

EU Motor Insurance Law

These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union.



EU Motor Insurance System Objectives

- *High degree of protection of victims of road traffic accidents*
- *Free circulation of vehicles throughout the EU*
- *Internal Market for Motor Third Party Liability Insurers*

Legal Framework

- *Green Card System*
- *EU Non- Life Insurance Directives*
- *EU Directive 90/618/EEC*
- *EU Motor Insurance Directives*
- *ECJ Case Law*

1. The Green Card System

- *Inter- Bureaux Standard Agreement, 17.12. 1953*
- *40 States over 40 years*
- *Document of proof/insurance cover*
- *UNO Recommendation No 5/ 1.1. 1953*

2. Non- Life Insurance Directives

- ***The Third Non-Life Directive 92/49/EC***

Introduced European passport for insurance companies

Abolished control on premium prices

Prior systematic notification of policy conditions remains possible (Art. 30 of the Directive)

3. Directive 90/618/EEC (Free provision of services - branch No 10)

- *Requirement to join Green Card Bureau and Guarantee Fund of the Host Member State*
- *Appointment of Service Representative*
- *These requirements apply also to third country motor insurers*

4. EC Motor Insurance Directives

Legal Framework:

<i>The 1st Motor</i>	<i>Directive (72/166/EEC)</i>
<i>The 2nd Motor</i>	<i>Directive (84/5/EEC)</i>
<i>The 3rd Motor</i>	<i>Directive (90/232/EEC)</i>
<i>The 4th Motor</i>	<i>Directive (2000/26/EC)</i>
<i>The 5th</i>	<i>Motor Directive (2005/14/EC)</i>

THE 1st MOTOR INSURANCE DIRECTIVE (72/166/EEC)

- *First step toward EU harmonisation of motor third party liability insurance rules*
- *Introduction of Compulsory Third Party Liability Motor Insurance*
- *Derogations for certain vehicles and persons possible*
- *Abolition of Insurance checks at EU internal borders*

THE 2nd MOTOR INSURANCE DIRECTIVE (84/5/EEC)

- *Insurance to cover damage to property and personal injuries*
- *Minimum amounts of cover:*
 - *Personal injury:*
 - *€1 220 000 per victim or €6 070 000 per claim, whatever the number of victims*
 - *Material damage:*
 - *€1 220 000 per claim*
- *Guarantee Fund for accidents caused by uninsured or unidentified vehicles*
- *Certain clauses of exclusion from compensation to be deemed void*
- *Family members of liable party must be compensated for personal injuries*

THE 3rd MOTOR INSURANCE DIRECTIVE (90/232/EEC)

- *All passengers other than the driver covered in respect of personal injuries*
- *Insurance*
 - *to cover entire Community on the basis of a single premium and*
 - *to guarantee the cover required by the law of each MS or the MS where the liable vehicle is based– when that cover is higher*
- *Guarantee fund: first point of contact for any victim*

THE 4th MOTOR INSURANCE DIRECTIVE (2000/26/EC) – “Visiting Victims”

- *Why specific regime for cross-border victims? :*
 - **More than 500.000 car accidents each year involving vehicles from different Member States**
- *Basic principles :*
 - **Insurer's claims representatives to be appointed in each Member State**
 - **Direct claim against the insurer of liable party**
 - **Reasoned offer/reply procedure (within 3 months of the claim)**
 - **Sanction mechanism where the offer/reply is not made within the 3-month time-limit – national financial or equivalent administrative measures**
 - **Information centres**
 - **Compensation bodies**

THE 5th MOTOR INSURANCE DIRECTIVE (2005/14/EC)

- *Main issues:*
 - ***Increase in minimum amounts of cover (transitional period of up to 5 years) to***
 - € 1 000 000/victim or 5 000 000/claim (personal injuries)
 - and € 1 000 000/claim (damage to property)
 - ***Expansion of the scope of victims covered (pedestrians, cyclists + other non-motorised users)***
 - ***Checks on insurance permitted only under certain strict conditions***

THE 5th MOTOR INSURANCE DIRECTIVE (2005/14/EC)

- *Extension of the direct right of action to accidents of any kind*
- *Reasoned offer/reply procedure to be applied to any motor accident (cross-border and domestic) except for accidents caused by uninsured cars*
- *Excesses toward victims prohibited*
- *Temporary stays in other Member States as no reason for discontinuation of cover*
- *Statement on driver's history to be issued by insurers at any time*

Codification 2009

*In 2009 all previous Directives were codified into
Directive 2009/103/EC*

5. ECJ Case Law

On contractual exemption clauses:

ECJ, C – 537/03, Candolin

ECJ, Churchill

ECJ, Mendez

On scope:

ECJ, Vnuk

ECJ, Andrade

ECJ, Juliana

ECJ, Torreiro

Thank you for your attention!



MOTOR INSURANCE LEGISLATION

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Marek LYSY

Disclaimer:

The views expressed are those of the author and do not necessarily reflect those of the Commission



Context

- *Third Party Liability Motor Insurance regulated at EU level since 1972.*
- *Main objectives are:*
 - 1) protection of victims of traffic accidents**
 - 2) to ensure the free movement of persons and vehicles**
- *Based on the international Green Card System under the auspices of the United Nations Economic Commission for Europe.*

Context (2)

- *Evaluation of the Motor Insurance Directive (Directive 2009/103/EC)*
- *Retail Financial Services Action Plan:*
 - Two actions on Motor Insurance:**
 - **Portability of claims history statements**
 - **Compensation of injured parties in case of insolvency of the insurer**
- *CJEU case law on the scope of the Directive*

The main issues

- **Scope:** *divergent implementation of the territorial and material scope of the Directive*
- **Insolvency:** *lack of protection of victims of accidents when an insurer is insolvent*
- Unequal **minimum amounts of cover** within the EU
- **Uninsured driving:** *Prohibition of systematic checks on motor insurance for vehicles based in other Member States*
- Gaps in portability of **claims history statements**

Public Consultation

- *Public consultation on MID evaluation (JULY-OCT 2017)*
 - **3478 responses**
 - **Large campaign on the exclusion of motor sports mainly from UK (2700 responses)**
- *Main conclusions:*
 - **Large support across stakeholders to clarify the scope of the Directive**
 - **Broad support for uniform minimum amounts of cover**
 - **Support from practitioners to enable systematic checks on insurance**
 - **Strong support from consumer organisations to address the issue of claims history and harmonise the template.**

What do we propose?

- ***Scope: Codification of the CJEU court rulings***
 - *Wide protection of victims in case of motor accidents;*
 - *Regardless of the characteristics of the property or terrain on which the accident occurred;*
 - Goal of codification= enhance legal certainty
- ***Insolvency:***
 - Ensure full and timely compensation of victims in case the insurer of the liable party is insolvent
 - Compensation by the body of residence of the victim
 - For cross border situations: recourse against the compensation body of the MS of the insolvent insurer

What do we propose? (2)

- ***Uninsured driving:***
 - Systematic checks on motor insurance across the territory allowed;
 - provided they do **not** require stopping the vehicle
 - E.g. Number Plate Recognition (NPR) technology
 - Compliance with EU data protection rules (GDPR)
- ***Claims history:***
 - Harmonise content and template of claims history statements
 - non-discriminatory treatment when moving across borders
 - transparency
- *Harmonise the **minimum amounts of cover** within the EU*

Is the MID future proof?

- *Technological developments:*
 - **Autonomous vehicles**
 - **Electric bikes, segways, e-scooters**
- *Need for EU Action? **NO***
- *Why not?*
 - **Remaining need to protect victims**
 - **Subsidiarity principle:**
 - For some electric vehicles, exemption possible at national level (art 5)
 - Condition: compensation by national compensation funds



Thank you for your attention!

