

A staggering majority of 95% of families consider it desirable to appoint a lawyer responsible for the civil interests of victims or their families immediately after the incident [figure 17].

The most frequently expressed requests were:

- For immediate advance payments by insurance companies to cover costs such as funeral expenses, loss of income and medical treatment, to prevent the victims and/or their relatives from suffering unacceptable financial hardship.
- For urgent improvements to insurance companies' tariffs and payment policies.

D. Physical care given to the injured victim

About half of the **disabled** victims considered that their physical condition became stable within 3 years, for the other half this did not happen until much later, if at all [figure 19]. The percentage of physical invalidity agreed by insurance companies is considered unfair by about 60% of the victims [figure 20]. Nearly 40% declared dissatisfaction with medical treatment and rehabilitation [figure 21].

Only 37% of the victims who had suffered **head injuries** considered that they had fully recovered within the first 3 years and only a further 19% recovered after that period [figure 22]. The other 44% suffer from permanent neurological or brain damage. This is particularly significant as head injuries represent about half of all road crash injuries. About 40% of the victims are dissatisfied with neurological treatment and rehabilitation [figure 23].

During the first 3 years **head injured** victims suffer from the following neurological disorders: loss of memory and inability to concentrate - 78%, inability to perform normal tasks - 70%, language disorder - 59%. After this period these figures fall to 61%, 52% and 29% respectively [figure 24].

The quoted percentages relating to disabled victims are those given by the relatives of the disabled. The victims themselves are slightly more optimistic, as shown in the relative diagrams.

This enquiry provides very important evidence that:

- Physical and mental impairment through road traffic injury can have long-term effects which deny victims the ability to maintain their standard of living.
- The effects of head injury are often not recognised because they are not always apparent, yet they may cost victims their jobs or educational qualifications, with serious economic consequences for society as a whole.

E. Psychological and physiological impact on victims or their relatives

The victims and/or their relatives suffer the following physiological symptoms:

- sleeping problems - 49%,
- headaches - 55%,
- distressing nightmares - 41%,
- general health problems - 58%.

No significant decrease occurs after 3 years, indicating long-lasting, if not permanent, psychological suffering [figure 25].

A large proportion of the relatives of dead and disabled victims, as well as the disabled themselves, suffer psychological disorders [figure 26]. The worst situation is that of the relatives of the **dead**. During the first 3 years, 72% lose interest in everyday activities such as professional work, housework, cooking or studies, 70% suffer loss of drive, 49% loss of self-confidence, 46% have anxiety attacks, 37% experience suicidal feelings, 64% suffer from depression, 27% phobias, 35% eating disorders, 78% anger and 71% resentment. After 3 years, these figures, on average, decrease by only about 10 percentage points, indicating long term and in certain cases even permanent suffering. In particular, suicidal feelings decrease only from 37% to 26%, leaving an enormous proportion of relatives in extreme distress.

With the exception of suicidal feelings, the relatives of **disabled** victims present a similar pattern to that of the relatives of dead victims. Surprisingly, with their frequent neurological and other disorders, the disabled declare themselves slightly better off psychologically than their relatives, particularly as regards anxiety attacks, phobias, eating disorders, anger and resentment.

The bereaved are again the worst affected - 67% - by relationship problems, communication difficulties and sexual problems. The figure for relatives of **disabled** victims is 40%, and for the disabled themselves 50%. After 3 years these problems do not decrease as one would expect, but *worsen* for each category by about 5 points [figure 27].

Psychological help to relatives of **dead** victims was provided by the following during the first 3 years: family 87%, friends 86%, doctors 40%, professional counsellors 23%, religious group 22%, employers 9% and group therapy 5%. The pattern is similar for the relatives of the **disabled**, and the disabled themselves, although they rely more heavily than the bereaved on the help of family and doctors, probably because they need to be in much closer contact with them. After this 3-year period, the need for help *increases* by a few points [figure 28].

The families were asked from whom they had received the most help. Families of **dead** victims declared that during the first 3 years help was received from family 28%, friends 22%, doctors 8%, professional counsellors 7%, religious group 5%, group therapy 1% and employer 1%. After the 3-year period, appreciation of received aid *increased* 3 to 4 times, though the proportion between the different sources of support remained about the same [figure 29]. For the families of **disabled** victims and the disabled themselves the results were different. For the first 3 years, 39% said that the most help came from families, 14% from friends and 12% from doctors. There was no help from professional

counsellors, group therapy or employers and only 2% from religious groups. After this period, the level of appreciation and the proportions remained the same.

F. Consequence on life

About 50% of the relatives of victims, and the victims themselves, state that for extended periods they consume more psychotropic products like tranquillisers, sleeping tablets, tobacco, alcohol and drugs than before the incident [figures 30 and 31]. If the consumption of these products is associated with driving, they would be more likely to cause a crash, thus creating a vicious circle.

It is sometimes believed that due to the tragedy, the relationship of the respondents with their normal social partners deteriorates. This enquiry shows that this is not always the case. For the relatives of the **dead**, 36% declared no change in their relationship with friends, and 20% and 23% respectively declared better and worse relations. With their family, 42% declared no change, and 21% and 23% better and worse respectively. With their spouse, 34% declared no change, 16% and 21% better and worse. With their colleagues, 45% declared no change, 6% and 16% better and worse. For many of the relatives of the **disabled**, and the disabled themselves, their social relationships are also unchanged. However, in the last two categories, although the proportion of changed and unchanged remains the same, when a change occurs, it is usually for the worse rather than the better [figure 32]. Thus, the above assumption contains some truth but is limited to the disabled and their families.

After the tragedy 49% of the families of dead victims, and 47% of those of the disabled were subject to changes of household. Families of dead victims suffered separation - 6% and divorce - 5%, 28% had children leaving home, 33% moved house, and 3% remarried. For the disabled and their families, separation and divorce are much higher [figures 33 and 34].

Making plans for the future seems impossible for 68% of the relatives of **dead** victims during the first 3 years. After this period, 59% remain in this state. For the relatives of the **disabled** the prospects are only a little better. As elsewhere, the disabled themselves are less pessimistic [figure 35].

The capacity to enjoy life as before the crash tragically disappears for 91% of the relatives of **dead** victims for the first 3 years. After this period, the loss persists for long periods for 84% of them. For many this loss will be permanent. The prospects for the first 3 years are also bleak for 68% of the relatives of **disabled** victims, and for 69% of the disabled themselves. Some time after this period there is no change for the relatives, but 15% improvement for the disabled [figure 36].

G. Consequence on occupation

About 60% of the relatives of dead victims, 80% of the relatives of disabled victims and 70% of the disabled themselves who changed occupation, did so because they were forced to by their circumstances. Among those who lost their jobs about 65%, 33% and

33% respectively did so for psychological reasons, the others for physical reasons [figures 37 and 38].

5.2 National results

In this section the answers from individual nations are compared with the European average, under the first three headings.

As seen in **Table I**, the size of the national samples varies considerably, thus also the statistical errors. Because of the smaller samples, the statistical standard errors are in the range of $\pm 8\%$ to $\pm 25\%$. Results involving larger errors are not shown. Therefore some of the detailed results from countries which provided small samples, such as Luxembourg and Greece, are not shown, even though their results are consistent with average European outcome.

To facilitate the reading of the diagrams, the nations are listed in order of their increasing or decreasing scores. Because of the relatively large statistical errors, the exact position of one nation in relation to the others has no particular significance. However, the fact of being consistently among those at the higher or lower end of the diagrams is meaningful.

A. Initial support and information [by nation]

The number of answers received from the bereaved, from relatives of the disabled and the disabled themselves are shown in **figure 39**.

The proportion of victims who felt they had received adequate initial support from at least one of the relevant statutory services is roughly 80% in all countries [figure 40].

In most countries, the police, emergency services and welfare/hospital staff were considered to have provided adequate initial support, but the services of coroners were judged worst. The exception was Italy, where the emergency services were given the worst evaluation [figure 41].

Requests for organ donation by hospitals were also relatively uniform at around 10%. The highest was in Switzerland with 17%, the lowest in Belgium with 5% [figure 42].

Information on legal rights is demonstrably insufficient all over Europe, with only 9% and 22% respectively of the relatives of the dead and disabled having received sufficient information. Most complaints came from the bereaved in France, Switzerland and Belgium, and from the disabled in the UK, France, Belgium, Greece and Luxembourg [figure 43].

Information about helping organisations was found to be insufficient everywhere, with only about 15% of victims receiving relevant details. The relatively better off were in France, Switzerland, the Netherlands and the UK. The worst were in Italy, Germany, Greece, Belgium and Luxembourg [figure 44].

B. Criminal proceedings [by nation]

Dissatisfaction and resentment over criminal proceedings occur all over Europe, with 89% and 68% respectively of the relatives of dead and disabled victims complaining that criminal justice was not done in their case. Most protests came from bereaved families in the UK (97%), Switzerland (93%), and France (91%). For the families of disabled victims the situation was somewhat better in Switzerland, the Netherlands and Belgium [figure 45].

Victims were asked if they felt that their cases were correctly handled. Fewer than 30% and 23% respectively of the relatives of dead and disabled victims across Europe acknowledged adequate treatment. Satisfaction was lowest in the UK, France and Belgium. In Switzerland relatives of the disabled were somewhat better off [figure 46].

Charges were considered fair by only 25% and 39% across Europe. Victim families in the UK felt worst off with only 15% and 5% agreement with charges. The highest level of agreement with charges was in Switzerland, the Netherlands and Belgium [figure 47].

Sentences were considered fair by only 11% and 28% respectively of the relatives of dead and disabled victims throughout Europe. Again, the greatest dissatisfaction was in the UK with just 3% and no agreement with sentences, followed by Germany. Higher than average satisfaction was shown in Italy, Switzerland, the Netherlands and Belgium [figure 48].

The British expressed the greatest dissatisfaction with their criminal justice system and their plight warrants particular attention. In the UK, according to our information, only about 5% of road deaths are followed by a prosecution which addresses the death caused, that is where the death is mentioned. Most deaths are followed only by a charge of *Driving without due care and attention*, or no prosecution at all. The sentence is then usually a fine (typically 200 Ecus) and penalty points on the offender's licence. The death is often totally ignored, not mentioned in court or recorded in court records, which is felt to be an outrage by most of the victim families [8].

The bereaved said that when death was caused, the charge should automatically be:

- causing death by driving or
- manslaughter

British families also frequently complained of a total lack of information about inquests and the denial of their rights at inquests.

Alternative punishment to prison terms was considered a valid option by a majority of victims [figure 49]. These measures could, for example, include taking the offender to the mortuary, asking them to spend time with a bereaved family or to work in a hospital.

C. Insurance - civil claims [by nations]

Unsatisfactory dealings with representatives of insurance companies are also a problem facing 78% and 75% of bereaved and injured victims across Europe. Worst off are victims in the UK, Italy, Germany and Luxembourg respectively. Better off are those in Switzerland and Belgium, and the disabled in the Netherlands and Greece [figure 50].

The level of damages awarded by insurance companies is also considered low all over Europe with 80% and 76% of victims dissatisfied. Most complaints came from the UK, Italy, and Germany. The situation is somewhat better in Switzerland, the Netherlands and Belgium [figure 51].

The medico-legal examination procedure for injured victims, as well as for the relatives of dead or disabled victims, was felt to be satisfactory in 41% and 44% of cases Europe-wide. Least satisfied were victims in the UK, France, and Germany [figure 52].

For Europe as a whole, only about 20% of victims who brought their cases to a civil court considered that in their cases financial justice was done. The greatest discontent was felt in the UK, Germany and France. Less dissatisfaction was felt by the disabled in Switzerland, Belgium and the Netherlands [figure 53].

The average duration of civil proceedings across Europe was 2.7 and 4 years respectively in death and injury cases. The shortest duration was 1.7 and 3 years in Switzerland and Italy, while the longest was experienced in Germany with 6.2 years (for the disabled) and in Belgium with 4.5 years [figure 54].

Victims throughout Europe who wanted to go to court because they were dissatisfied with offers by insurance companies, but who eventually gave up, did so because of unfavourable law in 37% of the cases. Victims in Italy and Switzerland were less affected by unfavourable laws [figure 56].

From these results a certain European homogeneity emerges, in spite of national administrative and institutional differences and statistical variability.

Results under the four last headings, covering physical, physiological, psychological and social aspects, reveal even smaller differences between the nations which are not statistically relevant. The European trends for these are therefore representative of all countries studied, and results nation by nation will not be given under these headings.

This homogeneity, in our opinion, justifies a European legislative approach for the resolution of victims' problems.

6. Conclusions

The suffering made evident through this research reveals an ever growing proportion of devastated lives in our societies as a result of road violence. What is hardly recognised by those in authority, and this includes the legal system, is that those bereaved or injured through road crashes are often permanently harmed, as are the families of other victims of violence and manslaughter. And yet there is almost no help, nor proper compensation for road violence victims and victim families.

There seems to be much concern for the welfare and rights of traffic law violators and almost none for the victims. One possible reason for this is the image of road violence as “just an accident”. It must be realised that, although there are indeed some true accidents, the majority of incidents are the result of unlawful acts.

An end must be brought to dangerous driving by making such conduct socially unacceptable. The aim must be to create a social environment whereby driving with responsibility and consideration becomes the norm. Then perhaps we will see an end to so many preventable deaths and injuries on our roads, and to so much suffering by the affected families.

It is beyond the framework of this report to discuss detailed strategies for bringing a real reduction in road danger, though this is perfectly feasible and would be unimaginably cost-effective. However the following illustrates the point: the European Commission issued the Gerondeau Report (1991)[2] which listed 80 technical road safety measures, the implementation of which would reduce the rate of serious injuries and deaths by at least 20% to 30% by the year 2000. A few European countries have already committed themselves to yearly reductions. The most ambitious is the project (1993) of the Swiss government which aims for a reduction of 70% by the year 2007 in steps of 5% a year [3].

In addition to the extreme human suffering caused by crashes, the socio-economic cost to society is enormous. In a study [4] undertaken by European universities, the COST 313 collaboration framework of the European Commission (1994), the socio-economic cost of each human life in Europe has been estimated at one million Ecus. Further studies are planned to evaluate the cost/benefit ratio of road safety measures. Rough preliminary estimates show that this ratio could be 1/10 or even lower. Thus purely economic considerations indicate that substantial material benefits for society would result from better enforcement of safety measures and from education in safe, considerate and responsible road use. Many of the solutions identified require a change in attitudes.

The purpose of the present study is to point out the most urgent needs of victims and/or their families, and to propose adequate measures to alleviate their suffering, prevent discrimination and injustice and limit the decline in their quality of life and standard of living.

The following needs and solutions were identified:

■ Information

There is an immediate need for access to information about the circumstances of the crash, legal rights, legal procedures (including inquests), how to deal with insurance companies, about civil claims, helping and victim organisations, and counselling.

Such information should be contained in pamphlets handed to victims by police without fail, and freely available from emergency services, hospitals, courts etc. Some victim organisations already distribute such information on a limited scale. However, the printing and distribution costs should be funded by the appropriate government departments, which should also fund a programme of education for all agencies which come into contact with victims of road violence. Police should inform the victims victim families of the details and the progress of their cases on a regular basis.

■ Support

There is an urgent need for emotional, practical and legal support.

It is suggested that free ASSISTANCE CENTRES for victims be created, where victims would receive assistance advice in the fields of law, medicine and psychology. Voluntary victim organisations should receive government funding for their work of supporting victims. In the case of death or serious injuries a lawyer, responsible for the civil interests of the victim and/or relatives, should be appointed immediately after the incident.

■ Criminal justice

In spite of some recent improvements, there is still considerable dissatisfaction with legal procedures, which are perceived as unjust; the treatment of the victims/victim families, which is felt to be disrespectful and unfair; the charges against defendants, which are considered too lenient in the majority of cases; and above all the sentences, which are felt to be inadequate and unfair in most cases.

Legal procedures should also be simplified and speeded up. Charges following driving offences which cause death and injury must treat the death and injury as the central issue. Where necessary, laws must be changed to ensure that death injury is addressed. Sentences must be sufficiently severe to provide a deterrent. Alternative punishment should also be considered for education of offenders. Driving bans should be used more widely.

Equality must be introduced into the criminal justice system - which at present favours the defendant - by taking into account the concerns and needs of victims of road violence. They should also no longer be excluded from criminal proceedings but be fully acknowledged as properly interested parties to those proceedings. Full participation and information would also prevent the many difficulties with civil proceedings suffered by a great many victims.

■ **Claims against Insurance Companies**

There is widespread dissatisfaction over dealings with insurance companies and with the amount of compensation offered.

Victims and victim families are adversely affected by lengthy proceedings and the apparent insensitivity of insurance company lawyers.

■ **In Civil Courts**

When cases proceed to court, injustice is seen to be perpetuated, both in respect of victims' treatment and in respect of the compensation offered.

Insurance companies should be obliged to make immediate payments to cover expenses such as funeral costs. Advance payment should also be made to those victim families who have suffered loss of income. The level of compensation must relate to the effects suffered and regular revision should take place to ensure that this is the case. Civil procedures should be simplified and speeded up. Secondary harm must be taken into account. Civil proceedings should not be seen or suggested as a substitute for criminal proceedings.

■ **Physical care given to the victim**

Consideration of the quality of medical care is beyond the framework of this study.

However very important facts are confirmed by this enquiry: that physical and mental impairment through road traffic injury can be long-term and have a profound effect on living standard and quality of life of the victims.

All steps must be taken to recognise head injury in victims and to provide adequate settlements which enable them to maintain as normal a life as possible.

■ **Psychological and physiological impact on victims and their relatives**

The sudden violent death of a close family member has a profound effect on the lives of the other members. In many cases the bereaved lose interest in life, experience suicidal feelings and some do commit suicide. The shock and ongoing stress damage the immune system, resulting in illness and even death. With the exception of suicidal feelings, the injured victims and their families suffer similarly.

These problems show the desperate need for long-term emotional and psychological support for victim families. Such help, which is presently mainly provided by friends and family, should be supplemented by the ASSISTANCE CENTRES already described. These afflictions are the main causes of the decrease in quality of life. As they are considered secondary effects, they are presently not acknowledged legally.

7. Legislative proposals

Below is a list of important points which should, in our opinion, be included in future legislation to favour the victims of road crashes. Numbers in brackets refer to the bibliography and to countries which have already adopted specific points.

1. Create *public centres for free help and advice* in the areas of medicine, psychology, sociology and law, as well as sponsor *voluntary organisations already providing such help* [5,6].
2. Make provision for victims or their families to be represented and accompanied through every procedure following death or injury by a person they trust, in order to feel supported and be aware and assured of their rights [7,8].
3. Improve and regularly review the level of compensation to ensure realistic damages.
4. Ensure realistic compensation for all victims by, for instance, ensuring efficient operation of a guarantee fund.
5. Extend indemnity for physical injury to frequently occurring brain damage, which can range from recurrent mental impairment to permanent mental handicap.
6. Require insurance companies to provide immediate advance payments (interim) to victims and/or to their families, to cover expenses such as funeral costs, loss of earning or medical treatments [7].
7. Include victims and victim families in criminal proceedings, ensure informed, speedy settlements of civil claims as well as encourage the pursuit of claims by all those entitled to them [5,7].
8. Create more balance in the justice system, which at present centres excessively on the accused, in order to ensure equality of rights for the victims as well as the families of the guilty [5].
9. Give consideration to having part of the compensation paid by the defendant. Thus, a judge should be able to confiscate a part of the property or income of the guilty in order to give direct help to the victim. Furthermore, the guilty could be charged for the legal and medical expenses of their victim/s [5,7,8].
10. Treat certain violations committed due to gross negligence or disregard of fundamental road traffic rules as premeditated criminal offences. These would include exceeding the speed limit, disregarding red traffic lights, and driving while under the influence of alcohol.
11. Provide a fast and efficient network of help centres, equipped with ambulances and helicopters co-ordinated by radio, as well as a free emergency helpline number for road traffic victims.
12. Extend to all European countries the European Convention concerning the compensation of victims of violent crimes [9].