Certain issues relating to motor insurance

European Parliament resolution of 2 September 2008 on certain issues relating to motor insurance (2007/2258(INI))

The European Parliament,


– having regard to Rule 45 of its Rules of Procedure,

– having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinion of the Committee on Legal Affairs (A6-0249/2008),

A. whereas the free movement of persons in the EU, particularly in the context of the most recent two rounds of enlargement and the corresponding extension of the Schengen group, has resulted in a rapid increase in the number of both persons and vehicles travelling across national borders for both business and private purposes,

B. whereas the priority of protecting accident victims requires clear, precise and effective motor insurance legislation at EU level,

C. whereas the Fourth motor insurance Directive called on the Commission to report to the European Parliament and the Council on the implementation and the effectiveness of national penalties introduced in respect of the reasoned offer/reply procedure, as well as on their equivalence, and to submit proposals if necessary,

D. whereas the Commission Report examines national penalty provisions, the effectiveness of the claims representative mechanism, and the existing availability of voluntary legal expenses insurance to which potential victims of road accidents can additionally subscribe,

E. whereas Article 4(6) of the Fourth motor insurance Directive governs the reasoned offer procedure, under which victims of car accidents abroad have the right to apply for compensation to the claims representative of the insurer appointed in the country of the victim's residence,

F. whereas the victim must receive a reasoned reply from the insurer within three months or sanctions are envisaged,

G. whereas clarification of the functioning of this provision is still needed,

\(^{1}\) OJ L 181, 20.7.2000, p. 65.
H. whereas the Commission must take full account of enlargement when implementing EU policies, in particular the relatively high cost of motor insurance in the new Member States,

I. whereas different penalty provisions in respect of the reasoned offer/reply procedure have been implemented in the Member States,

J. whereas consultations with national authorities, including in the new Member States, have confirmed that current penalty provisions, where they exist, are adequate and that their implementation is effective across the EU,

K. whereas, however, some Member States make no provision for specific sanctions and rely solely upon the insurers’ duty to pay statutory interest on the amount of compensation if the reasoned offer/reply is not made within three months,

L. whereas the claims representatives system is relatively well known in the majority of Member States,

M. whereas the consultations carried out by the Commission to assess citizens’ awareness of the claims representative system involved only the Member States and the insurance industry, without appropriately involving citizens and consumer associations, i.e. those most interested in ensuring that the system works properly,

N. whereas legal expenses insurance for legal costs borne by the victims of motor vehicle accidents is available in most Member States; whereas more than 90% of all cases are settled out-of-court and legal costs are reimbursed in many Member States; whereas, additionally, legal expenses insurers have already provided coverage for all types of cross-border case for a number of years and consequently have established their own departments to handle foreign claims and facilitate quick settlements,

O. whereas the question of whether such reasonable legal costs should be covered by Motor Third Party Liability insurance in all Member States is still open,

P. whereas, however, coverage of reasonable legal costs in all Member States by Motor Third Party Liability insurance helps to better protect European consumers and increase their confidence,

Q. whereas insurance markets in the new Member States are steadily developing; whereas, however, in a number of these Member States, legal expenses insurance is a relatively new product that needs to be promoted, as public awareness of legal expenses insurance is comparatively low,

R. whereas compulsory cover for legal costs should increase consumer confidence in Motor Third Party Liability insurance, particularly in cases where legal redress is sought, since consumers in many new Member States are wary of high legal fees, which would be covered by compulsory insurance,

S. whereas compulsory legal expenses insurance would create an additional and more complex workload for the judiciary and possibly create delays in the resolution of disputes and a higher percentage of unjustified claims,

T. whereas Motor Third Party Liability insurance and legal expenses insurance have different
objectives and serve different functions, namely that while Motor Third Party Liability insurance allows consumers to meet the cost of claims made against them following a road traffic accident, legal expenses insurance covers the legal costs of pursuing a claim against a third party following a road traffic accident,

U. whereas public campaigns by national authorities, the insurance industry and consumer organisations are important for the development of national markets,

1. Welcomes the Commission Report and highlights the importance of including, fully and effectively, all stakeholders, in particular consumers, in the process of consultation in the development of EU policy in this field;

2. Calls therefore for the systematic involvement of consumer organisations representing in particular victims in the process of evaluation of the effectiveness of the systems in place in the Member States;

3. Welcomes this ex-post evaluation of legislative measures to ensure that the rules are working as intended and to highlight any unforeseen misapplications;

4. Stresses the importance of increasing consumer confidence in motor insurance policies as regards cross-border motor vehicle travel within the EU, especially for motorists from the old Member States travelling to destinations in the new Member States and vice versa;

5. Considers that the promotion of existing legal and market-led solutions which protect the consumer strengthen consumer confidence in motor insurance;

6. Believes that Member States are also responsible for the good functioning of their national insurance systems in relation to EU legislation regarding the reasoned offer/reply procedure and legal costs borne by victims;

7. Calls on the Commission to continue to closely monitor the effective functioning of market mechanisms and to report periodically to Parliament on this;

8. Considers that the mere requirement that the insurer pay statutory interest in case of delay is not a punitive instrument, and that the Commission therefore needs to exercise greater control and take appropriate measures in this respect to ensure that in all Member States markets are working smoothly and consumers are effectively protected;

9. Underlines that working relations between the Commission, national authorities, the insurance industry and consumers should be strengthened in order to ensure the constant provision of accurate data on the enforcement systems in place;

10. Considers, in line with the generally established EU approach on sanctions, that the principle of subsidiarity should be applied and that there is no need for the harmonisation of national penalty provisions;

11. Considers that national regulatory bodies are better placed to guarantee the highest possible level of consumer protection on their national markets,

12. Recommends therefore with reference to the reasoned offer/reply procedure to leave to the discretion of Member States the imposition of sanctions and the choice of which types and levels of provision are appropriate,
13. Calls on the Member States to ensure that in the event of non-compliance with the three-month deadline for submitting a reasoned reply to the claim for compensation or a reasoned offer of compensation, the penalties introduced are effective;

14. Considers it advisable to carefully consider the reasons for the non-compliance of insurance companies before imposing penalties, taking account in particular of factors which do not depend on the companies themselves; hopes that the Commission will continue to monitor national markets, offering its input to those national authorities which call for its assistance;

15. Reiterates the importance of boosting citizens’ confidence in the functioning of the claims representative system by promoting it through public campaigns and by other appropriate measures;

16. Calls on Member States and the Commission to raise consumer confidence by encouraging appropriate measures that increase awareness and use of national insurance information centres, such as requiring insurers to include the contact details of the information centre in the Member State in question in their contractual information package;

17. Calls furthermore on Member States to require insurers, as part of the pre-contractual information package, to provide comprehensive information to consumers on how the claims representative system works and what are its uses and benefits to the insured party;

18. Urges the Commission to continue to monitor the functioning of the system, and to coordinate and help where needed or where national authorities ask for assistance;

19. Considers furthermore, in relation to Motor Third Party Liability insurance, that the compulsory cover of legal costs would create a clear disincentive for resorting to out-of-court settlements, would potentially increase the number of court proceedings and therefore lead to an unjustified increase in the workload for the judiciary, and would risk destabilising the functioning of the existing and evolving voluntary legal expenses insurance market;

20. Considers therefore on balance that the negative effects of introducing a system of compulsory cover of legal costs in Motor Third Party Liability insurance would outweigh the potential benefits;

21. Urges the Commission to take, in partnership with Member States, the further steps necessary to raise awareness of legal protection insurance, as well as other insurance products, particularly in the new Member States, focussing on informing consumers of the advantages of being offered and holding one or another type of insurance cover;

22. Considers in this context the role of national regulatory bodies to be crucial for the implementation of best practices from other Member States;

23. Calls therefore on the Commission to strengthen consumer protection primarily by urging Member States to encourage their national regulatory bodies and national insurance companies to raise awareness of the availability of voluntary legal expenses insurance;

24. Considers that pre-contractual information on motor insurance could include information concerning the option to take out legal expenses coverage;

25. Calls on Member States to urge national regulatory bodies and intermediaries to inform
customers of possible risks and of additional voluntary insurance which might benefit them, such as, for example, legal expenses insurance, assistance cover and insurance for theft;

26. Calls on those Member States that do not have established alternative dispute resolution systems for settling claims to consider introducing such systems based on best practice from other Member States;

27. Asks the Commission not to prejudge the outcome of the studies commissioned on differential personal injury damages following on from the adoption of the Rome II Regulation\(^1\), which studies may suggest an insurance-based solution and consequent amendment of the Fourth motor insurance Directive;

28. Instructs its President to forward this resolution to the Council and Commission.