

# COMPENSATION BOOKLET

## Mining Risks

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## CONDITIONS FOR INTERVENTION

The Law of 30 July 2003 on the prevention of technological and natural risks and the compensation of damages entrusted the Guarantee Fund for Victims with the mission of compensating owners who are victims of damage :

- caused by mining to buildings occupied as a principal place of residence,
- which occurred on or after 1 September 1998.

The Guarantee Fund's Mining Risks Department became operational as soon as Decree No. 2004-348 was published in the Official Journal on 23 April 2004.

## CONDITIONS FOR COMPENSATION OF YOUR INJURY

You are the victim of property damage caused by mining to your primary residence. The Guarantee Fund for Victims can handle your compensation.

This section is made available to help you compile your claim and to inform you of the different steps to follow. The Guarantee Fund's Mining Risks Department is at your disposal to give you any further explanations you may require.

The intervention of the Guarantee Fund for Victims is subject to certain conditions concerning :

- the nature of the damage,
- the capacity of the victims, the nature and use of the damaged property,
- the subsidiarity of the Guarantee Fund for Victims,
- the time limit for referring to the Guarantee Fund for Victims.

## NATURE OF DAMAGE

The Guarantee Fund for Victims is responsible for compensating property damage resulting from past or present mining activity.

### **Capacity of the victims, nature and use of the damaged property**

a) Any owner of buildings used as a primary residence, whether they live there or whether these buildings are rented to persons who have elected domicile there, may refer the matter to the Guarantee Fund's Mining Risks Department.

b) If the property was acquired by transfer and a clause exempting the mining operator has been validly inserted in the transfer contract, only sudden, direct and substantial damage may be compensated by the Guarantee Fund for Victims.

The following are not covered within the Guarantee Fund's scope of intervention :

- shops,
- premises for professional use,
- second homes,
- premises rented for uses other than residential (garages, warehouses and depots, etc.),
- administrative or office buildings, etc.

## SUBSIDIARITY OF THE GUARANTEE FUND FOR VICTIMS

The Guarantee Fund's compensation is in-full up to a ceiling of €300,000.

The full compensation must enable the owner of the damaged building to recover ownership of a building of equivalent consistency and comfort as soon as possible.

If these damages are covered by insurance, the compensation paid by the Guarantee Fund for Victims supplements that due by the insurer.

## TIME LIMIT FOR REFERRAL

Anyone wishing to refer their claim to the Guarantee Fund must do so within the time limits laid down by Decree No. 2004-348 published in the Official Journal of 23 April 2004, i.e. within six months of the occurrence of the damage.

## COMPENSATION PROCEDURE

The different stages of the investigation and settlement of a claim :

- submission of the claim,
- assessment of the structural damage and verification that the damage was caused by mining,
- compiling of the administrative claim,
- damage quantification,
- offer of compensation,
- agreement on compensation.

### ► SUBMISSION OF THE CLAIM

The claim must be submitted to the Guarantee Fund's Mining Risks Department.

#### **Damage survey at the place of the damage**

A person from the Guarantee Fund for Victims, accompanied by one or more experts, goes to the site to meet the owner of the damaged property, to observe, listen and complete surveys.

The Mining Risks Department has enlisted the help of experts.

- Determination that mining is the cause of the damage: qualified expert in geology and ground motion.
- Damage survey : property and building expert.
- Study of solutions for lifting buildings on slopes: consulting engineer in structure or building lifting.
- Verification of surface measurements and degrees of slope of dwellings: property surveyor qualified to calculate surfaces.
- Soil survey report : qualified expert in soil mechanics.

## ► SPECIAL CASE: CLAIMS ESTIMATED AT EQUAL TO OR GREATER THAN €100,000

For claims where the estimated damage is equal to or greater than €100,000, an additional damage survey must be carried out so that the operators, their insurers and any person presumed responsible for the mining damage can observe the damage in an adversarial manner.

This damage survey, carried out at the initiative of the Guarantee Fund for Victims, in respect of the rights of defence of the allegedly responsible party, will not prevent the continuation of compensation to the victims, within the framework of the law.

### Note

The report of the property experts can be provided upon the owner's simple request.

### **Option to call on a public claims adjuster**

The owner can call on a public claims adjuster.

In this case, the damage survey, estimate and quantification of the damages will have to be handled in a loss report.

This document must be communicated to the Guarantee Fund for Victims.

An adversarial debate will take place with the experts and the calculation of the compensation will be decided.

The public claims adjuster's fees will remain the responsibility of the owner and cannot be included in the basis for the Guarantee Fund's compensation.

### Note

No owner is obliged to call on a public claims adjuster.

Their claim will be treated with the same objectivity by the Guarantee Fund for Victims, which is required to compensate all victims of property damage caused by mining in a fair and equitable manner within the framework of the law.

## COMPILING THE CLAIM

The administrative claim shall be drawn up by the owner in collaboration with the representative of the Guarantee Fund, who shall check that all the necessary documents have been gathered.

### **Damage quantification**

The experts draw up a detailed description of the damage.

This document, which is given to the owner, indicates the cost items for the repairs and the details of the calculation of the compensation to be paid by the Guarantee Fund for Victims.

### **Offer of compensation**

The offer of compensation is made based on the description of the damage.

The offer may be delivered directly to the interested party or through the expert they appointed.

## Agreement on compensation

Two possibilities :

- If the offer is accepted, a receipt is sent for signature to enable the payment of the compensation funds.

The payment shall be sent within the maximum period of three months provided for in the decree.

Note : the offer must be signed to mark a formal agreement.

- If there is a disagreement on the offer, the applicant-owner must justify the points of disagreement and establish the error of fact or law in the calculation of the compensation.

A new damage survey can be arranged if it is proven that an omission has occurred.

## PREPARING A COMPENSATION CLAIM

### ► STEPS TO FOLLOW

The individual or victims' association referring the matter to the Guarantee Fund for Victims must send the declaration by registered letter to the following address :

Guarantee Fund for Victims  
Mining Risks Department  
64 avenue Aubert  
94682 Vincennes cedex

An acknowledgement of receipt, with the claim number under which the claim was registered, shall be sent to the person concerned or to the association.

The acknowledgement of receipt indicates the name of the expert appointed by the Guarantee Fund for Victims to carry out the damage survey, i.e. to date, assess and quantify the property damage caused by mining.

The decree of 22 April 2004 provides that the owner must send, with their declaration, the documents supporting their capacity to act to benefit from the law on mining risks.

In order to facilitate the collection of documents and speed up the investigation of claims in the interest of victims, the representative of the Guarantee Fund for Victims assists in compiling of the administrative claim.

## ► CONDITIONS TO BE MET

Any private individual may refer the matter directly to the Guarantee Fund for Victims, but they may also choose to entrust their claim to victims' association, which will then refer it to the Guarantee Fund for Victims on behalf of its members.

The Guarantee Fund for Victims is an independent body; it has no links with the associations, but when it is approached by them, it respects the powers given to it by mandate. The claims of each member are treated in an individual, concrete and personalised manner, according to the mission entrusted to it by law.

Upon receipt of the referral, an acknowledgement of receipt, with the claim number under which the application was registered, shall be sent to the interested party or association, indicating the name of the expert appointed to carry out the damage survey and thus date, assess and quantify the structural damage caused by mining.

The decree of 22 April 2004 provides that the owner must send, with their declaration, the documents supporting their capacity to act to benefit from the law on mining risks.

In order to facilitate the collection of these documents and speed up the processing of the claims, the representative of the Guarantee Fund helps the victim to compile the administrative claim, which enables the experts to intervene without waiting for this step to be completed first.

## ► SUPPORTING DOCUMENTS TO PROVIDE

Together with their declaration, the owner must send the Guarantee Fund for Victims the documents supporting their capacity to act to benefit from the law on mining risks.

The owner must also certify that they have not already received compensation for the property damage referred to the Guarantee Fund or which they would be likely to receive in the context of a civil procedure they have brought against the operator or other liable parties.

### **List of documents for the owner to provide**

- current title deed or certified copy of the deed by which the property was acquired, as well as previous transfer contracts determining the origin of the property (certified copy of the deeds of sale or property transfer of the damaged property used as a primary residence),
- extract from the mortgage register or extract from the land book at the county court where the property is located,
- any documentary evidence proving the building was in use as a primary residence at the time of the damage (copy of the council tax).

## Owner's Declaration

The owner must complete an attestation on honour in which they undertake to indicate whether or not other compensation procedures, whether legal or not, are in progress.

It is important to point out that the owner must reimburse the Guarantee Fund for any sums received as compensation for which they have received prior compensation from the Guarantee Fund.

The attestation on honour shall be provided to the owner by the Guarantee Fund for Victims.

### The owner undertakes :

- to declare they have not received any contribution or compensation of any kind whatsoever from the State, the administration, an organisation, a mining company or an insurer covering all or part of the property compensation they will receive from the FGAO under Law 2003-699,
- or
- to declare they are likely to receive a contribution or compensation of any kind whatsoever from the State, the administration, an organisation, a mining company or an insurer covering all or part of the property compensation they will receive from the FGAO under Law 2003-699.



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