COURT/PROSECUTOR'S OFFICE[1]: _____

PETITION FOR PROPERTY CLAIM[2]

Details of the criminal case[3]

Before this court/prosecutor's office a criminal case is ongoing

under case file no. _____

against the defendant (*name*) _____

from (*place of residence*) _____

pursuant to the Indictment No.: _____

for the criminal offence under Article _____

Personal details of the injured party submitting the petition

I, _____

(First name and surname)

From_____

(Place of residence)

Address: _____

As injured party[4] suffered damage because of the commission of the aforementioned criminal offence, in accordance with the law on criminal procedure (art. 194 CPC BiH, art. 208 CPC FBiH, art. 104 CPC RS, art. 194 CPC BD), I submit the following petition for property claim. Namely I hereby request:

Compensation for material damage[5]
in the total amount of BAM_____,

out of which the amount of BAM _____relates to_____
_____ relates to_____
_____ relates to_____
_____ relates to_____

and/or
Compensation for non-material damage[6]
in the amount of BAM_____,

out of which the amount of BAM _____relates to_____
_____ relates to_____

_____ relates to_____
_____ relates to_____

and/or
Recovery of the following items:[7] _____

and/or
Annulment of this specific legal transaction:[8] _____

REASON

(Explain below all circumstances and facts on which your property claim is based, having in mind the committed criminal offence and the damage caused to you as injured party. Add additional sheets if necessary) [9]

(List below all pieces of evidence, for example, written documents, witnesses, medical documentation, expert's findings etc., on which your property claim is based. Add additional sheets if necessary) [10]

I would like to request to be summoned at the trial to explain my property claim as well as to exercise all other rights of the injured party in the criminal proceedings.

In _____Date _____

Injured party

Explicatory note for filling out the property claim

The purpose of this form prepared by the OSCE Mission to Bosnia and Herzegovina is to assist victims of crimes in the exercise of their rights and, in particular, to facilitate the submission of petitions for property claim in the course of criminal proceedings. Please bear in mind that the submission of a property claim does not mean that your request will be automatically granted. The merit of your claim will be decided by the court, which will consider whether your request is sufficiently substantiated and whether deciding on the claim would not prolong considerably the criminal proceedings. The use of this form by victims does not imply that the OSCE endorses your claim or takes any position with regard to the merit of the case, as it is not a party to the proceedings.

---

[1] Write here the name of the court or prosecutor's office to which you are submitting the request.

[2] What is a property claim? If you suffered a damage caused by commission of a criminal offence, you can ask for compensation of that damage by filing a petition for property claim with the prosecutor or the court where the criminal proceedings are ongoing against the defendant. As the injured party you can submit the property claim no later than the end of the main trial or sentencing hearing before the court. Property claim can be related to: A) Damage compensation caused by the commission of a criminal offence; the damage can be material and non-material (see notes 5 and 6 for further explanation). B) Recovery of items that were taken during the commission of a criminal offence (see note 7 for further explanation). C) Annulment of specific legal transactions (for instance sale contracts) elicited in illegal manner (see note 8 for further explanation).

[3] In this section write the details of the criminal case concerning the crime of which you were a victim. If necessary, ask the assistance of the court/prosecutor's office in charge of the case to find this information.

[4] Who qualifies as an injured party? The injured party is the person who suffered damage due to the commission of a criminal offence. In case that a person died as the result of the commission of a criminal offence, the status of the injured party will be transferred to his/her closest relatives (spouse, children, parents, brothers and sisters).

[5] Material damage can occur in the following cases: A) Loss or damage of property due to the commission of a criminal offence (for instance car theft, damage of movable property such as car, TV, furniture or real-estate property e.g. house or similar). B) For body injuries and deterioration of your health conditions caused by commission of the criminal offence you can ask for compensation of costs of the medical treatment: acquisition of medicines, medical services, rehabilitation costs, acquisition of orthopedic tools, costs for intensified nutrition, assistance from a third person, lost of income and earnings, diminished working ability. C) For death of a person one can claim compensation for life support of the dependent of the deceased, funeral costs and costs for medical treatment of the deceased that have occurred between the injury and death.

[6] Non-material damage can occur in the following cases: A) Physical pain caused by bodily injury, surgery during medical treatment as well as the pain occurred after medical treatment. B) Mental anguish which might be caused by decreased vital activities, mutilation (lost of the parts of the body, scars etc), death or disability of close person, rape and sexual harassment. C) Fear suffered due to the commission of a criminal offence and after it, if the fear was especially strong and was of long duration. In order to quantify compensation for non-material damage, reference could be made to the orientation criteria developed by the Supreme Court of the Federation of BiH. These criteria do not represent an automatic formula to calculate pecuniary compensation since while being applied all particular circumstances of the case must be taken into account. These are the orientation criteria for particular types of non-material damage: A) Physical pain: strong pain – BAM 70,00 per day; medium pain – BAM 40,00 per day; light pain – BAM 10,00 per day; up to maximum of BAM 10.000,00. B) Mental anguish caused by decreased vital

activities: up to 30%, BAM 5.000,00 for every 10%; up to 50%, BAM 6.000,00 for every 10%; over 50%, BAM 7.000,00 for every 10%. As a rule this form of the damage is permanent, but the pecuniary compensation can be awarded also in cases where a decreased vital activity is of temporary nature, if it is of particularly strong intensity and long duration or if some particular circumstances are justifying that. C) Mental anguish caused by mutilation: High level, very visible – BAM 10.000,00; visible only occasionally (for example to persons living in the same household, on the beach and similar) – BAM 6.000,00; medium level, very visible – BAM 6.000,00, visible only occasionally – BAM 3.000,00; low level, very visible – BAM 1.500,00, visible only occasionally – BAM 700,00. D) Mental anguish due to death of a close relative (conjugal and extra-conjugal partner, child, loss of fetus, parent, brother and sister): in case of death of conjugal or extra-conjugal partner) or child - BAM 20.000,00; to the parents in case of loss of fetus – BAM 7.000,00; in case of death of parents: To the child living with parents – BAM 20.000,00; To the child living elsewhere – BAM 12.000,00; In case of death of brother or sister – BAM 7.000,00. E) Mental anguish due to particularly high level of disability of close relative: in case of very high level of disability of conjugal or extra-conjugal partner and child – BAM 20.000,00; in case of very high level of disability of the parent: To the child living parents – BAM 20.000,00; To the child living elsewhere – BAM 12.000,00. F) Fear: from BAM 400,00 up to BAM 6.000,00; fair pecuniary compensation for fear suffered due to the commission of a criminal offence shall be rendered if the circumstances of the case, especially duration and intensity of the fear, justify that. Level and duration of physical pain, mental anguish and fear shall be established by a medical expert.

[7] Recovery of items can be claimed in case that you, as the injured party, were deprived of a personal item. If the item was destroyed or damaged then the property claim for recovery of the item changes into claim for the damage. A sized item shall be returned if it is in possession of the perpetrator, or one of the accomplices at the main trial or in the possession of the third person to whom the perpetrator or his/her accomplice gave it in custody. Describe here the items you are claiming back.

[8] Annulment of certain legal transactions: the term "legal transactions" usually refers to contracts, particularly sale contracts (for example land, house, car and similar)**.** If a contract was elicited in an illegal manner, you can ask for the annulment of such contract in part or in full in order to restore the previous legal condition that was in place before the commission of the criminal offence or the signing of the contract. Name here the legal transaction you are requesting to be annulled.

[9] Explain in this section all facts and arguments supporting your property claim. It is very important in particular to explain all circumstances related to place, time and manner in which the criminal offence was perpetrated, all circumstances related to the perpetrator, as well as all circumstances related to the damage and the cause-effect link between the criminal offence and the damage.

[10] With regard to material damage which is related to loss of or damage to property caused by the commission of a criminal offence, it is necessary to submit with the claim all written documents that can prove your ownership of the property. With regard to damaged items it is necessary that you propose the hearing of witnesses or opinion of a court expert in order to evaluate the damage. With regard to material damage such as bodily injury and health damage or death, it is necessary to present bills or other documents to prove the costs of medical treatment, acquisition of orthopedic tools, medicines, burial costs and others; if necessary considering the particular circumstances of the case, a court expert should be called to give his opinion.