

EC Motor Insurance Law

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Screening process
Explanatory meeting with Croatia and Turkey
29 March 2006

Legal Framework

- 1. Green Card System**
- 2. EC Non- Life Insurance Directives**
- 3. EC Directive 90/618/EEC**
- 4. EC Motor Insurance Directives**
- 5. 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 First Non-life Directive**

- Annex 1 Branch 3 (Comprehensive cover) and Branch 10 (third party liability cover) = „MOTOR INSURANCE“

- **The Second Non-Life Directive**

- The exclusion of branch 10 from general regime of Free provision of services and provisions on applicable law

- **The Third Non-Life Directive**

- Introduced a true European passport for insurance companies
- Abolished control on premium prices (Bonus Malus Case)
- 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 Host Member State
- Appointment of Service Representative (different mechanism from the one of the Claims Representative introduced by the Fourth Motor Insurance Directive)

4. EC Motor Insurance Directives

Objectives:

- Ensure the free movement of vehicles throughout the EU
- Ensure comparable treatment of victims of accidents

Legal Framework:

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

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

- Introduction of Compulsory Third Party Liability Motor Insurance (TPL)- Art. 3 (1)
- Derogations – Art. 4
- Concept of “territory in which the vehicle is normally based” – Art. 1(4) / false and provisional plates
- GUARANTEE laid down by Supplementary Agreement between national insurers’ bureaux– Art. 2 (2), Art. 7 (2)
- Abolition of checking of Green Cards at frontiers - Art 2 (1)

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

- TPL covers compulsorily both damage to property and personal injury
- Minimum amounts of cover:
 - € 350.000/victim (personal injury) and € 100.000/claim (property)
or in case of more than one victim
 - € 500.000/claim (personal injury)- 600.000/claim (personal injury and property)
- Guarantee Fund – Art. 1 (4)
- Certain cases of exclusion from compensation to be deemed void– Art. 2
- Family members of liable party included (Art. 3)
- “Normally based” = “bears a registration plate” - Art. 4

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

- All passengers other than the driver covered in respect of personal injuries -Art.1
- TPL – Art. 2
 - 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: conditions and dispute – Art. 3 and 4

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

- Why a directive? : 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 - all in Art. 4
 - Information centres – Art. 5
 - Compensation bodies – Art. 6

THE 5th MOTOR INSURANCE DIRECTIVE (2005/14/EC) - to be implemented by 11 June 2007 at the latest

- **Main issues:**

- Increase of minimum amounts of cover – Art. 2
(transitional period of up to 5 years)
 - € 1 000 000/victim or 5 000 000/claim (personal injury)
 - and € 1 000 000/claim (property)
- Expansion of the scope of victims covered (pedestrians, cyclists + other non-motorised users – Art. 4(2))
- Revision of the regime of service representatives – Art.3
- False or temporary plates– Art. 1(1)
- Checks on insurance – Art. 1(2)
- Derogation from the obligation to insure certain vehicles – Art. 1(3)

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

- Extension of the direct right of action – Art. 4 (4)
- Reasoned offer/reply procedure in any motor accident - Art. 4 (4)
- Excesses - Art. 4 (4)
- Temporary stays in other Member States - Art. 4 (3)
- Short term cover for vehicles to be exported Art. 4(4)
- Statement on driver's history - Art. 4 (4)
- Conditions under which compensation of material damage caused by non-identified vehicles should be awarded – Art. 2(6)

5. ECJ Case Law

- ECJ, C – 346+347/02, “Bonus Malus System”
(Commission of the European Communities v Grand Duchy of Luxembourg/France)
- ECJ, C – 537/03, Candolin - Passenger's contribution to the loss or injury - Refusal or limitation of the right to compensation

Thank you for your attention

- **More information at :**

http://europa.eu.int/comm/internal_market/insurance

- **Or contact:**

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