

Procedure file

Basic information		
INI - Own-initiative procedure	2007/2258(INI)	Procedure completed
Certain issues relating to motor insurance		
Subject 2.50.05 Insurance, pension funds		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Internal Market and Consumer Protection		21/11/2007
		PPE-DE MLADENOV Nickolay	
European Parliament	Committee for opinion	Rapporteur for opinion	Appointed
	 Transport and Tourism	The committee decided not to give an opinion.	
	 Legal Affairs		21/01/2008
		PPE-DE GARGANI Giuseppe	
European Commission	Commission DG Financial Stability, Financial Services and Capital Markets Union	Commissioner MCCREEVY Charlie	

Key events			
25/06/2007	Non-legislative basic document published	COM(2007)0207	Summary
29/11/2007	Committee referral announced in Parliament		
03/06/2008	Vote in committee		Summary
10/06/2008	Committee report tabled for plenary	A6-0249/2008	
01/09/2008	Debate in Parliament		
02/09/2008	Results of vote in Parliament		
02/09/2008	Decision by Parliament	T6-0386/2008	Summary
02/09/2008	End of procedure in Parliament		

Technical information	
Procedure reference	2007/2258(INI)
Procedure type	INI - Own-initiative procedure

Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 54
Stage reached in procedure	Procedure completed
Committee dossier	IMCO/6/56513

Documentation gateway

Non-legislative basic document		COM(2007)0207	25/06/2007	EC	Summary
Committee draft report		PE404.499	17/03/2008	EP	
Amendments tabled in committee		PE405.931	08/05/2008	EP	
Committee opinion	JURI	PE404.425	29/05/2008	EP	
Committee report tabled for plenary, single reading		A6-0249/2008	10/06/2008	EP	
Text adopted by Parliament, single reading		T6-0386/2008	02/09/2008	EP	Summary
Commission response to text adopted in plenary		SP(2008)6073	17/10/2008	EC	
Commission response to text adopted in plenary		SP(2008)6486	17/12/2008	EC	

Certain issues relating to motor insurance

PURPOSE: to present a report on certain issues relating to motor insurance.

CONTENT: the report covers 2 major issues:

1) the 1st part deals with the 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. 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.

The report notes that 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) the 2nd part of the report aims to clarify the issue of legal expenses: this part 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 motor third party liability

(MTPL) insurance of the liable party (see [COD/2002/0124](#)).

Conclusion: 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. 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.

Certain issues relating to motor insurance

The Committee on the Internal Market and Consumer Protection adopted the own initiative report by Nickolay MLADENOV (EPP-ED, BG) welcoming the European Commission's report on certain issues relating to motor insurance. It 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. It calls 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.

The report underlines 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. The Commission is invited to continue to closely monitor the effective functioning of market mechanisms and to report periodically to Parliament on this issue.

MEPs consider, 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. They recommend, with reference to the reasoned offer/reply procedure, leaving to the discretion of Member States the imposition of sanctions and the choice of which types and levels of provision are appropriate. Member States are called upon 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. MEPs reiterate 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.

Insurers are required to include the contact details of the information centre in the Member State in question in their contractual information package. They are also, 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.

MEPs consider that, in relation to Motor Third Party Liability insurance, the negative effects of introducing a system of compulsory cover of legal costs in Motor Third Party Liability insurance would outweigh the potential benefits. The Commission is invited to take, in partnership with Member States, the further steps necessary to raise awareness of legal protection insurance 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. The committee considers in this context the role of national regulatory bodies to be crucial for the implementation of best practices from other Member States.

The committee 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.

Certain issues relating to motor insurance

The European Parliament adopted by 664 votes to 16, with 12 abstentions, a resolution on certain issues relating to motor insurance.

The own initiative report had been tabled for consideration in plenary by Nickolay MLADENOV (EPP-ED, BG) on behalf of the Committee on the Internal Market and Consumer Protection.

The Parliament welcomes the European Commission's report on certain issues relating to motor insurance and highlights the importance of including all stakeholders, in particular consumers, in the process of consultation in the development of EU policy in this field. It calls 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.

Consumer confidence: the resolution highlights 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. It recalls 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. The Commission is invited to continue to closely monitor the effective functioning of market mechanisms and to report periodically on this issue.

Sanctions: MEPs consider that the principle of subsidiarity should be applied and that there is no need for the harmonisation of national penalty provisions. They recommend, with reference to the reasoned offer/reply procedure, leaving to the discretion of Member States the imposition of sanctions and the choice of which types and levels of provision are appropriate. Member States are called upon 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.

Claims representative system: the resolution 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. Insurers are required to include the contact details of the information centre in the Member State in question in their contractual information package. They are also, 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.

Legal protection insurance: MEPs consider, 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. The Commission is invited to take, in partnership with Member States, the further steps necessary to raise awareness of legal protection insurance, particularly in the new Member States, focussing on informing consumers of the advantages of holding this type of insurance cover. In this context, MEPs consider the role of national regulatory bodies to be crucial for the implementation of best practices from other Member States.

The Parliament invites the 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. Those Member States that do not have established alternative dispute resolution systems for settling claims are invited to consider introducing such systems based on best practice from other Member States.