

**FREQUENTLY ASKED QUESTIONS (FAQ)**  
**The French procedure in case of death of an**  
**Exiled person**

*For accompanying people and organizations*

## TABLE OF CONTENTS

<b>What are the golden rules to respect when following up on the death of an exiled person?</b> .....	4
<b>Where does the “Procedure” FAQ come from?</b> .....	5
<b>What is the purpose of the “Procedure” FAQ?</b> .....	6
<b>Families, relatives, communities, etc. who is who?</b> .....	7
<b>« Procedure » Frequently asked questions</b> .....	8
<b>IDENTIFICATION OF DECEASED PEOPLE</b> .....	8
<b>What are the possible procedures in terms of identification?</b> .....	8
The criminal procedure.....	8
The extra-judicial procedure .....	8
<b>What are the different criminal investigations?</b> .....	8
Investigation into the cause of death .....	8
Investigation to determine responsibility for a death (Manslaughter, murder, etc.) .....	9
Investigation in the case of a critical missing person ( <i>Une disparition inquiétante</i> ) .....	9
<b>What do I have the right to know in an investigation?</b> .....	10
<b>How can the identification of a body be carried out?</b> .....	11
<b>What is the medico-legal obstacle?</b> .....	11
<b>What is an autopsy?</b> .....	12
<b>ANNOUNCEMENT OF THE DEATH, TIME OF RECOLLECTION BEFORE THE BURIAL, ETC.</b> .....	14
<b>Who should announce the death to the family?</b> .....	14
<b>Who should be informed of the death?</b> .....	15
<b>Visiting the deceased: who, when, where and how is possible to view the body</b> .....	16
<b>How long should the body be kept before burial?</b> .....	16
<b>What about organ donation?</b> .....	17
<b>Who can retrieve a deceased person’s belongings, what belongings and when?</b> .....	17
<b>BURIAL IN FRANCE</b> .....	19
<b>Who decides on the place of burial?</b> .....	19
<b>Who are the people without sufficient resources (PWSR)?</b> .....	19
<b>What is the procedure for the municipality to take charge of the PWSR?</b> .....	20
<b>What is the common grave?</b> .....	21
Définition .....	21
Location of the common graves in cemeteries .....	22
<b>Who organises the burial of the body and how is it done?</b> .....	22
Reminder – For accompanying people, it is important to let them do things for themselves .....	22
The burial is taken care of by the family, relatives or other support.....	22
The burial is taken care of by the municipality .....	23

What are the main administrative documents related to the body of the deceased?.....	24
Is cremation possible for PWSR?.....	25
What materialization and identification can be carried out on the graves of destitute people on the common graves? .....	26
After burial (maintenance, work, etc.) .....	26
<b>REPATRIATION OF THE BODY TO THE COUNTRY OF ORIGIN .....</b>	<b>27</b>

## WHAT ARE THE GOLDEN RULES TO RESPECT WHEN FOLLOWING UP ON THE DEATH OF AN EXILED PERSON?

- **Listen to, respect and accompany the wishes of the family, loved ones and the community.** They know how to deal with bereavement and death in traditional contexts and only need support in relation to the local situation.
- **The information collected in a follow-up is confidential.** It cannot be shared beyond the group of people and/or the organization following the case, especially not with the media. For the latter, it is important to agree collectively on the information that can be shared.
- **No action should be taken without the agreement of the family or the relatives** (when the family has not been found). Thus, the accompaniment can only be done if the families or relatives give their consent to any recommendations or advice given.
- **Clearly inform the exiled persons of the role of the Non-Governmental Organization (NGO)** and of your precise role. You can support but you are not actor or actress of the procedure.
- **Do not stay alone and do not manage anything alone:** It is important to act with several people, as a team (case coordination for instance) and to define the precise roles of each person. For example, one person in connection with the administrations, one in connection with the community/family and one person for translation. If you feel isolated, you should get in touch with the NGO with which you are intervening and/or contact other NGOs, activist groups, who could help you.
- **Speak clearly and concisely** with all the people and institutions.
- **Take note of all the steps taken,** the identity and role of the people questioned and met in the follow-up of the case. This is important so that the follow-up can be shared with other people and to keep track of it if necessary.
- **Constantly keep the NGO** you are working/volunteering with informed (report on actions taken, ask questions, support of experienced people, etc.).
- **Be physically present.**

**If you are a close relative or a family member of a deceased person:** For all the procedures with the police, gendarmerie or justice services, it is advisable to be accompanied by an NGO specialized in immigration law and by a lawyer, especially if you are in an irregular administrative situation in France or in Europe in order to avoid all risks related to the irregularity of the stay.

## WHERE DOES THE "PROCEDURE" FAQ COME FROM?

[La Cimade](#) works to defend migrants' rights in France, but also in countries of origin and so-called transit and host countries in conjunction with partners. As such, it analyzes the consequences of European migration policies in these countries, including the issue of migrants who have died or disappeared on their way.

By working to shed light on the fate of people's bodies who have died in migration, La Cimade contributes to strengthening the rights of migrants and their families. This work has two dimensions:

- Supporting families and their supporters (NGOs, activists, etc.) in their procedures by informing them about the procedures and practices in force.

- Highlight: the political dimension of this phenomenon by studying the militarization of borders and by illustrating the issue of missing and deceased persons in migration as a consequence of the migration policies currently being implemented.

From 2015 to 2018, La Cimade coordinated, within the framework of the Boats4People coalition, a project on the dead and missing persons in the Mediterranean Sea, with a double objective of raising awareness on the issues related to tragedies in the Mediterranean Sea and of support for the families in search of answers. The project has resulted in the production of a public awareness tool: "[Dead and missing at sea. The Mediterranean, a sea that has become a border](#)" in French (2016); [an information guide for families and their supporters on the Italian procedure regarding the issue of bereavement](#) (from the recovery of the bodies of those who died at sea, to their identification until burial and repatriation), available [in 5 languages](#) (2017) and [its web development to allow a wider dissemination but also a more simplified and affordable version for families](#) (2018).

Based on this experience in the central Mediterranean, La Cimade wanted to continue its involvement in this area. It has thus conducted, from 2019, a work on the French borders in territories identified as priorities in terms of need: [Mayotte and the Comoros archipelago](#), the South-East at the Italian border, the North and Calais at the British border<sup>1</sup>. Conducted by the International Solidarities-Europe (IS-Europe) department in conjunction with La Cimade's concerned local groups and regions, the project allowed multiple actors in the field to carry out this Procedure FAQ. In particular, it was during several exchanges with the coalition Calais death group<sup>2</sup>, which as early as 2017 had begun to set up action protocols, that several ideas for tools for field actors emerged, including this tool on the procedure.

La Cimade would like to thank all the institutions, associations, practitioners and activists, who have been able to participate in the realization of this document.

---

<sup>1</sup> Paris and its region were set aside as a potential project in itself.

<sup>2</sup> In 2017, several organizations and activists in Calais came together to try to better coordinate on the topics of deaths and disappearances. This led to several times of exchange and the creation of a death group composed of different NGOs and individuals. The aim of the death group is to denounce the deaths at the borders and to support the relatives of the deceased persons, in particular by facilitating the link between the latter and the administrative authorities, but also to make visible and denounce the deaths at the borders. For more information, [an article](#) in French on the website of the media Infomigrants, November 2020.

## WHAT IS THE PURPOSE OF THE "PROCEDURE" FAQ?

The **procedure FAQ** lists the most frequent questions that people and NGOs, who accompany the relatives of a deceased person, may have about the procedure related to the death and also about the administrative steps to be taken.

**This document, which is not exhaustive**, covers a wide range of questions related to the identification of the deceased, the announcement of the death to the family and loved ones, the rules of burial or the repatriation of the body of a deceased person.

**This procedure FAQ attempts to respond to the needs of activists and NGOs in the field who accompany families and relatives in the context of the death of an exiled person.** This is the result of extensive exchanges with NGOs and activists in the field who are able to monitor more closely certain cases of death. In this sense, we have chosen to detail certain aspects of the procedure as precisely as possible.

**This FAQ is based on French law, which applies to any person who has died or disappeared on the territory, regardless of their nationality and administrative situation.** The legislation is national, the practices are local. Thus, from one region to another, practices change within the law. For example, the minimum rules for the burial of destitute persons, which are governed by the law, may differ slightly: whether or not a wreath is laid, whether a name is inscribed on the grave, etc.

**This document is suitable for the entire French territory, especially in metropolitan France. In parallel, La Cimade has published [a specific guide](#) for families and their supporters in the face of the tragedies that take place in the Comoros archipelago**, as the law and practices are different on the overseas territory of Mayotte than in metropolitan France.

Beyond deaths, **there is also the issue of missing persons**, those who are not known to be alive or dead. If you are in contact with a family looking for a loved one who has no news: **Contact the Restoring Family Links service of the French Red Cross which, in conjunction with other Red Cross and Red Crescent National Societies around the world and the International Committee of the Red Cross (ICRC), facilitates these searches**, in particular through the use of their "[Trace the face](#)" tool. In the case of "worrying" disappearances, it is also possible to report them to the police or gendarmerie (See: **Investigation in the case of a critical missing person** Investigation in the case of a critical missing)

## FAMILIES, RELATIVES, COMMUNITIES, ETC. WHO IS WHO?

In the case of a deceased or missing person, contact can either be made with family or relatives.

**The family should be understood as the direct family:** father, mother, brothers and sisters, children, uncles and aunts, the spouse. In most cases, in the context of administrative or judicial procedures, it is the direct family that must initiate the procedures and that can receive information from the authorities.

This definition does not take into account necessarily the evolution of the notion of family in societies. Thus, some strong links between people may exist in fact but are not necessarily recognized by some States, or even condemned. This is notably the case of homosexual couples in countries where homosexuality is tolerated (the union is not recognized whether it is marriage or takes another form).

**Some people will therefore prefer to use the term "relatives and/or close friends"** to encompass more people and promote inclusion. More generally, relatives also include the person's friends and more broadly, fellow travellers.

When following up in the case of a death, it is sometimes difficult to know whether we are talking to the immediate family, who will potentially be the only ones who can initiate proceedings. It must be made clear to the relatives that only the immediate family will be able to initiate proceedings and that the police and gendarmerie services can carry out verifications as part of their investigation.

**The community** often represents people of the same nationality as the deceased. They may be exiled like the deceased, such as fellow travellers, and therefore be in precarious situations in camps, especially not far from the place/city of death. These people are often the ones who are likely to know the deceased, especially their identity, and to have contact with the direct family.

The community can also be composed of people from the country of the deceased, who are legally resident or even French nationals and who have formed community ties in the city of death or nearby. It may be relevant to be in contact with the community, which can also facilitate the search for the identity of the person and the direct family. They can also be contacted to participate in burials, etc.

## « PROCEDURE » FREQUENTLY ASKED QUESTIONS

### IDENTIFICATION OF DECEASED PEOPLE

#### WHAT ARE THE POSSIBLE PROCEDURES IN TERMS OF IDENTIFICATION?

##### THE CRIMINAL PROCEDURE

When a person dies and the cause of death is not known and must be determined or confirmed, an investigation into the cause of death (see below) may be initiated by the public prosecutor (le parquet, le ministère public). If the identity of the deceased is not known or needs to be confirmed, it is within the framework of this first investigation that the identification research work begins. It may continue if the identity has not been found during this phase of the investigation and if criminal proceedings are initiated in other investigations to follow (see below).

##### THE EXTRA-JUDICIAL PROCEDURE

When a person (including an unidentified person) dies, without the intervention of a third party and from known causes and declared "natural" by a doctor, there is no investigation into the cause of death (see below), nor is there any prosecution. More specifically, for unidentified persons whose death has not been investigated, an extra-judicial procedure is then possible. The civil registrar of the city hall, in charge of producing the death certificate, must refer the matter to the public prosecutor's office so that he can take the necessary measures to establish the person's identity<sup>3</sup> (for example: taking fingerprints, samples, etc.).

#### WHAT ARE THE DIFFERENT CRIMINAL INVESTIGATIONS?

There are different categories of criminal investigations. One of the first steps is the investigation into the cause of death. Once the cause of death has been established, the public prosecutor in charge of the investigation, will decide whether to prosecute to determine responsibility (e.g. manslaughter, murder, etc.) and to continue the investigation, particularly with regard to the identification of the victim.

##### INVESTIGATION INTO THE CAUSE OF DEATH

When causes of the death are unknown or suspicious, the case is referred to the Public Prosecutor's office that opens an investigation "in search of the causes of death" (*En recherche des causes de la mort*)

When the doctor who ascertains the death declares that the death is natural or obvious, he or she can indicate that there is no medico-legal obstacle to immediate burial. In this case, there is no investigation or it is quickly closed.

If, on the other hand, the cause of death is uncertain or suspicious, then there is what is called a forensic impediment to burial because the cause of death must be elucidated. The investigation is opened in order to determine the cause of death and it is within this framework that forensic examinations can be carried out. (See: **What is the medico-legal obstacle?**)

---

<sup>3</sup> Article 87 Civil Code



The body of the deceased is then placed under the responsibility of the public prosecutor and the gendarmerie or the police during the investigation. It is transported to the forensic medical institute (*Institut medico légal – IML* in French) for a forensic autopsy. The main purpose of this investigation is not to identify the victim, but to determine the cause of death when it is unknown or suspicious. However, the identification of the deceased will contribute to the "determination of the truth". Thus, means are generally implemented to try to identify the deceased.

---

#### INVESTIGATION TO DETERMINE RESPONSIBILITY FOR A DEATH (MANSLAUGHTER, MURDER, ETC.)

In common law, if the investigation into the cause of death shows that the death was unnatural, a criminal investigation may be initiated by decision of the public prosecutor if there was the intervention of a third party in the process that led to the death.

---

#### INVESTIGATION IN THE CASE OF A CRITICAL MISSING PERSON (*UNE DISPARITION INQUIETANTE*)

As a matter of principle, it should be noted that a person of full age and competent can "disappear" (terms commonly used) without the authorities having to search for him or her. The old procedure of "searching in the interest of the family" (*recherche dans l'intérêt des familles*) no longer exists today. However, if the person is a minor, under guardianship (*tutelle*) or trusteeship (*curatelle*), or if the circumstances of his or her disappearance are worrying, **it is possible for anyone to report the disappearance to the police or gendarmerie<sup>4</sup>.**

It may happen that the declarants and the State services do not have the same appreciation of the urgency of the disappearance, in which case, it is possible to ask the public prosecutor to decide whether or not the investigation should take place. However, if the report is made by a spouse/partner, ascendant/descendant, brother or sister, legal representative, relative or employer, an investigation is mandatory.

The police and gendarmerie services are free to search for the person (Consultation of police and gendarmerie's files, data from banking or social services, etc.).

If the person is found, he or she can object to his or her address being communicated to his or her relatives. If the person is a minor or a protected adult, his/her address can only be communicated to his/her representatives with the agreement of the juvenile judge or the guardianship judge.

If the person is not found, a judicial declaration of death may be requested, in certain circumstances, at the request of the family, from the district court. Judicial declarations of death have the same effect as a death certificate and therefore opens up a certain number of rights to relatives (inheritance, etc.)

---

<sup>4</sup>Article 26 of the law of 21 January 1995.

## !INFORMATION!

### Is it possible for families to file a complaint?

**The investigations listed above** can be opened directly by the public prosecutor. If they close the case without any action being taken, which may occur—for example, if no offence has been committed or when the perpetrator remains unknown; it is then possible for the family to lodge an appeal with the public prosecutor's office, which has three months to respond.

**When there are no investigations opened by the public prosecutor's office**, the family can file a complaint so that the case can be investigated, for example, for the search for the causes of death. The public prosecutor will then have 3 months to respond. If the family does not receive a response within this period, they can file a complaint with the constitution of a civil party before the senior investigating judges (*doyen des juges d'instruction*).

**In all cases, families must be accompanied:** For all steps taken by the police, gendarmerie or judicial services, it is advisable to be accompanied by an NGO specialized in immigration law and/or by a lawyer, especially if the claimant is in an irregular administrative situation in France or in Europe in order to avoid any risks related to the irregularity of their presence in the country. More precisely, for the filing of a complaint or appeal before the public prosecutor's office, the advice of a lawyer is essential, especially in order to discuss its appropriateness.

---

## WHAT DO I HAVE THE RIGHT TO KNOW IN AN INVESTIGATION?

Investigations are conducted in total confidentiality<sup>5</sup>. No information can be disclosed, in writing or orally, to the family or a lawyer, for example, at this stage of the proceedings. Sometimes the prosecutor may decide that some of the information can be given without prejudice to the investigation and allow it to be released.

In the case of the death of a person, the police and gendarmerie services may contact people who serve as a link with the community members the relatives and/or the family, to ask questions in order to try to advance the investigation and to gain further information.

Thus, to access information, it will be necessary to wait for either:

- The end of the investigation where the case is closed with no further action and requesting a full copy<sup>6</sup> of the file from the public prosecutor. There is no obligation to be represented by a lawyer.
- The launch of proceedings initiated by the public prosecutor's office. The relatives can have access to the file through their lawyer.

(See: **What are the different criminal investigations?**)

---

<sup>5</sup> Art. 11 of the Code of Criminal Procedure

<sup>6</sup> Art. R.155 of the Code of Criminal Procedure

---

## HOW CAN THE IDENTIFICATION OF A BODY BE CARRIED OUT?

The identification work is carried out at different levels:

- **Through the collection and cross-checking of information** as part of police or gendarmerie<sup>7</sup> investigations. NGOs, activists in the field and fellow travellers can be a great help.
- **Personal objects found** (e.g. identity papers or other documents giving information about the person).
- **Through forensic medical examinations** carried out by forensic doctors as part of the autopsy (See question: **What is an autopsy?**)

In the context of investigations, a visual recognition of the body by relatives (especially fellow travellers) may sometimes be carried out. This is rarely done, but is requested by the services in charge of the investigation and at the request of the public prosecutor. It can be carried out at the forensic institute if the body is recognizable or on the basis of a photograph of the body and of objects found. This procedure is organised by the investigation services.

Identification of a body is psychologically a very difficult moment for people. It is therefore important to be accompanied by relatives, people from the community or NGOs, whenever possible. Photo recognition may be requested but can also be refused. This is not an obligation, even if the request is made in the context of an investigation.

---

## WHAT IS THE MEDICO-LEGAL OBSTACLE?

When the body of a deceased person "shows signs of violent death or other circumstances that give reason to suspect it"<sup>8</sup>, burial can only be carried out with the agreement of the public prosecutor<sup>9</sup> and after a police officer has drawn up a report. In particular, it is compulsory for the management of health establishments to report any "suspicious"<sup>10</sup> death to the judicial authorities. Thus, when the external examination of the body, carried out at the time of the death, is not sufficient to determine the causes, the medico-legal obstacle is then issued by the doctor who certifies the death. The body as a result is taken to the forensic institute for further examination.

If the judicial authority, due to forensic doubts, decides on an autopsy, the next of kin must be informed as soon as possible<sup>11</sup>. The forensic autopsy (or judicial autopsy) is an examination carried out by forensic doctors as part of an investigation, in accordance with strict ethical rules. As it is a court-ordered procedure, it is not possible to object to it. (See: **What is an autopsy?**)

Burial or cremation can then only take place with the agreement of the public prosecutor<sup>12</sup> and within six days of this authorisation<sup>13</sup>.

**The medico-legal obstacle is important. It opens up the possibility of further research into the causes of death through an autopsy, but also the identification of the person and the search for the family.**

---

<sup>7</sup> Article 81 of the Code of Criminal Procedure, particularly for investigations into the cause of death.

<sup>8</sup> Art. 81 Civil Code

<sup>9</sup> Art. 74 of the Code of Criminal Procedure

<sup>10</sup> Art. R.1112-73 of the General Code of Local Authorities (GCLA)

<sup>11</sup> Art. 230-28 of the Code of Criminal Procedure

<sup>12</sup> Art. 230-29 of the Code of Criminal Procedure

<sup>13</sup> Art. R. 2213-33 GCLA

---

## WHAT IS AN AUTOPSY?

**An autopsy (or judicial autopsy) is a forensic examination carried out by medical examiners as part of an investigation, in accordance with strict ethical rules.**

An examination of the body is first carried out at the time of death. If this is not sufficient to determine the cause of death, the medico-legal obstacle is then invoked and the autopsy can take place at the request of the public prosecutor. The autopsy takes place at the premises of the forensic institutes<sup>14</sup>.

**Its purpose is to determine the causes of death in order to find out, among other things, whether the death was accidental and/or whether there was intervention by a third party. It can also help in the identification of the person.**

**It is not possible to object to an autopsy for any reason whatsoever.**

The forensic doctors carry out the autopsy, which may include, depending on the request, taking tissue samples from organs for analysis, DNA samples, toxicological and virological analyses, taking fingerprints and dental impressions, or carrying out an imaging examination of the whole body, when the forensic institute's equipment permits. There are no organ donation samples taken during the autopsy.

**These samples are taken only to help establish the facts of what happened ("ascertain the truth") and to determine the cause of death.**

The data collected is sealed as part of the investigation and kept by the investigating authorities for several years. It is up to the public prosecutor to decide to destroy them if they can no longer be used "to establish the truth"<sup>15</sup>. Genetic data is compared to the National Automated DNA File (*Fichier national automatisé des empreintes génétiques-FNAEG* in French) at the request of the judicial authorities and is recorded if the person is unknown for a maximum period of 40 years<sup>16</sup>.

Once the autopsy has been performed, the body can be released. The incisions made are hidden, where possible, to leave as few visible traces as possible. The body is preserved and can be viewed by relatives who wish to see it before closing the coffin<sup>17</sup> and burial. (See: **Visiting the deceased: who, when, where and how is possible to view the body**)

The procedure stipulates that the family must be informed as soon as possible that an autopsy will be carried out<sup>18</sup>. The death of an exiled person, it is sometimes difficult to contact or to find the family. The announcement that an autopsy is to be carried out can also be a shock to the family and relatives. **It is important to explain this medical examination.**

---

<sup>14</sup> There is one per region following a reform in 2011: Lille for the *Hauts de France*, Grenoble for the *Briançonnais*, Nice for the lower border of the French-Italian border

<sup>15</sup> Art. 230-30 of the Code of Criminal Procedure

<sup>16</sup> Articles 706-54 à 706-56-1-1 of the Code of Criminal Procedure

<sup>17</sup> Called « *la mise en bière* » in French

<sup>18</sup> Art. 230-28 of the Code of Criminal Procedure

The forensic autopsy gives rise to a number of questions, fears and preconceived ideas due to a lack of knowledge, the imagination linked to the autopsy, and even false information regarding this procedure (theft of organs, etc.). Furthermore, some religions or religious practices prohibit the touching of a deceased person's body. The autopsy may therefore be perceived by the family and close friends as an infringement of respect for the deceased and may give rise to many fears and reactions of rejection. It is important to remind the family and relatives, if they wish to discuss it, of the main objective of this procedure: to establish the truth about the circumstances of the death of their loved one, and to explain the procedures (carried out at the forensic institute, by doctors, only the examinations necessary to understand the death, etc.). A better understanding of this procedure may reassure the family and loved ones of the importance of this medical examination.

## ANNOUNCEMENT OF THE DEATH, TIME OF RECOLLECTION BEFORE THE BURIAL, ETC.

### WHO SHOULD ANNOUNCE THE DEATH TO THE FAMILY?

**The announcement of the death is the responsibility of the competent authorities, so it is not up to you as an NGO or accompanying activist to do it.**

**If there is an investigation**, the services in charge of the investigation will have to both find the identity of the person<sup>19</sup> and search for the family in order to inform them of the death.

In practice in France, informing the families of people remains complex as they are not necessarily nearby. It is in these cases that fellow travellers, and more broadly the local community from the country of origin, with (or without) the support of NGOs and activists in the field, are invaluable in helping to find the family and facilitate contact between them and the investigation services.

#### **Without investigation:**

**.Death in hospital:** it is up to the doctor to announce the death to the family. The doctor can do this even several months later. The healthcare facility must also declare the death to the local civil registrar (*Officier d'état civil*) within 24 hours<sup>20</sup>, which exempts the family and relatives from doing so or when the healthcare facility is not in contact with them or cannot find them.

**.Death outside the hospital:** it is the responsibility of the municipality, which is responsible for drawing up the death certificate, to inform the authorities of the deceased's country of origin by sending a copy of the death certificate to the consulate<sup>21</sup>. The authorities of the country must seek out the family to inform them of the death and find out their wishes (burial in France or repatriation of the body). If the deceased was a refugee, the civil registrar should inform the French Office for the Protection of Refugees and Stateless Persons<sup>22</sup> (*Office français de protection des réfugiés et apatrides - OFPRA*).

More generally, it is up to municipalities, if the families could not be notified, to send a copy of the death certificate to the consulate of the deceased's country of origin.

**In practice, the community sometimes contacts the family directly.** It is important to let the relatives do the death notification in their own way and not to interfere. They sometimes choose, for example, to announce the death only a few days before the arrival of the body, if a repatriation of the body to the country of origin is organised, to preserve the family. In all cases, it is essential to respect the choice of the relatives.

**In practice, NGOs and activists may be aware of the death before the relatives and members of the community on the spot.** Thus, even if it is not your responsibility to announce the death to the immediate family, it may be necessary to announce it to the community in situ, if no other possibility is found. In this case, make sure that you are in a quiet and safe place and that the relatives (family, fellow travellers, etc.) are not alone at the time of the announcement.

<sup>19</sup> Article 81 of the Code of Criminal Procedure.

<sup>20</sup> Article 80 Civil Code

<sup>21</sup> General Institute on Civil Status of 11 May 1999, §570

<sup>22</sup> General Institute on Civil Status of 11 May 1999, §451

**For the family in the country of origin**, you can also contact the French Red Cross Restoring Family Links (RFL) service, which will be able to contact its network of Red Cross and Red Crescent national societies and International Committee of the Red Cross delegations around the world to help make contact. Red Cross and Red Crescent RFL services are trained in psychosocial support for the families of the dead and missing.

**If, on the other hand, you are still required to report a death**, if possible do not do so alone but with another person from your organisation. Give clear and concise information (don't beat around the bush, don't use vague terms or innuendo, etc.).

This is a very difficult moment for the relatives and can provoke strong reactions, sometimes impressive (crying, screaming, nerves, etc.). It will also be a very hard time for you. If you do not feel able to do it, ask for support within your organisation.

---

#### **WHO SHOULD BE INFORMED OF THE DEATH?**

**The family** should be informed. In the case of the death of a person in exile, the difficulty may be to find the family, who are not always in situ or in Europe. Moreover, they do not necessarily have regular news and will not necessarily worry about not receiving any.

**Relatives:** There is no obligation to notify anyone other than close relatives. Thus, the investigation services are not responsible for notifying the community of the death, fellow travellers present at or near the scene of death.

In practice, it is possible that you may be informed of the death before the family and community, **so be careful how you communicate so as not to unintentionally announce the death.**

**It is important for the family and relatives to be informed of the death verbally.** For some families, it **may also be important to receive an official document establishing the cause of death.** In practice, however, there are no documents that are automatically sent to families. Indeed, the causes of death are only mentioned in writing in the medical section of the death certificate drawn up by the doctor. This section is anonymised and is not shared with the family or relatives. The family can request a copy of all or part of the investigation file at the end of the investigation from the public prosecutor or the investigating judge (depending on the nature of the investigation). The causes of death are mentioned in the file. This can be the case for example with the autopsy report, which uses technical terms that are sometimes difficult to understand.

---

## VISITING THE DECEASED: WHO, WHEN, WHERE AND HOW IS POSSIBLE TO VIEW THE BODY

**In the context of an investigation:** During the investigation, it is not possible to view the body to gather in its presence.

**Outside the investigation:**

**End of the investigation:** Once the autopsy has been completed and the body can no longer be used "to establish the truth"<sup>23</sup> (in practice, in the case of exiled persons who have died, this is often also the end of the investigation), the public prosecutor's office must, as soon as possible, issue an authorisation for the handing over of the body as well as the burial permit. Relatives can no longer be refused access to the body<sup>24</sup>. This visit will take place in the premises of the mortuary concerned before the closing of the coffin<sup>25</sup>, the moment when the body is placed in the coffin and then sealed for transport and burial. You should contact the mortuary to arrange this. The body will be placed in the coffin in situ. It can only be transported once this has been done<sup>26</sup>.

**There is no investigation:** the body remains in the hospital mortuary or in a funeral home. It is possible for relatives to contact the teams working there in order to arrange a viewing before the burial.

**Please note** that it is not possible to prohibit viewing of the body, except when an investigation is underway. However, in practice, it may be that the services in charge of the investigation or the employees of the mortuary chamber advise against visiting the deceased (sometimes strongly) in order to preserve the relatives from a moment that may be traumatic, especially if the body of the deceased is very damaged.

It should be noted that in metropolitan France, casketing of the body is mandatory<sup>27</sup>, even in the case of cremation or if the person's religion forbids it.

---

## HOW LONG SHOULD THE BODY BE KEPT BEFORE BURIAL?

**In the context of an investigation:** the body is kept at the forensic institute for the time deemed necessary for the investigation. The body is then kept at the forensic institute and is the responsibility of the public prosecutor's office, which is also financially responsible. From one month after the autopsy, relatives who have not had the body returned for burial may apply to the public prosecutor's office or the investigating judge in charge of the investigation<sup>28</sup>.

**Outside the framework of an investigation,** the deadline cannot theoretically exceed six days after the death of the person. Moreover, bodies not claimed by the family and kept in a health care institution may remain there for a maximum of ten days<sup>29</sup>. They are then buried.

---

<sup>23</sup> Art. 230-29 of the Code of Criminal Procedure

<sup>24</sup> Art. 230-29 of the Code of Criminal Procedure

<sup>25</sup> Called « *la mise en bière* » in French

<sup>26</sup> <https://etat-civil.legibase.fr/actualites/veille-juridique/en-cas-dautopsie-judiciaire-le-delai-de-48-heures-86355>

<sup>27</sup> Article R 2213-15 and following of the GCLA

<sup>28</sup> Art. 230-29 of the Code of Criminal Procedure

<sup>29</sup> Art. R. 1112-76 of the Public Health Code



Since March 2020, it has also been possible, under certain conditions, to keep the body of a deceased person for a maximum of six months in a temporary location before final burial<sup>30</sup>.

---

## WHAT ABOUT ORGAN DONATION?

Since the law of 26 January 2016 was passed, "any person is presumed to have consented to the donation of his or her organs unless he or she registers on the national register of refusals". This donation is made for therapeutic or scientific purposes. What about people who would not have access to the register of refusals, such as exiled persons, for example?

For unidentified deceased persons, it remains impossible to remove organs for therapeutic or scientific purposes since it is, in fact, impossible to know who the person is and whether or not he or she has registered his or her refusal of removal on the register.

For identified deceased persons, the doctor must inform the relatives "prior to the planned removal, of its nature and purpose"<sup>31</sup>.

---

## WHO CAN RETRIEVE A DECEASED PERSON'S BELONGINGS, WHAT BELONGINGS AND WHEN?

The person has first been taken care of by the hospital, and his or her most precious belongings (jewellery, watch, etc.) or values (money, etc.) are deposited in the hospital safe. The other belongings (telephone, papers, etc.), which are less valuable, generally remain with the person.

If the death occurs in hospital, there is no forensic obstacle to immediate burial (therefore no investigation and no autopsy), the goods and valuables in the safe can be kept for one year by the health establishment, which must inform the beneficiaries (the family in particular) so that they can recover them. The law of succession applies. The beneficiaries are therefore able to recover the goods and valuables in the safe as well as the goods kept by the deceased. A request must be made. For beneficiaries who do not live in the country, it is advisable to be accompanied by a local person or an NGO for this type of procedure.

If the most valuable goods and values have not been claimed after one year, they are held by the State (Trésor Public)<sup>32</sup> and can be recovered by the rightful claimants within 5 years<sup>33</sup>. After that, the goods and values revert to the State (Trésor Public) which may put them up for sale.

For the less valuable items, they are kept for a while by the mortuary in case people come to claim them. In practice, if no one comes to collect the objects after a few weeks (depending on storage possibilities and mortuary practices), they will be thrown away. They can also follow the body to the

---

<sup>30</sup> R2213-29 of the GCLA

<sup>31</sup> L-1232-1 of the Public Health Code

<sup>32</sup> Article L1113-7 of the Public Health Code

<sup>33</sup> <https://consignations.caissedesdepots.fr/entreprise/confier-des-sommes-non-reclamees/etablissements-de-sante-confiez-les-biens-non-reclames-par-vos-patients>

funeral home. Thus, for the deceased's least valuable possessions, it is possible to apply ~~return~~ to the mortuary or to the funeral home.

Please note: for reasons of hygiene, in the context of sanitary police measures, the deceased's belongings may be destroyed and no claim from the beneficiaries is possible<sup>34</sup>.

**In the context of an investigation**, the property is placed under seal: and any request for recovery must be addressed to the judicial authorities:

- **If the case is not pursued** (the criminal or tortious nature of the case has been ruled out): a request for the return of the objects must be made by registered letter to the public prosecutor, specifying the link between the deceased and the family. In some cases, it may also be necessary to prove ownership of the object.

- **If the case is being investigated** (a criminal investigation is underway, etc.): it is possible to request the return of the objects by registered letter to the investigating judge during the investigation, specifying the link between the deceased and the family. In some cases, it may also be necessary to prove the ownership of the object.

The support of an NGO or a lawyer is recommended in order to facilitate exchanges between the family and the judicial authority.

---

<sup>34</sup> Article R1112-74

## BURIAL IN FRANCE

### WHO DECIDES ON THE PLACE OF BURIAL?

It is above all **the family** who decide on the place of burial according to the wishes of the deceased. It is important to listen to and to accompany them with their wishes. It may happen that the family of a deceased exiled person cannot be contacted or found, but relatives, if they are known, such as fellow travellers, may know and share the wishes of the deceased.

**For the burial**, if it takes place in France, the family, if they can, will pay for it directly with their resources or those of the deceased. If this is not possible, the city hall of the place of death may consider the deceased as a destitute person (*Personne dépourvue de ressources suffisantes*) person without sufficient resources (PWSR). It will then have to take charge of the organization and place of burial. The person will then be buried in the common grave of the municipality's cemetery. The same applies if the family of the deceased cannot be identified or found.

See questions:

- **Who are the people without sufficient resources (PWSR)?**
- **What is the common grave? What is the com**

### WHO ARE THE PEOPLE WITHOUT SUFFICIENT RESOURCES (PWSR)?

PWSR are people who do not have sufficient resources to pay for their burial or cremation. Cremation is only possible if the deceased had expressed this wish during their lifetime<sup>35</sup>. It is the municipal authorities that assesses who is a person without resources according to its own criteria.

Some municipalities provide additional assistance to families who are not strictly speaking destitute but are in a difficult financial situation. Please contact the social services of the city hall for more information.

In general, it is not possible to bury a person wherever you want. **The French General Code of Local Authorities (GCLA)<sup>36</sup> requires municipalities to accept the bodies of people who:**

- Died on their territory, regardless of their residence<sup>37</sup>;
- Were domiciled on their territory, even if they died in another municipality;
- Were not domiciled in the municipality but who are entitled to a family burial there;
- French citizens living abroad who do not have a family burial plot in the municipality and who are registered on the municipality's electoral roll.

**Specific provisions allow nomadic or homeless persons to be attached to a municipality<sup>38</sup>.** Some communes refuse to bury people living in their territory in a precarious manner (e.g. camps). This illegal

<sup>35</sup> Article L2223-27 of the GCLA

<sup>36</sup> L. 2223-3 of the GCLA

<sup>37</sup> The question could arise as to who is the responsible municipality when the place of death is difficult to determine but the body has been moved, as for example in the case of bodies washed up on the beach or drowned in watercourses. We are not aware of any cases deciding a dispute over the place of death in this type of case.

<sup>38</sup> Law n° 69-3 of 3 Jan. 1969, Journal officiel of 5 Jan. 1969, p. 195 et Law n° 98-657 of 29 Jul. 1998, Journal officiel n° 175 of 31 Jul. 1998, p. 11679.

practice has been denounced by the French Defender of Rights<sup>39</sup> (*Défendeur des droits*). Some municipalities have also refused, in violation of the law, to bury people who died in their municipality but were not domiciled there<sup>40</sup>.

**For homeless exiles**, it is generally the municipality where the death took place that will determine the place of burial, if repatriation is not possible or not desired by the relatives.

**More specifically, PWSR are buried in the common graves of the municipality's cemetery** (See question: **What is the common grave?**). The designated municipalities cannot refuse to receive the bodies of the people concerned by the common grave.

---

#### WHAT IS THE PROCEDURE FOR THE MUNICIPALITY TO TAKE CHARGE OF THE PWSR?

If the deceased does not have the means to take charge of the funeral, or there are no relatives, or not possible to find them, or when the relatives lack the means, it is up to the municipality of the place of death to ensure the burial or cremation<sup>41</sup>. The municipality may choose to manage this obligation through 'outsourcing' to undertakers, subject to a public contract (annual or multi-annual).

This obligation on the part of municipalities is limited to funeral operations that are necessary and carried out on the municipality's territory. It cannot, therefore, oblige the municipality to pay for the transport of the body from another place or its repatriation abroad or, for example, additional costs such as embalming<sup>42</sup>.

The municipality must ensure the "decency" of the funeral and cannot choose to distinguish (by a specific sign or confinement to a particular place, for example) the burials according to any criterion (including, the text specifies, the "circumstances that accompanied his or her death", i.e., for example, death at sea). The notion of 'decency' is not defined, and it is certain that the practical conditions of free funerals have sometimes been criticised, particularly in relation to the most isolated people<sup>43</sup>.

As the funeral is financed by a public authority, it cannot be given a religious character. However, it is always possible for people around the deceased, even if they did not contribute financially to the funeral, to have religious rites performed or religious signs placed on the grave. Furthermore, the burial conditions provided by the municipality may not be in line with the idea that the relatives of the deceased would have had of this moment. Some relatives may feel deprived at this time (e.g. regarding the time of the ceremony, which is not chosen by the family). Therefore, for those accompanying the relatives, it is possible to contact the city hall of the place of burial and/or the funeral directors chosen by the municipality to discuss the day, time and procedure of the burial. Arrangements may also be proposed by relatives (music, flowers, grave markers, etc.), who must then pay for them.

In addition to this legal obligation on municipalities, it is possible for municipalities to set up specific aids to contribute to the financing of funerals for those most in need<sup>44</sup>.

---

<sup>39</sup> Decision of the Defender of Rights MSP-MLD-2015-012, 20 January 2015

<sup>40</sup> See e.g. (in French) « Mort des pauvres. On leur fait (parfois) payer en humiliation, faute de participation financière. », Médiapart, 21 Feb. 2014. Available at: <https://blogs.mediapart.fr/edition/vivre-la-rue-tue/article/210214/mort-des-pauvres-leur-fait-parfois-payer-en-humiliation-faute-de-participation-fina>

<sup>41</sup> L. 2223-27 GCLA, on the exemption from the cost of a specific session: art. L. 2213-15 in fine. Specifically for the Bas Rhin, Haut-Rhin and Moselle, Art. L. 511-2 CASF

<sup>42</sup> Thanatopraxy is the term used to describe the preservation of the body of a deceased person.

<sup>43</sup> See e.g. (in French) « Mort des pauvres. On leur fait (parfois) payer en humiliation, faute de participation financière. », Médiapart, 21 Feb. 2014. Available at: <https://blogs.mediapart.fr/edition/vivre-la-rue-tue/article/210214/mort-des-pauvres-leur-fait-parfois-payer-en-humiliation-faute-de-participation-fina>

<sup>44</sup> This is particularly the case in Paris where people followed by the CASVP (*Centre d'action social de la ville de*

---

## WHAT IS THE COMMON GRAVE?

---

### DÉFINITION

Common grave (*le terrain commun*), formerly known in French as “Le carré des indigents”<sup>45</sup> (the "pauper's plot"), is a compulsory plot in a cemetery<sup>46</sup>. It is the only compulsory public service in terms of burial. It is provided for the burial of people without sufficient resources (PWRS).

See the question: **Who are the people without sufficient resources (PWRS)?**

The cannot refuse, except in exceptional cases, to bury a person who falls within the scope of article L 2223-3 of the GCLA.

See the question: **Who organises the burial of the body and how is it done?**

Common graves are composed of **individual graves**<sup>47</sup> which may or may not be visible in the cemeteries (cement encasement), depending on the practices of the municipalities. Burial on this plot is free of charge, but the municipality may decide to recover the plot after five years.

The administrative recovery of bodies can take place every five years by decision of the municipality<sup>48</sup>, by municipal decree. The mayor's office is not obliged to notify the family but may do so.

At the very least, it publishes in the cemetery the burial recovery of the common grave<sup>49</sup>. It specifies the date and the deadline for the family to recover the objects placed on the grave<sup>50</sup>. As the common graves belong to the municipality, it is not possible to oppose this.

In principle, the remains are cremated, unless the person objects (which can be expressed by his or her relatives)<sup>51</sup> or by a judicial decision when there has been an investigation. They are then placed in an ossuary.

---

*Paris*), the DASES (*Direction de l'Action Sociale de l'Enfance et de la Santé de Paris*)

or social workers can obtain services at lower cost through the Funeral Services of the City of Paris

<sup>45</sup> Before the pauper's plot, this space could be called a "common grave" (*fausse commune*). There are no more common graves today. All the graves are individual, whether they are public or on private concessions.

<sup>46</sup> L 2223-1 GCLA.

<sup>47</sup> R. 2223-16 GCLA

<sup>48</sup> R. 2223-5 GCLA

<sup>49</sup> Administrative Appeal Court Nantes 4 March 2008, n° 07NT01321

<sup>50</sup> Conseil d'Etat, 29 April 1957, Despres : Rec. CE 1957, tables, p. 874

<sup>51</sup> Article L2223-4 GCLA

---

## LOCATION OF THE COMMON GRAVES IN CEMETERIES

Some municipalities may have several cemeteries with common graves in one cemetery. This information can be collected from the funeral services of the city hall or directly in the cemeteries.

---

## WHO ORGANISES THE BURIAL OF THE BODY AND HOW IS IT DONE?

---

### REMINDER – FOR ACCOMPANYING PEOPLE, IT IS IMPORTANT TO LET THEM DO THINGS FOR THEMSELVES

Communities/people already have funeral rites and rituals, support and organization mechanisms in case of death. In view of the context of exile and precariousness that they may encounter, these individual and community support mechanisms can sometimes be undermined and difficult to put in place.

It is therefore important to provide information on the possibilities that exist in France and in this context: it is important to inform them of the different options and possibilities (which they are not necessarily aware of, given the context) and to allow them to make their choices: a photographer at the time of burial, a letterbox, a direct link with the funeral services with possible translation, possible accompaniment, flowers, inscriptions on the grave, whether or not NGOs or activists should be present at the time of burial, etc.

From these different possibilities, it is important to listen to the wishes and needs of the community and try to respond to them, to try to provide them with the tools they need to live the mourning process in the best possible way (a room for a meal after the burial, copies of the Koran or the Bible, a priest/imam, etc.)

---

### THE BURIAL IS TAKEN CARE OF BY THE FAMILY, RELATIVES OR OTHER SUPPORT

The family and relatives should contact a funeral company that will take care of the burial time in relation to the selected service.

Before the ceremony, the accompanying people should ask the people in the community, the relatives and/or the family (if present), if they wish the presence of NGO actors to support the preparation of this time and the day of the burial.

If this is not the case, respect this choice. It is important that the family and relatives can choose who they wish to speak to at this particular time: a religious community, a person from the community, etc. NGOs and activists can help, if necessary and if desired by the community, to put them in touch with appropriate people (e.g. finding a priest or imam if the community/relatives do not know one nearby).

If the accompaniment by NGOs is desired, for the preparation of the funeral and the day of the funeral, it is important to:

- Offer to put people from the community, relatives and/or family in direct contact with the funeral services, giving them the necessary means: physical accompaniment if necessary, translator if necessary, etc.

If they do not wish to do so directly and ask for support, the accompanying person can then contact the funeral home for the burial process and the city hall to find out the time and day of the burial.

- Ask if the family would like flowers, inscriptions or other special things on the grave (look for funding solutions, if necessary).

- It is important to suggest to the family that, if they cannot attend the funeral, other people can represent them to say their condolences. If they are present, it is important to identify them on the day of the funeral and to offer them your condolences

- Suggest putting a box, an email address, a notebook so that those present can write words and send photos to be sent to the family. It is possible, if the community agrees, to offer a "photographer" on the day of the funeral/ceremony to take photos and videos to share with the family who cannot be present.

- Make sure that the roles of the accompanying people are well organized and shared during the burial, particularly for the link with the family. The family should not be overburdened.

**If the presence of NGOs and activists is not desired at the burial**, it is possible to organize other times elsewhere, in order to allow a moment of reflection for the activists and NGOs who wish to do so: a minute's silence, a time together to reflect, to remember the person, etc. (modalities to be defined)

**PLEASE NOTE**, nothing prevents people who knew the person or who are affected by the death from meeting together. However, it is necessary to inform the community, the relatives, especially if prayer times are planned. Indeed, it may happen that, in the context of the funeral rite, the community, the relatives and the family do not wish for any prayer, even if they are not present. The rites and customs of mourning are different. Different times can therefore be organized according to the needs of the people, the main thing being to respect the wishes of the relatives and not to put them in difficulty. It is **ESSENTIAL** to respect the wishes of the community, the relatives and the family.

---

#### THE BURIAL IS TAKEN CARE OF BY THE MUNICIPALITY

The city hall delegates its task to a funeral service. The municipality may lay down minimum requirements for the burial (text read, wreath of flowers, etc.). The undertaker must be contacted for the burial procedure and the city hall for the time and day of the burial.

Regarding who contacts the city hall and the undertaker, please refer to the point above.

**First of all, determine whether the family and relatives wish to be accompanied in these procedures or not, and if so, how.**

See the question: **Who are the people without sufficient resources (PWSR)?**

---

## WHAT ARE THE MAIN ADMINISTRATIVE DOCUMENTS RELATED TO THE BODY OF THE DECEASED?

**The death certificate**<sup>52</sup> (*certificat de décès*) is drawn up by the doctor at the place and the time of death. If there is a medico-legal obstacle, the body is taken in charge by the investigation services in conjunction with the public prosecutor. The medical certificate includes a box accordingly "medico-legal obstacle".

The death certificate is divided into two parts:

- An administrative one, which includes the municipality of death, the date and time of death, the surname, first names, date of birth, sex and residence of the deceased and the information required for the issue of the authorisation to close the coffin and to carry out funeral operations. It is submitted, signed by the doctor, to the municipality of the place of death and to the one of the place where the body is deposited.
- A medical report, which includes the causes of death but does not include the surname or first name of the deceased. This section is sent by the doctor, after encryption, to the National Institute of Health and Medical Research or to the body charged by this institute with managing the system for collecting and transmitting the certificates entered.

See the question: **What is the medico-legal obstacle?**

**The record of death**<sup>53</sup> (*acte de décès*) provides proof of a person's death. It is issued by the municipality of the place of death or the last place of residence of the deceased. It can be issued without the identity of the person being known<sup>54</sup>.

This document generally contains:

- The day, time and place of death;
- The first names, surname, date and place of birth, occupation and place of residence of the deceased;
- The first names, surnames, occupations and addresses of the father and mother;
- The forenames and surname of the spouse, if the deceased was married, widowed or divorced;
- The first names and surname of the other partner, if the deceased was bound by a civil partnership;
- The first names, surname, age, occupation and place of residence of the declarant and, if applicable, his or her degree of relationship with the deceased

This document does not include the causes of death<sup>55</sup>. It will be used to carry out the administrative procedures related to the death of a person.

It is a public document registered with the civil status office of the municipalities. Any person may request a full copy. This document opens up rights for the family.

**The authorisation to close the coffin**<sup>56</sup> (*autorisation de fermeture de cercueil*) is issued, on the basis of the death certificate, by the civil registrar of the place of death or by the civil registrar of the place where the body is stored. This authorisation must be issued for the transport of the body.

---

<sup>52</sup> Article R1423-16-1 and following of the Public Health Code

<sup>53</sup> Article 79 Civil Code

<https://www.service-public.fr/particuliers/vosdroits/F1444>

<sup>54</sup> Article 87 Civil Code

<sup>55</sup> Article 85 Civil Code

<sup>56</sup> Article R. 2213-17 GCLA



**The authorisation for the transport of the body** (*autorisation de transport du corps*) must be requested from the municipality that issued the authorisation for the closure of the coffin for transport in France and Overseas. If the body is to be transported to another country, the request must be made to the prefecture (repatriation). It is generally the funeral services who handle these procedures.

**The burial authorisation or burial permit** (*autorisation d'inhumation ou le permis d'inhumer*) is issued by the mayor of the municipality where the burial is to take place<sup>57</sup>. If there has been an investigation (a medico-legal obstacle has been issued), this authorisation (as well as an authorisation to hand over the body) must be issued by the public prosecutor in charge of the case.

**The authorisation for cremation** (*autorisation de crémation*) is issued by the municipality authorities of the place of cremation<sup>58</sup>. If there has been an investigation (a medico-obstacle has been issued), the public prosecutor can refuse the cremation<sup>59</sup> (the body may still be used to establish the truth), even if the deceased person had expressed the wish to be cremated. This refusal will be mentioned in the burial permit.

You can contact the [Restoring Family Links \(RFL\) service of the French Red Cross](#), which will be able to contact its network of national Red Cross and Red Crescent Societies, as well as the delegations of the International Committee of the Red Cross around the world, and facilitate the exchange of documents (such as the record of death) or personal belongings with the family abroad.

---

#### IS CREMATION POSSIBLE FOR PWSR?

**If there has been no judicial autopsy**, the principle of funeral law applies<sup>60</sup>, i.e. respect for the wishes of the deceased. If these wishes are not known, the presumption is that the person should be buried.

**If there has been a judicial autopsy**, cremation can only take place with the authorisation of the public prosecutor's office, which can therefore oppose it and go against the wishes of the deceased or his or her family if it considers that the body can still be used to establish the truth. The public prosecutor will record this refusal in the burial permit.

---

<sup>57</sup> Article R2213-31 GCLA

<sup>58</sup> Article R2213-31 GCLA

<sup>59</sup> Art. 230-29 Criminal procedure code

<sup>60</sup> Law 15 Nov. 1887 on the freedom of funerals: *Recueil Duvergier* 1887, p. 451.

---

## WHAT MATERIALIZATION AND IDENTIFICATION CAN BE CARRIED OUT ON THE GRAVES OF DESTITUTE PEOPLE ON THE COMMON GRAVES?

It is possible that a stone or any other distinctive sign (with the identity of the person, for example) is affixed<sup>61</sup>. However, this is not an obligation for the municipality, which may or may not provide for it in its public contract. Thus, it can be the responsibility of the relatives and the family, if they wish to personalise the place in accordance with the cemetery's internal regulations.

---

## AFTER BURIAL (MAINTENANCE, WORK, ETC.)

### **What if the first and/or last name on the deceased's grave is misspelled or not correct?**

It can happen, especially for undocumented migrants, that the identification was not correct or that the spelling of the name is incorrect, or that the person is identified after the burial.

Two possibilities:

- Either the wish is only to put a stone or another sign with the name of the person on the grave and any person can do it without authorisation<sup>62</sup>. The city hall can check the engraved inscriptions<sup>63</sup>.
- Or the wish is to ask for a rectification of a civil status record, the act of death in this case. There are two types of rectification requests<sup>64</sup>:

- o **Material error, the rectification is administrative:** a misspelled name for example on an act of death. It will be necessary to provide proof of the correct spelling by producing a birth certificate for example. This process can be difficult for undocumented people, especially if the link with the family could not be established.

- o **Substantial error, the rectification is judicial:** the element to be modified is important in the act of death (the filiation or the identity of the person), it is then necessary to apply to the court of the jurisdiction where the act of death was delivered to ask for rectification. It is also necessary to bring the justifying documents to this request.

### **What are the rules to respect for maintenance or work on the burial site?**

- **Maintenance and work on the common graves:** This is the responsibility of the city hall. It is possible, without authorisation, to bring some elements of materialization of the grave.

See the question: **What materialization and identification can be carried out on the graves of destitute people on the common graves?**

- **Maintenance and work on a grave outside the common ground:** The maintenance of people resting's graves in a private concession is the responsibility of the person who owns it. In practice, it is the relatives who maintain the graves. It is possible to build on the site<sup>65</sup>. The city hall can define the rules to be respected in this sense, notably the dimensions<sup>66</sup>.

For more information, please refer to the internal regulations of the cemetery of the municipality.

---

<sup>61</sup> Article L2223-12

<sup>62</sup> 2223-18 GCLA

<sup>63</sup> CE, 4 février 1949, Dame Moulis c/maire de Sète, Rec. CE, p. 52

<sup>64</sup> <https://www.service-public.fr/particuliers/vosdroits/F1177>

<sup>65</sup> Article L2223-12 GCLA

<sup>66</sup> Article L 2223-12-1 GCLA

## REPATRIATION OF THE BODY TO THE COUNTRY OF ORIGIN

If it is the choice (directly or reported by relatives) of the deceased, it is possible to transport the body to foreign countries in order to have the funeral there. This transportation is subject to a number of formalities<sup>67</sup>. For transportation between countries that are signatories to international conventions on the subject, specific standards may be imposed, for example on the type of coffin used<sup>68</sup>. The receiving country's agreement is essential and may be conditional. For example, some countries require that embalming be performed before the body enters their territory<sup>69</sup>. The transfer of ashes abroad is not very well regulated. French law does not prohibit it, but does not provide for specific procedures for the delivery of ashes for export.

### **The implementation of the repatriation of a body<sup>70</sup>:**

If the family wishes to repatriate the body, it is imperative to use a funeral company. With the family's agreement, they will take care of all the administrative procedures: obtaining the act of death, the authorisation to close the coffin and the burial permit from the competent authorities, as well as the authorisation to transport the body issued by the prefecture. Once these documents are collected, the funeral services contact the relevant consulate who will issue a consular pass.

The funeral services then go through a forwarder, a company specialized in air transport with IATA (International Air Transport Association) approval. The funeral services liaise with the family to provide information on days, times, flights and airfares to arrange for the transportation of the body. There may be a person accompanying the body on the plane.

The forwarding company also arranges the airfare. All the administrative documents are stucked to the coffin. The body usually transits through Paris from where most flights depart.

The funeral services also contact the relatives, the consular services, and the local transport companies (funeral services, ambulances) in the destination country in order to finalize the transportation of the body to the burial site. The funeral services are also responsible for notifying the local authorities of the arrival of the body, either directly or through the relatives.

---

<sup>67</sup> These formalities are listed in articles R. 2213-21 GCLA

<sup>68</sup> See Berlin Agreements on the International Transport of Dead Persons, 1937; COUNCIL OF EUROPE, Strasbourg Agreement on the International Transfer of Dead Persons, 26 Dec. 1973, European Treaty Series No. 80.

<sup>69</sup> An indicative census of these States has been made by the French Funeral Information Association, see: <http://www.afif.asso.fr/francais/conseils/conseil35.html>.

<sup>70</sup> Nord Pas de Calais Field mission internal report, La Cimade, June 2020.