

PARLIAMENT - COUNCIL CONCILIATION COMMITTEE *FOURTH MOTOR INSURANCE DIRECTIVE*

The Fourth Motor Insurance Directive is now ready for adoption by the Council and the European Parliament, following the agreement reached at the Conciliation Committee today¹. The two institutions will have to confirm the agreement by an absolute majority of the votes cast in the case of the Parliament and by a qualified majority in the Council-subject to which the decision will be adopted.

This directive is intended to improve the protection of residents of any Member State who, whilst temporarily abroad (e.g. as tourists), are victims of a traffic accident.

The directive will complement the well-known "Green Card" system which has proved insufficient in solving some of the main problems encountered by accident victims who want to bring a claim in another country against a party who is resident there and an insurer established in that country. Experience shows that the problems faced by the victim are, for example, a foreign legal system, a foreign language, unfamiliar settlement procedures and often unreasonably long settlement delays.

The main subject of conciliation was the geographical scope of the directive. The agreed text now lays down that injured parties are entitled to compensation resulting from accidents occurring

- in a Member State other than the Member State of residence of the injured party which are caused by vehicles insured and normally based in a Member State, but also
- in such third countries whose national insurer's bureaux have joined the Green Card system whenever such accidents are caused by vehicles insured and normally based in a Member State (39 countries are covered by this system).

The main mechanisms to be introduced by the Directive are:

- The right of direct action (the right of a citizen of any Member State to claim compensation from the appropriate insurer from another Member State) will be reinforced. It will become an obligation for Member States (the majority of which already have such a system for domestic victims) to apply this mechanism in the case of an accident involving an EU citizen from a different country. This right of direct action will strengthen the legal position of a victim and will facilitate the payment of compensation across national borders.

¹ The Conciliation Committee has 30 members : 15 members of the European Parliament and 15 representatives of the Council. The meeting today was co-chaired by Mr. Ingo FRIEDRICH, Vice-President of the European Parliament, and by the President-in-Office of the Council, Mr Vítor SANTOS, State Secretary for Industry and Energy of Portugal.

- The directive will oblige all EU insurance companies to appoint a resident claims' representative in other Member States. These representatives will be authorised to deal with any claims arising from such accidents as described above. The claimant will therefore have the benefit of being able to deal directly with the company responsible for his reimbursement in his own language, once he returns to his own country. The duty of the insurer or his claims representative to make a reasonable offer of compensation or, in cases where liability is rejected or has not been clearly determined, to provide a reasoned reply to the injured party, will be backed by financial or administrative penalties. In particular, Member States must ensure that where the offer is not made within three months from the date of the accident or from the date when the claim is presented interest shall be payable.
- Member States will have to set up information centres, in order to help traffic accident victims to establish the name of the insurer to which they have to address their claims. These information centres should also make available to injured parties information concerning claims representatives.
- As a back-up to the system of claims representatives, there will be a compensation body in each Member State. Its responsibility will be to provide compensation to victims if the insurer concerned or his claims representative has not proposed such compensation within the time limits and according to the procedures established by the directive. The compensation bodies shall conclude a mutual arrangement relating to their functions, obligations and the modalities of reimbursement within 6 months following the deadline for their creation (which is fixed at 18 months from the publication of the Directive). If such an agreement has not been concluded the Commission shall propose adequate measures to take effect within a further 6 months. The common position also stipulates that the motor insurance guarantee fund in the Member State of the accident shall in all cases compensate the injured party, including those cases where a vehicle registered in a third-country is involved.