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**A5-0130/2000**

5 May 2000

## **\*\*\*III REPORT**

on the joint text approved by the Conciliation Committee for a European Parliament and Council directive 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 amending Directives 73/239/EEC and 88/357/EEC (Fourth Motor Insurance Directive)  
(C5-0155/2000 – 1997/0264(COD))

European Parliament delegation to the Conciliation Committee

Rapporteur: Willi Rothley

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

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## PROCEDURAL PAGE

At the sitting of 16 July 1998 Parliament adopted its position at first reading on the proposal for a Council directive 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 amending Directives 73/239/EEC and 88/357/EEC (Fourth Motor Insurance Directive) (COM (1997) 510 - 1997/0264 (COD)).

At the sitting of 7 October 1999 the President of Parliament announced that the common position had been received and referred to the Committee on Legal Affairs and the Internal Market (14247/1/1999 - C5-0027/1999).

At the sitting of 15 December 1999 Parliament adopted amendments to the common position.

By letter of 28 February 2000 the Council stated that it was unable to approve all Parliament's amendments.

The President of the Council, in agreement with the President of Parliament, convened a meeting of the Conciliation Committee on 9 March 2000.

At the meeting of 9 March 2000 the Conciliation Committee considered the common position on the basis of the amendments proposed by Parliament.

At the same meeting it reached agreement on a joint text.

On 7 April 2000 the co-chairmen of the Conciliation Committee established that the joint text had been approved, pursuant to paragraph III.8 of the Joint declaration on practical arrangements for the new co-decision procedure,<sup>1</sup> and forwarded it to Parliament and the Council in all the official languages.

On 4 May 2000 Parliament's delegation to the Conciliation Committee adopted the draft legislative resolution unanimously.

The following took part at the vote: James L. C. Provan, Vice-President and chairman of the delegation; Ingo Friedrich and Renzo Imbeni, Vice-Presidents; Ana Palacio Vallelersundi, chairman of the Committee on Legal Affairs and the Internal Market; Willi Rothley, rapporteur; Luis Berenguer Fuster (for Maria Berger), Francesco Fiori, Carmen Fraga Estévez (for Klaus-Heiner Lehne), Evelyne Gebhardt (for Bill Miller), Malcolm Harbour, Donald Neil MacCormick, Toine Manders (for Diana Paulette Wallis) and Manuel Medina Ortega.

The report was tabled on 5 May 2000.

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<sup>1</sup> OJ C 148, 28.5.1999, p. 1.

## DRAFT LEGISLATIVE RESOLUTION

**European Parliament legislative resolution on the joint text approved by the Conciliation Committee for a European Parliament and Council directive 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 amending Directives 73/239/EEC and 88/357/EEC (Fourth Motor Insurance Directive) (C5-0155/2000 – 1997/0264(COD))**

**(Codecision procedure: third reading)**

*The European Parliament,*

- having regard to the joint text approved by the Conciliation Committee(C5-0155/2000),
  - having regard to its position at first reading<sup>2</sup> on the Commission proposal to Parliament and the Council (COM(1997) 510<sup>3</sup>),
  - having regard to the amended Commission proposal (COM(1999) 147<sup>4</sup>),
  - having regard to its position at second reading on the Council common position<sup>5</sup>,
  - having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2000) 094 - C5-0111/2000)<sup>5</sup>,
  - having regard to Article 251(5) of the EC Treaty,
  - having regard to Rule 83 of its Rules of Procedure,
  - having regard to the report of its delegation to the Conciliation Committee (A5-0130/2000),
1. Approves the joint text;
  2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
  3. Instructs its Secretary-General duly to sign the act and, in agreement with the Secretary-General of the Council, to have it published in the Official Journal of the European Communities;
  4. Instructs its President to forward this legislative resolution to the Council and Commission.

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<sup>2</sup> OJ C 292 of 21.9.1998 p. 133.

<sup>3</sup> OJ C 343 of 13.11.1997, p. 011.

<sup>4</sup> OJ C 171 of 18.6.1999, p. 004.

<sup>5</sup> Not yet published in the OJ.

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## EXPLANATORY STATEMENT

### 1. Background

On 26 October 1995 the European Parliament adopted a resolution pursuant to Article 192 (ex-Article 138b) of the EC Treaty calling for a Commission proposal for a directive on the settlement of claims arising from traffic accidents occurring outside the claimant's country of origin.

The Commission submitted on 10 October 1997 a proposal (COM(97) 510 final), on which the Parliament delivered its opinion on 16 July 1998. The Council adopted its common position on 21 May 1999.

The purpose of the EP legislative initiative was to resolve a problem not covered by the "green card" system, i.e. cases where a road accident occurs in the country of residence of the person causing the accident and the injured party is not resident in that State or where the accident occurs in a third State, where neither the injured nor the liable party is resident. Some 500 000 cases where the 'visiting motorist' suffers a damage take place annually.

The solution proposed by the EP legislative initiative was the following. The insurer who is financially liable to meet a given claim should be made more accessible to the victim by:

- introducing in national laws a direct right of action, i.e. a right enabling the victim to make a direct claim against the insurer providing cover for the vehicle of the liable party;
- requiring that every insurance undertaking operating in the Community must appoint a representative in every Member State, responsible for settling claims on its behalf and for its account. This will ensure that the victim can deal with somebody in his own country and in his language; and
- establishing information centres to enable victims at any time to identify the appropriate claims representative.

A further element was added by the Commission proposal stipulating that the Member States establish compensation bodies required to act if the insurer failed to appoint a claims representative or the insurer or its representative failed to make an offer of compensation.

### 2. Parliament's assessment of the common position

The common position took account of most of the amendments that Parliament adopted in its first reading and that the Commission incorporated into its amended proposal. There remained a major point of divergence between the common position and Parliament's opinion. This concerned Parliament's demand to enlarge the scope of the directive by extending it to cover accidents occurring in third countries. According to the EP, it seemed both reasonable and feasible to deal with an accident occurring for example between a Frenchman and a German in Switzerland according to the rules of the directive.

The attempt to resolve this divergence during the EP second reading failed because of Council's opposition, based on an argument that the enlargement of the scope of the directive would create extra-territorial effects as result of Community legislation.

Other major amendments adopted in the EP second reading concerned the insurance undertaking's right to choose its claims representative, the possibility for one claims representative to work for several insurance undertakings, the injured party's right to use the language of the Member State of his/her residence, the injured party's right of information and the entry into force and application of provisions concerning the compensation bodies. A total of 19 amendments were adopted on 15 December 1999 at second reading.

### **3. The conciliation procedure**

After the breaking of the deadlock in the Council concerning the idea that accidents between Community parties occurring in third countries could also be covered by this directive, the conciliation procedure ran relatively smoothly. After three meetings of the EP delegation and two triologue meetings between the three institutions, a global compromise could be approved without debate at the Conciliation Committee on « Late Payments Directive » on 9 March 2000.

On the main question a compromise was reached by way of enlarging the scope of the directive to accidents occurring in third countries which are members of the "green card" system. This will cover over 90 per cent of third country accidents involving Community parties.

The Council accepted the EP amendments concerning the rights of the insurance undertakings and the injured parties. For the entry into force and application of Article 6 concerning compensation bodies a satisfactory compromise was found.

In the framework of a global compromise and since the main objectives were reached as far as citizens' rights were concerned, the EP delegation did not insist on the amendments of a legal or administrative nature, where the Council in its common position had modified the Commission proposal.

### **4. Conclusion**

This directive is an important addition to EC law for two reasons:

- from the point of view of its citizens, it provides injured parties with the possibility of getting their claims settled also in cases where the accidents happen in countries other than their own and where the liable party is not resident or insured in the same Member State as the injured party. The injured party can effectively seek for compensation for their injuries in their country of residence and in their own language;
- from the point of view of the European Parliament, for the first time the legislative initiative provided for in the Treaty has led to the conclusion of a legislative act. This is therefore a historic moment.

Hence, the Delegation recommends that the Plenary adopt the Joint Text approved by the Conciliation Committee.