

Summary

This research concerns the question to what extent victims of a criminal offence explore the possibility of filing a civil claim for damages before the *kantonrechter* (judge of a cantonal court who is competent to deal with claims limited to a maximum of € 25,000). This research can be considered as a continuation of previous studies of Schrama and Geurts (2012), in which the possibility of civil litigation as a means for Dutch crime victims to receive compensation for their sustained damage is explored, and Van Dongen et al. (2013), in which the experiences of victims in claiming their damages are reported. The role of the victim in criminal proceedings has been a topic for discussion during the last decades. The involvement of victims in criminal proceedings has been significantly improved by gradually implementing regulations aimed at expanding the rights of victims in criminal proceedings. Thus, it is relevant to explore the role of civil law in this process.

This research is of an *explorative* nature. Before conducting this research, it was expected that victims of a criminal offence rarely consider the possibility of civil litigation at the *kantongerecht* [*cantonal court*] to claim their damages. This assumption is supported by the low numbers that are registered in the expected categories ('*diefstal/fraude*' [*theft/fraud*'], '*in het verkeer*' [*traffic*'], '*letsel overige*' [*injury, remaining*'] en '*zaaksbeschadiging overige*' [*damage, remaining*']). In contrast, the remaining category of '*Verbintenissenrecht, overige verbintenissenrecht*' [*law of obligations, remaining*'] contains a large number of registrations: 70,000 per year. A substantial part of these cases may concern civil claims of damages suffered as a result of crime. To gain better insight into the kind of cases that are included in this remaining category, file research is conducted. The research question is formulated as follows: What percentage of *kantongerecht*-cases that are registered in the category '*Verbintenissenrecht, overige verbintenissenrecht*' after 1 July 2011 is estimated to concern a civil claim for damages as a result of a criminal offence?

To be able to answer this research question, a file research is conducted examining 392 files that are registered in the category '*Verbintenissenrecht, overige verbintenissenrecht*' of the *kantongerechten* in Rotterdam (n=195), Dordrecht (n=100) and Zutphen (n=97). Because of the assumption that there would be only a few cases concerning a claim for damages as a result of a criminal offence in this remaining category and the sample size of n=400, it was decided to concentrate the file research on three *kantongerechten* in order to maximize the chance of finding a civil claim for damages as a result of a criminal offence. In addition, the *kantongerechten* of both Rotterdam and Dordrecht are characterized as courts that register cases more consistently as compared to other cantonal courts.

Only 1 out of 392 files did concern a civil claim for damages as a result of a criminal offence. Thus, the answer to the research question is 0.26% (1:392 files). It must be noted that this case is atypical in the sense that it concerned a police officer who suffered damages while exercising his official duties and has to bring a civil damages action against the perpetrator in accordance with policy guidelines.

In addition, this study gives a general overview on the type of cases that are included in the category '*Verbintenissenrecht, overige verbintenissenrecht*'. Most cases are based on monetary claims of legal entities originating from various contracts: health insurance (20.4%), telephone contracts (16.5%), drinking-water (15.0%) and digital television, internet and telephone services (14.5%). In almost all cases the plaintiff is legally represented by a bailiff (93.7%). In the vast majority of cases the judgment is delivered in default of appearance (83.6%). In 99.2% of the cases the claims are completely upheld. It can be concluded that the remaining category '*Verbintenissenrecht, overige verbintenissenrecht*' includes cases that concern monetary claims of relatively large legal entities whose claims are upheld in the majority of the cases and the judgments are delivered in default of appearance. It is likely that these large legal entities enter into a contract with one bailiff's office that will deal with all their future cases.

It can be concluded that victims of a criminal offence modestly use the possibility of filing a civil claim before the *kantongerecht* to receive compensation for their damages, which makes further file research into this topic practically meaningless. The answer to the central question is that, with a probability of 95 percent, the percentage of relevant cases in the category '*Verbintenissenrecht, overige verbintenissenrecht*' lies within the range of 0 and 26 percent. However, further research could focus on the question why victims of a criminal offence rarely consider the possibility of civil litigation at the *kantongerecht* to claim their damages.