

Belgium

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Starting point

- One can imagine how important it is for victims to be compensated **as quickly as possible**.
- Belgian experience has shown that it is unfortunately **not always the case** (cf the Oostende air show catastrophe of June 1997).

Reason for delays in compensation

The victim of an offence may

- join a civil action for damages to the criminal proceedings **or**
- bring such an action separately before a civil court. In this case: **suspension** of the civil action as far as a final decision has not been delivered on the public action by the criminal court.

= *Le criminel tient le civil en état* rule (art 4 of the Preliminary Title of the Code of Criminal Procedure).

Theory of the unity of criminal and civil faults

The **criminal decision** has the force of *res judicata* on civil lawsuits:

1. violation of a rule with a criminal sanction implies civil fault ;
2. if the accused is not convicted, no civil liability based on fault can be established later on by the civil judge.

Act of 8 June 2017

- Legislator's intention : to accelerate some judicial civil proceedings.
- Which ones? Those concerning compensation when the damaging event falls within the scope of a rule providing a no-fault liability regime, which means liability cases in which the victim does not have to prove that the defendant was at fault.
- The Act shall apply irrespective of the scale of the damage and of the number of victims.

First measure

(art 1385quinquiesdecies ff of the Code of Civil Procedure)

- Civil claim for damages grounded on no-fault liability rule:

~~*Le criminel tient le civil en état (art 4).*~~

- Exception to this new principle: when the liability regime, although based on a no-fault regime, requires that the fault of a third party should be established.

For instance: masters' liability (art 1384(3) of the Civil Code)

Cases potentially covered by the new Act

Some of the examples quoted in the preparatory works.

Claims based on :

- the Act of 30 July 1979 concerning the prevention of fire and explosions;
- the Act of 25 February 1991 concerning liability for defective products;
- the Act of 7 May 2004 concerning experimentation on human beings;
- art 1384 of the Civil Code concerning liability for defective things;
- the doctrine of nuisance (grounded on art 544 of the Civil Code).

Second measure

The claim based on a no-fault liability rule **may be viewed separately** from the parts of the same claim founded on other grounds (art 1385octiesdecies of the Code of Civil Procedure).

Third measure

The claim based on a no-fault liability rule has to be examined as a **matter of priority**, even when the incidental claims are not ready to be heard.

The judge may only make an **exception** to this rule on two occasions:

- (1) if the parties agree with this exception;
- (2) if the judge considers, at the request of any of the parties, that a correct administration of justice requires an examination of all the claims together (art 1385septiesdecies of the Code of Civil Procedure).