

CHARTER OF THE MANDATORY THIRD-PARTY LIABILITY INSURANCE GUARANTEE FUND'S OMBUDSMAN

PRÉAMBLE

Created by the law of 31 December 1951, the Mandatory Third-Party Liability Insurance Guarantee Fund (FGAO) is an integral part of the public service of victim assistance. Its action is part of the victim support policy.

It compensates, in the name of national solidarity, the victims of traffic accidents within the framework of missions defined by law.

As part of its mission to provide full reparations for bodily injury, it offers victims personalised and caring support within the framework of transparent and humanised procedures, guaranteeing the values of respect and attentiveness, which are at the heart of its concerns.

As part of its efforts to continuously improve the quality of the service provided, the FGAO has set up an Ombudsman, available to victims suffering a personal injury who wish to make a complaint about the compensation procedure or the support arrangements.

The Ombudsman is driven by the values of service, attentiveness, and empathy. They intervene in a personalised, independent, and impartial manner. They take into account the specific context of each case.

They shall ensure that the rights of victims are respected and shall be bound by confidentiality. They play a role in facilitating dialogue and seek any amicable solution to avoid legal disputes in connection with the victim compensation procedure.

Appointment :

The Ombudsman is chosen because of their compassionate qualities, especially their listening and empathy skills and professionalism, as well as their experience in the service of victims.

They are appointed by the Director-General of the Guarantee Fund for Victims, after receiving approval from the Board of Directors of the FGAO.

The term is for 3 years, renewable. Their termination can only be at their own request or in case of force majeure.

Impartiality and independence :

The Ombudsman is independent. They shall not receive any instructions from the Guarantee Fund for Victims regarding the claims referred to them in the performance of their duties.

The FGAO provides them with the tools and human resources needed to exercise their mission.

The Ombudsman shall perform their duties with impartiality, in respect of adversarial procedure, and in complete transparency.

Confidentiality :

The Ombudsman as well as the stakeholders are bound to the strictest confidentiality. The exchanges that take place within the framework of the mediation process as well as the recommendations made by the Ombudsman cannot be produced and evoked before a court of law.

Scope of intervention :

- Traffic accident in France causing personal injury, caused by an uninsured or unknown motorised land vehicle, under the conditions of intervention provided for in Article L.421-1 of the Insurance Code.
- A traffic accident in France causing personal injury, occurring in a place open to public traffic and caused by a person travelling on the ground or by an animal under the conditions laid down in the aforementioned article.

Field of expertise :

Natural persons may apply to the Ombudsman for any disputes relating to :

- a lack of response from the FGAO within a period of 2 months to any claim as part of a compensation procedure made in writing;
- a refusal to take on the claim, without giving reasons, notified by the FGAO;
- failure to comply with the rules and commitments of the FGAO, particularly those mentioned in the victim's charter.

The Ombudsman is not qualified to hear:

- disputes relating to the amount of an offer of compensation;
- analysis of a victim's right to compensation once the FGAO's position or response has been substantiated;
- claims for which legal action has been initiated.

If legal procedures are instituted after the Ombudsman had already had the case referred to them, the intervention of the Ombudsman shall automatically cease.

The Ombudsman is also the representative of the Defender of Rights. Every year, they submit a report on their activity to the Director-General of the FGAO.

Referral procedures :

The FGAO website (fondsdegarantie.fr) mentions the existence of the Ombudsman and specifies the methods of referral and their field of jurisdiction. It also provides an online electronic referral form.

The victim, or their duly authorised representative, refers the matter to the Ombudsman by registered letter with acknowledgement of receipt (Médiateur du FGAO, TSA 40499, 94689 Vincennes Cedex) or by e-mail to lemediateur@fgao.fr.

The letter or e-mail must state the reasons for the referral and be accompanied by evidence supporting the claim.

The Ombudsman shall acknowledge receipt of the claim within a maximum of one month of its receipt and inform the applicant that their referral does not interrupt or suspend the time limits for recourse and is without prejudice to the admissibility of the claim.

Course of the mediation process :

The Ombudsman shall check that an application meets the following admissibility criteria :

- the claim falls within their scope;
- the claimant can prove that they have lodged a written complaint with the relevant FGAO departments and that it has remained unsuccessful or without a reply for more than two months;
- no legal proceedings have been initiated.

The Ombudsman may ask the applicant and/or the relevant departments of the French Guarantee Fund for Victims for any further details if they do not have sufficient information to determine whether the referral is admissible.

If the referral is inadmissible, the Ombudsman informs the applicant in writing, giving reasons for the refusal.

If the referral is admissible, the Ombudsman informs the applicant and the relevant departments of the FGAO. As soon as it is informed, the FGAO suspends any management action in the claim of the victim who has referred the matter to the Ombudsman until it has been notified of the opinion.

They may request additional information they deem necessary to investigate the dispute. The FGAO departments have one month to provide them to the Ombudsman.

If they believe it necessary, the Ombudsman may suggest a meeting with the person who referred the matter to them and the person in charge of the claim at the FGAO. In this case, the Ombudsman shall state this in their final report.

Opinion of the Ombudsman :

Once the claim has been examined, the Ombudsman gives a written opinion within a maximum of two months following the referral. In exceptional cases, if this time limit proves insufficient, the Ombudsman shall inform the parties, giving reasons.

In their opinion, the Ombudsman may propose measures that satisfy the applicant in whole, or in part or they may reject the application if they consider that there has been no failure on the part of the FGAO and that the victim's rights have been respected.

A copy of the opinion is forwarded by the Ombudsman to the applicant and to the relevant FGAO departments. When the Ombudsman recommends that the French Guarantee Fund for Victims reconsider its position, it is up to the FGAO to inform the Ombudsman as soon as possible, in writing, of the action taken.

The Ombudsman's recommendations are not binding and do not set a precedent.

Ombudsman's annual report :

Each year, the Ombudsman prepares a report on their activity, which lists the number of referrals and their outcome, the number of opinions issued, the types of disputes and their frequency, and the percentage of opinions followed by the FGAO.

The report may not include any name or other identifying information of any of the parties.

They may make any recommendations concerning the types of disputes regularly referred to them and any suggestions for improvement in the treatment of victims.

The report is addressed to the Director-General and to the Board of Directors of the FGAO.