


Basic information	
<p>1997/0264(COD)</p> <p>COD - Ordinary legislative procedure (ex-codecision procedure) Directive</p> <p>Motor Insurance: civil liability, fourth directive (amend. direct. 73/239/EEC, 88/357/EEC, 92/49/EEC)</p> <p>Repealed by 2008/0049(COD) Amended by 2002/0124(COD)</p> <p>Subject</p> <p>2.50.05 Insurance, pension funds</p>	Procedure completed

Key players					
European Parliament	Committee responsible		Rapporteur	Appointed	
	DELE EP Delegation to Conciliation Committee		ROTHLEY Willi (PSE)	28/02/2000	
	Former committee responsible		Former rapporteur	Appointed	
	JURI Legal Affairs		ROTHLEY Willi (PSE)	28/07/1999	
	JURI Legal Affairs		ROTHLEY Willi (PSE)	04/11/1997	
	Former committee for opinion		Former rapporteur for opinion	Appointed	
	TRAN Transport and Tourism		GROSCH Mathieu (PPE)	25/11/1997	
	Council of the European Union	Council configuration		Meetings	Date
		Economic and Financial Affairs ECOFIN		2245	2000-02-28
		Competitiveness (Internal Market, Industry, Research and Space)		2149	1998-12-07
Transport, Telecommunications and Energy		2257	2000-05-02		
Development		2180	1999-05-21		

Key events			
Date	Event	Reference	Summary
10/10/1997	Legislative proposal published	COM(1997)0510 	Summary
24/10/1997	Committee referral announced in Parliament, 1st reading		

30/06/1998	Vote in committee, 1st reading		Summary
30/06/1998	Committee report tabled for plenary, 1st reading	A4-0267/1998	
15/07/1998	Debate in Parliament	CRE link	Summary
16/07/1998	Decision by Parliament, 1st reading	T4-0433/1998	Summary
31/03/1999	Modified legislative proposal published	COM(1999)0147 	Summary
21/05/1999	Council position published	14247/1/1999	Summary
07/10/1999	Committee referral announced in Parliament, 2nd reading		
30/11/1999	Vote in committee, 2nd reading		Summary
30/11/1999	Committee recommendation tabled for plenary, 2nd reading	A5-0086/1999	
13/12/1999	Debate in Parliament	CRE link	
15/12/1999	Decision by Parliament, 1st reading	T5-0154/1999	Summary
28/02/2000	Parliament's amendments rejected by Council		
06/04/2000	Joint text approved by Conciliation Committee co-chairs	3612/2000	
02/05/2000	Decision by Council, 3rd reading		
04/05/2000	Report tabled for plenary, 3rd reading	A5-0130/2000	
15/05/2000	Debate in Parliament	CRE link	
16/05/2000	Decision by Parliament, 1st reading	T5-0202/2000	Summary
16/05/2000	Final act signed		
16/05/2000	End of procedure in Parliament		
20/07/2000	Final act published in Official Journal		

Technical information	
Procedure reference	1997/0264(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	Repealed by 2008/0049(COD) Amended by 2002/0124(COD) EC Treaty (after Amsterdam) EC 047-p2 EC Treaty (after Amsterdam) EC 095
Stage reached in procedure	Procedure completed
Committee dossier	CODE/5/12583






Documentation gateway				
European Parliament				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0267/1998 OJ C 292 21.09.1998, p. 0004	30/06/1998	
Committee recommendation tabled for plenary, 2nd reading		A5-0086/1999 OJ C 296 18.10.2000, p. 0008	30/11/1999	
		T5-0154/1999		

Text adopted by Parliament, 2nd reading		OJ C 296 18.10.2000, p. 0036-0101	15/12/1999	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A5-0130/2000 OJ C 059 23.02.2001, p. 0006	04/05/2000	
Text adopted by Parliament, 3rd reading		T5-0202/2000 OJ C 059 23.02.2001, p. 0019-0043	16/05/2000	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	14247/1/1999 OJ C 232 13.08.1999, p. 0008	21/05/1999	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(1997)0510  OJ C 343 13.11.1997, p. 0011	10/10/1997	Summary
Modified legislative proposal	COM(1999)0147  OJ C 171 18.06.1999, p. 0004	31/03/1999	Summary
Commission communication on Council's position	SEC(1999)1553 	01/10/1999	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2000)0094 	22/02/2000	Summary
Non-legislative basic document	COM(2007)0207 	25/06/2007	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
ESC	Economic and Social Committee: opinion, report	CES0444/1998 OJ C 157 25.05.1998, p. 0006	25/03/1998	
CSL/EP	Joint text approved by Conciliation Committee co-chairs	3612/2000	06/04/2000	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Directive 2000/0026 OJ L 181 20.07.2000, p. 0065	Summary
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Motor Insurance: civil liability, fourth directive (amend. direct. 73/239 /EEC, 88/357/EEC, 92/49/EEC)

1997/0264(COD) - 16/05/2000 - Text adopted by Parliament, 3rd reading

The European Parliament in its third reading approved the joint text settled by the Conciliation Committee on civil liability and motor vehicles.

Motor Insurance: civil liability, fourth directive (amend. direct. 73/239 /EEC, 88/357/EEC, 92/49/EEC)

1997/0264(COD) - 01/10/1999 - Commission communication on Council's position

The common position accepted by the Council retains the essence of the Commission's initial proposal. The Commission accepts the amendments introduced by the Council and considers that they will improve the quality of the legislative text. The Common Position takes account of a large number of amendments requested by the European Parliament. There remains one point of divergence between the Common Position and the Parliament's opinion. It concerns the Parliament's amendment 15, which would have considerably widened the scope of the directive by extending its application to cases of accidents which occur outside the injured party's Member State of residence including also accidents occurring in third countries. This amendment, that neither the Commission nor the Council were able to accept, would have given rise to many practical problems.

Motor Insurance: civil liability, fourth directive (amend. direct. 73/239 /EEC, 88/357/EEC, 92/49/EEC)

1997/0264(COD) - 25/06/2007

The Commission has presented a report on certain issues relating to motor insurance.

1) The first part of the Commission report deals with both the implementation and the effectiveness of national penalties as well as on their equivalence, as foreseen in Article 4(6) of the Directive, in the light of the comments made by Member States, the insurance industry and other interested parties.

The consultation first aimed to find out whether interested parties (European citizens, companies, etc.) confronted with an accident as a visiting victim were aware of the existence of the claims representative appointed by the insurer of the liable party in their home country, and whether they considered this to be an efficient tool for claims settlement.

As far as the public's views are concerned, no objective conclusion could be drawn owing to the small number of replies received in the public consultation.

As regards the views of Member States, the majority of them believe that their citizens are well aware of the possibility to settle cross border claims via the claims representative appointed in their home country. As far as the perception of the claims representative mechanism is concerned, a large majority of Member States as well as of representatives of the insurance industry rated the claims representative mechanism as succeeding in its aim of facilitating and speeding up the process of settlement of cross border claims. The most appreciated aspects therein are the proximity of the claims representative to the claimant as well as the possibility for the injured party to communicate in his/her mother tongue when settling the claim.

Furthermore, Member States must impose sanctions to accelerate compensation. Liable insurers or their claims representatives who take more than three months to make a reasoned reply (the so called "reasoned offer/reply procedure") to a compensation request may be fined, at a level determined by the Member State in which the insurer is registered, and interest shall be charged on the compensation that is due.

The nature of financial or equivalent administrative penalties that may be imposed on insurers or their claims representatives for non-compliance with the 3 month reasoned offer/reply procedure varies from Member State to Member State.

The obligation for insurers and their claims representatives to settle claims in accordance with the reasoned offer/reply procedure has been established in all Member States. Based on the outcome of the consultation carried out with Member States and the insurance industry, two groups of penalties introduced by Member States in order to back up this duty could be identified. These are either financial or disciplinary in nature. Whilst some Member States apply these sanctions cumulatively, the others apply merely the payment of interest on the amount of compensation.

It emerges clearly from the consultation that national penalties are not equivalent to each other and are handled differently by Member States. However, this seems not to have a significant negative impact on insurers and their claims representatives in terms of meeting the 3 month time scale prescribed for providing the claimant with a reasoned offer/reply. Since the reasoned offer/reply procedure, despite the fact that it has been in force for a relatively short time, has proven to be well established and is functioning in all Member States, all the measures taken at the level of Member States obviously have the desired effect. Therefore, there is no reason for the Commission to take action or submit any proposals in this respect.

2) Part 2 of the report seeks to give an analysis of the coverage of legal costs of victims of road accidents in the light of the information available and the comments made by Member States, the insurance industry and interested parties.

During the 2nd reading of the Fifth Motor Insurance Directive 2005/14/EC, the European Parliament proposed to include all necessary and appropriate legal costs (legal expenses) borne by the victim during the settlement of the claim in the scope of cover of the MTPL insurance of the liable party (see [COD/2002/0124](#)).

In response to the question raised by the European Parliament, an EU action consisting in the obligatory inclusion of legal costs in the scope of cover of the MTPL insurance of the liable party would not seem to produce clear benefits.

As a result of different approaches taken by Member States in respect of the reimbursement of legal costs incurred by the victim and due to the fact that the law applicable to the claim is always the law of the country where the accident occurred, EU nationals may enjoy different treatment in different countries when settling cross border claims. However, an EU wide extension of the scope of cover of MTPL insurance to include legal costs, even if

restricted to necessary or reasonable ones, would be very unlikely to provide an equivalent regime throughout the EU. Member States would retain the possibility of maintaining their national practice by interpreting the necessity of the legal costs recovery in accordance with their national specificities.

Voluntary legal expenses insurance has proved to be available in the large majority of Member States. Since this insurance product allows the victim to recover his/her legal expenses regardless of the law applicable to the accident and irrespective of the success in the claim, it seems to be the comprehensive and satisfactory solution for meeting the interests of victims of road accidents. In this manner, national rules on reimbursement of legal costs, which differ from Member State to Member State and often reflect national specificities of the motor claims settlement systems, would not be affected.

However, the Commission Services observe that a better promotion of voluntary legal expenses contracts is necessary in some Member States in order to ensure a more balanced level of protection of EU citizens.

Motor Insurance: civil liability, fourth directive (amend. direct. 73/239 /EEC, 88/357/EEC, 92/49/EEC)

1997/0264(COD) - 16/05/2000 - Final act

PURPOSE : to improve the situation of persons who, whilst in another Member State other than their own country of residence, are victims of accidents caused by a vehicle registered and insured in another Member State than their country of residence. COMMUNITY MEASURE : Directive 2000/26/EC of the European Parliament and of the Council on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles and amending Council Directives 73/239/EEC and 88/357/EEC (Fourth Motor insurance Directive)
CONTENT : the objective of this Directive is to lay down special provisions applicable to injured parties entitled to compensation in respect of any loss or injury resulting from accidents occurring in a Member State other than the Member States of residence of the injured party which are caused by the use of vehicles insured and normally based in a Member State. The scope of the Directive extends to accidents occurring in third countries whose national insurer's bureaux have joined the Green Card system whenever such accidents are caused by the use of vehicles insured and normally based in a Member State. In particular, the Directive provides: - to improve protection for victims of an accident occurring in a Member State other than that of residence against the insurer of the vehicle involved in the accident; - that each Member State shall ensure that injured parties shall enjoy a direct right of action against the insurance undertaking covering the responsible person against civil liability; - that all insurance undertakings covering risks, other than carrier's liability, appoints a claims representative in each Member State other than that in which they have received their official authorisation; - for the creation of organisation centres for the purposes of allowing the injured party to seek compensation; - for the creation of compensation bodies which would be responsible for providing compensation to injured parties. ENTRY INTO FORCE : 20.07.2000 DEADLINE FIXED FOR TRANSPOSITION : the Member States shall apply these provisions before 20.01.2003.

Motor Insurance: civil liability, fourth directive (amend. direct. 73/239 /EEC, 88/357/EEC, 92/49/EEC)

1997/0264(COD) - 16/07/1998 - Text adopted by Parliament, 1st reading/single reading

In adopting the report by Mr Willi ROTHLEY (PSE, D) Parliament amended the Commission proposal by calling in particular for an extension of the scope of the directive to non-member countries of the Union and the extension of the task of the information centres, which would be required to keep registers of registered vehicles, insurance companies, the numbers of insurance policies and the names and addresses of insurance holders. Parliament also provided for Member States to be required to create a compensation body which had to take action within two months of the request for compensation in cases where the representative had not taken action and to establish a series of deadlines to ensure that rapid compensation was received by the victims of accidents.

Motor Insurance: civil liability, fourth directive (amend. direct. 73/239 /EEC, 88/357/EEC, 92/49/EEC)

1997/0264(COD) - 22/02/2000 - Commission opinion on Parliament's position at 2nd reading

The Commission accepted three of the Parliament's amendments in full and the spirit of one other amendment. It did not accept fifteen amendments adopted by the Parliament. The amendments accepted were: -the choice of claims representative shall be at the discretion of the insurer; -Member States may not restrict the choice of the claims representative; -the claims representative may work for one or more insurers; -the claims representative must possess sufficient linguistic capacities and be able to examine cases in the official language of the Member State of residence of the injured party. The amendment accepted in spirit involves the Article relating to delay for the delivering of information by the information centre. The injured party must be able to obtain information without undue delay. The remaining amendments were rejected. Notably, the Commission will not accept amendments designed to extend the scope of application of the Directive to accidents between two EU parties, insured by EU insurance companies, which occur in third countries.

Motor Insurance: civil liability, fourth directive (amend. direct. 73/239 /EEC, 88/357/EEC, 92/49/EEC)

1997/0264(COD) - 10/10/1997 - Legislative proposal

OBJECTIVE: in line with the resolution adopted by the European Parliament on 26 October 1995, the proposal for a directive seeks to improve the present remedies available to persons who are temporarily in a Member State other than their State of residence and suffer loss or injury in that Member State caused by a vehicle registered and insured in a Member State other than their State of residence. SUBSTANCE: in accordance with the approach outlined by Parliament, the Commission makes the following proposals: - to provide improved protection for victims of an accident occurring in a Member State other than that of residence against the insurer of the vehicle involved in the accident by establishing special rules supplementing the present system set up by the motor insurance directives; - to introduce throughout the European Union a direct right of action for that category of victims; - to secure the appointment by all insurance undertakings of a representative responsible for settling accident claims in each Member State of

the European Union; - to establish information centres. The Commission also makes the following proposals: - to make information centres responsible for identifying the representative empowered to settle accident claims, the insurer providing cover and the vehicle involved in the accident; - to establish in the state of origin a body responsible for settling claims arising out of accidents suffered by such visitors if there is no claims representative or if the insurer proves dilatory to act as a compensating agency; - on effecting payment in the state of residence of the victim, the agency would acquire an automatic right of action against its counterpart in the State of the dilatory insurer, while the agency counterpart would be subrogated to the rights of the victim against the insurer; - to lay down expressly that if the vehicle responsible for the accident is not insured or the insurer cannot be identified, the guarantee funds must compensate the victim on the conditions laid down in the second 'motor vehicle' directive (84/5/EEC).

Motor Insurance: civil liability, fourth directive (amend. direct. 73/239 /EEC, 88/357/EEC, 92/49/EEC)

1997/0264(COD) - 31/03/1999 - Modified legislative proposal

The Commission's amended proposal takes account of the European Parliament's opinion to the extent that the measure or the text makes reference to the operation and shortcomings of the green card bureau system. Two new recitals point to the fact that although there is already a system for the settlement of claims, certain problems still need to be resolved. The Commission also accepted the Parliament's amendments in regard to : - the indication of the need to create a direct right of action which establishes a legal link between the injured party and the insurer; - a reference to the principle and the advantages of settling the claim via the claims representative; - the creation of claims representatives does not affect either the rules of applicable law or the matter of jurisdiction; - improvement in text to show more clearly that the complementary functions of the claims representative and the direct right of action; - improvement in the description of the powers of the claims representative; - the application of reinforced penalties in case the insurer does not provide a reasoned reply within a certain time limit. - the addition of a list of a wide range of important administrative penalties; - clarification regarding the justification for providing information regarding the person who is in possession of the vehicle; - in the event that the insurer cannot be identified, the text now states that the final responsibility lies with the guarantee funds; - reference to an agreement to be signed between the compensation bodies relating to the modalities of reimbursement; - the insurer should be responsible for the choice of his representative and consider whether he is suitable for the task or not; - clarification regarding the extent of representation powers of the claims representative before courts and national administrations; - reference included stating that Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data has to be respected.

Motor Insurance: civil liability, fourth directive (amend. direct. 73/239 /EEC, 88/357/EEC, 92/49/EEC)

1997/0264(COD) - 15/12/1999 - Text adopted by Parliament, 2nd reading

In adopting the report drafted by Mr. Willi ROTHLEY (PES, D), the European Parliament approved the Council's common position subject to a number of amendments that aim to extend the field of application of the Directive so that it covers accidents that take place in third countries as long as the vehicles involved are registered in the European Union. Other amendments seek to reinforce the rules of procedure so as to avoid that an insurer and a compensation body between them delay a dossier at the expense of the victim.

Motor Insurance: civil liability, fourth directive (amend. direct. 73/239 /EEC, 88/357/EEC, 92/49/EEC)

1997/0264(COD) - 21/05/1999 - Council position

The Council's Common Position corresponds substantially to the Commission's amended proposal and takes account of most of the amendments requested by the European Parliament. The Council accepts the amendment referring to the Green Card Bureau and the Green Card Bureau system which does not solve all the problems of an injured party having to claim in another country against a party resident there and an insurer authorised there (a foreign legal system, a foreign language, unfamiliar settlement procedures and often unreasonable delayed settlement). The Council has also accepted the amendments which aim to : - underline the necessity to complete the existing legislation in order to better protect the visiting motorists when they are the injured party in an accident; - recognise that the appointment of a claims representative would enable the injured party to deal with his claim by procedures familiar to him; - foresee that the appointment of a claims representative does not affect either the substantive law to apply or the matter of jurisdiction; - foresee that the injured party must have a direct right of action against the other's party insurer; - specify which information the information centres should make available to the injured parties; - cover the cases where the insurer has failed to appoint a claim representative or where this claim representative cannot be identified. The Council accepts in principle the amendments relating to : - the claims representative's ability to represent the insurer and to settle the accident claims; - the provision stating that a claim representative shall be appointed in each Member State other than that in which the insurer has received its official authorization. It is foreseen that the claims representative shall be instructed and authorized to settle claims, in a slightly modified form. Furthermore, the claims representative shall possess linguistic ability to represent the insurer. The Council has also accepted the amendments aiming to provide: - that the activities of a claim representative shall not establish jurisdiction in the injured party's Member State; - that the information centres shall keep a register of vehicles normally based in the Member State concerned, and a list of vehicles which would benefit from the derogation of the requirement of civil liability insurance cover; - that the procedures laid down in the Directive do not preclude the right of the injured party or his insurer to start proceeding directly against the person responsible for the accident or his insurer. Finally, the common position partly accepts the amendments concerning : - the obligation on the claim representative to make a reasoned offer or make a reasoned reply within a certain period. The Council has shortened the period in which the claim representative shall react to three months; - the payment of interest (without always making reference to a precise interest rate); - the notification by the insurer to the information centres in all Member States of the name and address of its claim representative ; - the possibility, for an injured party who has a legitimate interest to obtain the name and address of the owner or usual driver. It is worth noting that the Council does not accept the extension of the field of application of the Directive to the third countries.