

**AMENDMENTS 001-054**

by the Committee on the Internal Market and Consumer Protection

**Report****Dita Charanzová****A8-0035/2019**

Insurance of motor vehicles

Proposal for a directive (COM(2018)0336 – C8-0211/2018 – 2018/0168(COD))

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**Amendment 1****Proposal for a directive****Recital 1***Text proposed by the Commission*

(1) 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 *potential victims* of an accident. It is also a major concern for insurance undertakings, as it constitutes an important segment of non-life insurance business in the Union. Motor insurance also has *an* impact on the free movement of persons, goods and vehicles. It should therefore be a key objective of the Union action in the field of financial services to reinforce and consolidate the internal market for motor insurance.

*Amendment*

(1) 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 *can potentially be injured parties as a result* of an accident. It is also a major concern for insurance undertakings, as it constitutes an important segment of non-life insurance business in the Union. Motor insurance also has *a significant* impact on the free movement of persons, goods and vehicles, *and hence on the internal market and the Schengen area*. It should therefore be a key objective of the Union action in the field of financial services to reinforce and consolidate the internal market for motor insurance.

*(If this amendment is adopted, further corresponding amendments should be drafted to the recitals of this amending act.)*

## Justification

*This amendments seeks to correct an oversight that happened when all the motor insurance directives were merged in 2009. Some Articles include the term “victim” which has been viewed to only includes direct victims of an accident, while other Articles use the term “injured party” which has been viewed to include both direct and indirect victims (like family members after a fatal accident). In order to ensure that all potential claims are covered, the term injured party/parties should be used throughout the text. It should be noted that, while "victim" is not defined, the term "injured party" is defined in Article 1.*

## Amendment 2

### Proposal for a directive

#### Recital 2

##### *Text proposed by the Commission*

(2) The Commission has carried out an evaluation of the functioning of Directive 2009/103/EC of the European Parliament and of the Council<sup>15</sup>, including its efficiency effectiveness and coherence with other Union policies. The conclusion of the evaluation was that Directive 2009/103/EC functions well on the whole, and does not need amendment in most aspects. However, four areas were identified where targeted amendments would be appropriate: compensation of **victims of** accidents in cases of insolvency of an insurance undertaking, minimum obligatory amounts of insurance cover, insurance checks of vehicles by Member States, and the use of policyholders' **claims history** statements by a new insurance undertaking.

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<sup>15</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

##### *Amendment*

(2) The Commission has carried out an evaluation of the functioning of Directive 2009/103/EC of the European Parliament and of the Council<sup>15</sup>, including its efficiency effectiveness and coherence with other Union policies. The conclusion of the evaluation was that Directive 2009/103/EC functions well on the whole, and does not need amendment in most aspects. However, four areas were identified where targeted amendments would be appropriate: compensation of **parties injured in** accidents in cases of insolvency of an insurance undertaking, minimum obligatory amounts of insurance cover, insurance checks of vehicles by Member States, and the use of policyholders' **claims-history** statements by a new insurance undertaking. ***In addition to these four areas, in order to better protect injured parties, new rules should be introduced on liability in case of an accident involving a trailer towed by a powered vehicle.***

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<sup>15</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 (OJ L 263, 7.10.2009, p. 11).

liability (OJ L 263, 7.10.2009, p. 11).

### **Amendment 3**

#### **Proposal for a directive**

#### **Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

*(3a) Some motor vehicles such as electric bicycles and segways are smaller and are therefore less likely to cause significant damage to persons or property than others. It would be disproportionate and not future proof to include them in the scope of Directive 2009/103/EC, as it would impose an obligation to have an expensive and excessive insurance cover for these vehicles. Such situation would also undermine the uptake of these vehicles and discourage innovation, although there is insufficient evidence that these vehicles could cause accidents resulting in injured parties at the same scale as other vehicles, such as cars or trucks. In line with the principles of subsidiarity and proportionality, requirements at Union level should cover those vehicles that have the potential to cause significant damage in a cross-border situation. It is therefore necessary to limit the scope of Directive 2009/103/EC to those vehicles for which the Union considers that there need to be safety and security requirements before those vehicles are placed on the market, i.e. the vehicles subject to an EU type-approval.*

### **Amendment 4**

#### **Proposal for a directive**

#### **Recital 3 b (new)**

*Text proposed by the Commission*

*Amendment*

***(3b) However, it is important to allow Member States to decide at national level the appropriate level of protection of parties potentially injured by vehicles other than those subject to EU type-approval. Therefore, it is important that Member States are allowed to maintain or introduce new mandatory provisions covering the protection of users of these other types of vehicles in order to protect potential injured parties from a traffic accident. Where a Member State chooses to require such insurance coverage in the form of compulsory insurance, it should take into account the likelihood that a vehicle might be used in a cross-border situation and the need for protection of potential injured parties in another Member State.***

## **Amendment 5**

### **Proposal for a directive Recital 3 c (new)**

*Text proposed by the Commission*

*Amendment*

***(3c) It is also appropriate to exclude from the scope of Directive 2009/103/EC vehicles intended exclusively for motorsports, as these vehicles are generally covered by other forms of liability insurance and not subject to compulsory motor insurance when they are solely used for a competition. Since the use of such vehicles is limited to a controlled track or space, the chance of an accident with unrelated vehicles or persons is also limited. However, it is important that Member States maintain or introduce new mandatory provisions to cover vehicles that participate in a motorsport event.***

## Amendment 6

### Proposal for a directive Recital 3 d (new)

*Text proposed by the Commission*

*Amendment*

***(3d) This Directive strikes an appropriate balance between the public interest and the potential costs for public authorities, insurers and policy holders, with a view to ensuring that the measures proposed are cost-effective.***

## Amendment 7

### Proposal for a directive Recital 3 e (new)

*Text proposed by the Commission*

*Amendment*

***(3e) Use of a vehicle in traffic should include the use of a vehicle in circulation on public and private roadways. This could include all driveways, parking lots or any other equivalent areas on private terrain which are accessible by the general public. The use of a vehicle in a closed area, where no access is possible by the general public, should not be considered to be use of a vehicle in traffic. Nonetheless, when a vehicle is used in traffic at any point and is therefore subject to a compulsory insurance requirement, Member States should ensure that the vehicle is covered by an insurance policy that includes potential injured parties, during the period of the contract, regardless of whether the vehicle is used in traffic or not at the time of the accident, except where the vehicle is used in a motorsports event. Member States should be able to limit non-traffic related insurance cover where there is no reasonable expectation of cover, as is the case of a tractor involved in an accident of which the primary function, at that time, was not to serve as a means of transport, but to generate, as a machine***

*for carrying out work, the motive power necessary to function.*

## Amendment 8

### Proposal for a directive Recital 3 f (new)

*Text proposed by the Commission*

*Amendment*

*(3f) Use of a vehicle exclusively in non-traffic situations should be excluded from the scope of Directive 2009/103/EC. Moreover, Member States should not require insurance cover for vehicles which are permanently or temporarily de-registered due to their inability to be used as a means of transport, because, for example, they are in a museum, they are undergoing restoration or they have not been used for an extended period of time for another reason, such as seasonal use.*

## Amendment 9

### Proposal for a directive Recital 4

*Text proposed by the Commission*

*Amendment*

(4) Member States currently **should refrain** from performing checks of insurance on vehicles normally based on 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. New technological developments allow for checking insurance of vehicles without stopping them and thus without interfering with the free movement of persons. It is therefore appropriate allow those checks of insurance on vehicles, only if they are non-discriminatory, necessary and proportionate, form part of a general system of checks on the national territory

(4) Member States **are** currently **refraining** from performing checks of insurance on vehicles normally based on 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. New technological developments, **such as the technology allowing automatic number-plate recognition**, allow for **the discrete** checking **of** insurance of vehicles without stopping them and thus without interfering with the free movement of persons. It is therefore appropriate **to** allow those checks of insurance on vehicles, only if they are

and do not require stopping of the vehicle.

non-discriminatory, necessary and proportionate, form part of a general system of checks on the national territory, *which are carried out also in respect of vehicles based in the territory of the Member State performing the checks*, do not require stopping of the vehicle *and if they are carried out in full respect of the rights, freedoms and legitimate interests of the person concerned*.

## **Amendment 10**

### **Proposal for a directive Recital 4 a (new)**

*Text proposed by the Commission*

*Amendment*

*(4a) In order to enable such a system to function, there needs to be an exchange of information between Member States to allow motor insurance coverage checks even if a vehicle is registered in another Member State. This exchange of information, based on the existing EUCARIS system (the European Car and Driving License Information System), should be carried out in a non-discriminatory manner, as all vehicles should be subject to the same verification. The amendments introduced by this Directive will have a limited impact on public administrations since this exchange system already exists and is used to address traffic offences.*

*Justification*

*The current EUCARIS information exchange system should be used for insurance verification checks.*

## **Amendment 11**

### **Proposal for a directive Recital 4 b (new)**

*Text proposed by the Commission*

*Amendment*

***(4b) Uninsured driving, i.e. use of a motor vehicle without a compulsory insurance cover against civil liability is an increasing problem within the Union. The cost resulting out of that uninsured driving has been estimated at € 870 million in claims in 2011 for the Union as a whole. It should be stressed that uninsured driving negatively affects a wide range of stakeholders including victims of accidents, insurers, guarantee funds and motor insurance policyholders.***

## **Amendment 12**

### **Proposal for a directive Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) In line with those principles, Member States should not retain data longer than the period needed to verify whether a vehicle holds valid insurance coverage. When a vehicle is found to be covered, all data related to this verification should be erased. When a verification system is unable to determine if a vehicle is insured, that data should only be held for a maximum period of 30 days or until the valid insurance coverage of the vehicle has been demonstrated, whichever is shorter. For those vehicles which have been found not to be covered by a valid insurance coverage, it is reasonable to require that this data are retained until any administrative or judicial processes are completed and the vehicle is covered by a valid insurance policy.***

#### *Justification*

*Scanning of vehicles will allow governments to track the movement of individuals. This may be an invasion of their privacy. The right to privacy should only be removed for legitimate reasons. Such a reason could be when a vehicle is discovered to lack required insurance. However, for those vehicles that have shown to be covered by motor insurance (so-called “no-hit” vehicles), this record should be not used for any other reason and should be erased*

*within a reasonable amount of time. This retention time should be limited and sit down in the legislation, in line with other EU legislation such as the E-call Directive.*

## **Amendment 13**

### **Proposal for a directive**

#### **Recital 7**

##### *Text proposed by the Commission*

(7) Effective and efficient protection of **victims** of traffic accidents requires that those **victims** are always reimbursed for their personal injuries or for damage to their property, irrespective of whether the insurance undertaking of the party liable is solvent or not. Member States should therefore set up or appoint a body that provides initial compensation for injured parties habitually residing within their territory, and which has the right to reclaim that compensation from the body set up or appointed for the same purpose in the Member State of establishment of the insurance undertaking which issued the policy of the vehicle of the liable party. However, to avoid parallel claims being introduced, victims of traffic incidents should not be allowed to present a claim for compensation with that body if they have already presented their claim **or have taken legal action with the insurance undertaking concerned** and that claim is still under consideration **and that action is still pending**.

##### *Amendment*

(7) Effective and efficient protection of **parties injured as a result** of traffic accidents requires that those **injured parties** are always reimbursed **the amounts due** for their personal injuries or for damage to their property, irrespective of whether the insurance undertaking of the party liable is solvent or not. Member States should therefore set up or appoint a body that provides, **without any delay, initial compensation, at least up to the limits of the insurance obligation referred to in Article 9(1) of Directive 2009/103/EC or the guarantee limits prescribed by the Member State, if higher,** for injured parties habitually residing within their territory, and which has the right to reclaim that compensation from the body set up or appointed for the same purpose in the Member State of establishment of the insurance undertaking which issued the policy of the vehicle of the liable party. However, to avoid parallel claims being introduced, victims of traffic incidents should not be allowed to present a claim for compensation with that body if they have already presented their claim and that claim is still under consideration.

##### *Justification*

*While an individual should be prevented from seeking multiple compensation claims from different compensation bodies, there is no reason to prevent these claims if they are suing the insolvent company. They can be many reasons for an individual to enter into a lawsuit with an insolvent company, beyond what is covered by minimum motor insurance. At the same time, insolvency cases may take many years before receiving a final decision. Therefore, an accident victim should not be required to wait for compensation. Of course, Member States may seek to recover that compensation amount from any award from a legal ruling.*

## Amendment 14

### Proposal for a directive Recital 8

#### *Text proposed by the Commission*

(8) Previous claims histories of policyholders who seek to conclude new insurance contracts with insurance undertakings should be easily authenticated in order to facilitate the recognition of such claims history when concluding a new insurance policy. In order to simplify the verification and authentication of **claims history** statements, it is important that the content and format of the statement of such claims histories are the same across all Member States. In addition, insurance undertakings that take into account **claims history** statements to determine motor insurance premiums should not discriminate on the basis of nationality or solely on the basis of the previous Member State of residence of the policyholder. To enable Member States to verify how insurance undertakings treat **claims history** statements, insurance undertakings should publish their policies in respect of their use of claims history when calculating premiums.

#### *Amendment*

(8) Previous claims histories of policyholders who seek to conclude new insurance contracts with insurance undertakings should be easily authenticated in order to facilitate the recognition of such claims history when concluding a new insurance policy. In order to simplify the verification and authentication of **claims-history** statements, it is important that the content and format of the statement of such claims histories are the same across all Member States. In addition, insurance undertakings that take into account **claims-history** statements to determine motor insurance premiums should not discriminate on the basis of nationality or solely on the basis of the previous Member State of residence of the policyholder. ***Additionally, insurance undertakings should treat a statement from another Member State as equal to a domestic statement and apply any discounts available to an otherwise identical potential client and those discounts that are required by a Member State's national legislation. Member States should remain free to adopt national legislation on the 'bonus-malus' systems since such systems are national in nature, without any cross-border element, and therefore, under the principle of subsidiarity, decision-making with regard to those systems should remain with the Member States.*** To enable Member States to verify how insurance undertakings treat **claims-history** statements, insurance undertakings should publish their policies in respect of their use of claims history when calculating premiums.

#### *Justification*

*Not only should insurers not discriminate and surcharge foreigners or returning nationals,*

*but they should treatment the statement as equal to a domestic statement and apply any discounts available to an otherwise identical potential client and those discounts that are required by a Member State's law. It shall remain a national competence as to if a Member State wishes to adopt national legislation on "bonus-malus" systems. Such systems are national in nature without any cross-border element, beyond that they must be applied equally to everyone on a single territory.*

## **Amendment 15**

### **Proposal for a directive Recital 9**

*Text proposed by the Commission*

*Amendment*

***(9) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission regarding the content and the form of the claims history statement. Those implementing powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>20</sup>.***

***deleted***

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<sup>20</sup> ***Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).***

## **Amendment 16**

### **Proposal for a directive Recital 9 a (new)**

*Text proposed by the Commission*

*Amendment*

***(9a) In order to bring full effect to the use of claims-history statements when calculating premiums, Member States should encourage the participation of insurance undertakings in transparent***

## Amendment 17

### Proposal for a directive

#### Recital 10

##### *Text proposed by the Commission*

(10) To ensure that the minimum amounts stay in line with the evolving economic reality (and are not eroded over time) the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the adaptation of those minimum amounts *of cover of motor third party liability insurance to reflect the evolving economic reality*, as well as *to define* the procedural tasks and the procedural obligations of the bodies set up to provide compensation or entrusted the task of providing compensation pursuant to Article 10a with regard to the reimbursement. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making *of 13 April 2016*. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

##### *Amendment*

(10) *The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the establishment of the content and the form of claims-history statements.* To ensure that the minimum amounts *of cover of motor civil liability insurance* stay in line with the evolving economic reality (and are not eroded over time) the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the adaptation of those minimum amounts, as well as *the definition of* the procedural tasks and the procedural obligations of the bodies set up to provide compensation or entrusted *with* the task of providing compensation pursuant to Article 10a *of Directive 2009/103/EC* with regard to the reimbursement. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement *of 13 April 2016* on Better Law-Making<sup>1a</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

## Amendment 18

### Proposal for a directive

#### Recital 11

*Text proposed by the Commission*

(11) As part of the evaluation of the functioning of **the** Directive, the European Commission should monitor the application of **the** Directive, taking into account the number of **victims**, the amount of outstanding claims due to delays in payments following cross-border insolvency cases, the level of minimum amounts of cover in Member States, the amount of claims due to uninsured driving relating to cross-border traffic and the number of complaints regarding **claims history** statements

*Amendment*

(11) As part of the evaluation of the functioning of Directive **2009/103/EC**, the European Commission should monitor the application of **that** Directive, taking into account the number of **injured parties**, the amount of outstanding claims due to delays in payments following cross-border insolvency cases, the level of minimum amounts of cover in Member States, the amount of claims due to uninsured driving relating to cross-border traffic and the number of complaints regarding **claims-history** statements. **The Commission should also monitor and review Directive 2009/103/EC in light of technological developments, including the increased use of autonomous and semi-autonomous vehicles, to ensure that it continues to serve its purpose, which is to protect potential injured parties from accidents involving motor vehicles. It should also analyse the liability system of high-speed lightweight vehicles, and a potential Union-wide solution of a bonus-malus system.**

## Amendment 19

### Proposal for a directive

#### Recital 12

*Text proposed by the Commission*

(12) Since the objectives of this Directive, in particular to ensure an equal minimum protection of **victims** of traffic accidents across the Union **and** to ensure **the** protection **of victims** in case of insolvency

*Amendment*

(12) Since the objectives of this Directive, in particular to ensure an equal minimum protection of **parties injured as a result** of traffic accidents across the Union, to ensure **their** protection in case of

of insurance undertakings, cannot be sufficiently achieved by the Member States but can rather, by reason of their effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty of the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

insolvency of insurance undertakings ***and to ensure equal treatment in the authentication of claims-history statements by insurers for potential policy holders crossing internal Union borders*** cannot be sufficiently achieved by the Member States but can rather, by reason of their effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty of the European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

## **Amendment 20**

### **Proposal for a directive Recital 13 a (new)**

*Text proposed by the Commission*

*Amendment*

***(13a) In order to promote a consistent approach for parties injured as a result of incidents where a motor vehicle is used as a weapon to commit a violent crime or terrorist act, Member States should ensure that their compensation body set up or authorised in accordance with Article 10 of Directive 2009/103/EC handles any and all claims arising from such a crime or act.***

## **Amendment 21**

### **Proposal for a directive Article 1 – paragraph 1 – point -1 (new)**

*Text proposed by the Commission*

*Amendment*

***(-1) The word ‘victim’ is replaced by ‘injured party’ and ‘victims’ is replaced by ‘injured parties’, throughout the Directive.***

*(Final exact wording of "injured party" needs to be determined case by case, based on grammatical needs, and the adoption of this amendment would result in the creation of further corresponding amendments to the amended Directive.)*

### *Justification*

*This amendment seeks to correct an oversight that happened when all the motor insurance directives were merged in 2009. Some Articles include the term "victim" which has been viewed to only include direct victims of an accident, while other Articles use the term "injured party" which has been viewed to include both direct and indirect victims (like family members after a fatal accident). In order to ensure that all potential claims are covered, the term injured party/parties should be used throughout the text. It should be noted that, while "victim" is not defined, the term "injured party" is defined in Article 1.*

## **Amendment 22**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1**

Directive 2009/103/EC

Article 1 – paragraph 1 – point 1a

#### *Text proposed by the Commission*

1a. 'use of a vehicle' means any use of ***such*** vehicle, ***intended normally to serve as a means of transport***, that is consistent with the ***normal*** function ***of that vehicle***, irrespective of the vehicle's characteristics and irrespective of the terrain on which the motor vehicle is used and of whether it is stationary or in motion.

#### *Amendment*

1a. 'use of a vehicle' means any use of ***a*** vehicle ***in traffic*** that is consistent with the ***vehicle's*** function ***as a means of transport at the time of the accident***, irrespective of the vehicle's characteristics and irrespective of the terrain on which the motor vehicle is used and of whether it is stationary or in motion;

## **Amendment 23**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 1 a (new)**

Directive 2009/103/EC

Article 2 – paragraphs 1 a and 1 b (new)

#### *Text proposed by the Commission*

#### *Amendment*

***(1a) In Article 2, the following paragraphs are added:***

***"This Directive shall only apply to***

*vehicles covered by Regulation (EU) 2018/858\*, Regulation (EU) No 167/2013\*\* or Regulation (EU) No 168/2013\*\*\*.*

*This Directive shall not apply to vehicles that are intended exclusively for use in the context of participation in a competitive sport activity, or in related sport activities, within a closed area.*

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*\* Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1).*

*\*\* Regulation (EU) No 167/2013 of the European Parliament and of the Council of 5 February 2013 on the approval and market surveillance of agricultural and forestry vehicles (OJ L 60, 2.3.2013, p. 1).*

*\*\*\* Regulation (EU) No 168/2013 of the European Parliament and of the Council of 15 January 2013 on the approval and market surveillance of two- or three-wheel vehicles and quadricycles (OJ L 60, 2.3.2013, p. 52)."*

#### *Justification*

*While the inclusion of non-type approved vehicles might increase insurance coverage, it will also dissuade the uptake of alternative vehicles, like e-bikes, which are better for the environment. Moreover, most non-type approved vehicles are small in size and therefore the chance of significant damage to persons or property is limited. Other forms of liability insurance than Motor Insurance should cover these non-type approved vehicles. Motor Sports are generally covered by other forms of insurance. The addition of MID requirements would only add an additional cost. Insurance companies might also shift the risks of sporting events into the premiums of normal vehicle users. This would have a negative effect on consumers, while bring limited benefits in terms of potential accident victims. The exclusion should not prevent from individuality requiring equivalent insurance coverage at Member State level.*

## Amendment 24

### Proposal for a directive

#### Article 1 – paragraph 1 – point 1 b (new)

Directive 2009/103/EC

Article 3 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***(1b) In Article 3, the following paragraph is added:***

***“Member States shall ensure that when a vehicle is required to hold insurance pursuant to the first paragraph, the insurance is also valid and covers injured parties in the case of accidents occurring:***

***(a) when the vehicle is in traffic and not being used in accordance with its primary function; and***

***(b) outside the use of the vehicle in traffic.***

***Member States may adopt limitations on insurance coverage in respect of the use outside the use of the vehicle in traffic as referred to in point (b) of the fifth paragraph. This provision shall be used as an exception and only when necessary, where Member States consider that such coverage would go beyond what can be reasonably expected from a motor insurance. This provision may never be used to circumvent the principles and rules set out in this Directive.”***

## Amendment 25

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2

Directive 2009/103/EC

Article 4 – paragraph 1 – subparagraph 2

*Text proposed by the Commission*

*Amendment*

However, they may carry out such checks on insurance provided that those checks are non-discriminatory, necessary and proportionate to achieve the end pursued,

However, they may carry out such checks on insurance provided that those checks are non-discriminatory, necessary and proportionate to achieve the end pursued, ***respect the rights, freedoms and legitimate***

and

*interests of the person concerned, and*

## **Amendment 26**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2**

Directive 2009/103/EC

Article 4 – paragraph 1 – subparagraph 2 – point b

*Text proposed by the Commission*

(b) they form part of a general system of checks on the national territory and do not require the vehicle to stop.

*Amendment*

(b) they form part of a general system of checks on the national territory ***which are carried out also in respect of vehicles normally based in the territory of the Member State carrying out the check,*** and do not require the vehicle to stop.

## **Amendment 27**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2**

Directive 2009/103/EC

Article 4 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. For the purposes of carrying out checks on insurance, as referred to in paragraph 1, a Member State shall grant other Member States access to the following national vehicle registration data, with the power to conduct automated searches thereon:***

***(a) data on whether a vehicle is covered by a compulsory insurance;***

***(b) data relating to owners or holders of the vehicle which is relevant to their insurance against civil liability subject to Article 3.***

***Access to those data shall be granted through the Member States' national contact points, as designated pursuant to Article 4(2) of Directive (EU) 2015/413\*.***

*\* Directive (EU) 2015/413 of the European Parliament and of the Council of 11 March 2015 facilitating cross-border exchange of information on road-safety-related traffic offences (OJ L 68, 13.3.2015, p. 9)*

## **Amendment 28**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 2**

Directive 2009/103/EC

Article 4 – paragraph 1 b (new)

*Text proposed by the Commission*

*Amendment*

***1b. When conducting a search in the form of an outgoing request, the national contact point of the Member State carrying out an insurance check shall use a full registration number. Those searches shall be conducted in compliance with the procedures laid down in Chapter 3 of the Annex to Decision 2008/616/JHA\*. The Member State carrying out an insurance check shall use the data obtained in order to establish whether a vehicle is covered by a valid compulsory insurance subject to Article 3 of this Directive.***

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***\* Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 12).***

#### *Justification*

*The exchange of data on insurances is necessary for the achievement of the main objective of this Directive, among others, facilitating the free movement of vehicles between the MS and removing obstacles to the proper functioning of an integrated market for motor insurance. Moreover, we should use the existing EUCARIS system which is set out in Council Decision 2008/616/JHA in order to ensure that this exchange of information can actually take place.*

## Amendment 29

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2

Directive 2009/103/EC

Article 4 – paragraph 1 c (new)

*Text proposed by the Commission*

*Amendment*

***1c. Member States shall ensure the security and protection of the data transmitted, as far as possible using existing software applications, such as the one referred to in Article 15 of Decision 2008/616/JHA, and amended versions of those software applications, in compliance with Chapter 3 of the Annex to Decision 2008/616/JHA. The amended versions of the software applications shall provide for both online real-time exchange mode and batch exchange mode, the latter allowing for the exchange of multiple requests or responses within one message.***

#### *Justification*

*The exchange of data on insurances is necessary for the achievement of the main objective of this Directive, among others, facilitating the free movement of vehicles between the MS and removing obstacles to the proper functioning of an integrated market for motor insurance. Moreover, we should use the existing EUCARIS system which is set out in Council Decision 2008/616/JHA in order to ensure that this exchange of information can actually take place.*

## Amendment 30

### Proposal for a directive

#### Article 1 – paragraph 1 – point 2

Directive 2009/103/EC

Article 4 – paragraph 2 – subparagraphs 1 a, 1 b and 1 c (new)

*Text proposed by the Commission*

*Amendment*

***The Member States shall, in particular, specify the precise purpose, refer to the relevant legal basis, comply with the relevant security requirements and respect the principles of necessity, proportionality, and purpose limitation, and shall set a proportionate data***

*retention period.*

*The personal data processed pursuant to this Article shall not be retained longer than necessary for the purpose of handling an insurance check. Those data shall be fully erased as soon as they are no longer necessary for that purpose. Where an insurance check shows that a vehicle is covered by a compulsory insurance subject to Article 3, the controller shall immediately erase those data. When a check is unable to determine if a vehicle is covered by a compulsory insurance subject to Article 3, the data shall be retained for a proportionate period of not more than 30 days or until the time necessary to determine the insurance coverage as existing, whichever is shorter.*

*Where a Member State determines that a vehicle is travelling without compulsory insurance subject to Article 3, it may apply the penalties established in accordance with Article 27.*

#### *Justification*

*Scanning of vehicles will allow governments to track the movement of individuals. This maybe an invasion of their privacy. The right to privacy should only be removed for legitimate reasons. Such a reason could be when a vehicle is discovered to lack required insurance. However, for those vehicles that have shown to be covered by motor insurance (so-called “no-hit” vehicles), this record should be not used for any other reason and should be erased within a reasonable amount of time. This retention time should be limited and be laid down in the legislation, in line with other EU legislation such as the E-call Directive.*

#### **Amendment 31**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 3**

Directive 2009/103/EC

Article 9 – paragraph 1 – subparagraph 1 – point a

*Text proposed by the Commission*

(a) for personal injuries: EUR 6 070 000 per accident, irrespective of the number of *victims*, or EUR 1 220 000 per *victim*;

*Amendment*

(a) for personal injuries: EUR 6 070 000 per accident, irrespective of the number of *injured parties*, or EUR 1 220 000 per

*injured party;*

## Amendment 32

### Proposal for a directive

#### Article 1 – paragraph 1 – point 3

Directive 2009/103/EC

Article 9 – paragraph 1 – subparagraph 1 – point b

*Text proposed by the Commission*

*Amendment*

(b) for **damages** to property, EUR 1 220 000 per **claim**, irrespective of the number of **victims**.

(b) for **damage** to property, EUR 1 220 000 per **accident**, irrespective of the number of **injured parties**.

*Justification*

*In order to avoid incorrect transposition, the term “per claim” which has different meanings when translated should be replaced by “per accident” which will lead to a more common understanding.*

## Amendments 33

### Proposal for a directive

#### Article 1 – paragraph 1 – point 3 a (new)

Directive 2009/103/EC

Article 10 – paragraph 1 – subparagraph 1

*Present text*

*Amendment*

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.

***(3a) In Article 10, the first subparagraph of paragraph 1 is replaced by the following:***

“Each Member State shall set up or authorise a body with the task of providing compensation ***of*** at least up to the limits of the insurance obligation ***referred to in Article 9(1) or the guarantee limits prescribed by the Member State, if higher,*** 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, ***including with respect to incidents where a motor vehicle is used as a weapon to commit a violent crime or terrorist act.***”

## Justification

*This amendment is necessary as it is inextricably linked to the provisions in Article 10a on the protection of injured parties in case of insolvency of an insurance undertaking or lack of cooperation of an insurance undertaking.*

### Amendment 34

#### Proposal for a directive

#### Article 1 – paragraph 1 – point 4

Directive 2009/103/EC

Article 10a

#### *Text proposed by the Commission*

Article 10a

Protection of injured parties in case of insolvency of an insurance undertaking ***or lack of cooperation of an insurance undertaking***

1. Member ***States*** shall set up or authorise a body to compensate injured parties habitually residing within their territory, ***at least up to the limits of the insurance obligation*** referred to in ***Article 9(1) for personal injuries or material damage, caused by a vehicle insured by an insurance undertaking in any of the***

#### *Amendment*

Article 10a

Protection of injured parties in case of insolvency of an insurance undertaking

***-1. Member States shall take all measures necessary to ensure that injured parties have the right to claim compensation, at least up to the limits of the insurance obligation referred to in Article 9(1) or the guarantee limits prescribed by the Member State, if higher, for personal injuries or damage to property caused by a vehicle insured by an insurance undertaking in the following situations:***

***(a) the insurance undertaking is subject to bankruptcy proceedings; or***

***(b) the insurance undertaking is subject to winding-up proceedings as defined in Article 268(d) of Directive 2009/138/EC of the European Parliament and of the Council\*.***

1. ***Each Member State*** shall set up or authorise a body to compensate injured parties, habitually residing within their territory, ***in the situations*** referred to in ***paragraph -1.***

*following situations:*

*(a) the insurance undertaking is subject to bankruptcy proceedings;*

*(b) the insurance undertaking is subject to a winding up procedure as defined in Article 268(d) of Directive 2009/138/EC of the European Parliament and of the Council\*\*\*;*

*(c) the insurance undertaking or its claims representative has not provided a reasoned reply to the points made in a claim for compensation within three months after the date on which the injured party presented his or her claim to that insurance undertaking.*

*2. Injured parties may not present a claim to the body referred to in paragraph 1 if they have presented a claim directly to or taken legal action directly against the insurance undertaking and such claim or legal action is still pending.*

3. The body referred to in paragraph 1 shall *give a reply to the claim* within *two* months *after the date on* which the injured party has *presented* his or her claim for compensation.

*3. The injured party may apply for compensation directly to the body referred to in paragraph 1. That body shall, on the basis of information provided at its request by the injured party, provide the injured party with a reasoned reply regarding the payment of any compensation within three months from the date when the injured party applies for compensation.*

*Where compensation is due, the body referred to in paragraph 1 shall within three months of communicating its reply, provide the full compensation to the injured party or, when compensation is in the form of agreed periodic payments, start such payments.*

*When an injured party has filed a claim to an insurance undertaking or its claims representative, which before or during a claim became subject to the situations referred to in paragraph -1, and that injured party has not yet received a reasoned reply from that insurance*

4. Where *the injured party is resident in another Member State than the Member State in which the insurance undertaking referred to in paragraph 1 is established*, the body referred to in paragraph 1 *and which has compensated that injured party in his or her Member State of residence*, shall be entitled to claim reimbursement of the sum paid by way of compensation from the body referred to in paragraph 1 in the Member State in which the insurance undertaking *which issued the policy of the liable party is established*.

5. Paragraphs 1 to 4 are without prejudice to:

- (a) the right of Member States to regard compensation paid by the body referred to in paragraph 1 as subsidiary or non-subsidiary;
- (b) the right of Member States to make provision for the settlement of claims in respect of the same accident between:
  - (i) the body referred to in paragraph 1;
  - (ii) the person or persons liable for the accident;
  - (iii) other insurance undertakings or social security bodies required to compensate the injured party.

6. Member States shall not allow the body referred to in paragraph 1 to make the payment of compensation subject to any requirements other than those laid down in this Directive *and in particular not the requirement that the injured party should establish that the party liable is unable or refuses to pay*.

*undertaking or its claims representative*, the injured party *shall be able to re-submit his or her claim for compensation to the body referred to in paragraph 1*.

4. Where the insurance undertaking *received the authorisation in accordance with Article 14 of Directive 2009/138/EC in a Member State different from the Member State for which the body referred to in paragraph 1 is competent*, that body shall be entitled to claim reimbursement of the sum paid by way of compensation from the body referred to in paragraph 1 in the Member State in which the insurance undertaking *received the authorisation*.

5. Paragraphs -1 to 4 are without prejudice to:

- (a) the right of Member States to regard compensation paid by the body referred to in paragraph 1 as subsidiary or non-subsidiary;
- (b) the right of Member States to make provision for the settlement of claims in respect of the same accident between:
  - (i) the body referred to in paragraph 1;
  - (ii) the person or persons liable for the accident;
  - (iii) other insurance undertakings or social security bodies required to compensate the injured party.

6. Member States shall not allow the body referred to in paragraph 1 to make the payment of compensation subject to any *reduction or* to any requirements other than those laid down in this Directive. *In particular, Member States shall not allow the body referred to in paragraph 1 to make the payment of compensation subject to* the requirement that the injured party establish that the party liable *or the insurance undertaking* is unable or refuses to pay.

7. *The Commission shall be empowered to adopt delegated acts in accordance with the procedure referred to in Article 28b in order to define the procedural tasks and the procedural obligations of the bodies set up or authorised pursuant to Article 10a with regard to the reimbursement.*

7. *This Article shall take effect:*

*(a) after an agreement has been concluded between all the bodies referred to in paragraph 1, set up or authorised by the Member States, relating to their functions and obligations and the procedures for reimbursement;*

*(b) from a date to be fixed by the Commission once it has ascertained, in close cooperation with the Member States, that the agreement referred to in point (a) has been concluded."*

*7a. Injured parties referred to in Article 20(1) may, in the situations referred to in paragraph -1, apply for compensation from the compensation body referred to in Article 24 in their Member State of residence.*

*7b. The injured party may apply for compensation directly to the compensation body which, on the basis of information provided at its request by the injured party, shall provide the injured party with a reasoned reply within three months of the date when the injured party applies for compensation.*

*Upon receipt of the claim, the compensation body shall inform the following persons or bodies that it has received a claim from the injured party:*

*(a) the insurance undertaking subject to bankruptcy or winding-up proceedings;*

*(b) the liquidator appointed for that insurance undertaking, as defined in Article 268(f) of Directive 2009/138/EC;*

*(c) the compensation body in the Member State where the accident occurred; and*

***(d) the compensation body in the Member State where the insurance undertaking received the authorisation in accordance with Article 14 of Directive 2009/138/EC in case that Member State differs from the Member State where the accident occurred.***

***7c. Upon receipt of the information referred to in paragraph 7b, the compensation body in the Member State where the accident occurred shall inform the compensation body in the injured party's Member State of residence whether the compensation by the body referred to in paragraph 1 is to be regarded as subsidiary or non-subsidiary. The compensation body in the injured party's Member State of residence shall take into account that information when providing compensation.***

***7d. The compensation body which has compensated the injured party in his or her 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 where the insurance undertaking received the authorisation in accordance with Article 14 of Directive 2009/138/EC.***

***7e. The latter body shall be subrogated to the injured party in his or her rights against the body referred to in paragraph 1 established in the Member State where the insurance undertaking received the authorisation in accordance with Article 14 of Directive 2009/138/EC in so far as the compensation body in the injured party's Member State of residence provided compensation for personal injuries or damage to property.***

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

***7f. The agreement between compensation bodies, referred to in Article 24(3), shall contain provisions relating to the compensation bodies'***

*functions, obligations and procedures for reimbursement resulting from this Article.*

*7g. In the absence of the agreement referred to in point (a) of paragraph 7 or in the absence of an amendment to the agreement under paragraph 7f by [two years after the entry into force of this amending Directive], the Commission shall be empowered to adopt delegated acts in accordance with the procedure referred to in Article 28b laying down the procedural tasks and the procedural obligations of the bodies set up or authorised pursuant to this Article with regard to the reimbursement, or amending the agreement under Article 24(3), or both, if necessary.*

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*\* Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).*

*\*\*\* Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1).*

## **Amendment 35**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 4 a (new)**  
Directive 2009/103/EC  
Article 15

*Present text*

*Amendment*

Article 15

"Article 15

Vehicles dispatched from one Member State to another

*(4a) Article 15 is replaced by the following:*

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.*

1. By way of derogation from *point (b) of Article 13, point 13 of Directive 2009/138/EC of the European Parliament and of the Council\**, where a vehicle is dispatched from one Member State to another, the Member State where the risk is situated shall be considered to be *either the Member State of registration or, immediately upon acceptance of delivery by the purchaser*, the Member State of destination, for a period of 30 days, even *if* the vehicle has not formally been registered in the Member State of destination.

2. *Member States shall take the necessary steps to ensure that insurance undertakings notify to the information centre of the Member State in which the vehicle is registered that they have issued an insurance policy for the use of the vehicle in question.*

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*\* Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1)."*

#### *Justification*

*Article 15 on dispatched vehicles was created in order to make it easier for a consumer to buy a vehicle from another Member State without having to seek an insurer from that other Member State. In practice, it does not currently work. Despite this, to delete it would only cancel past attempts to solve this problem without offering a solution. This amendment seeks to address this by giving more options to the consumer, by allowing them to seek insurance either in their home Member State or in the Member State of sale of the vehicle. They will be able to find a solution which works for them for the limited period of time it takes to move the vehicle from one Member State to the Member State of residence of the owner of the vehicle.*

#### **Amendment 36**

**Proposal for a directive**  
**Article 1 – paragraph 1 – point 4 b (new)**  
Directive 2009/103/EC  
Article 15 a (new)

*Text proposed by the Commission*

*Amendment*

**(4b) The following Article is inserted:**

**"Article 15a**

***Liability in case of an accident involving a trailer towed by a powered vehicle***

***In case of an accident caused by a set of vehicles consisting of a trailer towed by a powered vehicle, the injured party shall be compensated by the undertaking that insured the trailer, where:***

***- separate third party liabilities were taken out; and***

***- the trailer can be identified, but the powered vehicle that towed it cannot be identified.***

***The undertaking compensating the injured party in this case shall have a recourse to the undertaking that insured the towing powered vehicle if this is provided for under national law."***

*Justification*

*The recognition of a license plate can be an issue in accident with a truck or vehicle with a trailer, where the license plate of the main vehicle is not clearly visible from behind. This can lead to situations where it is impossible to identify the driver. For commercial transport, it is also often the case that the powered vehicle is of a different ownership, and sometimes national registration, than the trailer that is being towed and is subject to individual, unrelated, insurance policies. Therefore, in case of accidents involving a motorized towing vehicle and a trailer and the motorized towing vehicle and the trailer have distinct insurers, the insurer of the trailer should compensate injured parties if the towing vehicle cannot be identified. Nevertheless, the insurer of the trailer has recourse against the insurer of the towing vehicle. This change should bring better protection to injured parties.*

## **Amendment 37**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5 – point b**

Directive 2009/103/EC

Article 16 – paragraph 3

*Text proposed by the Commission*

*Amendment*

Member States shall ensure that insurance

Member States shall ensure that insurance

undertakings *or* the bodies as referred to in the second subparagraph, when taking account of *claims history* statements issued by other insurance undertakings or other bodies as referred to in the second subparagraph, do not treat policyholders in a discriminatory manner or surcharge their premiums because of their nationality or solely on the basis of their previous Member State of residence.

undertakings *and* the bodies as referred to in the second subparagraph, when taking account of *claims-history* statements issued by other insurance undertakings or other bodies as referred to in the second subparagraph, do not treat policyholders in a discriminatory manner or surcharge their premiums because of their nationality or solely on the basis of their previous Member State of residence.

## Amendment 38

### Proposal for a directive

#### Article 1 – paragraph 1 – point 5 – point b

Directive 2009/103/EC

Article 16 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

***Member States shall ensure that where an insurance undertaking takes into account claims-history statements when determining premiums, it shall also take into account claims-history statements issued by insurance undertakings based in other Member States as equal to those issued by an insurance undertaking within the same Member State and shall apply, in accordance with national law, any statutory requirements as to premiums treatment.***

*Justification*

*Not only should insurers not discriminate and surcharge foreigners or returning nationals, but they should treatment the statement as equal to a domestic statement and apply any discounts available to an otherwise identical potential client and those discounts that are required by a Member State's law. It shall remain a national competence as to if a Member State wishes to adopt national legislation on "bonus-malus" systems. Such systems are national in nature without any cross-border element, beyond that they must be applied equally to everyone on a single territory.*

## Amendment 39

### Proposal for a directive

#### Article 1 – paragraph 1 – point 5 – point b

*Text proposed by the Commission*

Member States shall ensure that insurance undertakings publish their policies in respect of their use of **claims history** statements when calculating premiums.

*Amendment*

**Without prejudice to the pricing policies of insurance undertakings**, Member States shall ensure that insurance undertakings publish their policies in respect of their use of **claims-history** statements when calculating premiums.

**Amendment 40**

**Proposal for a directive**

**Article 1 – paragraph 1 – point 5 – point b**

Directive 2009/103/EC

Article 16 – paragraph 5

*Text proposed by the Commission*

The Commission shall be empowered to adopt **implementing** acts in accordance with Article **28a(2) specifying** the contents and form of the **claims history** statement referred to in the second **subparagraph**. That statement shall contain information about **all of** the following:

- (a) the identity of the insurance undertaking issuing the **claims history** statement;
- (b) the identity of the policyholder;
- (c) the vehicle insured;
- (d) the **period of cover** of the vehicle **insured**;
- (e) the number **and value** of **the** declared third party liability claims during the period covered by the **claims history** statement.

*Amendment*

The Commission shall be empowered to adopt **delegated** acts in accordance with Article **28b laying down** the contents and form of the **claims-history** statement referred to in the second **paragraph**. That statement shall, **as a minimum**, contain information about the following:

- (a) the identity of the insurance undertaking issuing the **claims-history** statement;
- (b) the identity of the policyholder, **including date of birth, contact address and, where applicable, the number and date of issue of the driving licence**;
- (c) the vehicle insured **and its Vehicle Identification Number**;
- (d) the **start date and date of termination of the insurance cover** of the vehicle;
- (e) the number of declared third party liability claims during the period covered by the **claims-history** statement **in which the policyholder was at fault, including the date and nature of each claim, as regards damage to property or personal**

*injury, and whether the claim is currently open or closed.*

## **Amendment 41**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5 – point b**

Directive 2009/103/EC

Article 16 –paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

***The Commission shall consult with all relevant stakeholders before adopting those delegated acts and seek to reach a mutual agreement between stakeholders as to the content and the form of the claims-history statement.***

*Justification*

*Statements are only useful if they are fit for purpose and include information that is relevant to determining the risk of a potential policy holder. To understand what is relevant, the Commission should consult stakeholders before adopting an implementing act.*

## **Amendment 42**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5 a (new)**

Directive 2009/103/EC

Article 16 a (new)

*Text proposed by the Commission*

*Amendment*

***(5a) The following Article is inserted:***

***“Article 16a***

***Price Comparison Tool***

***1. Member states shall ensure that consumers have access free of charge to at least one independent comparison tool, which enables them to compare and evaluate general prices and tariffs between providers of the compulsory insurance subject to Article 3, based on information provided by the consumers.***

**2. Providers of compulsory insurance shall provide competent authorities with all information requested for such a tool and shall ensure that this information is as accurate and updated as needed to ensure this accuracy. Such a tool may also include additional motor insurance coverage options beyond compulsory insurance under Article 3.**

**3. The comparison tool shall:**

**(a) be operationally independent from service providers, thereby ensuring that service providers are given equal treatment in search results;**

**(b) clearly disclose their the owners and operators of the comparison tool;**

**(c) set out clear, objective criteria on which the comparison is based;**

**(d) use plain and unambiguous language;**

**(e) provide accurate and up-to-date information and state the time of the last update;**

**(f) be open to any provider of compulsory insurance making available the relevant information, and include a broad range of offers covering a significant part of the market and, where the information presented is not a complete overview of the market, a clear statement to that effect, before displaying results;**

**(g) provide an effective procedure to report incorrect information.**

**(h) include a statement that prices are based on the information provided and are not binding on insurance providers.**

**4. Comparison tools fulfilling the requirements in points (a) to (h) of paragraph 3 shall, upon request by the provider of the tool, be certified by competent authorities.**

**5. The Commission shall be empowered to adopt a delegated act in accordance with the procedure referred to**

*in Article 28b, supplementing this Directive by establishing the form and functions of such a comparison tool and the categories of information to be provided by insurance providers in light of the individualised nature of insurance policies.*

*6. Without prejudice to other Union legislation and in accordance with Article 27, Member States may provide for penalties, including fines, for comparison tool operators that mislead consumers or do not clearly disclose their ownership and whether they receive remuneration from any insurance provider."*

#### *Justification*

*Just as is the case of most other financial sectors, consumers are increasingly search online for motor insurance. This has led to numerous comparison websites, which might or might not be balanced or misleading to consumers. As required by other European legislation, each Member State should seek to have at least one website which can allow comparisons of offers. Member States should be also able to sanction websites if they are not clear as to their ownership and remuneration from insurance companies.*

#### **Amendment 43**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 5 b (new)**

Directive 2009/103/EC

Article 18 a (new)

*Text proposed by the Commission*

*Amendment*

*(5b) The following Article is inserted:*

*"Article 18a*

*Access to accident reports*

*Member States shall ensure the right of the injured party to obtain a copy of the accident report from competent authorities in a timely manner. In accordance with national law, when a Member State is prevented from releasing the full accident report immediately, it shall provide to the injured party a redacted version until the full version becomes available. Any redactions to the*

***text should be limited to those strictly necessary and required in order to comply with Union or national law."***

#### *Justification*

*After an accident, it is important that an injured party has access the police accident report. This is not always the case today and this issue has not been solved by the current Article 26. Therefore, it should be clear that a accident report, even a redacted version, should be made available as soon as it is possible in order to allow an injured party to seek compensation*

#### **Amendment 44**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 5 c (new) – point a (new)**

Directive 2009/103/EC

Article 23 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***(5c) Article 23 is amended as follows:***

***(a) the following paragraph is inserted:***

***"1a. Member States shall ensure that insurance undertakings are required to provide all necessary information required by the register referred to in point (a) of paragraph 1, including all registration numbers covered by an insurance policy issued by an undertaking. Member States shall also require insurance undertakings to inform the information centre when a policy becomes invalid before the policy expiration date or otherwise no longer covers a registered vehicle number.";***

#### *Justification*

*Under Article 23, there is an existing requirement that Member States keep a record of all registered vehicles and the insurance policy covering those vehicles. Insurance companies are not however require to declare this information to the information centres. While this information may be available via other government authorities (e.g. Departments of Motor vehicle registration), this may not be the case. More importantly, there is no requirement to declare when a policy insurance is no longer valid for a registered vehicle. There is no evidence that vehicles owners systematic inform authorities when their insurances lapses. Therefore, insurance companies should inform this information directly to Member States and to the national information centre.*

## Amendment 45

### Proposal for a directive

#### Article 1 – paragraph 1 – point 5 c (new) – point b (new)

Directive 2009/103/EC

Article 23 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

**(b) the following paragraph is inserted:**

**"5a. Member States shall ensure that the register referred to in point (a) of paragraph 1 is maintained and updated and is fully integrated into vehicle registration databases, and accessible to the national contact points under Directive (EU) 2015/413.";**

*Justification*

*Checking insurance is only possible if the vehicle registration and insurance information are available to authorities controlling vehicles. This database already exists in Article 21, but there is no requirement to maintain this database or to give access to VRD controllers. This amendment fits this issue.*

## Amendment 46

### Proposal for a directive

#### Article 1 – paragraph 1 – point 5 c (new) – point c (new)

Directive 2009/103/EC

Article 23 – paragraph 6

*Present text*

*Amendment*

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**.

**(c) paragraph 6 is replaced by the following:**

**"6. The processing of personal data resulting from paragraphs 1 to 5a shall be carried out in accordance with Regulation (EU) 2016/679."**

*Justification*

*Since the adoption of the 2009 revision of the MID, the GDPR has replaced the Data Protection Directive and therefore the reference should be corrected.*

## **Amendment 47**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5 d (new)**

Directive 2009/103/EC

Article 26 a (new)

*Text proposed by the Commission*

*Amendment*

**(5d) The following Article 26a is inserted:**

**"Article 26a**

#### **Compensation Bodies**

**1. Member States shall seek to ensure that the compensation bodies referred to in Articles 10, 10a and 24 are administrated as a single administrative unit covering all the functions of the different compensation bodies covered by this Directive.**

**2. Where a Member State does not administer these bodies as a single administrative unit, it shall notify the Commission and the other Member States of this fact and the reasons for its decision."**

#### *Justification*

*In order to simplify and make it as easy as possible for administrations, insurers and injured parties to seek claims redress, it should be encouraged that Member States create a single body to cover all the functions of the different compensation bodies included in this Directive. Member States should be free to choose otherwise, but they should give a notification to the Commission of the basic reasons why they believe this is needed.*

## **Amendment 48**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5 e (new)**

Directive 2009/103/EC

Article 26 b (new)

*Text proposed by the Commission*

*Amendment*

**(5e) The following Article is inserted:**

**"Article 26b**

### *Limitation period*

- 1. Member States shall ensure that a limitation period of at least four years applies to actions under Articles 19 and 20(2) that relate to compensation for personal injury and damage to property resulting from a cross-border road traffic accident. The limitation period shall begin to run from the day on which the claimant became aware, or had reasonable grounds to become aware, of the extent of the injury, loss or damage, its cause and the identity of the person liable and the insurance undertaking covering this person against civil liability or the claims representative or compensation body responsible for providing compensation and against whom the claim is to be brought.*
- 2. Member States shall ensure that where the national law applicable to the claim provides for a limitation period which is longer than four years, such longer limitation period shall apply.*
- 3. Member States shall provide the Commission with up-to-date information on their national rules on the limitation in respect of damages caused by traffic accidents. The Commission shall make publicly available and accessible, in all official languages of the Union, a summary of the information communicated by Member States.”*

#### **Amendment 49**

##### **Proposal for a directive**

##### **Article 1 – paragraph 1 – point 5 f (new)**

Directive 2009/103/EC

Article 26 c (new)

*Text proposed by the Commission*

*Amendment*

**(5f) The following Article is inserted:**

**“Article 26c**

***Suspension of the limitation***

**1. Member States shall ensure that the limitation provided for in Article 26a is suspended during the period between submission by the claimant of his or her claim to:**

**(a) the insurance undertaking of the person who caused the accident or its claims representative referred to in Articles 21 and 22; or**

**(b) the compensation body referred to in Articles 24 and 25, and the defendant's rejection of the claim.**

**2. Where the remaining part of the limitation period, once the period of suspension ends, is less than six months, Member States shall ensure that the claimant is granted a minimum period of six additional months to initiate court proceedings.**

**3. Member States shall ensure that, if a period expires on a Saturday, a Sunday or one of their public holidays, it shall be extended until the end of the first following working day.”**

## **Amendment 50**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 5 g (new)**

Directive 2009/103/EC

Article 26 d (new)

*Text proposed by the Commission*

*Amendment*

**(5g) The following Article is inserted:**

**“Article 26d**

#### **Calculation of time limits**

**Member States shall ensure that any period of time laid down by this Directive is calculated as follows:**

**(a) calculation shall start on the day following the day on which the relevant event occurred;**

**(b) when a period is expressed in years,**

*it shall expire in the relevant subsequent year in the month having the same name and on the day having the same number as the month and the day on which the said event occurred. If the relevant subsequent month has no day with the same number, the period shall expire on the last day of that month;*

*(c) periods shall not be suspended during court recesses.”*

## **Amendment 51**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 6**

Directive 2009/103/EC

Article 28a

*Text proposed by the Commission*

*Amendment*

#### **Article 28a**

*deleted*

#### **Committee procedure**

**1. The Commission shall be assisted by the European Insurance and Occupational Pensions Committee established by Commission Decision 2004/9/EC \*\*\*\*. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council\*\*\*\*\*.**

**2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.**

## **Amendment 52**

### **Proposal for a directive**

#### **Article 1 – paragraph 1 – point 6**

Directive 2009/103/EC

Article 28b – paragraph 2

*Text proposed by the Commission*

*Amendment*

**2. The power to adopt delegated acts referred to in *Articles 9(2) and 10a(7)* shall be conferred on the Commission for an**

**2. The power to adopt delegated acts referred to in *Article 9(2)* shall be conferred on the Commission for an**

indeterminate period of time from *the date referred to in Article 30*.

indeterminate period of time from ... *[the date of entry into force of this amending Directive]. The power to adopt delegated acts referred to in Articles 10a(7g), the fifth paragraph of Article 16 and Article 16a(5) shall be conferred on the Commission for a period of five years from [the date of entry into force of this amending Directive].*

## Amendment 53

### Proposal for a directive

#### Article 1 – paragraph 1 – point 6

Directive 2009/103/EC

Article 28b – paragraph 5

#### *Text proposed by the Commission*

5. A delegated act adopted pursuant to **Articles 9(2) and 10a(7)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **two** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

#### *Amendment*

5. A delegated act adopted pursuant to **Article 9(2); Article 10a(7g), the fifth paragraph of Article 16 and Article 16a(5)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of **three** months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

## Amendment 54

### Proposal for a directive

#### Article 1 – paragraph 1 – point 6

Directive 2009/103/EC

Article 28c

#### *Text proposed by the Commission*

Article 28c

Evaluation

#### *Amendment*

Article 28c

Evaluation **and review**

No later than **seven** years after the date of transposition of this Directive, ***an evaluation of this Directive shall be carried out.*** The Commission shall ***communicate the conclusions of the evaluation accompanied by its observations*** to the European Parliament, the Council and the European Economic and Social Committee.

No later than **five** years after the date of transposition of this Directive, the Commission shall ***submit a report*** to the European Parliament, ***to the Council and to the European Economic and Social Committee evaluating the implementation of this Directive, in particular in respect of:***

***(a) its application with regard to technological developments, in particular with regard to autonomous and semi-autonomous vehicles;***

***(b) the adequacy of its scope, considering the accident risks posed by different motor vehicles, in view of likely changes in the market, in particular as regards high speed lightweight vehicles falling under the categories of vehicle referred to in Article 2, paragraph 2, point h), i), j), k) of Regulation (EU) No 168/2013, such as eBikes, segways or electric scooters, and whether the liability system it provides is likely to satisfy future needs;***

***(c) the encouragement of insurance undertakings to include a bonus-malus system in their insurance contracts, including discounts by way of a “no claims bonus”, in which premiums are influenced by the policyholders’ claims-history statement.***

***That report shall be accompanied by the observations of the Commission and, where appropriate, by a legislative proposal.***