



**THE IVAC SAYS I'M THE AUTHOR
OF MY OWN MISFORTUNE—
WHAT CAN I DO?**

Pierre-Olivier occasionally uses illegal drugs. One day, he asks a friend to get him some drugs for a party he is organizing at his home that weekend. During a meeting a few hours after the transaction, the two men get into a verbal argument about an old love feud that goes back several years. While exchanging words, Pierre-Olivier's friend loses his temper and attacks him physically, seriously injuring him.

After the events, the police intervenes and Pierre-Olivier files an application with the Direction de l'indemnisation des victimes d'actes criminels (the IVAC) in order to be compensated for his injuries. To his great surprise, his application is refused on the ground that he contributed to his injuries by his "gross fault," because the assault occurred in connection with an illegal transaction. Pierre-Olivier is confused and wonders whether he has a recourse to have the decision reversed.

In order to understand the decision, it is important to know that the law specifies that a victim who contributes to his injuries or death through his own gross fault is not entitled to IVAC benefits. The same principle applies to a close relation of the victim who claims benefits following a crime, when the close relation participated in the offence or, through his own gross fault, contributed to the victim's injuries or death (for example, a wife who claims benefits for the reimbursement of psychotherapy costs following the death of her husband, although she participated in the conspiracy to have him murdered).

This exclusion results from the law's objective to compensate innocent victims and, as the courts routinely point out, avoid having the IVAC become a type of disability insurance for victims involved in the criminal world.

However, in order to apply the exclusion, the IVAC must prove that there is a direct link between the unlawful activity and the injury. This evidence is easy to provide when a collector enforcing drug debts is assaulted by a dissatisfied "customer" or when a criminal gang member is assaulted in a "settling of accounts." In these situations, it is obvious that the victim accepted the risks related to his criminal activities or, at the very least, showed inexcusable recklessness for the consequences that could result.

However, in Pierre-Olivier's case, despite the fact that the assault occurred the same evening as an illegal transaction and between the same parties, the assault had no connection to the transaction and could have occurred at any other time, for example, when the two men crossed paths at a social event. It would therefore be in Pierre-Olivier's interest to contest the refusal so as to assert his rights with the IVAC, because he would have a good chance of succeeding.

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* The information set out in this document is not a legal interpretation.

The masculine is used to designate persons solely in order to simplify the text.