

Common Compendium

TN - Tunisia

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Country Code: TN

Organisation (s): GCB

1. Basic Information (GCB/GF/CB)

This section is aimed at all three organisations. The questions are repeated three times to be filled out by each organization

1.1. If relevant, please indicate the name of the organisation that operates as:

Green Card Bureau: Bureau Unifié Automobile Tunisien

Guarantee Fund: Click or tap here to enter text.

Compensation Body: Click or tap here to enter text.

Information Centre: Click or tap here to enter text.

1.2. What is the legal status/form of your organisation? Only one option can be selected by each organisation.

Please answer in your capacity as Green Card Bureau:

Non-profit organisation

Association of legal entities

Limited liability company

Other. Please specify. Click or tap here to enter text.

Please answer in your capacity as Guarantee Fund:

Non-profit organisation

Association of legal entities

Limited liability company

Other. Please specify. Click or tap here to enter text.

Please answer in your capacity as Compensation Body:

Non-profit organisation

Association of legal entities

Limited liability company

Other. Please specify. Click or tap here to enter text.

1.3. How is the ownership of your organisation structured? Only one option can be selected by each organisation.

Please answer in your capacity as Green Card Bureau:

Owned/controlled by all Members equally

Part of state government

Other. Please specify. Click or tap here to enter text.

Please answer in your capacity as Guarantee Fund:

Owned/controlled by all Members equally

Part of state government

Other. Please specify. Click or tap here to enter text.

Please answer in your capacity as Compensation Body:

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- Owned/controlled by all Members equally
- Part of state government
- Other. Please specify. Click or tap here to enter text.

1.4. How is the membership/governance of your organisation structured? Only one option can be selected by each organisation.

Please answer in your capacity as Green Card Bureau:

- Only insurance undertakings are Member to the organisation
- Mixed membership of insurance undertakings and other members
- Only Members participate in the governance
- Others may participate in the governance
- Other. Please specify. Click or tap here to enter text.

Please answer in your capacity as Guarantee Fund:

- Only insurance undertakings are Member to the organisation
- Mixed membership of insurance undertakings and other members
- Only Members participate in the governance
- Others may participate in the governance
- Other. Please specify. Click or tap here to enter text.

Please answer in your capacity as Compensation Body:

- Only insurance undertakings are Member to the organisation
- Mixed membership of insurance undertakings and other members
- Only Members participate in the governance
- Others may participate in the governance
- Other. Please specify. Click or tap here to enter text.

1.5. Is your organisation a VAT liable entity? Only one option can be selected by each organisation.

Please answer in your capacity as Green Card Bureau:

Yes

No

If answered yes to question 1.5., please indicate the VAT number: Click or tap here to enter text.

If answered yes to question 1.5, is the service of claim handling VAT exempted?

Yes

No

In what instances is VAT refundable? Please specify. Click or tap here to enter text.

Please answer in your capacity as Guarantee Fund:

Yes

No

If answered yes to question 1.5., please indicate the VAT number: Click or tap here to enter text.

If answered yes to question 1.5, is the service of claim handling VAT exempted?

Yes

No

In what instances is VAT refundable? Please specify. Click or tap here to enter text.

Please answer in your capacity as Compensation Body:

Yes

No

If answered yes to question 1.5., please indicate the VAT number: Click or tap here to enter text.

If answered yes to question 1.5, is the service of claim handling VAT exempted?

Yes

No

In what instances is VAT refundable? Please specify. Click or tap here to enter text.

1.6. For a full overview of your national GCB/GF/CB please provide the link of your website:

GCB: www.buat.tn

GF: Click or tap here to enter text.

CB: Click or tap here to enter text.

The following questions are only aimed at Guarantee Funds and Compensation Bodies.

1.7. On what legal basis is your organisation authorised to carry out compensation?

Please answer in your capacity as Guarantee Fund:

Please provide the name and date of the law: Click or tap here to enter text.

Please answer in your capacity as Compensation Body:

Please provide the name and date of the law: Click or tap here to enter text.

1.8. Is compensation by your organisation subsidiary? Only one option can be selected by each organisation.

Please answer in your capacity as Guarantee Fund:

Yes

No

Please provide further explanations: Click or tap here to enter text.

If the compensation is subsidiary, which entities are excluded? Click or tap here to enter text.

Please answer in your capacity as Compensation Body:

Yes

No

Please provide further explanations: Click or tap here to enter text.

If the compensation is subsidiary, which entities are excluded? Click or tap here to enter text.

2. Applicable law (GCB/GF/CB)

This section is aimed at all three organisations. You are invited to complete this section in cooperation amongst your organisations, if applicable. Only one common answer is expected to be provided.

2.1. Provide the title and if applicable, the number of your national law which forms the basis for making a claim (Road Traffic Act, Insurance Law, Liability Law, etc.)

Law n° 86-2005 of 15/08/2005

2.2. What liability regime do your organisations operate with? Only one option can be selected.

Fault based liability

Strict liability

Other . Please specify. Click or tap here to enter text.

2.3. Are there any restrictions to the activities of your organisations regarding the way the law applies to visitors with regard to:

Country of residence. Please specify. Click or tap here to enter text.

Nationality. Please specify. Click or tap here to enter text.

Other. Please specify. **No restriction exist for the activities of our organisation regarding the way the law applies to visitors regarding the country of residence nor the nationality**

2.4. For what types/categories of motor vehicles is insurance compulsory?

all motor land vehicle

Are there any exemptions? Please specify. Click or tap here to enter text.

2.5. Does the MTPL insurance law apply to private areas?

Yes

No

How do you define a private area according to your national law? Please specify. **No legal text define private area but as per usual this area is the parking area**

2.6. What is the minimum amount of cover required for material and personal injury damage? State the minimum value of sum insured, the date as of which it is in effect from and please indicate whether the limit is per accident or per victim:

Not limited

2.7. In which cases is an MTPL-insurer permitted by Law to reject/refuse cover for a third party claim? Please specify for the below-mentioned sub-items:

Accident caused by stolen vehicles: Click or tap here to enter text.

Accident caused by drunk driving: Click or tap here to enter text.

Accident caused with intent (for instance homicide, suicide): Click or tap here to enter text.

Accident caused by a terrorist attack: Click or tap here to enter text.

Accident caused by a driver without a license: Click or tap here to enter text.

Other instances: accident caused by underage driving - accident caused by transporting people without respecting safety conditions

2.8. Does your national law require cover in respect of passengers carried in the vehicle?

Yes

No

Please specify. Click or tap here to enter text.

Is there any category of passenger excluded from this cover?

Yes

No

Please specify. Click or tap here to enter text.

2.9. Does your national law require the insurer and/or Bureau to make an offer of compensation to a claimant within a specified time?

Yes

No

If yes, what is the nature of the damages to which the time-limit applies? Bodily injuries and property damage

If yes, what is the specific time-limit? 6 months after the date of the demand of compensation

2.10. What is the statute of limitation periods (prescription) according to your national law against the MTPL insurer when there is a direct action?

3 year from the date of the accident

2.10.1. When does the period of limitation begin and when does it expire?

In respect to material damage: from the date of the accident

In respect to bodily injuries: from the date of the accident

2.10.2. Are there any provisions in your national law which allow the suspension/extension of the limitation period? How about interruption? Please specify.

NO

2.10.3. Are there special circumstances in your national law regarding statute of limitations? Please describe in short :

NO

Are there any differences for limitation period of liable party? NO

The following questions are only aimed at Compensation Bodies. Please answer in your capacity as Compensation Body:

2.11. Under your legislation, does a victim who has requested compensation under Articles 24 and 25 of the Codified Motor Insurance Directive have the right to remedy against the decision/omission of the Compensation Body?

Yes

No

If yes, please specify (i.e. appeal to administrative authority, judicial review of the latter's decision or action to court directly, i.e., passive procedural legitimacy of the Compensation Body):

Click or tap here to enter text.

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3. Trucks and trailers (GCB/GF/CB)

This section is aimed at all three organisations. You are invited to complete this section in cooperation amongst your organisations, if applicable. Only one common answer is expected to be provided.

3.1. Does your national law regulate trailers?

Yes

No

3.2. Liability

3.2.1. If the truck is coupled with the trailer, does liability strictly fall on the truck or is there a division of liability? Please specify.

there a division of liability

3.2.2. Can liability arise in case of an uncoupled trailer in an accident?

Yes

No

If yes, what are the conditions? no specific condition exist

3.3. Do trailers need to bear a registration plate in your country?

Yes

No

If yes, please specify the conditions: **according to tunisian law, any trailer must have a registration plate (art. 63 of Traffic Laws)**

3.4. Is the trailer given separate plates or does it bear the same registration plate as the truck?

Yes

No

Please specify. the trailer is given separate plates

3.5. Does your country have an established practice in determining where (the component parts of) a truck-trailer combination bearing the registration plates of different countries is/are:

- “normally based”

Yes

No

Please specify. Click or tap here to enter text.

- “originating from”

Yes

No

Please specify. Click or tap here to enter text.

3.6. Is there an obligation to insure the truck and the trailer separately?

Yes

No

If yes, please specify the conditions/exemptions: each truck and each trailer has a separate registration

3.7. Do trailers need their own Green Card?

Yes

No

Please specify. **Since the trailer has a separate plate number, it need a green card**

3.8. If there is no insurance obligation for a trailer in your country but liability is ascertained under the applicable law, does the Guarantee Fund intervene?

Yes

No

Please specify. **In case of an accident caused by trailer with no insurance obligation, the owner or the legal representative of this trailer intervene**

3.9. If there exists a separate liability, is a claimant obliged to make a claim against either the truck or the trailer?

Yes

No

Please specify. The claimant can claim the insurer of trailer or the insurer of the truck or both

3.10.If there is a division of liability?

Yes

No

If yes, Please specify.

- **the criteria (i.e. joint/several liability, percentage):** liability is shared 50/50

- **on what is the division of liability based (i.e. law/jurisprudence/agreement between insurers)?**
agreement between insurers

3.11.Can the division of risk between truck and trailer be based on any other rules than liability (e.g. such as on the basis of double insurance)?

Yes

No

Please specify. Click or tap here to enter text.

3.12.Who is responsible for the damage to a connected trailer in case of a solo accident?

The towing unit

The trailer

Other.

Please specify. Shared between truck and trailer

3.13.Who is responsible for the damage to a connected trailer in cases involving Third Parties?

The towing unit

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The trailer

A third party, depending on the situation

Other. Please specify. Click or tap here to enter text.

4. Property Damage – Claims (GCB/GF/CB)

This section is aimed at all three organisations. You are invited to complete this section in cooperation amongst your organisations, if applicable. Only one common answer is expected to be provided.

4.1. For the following sub-items please state the different possibilities for a claimant to file a claim against a MTPL-insurer for property damage

4.1.1. How is vehicle damage covered with regards to repair costs?

the insurance of the liable vehicle cover all material damage caused to third parties

4.1.2. How is vehicle damage covered with regards to total loss?

In case of total loss, third parties can be compensated for all the value of his vehicle, the insurance of the liable vehicle cover all compensation of loss total

4.2. Does the claimant have right to compensation for loss of value for a damaged vehicle?

Yes

No

If yes, Please specify. the claimant have right to compensation for loss of value for a damaged vehicle which must be determinate by the expert

4.3. Does the claimant have right to compensation for costs of expert reports?

Yes

No

If yes, Please specify. Tunisian law permit claimant to be compensated for costs of expert reports which is calculated on the basis of a very precise scale

4.4. Does the claimant have right to compensation for costs of vehicle recovery/rescue and towing a vehicle to a repair shop?

Yes

No

If yes, please specify the criteria: Click or tap here to enter text.

4.5. Does the claimant have right to compensation for the loss of use of a damaged vehicle?

Yes

No

If yes, please specify the criteria: **the expert determines the value of loss of use if a damaged vehicle and the claimant have right to obtain this loss**

4.6. Does the claimant have right to compensation for costs of hiring another vehicle in case of a damaged vehicle and/or a lump sum as a substitute?

Yes

No

If yes, please specify the criteria: Click or tap here to enter text.

4.7. Does the claimant have right to compensation for registration fees related to cases where the vehicle is a total loss?

Yes

No

If yes, please specify the criteria: Click or tap here to enter text.

4.8. Does the claimant have right to compensation for costs related to overnight accommodation and meals?

Yes

No

If yes, please specify the criteria: Click or tap here to enter text.

4.9. Does the claimant have right to compensation for pre-financing costs related to a vehicle damage (for instance borrowing money because of an accident)?

Yes

No

If yes, please specify the criteria: Click or tap here to enter text.

4.10. Does the claimant have right to compensation for general costs (i.e. telephone and mailing costs, administrative costs, etc?)

Yes

No

If yes, please specify the criteria: Click or tap here to enter text.

4.11. Any other instances/cases which are covered?

Yes

No

If yes, Please specify. Click or tap here to enter text.

4.12. How can the claimant claim recovery for damages if the responsible vehicle is uninsured?

Please specify. for bodily injuries the victim can claim Guarantee Funds and for material damage the victim can claim the owner of the uninsured vehicle

5. Personal Injuries and death – Claims (GCB/GF/CB)

For the following sub-items please state the different possibilities for a claimant to file a claim against a MTPL-insurer for bodily injury. Please specify for each question when applicable.

5.1. Does the claimant have right to compensation for costs of medical treatment?

Yes.

No.

Please specify. Tunisian law enable claimant to be compensated for medical costs proved by invoices

5.1.1. Does your national law make a distinction between public and private healthcare?

Yes.

No.

Please specify. Click or tap here to enter text.

5.2. Does the claimant have right to compensation for costs of care and increased needs due to an accident?

Yes.

No.

Please specify. **According to our law, claimant have right to compensation for costs of care and increased needs due to an accident, this compensation is calculate on the base of a table determined by law**

5.3. Does the claimant have right to compensation for disability?

Yes.

No.

Please specify. **the claimant have right to compensation for disability, this compensation is based on a legal scale determined by the insurance law**

5.4. Does the claimant have right to compensation for pain and suffering?

Yes

No

If answered yes, how is the amount of compensation assessed (fixed sum, tables, court)? Please specify.

The amount of compensation is calculated following a table fixed by law

5.5. Does the claimant have right to compensation for loss of earnings?

Yes.

No.

Please specify. **the claimant have right to compensation for loss of earnings, this compensation is calculated on the base of the rest days which not paid by social funds**

5.6. Does the claimant have right to compensation for loss of future earnings?

Yes.

* No.

Please specify. Click or tap here to enter text.

5.7. Does the claimant have right to compensation for loss of dependency (for instance a victim is fatally injured in a traffic accident and leaves a spouse/children behind)?

Yes.

No.

Please specify. **the claimant has right to compensation for loss of dependency "economic compensation" following a scale fixed by law**

5.8. Does the claimant have right to compensation for funeral expenses?

Yes.

No.

Please specify. **Tunisian law permit heirs to obtain compensation for funeral expenses following an amount fixed by law**

5.9. Does the claimant have right to compensation for moral damages (limitations in life, loss of quality, etc)?

Yes.

No.

Please specify. **claimant have right to compensation for moral damages which are defined by law.**

Is it part of the pain and suffering according to your national law?

Yes.

No.

Please specify. **pain and suffering are compensated in Tunisian law as a part of moral damage (no separation)**

5.10. Does the claimant have right to compensation in case of aggravation of the damage suffered?

Yes.

No.

Please specify. **In case of aggravation, victim can obtain a compensation for this aggravation on the base of a medical report which specifies the rate of aggravation (with application of the same scales and tables)**

5.11. Are relatives/next of kin entitled to compensation (tort, pain and suffering, other)?

Yes.

No.

Please specify. **According to tunisian law, wife, husband, sons' parents and grandchildren have right to compensation for moral damage with the rules specified in the legislation**

5.12. Any other cases? Please specify.

Click or tap here to enter text.

6. Claims Settlement Procedures – in and out of court (GCB/GF/CB)

This section is aimed at all three organisations. You are invited to complete this section in cooperation amongst your organisations, if applicable. Only one common answer is expected to be provided.

6.1. What evidence is considered as acceptable/lawful in your country? More than one of the following options can be selected.

Constat amiable (European Accident Statement)

Police report

Pictures

Witness statements

Medical statements

Other

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Please specify in detail: Click or tap here to enter text.

6.2. Out of court settlement

6.2.1. What are the conditions for filing a claim according to your national law? Please specify in
declaration within the legal deadline
be a victim of an accident
proof of damage (police report, expertise, ...)
make a claim of compensation

6.2.2. Do you require proof for the following 3 indicators and please specify in detail (including limitations):

- **Proof of involvement – including the recording/requirement of the accident (i.e police report, constat amiable, etc.)**

Yes

No

Please specify. Click or tap here to enter text.

- **Proof of damage**

Yes

No

Please specify. Click or tap here to enter text.

- **Proof of causal link between liability and damage**

Yes

No

Please specify. Click or tap here to enter text.

6.2.3. Is a visiting victim required to file a report about the accident to the local authorities before returning to the State of residence?

Yes

No

Please specify. Just in case of personal injuries

If they fail to do so, does that exclude the visiting victim from filing a claim for compensation?

Yes

No

Please specify. Click or tap here to enter text.

6.2.4. Which are the conditions according to your national law in considering a vehicle as identified? Please specify in detail.

A vehicle is considered as identified when it has a legal registration number

6.2.5. Are there any other requirements for filing a claim?

Yes

No

If yes, please specify in detail. Click or tap here to enter text.

6.2.6. Are legal fees for out of court settlements reimbursed?

Yes

No

If yes, how are these fees assessed/calculated? Click or tap here to enter text.

6.3. Court settlements

6.3.1. What are the requirements when filing a claim in relation to civil and/or criminal proceedings? Please specify in detail:

The claimant must file a claim in the court joined with all documents proving the occurrence of the accident, medical report and expert report within the legal period

6.3.2. What legal remedies are available (possibility of appeal, etc.)? Please specify in detail:

First instance, appeal and cassation (the Supreme Court)

6.3.3. How do you handle any costs in connection with proceedings in and out of court and please specify the types of costs (lawyers fee, legal fees, court experts, translation, etc.)? Please specify in detail.

Out of court (arbitration/mediation, etc.) : not limited, it depend to proof of costs

In court: not limited, it depend to the judgement

6.4. Any other procedure of settlement? Please specify.

NO

7. Involvement of National Guarantee Funds (GF) EEA/Non-EEA

This section is aimed only at Guarantee Funds. Please only provide answers to this section in your capacity as Guarantee Fund.

7.1. In which cases does your National Guarantee Fund intervene (stolen vehicles, intent, etc.)? Please specify in detail. (Article 11 MID).

Click or tap here to enter text.

7.2. What is the procedure (including any specific requirements) to be followed by a claimant when filing a claim to your national Guarantee Fund? Please specify.

Click or tap here to enter text.

7.3. Can a claimant who is resident in a foreign country make a claim against your National Guarantee Fund? Please specify.

Click or tap here to enter text.

7.4. Are there any exceptions when handling a claim for uninsured and/or unidentified vehicles (excess, property damage only when bodily injury, severity of bodily injuries, passenger voluntarily entering an uninsured vehicle, other)? Please specify in details.

Click or tap here to enter text.

7.5. Does the statute of limitations mentioned above under “Applicable Law” apply for the National Guarantee Fund or are there any exceptions?

Yes

No

If yes, Please specify. Click or tap here to enter text.

7.6. Involvement of the Guarantee Fund or any other bodies responsible for insolvencies for protection of victims in case of insolvency of an MTPL insurer? / Insurance Guarantee Scheme

When does this intervention mechanism start its intervention? Only one option can be selected.

The insurance undertaking is subject to bankruptcy proceedings

The insurance undertaking is subject to winding up proceedings

The insurance undertaking has had the authorisation withdrawn

After withdrawal of the authorisation

Please specify. Click or tap here to enter text.

7.7. Stolen vehicles- Are people who voluntarily entered the vehicle which caused the damage when they knew that the vehicle was stolen, excluded from the intervention of the body?

Click or tap here to enter text.

8. Involvement of Green Card Bureaux (GCB)

This section is aimed only at Green Card Bureaux. Please only provide answers to this section in your capacity as Green Card Bureau.

8.1. What is the procedure (including any specific requirements) to be followed by a claimant when filing a claim to your national Green Card Bureau? Please specify.

He must file a necessary documents as the accident report form, the police report, medical report ... within legal period and when he accept the amount he must signed an agreement of compensation containing all information of the claim and the reimbursement

8.2. Does a claimant resident in a foreign country have a direct right of action against the local Bureau of the country of accident or the agent/ insurer representing the Bureau?

Yes

No

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Please specify. Click or tap here to enter text.

8.3. Are there any other considerations that claimants should bear in mind? Please specify.

NO