

Interpretative Case of the Supreme Court of Cassation concerning the Victim's Right to Compensation

Interpretative Case No 1/2016 of the General Assembly of the Civil and Commercial Colleges of the Supreme Court of Cassation (SCC) with regard to the victim's right to be compensated by the delinquent over and above the compensation paid by the insurer on the basis of an agreement whereby the victim has accepted that he or she has been fully compensated for the relevant damage.

The SCC case law is inconsistent in this regard. Some panels of judges accept that where the insurer has fully satisfied the victim, the latter has no grounds to seek subsequent compensation also from the person who has caused the damage directly. If an agreement has been concluded with the insurer and the victim has stated explicitly that the amount paid fully covers the damage, the victim has no right to claim the same damages from the person who has caused the damage in court. The liability of the delinquent may be sought only for damage that has not been covered by the agreement or in the case of an invalid agreement or for the difference up to the amount of the actual damage provided that the insurance policy does not cover it in full.

The other opinion is that the agreement has legal effect only in the relationships between the insurer and the victim but it does not apply to the person who has caused the damage and is not a party to the agreement. The facts recognized by the parties, including the waiver of rights, and enforceable with regard to a party to the agreement and therefore the agreement with the insurer in its part related to the victim's statements has no legal effect in the relationships between the delinquent and the victim.

The session of the General Assembly of the Civil and Commercial Colleges of the Supreme Court of Cassation is to be scheduled soon.