

# Procedure file

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Repealed by 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

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

| Key events |   |                              |         |
|------------|---|------------------------------|---------|
| 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        | <a href="#">A4-0267/1998</a> |         |

|            |  |   |         |
|------------|--|---|---------|
| 15/07/1998 | Debate in Parliament                                     |      | 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                               | <a href="#">14247/1/1999</a>  | 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 | <a href="#">A5-0086/1999</a>  |         |
| 13/12/1999 | Debate in Parliament                                     |    |         |
| 15/12/1999 | Decision by Parliament, 2nd reading                      | <a href="#">T5-0154/1999</a>  | Summary |
| 28/02/2000 | Parliament's amendments rejected by Council              |   |         |
| 09/03/2000 | Formal meeting of Conciliation Committee                 |   | Summary |
| 09/03/2000 | Final decision by Conciliation Committee                 |   |         |
| 06/04/2000 | Joint text approved by Conciliation Committee co-chairs  | <a href="#">3612/2000</a>   |         |
| 02/05/2000 | Decision by Council, 3rd reading                         |   |         |
| 04/05/2000 | Report tabled for plenary, 3rd reading                   | <a href="#">A5-0130/2000</a>  |         |
| 15/05/2000 | Debate in Parliament                                     |  |         |
| 16/05/2000 | Decision by Parliament, 3rd reading                      | <a href="#">T5-0202/2000</a>  | 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   |
|                            | Amended by <a href="#">2002/0124(COD)</a><br>Repealed by <a href="#">2008/0049(COD)</a> |
| Legal basis                | EC Treaty (after Amsterdam) EC 095; EC Treaty (after Amsterdam) EC 047-p2               |
| Stage reached in procedure | Procedure completed   |
| Committee dossier          | CODE/5/12583  |

### Documentation gateway

|   |   |            |        |         |
|---|---|------------|--------|---------|
| Legislative proposal  | <a href="#">COM(1997)0510</a><br><a href="#">OJ C 343 13.11.1997, p. 0011</a>     | 10/10/1997 | EC     | Summary |
| Economic and Social Committee: opinion, report  | <a href="#">CES0444/1998</a><br><a href="#">OJ C 157 25.05.1998, p. 0006</a>      | 25/03/1998 | ESC    |         |
| Committee report tabled for plenary, 1st reading/single reading                           | <a href="#">A4-0267/1998</a><br><a href="#">OJ C 292 21.09.1998, p. 0004</a>      | 30/06/1998 | EP     |         |
| Text adopted by Parliament, 1st reading/single reading                                    | T4-0433/1998<br><a href="#">OJ C 292 21.09.1998, p. 0104-0133</a>                 | 16/07/1998 | EP     | Summary |
| Modified legislative proposal   | COM(1999)0147<br><a href="#">OJ C 171 18.06.1999, p. 0004</a>                     | 31/03/1999 | EC     | Summary |
| Council position  | <a href="#">14247/1/1999</a><br><a href="#">OJ C 232 13.08.1999, p. 0008</a>      | 21/05/1999 | CSL    | Summary |
| Commission communication on Council's position  | SEC(1999)1553   | 01/10/1999 | EC     | Summary |
| Committee recommendation tabled for plenary, 2nd reading                                  | <a href="#">A5-0086/1999</a><br><a href="#">OJ C 296 18.10.2000, p. 0008</a>      | 30/11/1999 | EP     |         |
| Text adopted by Parliament, 2nd reading   | <a href="#">T5-0154/1999</a><br><a href="#">OJ C 296 18.10.2000, p. 0036-0101</a> | 15/12/1999 | EP     | Summary |
| Commission opinion on Parliament's position at 2nd reading                                | COM(2000)0094   | 22/02/2000 | EC     | Summary |
| Joint text approved by Conciliation Committee co-chairs                                   | <a href="#">3612/2000</a>   | 06/04/2000 | CSL/EP |         |
| Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading | <a href="#">A5-0130/2000</a><br><a href="#">OJ C 059 23.02.2001, p. 0006</a>      | 04/05/2000 | EP     |         |
| Text adopted by Parliament, 3rd reading   | <a href="#">T5-0202/2000</a><br><a href="#">OJ C 059 23.02.2001, p. 0019-0043</a> | 16/05/2000 | EP     | Summary |
| Non-legislative basic document  | <a href="#">COM(2007)0207</a>   | 25/06/2007 | EC     | Summary |

#### Additional information

European Commission

[EUR-Lex](#)

#### Final act

[Directive 2000/26](#)  
[OJ L 181 20.07.2000, p. 0065](#) Summary

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

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)

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The Committee unanimously adopted the report by Willi ROTHLEY (PES, D) on the proposal for a directive on settling the insurance claims of victims of accidents occurring outside the country of origin of the victim. The new directive seeks to make better provision, for example, for a resident of the EU (e.g. Italy) travelling in a third country (e.g. Switzerland) or an EU state other than his state of residence (e.g. Germany) who has an accident and suffers material or physical damage caused by a vehicle registered or insured in a country (e.g. France) other than the country of residence of the victim (Italy). Claims taken to court abroad are at least 15% more expensive and on average take eight years to settle. The directive seeks to remedy this situation by introducing arrangements enabling the victim to have easy access to the insurance company which is regarded as financially liable. The arrangements envisaged by the Commission, which would make it easier for victims to assert their right to compensation in other Member States, include the following: a direct right of action for the victim; a requirement for insurance companies operating in the EU to appoint a representative in every other Member State; the establishment of information centres in every Member State to enable victims to identify the representative of the company. The main amendments proposed by the Legal Affairs Committee are as follows: an extension of the scope of the directive to include non-EU countries; an expansion of the role of the information centres to make them responsible for keeping records of motor vehicles registered, insurance undertakings, insurance policy numbers and the names and addresses of insurance policy holders; a requirement for Member States to establish compensation bodies which must act within two months of the submission of a claim by a victim, if the insurer has failed to appoint a claims representative; a series of deadlines designed to ensure that accident victims are compensated swiftly. This legislation was in fact initiated by Mr Rothley, on behalf of the Legal Affairs Committee, which made use for the first time of the powers granted to Parliament under the Maastricht Treaty (Article 138b, second paragraph) to have a resolution on this subject adopted by Parliament by an absolute majority on 26th October 1995. The resolution contained the basic points for the directive which has now been drawn up and submitted by the Commission. ?

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

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Commissioner Monti congratulated the Parliament on the initiative it has taken to call on the Executive to develop a proposal in question in a sensitive sector for the European citizen, in virtue of Article 138 b of the Treaty (in fact, it is the first time that one has exercised these powers). Furthermore, he indicated that the Commission may accept wholly or partially the following amendments : 1, 2, 3, 6, 7, 9, 12, 15, 16, 17, 18, 19, 20, 21, 25, 28, 29, 30, 31 and 33 (however, concerning Article 15a, Mr. Monti rejected the extension of the guarantee concerning accidents which take place in a third country, because this falls within the scope of international agreements). As for amendments 5, 10, 13, 26 and 27, the Commissioner said that, in principle, he agreed with their spirit, but that he could only accept them unless certain changes were made. Lastly, he stated that he was against other amendments : 4, 8, 11, 22, 24, 35, 36 and 37, because, instead of improving the initial proposal, they risk making it less clear (concerning amendment 37 on the use of multilingual application forms in the case of an accident, he remarked that one might achieve this in another context, by means of an agreement between the insurance companies); for other reasons (incoherence with the 3 directives already in force in the field in question), he did not accept amendments 14, 23 and 34. ?

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

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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)

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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)

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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.?

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

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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)

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The committee adopted the draft recommendation for second reading (codecision procedure) by Mr Willi ROTHLEY (PES, D) approving the Council common position subject to a number of amendments. A substantial number of these seek to extend the scope of the proposed Directive to cover accidents taking place in a third country provided that the vehicles involved are registered in the EU. The rapporteur stressed that this was a logical extension of the Directive, and that such a move was broadly supported by the insurance industry. Other amendments seek to tighten up the procedural rules to avoid the possibility of a case shuttling between a compensation body and an insurer to the detriment of the victim. ?

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

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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)

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The Commission accepted three of the Parliament's amendments in full and in 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 insurer; -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)

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The Conciliation Committee reached agreement on a joint text for the directive on civil liability in respect of the use of motor vehicles. The most difficult question (the territorial application of the directive) was resolved by enlarging the scope of the directive to accidents occurring in third countries which are members of the "green card" system, which will in practice cover over 90% of third country accidents involving Community parties. The Council also accepted Parliament's amendments concerning the rights of the insurance undertakings and the injured parties. For the entry into force and application of Article 6 concerning compensation bodies, a satisfactory compromise was found. In the framework of a global compromise, and since the main objectives were reached as far as citizens' rights were concerned, the EP delegation did not insist on the amendments of a legal or administrative nature, where the Council's common position had modified the Commission proposal. The EP delegation felt that the directive was an important addition to EC law and therefore recommended that Parliament approve the directive at third reading.?

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

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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)

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**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.?