

AUSTRIA

1. Actions to take immediately after road traffic accidents

Immediately after a crash, it is necessary to secure the area of the accident, provide first aid, alert the police or other emergency services (for example, by using the emergency phones situated along motorways). It is advisable to contact the police if the accident has resulted in physical injury. For assistance phone: 144 or 112, police: 133. Insurance services may also be called for advice and assistance. Later on, all people involved in the accident have the obligation to testify.

If vehicles need to be towed, you can best call the breakdown service of the ARBÖ on 123 or the ÖAMTC on 120.

If the police are not called to the site of the accident, for example, when the accident involves material damage only, you are strongly advised to use the European Claim Form which can be obtained from your insurance company. It is important that both parties involved in the accident sign the form because the form is normally used as evidence. It is also important to take down the names and addresses of any witnesses as well as to give information on the facts of the accident. It is also advisable to take a photograph of the scene of the accident.

NB: Do not sign the European Claim Form if you do not understand the content! The same applies to other statements on who is to blame for the accident. You should not sign the form if there are differences of opinion on the facts of the accident. In such a case it is advisable to contact the police, even if the accident only involves damage to property.

In such instances, it is important that the people involved remain at the scene of the accident until the police arrives. Those who leave may be fined and/or have their driving licence revoked.

Calling the police costs 36 euro (blue light tax) and the drivers are obliged to pay on the spot in cash or by credit card. This tax does not apply if the drivers involved are unable to exchange their details (for example, due to a language barrier, if the other driver has no documents or in the case of flight).

2. Legal procedure

In Austria, the legal basis for liability in road traffic accidents is an unlawful act: fault liability. Damage is compensated in the event of gross negligence or an express act. Risk liability also exists. The registered owner of the motor vehicle is liable for damages caused by use of the vehicle unless force majeure applies. If the driver of the vehicle is not the owner, the driver is liable but only in so far as the owner is not to blame for the vehicle's use (ignorance alone is not sufficient).

Penalties in the event of accidents

Administrative sanctions

If the driver responsible for the accident violated any traffic laws (for example by speeding or driving under the influence) he will receive an administrative sanction. In addition to a fine being imposed, his driving licence may also be revoked.

Criminal sanctions

In the case of injury, the public prosecutor may initiate criminal proceedings. According to the severity of the injuries, prison sentences of ranging from 3 to 6 months may be imposed. The alternative to prison: the Court may impose a fine. In cases involving death, prison sentences of up to one year may be imposed. In cases of personal injury, leaving the scene of the accident without providing personal details is a criminal offence and a sentence of 3-year's imprisonment may be imposed. This offence may also affect the payout by the insurance company concerned.

3. Compensation for damages/time limits

Regarding risk liability, a ceiling exists for compensation for damages and a time limit of 3 months applies for submitting claims. Once 3 months have elapsed, the claim must be based on an unlawful act whereby the amount claimed is not limited by legislation but based on the total damage incurred.

In summary: a period of limitations of three years applies for claiming damages based on fault liability. For risk liability, a period of limitations of three months applies.

4. Damages to be compensated

Civil liability is determined in accordance with the applicable laws of the country where the accident took place (*lex loci delicti*). The amount of the claim for damages is dependent in part on the degree of blame for the accident allocated to the parties involved. Compensation applies for loss of income due to physical injury. Social security benefits will be deducted from the compensation. On occasion, an abstract payout applies if the physical impairment is of a permanent nature.

Those injured have the option of demanding damages for pain and suffering. Such claims may not be submitted by surviving relatives in the event of the death of an injured party unless the party concerned was alive at the time the claim was submitted and the claim was agreed contractually or in a settlement. Surviving dependents have no right to compensation for pain and suffering.

In addition to damage to vehicles or persons, other expenses can be claimed (for example, phone costs, travel expenses and car rental costs).

Usually claims for damages are made against the insurance company of the other party. Therefore, it is important (with the consent of the police) to obtain the relevant information and seek proper advice.

5. Accidents abroad

With effect from 20 January 2003, the 4th Motor Insurance Directive has been in force regarding traffic accidents outside your own country. Victims of traffic accidents can now claim compensation in a simple manner from the insurer of the party at fault. Such claims are submitted to the representative of the foreign insurer in the country of the victim: the claims representative. Addresses of claims representatives are available from the Information Centre. The centre can also provide information on the compensation body that will make payment if the insurer fails to designate a claims representative or does not respond to a victim's claim.

You can find additional information on this procedure at this website.

6. Useful addresses

Medical assistance: tel. 144 or 112

Police: 133 or 112

Fire brigade: 144

Information Centre:

Verband der Versicherungsunternehmen Österreichs
Schwarzenbergplatz 7 - A 1030 Wien

<http://www.vvo.at>

Tel.: 00 43 1 711 56 0

(This is also the address for claims for damages caused by an unknown, stolen or uninsured motor vehicle.

ARBÖ

<http://www.arboe.at>

Tel.: 0043 – 1- 89 121 - 256

Bundesministerium für Verkehr, Innovation und Technologie

<http://www.bmvit.gv.at>

Tel.: 0043 – 1 – 711 62 - 1600

Kuratorium für Verkehrssicherheit

<http://www.kfv.or.at>

Tel.: 0043 – 1 –71770 - 293

ÖAMTC

<http://www.oeamtc.at>

Tel.: 0043 – 1 – 711 99 –1530