apply to the court to enforce the decision to award damages by means of, for example, an attachment of salary, bank accounts, real estate or movable property, until the value of the damages awarded to the victim has been reached.

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Claiming damages from the offender - Romania

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?

In order to obtain compensation for damage caused by a criminal offence, an injured party may apply either to a criminal or to a civil court.

The most important procedural means by which victims of crime can obtain an order requiring the defendant to pay damages or compensation is to bring a civil action within criminal proceedings. The benefit of this approach is that it allows for the whole body of evidence set before the criminal court to be used, while separate civil proceedings before a civil court are governed by the 'principle of availability'.

The provisions that govern bringing a civil action within criminal proceedings are set out in Articles 19 to 28 of the Code of Criminal Procedure.

The purpose of a civil action brought in criminal proceedings is to hold the persons liable under civil law for any damage caused by the criminal offence that is being addressed by the criminal proceedings.

A civil action can be brought by an injured party – or their successors – who is a civil party to proceedings against a defendant and, where applicable, a party with civil liability.

Where the injured party is incapacitated or has limited capacity to act, the civil action can be brought on their behalf by a legal representative or, where applicable, a public prosecutor.

If they have not joined criminal proceedings as a civil party, injured parties or their successors, may bring an action before the civil court for compensation for the damage caused by a criminal offence.

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

At the start of the first hearing, the injured party is informed of the right to join the criminal proceedings as a civil party.

An application to join as a civil party (*c*erere de constituire ca parte civilă) may be made during the pre-trial stages of a criminal prosecution or brought before the preliminary chamber, as well as in the course of the trial, but must be submitted before the judicial investigation begins.

While the judicial investigation is still ongoing, the civil party may correct any clerical errors in the application to join as a civil party, increase or lower the claim, and claim compensation for material damages in the form of cash payment, if compensation in kind is no longer possible.

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)?

Joining as a civil party is done in writing or orally. The nature and amount of the claim must be stated along with the grounds and evidence on which the claim is based.

If this is done orally, the court is required to record it in a formal report or, where applicable, in a court order (*încheiere*).

Is there a specific form for such claims?

There is no specific form, but a civil action may be brought in criminal proceedings if the following conditions are met: the civil party joins proceedings before the judicial investigation begins, and is done in writing or orally with the nature and amount of the claim stated, as well as the grounds and evidence on which the claim is based.

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

In criminal proceedings, evidence means any fact that serves to establish the existence or non-existence of a criminal offence, to identify the person who committed it and to determine the circumstances required to fairly resolve the case, and which contributes to ascertaining the truth in the criminal proceedings.

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

A civil action to determine the civil liability of a defendant and/or party with civil liability that is brought before the criminal court or civil court, is exempt from court fees (*taxă de timbru*).

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 parties and litigants in criminal proceedings are represented or assisted by a lawyer.

During the criminal prosecution, the lawyer of the injured party has the right to be informed of the date and time of the criminal investigation or of the hearing before the rights and freedoms judge (*judecător de drepturi și libertăți*) and to be present at any phase of criminal prosecution unless otherwise provided for

by law, the right to consult case files, and to submit applications and statements. At the same time, the injured party's lawyer has the right to be afforded the time and facilities required to prepare and mount an effective defence.
Legal aid for the injured party is mandatory when they have no capacity to act or restricted capacity to act, as well as when the injured party is the victim of offences of ill-treatment of minors, domestic violence, offences concerning trafficking and exploitation of vulnerable persons, and offences against sexual freedom and integrity. When the court deems that, for certain reasons, the injured party would be unable to defend themselves, it arranges for a court-appointed lawyer to defend them.
The injured party has the right to be provided with an interpreter free of charge when they do not understand, speak well or cannot communicate in Romanian and the right to be provided with the translation into a language they understand of any non-trial resolution (*soluție de netrimitere în judecată*) when they do not understand Romanian.

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

As stated above, a civil action may be brought in criminal proceedings if the following conditions are met: the civil party joins proceedings before the judicial investigation begins, and is done in writing or orally with the nature and amount of the claim stated, as well as the grounds and evidence on which the claim is based.
In accordance with the Code of Criminal Procedure, the court leaves a civil action unresolved in the following cases: in the event of acquittal of the defendant; termination of criminal proceedings on the grounds that the act is not covered by criminal law, there was no preliminary complaint, authorisation or referral to the competent body or any other condition laid down by law required for a prosecution to be brought; amnesty; the death of the suspect or defendant or the deregistration of the suspected or accused legal person has been ordered; the authority of a final decision (*res judicata*) applies; a transfer of proceedings agreed with another State took place in accordance with the law; in the event of termination of the criminal proceedings following the withdrawal of the prior complaint; and, if the court accepts a plea bargain and no settlement or mediation agreement has been reached between the parties to the civil action. In this case, the injured party may bring an action to the civil court for compensation for damage caused by a criminal offence.

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

If a court leaves the civil action unresolved, the injured party may bring an action to the civil court for compensation for damage caused by a criminal offence.
If a criminal court has ruled on the civil action, an injured party dissatisfied with that decision that may appeal against the judgment within 10 days of that judgment being delivered, or, where applicable, within 10 days of a record of the judgment being served.

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?

Orders concerning civil damages and costs payable to the parties that form part of a judgment in criminal proceedings are enforced in line with civil law.
An obligation established by a court decision or other enforceable instrument is initially complied with on a voluntary basis.
If the debtor fails to fulfil the obligation voluntarily, then compliance is ensured by means of enforcement measures, which are initiated by applying to an enforcement body.
The enforcement of any enforceable instrument, unless otherwise provided for by law, is carried out by a bailiff *(executor judecătoresc*).
The enforcement procedure is the second stage of civil proceedings and is principally intended to ensure the actual exercise of a right recognised by a court judgment or other enforceable instrument. The enforcement procedure ensures a creditor who is the holder of a right recognised by a court judgment /enforceable instrument can compel a debtor to meet the obligations that they have refused to meet voluntarily.
The enforcement provisions are set out in Articles 622 to 914 of the Code of Civil Procedure.

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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 zahtevek).
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 compentent 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).
In a judicial procedure, foreigners (who are not residents of the Republic of Slovenia) are entitled to **free legal aid under the condition of reciprocity** or under the conditions and in cases determined by international treaties binding the Republic of Slovenia.

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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?

Damages can be claimed from an offender in criminal proceedings either by making an oral submission on the record of the hearing or by submitting a special written petition. A victim who is entitled under law to claim damages from the offender for losses caused by the criminal offence committed against them is also entitled to petition the court to order the defendant to pay damages as part of the conviction; the victim must make such a petition at latest by the end of the investigation or the summary investigation. The petition must clearly state the reasons for the claim and the amount of damages sought. The victim is advised of the right to damages and the procedure for exercising that right in the course of the hearing.
If there is reasonable concern that satisfaction of the victim's claim for compensation for the losses caused by the crime will be obstructed or impeded, the claim up to the probable amount of the losses can be secured against the defendant's assets or other property rights. A decision on seizing assets is taken by the court on the basis of a petition submitted by the prosecutor or victim or, in the case of pre-trial proceedings, by the prosecutor on the basis of a petition submitted by the victim; in pre-trial proceedings, 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 a claim for damages to be adjudicated in criminal proceedings, it 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. To be considered submitted in time, a claim for damages must be submitted by the end of the investigation at the latest, which means that, in principle, it must be submitted before the final examination of the investigation file. The claim for damages must clearly state the reasons it is being submitted and the amount of damages sought by the victim. When deciding on damages in the course of criminal proceedings, the court is then bound by the amount claimed by the victim.

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, evidence must be presented that demonstrates the reasonableness of the claim for damages and from which the amount of the losses incurred may reliably be determined. In the case of personal injury, an expert may be appointed in the course of the investigation to assess the extent of the personal injury.

Are there courts 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 damages and lacks sufficient funds to pay the associated costs, a solicitor may be appointed as their representative by the prosecutor in pre-trial proceedings or by the presiding judge in the trial, even without a petition if they consider it necessary to protect the interests of the victim. The victim must prove that they lack sufficient funds.
On initial contact with the victim, the law-enforcement authority is required to provide them with information in written form on their rights in the criminal prosecution and on victim-support organisations and the services provided by those organisations. Legal advice is also part of those services.

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

If the evidence taken fails to find any basis for declaring liability for damages or if additional evidence going beyond what is required for the criminal prosecution would be needed in order for a decision on liability for damages to be taken.

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 satisfied, the victim may subsequently file their claim for damages directly against the offender in civil proceedings.
Any person who has sustained personal injury caused by an intentional violent crime or immaterial harm caused by certain crimes against freedom and human dignity or by the crime of cruelty to a close individual or to an individual in one's care may apply to the Ministry of Justice for damages. Victims of such crimes are entitled to damages even if the judgment, penalty order or other relevant decision has not yet been handed down or become final, provided that the results of the investigation or summary investigation conducted so far do not give rise to any reasonable doubt regarding an act having been committed that constitutes a violent crime and caused the victim personal injury. Once the application has been submitted, the Ministry assesses whether the results of the investigation raise any doubts regarding the facts stated. If there are doubts, damages cannot be awarded. An application can be re-submitted, where justified, for example if there is a delay in the investigation.

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 fails to voluntarily fulfil their obligations as ordered by the court in the criminal proceedings, the victim receives an enforcement order once the court's decision becomes enforceable, on the basis of which they can enforce the judgment against the offender under enforced recovery proceedings. In such cases, the victim may seek legal aid from a solicitor.

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Claiming damages from the offender - Finland

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?

Claims for compensation resulting from a crime are usually processed as part of the same trial as for the criminal case, but they may also be separated out for processing under different proceedings.

You may ask the prosecutor to present your compensation claim for the crime in question in court. It is a good idea to inform the police of this during the preliminary investigation. The prosecutor may pursue the compensation claim on your behalf if the matter is clear and simple. If the prosecutor does not present the compensation claim, he/she will notify you in writing.

You may also pursue your claim for damages in court yourself during the proceedings for the criminal case, or it may be done on your behalf by a legal adviser.

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

If you claim compensation from the offender, you must report it to the police during the preliminary investigation, or at the latest to the court when the case is heard by the court.

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)?

If you are the victim of a crime, you can claim compensation for:

property broken or lost in connection with the damage;

any medical costs necessary and other essential costs;

loss of earnings;

aches, pains and other temporary problems;

permanent problems; and

mental anguish. Compensation may be paid out for mental anguish if the act in question:

infringed your freedom, peace, honour or private life;

discriminated against you;

violated your personal integrity; or

seriously violated your human dignity in some other way.

Your close relatives may also be entitled to reasonable compensation for essential costs and loss of earnings caused to them as a result of caring for you owing to the injuries that you sustained as a result of the crime.

If you have arranged the burial of a person who died as a result of a crime, you have the right to claim compensation from the offender for the costs incurred for the burial. The parents, children and spouse of the deceased or other comparable person particularly close to the deceased also have the right to reasonable compensation for the burial costs that they have incurred.

The court cannot order anything else or more than you have claimed as the interested party. The compensation claims that you submit are therefore the upper limit of the compensation to be ordered. You also have the right to claim interest on the amount of compensation that you have claimed. If you have been summoned to clarify the matter in person in court, you have the right to obtain a daily allowance and compensation for your travel costs and loss of earnings.

Is there a specific form for such claims?

There is no specific form.

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

You can demonstrate the amount of the damage by presenting receipts for the expenses caused by the crime. Evidence must also be submitted for any loss of earnings, insurance excess and any travel and other costs relating to clearing up the case for which compensation is claimed.

For aches, pains and other temporary problems, as well as permanent problems, compensation is determined considering the nature and severity of the injury, the nature and duration of the care required for it, and the duration of the problem. Compensation for a permanent problem is determined considering the nature and severity of the personal injury and the age of the person suffering from the problem. Any particular worsening in the quality of life of the person suffering from the personal injury may also be taken into consideration as a factor for increasing the amount of compensation awarded. In order to prove this, you need doctors' statements explaining the nature of the injuries and the care needed for treating them.

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

No court fees are charged for hearing the case at the district court (*käräjäoikeus*) if the compensation claim is pursued in conjunction with charges brought by the prosecutor. If compensation claims are brought as a separate civil case, a court fee is charged for hearing the case.

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 satisfy the conditions for obtaining legal aid, you may obtain legal aid for both the preliminary investigation and the court proceedings. A victim of domestic violence, sexual crime or a serious crime against the life, health or freedom of the victim may have an adviser paid for from State funds. Legal aid may be obtained for cases heard by the Finnish courts, even if you do not live in Finland.

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

If you reported during the preliminary investigation that you wanted to pursue your compensation claim yourself or using a lawyer, or if the prosecutor does not take up your claim, the district court will ask you about any compensation claims that you might have. The district court may set a deadline by which the compensation claim should be sent to it. Failing to submit a claim in writing may mean that the district court does not investigate a compensation claim that you lodge later on.

The court will reject your compensation claim if insufficient evidence is submitted to support it.

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

If you want to appeal against the decision made by the district court, you should notify that court of your dissatisfaction within seven days of the date on which the judgment was issued. Once you have notified the court of your dissatisfaction, you may appeal against the judgment to the competent Court of Appeal (*hovioikeus*). Your appeal letter must be sent to the district court within 30 days of the date of issue of the district court's judgment. As a general rule, you will require leave for continued consideration in order for the Court of Appeal to process the case fully.

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 defendant does not voluntarily pay the compensation ordered, you may apply to have your claim enforced by a bailiff. You should send the bailiff the enforcement application and enclose with it the court decision confirming your entitlement to damages. The enforcement application is made to the bailiff for the place where the debtor lives or has a place of residence. If there are several debtors and they live in different localities, it will suffice to make an application to one bailiff. You can request more detailed guidance on applying for compensation from the enforcement office (*ulosottovirasto*). You can find contact details for the enforcement offices here (in Finnish, Swedish and English).

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Claiming damages from the offender - Sweden

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?

You should first go to the police or the prosecutor's office. They also have an obligation to investigate claims for damages from an injured party. If you do not have assistance of an own legal representative during the trial, the prosecutor must generally also help to pursue the plaintiff's claim against the offender if this is done in conjunction with a criminal case.

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

It should be submitted as early as during the police investigation so that the claim can be investigated and evidence gathered. It is possible, however, to submit a claim right until the start of the main proceedings in the criminal case.

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 interest)?

Swedish tort law is based on reparations – an injured party must, as far as possible, be placed in the same financial situation as if the damage or injury had not occurred. This means that damages may be claimed for all financial losses caused by the damage or injury in question. The injured party does, however, have an obligation to limit the damage where possible.

Damages may be awarded for:

personal injury, which includes costs (for healthcare, etc.), compensation for loss of earnings, physical and mental suffering of a temporary nature (pain and suffering), compensation for permanent deformities (disfigurement) and permanent disabilities (incapacity);

violation of personal integrity, where the crime targets the victim's person, freedom, peace or honour and the violation is serious;

material damage, e.g. from stolen or damaged property;

purely financial damage, i.e. purely financial harm arising, for example, in the event of fraud or embezzlement.

The claim should be specified under the relevant headings and then a summary of the whole claim should be provided. The claimant is entitled to interest from the day of the crime or another, subsequent, date on which the damage occurred. A claim for interest must also be submitted in order for the court to rule on it.

Is there a specific form for such claims?

The police and the prosecutor's office have specific forms for tort claims that you may use.

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

Some of the evidence that is necessary for receiving damages is usually included in the police investigation and can be relied upon by the prosecutor to support the allegation. For example, this applies to the circumstances surrounding the crime and the damage caused by the crime.

The plaintiff needs to be able to submit evidence covering his/her claims, for example, evidence of costs (receipts), loss of earnings (evidence of the injury /sick leave and the income that has been lost), material damage (documentation showing the value of destroyed property or the repair cost/depreciation for damaged property).

In the case of damages for a violation, the plaintiff does not need to submit any special evidence. Compensation for a violation will be in line with the assessment of the crime.

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

No; there are no fees when a claim for damages is brought in conjunction with a criminal case.

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?

As the plaintiff/injured party, you are entitled to your own legal assistance during the criminal proceedings. For example, this applies in the event of serious violent crime, sexual crime, domestic abuse, or other cases where there is a clear need for assistance. If you would like to receive such legal assistance, you can notify the police or the prosecutor's office, who will then forward your request to the court, which will in turn decide whether or not you will be given a plaintiff's counsel. The plaintiff's counsel can provide help and support throughout the process, and will also prepare and pursue the action for damages. If you are given a plaintiff's counsel, the State will pay for it.

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

It is highly unusual for the court to dismiss a tort claim pursued in conjunction with a criminal case, even if it is formally possible.

What sometimes happens is that the court separates the processing of the criminal case and the tort case. This can happen if the claim for damages is complicated or has not been prepared properly and the processing of the criminal case is delayed as a result. The fact that these matters are separated means that the criminal case is decided upon first, and the court hears the tort case at a later date. A consequence of this is that the prosecutor can no longer help to pursue the tort claim. It is generally better for the injured party if the tort case is sufficiently prepared so that it can be decided upon in conjunction with the criminal case.

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

The court must always provide instructions on how to appeal. These instructions set out the conditions for appealing in the relevant situation.

Insurance compensation is usually not subject to the tort case having been heard in court, which means that the damage or injury can be reported to the insurance company.

The following applies with regard to compensation for criminal damage. If an offender is able to pay the damages, the claim must always be made against the offender first. If the offender is not able to pay, and the injured party cannot be otherwise compensated for the damage or injury that he/she has sustained, compensation for criminal damage may be paid out even if the injured party has not pursued a tort claim against the offender.

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 the judgment has taken legal effect, the court sends it to the Swedish Enforcement Authority (*Kronofogden*). The Swedish Enforcement Authority will then ask whether you want any help with enforcing your claim. If you say yes, the Swedish Enforcement Authority will investigate the offender's assets. If he /she is able to pay, the claim will be paid. If, however, the offender is unable to pay, you will be notified by the enforcement officer. If your damage or injury has not been compensated by your insurance, you are entitled to State compensation for criminal damage.

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Claiming damages from the offender - England and Wales

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?

In law, damages are an award, typically of money, to be paid to a person as compensation for loss or injury. These claims are generally brought in the civil courts and usually have no connection with a criminal act or offender. However, you can apply for compensation if you have been hurt in a violent crime – this would be criminal compensation which is different from claiming compensation under the civil law of tort.

Compensation orders are available to the courts to require an offender to compensate a victim financially, primarily for personal injury, loss or damage. The Government believes that it is important for offenders to make reparation for their crimes, and in recent years this regime has been strengthened by obliging courts to consider making a compensation order in appropriate cases, and lifting the £5,000 cap on compensation awards in respect of offenders aged 18 or over in the magistrates' court. The power to order compensation for victims means that courts are able to order compensation in accordance with the offender's means as a reparative measure.

If you have suffered a loss as a result of the act or omission of another person, such as loss of income, property or even personal injury, you may be able to bring a claim for compensation for this loss. Such a claim is brought in the civil courts and is entirely independent of whether there are any criminal proceedings.

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

A claim in tort is entirely separate from any criminal proceedings. The fact of a conviction may, however, be used as evidence in a claim in tort that the offender did what is alleged against him or her. In some cases, therefore, it may be advisable to wait until the criminal proceedings have concluded before commencing a claim in tort.

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 a civil claim, there are various heads for damages depending on the loss, damage or injury caused, but in the main you may claim for loss of money, income, damage to property and the like, or (in the case of personal injury) for pain, suffering and loss of amenity. Any award of damages is designed to place you in the same position as if the incident had not occurred. The different heads of loss should be specified.

Any award for civil damages will reduce one under the Criminal Injuries Compensation Scheme by a similar amount.

Is there a specific form for such claims?

Yes, claims in England and Wales start on a claim form, Form N1. For further information see: https://www.gov.uk/make-court-claim-for-money. For claims in Europe that are for money less than 5000 Euros it may be possible to use the European small claims procedure in contested matters, or the European Order for payment. Also see https://www.gov.uk/recover-debt-from-elsewhere-in-european-union

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

A civil claim requires the matters complained of to be proved on the balance of probabilities, so it will be necessary to present sufficient evidence of the defendant's conduct alleged to have caused the loss, and evidence that it did cause that loss, to meet that test. It will also be necessary to prove the amount of the loss, and the evidence necessary for that will depend on what is being claimed for, and would generally include receipts, sales bills, payslips and the like for financial loss, and medical reports for personal injury.

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

Yes there are fees, they are dependent on the value of the claim, for more information see: https://formfinder.hmctsformfinder.justice.gov.uk/ex50-eng.pdf

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?

There is very limited legal aid for civil matters, and would depend on the nature of the claim. It is unlikely that there would be legal aid for an individual not normally resident in the UK. For further information please see: https://www.gov.uk/legal-aid/eligibility Claimants in civil proceedings are mainly represented on the basis of conditional fee agreement, often described as a "no-win, no-fee" agreement. https://www.lawsociety.org.uk/support-services/advice/articles/new-model-conditional-fee-agreement/

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

A civil claim is not brought before a criminal court at all. The matters are independent of each other.

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

The decision to appeal a determination in a civil case will depend on the circumstances. For further information please see: https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part52

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?

Under the legal system of England and Wales the choice of enforcement method lies entirely with the judgment creditor. The civil courts offer a number of different methods by which a creditor can enforce a judgment in their favour. These methods include warrants of control, attachment of earnings, third party debt orders, charging orders and orders for sale. For more information please see: https://www.gov.uk/make-court-claim-for-money/enforce-a-judgment

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Claiming damages from the offender - Northern Ireland

These questions would be matters for the applicant, their representative and the Courts.

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?

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

-

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)?

-

Is there a specific form for such claims?

-

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

-

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

-

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?

-

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

-

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

-

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?

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Claiming damages from the offender - Scotland

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?

If the accused pleads guilty, or is found guilty, the court may order the accused to pay you compensation. The court will contact you if a compensation order is made. If you do not want compensation please inform the Crown Office and Procurator Fiscal Service as soon as possible.

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

N/A

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)?

N/A

Is there a specific form for such claims?

N/A

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

N/A

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

N/A

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?

N/A

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

N/A

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

N/A

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?

N/A

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