



MOTOR INSURANCE DIRECTIVE

DIRECTIVE 2009/103/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 16 September 2009

**relating to insurance against civil liability in respect of the use of
motor vehicles, and the enforcement of the obligation to insure
against such liability**

(codified version)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN
UNION,

Having regard to the Treaty establishing the European Community, and in
particular Article 95(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

(1) Council Directive 72/166/EEC of 24 April 1972 on the approximation of

the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability, Second Council Directive 84/5/EEC of 30 December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, Third Council Directive 90/232/EEC of 14 May 1990 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles (Fourth motor insurance Directive) have been substantially amended several times. In the interests of clarity and rationality those four Directives should be codified, as well as Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005 amending Council Directives 72/166/EEC, 84/5/EEC, 88/357/EEC and 90/232/EEC and Directive 2000/26/EC of the European Parliament and of the Council relating to insurance against civil liability in respect of the use of motor vehicles.

(2) Insurance against civil liability in respect of the use of motor vehicles (motor insurance) is of special importance for European citizens, whether they are policyholders or victims of an accident. It is also a major concern for insurance undertakings as it constitutes an important part of non-life insurance business in the Community. Motor insurance also has an impact on the free movement of persons and vehicles. It should therefore be a key objective of Community action in the field of financial services to reinforce and consolidate the internal market in motor insurance.

(3) Each Member State must take all appropriate measures to ensure that civil liability in respect of the use of vehicles normally based in its territory is covered by insurance. The extent of the liability covered and the terms and conditions of the insurance cover are to be determined on the basis of those measures.

(4) In order to exclude any possible misinterpretation of this Directive and to make it easier to obtain insurance cover for vehicles bearing temporary plates, the definition of the territory in which the vehicle is normally based should refer to the territory of the State of which the vehicle bears a registration plate, irrespective of whether such a plate is permanent or temporary.

(5) While respecting the general criterion of the registration plate to determine the territory in which the vehicle is normally based, a special rule should be laid down for accidents caused by vehicles without a registration plate or bearing a registration plate which does not correspond or no longer corresponds to the vehicle. In this case and for the sole purpose of settling the claim, the territory in which the vehicle is normally based should be deemed to be the territory in which the accident took place.

(6) A prohibition of systematic checks on motor insurance should apply to

vehicles normally based in the territory of another Member State as well as to vehicles normally based in the territory of a third country but entering from the territory of another Member State. Only non-systematic checks which are not discriminatory and are carried out as part of a control not aimed exclusively at insurance verification may be permitted.

(7) The abolition of checks on green cards for vehicles normally based in a Member State which enter the territory of another Member State can be effected by means of an agreement between the national insurers' bureaux, whereby each national bureau would guarantee compensation in accordance with the provisions of national law in respect of any loss or injury giving entitlement to compensation caused in its territory by one of those vehicles, whether or not insured.

(8) Such a guarantee agreement presupposes that all Community motor vehicles travelling in Community territory are covered by insurance. The national law of each Member State should, therefore, provide for the compulsory insurance of vehicles against civil liability, such insurance to be valid throughout Community territory.

(9) The system provided for in this Directive could be extended to vehicles normally based in the territory of any third country in respect of which the national bureaux of the Member States have concluded a similar agreement.

(10) Each Member State should be able to act in derogation from the general obligation to take out compulsory insurance in respect of vehicles belonging to certain natural or legal persons, public or private. For accidents caused by such vehicles, the Member State so derogating should designate an authority or body to compensate for the damage to victims of accidents caused in another Member State. Steps should be taken to ensure that due compensation is paid not only to the victims of accidents caused by these vehicles abroad but also the victims of accidents occurring in the Member State in which the vehicle is normally based, whether or not they are resident in its territory. Furthermore, Member States should ensure that the list of persons exempt from compulsory insurance and the authorities or bodies responsible for compensation of victims of accidents caused by such vehicles is communicated to the Commission for publication.

(11) Each Member State should be able to act in derogation from the general obligation to take out compulsory insurance in respect of certain types of vehicles or certain vehicles having a special plate. In that case, the other Member States are allowed to require, at the entry into their territory, a valid green card or a frontier insurance contract, in order to ensure the provision of compensation to victims of any accident which may be caused by those vehicles in their territories. However, since the elimination of border controls within the Community means that it is not possible to ensure that vehicles crossing frontiers are covered by insurance, compensation for victims of accidents caused abroad cannot be guaranteed. Steps should also be taken to

ensure that due compensation is awarded to the victims of accidents caused by those vehicles not only abroad but also in the Member State in which the vehicle is normally based. For this purpose, Member States should treat the victims of accidents caused by those vehicles in the same way as victims of accidents caused by uninsured vehicles. Indeed, compensation to victims of accidents caused by uninsured vehicles should be paid by the compensation body of the Member State in which the accident took place. Where payments are made to victims of accidents caused by vehicles subject to the derogation, the compensation body should have a claim against the body of the Member State in which the vehicle is normally based. After a certain period to allow for the implementation and application of this possibility of derogation, and taking into account the lessons drawn therefrom, the Commission should, when appropriate, submit proposals for its replacement or repeal.

(12) Member States' obligations to guarantee insurance cover at least in respect of certain minimum amounts constitute an important element in ensuring the protection of victims. The minimum amount of cover for personal injury should be calculated so as to compensate fully and fairly all victims who have suffered very serious injuries, while taking into account the low frequency of accidents involving several victims and the small number of accidents in which several victims suffer very serious injuries in the course of one and the same event. A minimum amount of cover per victim or per claim should be provided for. With a view to facilitating the introduction of these minimum amounts, a transitional period should be established. However, a period shorter than the transitional period should be provided for, in which Member States should increase these amounts to at least half the levels provided for.

(13) In order to ensure that the minimum amount of cover is not eroded over time, a periodic review clause should be provided using as a benchmark the European Index of Consumer Prices (EICP) published by Eurostat, as provided for in Council Regulation (EC) No 2494/95 of 23 October 1995 concerning harmonised indices of consumer prices. Procedural rules governing such a review should also be laid down.

(14) It is necessary to make provision for a body to guarantee that the victim will not remain without compensation where the vehicle which caused the accident is uninsured or unidentified. It is important to provide that the victim of such an accident should be able to apply directly to that body as a first point of contact. However, Member States should be given the possibility of applying certain limited exclusions as regards the payment of compensation by that body and of providing that compensation for damage to property caused by an unidentified vehicle may be limited or excluded in view of the danger of fraud.

(15) It is in the interest of victims that the effects of certain exclusion clauses be limited to the relationship between the insurer and the person responsible for the accident. However, in the case of vehicles stolen or obtained by violence, Member States may specify that compensation will be payable by the

abovementioned body.

(16) In order to alleviate the financial burden on that body, Member States may make provision for the application of certain excesses where the body provides compensation for damage to property caused by uninsured vehicles or, as the case may be, vehicles stolen or obtained by violence.

(17) The option of limiting or excluding legitimate compensation for victims on the basis that the vehicle is unidentified should not apply where the body has paid compensation for significant personal injuries to any victim of the accident in which damage to property was caused. Member States may provide for an excess, up to the limit prescribed in this Directive, to be borne by the victim of the damage to property. The conditions in which personal injuries are to be considered significant should be determined by the national legislation or administrative provisions of the Member State where the accident takes place. In establishing those conditions, the Member State may take into account, *inter alia*, whether the injury has required hospital care.

(18) In the case of an accident caused by an uninsured vehicle, the body which compensates victims of accidents caused by uninsured or unidentified vehicles is better placed than the victim to bring an action against the party liable. Therefore, it should be provided that that body cannot require that victim, if he is to be compensated, to establish that the party liable is unable or refuses to pay.

(19) In the event of a dispute between the body referred to above and a civil liability insurer as to which of them should compensate the victim of an accident, Member States, to avoid any delay in the payment of compensation to the victim, should ensure that one of those parties is designated as being responsible in the first instance for paying compensation pending resolution of the dispute.

(20) Motor vehicle accident victims should be guaranteed comparable treatment irrespective of where in the Community accidents occur.

(21) The members of the family of the policyholder, driver or any other person liable should be afforded protection comparable to that of other third parties, in any event in respect of their personal injuries.

(22) Personal injuries and damage to property suffered by pedestrians, cyclists and other non-motorised road users, who are usually the weakest party in an accident, should be covered by the compulsory insurance of the vehicle involved in the accident where they are entitled to compensation under national civil law. This provision does not prejudge the issue of civil liability, or the level of awards of damages in respect of a given accident, under national legislation.

(23) The inclusion within the insurance cover of any passenger in the vehicle is a major achievement of the existing legislation. This objective would be placed in jeopardy if national legislation or any contractual clause contained in an insurance policy excluded passengers from insurance cover because they knew or should have known that the driver of the vehicle was under the

influence of alcohol or of any other intoxicating agent at the time of the accident. The passenger is not usually in a position to assess properly the level of intoxication of the driver. The objective of discouraging persons from driving while under the influence of intoxicating agents is not achieved by reducing the insurance cover for passengers who are victims of motor vehicle accidents. Cover of such passengers under the vehicle's compulsory motor insurance does not prejudice any liability they might incur pursuant to the applicable national legislation, nor the level of any award of damages in a specific accident.

(24) All compulsory motor insurance policies should cover the entire territory of the Community.

(25) Some insurance undertakings insert into insurance policies clauses to the effect that the contract will be cancelled if the vehicle remains outside the Member State of registration for longer than a specified period. This practice is in conflict with the principle set out in this Directive, according to which compulsory motor insurance should cover, on the basis of a single premium, the entire territory of the Community. It should therefore be specified that the insurance cover is to remain valid during the whole term of the contract, irrespective of whether the vehicle remains in another Member State for a particular period, without prejudice to the obligations under Member States' national legislation with respect to the registration of vehicles.

(26) In the interests of the party insured, every insurance policy should guarantee for a single premium, in each Member State, the cover required by its law or the cover required by the law of the Member State where the vehicle is normally based, when that cover is higher.

(27) Steps should be taken to make it easier to obtain insurance cover for vehicles imported from one Member State into another, even though the vehicle is not yet registered in the Member State of destination. A temporary derogation from the general rule determining the Member State where the risk is situated should be made available. For a period of 30 days from the date when the vehicle is delivered, made available or dispatched to the purchaser, the Member State of destination should be considered to be the Member State where the risk is situated.

(28) Any person wishing to take out a new motor insurance contract with another insurer should be in a position to justify his accident and claims record under the old contract. The policyholder should have the right to request at any time a statement concerning the claims, or the absence of claims, involving the vehicle or vehicles covered by the insurance contract at least during the preceding five years of the contractual relationship. The insurance undertaking, or any body which may have been appointed by a Member State to provide compulsory insurance or to supply such statements, should provide this statement to the policyholder within 15 days of the request.

(29) In order to ensure due protection for victims of motor vehicle accidents,

Member States should not permit insurance undertakings to rely on excesses against an injured party.

(30) The right to invoke the insurance contract and to claim against the insurance undertaking directly is of great importance for the protection of victims of motor vehicle accidents. In order to facilitate an efficient and speedy settlement of claims and to avoid as far as possible costly legal proceedings, a right of direct action against the insurance undertaking covering the person responsible against civil liability should be provided for victims of any motor vehicle accident.

(31) In order to obtain an adequate level of protection for victims of motor vehicle accidents, a "reasoned offer" procedure should be extended to any kind of motor vehicle accident. This same procedure should also apply *mutatis mutandis* where the accident is settled by the system of national insurers' bureaux.

(32) Under Article 11(2) read in conjunction with Article 9(1)(b) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, injured parties may bring legal proceedings against the civil liability insurance provider in the Member State in which they are domiciled.

(33) The green card bureau system ensures the ready settlement of claims in the injured party's country of residence even where the other party comes from a different European country.

(34) Parties injured as a result of a motor vehicle accident falling within the scope of this Directive and occurring in a State other than that of their residence should be entitled to claim in their Member State of residence against a claims representative appointed there by the insurance undertaking of the responsible party. This solution would enable damage suffered by injured parties outside their Member State of residence to be dealt with under procedures which are familiar to them.

(35) This system of having claims representatives in the injured party's Member State of residence affects neither the substantive law to be applied in each individual case nor the matter of jurisdiction.

(36) The existence of a direct right of action for the injured party against the insurance undertaking is a logical supplement to the appointment of such representatives and moreover improves the legal position of parties injured as a result of motor vehicle accidents occurring outside their Member State of residence.

(37) It should be provided that the Member State where the insurance undertaking is authorised should require that undertaking to appoint claims representatives resident or established in the other Member States to collect all necessary information in relation to claims resulting from such accidents and to take appropriate action to settle the claims on behalf and for the account of the insurance undertaking, including the payment of compensation. Claims

representatives should have sufficient powers to represent the insurance undertaking in relation to persons suffering damage from such accidents, and also to represent the insurance undertaking before national authorities including, where necessary, before the courts, in so far as this is compatible with the rules of private international law on the conferral of jurisdiction.

(38) The activities of the claims representative are not sufficient in order to confer jurisdiction on the courts in the injured party's Member State of residence if the rules of private international law on the conferral of jurisdiction do not so provide.

(39) The appointment of representatives responsible for settling claims should be one of the conditions for access to and carrying on the activity of insurance listed in class 10 of point A of the Annex to First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance, except for carriers' liability. That condition should therefore be covered by the single official authorisation issued by the authorities of the Member State where the insurance undertaking establishes its head office, as specified in Title II of Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive). That condition should also apply to insurance undertakings having their head office outside the Community which have secured an authorisation granting them access to the activity of insurance in a Member State of the Community.

(40) In addition to ensuring that the insurance undertaking has a representative in the State where the injured party resides, it is appropriate to guarantee the specific right of the injured party to have the claim settled promptly. It is therefore necessary to include in national law appropriate effective and systematic financial or equivalent administrative penalties - such as injunctions combined with administrative fines, reporting to supervisory authorities on a regular basis, on-the-spot checks, publications in the national official journal and in the press, suspension of the activities of the company (prohibition on the conclusion of new contracts for a certain period), designation of a special representative of the supervisory authorities responsible for verifying that the business is run in line with insurance laws, withdrawal of the authorisation for this business line, sanctions to be imposed on directors and management staff - in the event that the insurance undertaking or its representative fails to fulfil its obligation to make an offer of compensation within a reasonable period of time. This should not prejudice the application of any other measure, especially under the law applicable to supervisory matters, which may be considered appropriate. However, it is a condition that liability and the damage and injury sustained should not be in dispute, so that the

insurance undertaking is able to make a reasoned offer within the prescribed period of time. The reasoned offer of compensation should be in writing and should contain the grounds on the basis of which liability and damages have been assessed.

(41) In addition to those sanctions, it is appropriate to provide that interest should be payable on the amount of compensation offered by the insurance undertaking or awarded by the court to the injured party when the offer has not been made within the prescribed time limit. If Member States have existing national rules which cover the requirement for late-payment interest, this provision could be implemented by a reference to those rules.

(42) Injured parties suffering loss or injury as a result of motor vehicle accidents sometimes have difficulty in establishing the name of the insurance undertaking providing insurance against civil liability in respect of the use of motor vehicles involved in an accident.

(43) In the interests of such injured parties, Member States should set up information centres to ensure that such information concerning any accident involving a motor vehicle is made available promptly. Those information centres should also make available to injured parties information concerning claims representatives. It is necessary that such centres should cooperate with each other and respond rapidly to requests for information about claims representatives made by centres in other Member States. It seems appropriate that such centres should collect information about the actual termination date of the insurance cover but not about the expiry of the original validity of the policy if the duration of the contract is extended owing to non-cancellation.

(44) Specific provision should be made with respect to vehicles (for example, government or military vehicles) which fall within the exemptions from the obligation to be insured against civil liability.

(45) The injured party may have a legitimate interest in being informed about the identity of the owner or usual driver or the registered keeper of the vehicle, for example if he can obtain compensation only from those persons because the vehicle is not duly insured or the damage exceeds the sum insured, in which event this information should also be provided.

(46) Certain information provided, such as the name and address of the owner or usual driver of the vehicle and the number of the insurance policy or the registration number of the vehicle, constitutes personal data within the meaning of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. The processing of such data which is required for the purposes of this Directive should therefore comply with the national measures taken pursuant to Directive 95/46/EC. The name and address of the usual driver should be communicated only if national legislation provides for such communication.

(47) In order to ensure that the injured party will not remain without the

compensation to which he is entitled, it is necessary to make provision for a compensation body to which the injured party may apply where the insurance undertaking has failed to appoint a representative or is manifestly dilatory in settling a claim or where the insurance undertaking cannot be identified. The intervention of the compensation body should be limited to rare individual cases where the insurance undertaking has failed to comply with its duties in spite of the deterrent effect of the potential imposition of penalties.

(48) The role played by the compensation body is that of settling the claim in respect of any loss or injury suffered by the injured party only in cases which are capable of objective determination and therefore the compensation body should limit its activity to verifying that an offer of compensation has been made in accordance with the time limits and procedures laid down, without any assessment of the merits.

(49) Legal persons who are subrogated by law to the injured party in his claims against the person responsible for the accident or the latter's insurance undertaking (such as, for example, other insurance undertakings or social security bodies) should not be entitled to present the corresponding claim to the compensation body.

(50) The compensation body should have a right of subrogation in so far as it has compensated the injured party. In order to facilitate enforcement of the compensation body's claim against the insurance undertaking where the latter has failed to appoint a claims representative or is manifestly dilatory in settling a claim, the body providing compensation in the injured party's State should also enjoy an automatic right of reimbursement with subrogation to the rights of the injured party on the part of the corresponding body in the State where the insurance undertaking is established. This body is the best placed to institute proceedings for recourse against the insurance undertaking.

(51) Even though Member States may provide that the claim against the compensation body is to be subsidiary, the injured person should not be obliged to present his claim to the person responsible for the accident before presenting it to the compensation body. In such a case the injured party should be in at least the same position as in the case of a claim against the guarantee fund.

(52) This system can be made to function by means of an agreement between the compensation bodies established or approved by the Member States, defining their functions and obligations and the procedures for reimbursement.

(53) Where it is impossible to identify the insurer of a vehicle, it should be provided that the ultimate debtor in respect of the damages to be paid to the injured party is the guarantee fund provided for this purpose situated in the Member State where the uninsured vehicle, the use of which has caused the accident, is normally based. Where it is impossible to identify the vehicle, it should be provided that the ultimate debtor is the guarantee fund provided for

this purpose situated in the Member State in which the accident occurred.

(54) This Directive should be without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex I, Part B,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Definitions

For the purposes of this Directive:

1. **vehicle** means any motor vehicle intended for travel on land and propelled by mechanical power, but not running on rails, and any trailer, whether or not coupled;

2. **injured party** means any person entitled to compensation in respect of any loss or injury caused by vehicles;

3. **national insurers' bureau** means a professional organisation which is constituted in accordance with Recommendation No 5 adopted on 25 January 1949 by the Road Transport Sub-committee of the Inland Transport Committee of the United Nations Economic Commission for Europe and which groups together insurance undertakings which, in a State, are authorised to conduct the business of motor vehicle insurance against civil liability;

4. **territory in which the vehicle is normally based** means:

(a) the territory of the State of which the vehicle bears a registration plate, irrespective of whether the plate is permanent or temporary; or

(b) in cases where no registration is required for a type of vehicle but the vehicle bears an insurance plate, or a distinguishing sign analogous to the registration plate, the territory of the State in which the insurance plate or the

sign is issued; or

(c) in cases where neither a registration plate nor an insurance plate nor a distinguishing sign is required for certain types of vehicle, the territory of the State in which the person who has custody of the vehicle is permanently resident; or

(d) in cases where the vehicle does not bear any registration plate or bears a registration plate which does not correspond or no longer corresponds to the vehicle and has been involved in an accident, the territory of the State in which the accident took place, for the purpose of settling the claim as provided for in the first indent of Article 2(a) or in Article 10;

5. **Green Card** means an international certificate of insurance issued on behalf of a national bureau in accordance with Recommendation No 5 adopted on 25 January 1949 by the Road Transport Sub-committee of the Inland Transport Committee of the United Nations Economic Commission for Europe;

6. **insurance undertaking** means an undertaking which has received its official authorisation in accordance with Article 6 or Article 23(2) of Directive 73/239/EEC;

7. **establishment** means the head office, agency or branch of an insurance undertaking as defined in Article 2(c) of Second Council Directive 88/357/EEC of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services.

Article 2

Scope

The provisions of Articles 4, 6, 7 and 8 shall apply to vehicles normally based on the territory of one of the Member States:

(a) after an agreement has been concluded between the national insurers' bureaux under the terms of which each national bureau guarantees the settlement, in accordance with the provisions of national law on compulsory insurance, of claims in respect of accidents occurring in its territory, caused by vehicles normally based in the territory of another Member State, whether or not such vehicles are insured;

(b) from the date fixed by the Commission, upon its having ascertained in close cooperation with the Member States that such an agreement has been concluded;

(c) for the duration of that agreement.

Article 3

Compulsory insurance of vehicles

Each Member State shall, subject to Article 5, take all appropriate measures to ensure that civil liability in respect of the use of vehicles normally based in its territory is covered by insurance.

The extent of the liability covered and the terms and conditions of the cover shall be determined on the basis of the measures referred to in the first paragraph.

Each Member State shall take all appropriate measures to ensure that the contract of insurance also covers:

(a) according to the law in force in other Member States, any loss or injury which is caused in the territory of those States;

(b) any loss or injury suffered by nationals of Member States during a direct journey between two territories in which the Treaty is in force, if there is no national insurers' bureau responsible for the territory which is being crossed; in such a case, the loss or injury shall be covered in accordance with the national laws on compulsory insurance in force in the Member State in whose territory the vehicle is normally based.

The insurance referred to in the first paragraph shall cover compulsorily both damage to property and personal injuries.

Article 4

Checks on insurance

Member States shall refrain from making checks on insurance against civil liability in respect of vehicles normally based in the territory of another Member State and in respect of vehicles normally based in the territory of a third country entering their territory from the territory of another Member State. However, they may carry out non-systematic checks on insurance provided that those checks are not discriminatory and are carried out as part of a control which is not aimed exclusively at insurance verification.

Article 5

Derogation from the obligation in respect of compulsory insurance of vehicles

1. A Member State may derogate from Article 3 in respect of certain natural or legal persons, public or private; a list of such persons shall be drawn up by the State concerned and communicated to the other Member States and to the Commission.

A Member State so derogating shall take the appropriate measures to ensure that compensation is paid in respect of any loss or injury caused in its territory and in the territory of other Member States by vehicles belonging to such persons.

It shall in particular designate an authority or body in the country where the loss or injury occurs responsible for compensating injured parties in accordance with the laws of that State in cases where Article 2(a) is not applicable.

It shall communicate to the Commission the list of persons exempt from compulsory insurance and the authorities or bodies responsible for compensation.

The Commission shall publish that list.

2. A Member State may derogate from Article 3 in respect of certain types of vehicle or certain vehicles having a special plate; the list of such types or of such vehicles shall be drawn up by the State concerned and communicated to the other Member States and to the Commission.

Any Member State so derogating shall ensure that vehicles referred to in the first subparagraph are treated in the same way as vehicles for which the insurance obligation provided for in Article 3 has not been satisfied.

The guarantee fund of the Member State in which the accident has taken place shall then have a claim against the guarantee fund in the Member State where the vehicle is normally based.

From 11 June 2010 Member States shall report to the Commission on the implementation and practical application of this paragraph.

The Commission, after examining those reports, shall, if appropriate, submit proposals for the replacement or repeal of this derogation.

Article 6

National insurers' bureaux

Each Member State shall ensure that, where an accident is caused in its territory by a vehicle normally based in the territory of another Member State, the national insurers' bureau shall, without prejudice to the obligation referred to in Article 2(a), obtain information:

(a) as to the territory in which the vehicle is normally based, and as to its registration mark, if any;

(b) in so far as is possible, as to the details of the insurance of the vehicle, as they normally appear on the green card, which are in the possession of the person having custody of the vehicle, to the extent that those details are required by the Member State in whose territory the vehicle is normally based.

Each Member State shall also ensure that the bureau communicates the information referred to in points (a) and (b) to the national insurers' bureau of the State in whose territory the vehicle referred to in the first paragraph is normally based.

CHAPTER 2

PROVISIONS CONCERNING VEHICLES NORMALLY BASED IN THE TERRITORY OF THIRD COUNTRIES

Article 7

National measures concerning vehicles normally based on the territory of third countries

Each Member State shall take all appropriate measures to ensure that vehicles normally based in the territory of a third country which enter the territory in which the Treaty is in force shall not be used in its territory unless any loss or injury caused by those vehicles is covered, in accordance with the requirements of the laws of the various Member States on compulsory insurance against civil liability in respect of the use of vehicles, throughout the territory in which the Treaty is in force.

Article 8

Documentation concerning vehicles normally based in the territory of third countries

1. Every vehicle normally based in the territory of a third country must, before entering the territory in which the Treaty is in force, be provided either with a valid green card or with a certificate of frontier insurance establishing that the vehicle is insured in accordance with Article 7.

However, vehicles normally based in a third country shall be treated as vehicles normally based in the Community if the national bureaux of all the Member States severally guarantee, each in accordance with the provisions of its own national law on compulsory insurance, settlement of claims in respect of accidents occurring in their territory caused by such vehicles.

2. Having ascertained, in close cooperation with the Member States, that the obligations referred to in the second subparagraph of paragraph 1 have been assumed, the Commission shall fix the date from which and the types of vehicles for which Member States shall no longer require production of the documents referred to in the first subparagraph of paragraph 1.

CHAPTER 3

MINIMUM AMOUNTS COVERED BY COMPULSORY INSURANCE

Article 9

Minimum amounts

1. Without prejudice to any higher guarantees which Member States may prescribe, each Member State shall require the insurance referred to in Article 3 to be compulsory at least in respect of the following amounts:

(a) in the case of personal injury, a minimum amount of cover of EUR 1,000,000 per victim or EUR 5,000,000 per claim, whatever the number of victims;

(b) in the case of damage to property, EUR 1,000,000 per claim, whatever the number of victims.

If necessary, Member States may establish a transitional period extending until 11 June 2012 at the latest within which to adapt their minimum amounts of cover to the amounts provided for in the first subparagraph.

Member States establishing such a transitional period shall inform the Commission thereof and indicate the duration of the transitional period.

However, until 11 December 2009 at the latest, Member States shall increase guarantees to at least a half of the levels provided for in the first subparagraph.

2. Every five years after 11 June 2005 or the end of any transitional period as referred to in the second subparagraph of paragraph 1, the amounts referred to in that paragraph shall be reviewed in line with the European Index of Consumer Prices (EICP) established pursuant to Regulation (EC) No 2494/95.

The amounts shall be adjusted automatically. Such amounts shall be increased by the percentage change indicated by the EICP for the relevant period, that is to say, the five years immediately preceding the review referred to in the first subparagraph, and rounded up to a multiple of EUR 10,000.

The Commission shall communicate the adjusted amounts to the European Parliament and to the Council and shall ensure their publication in the Official Journal of the European Union.

CHAPTER 4

COMPENSATION FOR DAMAGE CAUSED BY AN UNIDENTIFIED VEHICLE OR A VEHICLE FOR WHICH THE INSURANCE OBLIGATION PROVIDED FOR IN ARTICLE 3 HAS NOT BEEN SATISFIED

Article 10

Body responsible for compensation

1. Each Member State shall set up or authorise a body with the task of providing compensation, at least up to the limits of the insurance obligation for

damage to property or personal injuries caused by an unidentified vehicle or a vehicle for which the insurance obligation provided for in Article 3 has not been satisfied.

The first subparagraph shall be without prejudice to the right of the Member States to regard compensation by the body as subsidiary or non-subsidiary and the right to make provision for the settlement of claims between the body and the person or persons responsible for the accident and other insurers or social security bodies required to compensate the victim in respect of the same accident. However, Member States may not allow the body to make the payment of compensation conditional on the victim establishing in any way that the person liable is unable or refuses to pay.

2. The victim may in any event apply directly to the body which, on the basis of information provided at its request by the victim, shall be obliged to give him a reasoned reply regarding the payment of any compensation.

Member States may, however, exclude the payment of compensation by that body in respect of persons who voluntarily entered the vehicle which caused the damage or injury when the body can prove that they knew it was uninsured.

3. Member States may limit or exclude the payment of compensation by the body in the event of damage to property by an unidentified vehicle.

However, where the body has paid compensation for significant personal injuries to any victim of the same accident in which damage to property was caused by an unidentified vehicle, Member States may not exclude the payment of compensation for damage to property on the basis that the vehicle is unidentified. Nevertheless, Member States may provide for an excess of not more than EUR 500 to be borne by the victim of such damage to property.

The conditions in which personal injuries are to be regarded as significant shall be determined in accordance with the legislation or administrative provisions of the Member State in which the accident takes place. In this regard, Member States may take into account, inter alia, whether the injury required hospital care.

4. Each Member State shall apply its laws, regulations and administrative provisions to the payment of compensation by the body, without prejudice to any other practice which is more favourable to the victim.

Article 11

Disputes

In the event of a dispute between the body referred to in Article 10(1) and the civil liability insurer as to which must compensate the victim, the Member States shall take the appropriate measures so that one of those parties is designated to

be responsible in the first instance for paying compensation to the victim without delay.

If it is ultimately decided that the other party should have paid all or part of the compensation, that other party shall reimburse accordingly the party which has paid.

CHAPTER 5

SPECIAL CATEGORIES OF VICTIM, EXCLUSION CLAUSES, SINGLE PREMIUM, VEHICLES DISPATCHED FROM ONE MEMBER STATE TO ANOTHER

Article 12

Special categories of victim

1. Without prejudice to the second subparagraph of Article 13(1), the insurance referred to in Article 3 shall cover liability for personal injuries to all passengers, other than the driver, arising out of the use of a vehicle.

2. The members of the family of the policyholder, driver or any other person who is liable under civil law in the event of an accident, and whose liability is covered by the insurance referred to in Article 3, shall not be excluded from insurance in respect of their personal injuries by virtue of that relationship.

3. The insurance referred to in Article 3 shall cover personal injuries and damage to property suffered by pedestrians, cyclists and other non-motorised users of the roads who, as a consequence of an accident in which a motor vehicle is involved, are entitled to compensation in accordance with national civil law.

This Article shall be without prejudice either to civil liability or to the quantum of damages.

Article 13

Exclusion clauses

1. Each Member State shall take all appropriate measures to ensure that any statutory provision or any contractual clause contained in an insurance policy issued in accordance with Article 3 shall be deemed to be void in respect of claims by third parties who have been victims of an accident where that statutory provision or contractual clause excludes from insurance the use or driving of vehicles by:

- (a) persons who do not have express or implied authorisation to do so;
- (b) persons who do not hold a licence permitting them to drive the vehicle concerned;
- (c) persons who are in breach of the statutory technical requirements concerning the condition and safety of the vehicle concerned.

However, the provision or clause referred to in point (a) of the first subparagraph may be invoked against persons who voluntarily entered the vehicle which caused the damage or injury, when the insurer can prove that they knew the vehicle was stolen.

Member States shall have the option - in the case of accidents occurring on their territory - of not applying the provision in the first subparagraph if and in so far as the victim may obtain compensation for the damage suffered from a social security body.

2. In the case of vehicles stolen or obtained by violence, Member States may provide that the body specified in Article 10(1) is to pay compensation instead of the insurer under the conditions set out in paragraph 1 of this Article. Where the vehicle is normally based in another Member State, that body can make no claim against any body in that Member State.

Member States which, in the case of vehicles stolen or obtained by violence, provide that the body referred to in Article 10(1) is to pay compensation may fix in respect of damage to property an excess of not more than EUR 250 to be borne by the victim.

3. Member States shall take the necessary measures to ensure that any statutory provision or any contractual clause contained in an insurance policy which excludes a passenger from such cover on the basis that he knew or should have known that the driver of the vehicle was under the influence of alcohol or of any other intoxicating agent at the time of an accident, shall be deemed to be void in respect of the claims of such passenger.

Article 14

Single premium

Member States shall take the necessary steps to ensure that all compulsory policies of insurance against civil liability arising out of the use of vehicles:

(a) cover, on the basis of a single premium and during the whole term of the contract, the entire territory of the Community, including for any period in which the vehicle remains in other Member States during the term of the contract; and

(b) guarantee, on the basis of that single premium, in each Member State, the cover required by its law or the cover required by the law of the Member State where the vehicle is normally based when that cover is higher.

Article 15

Vehicles dispatched from one Member State to another

1. By way of derogation from the second indent of Article 2(d) of Directive 88/357/EEC, where a vehicle is dispatched from one Member State to another, the Member State where the risk is situated shall be considered to be the Member State of destination, immediately upon acceptance of delivery by the purchaser, for a period of 30 days, even though the vehicle has not formally been registered in the Member State of destination.

2. In the event that the vehicle is involved in an accident during the period mentioned in paragraph 1 of this Article while being uninsured, the body referred to in Article 10(1) in the Member State of destination shall be liable for the compensation provided for in Article 9.

CHAPTER 6

STATEMENT, EXCESS, DIRECT ACTION

Article 16

Statement relating to the third party liability claims

Member States shall ensure that the policyholder has the right to request at any time a statement relating to the third party liability claims involving the vehicle or vehicles covered by the insurance contract at least during the preceding five years of the contractual relationship, or to the absence of such claims.

The insurance undertaking, or a body which may have been appointed by a Member State to provide compulsory insurance or to supply such statements, shall provide that statement to the policyholder within 15 days of the request.

Article 17

Excess

Insurance undertakings shall not require any party injured as a result of an accident to bear any excess as far as the insurance referred to in Article 3 is concerned.

Article 18

Direct right of action

Member States shall ensure that any party injured as a result of an accident caused by a vehicle covered by insurance as referred to in Article 3 enjoys a direct right of action against the insurance undertaking covering the person responsible against civil liability.

CHAPTER 7

SETTLEMENT OF CLAIMS ARISING FROM ANY ACCIDENT CAUSED BY A VEHICLE COVERED BY INSURANCE AS

REFERRED TO IN ARTICLE 3

Article 19

Procedure for the settlement of claims

Member States shall establish the procedure referred to in Article 22 for the settlement of claims arising from any accident caused by a vehicle covered by insurance as referred to in Article 3.

In the case of claims which may be settled by the system of national insurers' bureaux provided for in Article 2 Member States shall establish the same procedure as in Article 22.

For the purpose of applying this procedure, any reference to an insurance undertaking shall be understood as a reference to national insurers' bureaux.

Article 20

Special provisions concerning compensation for injured parties following an accident in a Member State other than that of their residence

1. The object of Articles 20 to 26 is to lay down special provisions applicable to injured parties entitled to compensation in respect of any loss or injury resulting from accidents occurring in a Member State other than the Member State of residence of the injured party which are caused by the use of vehicles insured and normally based in a Member State.

Without prejudice to the legislation of third countries on civil liability and private international law, these provisions shall also apply to injured parties resident in a Member State and entitled to compensation in respect of any loss or injury resulting from accidents occurring in third countries whose national insurer's bureaux have joined the green card system whenever such accidents are caused by the use of vehicles insured and normally based in a Member State.

2. Articles 21 and 24 shall apply only in the case of accidents caused by the use of a vehicle:

(a) insured through an establishment in a Member State other than the State of residence of the injured party; and

(b) normally based in a Member State other than the State of residence of the injured party.

Article 21

Claims representatives

1. Each Member State shall take all measures necessary to ensure that all insurance undertakings covering the risks classified in class 10 of point A of the Annex to Directive 73/239/EEC, other than carrier's liability, appoint a claims representative in each Member State other than that in which they have received their official authorisation.

The claims representative shall be responsible for handling and settling claims arising from an accident in the cases referred to in Article 20(1).

The claims representative shall be resident or established in the Member State where he is appointed.

2. The choice of its claims representative shall be at the discretion of the insurance undertaking.

The Member States may not restrict this freedom of choice.

3. The claims representative may act for one or more insurance undertakings.

4. The claims representative shall, in relation to such claims, collect all information necessary in connection with the settlement of the claims and shall take the measures necessary to negotiate a settlement of claims.

The requirement of appointing a claims representative shall not preclude the right of the injured party or his insurance undertaking to institute proceedings directly against the person who caused the accident or his insurance undertaking.

5. Claims representatives shall possess sufficient powers to represent the insurance undertaking in relation to injured parties in the cases referred to in Article 20(1) and to meet their claims in full.

They must be capable of examining cases in the official language(s) of the Member State of residence of the injured party.

6. The appointment of a claims representative shall not in itself constitute the opening of a branch within the meaning of Article 1(b) of Directive 92/49/EEC and the claims representative shall not be regarded as an establishment within the meaning of Article 2(c) of Directive 88/357/EEC or an establishment within the meaning of Regulation (EC) No 44/2001.

Article 22

Compensation procedure

The Member States shall create a duty, backed by appropriate, effective and systematic financial or equivalent administrative penalties, whereby, within three months of the date when the injured party presented his claim for compensation either directly to the insurance undertaking of the person who caused the accident or to its claims representative,

(a) the insurance undertaking of the person who caused the accident or its claims representative is required to make a reasoned offer of compensation in cases where liability is not contested and the damages have been quantified; or

(b) the insurance undertaking to whom the claim for compensation has been addressed or its claims representative is required to provide a reasoned reply to the points made in the claim in cases where liability is denied or has not been clearly determined or the damages have not been fully quantified.

Member States shall adopt provisions to ensure that, where the offer is not made within the three-month time limit, interest shall be payable on the amount of compensation offered by the insurance undertaking or awarded by the court to the injured party.

Article 23

Information centres

1. In order to enable the injured party to seek compensation, each Member State shall establish or approve an information centre responsible:

(a) for keeping a register containing the following information:

(i) the registration numbers of motor vehicles normally based in the territory of the State in question;

(ii) the numbers of the insurance policies covering the use of those vehicles for the risks classified in class 10 of point A of the Annex to Directive 73/239/EEC, other than carrier's liability and, where the period of validity of the policy has expired, the date of termination of the insurance cover;

(iii) insurance undertakings covering the use of vehicles for the risks classified in class 10 of point A of the Annex to Directive 73/239/EEC, other than carrier's liability, and claims representatives appointed by such insurance undertakings in accordance with Article 21 of this Directive whose names are to be notified to the information centre in accordance with paragraph 2 of this Article;

(iv) the list of vehicles which, in each Member State, benefit from the

derogation from the requirement for civil liability insurance cover in accordance with Article 5(1) and (2);

(v) as regards the vehicles provided for in point (iv):

- the name of the authority or body designated in accordance with the third subparagraph of Article 5(1) as responsible for compensating injured parties in the cases where the procedure provided for in Article 2(2)(a) is not applicable, if the vehicle benefits from the derogation provided for in the first subparagraph of Article 5(1),

- the name of the body covering the vehicle in the Member State where it is normally based if the vehicle benefits from the derogation provided for in Article 5(2);

(b) or for coordinating the compilation and dissemination of that information; and

(c) for assisting entitled persons to be apprised of the information mentioned in points (a)(i) to (v).

The information under points (a)(i), (ii) and (iii) must be preserved for a period of seven years after the termination of the registration of the vehicle or the termination of the insurance contract.

2. Insurance undertakings referred to in point (a)(iii) of paragraph 1 shall notify to the information centres of all Member States the name and address of the claims representative appointed by them in accordance with Article 21 in each of the Member States.

3. Member States shall ensure that the injured party is entitled for a period of seven years after the accident to obtain without delay from the information centre of the Member State where he resides, the Member State where the vehicle is normally based or the Member State where the accident occurred the following information:

(a) the name and address of the insurance undertaking;

(b) the number of the insurance policy; and

(c) the name and address of the insurance undertaking's claims representative in the State of residence of the injured party.

Information centres shall cooperate with each other.

4. The information centre shall provide the injured party with the name and address of the owner or usual driver or registered keeper of the vehicle if the injured party has a legitimate interest in obtaining this information. For the purposes of this provision, the information centre shall address itself in particular:

(a) to the insurance undertaking; or

(b) to the vehicle registration agency.

If the vehicle benefits from the derogation provided for in the first subparagraph of Article 5(1) the information centre shall inform the injured party of the name of the authority or body designated in accordance with the third subparagraph of Article 5(1) as responsible for compensating injured parties in

cases where the procedure provided for in Article 2(a) is not applicable.

If the vehicle benefits from the derogation provided for in Article 5(2) the information centre shall inform the injured party of the name of the body covering the vehicle in the country where it is normally based.

5. Member States shall ensure that, without prejudice to their obligations under paragraphs 1 and 4, the information centres provide the information specified in these paragraphs to any party involved in any traffic accident caused by a vehicle covered by insurance as referred to in Article 3.

6. The processing of personal data resulting from paragraphs 1 to 5 must be carried out in accordance with national measures taken pursuant to Directive 95/46/EC.

Article 24

Compensation bodies

1. Each Member State shall establish or approve a compensation body responsible for providing compensation to injured parties in the cases referred to in Article 20(1).

Such injured parties may present a claim to the compensation body in their Member State of residence:

(a) if, within three months of the date when the injured party presented his claim for compensation to the insurance undertaking of the vehicle the use of which caused the accident or to its claims representative, the insurance undertaking or its claims representative has not provided a reasoned reply to the points made in the claim; or

(b) if the insurance undertaking has failed to appoint a claims representative in the Member State of residence of the injured party in accordance with Article 20(1); in such a case, injured parties may not present a claim to the compensation body if they have presented a claim for compensation directly to the insurance undertaking of the vehicle the use of which caused the accident and if they have received a reasoned reply within three months of presenting the claim.

Injured parties may not however present a claim to the compensation body if they have taken legal action directly against the insurance undertaking.

The compensation body shall take action within two months of the date when the injured party presents a claim for compensation to it but shall terminate its action if the insurance undertaking, or its claims representative, subsequently makes a reasoned reply to the claim.

The compensation body shall immediately inform:

(a) the insurance undertaking of the vehicle the use of which caused the

accident or the claims representative;

(b) the compensation body in the Member State in which the insurance undertaking which issued the policy is established;

(c) if known, the person who caused the accident;

that it has received a claim from the injured party and that it will respond to that claim within two months of the presentation of that claim.

This provision shall be without prejudice to the right of the Member States to regard compensation by that body as subsidiary or non-subsidiary and the right to make provision for the settlement of claims between that body and the person or persons who caused the accident and other insurance undertakings or social security bodies required to compensate the injured party in respect of the same accident. However, Member States may not allow the body to make the payment of compensation subject to any conditions other than those laid down in this Directive, in particular the injured party's establishing in any way that the person liable is unable or refuses to pay.

2. The compensation body which has compensated the injured party in his Member State of residence shall be entitled to claim reimbursement of the sum paid by way of compensation from the compensation body in the Member State in which the insurance undertaking which issued the policy is established.

The latter body shall be subrogated to the injured party in his rights against the person who caused the accident or his insurance undertaking in so far as the compensation body in the Member State of residence of the injured party has provided compensation for the loss or injury suffered.

Each Member State shall be obliged to acknowledge this subrogation as provided for by any other Member State.

3. This Article shall take effect:

(a) after an agreement has been concluded between the compensation bodies established or approved by the Member States relating to their functions and obligations and the procedures for reimbursement;

(b) from the date fixed by the Commission upon its having ascertained in close cooperation with the Member States that such an agreement has been concluded.

Article 25

Compensation

1. If it is impossible to identify the vehicle or if, within two months of the date of the accident, it is impossible to identify the insurance undertaking, the injured party may apply for compensation from the compensation body in the Member State where he resides. The compensation shall be provided in accordance

with the provisions of Articles 9 and 10. The compensation body shall then have a claim, on the conditions laid down in Article 24(2):

(a) where the insurance undertaking cannot be identified: against the guarantee fund in the Member State where the vehicle is normally based;

(b) in the case of an unidentified vehicle: against the guarantee fund in the Member State in which the accident took place;

(c) in the case of a third-country vehicle: against the guarantee fund in the Member State in which the accident took place.

2. This Article shall apply to accidents caused by third-country vehicles covered by Articles 7 and 8.

Article 26

Central body

Member States shall take all appropriate measures to facilitate the timely provision to the victims, their insurers or their legal representatives of the basic data necessary for the settlement of claims.

Those basic data shall, where appropriate, be made available in electronic form in a central repository in each Member State, and be accessible by parties involved in the case at their express request.

Article 27

Penalties

Member States shall fix penalties for breaches of the national provisions which they adopt in implementation of this Directive and shall take the steps necessary to secure the application thereof. The penalties shall be effective, proportional and dissuasive. The Member States shall notify to the Commission as soon as possible any amendments concerning provisions adopted pursuant to this Article.

CHAPTER 8

FINAL PROVISIONS

Article 28

National provisions

1. Member States may, in accordance with the Treaty, maintain or bring into force provisions which are more favourable to injured parties than the provisions needed to comply with this Directive.

2. Member States shall communicate to the Commission the text of the main provisions of domestic law which they adopt in the field governed by this Directive.

Article 29

Repeal

Directives 72/166/EEC, 84/5/EEC, 90/232/EEC, 2000/26/EC and 2005/14/EC, as amended by the Directives listed in Annex I, Part A, are hereby repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex I, Part B.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

Article 30

Entry into force

This Directive shall enter into force on the 20th day following its publication in the Official Journal of the European Union.

Article 31

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 16 September 2009.

For the European Parliament
The President

J. Buzek

For the Council
The President

C. Malmström