



# Participation of the injured party in criminal proceedings

(explanatory notes and statutory provisions relating to the form are included on pages 3 and 4)

**in the criminal proceedings against** (the accused\*):

surname: ..... forename: .....

in the matter of (crime/s): .....

the undersigned participates as follows:

## 1. Private criminal action

**I wish to participate** as follows as a **private plaintiff** in the **criminal proceedings**:

Yes No  
(please tick as applicable)

1.1 in the **criminal point of issue** (rights of participation)

1.2 in the **civil point of issue** (assertion of civil claims; if answered with “yes”,  
Fig. 3 “Civil Claim” must be completed in full)

## 2. Particulars of private plaintiff

Name / company: .....

Forename: ..... Date of birth: .....

Street / No.: ..... Postcode / Town: .....

represented by: .....

I recognise that I am obliged to report any possible changes of address in writing and without delay to the Office of the Prosecutor of the Canton of Zug, PO Box 1356, CH 6301 Zug, citing the investigation number. In other respects, postal deliveries made to my previous address will be deemed to have been performed with legal validity.

## 3. Civil claim

**3.1 Amount of the civil claim:** CHF .....

**3.2 Grounds for the civil claim:** (if necessary, use additional sheet)

.....  
.....

**3.3 Evidence – enclosures (invoices / receipts etc.):**

.....  
.....

./ (continued on reverse)

**4. Participation in the court proceedings**

In my capacity as a private plaintiff, I wish to be kept informed about the date of any possible court hearing:  yes (please tick as applicable)  no

**5. Signature of private plaintiff**

Place / date: ..... Signature: .....

**Recognition of the civil claim in the criminal proceedings**

(handwritten declaration / signature of the accused)

I recognise the civil claim brought by the private plaintiff (see fig. 3):

(please tick as applicable)

- in full** to the sum of CHF .....
- in part**, specifically to the sum of CHF .....
- not at all.**

Place / date: .....

Forename / surname of the accused (in capital letters): ..... Signature (accused):  
.....

(to be completed by the police administrator, insofar as no handwritten declaration / signature of the accused is possible)

In accordance with the protocol of ....., the civil claim is recognised by the accused / only partly recognised to the sum of CHF ..... / not recognised. (please delete, where not applicable)

Place / date: ..... Official stamp / signature: .....

\* In accordance with the wording of the respective legal acts, personal terms are shown only in masculine form

## **Explanatory notes and statutory provisions relating to the form “Participation of the injured party in the criminal proceedings”**

### **Who is the injured party?**

The injured party is the party whose rights have been directly injured by the criminal action. Any person entitled to bring a criminal complaint is deemed to be an injured party.

### **Which injured party may exercise participation rights in the criminal proceedings?**

This can only be the injured party who has expressly declared before the investigating authority (Office of the Prosecutor of the Canton of Zug) prior to the conclusion of the criminal investigation that he will be participating in the criminal proceedings as a private plaintiff. Rights of participation: see § 11<sup>quater</sup> StPO.

### **What are the consequences of the injured party failing to make a declaration with respect to his position as private plaintiff?**

In the event of no declaration or no reply being forthcoming prior to the conclusion of the criminal investigation or prior to the expiry of a deadline imposed on the injured party, then the injured party shall not be able to act as a private plaintiff in the criminal proceedings and shall not be able to exercise his participation rights. At the same time, it will also no longer be possible for any civil claims to be brought against the accused during the course of the criminal proceedings.

## **Important statutory provisions of the Code of Criminal Procedure for the Canton of Zug (StPO)**

### **§ 6 Para. 3 and 5 StPO:**

<sup>3</sup> Any person may file a complaint. A party whose rights have been directly injured by a criminal action may demand the institution of an inquiry and the punishment of the offender by filing a private complaint. Participation in the proceedings shall be in accordance with § 11 ff.

<sup>5</sup> Under particular circumstances the institution of an inquiry may depend on an advance on costs.

### **§ 11 StPO:**

<sup>1</sup> The injured party who during the investigative proceedings explicitly states their intention of participating in the proceedings in respect of the criminal and/or civil point of issue shall be considered a private plaintiff. The statement of intent to participate in respect of the criminal point of issue is put on par with the initiation of the criminal proceedings.

<sup>2</sup> An injured party is deemed to be anyone whose rights were directly encroached upon by the offence. Whosoever is entitled to file a criminal complaint is in every case deemed to be an injured person.

<sup>3</sup> Insofar as no special provisions exist with regard to victims within the meaning of the Swiss Victim Support Act, such victims shall be deemed on par with the injured party.

### **§ 11<sup>quater</sup> StPO:**

<sup>1</sup> To the extent that it is necessary to enforce the procedural interests, the private plaintiff shall be entitled:

1. to suggest that investigative action be taken;
2. to inspect the files, insofar as the purpose of the investigation is not jeopardised thereby and if this is not precluded by any other predominant public interests;
3. to take part in the court hearings;
4. to pursue legal remedies in accordance with § 70 ff.

<sup>2</sup> The prosecutor may permit the private plaintiff to attend the interviews which he conducts and to pose supplementary questions as well as to attend briefings of expert witnesses and to give supplementary indications.

<sup>3</sup> The private plaintiff may until the conclusion of the investigation assert civil claims against the accused which he bases on the offence committed by the accused.

### **§ 32 Para. 1 and 2 StPO:**

<sup>1</sup> Following the recording of the final interview, the prosecutor shall permit the accused or his representative to inspect the files of the inquiry.

<sup>2</sup> The prosecutor shall set a deadline which is reasonable under the particular circumstances, within which supplementary files may be requested. Under special circumstances, the same right shall be extended to the civil plaintiff.

### **§ 56<sup>bis</sup> Para. 4 StPO:**

<sup>4</sup> In the case of investigations conducted on the basis of a private complaint, costs may be imposed wholly or in part on the private plaintiff if the accused is subsequently acquitted of the charges. The person who filed the complaint shall be liable for the costs only if he intentionally or grossly negligently gave untrue information which led to the investigation.

**§ 57 Para. 2 and 3 StPO:**

<sup>2</sup> In the case of investigations conducted on the basis of a private complaint, the private plaintiff may be required to pay reasonable compensation to the acquitted party or to reimburse compensation paid to the acquitted party from public funds.

<sup>3</sup> The party who filed the complaint may be obliged to make such payments or to reimburse compensation only if he intentionally or grossly negligently gave untrue information which led to the investigation.

**§ 69 StPO:**

<sup>1</sup> The private complaint in the civil point of issue must be submitted in writing in the form prescribed by the Code of Civil Procedure.

<sup>2</sup> The magistrate responsible for the criminal point of issue shall during the course of the main proceedings judge the civil claims irrespective of the value in dispute, insofar as this is liquid, in other respects he shall refer these to the civil courts, whereby the referral shall be definitive.

<sup>3</sup> The basis of proof constitutes the criminal files and the evidence submitted by the private plaintiff in the civil point of issue.

<sup>4</sup> An acquittal does not exclude the judgement of civil claims.

<sup>5</sup> With respect to civil claims brought by the victim, the particular provisions of the Swiss Victim Support Act apply.

**§ 69<sup>bis</sup> StPO:**

<sup>1</sup> The withdrawal of the civil complaint has no influence on the criminal prosecution.

<sup>2</sup> In the event of the civil plaintiff withdrawing the complaint during the course of the proceedings, then he may be ordered to pay the costs caused by the complaint.

**Excerpt from the Code of Civil Procedure for the Canton of Zug (ZPO)**

**§ 83 ZPO:**

<sup>1</sup> The statement of claim should include:

1. the names and the places of residence of the parties and of their representatives;
2. the request for legal remedy;
3. the citation of the value in dispute;
4. a brief description of the grounds for the lawsuit and the legal principles, with reference to the supporting evidence which is being submitted;
5. if a credit balance arising out of an invoice relationship is disputed, a relevant invoice statement;
6. a schedule of the submitted documents and the title of any possible petitions for adjournment, third party notice and edition;
7. the date and the signature of the plaintiff or of his representative.

<sup>2</sup> Insofar as these are in the possession of the plaintiff, the specified documents must be submitted together with the statement of claim.

<sup>3</sup> A copy of the statement of claim which is intended for the court must be enclosed for each of the accused or parties involved in the legal proceedings.