

## **4.1 Directives**

### **4.1.1 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)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the procedure laid down in Article 251 of the Treaty,

Whereas:

(1) Council Directive 72/166/EEC of 24 April 1972 on the approximation of the laws of Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability, Second Council Directive 84/5/EEC of 30 December 1983 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, Third Council Directive 90/232/EEC of 14 May 1990 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 Directive 2000/26/EC of the European Parliament and of the Council of 16 May 2000 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles (Fourth motor insurance Directive) have been substantially amended several times. In the interests of clarity and rationality those four Directives should be codified, as well as Directive 2005/14/EC of the European Parliament and of the Council of 11 May 2005 amending Council Directives 72/166/EEC, 84/5/EEC, 88/357/EEC and 90/232/EEC and Directive 2000/26/EC of the European Parliament and of the Council relating to insurance against civil liability in respect of the use of motor vehicles.

(2) Insurance against civil liability in respect of the use of motor vehicles (motor insurance) is of special importance for European citizens, whether they are policyholders or victims of an accident. It is also a major concern for insurance undertakings as it constitutes an important part of non-life insurance business in the Community. Motor insurance also has an impact on the free movement of persons and vehicles. It should therefore be a key objective of Community action in the field of financial services to reinforce and consolidate the internal market in motor insurance.

(3) Each Member State must 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 insurance cover are to be determined on the basis of those measures.

(4) In order to exclude any possible misinterpretation of this Directive and to make it easier to obtain insurance cover for vehicles bearing temporary plates, the definition of the territory in which the vehicle is normally based should refer to the territory of the State of which the vehicle bears a registration plate, irrespective of whether such a plate is permanent or temporary.

(5) While respecting the general criterion of the registration plate to determine the territory in which the vehicle is normally based, a special rule should be laid down for accidents caused by vehicles without a registration plate or bearing a registration plate which does not correspond or no longer corresponds to the vehicle. In this case and for the sole purpose of settling the claim, the territory in which the vehicle is normally based should be deemed to be the territory in which the accident took place.

(6) A prohibition of systematic checks on motor insurance should apply to vehicles normally based in the territory of another Member State as well as to vehicles normally based in the territory of a third country but entering from the territory of another Member State. Only non-systematic checks which are not discriminatory and are carried out as part of a control not aimed exclusively at insurance verification may be permitted.

(7) The abolition of checks on green cards for vehicles normally based in a Member State which enter the territory of another Member State can be effected by means of an agreement between the national insurers' bureaux, whereby each national bureau would guarantee compensation in accordance with the provisions of national law in respect of any loss or injury giving entitlement to compensation caused in its territory by one of those vehicles, whether or not insured.

(8) Such a guarantee agreement presupposes that all Community motor vehicles travelling in Community territory are covered by insurance. The national law of each Member State should, therefore, provide for the compulsory insurance of vehicles against civil liability, such insurance to be valid throughout Community territory.

(9) The system provided for in this Directive could be extended to vehicles normally based in the territory of any third country in respect of which the national bureaux of the Member States have concluded a similar agreement.

(10) Each Member State should be able to act in derogation from the general obligation to take out compulsory insurance in respect of vehicles belonging to certain natural or legal persons, public or private. For accidents caused by such vehicles, the Member State so derogating should designate an authority or body to compensate for the damage to victims of accidents caused in another Member State. Steps should be taken to ensure that due compensation is paid not only to the victims of accidents caused by these vehicles abroad but also the victims of accidents occurring in the Member State in which the vehicle is normally based, whether or not they are resident in its territory. Furthermore, Member States should ensure that the list of persons exempt from compulsory insurance and the authorities or bodies responsible for compensation of victims of accidents caused by such vehicles is communicated to the Commission for publication.

(11) Each Member State should be able to act in derogation from the general obligation to take out compulsory insurance in respect of certain types of vehicles or certain vehicles having a special plate. In

that case, the other Member States are allowed to require, at the entry into their territory, a valid green card or a frontier insurance contract, in order to ensure the provision of compensation to victims of any accident which may be caused by those vehicles in their territories. However, since the elimination of border controls within the Community means that it is not possible to ensure that vehicles crossing frontiers are covered by insurance, compensation for victims of accidents caused abroad cannot be guaranteed. Steps should also be taken to ensure that due compensation is awarded to the victims of accidents caused by those vehicles not only abroad but also in the Member State in which the vehicle is normally based. For this purpose, Member States should treat the victims of accidents caused by those vehicles in the same way as victims of accidents caused by uninsured vehicles. Indeed, compensation to victims of accidents caused by uninsured vehicles should be paid by the compensation body of the Member State in which the accident took place. Where payments are made to victims of accidents caused by vehicles subject to the derogation, the compensation body should have a claim against the body of the Member State in which the vehicle is normally based. After a certain period to allow for the implementation and application of this possibility of derogation, and taking into account the lessons drawn therefrom, the Commission should, when appropriate, submit proposals for its replacement or repeal.

(12) Member States' obligations to guarantee insurance cover at least in respect of certain minimum amounts constitute an important element in ensuring the protection of victims. The minimum amount of cover for personal injury should be calculated so as to compensate fully and fairly all victims who have suffered very serious injuries, while taking into account the low frequency of accidents involving several victims and the small number of accidents in which several victims suffer very serious injuries in the course of one and the same event. A minimum amount of cover per victim or per claim should be provided for. With a view to facilitating the introduction of these minimum amounts, a transitional period should be established. However, a period shorter than the transitional period should be provided for, in which Member States should increase these amounts to at least half the levels provided for.

(13) In order to ensure that the minimum amount of cover is not eroded over time, a periodic review clause should be provided using as a benchmark the European Index of Consumer Prices (EICP) published by Eurostat, as provided for in Council Regulation (EC) No 2494/95 of 23 October 1995 concerning harmonised indices of consumer prices. Procedural rules governing such a review should also be laid down.

(14) It is necessary to make provision for a body to guarantee that the victim will not remain without compensation where the vehicle which caused the accident is uninsured or unidentified. It is important to provide that the victim of such an accident should be able to apply directly to that body as a first point of contact. However, Member States should be given the possibility of applying certain limited exclusions as regards the payment of compensation by that body and of providing that compensation for damage to property caused by an unidentified vehicle may be limited or excluded in view of the danger of fraud.

(15) It is in the interest of victims that the effects of certain exclusion clauses be limited to the relationship between the insurer and the person responsible for the accident. However, in the case of vehicles stolen or obtained by violence, Member States may specify that compensation will be payable by the abovementioned body.

(16) In order to alleviate the financial burden on that body, Member States may make provision for the application of certain excesses where the body provides compensation for damage to property caused by uninsured vehicles or, as the case may be, vehicles stolen or obtained by violence.

(17) The option of limiting or excluding legitimate compensation for victims on the basis that the vehicle is unidentified should not apply where the body has paid compensation for significant personal injuries to any victim of the accident in which damage to property was caused. Member States may provide for an excess, up to the limit prescribed in this Directive, to be borne by the victim of the damage to property. The conditions in which personal injuries are to be considered significant should be determined by the national legislation or administrative provisions of the Member State where the accident takes place. In establishing those conditions, the Member State may take into account, inter alia, whether the injury has required hospital care.

(18) In the case of an accident caused by an uninsured vehicle, the body which compensates victims of accidents caused by uninsured or unidentified vehicles is better placed than the victim to bring an action against the party liable. Therefore, it should be provided that that body cannot require that victim, if he is to be compensated, to establish that the party liable is unable or refuses to pay.

(19) In the event of a dispute between the body referred to above and a civil liability insurer as to which of them should compensate the victim of an accident, Member States, to avoid any delay in the payment of compensation to the victim, should ensure that one of those parties is designated as being responsible in the first instance for paying compensation pending resolution of the dispute.

(20) Motor vehicle accident victims should be guaranteed comparable treatment irrespective of where in the Community accidents occur.

(21) The members of the family of the policyholder, driver or any other person liable should be afforded protection comparable to that of other third parties, in any event in respect of their personal injuries.

(22) Personal injuries and damage to property suffered by pedestrians, cyclists and other non-motorised road users, who are usually the weakest party in an accident, should be covered by the compulsory insurance of the vehicle involved in the accident where they are entitled to compensation under national civil law. This provision does not prejudice the issue of civil liability, or the level of awards of damages in respect of a given accident, under national legislation.

(23) The inclusion within the insurance cover of any passenger in the vehicle is a major achievement of the existing legislation. This objective would be placed in jeopardy if national legislation or any contractual clause contained in an insurance policy excluded passengers from insurance cover because they 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 the accident. The passenger is not usually in a position to assess properly the level of intoxication of the driver. The objective of discouraging persons from driving while under the influence of intoxicating agents is not achieved by reducing the insurance cover for passengers who are victims of motor vehicle accidents. Cover of such passengers under the vehicle's compulsory motor insurance does not prejudice any liability they might incur pursuant to the applicable national legislation, nor the level of any award of damages in a specific accident.

(24) All compulsory motor insurance policies should cover the entire territory of the Community.

(25) Some insurance undertakings insert into insurance policies clauses to the effect that the contract will be cancelled if the vehicle remains outside the Member State of registration for longer than a specified period. This practice is in conflict with the principle set out in this Directive, according to which compulsory motor insurance should cover, on the basis of a single premium, the entire territory of the Community. It should therefore be specified that the insurance cover is to remain valid during

the whole term of the contract, irrespective of whether the vehicle remains in another Member State for a particular period, without prejudice to the obligations under Member States' national legislation with respect to the registration of vehicles.

(26) In the interests of the party insured, every insurance policy should guarantee for a 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.

(27) Steps should be taken to make it easier to obtain insurance cover for vehicles imported from one Member State into another, even though the vehicle is not yet registered in the Member State of destination. A temporary derogation from the general rule determining the Member State where the risk is situated should be made available. For a period of 30 days from the date when the vehicle is delivered, made available or dispatched to the purchaser, the Member State of destination should be considered to be the Member State where the risk is situated.

(28) Any person wishing to take out a new motor insurance contract with another insurer should be in a position to justify his accident and claims record under the old contract. The policyholder should have the right to request at any time a statement concerning the claims, or the absence of claims, involving the vehicle or vehicles covered by the insurance contract at least during the preceding five years of the contractual relationship. The insurance undertaking, or any body which may have been appointed by a Member State to provide compulsory insurance or to supply such statements, should provide this statement to the policyholder within 15 days of the request.

(29) In order to ensure due protection for victims of motor vehicle accidents, Member States should not permit insurance undertakings to rely on excesses against an injured party.

(30) The right to invoke the insurance contract and to claim against the insurance undertaking directly is of great importance for the protection of victims of motor vehicle accidents. In order to facilitate an efficient and speedy settlement of claims and to avoid as far as possible costly legal proceedings, a right of direct action against the insurance undertaking covering the person responsible against civil liability should be provided for victims of any motor vehicle accident.

(31) In order to obtain an adequate level of protection for victims of motor vehicle accidents, a 'reasoned offer' procedure should be extended to any kind of motor vehicle accident. This same procedure should also apply *mutatis mutandis* where the accident is settled by the system of national insurers' bureaux.

(32) Under Article 11(2) read in conjunction with Article 9(1)(b) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, injured parties may bring legal proceedings against the civil liability insurance provider in the Member State in which they are domiciled.

(33) The green card bureau system ensures the ready settlement of claims in the injured party's country of residence even where the other party comes from a different European country.

(34) Parties injured as a result of a motor vehicle accident falling within the scope of this Directive and occurring in a State other than that of their residence should be entitled to claim in their Member State of residence against a claims representative appointed there by the insurance undertaking of the responsible party. This solution would enable damage suffered by injured parties outside their Member State of residence to be dealt with under procedures which are familiar to them.

(35) This system of having claims representatives in the injured party's Member State of residence affects neither the substantive law to be applied in each individual case nor the matter of jurisdiction.

(36) The existence of a direct right of action for the injured party against the insurance undertaking is a logical supplement to the appointment of such representatives and moreover improves the legal position of parties injured as a result of motor vehicle accidents occurring outside their Member State of residence.

(37) It should be provided that the Member State where the insurance undertaking is authorised should require that undertaking to appoint claims representatives resident or established in the other Member States to collect all necessary information in relation to claims resulting from such accidents and to take appropriate action to settle the claims on behalf and for the account of the insurance undertaking, including the payment of compensation. Claims representatives should have sufficient powers to represent the insurance undertaking in relation to persons suffering damage from such accidents, and also to represent the insurance undertaking before national authorities including, where necessary, before the courts, in so far as this is compatible with the rules of private international law on the conferral of jurisdiction.

(38) The activities of the claims representative are not sufficient in order to confer jurisdiction on the courts in the injured party's Member State of residence if the rules of private international law on the conferral of jurisdiction do not so provide.

(39) The appointment of representatives responsible for settling claims should be one of the conditions for access to and carrying on the activity of insurance listed in class 10 of point A of the Annex to First Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance, except for carriers' liability. That condition should therefore be covered by the single official authorisation issued by the authorities of the Member State where the insurance undertaking establishes its head office, as specified in Title II of Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive). That condition should also apply to insurance undertakings having their head office outside the Community which have secured an authorisation granting them access to the activity of insurance in a Member State of the Community.

(40) In addition to ensuring that the insurance undertaking has a representative in the State where the injured party resides, it is appropriate to guarantee the specific right of the injured party to have the claim settled promptly. It is therefore necessary to include in national law appropriate effective and systematic financial or equivalent administrative penalties – such as injunctions combined with administrative fines, reporting to supervisory authorities on a regular basis, on-the-spot checks, publications in the national official journal and in the press, suspension of the activities of the company (prohibition on the conclusion of new contracts for a certain period), designation of a special representative of the supervisory authorities responsible for verifying that the business is run in line with insurance laws, withdrawal of the authorisation for this business line, sanctions to be imposed on directors and management staff – in the event that the insurance undertaking or its representative fails to fulfil its obligation to make an offer of compensation within a reasonable period of time. This should not prejudice the application of any other measure, especially under the law applicable to supervisory matters, which may be considered appropriate. However, it is a condition that liability and the damage and injury sustained should not be in dispute, so that the insurance undertaking is able to make a

reasoned offer within the prescribed period of time. The reasoned offer of compensation should be in writing and should contain the grounds on the basis of which liability and damages have been assessed.

(41) In addition to those sanctions, it is appropriate to provide that interest should be payable on the amount of compensation offered by the insurance undertaking or awarded by the court to the injured party when the offer has not been made within the prescribed time limit. If Member States have existing national rules which cover the requirement for late-payment interest, this provision could be implemented by a reference to those rules.

(42) Injured parties suffering loss or injury as a result of motor vehicle accidents sometimes have difficulty in establishing the name of the insurance undertaking providing insurance against civil liability in respect of the use of motor vehicles involved in an accident.

(43) In the interests of such injured parties, Member States should set up information centres to ensure that such information concerning any accident involving a motor vehicle is made available promptly. Those information centres should also make available to injured parties information concerning claims representatives. It is necessary that such centres should cooperate with each other and respond rapidly to requests for information about claims representatives made by centres in other Member States. It seems appropriate that such centres should collect information about the actual termination date of the insurance cover but not about the expiry of the original validity of the policy if the duration of the contract is extended owing to non-cancellation.

(44) Specific provision should be made with respect to vehicles (for example, government or military vehicles) which fall within the exemptions from the obligation to be insured against civil liability.

(45) The injured party may have a legitimate interest in being informed about the identity of the owner or usual driver or the registered keeper of the vehicle, for example if he can obtain compensation only from those persons because the vehicle is not duly insured or the damage exceeds the sum insured, in which event this information should also be provided.

(46) Certain information provided, such as the name and address of the owner or usual driver of the vehicle and the number of the insurance policy or the registration number of the vehicle, constitutes personal data within the meaning of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. The processing of such data which is required for the purposes of this Directive should therefore comply with the national measures taken pursuant to Directive 95/46/EC. The name and address of the usual driver should be communicated only if national legislation provides for such communication.

(47) In order to ensure that the injured party will not remain without the compensation to which he is entitled, it is necessary to make provision for a compensation body to which the injured party may apply where the insurance undertaking has failed to appoint a representative or is manifestly dilatory in settling a claim or where the insurance undertaking cannot be identified. The intervention of the compensation body should be limited to rare individual cases where the insurance undertaking has failed to comply with its duties in spite of the deterrent effect of the potential imposition of penalties.

(48) The role played by the compensation body is that of settling the claim in respect of any loss or injury suffered by the injured party only in cases which are capable of objective determination and therefore the compensation body should limit its activity to verifying that an offer of compensation

has been made in accordance with the time limits and procedures laid down, without any assessment of the merits.

(49) Legal persons who are subrogated by law to the injured party in his claims against the person responsible for the accident or the latter's insurance undertaking (such as, for example, other insurance undertakings or social security bodies) should not be entitled to present the corresponding claim to the compensation body.

(50) The compensation body should have a right of subrogation in so far as it has compensated the injured party. In order to facilitate enforcement of the compensation body's claim against the insurance undertaking where the latter has failed to appoint a claims representative or is manifestly dilatory in settling a claim, the body providing compensation in the injured party's State should also enjoy an automatic right of reimbursement with subrogation to the rights of the injured party on the part of the corresponding body in the State where the insurance undertaking is established. This body is the best placed to institute proceedings for recourse against the insurance undertaking.

(51) Even though Member States may provide that the claim against the compensation body is to be subsidiary, the injured person should not be obliged to present his claim to the person responsible for the accident before presenting it to the compensation body. In such a case the injured party should be in at least the same position as in the case of a claim against the guarantee fund.

(52) This system can be made to function by means of an agreement between the compensation bodies established or approved by the Member States, defining their functions and obligations and the procedures for reimbursement.

(53) Where it is impossible to identify the insurer of a vehicle, it should be provided that the ultimate debtor in respect of the damages to be paid to the injured party is the guarantee fund provided for this purpose situated in the Member State where the uninsured vehicle, the use of which has caused the accident, is normally based. Where it is impossible to identify the vehicle, it should be provided that the ultimate debtor is the guarantee fund provided for this purpose situated in the Member State in which the accident occurred.

(54) This Directive should be 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,

HAVE ADOPTED THIS DIRECTIVE:

## **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 Subcommittee of the Inland Transport Committee of the United Nations Economic Commission for Europe;

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 (14).

### **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.

#### **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.