

Provisions and forms of civil litigation before the criminal judiciary

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Abstract

The public prosecution, as a representative of society, acts on its behalf to claim this public right and its means of doing so is the public prosecution. However, the criminal act may extend its effect to cause damage to the personal rights of individuals, which gives them the right to demand compensation for these damages and recover them by filing a civil lawsuit.

However, some legislations, including the Algerian penal legislation, have made an exception to this general rule based on certain considerations related to both the perpetrator and the victim, allowing the civil lawsuit to be considered ancillary to the public lawsuit to claim compensation for the damage arising from the same offence in accordance with specific conditions and forms where they are adjudicated in accordance with the rules of criminal procedure and before the penal judiciary.

Keywords: *Dependency, Civil Action, Criminal Action, Jurisdiction, Damage, Compensation, Prosecution, Intervention.*

Dispositions et formes du contentieux civil devant le juge pénal

Résumé

Le ministère public, en tant que représentant de la société, agit en son nom pour revendiquer ce droit public et son moyen d'action est l'action publique. Cependant, l'acte criminel peut étendre ses effets jusqu'à causer des dommages aux droits personnels des individus, ce qui leur donne le droit d'exiger la réparation de ces dommages et de les recouvrer en se constituant partie civile.

Toutefois, certaines législations, dont la législation pénale algérienne, ont apporté une exception à cette règle générale sur la base de certaines considérations liées à la fois à l'auteur et à la victime, permettant à l'action civile d'être considérée comme accessoire à l'action publique pour demander la réparation du dommage résultant de la même infraction selon des conditions et des formes spécifiques lorsqu'elles sont jugées conformément aux règles de la procédure pénale et devant la juridiction pénale.

Mots-clés : *Dépendance, Action civile, Action pénale, Jurisdiction, Dommage, Indemnisation, Poursuite, Intervention.*

Introduction:

Most legislations, including the Algerian legislation, in their division of jurisdiction, have resorted to the establishment of criminal courts that are competent to adjudicate public proceedings whose subject matter is an offence and apply the Code of Criminal Procedure and civil courts that hear civil cases whose subject matter is a claim for compensation for harmful acts and apply the rules of the Code of Civil Procedure, thus establishing a general rule in judicial jurisdiction and making it a requirement of public order that the two cases cannot be brought before the same judicial body. However, some legislations, especially those derived from the Latin system, we find that they have addressed in their criminal laws, specifically in their procedural part, the position of the civil claimant in order to emphasise the importance of protecting the private civil right alongside the public right, which the public prosecution, as a representative of the state, is responsible for preserving, as the civil claimant is considered an opponent in the criminal case and is himself an opponent with a civil right in the civil case filed before the criminal judiciary due to its connection to the criminal case and the fact that the link between the damage and the crime that is the subject of the criminal case is what made the legislator depart from the original in making the criminal judiciary responsible for initiating the case. The Supreme Court has enshrined this principle in a decision (Criminal Decision, p 304), the content of which is that the civil action may be brought simultaneously with the public action before the same judicial body.

In view of these considerations, the importance of studying the provisions of the ancillary civil lawsuit emerges

and we present the following questions: What is an ancillary civil action and how does the Algerian criminal legislator regulate the procedures and conditions for its exercise?

To answer the question at hand, we chose to study this topic in the framework of two main articles, the first of which deals with the nature of the ancillary civil suit and the second with the conditions and forms of its exercise. We present them as follows:

1. The Nature of the Rule of Subordination of Civil Action to Criminal Action

First, we attempt to a conceptual framework for the rule by defining it and clarifying its justifications, subject matter, and conditions for its practice as follows:

1.1. Definition of the ancillary civil suit

The criminal jurisprudence defines the subordination civil suit as that civil claim whose subject is the demand of the victim of the crime for compensation for the damage, which is considered alongside the criminal claim according to the theory of subordination. The intended subsidiarity here refers to the procedures and not the subject matter. (Abdul Raouf O., 2004).

1.2. Justifications for the Subordination of the Civil Claim to the Criminal Claim

The subordination consideration of the civil claim before the criminal courts results in several advantages that contribute to achieving the requirements of justice in the case, benefiting society, the accused, and the victim. We attempt to clarify this as follows:

1.2.1. Contributing to achieving community security and tranquility

Most legislations that adopted the idea of the subordination civil claim to the criminal claim as an exception to the general rule in functional judicial jurisdiction recognized the effectiveness of this rule in deterring criminal behavior and achieving a general sense of justice and balance in society, away from illegal means of individual revenge and the desire for retribution against the perpetrator, especially in crimes where material compensation is insufficient to remedy the psychological harm inflicted on the victim, as in honor and modesty crimes that require punishment of the perpetrator. Even if the victim waives their civil right to seek compensation, the criminal penalty remains in effect and applicable. (Granier J., 1958, p. 3)

1.2.2. Protecting the interests of the victim

One of the most important characteristics of the subordination civil claim to the criminal claim is the speed with which the victim can obtain their rights or material or moral compensation for the damage caused by the crime, considering that the litigation procedures before the criminal judiciary are shorter in duration compared to those practiced at the level of ordinary courts, where trials may be prolonged, potentially leading to the loss of civil rights due to the despair or boredom of the civil claimant. (Sorour A.F, 2002, p 197).

It may also happen that the victim files a compensation claim before the civil court, according to the principle that criminal proceedings suspend civil ones, the consideration of the civil claim will be halted until the criminal claim is

resolved, which will inevitably delay the victim's receipt of compensation. (Edward G., p 32).

The subordination nature of the civil claim to the criminal judiciary offers numerous advantages to the victim, the most important of which is benefiting from the criminal judge's mandates and powers to search for evidence and the evidence presented by the investigating authorities during the criminal proceedings, which facilitates the victim's proof of damage and thus provides the criminal aspect of the civil ruling with a guarantee of enforcement and obtaining compensation. (Hosni M.N., 1988, p. 298).

In addition, the effect of the authority of the criminal judgment before the civil judiciary guarantees the victim, upon conviction, that established and definitive right before everyone to obtain compensation, whether it is decided by the criminal court or the civil court, according to the direction and choice of the civil plaintiff. (Edward G., p. 36-37).

1.2.3. The Interest of the Accused:

The failure to adopt the principle of connection between the criminal and civil lawsuits arising from the same crime will inevitably burden the accused, who will find himself compelled to defend himself scattered before both the civil and criminal courts at the same time, which is not trivial. Therefore, the dependency of the civil lawsuit on the criminal lawsuit will alleviate the burden on the accused, who will benefit from it by concentrating his efforts on presenting his defense before only one of them. (Al-Habashneh, A.A., 2015, p 14).

Moreover, if the victim fails to prove his right before the criminal judiciary, his task will be even more difficult before the civil judiciary, as he will be considered a defendant in the crime and has failed to prove this right before the same

authority, especially if the plaintiff has initiated the criminal lawsuit as a civil plaintiff. The accused here has the right to benefit from this failure, and the plaintiff will not have the right to demand civil compensation. Additionally, the accused who has been acquitted before the criminal court can himself claim compensation from the plaintiff by returning to the same court for the damages he suffered due to the civil lawsuit being filed against him. (Al-Fadhil. M., 2003, p. 277).

1.3. The Subject of the Subordination Civil Lawsuit

1.3.1. Compensation

Through the examination of Article 2 of the Code of Criminal Procedure, Order No. 66-155 dated July 8, 1966, which includes the amended and supplemented Code of Criminal Procedure by Order 21-11 dated August 25, 2021.

We conclude that the right to the subordination civil lawsuit lies in compensating for the damage suffered by those who have personally suffered direct harm caused by the crime. This damage may affect the victim's body, resulting in physical disability, material damage, or moral damage that affects his honor or personality. This is what the subordination civil lawsuit guarantees, where every victim of a felony, misdemeanor, or violation has the right to establish himself as a civil party to obtain compensation. (Tahiri H., 1996, p. 19).

It is worth noting that the active accused and the accomplice are equal in the civil lawsuit, and whenever there are multiple accused, they are all considered jointly liable and equal in paying compensation as they are partners in the harmful act, provided that the intent and unity of thought at the time of committing the crime are established, as con-

firmed by Article 126 of the Algerian Civil Code. The current study will present the three forms of compensation in the following points:

1.3.2. Compensation in its narrow sense

The legal means to compensate for the damage inflicted on the victim, and the basis for estimating the value of compensation is the distinction between the nature and types of damage: we clarify this as follows:

--The criterion of damage in estimating the value of compensation

The civil lawsuit is based on several foundations, the most important of which is the damage resulting from the crime. This latter is defined as the harm that affects a person in their rights or in a legitimate interest, whether related to the safety of their body, emotions, property, honor, or otherwise. (Marqus S., 1997, p. 133).

-- estimating the value of compensation

The responsibility for estimating the value of compensation lies with the court of first instance, and this is done according to the extent and severity of the damage, as well as the impact of the crime on the victim currently and in the future. This is understood from the text of Article 131 of the Civil Code, Order No. 75-58 dated September 20, 1975, amended and supplemented by Law No. 07-05 dated May 13, 2007. The law did not specify the amount of compensation granted to the victim in the context of all criminal acts, whether felonies, misdemeanors, or violations, except for traffic accidents, as indicated in the first paragraph of Article 182 of the Civil Code.

Determining the amount of compensation may be at the request of the victim, as it is a personal right, provided that its value does not exceed the maximum limit that can be

ruled. The court may not award a value greater than what was requested, and if it reduces the value, it must clarify the reasons that led it to do so. It is worth noting that the objective criterion for estimating compensation in civil rights should be independent of the criminal aspect, so that the penalty's aggravating or mitigating circumstances are not linked to the value of the compensation.

In determining the value of compensation, the judge must take into account the social or family status as well as the living standards of the victim, as indicated in Article 131 of the Civil Code. Additionally, the opinion of experts should be considered if necessary to assess the technical damages, to increase certainty about the fairness of the compensation awarded. (Faridj, H., 2018, p. 1290). This is what the Algerian legislator followed in Article 47 and the following articles of the Civil and Administrative Procedures Law, where the judge is authorized to resort to experts and specialists, and he is not obliged to rely on the expert reports; he can accept or reject them, and he can request a counter-expertise to reveal the actual damage, and these reports are not subject to review by the Supreme Court. (Judicial jurisprudence, p. 53).

As for moral damage, it is difficult to establish a true measure of its value, as it varies from person to person according to their psychological or moral endurance. Therefore, we find differences in how moral compensation is estimated financially and in many instances. (Abdul Sattar, f., p. 180).

1.3.3. Judicial restitution or in-kind compensation

Restitution means restoring the situation to what it was before the crime was committed, and in its narrow sense, it

means returning things to their original owner, for example, returning stolen goods that are the subject of the crime, not the price of the stolen goods after they have been sold. In its broader sense, it may involve demolishing a building that was constructed in violation of the law, or closing a shop opened without a license, and erasing forged phrases, among others. (Fawziya Abdul Sattar, F., p. 193).

That is, the response is an attempt to end the unlawful factual situation that arose from the committed crime and to restore the situation to its correct state before the crime occurred. The response, in its broad or narrow sense, aims to limit the damage resulting from the crime; therefore, some consider it a complement to monetary compensation, and the court may rule on both together. Monetary compensation differs from the response in several aspects, the most important of which are as follows:

- Compensation is only granted based on a request from the civil plaintiff or those concerned, while the response can be ruled by the court at any stage of the case without the need for a request or insistence from the civil plaintiff or those with standing in the case.

- Compensation is only for those harmed by the crime or their heirs, or for the accused in the case of an acquittal due to the lack of validity of the defendant's claims. In contrast, in the case of a response, the court may rule it in favor of the victim or those concerned, provided they are the owners of the items or funds subject to the response.

- Compensation can only occur after damage has arisen from the occurrence of the crime, while the response is linked to the right of ownership of the items placed under judicial control, and thus it is based on a right that precedes the occurrence of the crime. The provisions regarding the

response are found in Articles 372 to 378 of the Code of Criminal Procedure.

The civil plaintiff exercises their right to demand a response either by filing a civil claim before the investigating judge or intervening before the ruling authority, provided this is done before the closure of the pleadings and before the public prosecution presents its requests, as per Article 293 and Article 242 of the Code of Criminal Procedure, or by direct claim before the court, provided the plaintiff respects the procedures for summoning as stipulated in Article 337 of the Code of Criminal Procedure.

1.3.4. Judicial Expenses

Judicial expenses are defined as those fees paid to the public treasury in every case in exchange for its resolution, including expenses for experts, inspections, hearing witnesses, treasury fees, and other expenses incurred by judicial authorities. (Hzit M., 2010, p. 38).

In general, judicial expenses are considered a form of compensation in its broad sense, whether as compensation to the state for the expenses it incurred in the criminal case or as compensation to the civil plaintiff for the expenses they incurred while filing the civil case due to the crime.

The Algerian legislator addressed the issue of judicial expenses in Chapter Two of Order 69-79 concerning judicial expenses under the title of judicial expenses in criminal proceedings, which was amended by Executive Decree 95-294 that specifies compensations for certain expenses resulting from the application of judicial procedures and the methods of payment, amended and supplemented by Executive Decree 173-02.

It should be noted that the responsible party for paying judicial expenses should be determined when filing the civil case and the expenses determined at its conclusion, which varies according to the outcome of the conviction or acquittal for the accused, which we will elaborate on as follows:

- Case of conviction of the accused

The text of Article 310 of the Code of Criminal Procedure states that court costs are borne by the accused if convicted, as stated in Article 367 of the same law, which mandates that any judgment of conviction against the accused, and where applicable against the civil liability party, obliges them to pay fees and costs to the state. If there are multiple defendants in the case, whether as perpetrators or accomplices, and a judgment of conviction is issued against them, the costs are divided equally among them or they are jointly liable for them.

- In the case of an acquittal of the accused

If the criminal court rules in favor of the acquittal of the accused in the criminal case, this implicitly means the rejection of the civil compensation claim. Therefore, it is logical not to obligate the accused to pay the costs of the case, only bearing those related to the procedures of the case, such as expert fees or witness summons costs. The accused cannot be obligated to pay the court costs of the case, which are borne by the state or the civil plaintiff who lost their case. Article 369 of the Code of Criminal Procedure states that the civil plaintiff who loses their case is liable for court costs, even in the situations mentioned in Article 246 of the Code. The court may acquit the accused in the criminal aspect and convict them in the civil aspect, thus ordering the accused to pay costs in the civil aspect as well as compensations.

The court costs are collected by the tax administration from the convicted party, as stipulated in Article 597 of the

Code of Criminal Procedure, and are included in the judgment or decision, determined by the investigating judge according to Article 163 of the Code, as well as by the indictment chamber as per Article 199, paragraph 2.

-Guarantees for obtaining compensations in the subject of the subordination claim

The issue of executing the compensation judgment raises an important problem, as practical reality proves that the victim often does not voluntarily receive their financial rights, leading them to request the imposition of physical coercion on the debtor for the amount of compensation as a means of execution, whether it is a criminal penalty issued by the ruling authority or ordered by the public prosecution as an execution authority. The aim of this procedure is to imprison the convicted party under legally specified conditions and for a certain period compared to the amount ruled for, to ensure compliance with the compensation amount. The Algerian legislator has organized the provisions of physical coercion from Article 597 to Article 611 of the Code of Criminal Procedure.

It is worth noting that physical coercion does not extinguish the obligation, which must be followed up with subsequent enforcement methods according to Article 599 of the Code of Criminal Procedure. It is also required that the debtor be financially capable of paying the compensation and refuses to comply with the payment judgment, as stated in Article 603 of the Code of Criminal Procedure.

In addition to the above, Article 609 of the Code of Criminal Procedure allows the public prosecutor to authorize the release of the imprisoned debtor after they have settled their debts. The following article states that the debtor who has not fulfilled the obligations that led to the suspension of the

physical coercion against them is liable for the remaining amounts owed.

Article 611 of the Code of Criminal Procedure clarifies that physical coercion cannot be imposed again for the same debt and due to subsequent judgments for its execution unless these judgments require a longer coercion period than that which has already been executed.

- Conditions for the Criminal Court's Jurisdiction over Civil Claims

We previously defined that for a civil lawsuit filed before the criminal court, the subject must be compensation for direct personal damage arising from the crime that is the subject of the public prosecution; otherwise, jurisdiction will directly fall to the civil court as it holds general jurisdiction over such lawsuits. The dependency referred to here is procedural, not substantive (Mahmoud Mahmoud M., 1988, p. 175).

As a result, for the criminal court to have jurisdiction over the ancillary civil lawsuit, the elements of the cause of action must be established, which are the occurrence of a criminal act punishable by law, its confirmation against the accused, and that it results in damage to an individual or a group of individuals. In their absence, the criminal court becomes incompetent to consider the civil lawsuit, and the court may rule on this of its own accord, as it may also be raised for the first time before the Court of Cassation. (Abu Areef, H., p. 95).

We attempt to elaborate on these elements as follows:

1.3.5. The occurrence of a criminal act punishable by law

Legal scholars agree that the jurisdiction of the criminal court to adjudicate the civil lawsuit is linked to the existence of a criminal lawsuit whose subject involves facts and ac-

tions that are criminalized by law and punishable. (Garraud .R., p. 105).

In the same vein, the Algerian legislator stipulated in the Algerian Code of Criminal Procedure, in Article 2, that for a civil lawsuit to be established before the criminal court, the act must constitute a crime, whether it is a felony, misdemeanor, or violation. Article 72 states that any person harmed by a felony, misdemeanor, or violation may file a civil claim by submitting their complaint to the competent investigating judge. The legislator also required the civil plaintiff, in Article 241, to specify in their report the crime subject to prosecution, which implies that the criminal judge will not consider the lawsuit unless the element of the crime is established and the act attributed to the accused is punishable under the Penal Code.

It is worth noting that the legislator excluded certain acts from the scope of criminalization, which are those mentioned in Articles 39 and 40 of the Penal Code, which are permitted or authorized by law, in addition to cases of legitimate defense of oneself or property, and cases of intervention to protect a person's life or physical safety, as well as preventing harm and injury to homes and their accessories, whether they are barriers, walls, or entrances to houses at night.

1.4. Damage

We attempt to elaborate on the types of damage previously defined in our study of the subject of compensation and its conditions as follows:

1.4.1. Types of damage:

- Material damage

The infringement or violation of a financial interest of the victim protected by law results in a decrease in the victim's financial status, financial loss, or loss of profit. Examples include crimes such as theft, embezzlement, fraud, and destruction of property. Material damage may also affect bodily integrity, preventing a person from earning or incurring medical expenses. (Abu Aref,H., p. 101). It is noteworthy that this type of damage is easily quantifiable and does not pose any practical difficulties.(Al-Shalqani, A.S., 2005, p. 104).

It is worth mentioning that the heirs of the victim have the right to claim compensation that exceeds what the victim suffered, allowing them to seek compensation for what has affected their ancestor and to stand in their place, provided that the latter had filed the civil action before their death. In other cases, the heirs have no recourse to claim compensation except through civil courts. Abdullah Ouhabia, p. 162/163.

- Moral Damage

Moral damage refers to what affects the victim's personal life and social standing, such as honor and reputation, including the publication of images that harm the victim's reputation and dignity, and defamation crimes. It also includes literary damage, which encompasses the exploitation or impersonation of a name, invasion of privacy, and the illegal disclosure of secrets.(Al-Shahhi,M., 2022, p. 101).

1.4.2. Conditions of Damage

From our study of the types of damage, we conclude that Algerian legislation does not exclude any type of damage, regardless of its nature; however, it has established a set of

conditions that must be met for the damage to be considered valid, which are:

- The damage must be direct:

Damage that does not directly result from the crime cannot be claimed for compensation in criminal court.(Larguier J, 2001, p. 116).

This distinguishes the civil action as a condition for its validity before the criminal judge compared to other civil actions. (Al-Marsafawi, H.,p. 131).

- the damage must be personal

The person who has personally suffered from the crime is the only one authorized to file a civil claim for compensation for the damage he has incurred. This is the same position taken by the Algerian legislator as derived from the text of Article 2 of the Code of Criminal Procedure.

- The damage must be real

The legislator stipulated that the claimed damage must be real, taking the form of actual damage that has occurred or the form of future damage that it is expected to happen inevitably. (Abu Amer, M., 1984, p. 579).

1.4.3.The Causal Relationship Between the Criminal Act and the Damage

The damage must result directly from the crime, meaning there is a direct causal relationship between the crime and the damage on which the civil claim is based. As a result, the perpetrator cannot be held liable for indirect damages except before the civil court. (Al-Saeed, K., 2010, p. 270). The Algerian legislator has stipulated this condition in Article 3 of the Code of Criminal Procedure.

2. The Practice of Subsidiary Civil Claims in Criminal Proceedings and Their Methods of Termination

We clarify the conditions for exercising this action and the legally authorized methods for initiating it before the criminal court.

2.1. Conditions for initiating a civil claim before the criminal court:

2.1.1. The Jurisdiction of the Criminal Court to Hear Public Prosecutions

The lack of jurisdiction of the court to hear the public prosecution necessarily results in the inadmissibility of the civil claim for compensation for the damage arising from the crime. The objection to the admissibility of the civil claim before the criminal court is a matter of public order as it relates to determining the jurisdiction of criminal courts regarding civil claims. (Raouf O., p. 203).

2.1.2. Public Prosecution Pending Before the Criminal Court

For the civil claim to be accepted before the criminal court, the public prosecution must have been initiated and be admissible before this body; otherwise, the civil claim cannot be raised before the criminal court. If the criminal case is terminated for any reason specified in Article 6 of the Code of Criminal Procedure, the civil claim will consequently be rejected before the criminal court, leaving the plaintiff with no option but to resort to civil proceedings. (Abdullah O., pp. 163-164).

2.1.3. Acceptance of the Public Prosecution

The inadmissibility of the public prosecution due to violations of the procedures for initiating it, such as the failure to file a complaint by the victim or their representative, or the

request made by a public body or institution, or if permission from the supervising authority for the employee was required by law and not obtained, will consequently result in the inadmissibility of the civil claim before the criminal court (Shamal, A., 2017, p. 129). The public prosecution is also rejected if it is initiated by someone without standing or if the civil plaintiff initiates it against the civil liable party and not against the accused. (Abdullah O., p. 164).

2.2. Methods of Exercising the Subordination Civil Claim Before the Criminal Court

The criminal legislator has allowed the injured party to initiate the public prosecution to claim compensation for the damages incurred as a result of the crime according to Article 01 bis, paragraph two, and the subordination civil claim before the criminal court is initiated by following one of the following methods:

2.2.1. Civil Claim Before the Investigating Judge

The legislator, through Article 72 of the Code of Criminal Procedure, has permitted anyone who has suffered damage from a felony or misdemeanor to file a civil claim by submitting a complaint to the competent investigating judge regionally, provided that the latter informs the other parties to the case of the civil claim in accordance with the provisions of Article 74, paragraph 1 of the Code of Criminal Procedure, while observing the provisions of Articles 75-76-77.

2.2. Direct Summons

The victim may initiate public prosecution by summoning the accused to appear for compensation in cases of abandonment of the family.

Delivery of the child, violation of the sanctity of the home, defamation, and issuing a check without sufficient funds. As for other crimes, it is necessary to obtain License from the Public Prosecutor.(See Article 337 bis of the Code of Criminal Procedure).

2.3. Exercising Civil Action through Intervention

The intervention assumes that the public prosecution has already been initiated by the public prosecutor or by another victim of the crime, so the civil claim is raised during the course of the public prosecution and is conducted either before the investigating authority or before the adjudicating authority.

2.3.1. Establishing as a civil party before the investigating judge

The civil claim may be filed at any time during the investigation process, and the civil claim is not communicated to the other parties in the case, but the investigating judge informs them of it. See the text of Article 74 of the Code of Criminal Procedure.

2.3.2. Establishing as a civil party before the judge

The intervention of the injured party in the civil action before the judge may occur either during the trial session or prior to the session by filing a report with the court clerk, where the plaintiff's residence is designated within the jurisdiction of the court examining the case. The intervenor submits their requests before the prosecution presents its requests, either orally through a report recorded in the session's minutes or by submitting a written request memorandum. See the text of Article 239 of the Code of Criminal Procedure.

It is worth noting that the prosecution cannot be accepted for the first time before the appellate court, in respect of the principle of levels of litigation. See Article 433 of the Code of Criminal Procedure.

Conclusion

From the above, we conclude that the dependency of the civil action on the criminal action is a departure from the general rules of judicial competence, granting the civil plaintiff, who is the victim, the right to file a claim for compensation for the damage resulting from the crime before the criminal court. This exception leads to the following results and recommendations:

- The basis for accepting the civil action before the criminal judiciary achieves more advantages and practical benefits, which are justified by the need to achieve common interests for the victim, the accused, society, and justice.

- The civil action filed before the criminal judiciary, whether through intervention or direct claim, is of a mixed civil and criminal nature due to the dual objective it seeks in terms of compensation and punishment.

- The subject of the subsidiary civil action is compensation in all its forms. It is a condition for the criminal judiciary to have jurisdiction over the civil action that the damage claimed for compensation is personal and directly resulting from the crime for which the criminal action was filed.

- The civil plaintiff initiates their action before the criminal judiciary either by intervening in the criminal case after it has been initiated by the public prosecution or through a direct claim if the public prosecution has failed to initiate it.

Recommendations:

- The Algerian legislature's recognition of the procedural subordination of civil litigation to the Code of Criminal Procedure requires the development of more explanatory legal texts that establish the contours of this exceptional rule, as we find its provisions scattered among the chapters of this law, which makes it difficult to research its merits, especially with the complexity of the field of procedures and the exceptions contained therein.

- Mitigate the excessive use of the rule of postponing the adjudication of the civil case until the criminal case is adjudicated, which harms the legal status of the victim of the crime by setting a specific time frame for this postponement so that its procedures are not prolonged.

- Enabling the civil claimant or the victim of the crime to receive compensation once this fact is proven and then resume other judicial proceedings after that.

- Compensation is subject to the discretionary power of the judge, which may not do justice to the plaintiff with compensation that covers the extent of the damage, and therefore it is necessary to restrict this power by legal texts in a way that protects the injured.

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