

What to do if you are a victim of a road traffic accident ?

You or one of your family has just become a victim of a serious accident. You are still in shock. But in spite of your grief, if you want your rights under the law to be recognized, you must carry out a certain number of steps within a short space of time, which are necessary to avoid difficulties in the future.

What follows only deals with serious accidents which involve injury or death. If the accident has only caused damage to a vehicle, then use the usual motor vehicle accident report.

Police report:

For every accident involving personal injury or death, the police must draw up a record of the facts. In an urban environment, it is the National Police, in rural areas, the Gendarmerie, on the motorways, the CRS corps (Compagnies Républicaines de Sécurité), who are responsible for this.

If you are present at the scene and capable of doing it, encourage all the witnesses to give their evidence. At a minimum, gather their details (at least their car number) if the police authorities do not do it. Gather as well all the evidence which will help to reconstruct the accident: skid marks, debris, whether or not the traffic lights were working, whether or not your view was obstructed, etc... If possible, take some photos.

Access to the police or Gendarmerie report on the investigation:

Can I have access to the police report? Yes, but not before it has been sent to the Public Prosecutor, i.e. not until the police authorities have completed their investigation: gathering the statements from witnesses and injured parties can take time, even several weeks.

You can ask your insurance company for the police report, and they must send you a copy (article 13 of the 'Badinter law', July 5, 1985) or ask the insurance company of the vehicle driver if you are a pedestrian victim. You can also ask for it via your lawyer.

Declaration to your insurance company:

What is the first legal requirement after an accident?

Declare the accident to your insurance company as soon as possible (within three days), by telephone or fax if possible, and always follow it up with a registered letter with acknowledgment of receipt. At a minimum, make clear the place, date, time, and any other detail known at that time. If further information becomes available later, send that as well.

File a complaint?

Can I file a complaint? How? And what is the time scale?

You can file a complaint when you believe that the other person has committed a road traffic offence (right of way violation or dangerous overtaking...)

Generally, file a complaint for accidental man slaughter or injury. If it is an obvious case of dangerous driving, you can add 'deliberately endangering the life of others'.

If this complaint is accepted, it will set in motion criminal proceedings. However you may be reluctant to file a complaint against a member of your family who has committed the road traffic offence from which you have suffered.

Be aware, on the other hand, that the Public Prosecutor himself can set in motion criminal proceedings in his role as Protector of Public Order.

The same Prosecutor can close your complaint file if he thinks it is unfounded: if he thinks there is no traffic offence by the other party.

If a complaint is upheld, it leads to criminal proceedings in Court.

Who can file a complaint?



The victim himself if he is capable of doing it, or his closest relative. Your lawyer, if you have chosen one, can do it as well.

How to do it?

You can file a complaint at the Gendarmerie or the Police Station which drew up the report, or by letter to the Public Prosecutor.

Within what time scale?

You have three years counting from the date of the accident. You can file a complaint, even if in the first instance, you told the Gendarmes or Police Officers at the moment of the police report that you were not filing a complaint.

Compensation and the launching of a civil action

You have suffered personal injury, the loss of a close friend or relative, pain and suffering, care expenses, loss of revenue, funeral expenses, damage to your vehicle and any other damage.

If the accident is not entirely your fault, you have a right to compensation. For that you must begin civil proceedings, which can be done at the same time as the filing of the complaint.

If criminal and civil proceedings are treated separately, (you do not wish to file a complaint or you are part of the proceedings set in motion by the procurator) you make your request for compensation to the third party's insurance company, and if there is no agreement, it is the the Regional Court that will make a judgement. In this case, a lawyer must be engaged by law.

Keep the following documents in a safe place: all medical reports (the initial diagnosis report, report of any operation etc.) and all the receipts for any expenses resulting from the accident (telephone calls, travel costs to the hospital or physiotherapist, clothes that have been damaged etc.): these will enable you to justify your request for compensation.

If the perpetrator of the accident has fled the scene, make your claim to the Fonds de Garantie Automobile (Motor Guarantee Fund) – 64 rue DeFrance – 94300 Vincennes – which will compensate you.

Personal Injury

For medical hearing, engage an independent doctor, an expert in the field, who advises victims and who will help you draw up a medical dossier. Mention also the need for help with household tasks in the future, any promise of employment or increase in salary from which you have not been able to benefit, any loss of income etc.

When you are summoned to the medical hearing, take with you your independent doctor who advises victims, if necessary your lawyer as well and relatives. They will help you draw up the list of damages arising from the accident.

Compensation depends on “consolidation” i.e. the stabilisation of your state of health. Nevertheless, before consolidation, agreement can be reached with the other party regarding the extent of bodily injury and a provisional sum for medical expenses.

Relations with the third party insurance company: if at least one part of the responsibility for the accident is due to the third party, his/her insurance company will make you an offer of compensation.

You can either accept this offer, challenge it and come to an agreement or refuse it.

If you accept compensation from the insurance company, all you have to do is agree and await payment. But bear in mind that after a period of twenty days, you will not be able to withdraw your acceptance, and as a result you will no longer be able to pursue a civil action in the courts.

Generally before sending any signed document (whatever it may be) to the third party insurer, ask advice from a lawyer.



For compensation, remember to take into account all the victims, not only the injured party, but also relatives who have to give up work for hospital visits.

You can ask for the immediate payment of a sum on account for future expenditure, even if you are a passenger or a pedestrian involved in the accident.

You can also ask to see the police report and expert medical report.

Civil proceedings

If you refuse the offer of compensation, you must first take the case to court by filing a civil action. This will be the same criminal court that deliberates on criminal proceedings (if there is a complaint) and on civil proceedings.

All the relatives of an accident victim can claim for pain and suffering (non pecuniary loss): parents, children, non divorced spouses, grandparents, brothers and sisters, according to the situation.

Time limit: you have until the hearing to file a civil action, if criminal proceedings are being instigated, but it is recommended to file it beforehand. Your requirements should be well argued and justified and presented in a written format. If the criminal proceedings are separate from the civil action (for example if your condition has not stabilised), the Regional Court will deliberate on your request for compensation.

Do I have to engage a lawyer?

If you have filed a complaint or if you have started civil proceedings, it is better to engage a lawyer who can obtain the relevant papers for the dossier more easily, and who is more conversant with the steps that must be taken.

If you have the relevant insurance cover, your insurer must engage a lawyer on your behalf and meet his fees. Note however that the direct client of the lawyer will be your insurer and not you.

If you decide to engage an independent lawyer, you must pay his fees, but your insurance will pay its share. Make sure that you stipulate how your lawyer will be paid before engaging him, and draw up a written agreement with him to fix the conditions of payment.

