

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 (codified version) (Text with EEA relevance)

## CHAPTER 1

### GENERAL PROVISIONS

#### *Article 1*

#### **Definitions**

For the purposes of this Directive:

1. ‘vehicle’ means any motor vehicle intended for travel on land and propelled by mechanical power, but not running on rails, and any trailer, whether or not coupled;
2. ‘injured party’ means any person entitled to compensation in respect of any loss or injury caused by vehicles;
3. ‘national insurers’ bureau’ means a professional organisation which is constituted in accordance with Recommendation No 5 adopted on 25 January 1949 by the Road Transport Sub-committee of the Inland Transport Committee of the United Nations Economic Commission for Europe and which groups together insurance undertakings which, in a State, are authorised to conduct the business of motor vehicle insurance against civil liability;
4. ‘territory in which the vehicle is normally based’ means:
  - (a) the territory of the State of which the vehicle bears a registration plate, irrespective of whether the plate is permanent or temporary; or
  - (b) in cases where no registration is required for a type of vehicle but the vehicle bears an insurance plate, or a distinguishing sign analogous to the registration plate, the territory of the State in which the insurance plate or the sign is issued; or
  - (c) in cases where neither a registration plate nor an insurance plate nor a distinguishing sign is required for certain types of vehicle, the territory of the State in which the person who has custody of the vehicle is permanently resident; or
  - (d) in cases where the vehicle does not bear any registration plate or bears a registration plate which does not correspond or no longer corresponds to the vehicle and has been involved in an accident, the territory of the State in which the accident took place, for the purpose of settling the claim as provided for in the first indent of Article 2(a) or in Article 10;
5. ‘green card’ means an international certificate of insurance issued on behalf of a national bureau in accordance with Recommendation No 5 adopted on 25 January 1949 by the Road Transport Sub-committee of the Inland Transport Committee of the United Nations Economic Commission for Europe;

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6. 'insurance undertaking' means an undertaking which has received its official authorisation in accordance with Article 6 or Article 23(2) of Directive 73/239/EEC;
7. 'establishment' means the head office, agency or branch of an insurance undertaking as defined in Article 2(c) of Second Council Directive 88/357/EEC of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services<sup>(1)</sup>.

## *Article 2*

### **Scope**

The provisions of Articles 4, 6, 7 and 8 shall apply to vehicles normally based on the territory of one of the Member States:

- (a) after an agreement has been concluded between the national insurers' bureaux under the terms of which each national bureau guarantees the settlement, in accordance with the provisions of national law on compulsory insurance, of claims in respect of accidents occurring in its territory, caused by vehicles normally based in the territory of another Member State, whether or not such vehicles are insured;
- (b) from the date fixed by the Commission, upon its having ascertained in close cooperation with the Member States that such an agreement has been concluded;
- (c) for the duration of that agreement.

## *Article 3*

### **Compulsory insurance of vehicles**

Each Member State shall, subject to Article 5, take all appropriate measures to ensure that civil liability in respect of the use of vehicles normally based in its territory is covered by insurance.

The extent of the liability covered and the terms and conditions of the cover shall be determined on the basis of the measures referred to in the first paragraph.

Each Member State shall take all appropriate measures to ensure that the contract of insurance also covers:

- (a) according to the law in force in other Member States, any loss or injury which is caused in the territory of those States;
- (b) any loss or injury suffered by nationals of Member States during a direct journey between two territories in which the Treaty is in force, if there is no national insurers' bureau responsible for the territory which is being crossed; in such a case, the loss or injury shall be covered in accordance with the national laws on compulsory insurance in force in the Member State in whose territory the vehicle is normally based.

The insurance referred to in the first paragraph shall cover compulsorily both damage to property and personal injuries.

## *Article 4*

### **Checks on insurance**

Member States shall refrain from making checks on insurance against civil liability in respect of vehicles normally based in 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. However, they may carry out non-systematic checks on insurance provided that those checks are not discriminatory and are carried out as part of a control which is not aimed exclusively at insurance verification.

## *Article 5*

### **Derogation from the obligation in respect of compulsory insurance of vehicles**

1 A Member State may derogate from Article 3 in respect of certain natural or legal persons, public or private; a list of such persons shall be drawn up by the State concerned and communicated to the other Member States and to the Commission.

A Member State so derogating shall take the appropriate measures to ensure that compensation is paid in respect of any loss or injury caused in its territory and in the territory of other Member States by vehicles belonging to such persons.

It shall in particular designate an authority or body in the country where the loss or injury occurs responsible for compensating injured parties in accordance with the laws of that State in cases where Article 2(a) is not applicable.

It shall communicate to the Commission the list of persons exempt from compulsory insurance and the authorities or bodies responsible for compensation.

The Commission shall publish that list.

2 A Member State may derogate from Article 3 in respect of certain types of vehicle or certain vehicles having a special plate; the list of such types or of such vehicles shall be drawn up by the State concerned and communicated to the other Member States and to the Commission.

Any Member State so derogating shall ensure that vehicles referred to in the first subparagraph are treated in the same way as vehicles for which the insurance obligation provided for in Article 3 has not been satisfied.

The guarantee fund of the Member State in which the accident has taken place shall then have a claim against the guarantee fund in the Member State where the vehicle is normally based.

From 11 June 2010 Member States shall report to the Commission on the implementation and practical application of this paragraph.

The Commission, after examining those reports, shall, if appropriate, submit proposals for the replacement or repeal of this derogation.

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### *Article 6*

#### **National insurers' bureaux**

Each Member State shall ensure that, where an accident is caused in its territory by a vehicle normally based in the territory of another Member State, the national insurers' bureau shall, without prejudice to the obligation referred to in Article 2(a), obtain information:

- (a) as to the territory in which the vehicle is normally based, and as to its registration mark, if any;
- (b) in so far as is possible, as to the details of the insurance of the vehicle, as they normally appear on the green card, which are in the possession of the person having custody of the vehicle, to the extent that those details are required by the Member State in whose territory the vehicle is normally based.

Each Member State shall also ensure that the bureau communicates the information referred to in points (a) and (b) to the national insurers' bureau of the State in whose territory the vehicle referred to in the first paragraph is normally based.

## CHAPTER 2

### **PROVISIONS CONCERNING VEHICLES NORMALLY BASED IN THE TERRITORY OF THIRD COUNTRIES**

### *Article 7*

#### **National measures concerning vehicles normally based on the territory of third countries**

Each Member State shall take all appropriate measures to ensure that vehicles normally based in the territory of a third country which enter the territory in which the Treaty is in force shall not be used in its territory unless any loss or injury caused by those vehicles is covered, in accordance with the requirements of the laws of the various Member States on compulsory insurance against civil liability in respect of the use of vehicles, throughout the territory in which the Treaty is in force.

### *Article 8*

#### **Documentation concerning vehicles normally based in the territory of third countries**

1 Every vehicle normally based in the territory of a third country must, before entering the territory in which the Treaty is in force, be provided either with a valid green card or with a certificate of frontier insurance establishing that the vehicle is insured in accordance with Article 7.

However, vehicles normally based in a third country shall be treated as vehicles normally based in the Community if the national bureaux of all the Member States severally guarantee, each in accordance with the provisions of its own national law on

compulsory insurance, settlement of claims in respect of accidents occurring in their territory caused by such vehicles.

2 Having ascertained, in close cooperation with the Member States, that the obligations referred to in the second subparagraph of paragraph 1 have been assumed, the Commission shall fix the date from which and the types of vehicles for which Member States shall no longer require production of the documents referred to in the first subparagraph of paragraph 1.

## CHAPTER 3

### MINIMUM AMOUNTS COVERED BY COMPULSORY INSURANCE

#### *Article 9*

#### **Minimum amounts**

1 Without prejudice to any higher guarantees which Member States may prescribe, each Member State shall require the insurance referred to in Article 3 to be compulsory at least in respect of the following amounts:

- a in the case of personal injury, a minimum amount of cover of EUR 1 000 000 per victim or EUR 5 000 000 per claim, whatever the number of victims;
- b in the case of damage to property, EUR 1 000 000 per claim, whatever the number of victims.

If necessary, Member States may establish a transitional period extending until 11 June 2012 at the latest within which to adapt their minimum amounts of cover to the amounts provided for in the first subparagraph.

Member States establishing such a transitional period shall inform the Commission thereof and indicate the duration of the transitional period.

However, until 11 December 2009 at the latest, Member States shall increase guarantees to at least a half of the levels provided for in the first subparagraph.

2 Every five years after 11 June 2005 or the end of any transitional period as referred to in the second subparagraph of paragraph 1, the amounts referred to in that paragraph shall be reviewed in line with the European Index of Consumer Prices (EICP) established pursuant to Regulation (EC) No 2494/95.

The amounts shall be adjusted automatically. Such amounts shall be increased by the percentage change indicated by the EICP for the relevant period, that is to say, the five years immediately preceding the review referred to in the first subparagraph, and rounded up to a multiple of EUR 10 000.

The Commission shall communicate the adjusted amounts to the European Parliament and to the Council and shall ensure their publication in the *Official Journal of the European Union*.

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## CHAPTER 4

### **COMPENSATION FOR DAMAGE CAUSED BY AN UNIDENTIFIED VEHICLE OR A VEHICLE FOR WHICH THE INSURANCE OBLIGATION PROVIDED FOR IN ARTICLE 3 HAS NOT BEEN SATISFIED**

#### *Article 10*

#### **Body responsible for compensation**

1 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.

The first subparagraph shall be without prejudice to the right of the Member States to regard compensation by the body as subsidiary or non-subsidiary and the right to make provision for the settlement of claims between the body and the person or persons responsible for the accident and other insurers or social security bodies required to compensate the victim in respect of the same accident. However, Member States may not allow the body to make the payment of compensation conditional on the victim establishing in any way that the person liable is unable or refuses to pay.

2 The victim may in any event apply directly to the body which, on the basis of information provided at its request by the victim, shall be obliged to give him a reasoned reply regarding the payment of any compensation.

Member States may, however, exclude the payment of compensation by that body in respect of persons who voluntarily entered the vehicle which caused the damage or injury when the body can prove that they knew it was uninsured.

3 Member States may limit or exclude the payment of compensation by the body in the event of damage to property by an unidentified vehicle.

However, where the body has paid compensation for significant personal injuries to any victim of the same accident in which damage to property was caused by an unidentified vehicle, Member States may not exclude the payment of compensation for damage to property on the basis that the vehicle is unidentified. Nevertheless, Member States may provide for an excess of not more than EUR 500 to be borne by the victim of such damage to property.

The conditions in which personal injuries are to be regarded as significant shall be determined in accordance with the legislation or administrative provisions of the Member State in which the accident takes place. In this regard, Member States may take into account, inter alia, whether the injury required hospital care.

4 Each Member State shall apply its laws, regulations and administrative provisions to the payment of compensation by the body, without prejudice to any other practice which is more favourable to the victim.

## *Article 11*

### **Disputes**

In the event of a dispute between the body referred to in Article 10(1) and the civil liability insurer as to which must compensate the victim, the Member States shall take the appropriate measures so that one of those parties is designated to be responsible in the first instance for paying compensation to the victim without delay.

If it is ultimately decided that the other party should have paid all or part of the compensation, that other party shall reimburse accordingly the party which has paid.

## CHAPTER 5

### **SPECIAL CATEGORIES OF VICTIM, EXCLUSION CLAUSES, SINGLE PREMIUM, VEHICLES DISPATCHED FROM ONE MEMBER STATE TO ANOTHER**

## *Article 12*

### **Special categories of victim**

1 Without prejudice to the second subparagraph of Article 13(1), the insurance referred to in Article 3 shall cover liability for personal injuries to all passengers, other than the driver, arising out of the use of a vehicle.

2 The members of the family of the policyholder, driver or any other person who is liable under civil law in the event of an accident, and whose liability is covered by the insurance referred to in Article 3, shall not be excluded from insurance in respect of their personal injuries by virtue of that relationship.

3 The insurance referred to in Article 3 shall cover personal injuries and damage to property suffered by pedestrians, cyclists and other non-motorised users of the roads who, as a consequence of an accident in which a motor vehicle is involved, are entitled to compensation in accordance with national civil law.

This Article shall be without prejudice either to civil liability or to the quantum of damages.

## *Article 13*

### **Exclusion clauses**

1 Each Member State shall take all appropriate measures to ensure that any statutory provision or any contractual clause contained in an insurance policy issued in accordance with Article 3 shall be deemed to be void in respect of claims by third parties who have been victims of an accident where that statutory provision or contractual clause excludes from insurance the use or driving of vehicles by:

- a persons who do not have express or implied authorisation to do so;
- b persons who do not hold a licence permitting them to drive the vehicle concerned;

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- c persons who are in breach of the statutory technical requirements concerning the condition and safety of the vehicle concerned.

However, the provision or clause referred to in point (a) of the first subparagraph may be invoked against persons who voluntarily entered the vehicle which caused the damage or injury, when the insurer can prove that they knew the vehicle was stolen.

Member States shall have the option — in the case of accidents occurring on their territory — of not applying the provision in the first subparagraph if and in so far as the victim may obtain compensation for the damage suffered from a social security body.

2 In the case of vehicles stolen or obtained by violence, Member States may provide that the body specified in Article 10(1) is to pay compensation instead of the insurer under the conditions set out in paragraph 1 of this Article. Where the vehicle is normally based in another Member State, that body can make no claim against any body in that Member State.

Member States which, in the case of vehicles stolen or obtained by violence, provide that the body referred to in Article 10(1) is to pay compensation may fix in respect of damage to property an excess of not more than EUR 250 to be borne by the victim.

3 Member States shall take the necessary measures to ensure that any statutory provision or any contractual clause contained in an insurance policy which excludes a passenger from such cover on the basis that he knew or should have known that the driver of the vehicle was under the influence of alcohol or of any other intoxicating agent at the time of an accident, shall be deemed to be void in respect of the claims of such passenger.

#### *Article 14*

#### **Single premium**

Member States shall take the necessary steps to ensure that all compulsory policies of insurance against civil liability arising out of the use of vehicles:

- (a) cover, on the basis of a single premium and during the whole term of the contract, the entire territory of the Community, including for any period in which the vehicle remains in other Member States during the term of the contract; and
- (b) guarantee, on the basis of that single premium, in each Member State, the cover required by its law or the cover required by the law of the Member State where the vehicle is normally based when that cover is higher.

#### *Article 15*

#### **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.



## CHAPTER 6

### STATEMENT, EXCESS, DIRECT ACTION

#### *Article 16*

##### **Statement relating to the third party liability claims**

Member States shall ensure that the policyholder has the right to request at any time a statement relating to the third party liability claims involving the vehicle or vehicles covered by the insurance contract at least during the preceding five years of the contractual relationship, or to the absence of such claims.

The insurance undertaking, or a body which may have been appointed by a Member State to provide compulsory insurance or to supply such statements, shall provide that statement to the policyholder within 15 days of the request.

#### *Article 17*

##### **Excess**

Insurance undertakings shall not require any party injured as a result of an accident to bear any excess as far as the insurance referred to in Article 3 is concerned.

#### *Article 18*

##### **Direct right of action**

Member States shall ensure that any party injured as a result of an accident caused by a vehicle covered by insurance as referred to in Article 3 enjoys a direct right of action against the insurance undertaking covering the person responsible against civil liability.

## CHAPTER 7

### SETTLEMENT OF CLAIMS ARISING FROM ANY ACCIDENT CAUSED BY A VEHICLE COVERED BY INSURANCE AS REFERRED TO IN ARTICLE 3

#### *Article 19*

##### **Procedure for the settlement of claims**

Member States shall establish the procedure referred to in Article 22 for the settlement of claims arising from any accident caused by a vehicle covered by insurance as referred to in Article 3.

In the case of claims which may be settled by the system of national insurers' bureaux provided for in Article 2 Member States shall establish the same procedure as in Article 22.

For the purpose of applying this procedure, any reference to an insurance undertaking shall be understood as a reference to national insurers' bureaux.

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### *Article 20*

#### **Special provisions concerning compensation for injured parties following an accident in a Member State other than that of their residence**

1 The object of Articles 20 to 26 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 State of residence of the injured party which are caused by the use of vehicles insured and normally based in a Member State.

Without prejudice to the legislation of third countries on civil liability and private international law, these provisions shall also apply to injured parties resident in a Member State and entitled to compensation in respect of any loss or injury resulting from 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.

2 Articles 21 and 24 shall apply only in the case of accidents caused by the use of a vehicle:

- a insured through an establishment in a Member State other than the State of residence of the injured party; and
- b normally based in a Member State other than the State of residence of the injured party.

### *Article 21*

#### **Claims representatives**

1 Each Member State shall take all measures necessary to ensure that all insurance undertakings covering the risks classified in class 10 of point A of the Annex to Directive 73/239/EEC, other than carrier's liability, appoint a claims representative in each Member State other than that in which they have received their official authorisation.

The claims representative shall be responsible for handling and settling claims arising from an accident in the cases referred to in Article 20(1).

The claims representative shall be resident or established in the Member State where he is appointed.

2 The choice of its claims representative shall be at the discretion of the insurance undertaking.

The Member States may not restrict this freedom of choice.

3 The claims representative may act for one or more insurance undertakings.

4 The claims representative shall, in relation to such claims, collect all information necessary in connection with the settlement of the claims and shall take the measures necessary to negotiate a settlement of claims.

The requirement of appointing a claims representative shall not preclude the right of the injured party or his insurance undertaking to institute proceedings directly against the person who caused the accident or his insurance undertaking.

5 Claims representatives shall possess sufficient powers to represent the insurance undertaking in relation to injured parties in the cases referred to in Article 20(1) and to meet their claims in full.

They must be capable of examining cases in the official language(s) of the Member State of residence of the injured party.

6 The appointment of a claims representative shall not in itself constitute the opening of a branch within the meaning of Article 1(b) of Directive 92/49/EEC and the claims representative shall not be regarded as an establishment within the meaning of Article 2(c) of Directive 88/357/EEC or an establishment within the meaning of Regulation (EC) No 44/2001.

## *Article 22*

### **Compensation procedure**

The Member States shall create a duty, backed by appropriate, effective and systematic financial or equivalent administrative penalties, whereby, within three months of the date when the injured party presented his claim for compensation either directly to the insurance undertaking of the person who caused the accident or to its claims representative,

- (a) the insurance undertaking of the person who caused the accident or its claims representative is required to make a reasoned offer of compensation in cases where liability is not contested and the damages have been quantified; or
- (b) the insurance undertaking to whom the claim for compensation has been addressed or its claims representative is required to provide a reasoned reply to the points made in the claim in cases where liability is denied or has not been clearly determined or the damages have not been fully quantified.

Member States shall adopt provisions to ensure that, where the offer is not made within the three-month time limit, interest shall be payable on the amount of compensation offered by the insurance undertaking or awarded by the court to the injured party.

## *Article 23*

### **Information centres**

1 In order to enable the injured party to seek compensation, each Member State shall establish or approve an information centre responsible:

- a for keeping a register containing the following information:
  - (i) the registration numbers of motor vehicles normally based in the territory of the State in question;
  - (ii) the numbers of the insurance policies covering the use of those vehicles for the risks classified in class 10 of point A of the Annex to Directive 73/239/EEC, other than carrier's liability and, where the period of validity of the policy has expired, the date of termination of the insurance cover;
  - (iii) insurance undertakings covering the use of vehicles for the risks classified in class 10 of point A of the Annex to Directive 73/239/EEC, other than carrier's liability, and claims representatives appointed by such insurance undertakings

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in accordance with Article 21 of this Directive whose names are to be notified to the information centre in accordance with paragraph 2 of this Article;

- (iv) the list of vehicles which, in each Member State, benefit from the derogation from the requirement for civil liability insurance cover in accordance with Article 5(1) and (2);
- (v) as regards the vehicles provided for in point (iv):
  - the name of the authority or body designated in accordance with the third subparagraph of Article 5(1) as responsible for compensating injured parties in the cases where the procedure provided for in Article 2(2)(a) is not applicable, if the vehicle benefits from the derogation provided for in the first subparagraph of Article 5(1),
  - the name of the body covering the vehicle in the Member State where it is normally based if the vehicle benefits from the derogation provided for in Article 5(2);
- b or for coordinating the compilation and dissemination of that information; and
- c for assisting entitled persons to be apprised of the information mentioned in points (a) (i) to (v).

The information under points (a)(i), (ii) and (iii) must be preserved for a period of seven years after the termination of the registration of the vehicle or the termination of the insurance contract.

2 Insurance undertakings referred to in point (a)(iii) of paragraph 1 shall notify to the information centres of all Member States the name and address of the claims representative appointed by them in accordance with Article 21 in each of the Member States.

3 Member States shall ensure that the injured party is entitled for a period of seven years after the accident to obtain without delay from the information centre of the Member State where he resides, the Member State where the vehicle is normally based or the Member State where the accident occurred the following information:

- a the name and address of the insurance undertaking;
- b the number of the insurance policy; and
- c the name and address of the insurance undertaking's claims representative in the State of residence of the injured party.

Information centres shall cooperate with each other.

4 The information centre shall provide the injured party with the name and address of the owner or usual driver or registered keeper of the vehicle if the injured party has a legitimate interest in obtaining this information. For the purposes of this provision, the information centre shall address itself in particular:

- a to the insurance undertaking; or
- b to the vehicle registration agency.

If the vehicle benefits from the derogation provided for in the first subparagraph of Article 5(1) the information centre shall inform the injured party of the name of the authority or body designated in accordance with the third subparagraph of Article 5(1) as responsible for compensating injured parties in cases where the procedure provided for in Article 2(a) is not applicable.

If the vehicle benefits from the derogation provided for in Article 5(2) the information centre shall inform the injured party of the name of the body covering the vehicle in the country where it is normally based.

5 Member States shall ensure that, without prejudice to their obligations under paragraphs 1 and 4, the information centres provide the information specified in these paragraphs to any party involved in any traffic accident caused by a vehicle covered by insurance as referred to in Article 3.

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.

## *Article 24*

### **Compensation bodies**

1 Each Member State shall establish or approve a compensation body responsible for providing compensation to injured parties in the cases referred to in Article 20(1).

Such injured parties may present a claim to the compensation body in their Member State of residence:

- a if, within three months of the date when the injured party presented his claim for compensation to the insurance undertaking of the vehicle the use of which caused the accident or to its claims representative, the insurance undertaking or its claims representative has not provided a reasoned reply to the points made in the claim; or
- b if the insurance undertaking has failed to appoint a claims representative in the Member State of residence of the injured party in accordance with Article 20(1); in such a case, injured parties may not present a claim to the compensation body if they have presented a claim for compensation directly to the insurance undertaking of the vehicle the use of which caused the accident and if they have received a reasoned reply within three months of presenting the claim.

Injured parties may not however present a claim to the compensation body if they have taken legal action directly against the insurance undertaking.

The compensation body shall take action within two months of the date when the injured party presents a claim for compensation to it but shall terminate its action if the insurance undertaking, or its claims representative, subsequently makes a reasoned reply to the claim.

The compensation body shall immediately inform:

- a the insurance undertaking of the vehicle the use of which caused the accident or the claims representative;
- b the compensation body in the Member State in which the insurance undertaking which issued the policy is established;
- c if known, the person who caused the accident;

that it has received a claim from the injured party and that it will respond to that claim within two months of the presentation of that claim.

This provision shall be without prejudice to the right of the Member States to regard compensation by that body as subsidiary or non-subsidiary and the right to make provision for the settlement of claims between that body and the person or persons who caused the accident and other insurance undertakings or social security bodies required to compensate the injured party in respect of the same accident. However, Member

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States may not allow the body to make the payment of compensation subject to any conditions other than those laid down in this Directive, in particular the injured party's establishing in any way that the person liable is unable or refuses to pay.

2 The compensation body which has compensated the injured party in his 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 in which the insurance undertaking which issued the policy is established.

The latter body shall be subrogated to the injured party in his rights against the person who caused the accident or his insurance undertaking in so far as the compensation body in the Member State of residence of the injured party has provided compensation for the loss or injury suffered.

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

3 This Article shall take effect:

- a after an agreement has been concluded between the compensation bodies established or approved by the Member States relating to their functions and obligations and the procedures for reimbursement;
- b from the date fixed by the Commission upon its having ascertained in close cooperation with the Member States that such an agreement has been concluded.

#### *Article 25*

### **Compensation**

1 If it is impossible to identify the vehicle or if, within two months of the date of the accident, it is impossible to identify the insurance undertaking, the injured party may apply for compensation from the compensation body in the Member State where he resides. The compensation shall be provided in accordance with the provisions of Articles 9 and 10. The compensation body shall then have a claim, on the conditions laid down in Article 24(2):

- a where the insurance undertaking cannot be identified: against the guarantee fund in the Member State where the vehicle is normally based;
- b in the case of an unidentified vehicle: against the guarantee fund in the Member State in which the accident took place;
- c in the case of a third-country vehicle: against the guarantee fund in the Member State in which the accident took place.

2 This Article shall apply to accidents caused by third-country vehicles covered by Articles 7 and 8.

#### *Article 26*

### **Central body**

Member States shall take all appropriate measures to facilitate the timely provision to the victims, their insurers or their legal representatives of the basic data necessary for the settlement of claims.

Those basic data shall, where appropriate, be made available in electronic form in a central repository in each Member State, and be accessible by parties involved in the case at their express request.

#### *Article 27*

##### **Penalties**

Member States shall fix penalties for breaches of the national provisions which they adopt in implementation of this Directive and shall take the steps necessary to secure the application thereof. The penalties shall be effective, proportional and dissuasive. The Member States shall notify to the Commission as soon as possible any amendments concerning provisions adopted pursuant to this Article.

### CHAPTER 8

#### **FINAL PROVISIONS**

#### *Article 28*

##### **National provisions**

1 Member States may, in accordance with the Treaty, maintain or bring into force provisions which are more favourable to injured parties than the provisions needed to comply with this Directive.

2 Member States shall communicate to the Commission the text of the main provisions of domestic law which they adopt in the field governed by this Directive.

#### *Article 29*

##### **Repeal**

Directives 72/166/EEC, 84/5/EEC, 90/232/EEC, 2000/26/EC and 2005/14/EC, as amended by the Directives listed in Annex I, Part A, are hereby repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law and application of the Directives set out in Annex I, Part B.

References to the repealed Directives shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

#### *Article 30*

##### **Entry into force**

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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**Status:** EU Directives are being published on this site to aid cross referencing from UK legislation. After  
IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

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### *Article 31*

#### **Addressees**

This Directive is addressed to the Member States.

Done at Strasbourg, 16 September 2009.

*For the European Parliament*

*The President*

J. BUZEK

*For the Council*

*The President*

C. MALMSTRÖM



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(1) [OJ L 172, 4.7.1988, p. 1.](#)