



30.9.2019

## NOTICE TO MEMBERS

**Subject: Petition No 1063/2018 by Andreas Zimmermann (German) on Directive 2009/103/EC 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**

### 1. Summary of petition

The petitioner advocates amending the Directive 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, and lists a number of justifications, such as the lack of mandatory standards, controls and sanctions.

### 2. Admissibility

Declared admissible on 25 February 2019. Information requested from Commission under Rule 227(6).

### 3. Commission reply, received on 30 September 2019

#### The Commission's observations

The functioning of Directive 2009/103/EC<sup>1</sup> (Motor Insurance Directive (MID)) was reviewed in 2017. Based on the findings in the review, the Commission made a proposal for a revision

---

<sup>1</sup> 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 (Text with EEA relevance), *OJL 263, 7.10.2009, p. 11–31*.

of MID on 24 May 2018<sup>2</sup>. This proposal is now being assessed by the EU co-legislators (Parliament and the Council of the European Union). The proposal is intended to strengthen the protection of victims to traffic accidents in a number of respects.

As regards specifically the claims settlement procedure, MID articles 20 to 26 set out minimum requirements to ensure that victims of an accident in a Member State other than that of their residence can obtain compensation. Notably, an insurer must appoint claims representatives to assist in cross-border situations. There is a three month deadline within which a victim must receive a reasoned offer for compensation or a reasoned reply where liability is denied from the insurer or its claims representative. The detailed practices such as the use of accident statements are left to Member States' discretion and might be regulated under national law, by industry standards and via international agreements.

In the public consultation which was part of the review of the Directive, stakeholders did not raise concerns about the claims settlement procedure. Although the Commission did not propose to change this framework, a key part of the proposal provides that if the insurer of the vehicle responsible for an accident is insolvent or does not provide directly or through its claims representative a reasoned reply to a claim within three months, victims would be rapidly and fully compensated in their Member State of residence.

In situations of cross-border provision of insurance policies, the proposal seeks to ensure that the ultimate financial responsibility is borne by the Guarantee Body of the home Member State of the insurer. The proposal also seeks to address in which circumstances injured parties are to be compensated following insolvency of the responsible insurer. EU citizens would continue to benefit from the same level of minimum protection when travelling in the EU, but with an enhanced system of protection in the case of an insolvent insurer. Furthermore, the proposal sets out harmonised minimum levels of coverage for personal injury and material damage across the EU, as current minimum levels differ slightly between Member States.

Another proposed improvement is that insurers will have to treat claims history statements issued by an insurer in a different Member State equally to those issued domestically. This should ensure that citizens purchasing insurance abroad can benefit from more advantageous insurance premiums, on the same level as domestic consumers.

Finally, the petitioner requests that that mandatory insurance should be extended also to vehicles other than motor vehicles. In this regard, the scope of MID remains unchanged and the proposal merely seeks to embody the existing case law into the existing regulatory text, clarifying that accidents caused during the normal use of a vehicle for the purpose of transportation, including its use on private properties, are covered. It should be pointed out that new types of motor vehicles, such as electric bicycles (e-bikes), segways, electric scooters already fall within the scope of the Directive since they are propelled by mechanical power. There is a possibility for the Member States to exempt these types of vehicles on the condition that injured parties are compensated by a Guarantee Fund that under Article 10 of the Directive compensates injured parties of accidents that involve untraced or uninsured

---

<sup>2</sup> COM(2018) 336 final.

vehicles. However, the proposal does not extend mandatory insurance cover to vehicles that are not motorised, leaving this matter to national law, as at present.