

AMICE position paper on the Commission's proposal to amend the Motor Insurance Directive

AMICE welcomes the opportunity to provide feedback on the European Commission's proposal to amend the Motor Insurance Directive (MID - Directive 2009/103/EC).

AMICE has been actively involved during the evaluation process of the MID by submitting a [response](#) to the public consultation and provided feedback during the stakeholder roundtable on the review of the Directive.

We welcome the Commission's recognition that most elements of the Directive remain fit for purpose, while certain amendments in specific areas would be appropriate.

AMICE supports the overall objectives of the revision: better protection of victims of motor vehicles, improvement of the rights of drivers to get similar treatment and combatting uninsured driving.

The proposal contains some positive amendments, as well as some points which need to be improved.

SCOPE OF THE DIRECTIVE

Article 1 of the proposal clarifies the concept of 'use of a vehicle' drawing on the rulings of the Court of Justice of the European Union. The 'use of a vehicle' is defined as "any use of the vehicle, intended normally to serve as a means of transport, that is consistent with the normal function of that vehicle, irrespective of the vehicle's characteristics and irrespective of the terrain on which the motor vehicle is used and of whether it is stationary or in motion".

This confirms the existing position of some national regulations, for which the defining factor is accidents caused by motor vehicles in the context of traffic, regardless whether the accidents occur on public roads or private property.

TECHNOLOGICAL DEVELOPMENTS

Autonomous vehicles

AMICE welcomes that the Commission's proposal does not bring any changes to the existing requirement for mandatory third-party liability insurance in the context of the emergence of autonomous vehicles. As regards future technological developments, the impact assessment explains that the obligation, imposed by the Directive, to take out motor insurance covering liability towards third parties applies to autonomous and semi-autonomous vehicles.

Electric bicycles and other types of new electric vehicles

In its impact assessment, the Commission considers that new types of motor vehicles, such as electric bikes, segways, electric scooters already fall within the scope of the Directive. However, Member States have the option to exempt new types of electric motor vehicles from compulsory third-party motor insurance on the condition that a national compensation fund will ensure compensation of victims in case of an accident.

AMICE accepts the status quo and the fact that the Commission does not propose any changes in this area. However, we believe that the Commission should closely monitor the development of these types of new electric vehicles and if necessary, consider changes in the mid-term with the objective of a uniform MTPL cover. With the development of new technologies, the frontier between electric bicycles and normal motorbikes is becoming narrower. Electric bicycles can reach a high speed and be as dangerous as normal motorbikes. It is important to assess the impact that these vehicles can have on victims in case of an accident.

Therefore, AMICE believes that the Commission should collect and examine the statistics on the accidents caused by electric bicycles or other types of new electric vehicles and compare these with the statistics on the accidents caused by normal bicycles.

CHECKS ON INSURANCE

In order to facilitate the free movement of persons and vehicles within the single market and to ensure that Member States do not carry out insurance checks at their borders, the current Directive prohibits systematic checks of insurance on vehicles entering the national territory. However, Article 4 of the proposal takes advantage of new, unobtrusive technological developments to verify the insurance obligation. Member States may carry out such insurance checks provided that they are not discriminatory, necessary and proportionate to the objective pursued and

- (a) they are carried out as part of a control which is not aimed exclusively at insurance verification or
- (b) they form part of a general system of checks on the national territory and do not require stopping the vehicle for the purpose of such a check.

AMICE welcomes these measures and encourages each Member State to ensure that this balance is respected. It is in the collective interest of all stakeholders. These new measures can contribute effectively and successfully in combatting uninsured driving based on modern technologies.

MINIMUM AMOUNTS OF COVER

The proposal sets out harmonized minimum levels for personal injuries (EUR 6,070,000 per accident, irrespective of the number of victims or EUR 1,220,000 per victim) and material damage (EUR 1,220,000 per claim, irrespective of the number of victims) across the EU. However, Member States remain free to set, at national level, higher minimum amounts of cover than those foreseen in the Directive.

AMICE welcomes the Commission's proposed minimum amounts of cover, as well as the option granted to Member States to set higher amounts than the Directive. However, in order to avoid any confusion, it is important to clarify the terminology used in the proposal ("per accident"/"per claim").

INSOLVENCY OF INSURERS OR LACK OF COOPERATION

The Commission proposes that Member States set up or appoint a body that provides initial compensation for injured parties habitually residing within their territory for damage caused by a vehicle insured by an insurance undertaking in the following cases (Article 10a):

- The company is subject to bankruptcy proceedings;
- The company is subject to a winding up procedure;
- The insurance undertaking or its claims representative has not provided a reasoned reply to the points made in a claim for compensation within 3 months.

The compensation body is then entitled to claim reimbursement of the sum paid by way of compensation from the corresponding body in the Member State in which the insurance company is established.

AMICE welcomes the Commission's intention to find a solution regarding the compensation of victims of road traffic accidents caused by the use of vehicles insured with an insurer in state of insolvency.

The third case mentioned in Article 10a(1)(c) is problematic since it means that for any insured who simply did not have a reasoned response from his/her insurer after 3 months (excluding pending legal action), all the insurers adhering to the compensation funds will first have to settle in its place. AMICE believes that the compensation body should not deal with the management delays of insurance companies. Therefore, we are strongly opposed to placing the burden of the delays of insurers on the guarantee funds.

The guarantee funds should retain their role to intervene in the payment of claims when neither the person responsible for the accident nor any insurer is able to assume the claim (in case of insolvency, uninsured or unidentified driving).

It is unclear if the text of the proposed new provision covers insolvency proceedings of insurers operating in their own home Member State or also the insolvency of insurance undertakings operating under the freedom of services and the freedom of establishment. This point needs to be clarified in order to avoid any confusion.

CLAIMS HISTORY STATEMENTS

AMICE does not oppose the standardisation of the content and format of claims history statements across the EU. This could facilitate the processing of insurance contracts, as well as cross-border insurance activities.

We believe that this should be a minimum harmonisation. Member States should have the possibility to include further information and adapt the claims history statements to the specificities of their respective market. For example, in some countries the claims history statement includes the whole claims history of the policyholder, not only the one from the last insurance company.

Article 16 of the proposal specifies the content of claims history statement which also refers to “(e) **the number and value of the declared third party liability claims during the period covered by the claims history statement.**”. We consider that the inclusion of the “value of claims” in the claims history statement as proposed by the Commission is inappropriate. We strongly oppose the disclosure of the information on the value of claims for the following reasons:

- the inclusion of the amounts in the statements would result in substantial additional work for insurance companies, as well as the common systems and the benefits for the customer are difficult to come up with.
- In Member States’ legislation, there are no rules/codification on the value of claims.
- The cost of a claim may change between the time the statement is made and the closing of the indemnity.
- The amount of compensation, for the same claim, can vary greatly from one Member State to another. These last two reasons are particularly common in case of bodily injury.

Bearing in mind the increased digitalization of processes, insurance undertakings should be able to provide the claims history statement in a digital format.

AMICE is not in favour of the introduction of the requirement for Member States to ensure that insurance undertakings publish their policies in respect of their use of claims history statements when calculating premiums. The proposed amendment goes against the freedom of insurers to set the premium rates for the cover they offer. It is even at the heart of the competition between insurers. It does not take into account the risk portfolio of insurers nor differences in the provisioning of claims between companies. There may also be a discrepancy between the time the statement is produced and the time the premium is calculated.

The Commission’s intention is to impose the publication of insurer’s pricing policy in order to verify that they do not treat policyholders in a discriminatory way. AMICE members take into account claims history statements from other insurers, including from other Member States, when they calculate their premiums. Therefore, we strongly oppose the introduction of this obligation.

INSURANCE OF DISPATCHED VEHICLES

Article 15 of the MID on dispatched vehicles was introduced in order to help consumers find MTPL insurance for a vehicle that has to be dispatched from one Member State to another. A number of practical issues and gaps in claims handling in the event of an accident caused by a dispatched vehicle have occurred in practice and with which consumers still have to cope today.

One of the gaps which occurred in practice, is that in case of an accident in the Member State of origin of a dispatched vehicle, nobody is responsible for receiving a claim for compensation. In such cases, the vehicle is insured with an insurer in the Member State of destination, which means that a victim in the Member State of origin would have to address a claim to the insurer in the Member State of destination. That is an unfortunate situation for the victim. The victim can however not address a claim to the Bureau of the Member State of origin since the vehicle is registered in the Member State of origin and the Bureau of the Member State can only be competent for foreign vehicles. Finally, the victim (when resident in the Member State of origin) is unable to address a claim to the Compensation Body of the Member State of origin either since the accident has not taken place in another Member State than the victim’s Member State of residence.

In order to put an end to the numerous practical problems created by the provision on dispatched vehicles, AMICE supports the Council of Bureaux plead for the deletion of Article 15 of MID.