

Review of Motor Insurance Directive

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**Philippe Caluwaerts
Policy Officer Insurance & Pensions**

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**The views expressed are those of the
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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.*
- *Four amendments since 1972 and a codification in 2009 (Directive 2009/103/EC).*

Context (2)

- *Evaluation of the Motor Insurance Directive in 2017/18*
- *Consumer Financial Services Action Plan (March 2017):*
Two actions on Motor Insurance:
 - **Portability of claims history statements**
 - **Compensation of injured parties in case of insolvency of the insurer**
- *ECJ case law on the scope of the Directive*
- *Insolvencies of cross-border motor insurers*

4 main topics of the proposal

1. *Insolvency of motor insurer*
 2. *Harmonisation of minimum amounts of cover within the EU*
 3. *Unobtrusive checks on uninsured driving*
 4. *Portability of claims history statements*
- *Also codification of CJEU court rulings on the scope of the Directive (not changing the current scope as interpreted by CJEU)*

Insolvency of a motor insurer

- *Insolvency is currently not addressed by the Directive*
- *Voluntary agreements under the Council of Bureaux are incomplete.*
- *Problem exposed due to recent failures of insurers selling policies cross-border.*

Current framework

- *Insolvencies at national level:*
 - **National laws on insolvency, applicable in all but 1 MS**
 - **Main issue: lower levels of compensation of victims in some MS.**
- *Cross-border situations:*
 - **3 Voluntary Agreements 1995; 2006; 2008**
 - **Cater for different types of cross border situations**
- *Main issues :*
 - **Incomplete geographical scope**
 - **Modifications & amendments, not signed by all MS**
 - **Some MS announced derogations on some agreements**
 - **Voluntary nature: unilateral retraction possible**

History of insolvency cases

- *Key figures:*
 - **8 insolvency cases since 1998**
 - **9 Host Member States and 5 Home Member States affected**
 - **Estimated 11.500 claims outstanding**
 - **Total value of approximately EUR 180 million**

Insolvency - What do we propose?

- ***Objective:***
 - **Mandate an orderly process in case of insolvency with clear rules and responsibilities**
- ***Main principle:***
 - **Initial payment of victim:** *compensation body of residence of the victim*
 - **Recourse against the compensation body of the MS of the insolvent insurer**

Insolvency - What do we propose? (2)

- **How:** *New article 10a)*
 - **3 triggers for activating the compensation mechanism:**
 - A) Insurer is subject to bankruptcy proceedings
 - B) Insurer is subject to a winding up procedure
 - C) Lack of a reasoned reply within three months after the claim
 - **Delegated act to define the procedural tasks and obligations**

Thank you for your attention!

