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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2018) 248 final
Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT Accompanying the document Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending 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

Delegations will find attached document SWD(2018) 248 final.

Encl.: SWD(2018) 248 final



Brussels, 24.5.2018
SWD(2018) 248 final

COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

**Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**

**amending 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**

{COM(2018) 336 final} - {SEC(2018) 248 final} - {SWD(2018) 247 final}

Executive Summary Sheet

Impact assessment on Commission proposal for an amendment to the Motor Insurance Directive

A. Need for action

Why? What is the problem being addressed?

Following an evaluation of the Motor Insurance Directive, first adopted in 1972 and amended several times, it was concluded that although the Directive in general functions well, two aspects were negatively influencing its effectiveness:

1. Insufficient protection of victims of motor vehicle accidents. Two factors contribute to this:
 - o Firstly, when a motor insurer becomes insolvent before paying claims arising from its policyholders, there are no EU-level rules to ensure swift payment of victims, especially where the insurer is providing insurance cross-border using the freedom to provide services. In recent cases of such insolvencies, significant delays in payment of compensation to victims occurred.
 - o Minimum obligatory amounts of cover for motor insurance, laid down in the Directive since 2005, are not the same in all Member States, due to different reference periods for various Member States which are no longer appropriate.
2. Differential treatment and freeriding behaviour negatively affecting policyholders. In this case there are two factors:
 - o When a policyholder moves residence to another EU Member State, their claims history (resulting in a "no-claims bonus" or "bonus-malus" rating) is not always taken into account by motor insurers in the new Member State of residence.
 - o A high level of uninsured driving results in higher insurance premiums for policyholders than would otherwise be the case (guarantee funds ensure payment of victims in such cases, but they are funded by a levy on motor insurance policies, affecting policyholders).

In addition, a number of recent judgements of the European Court of Justice have provided important clarifications which confirm the scope of application of the Directive (which vehicles and which situations are subject to an obligation of motor insurance cover). For this topic the proposed policy choice was a codification of existing case-law and therefore falls outside the scope of this impact assessment.

What is this initiative expected to achieve?

The initiative is expected to achieve a high level of protection of victims of motor vehicle accidents and fair treatment of motor insurance policyholders, especially those who are mobile across Member States.

What is the value added of action at the EU level?

The Directive protects victims of road accidents in EU Member States other than that of their residence, and domestic victims of an accident caused by a driver from another Member State. The measures envisaged can only be enacted at EU-level, as they concern cross-border active insurers, cross-border mobile motor insurance policyholders and cross-border insurance checks of vehicles.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?

As the Directive already exists, the baseline option in all cases was no change to the Directive. Furthermore, the baseline scenario was further clarified by a number of CJEU court rulings on the scope which are codified in the Directive.

Regarding insolvency of insurers, a subject not currently part of the Directive, a rejected option was to impose a responsibility for initial compensation of victims but no ultimate responsibility. The selected option was to designate both responsibilities, with initial responsibility on the Member State of residence of the victim, and ultimate responsibility on the Member State of establishment of the insolvent insurer.

Regarding minimum amounts of cover, a rejected option was to impose higher obligatory amounts for larger vehicles such as trucks and buses. The preferred option is to harmonise amounts to the highest obligatory minimum level currently applying in Member States.

Regarding claims history, a rejected option was to only harmonise the template for claims history statements but without imposing any obligatory treatment of such statements by insurers. The selected option is to harmonise the claims history statement and at the same time to impose the same treatment for such statements, regardless of the Member State of origin of the policyholder.

Regarding uninsured driving, a rejected option was to make unobtrusive insurance checks obligatory. The selected option was to authorise such checks (currently prohibited) on a voluntary basis for Member States.

Who supports which option?
<p>There is wide support from all categories of stakeholders for an EU initiative to ensure rapid payment of compensation to victims of accidents in case of insolvency of a motor insurer, especially in a cross-border context. A majority of stakeholders support the option placing ultimate financial responsibility in such cases with the home Member State of establishment of the motor insurer in question.</p> <p>There is support (among stakeholders to harmonisation of minimum amounts of cover for motor insurance to the higher level which already applies in many Member States. Some consumer organisations supported a higher level of obligatory cover for larger vehicles such as trucks and coaches, but this was opposed by the insurance sector and trucking and coaching companies as not justified by evidence and causing higher insurance costs which would be passed on to end consumers.</p> <p>Regarding cross-border transferability of claims history documents, a number of individual citizens related their negative experiences in this respect and called for intervention to ensure that cross-border mobile citizens are treated the same as existing residents of a Member State, as regards their claims history statements. The insurance sector did not support binding obligations on insurers in this regard, as being disproportionate. Nevertheless, some consumer organisations supported harmonisation of claims history statements and a non-discrimination clause protecting citizens moving residence to another Member State.</p> <p>Regarding uninsured driving, there was no opposition to authorising unobtrusive insurance checks.</p>
C. Impacts of the preferred option
What are the benefits of the preferred option (if any, otherwise main ones)?
<ol style="list-style-type: none"> 1. Rapid and adequate payment of compensation to victims, even where the motor insurer becomes insolvent, is the main benefit of the selected options. 2. Better treatment of policyholders in terms of their claims history, and possibly lower premiums, if uninsured driving is reduced.
What are the costs of the preferred option (if any, otherwise main ones)?
<p>The costs of the preferred options will accrue to motor insurers. They will need to contribute to bodies which compensate victims in cases of the insurer's insolvency. This is already the case for most insurers in most Member States, but not always for insurers providing insurance cross-border. They will also need to put in place procedures to ensure equal treatment of claims history statements originating in another Member State with claims history statements originating in their own member State.</p>
How will businesses, SMEs and micro-enterprises be affected?
<p>The proposal does not entail any specific impact for small and medium-sized enterprises except those which are insurers or policy holders of motor insurance. Motor insurers, including those which are SMEs, will incur the costs indicated in the above box on costs. SMEs and micro-enterprises will be affected as operators of vehicles which require insurance. If they are located in Member States where the minimum amounts of cover will be revised slightly upwards, very small increases in insurance premiums are possible (this is also the case for individual policyholders in those Member States).</p>
Will there be significant impacts on national budgets and administrations?
<p>There will be no impact on national budgets, unless a Member State takes up the option for unobtrusive insurance checks of vehicles normally based in another Member State, which would require the use of number plate recognition technology and exchange of information with other Member States on insurance status of vehicles. Member States will have to designate a body responsible for compensation of victims in cases of cross-border insolvency of insurers, but it is anticipated that this will be an additional task for an existing body (either a general insurance guarantee fund, or the guarantee fund already required by the Directive for cases of accidents caused by uninsured or untraceable vehicles). Costs will be funded by contributions from motor insurers.</p>
Will there be other significant impacts?
<p>There are no other significant impacts expected except than the improved protection of citizens in case of motor accidents providing a higher confidence in cross-borders provision of motor insurance as part of the internal market. Furthermore, an easier acceptance and authentication of claims history statements will benefit citizens moving residence within the EU.</p>
D. Follow up
When will the policy be reviewed?
<p>The legislation provides for an evaluation of the new provisions after 5 years of application.</p>