

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⁽¹⁾.

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.

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