



# **Latest European trends and challenges for insurers**

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**International Conference**

**“Current Challenges of Estonian and European  
Insurance Law”**

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# Insurance Europe

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## Who?

- European insurance and reinsurance federation, founded in 1953

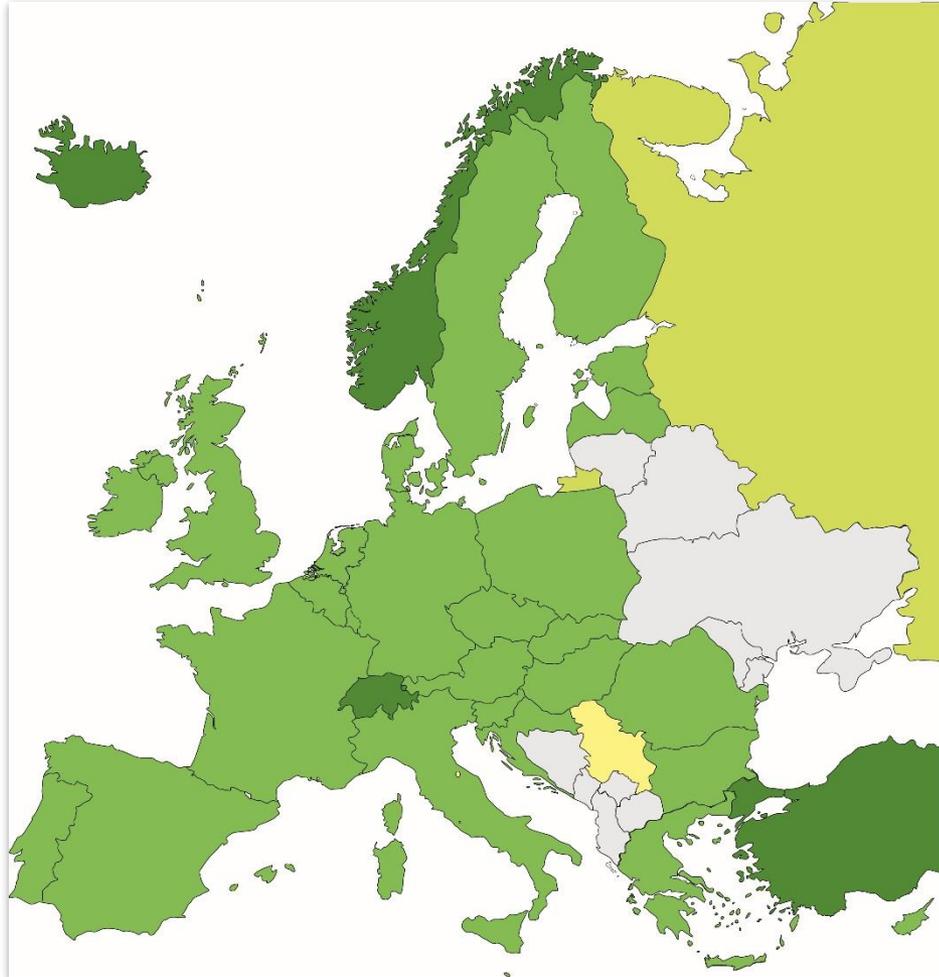
## What?

- Represents around 95% of European insurance market by premium income

## Why?

- Committed to creation of effective and efficient regulatory and supervisory framework for insurers at European and international level

# Members



## 34 national associations

**27 EU member states**

**5 non-EU markets**

*Switzerland, Iceland, Norway, Turkey, Liechtenstein*

**1 associate member**

*Serbia*

**1 partner**

*Russia*

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## 1 Regulatory developments

**Revision of the Motor Insurance Directive (MID)**

## 2 Technological developments

**Automation and A.I.**

## 3 Business developments

**Access to data**

# 1 – Regulatory developments

## 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)

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 <sup>(1)</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

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 <sup>(3)</sup>, 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 <sup>(4)</sup>, 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 <sup>(5)</sup> 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) <sup>(6)</sup> have been substantially amended several times <sup>(7)</sup>. 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 <sup>(8)</sup>.

- (2) Insurance against civil liability in respect of the use of motor vehicles (motor insurance) is of special importance for European citizens

## The Motor Insurance Directive

# 1 – Regulatory developments

## Motor Insurance Directive

- **Since 1972**, last codified in 2009.
- Ensures **compensation** for victims of road traffic accidents across the EU through:
  - Compulsory MTPL insurance for all motor vehicles in the EU
  - Guarantee funds
- **No checks at borders:**
  - MTPL insurance policy cover valid throughout the EU
- **Claims history statements:**
  - Policyholders can request a statement of any claims involving their vehicle, which were covered by their insurance contract, over the last 5 years

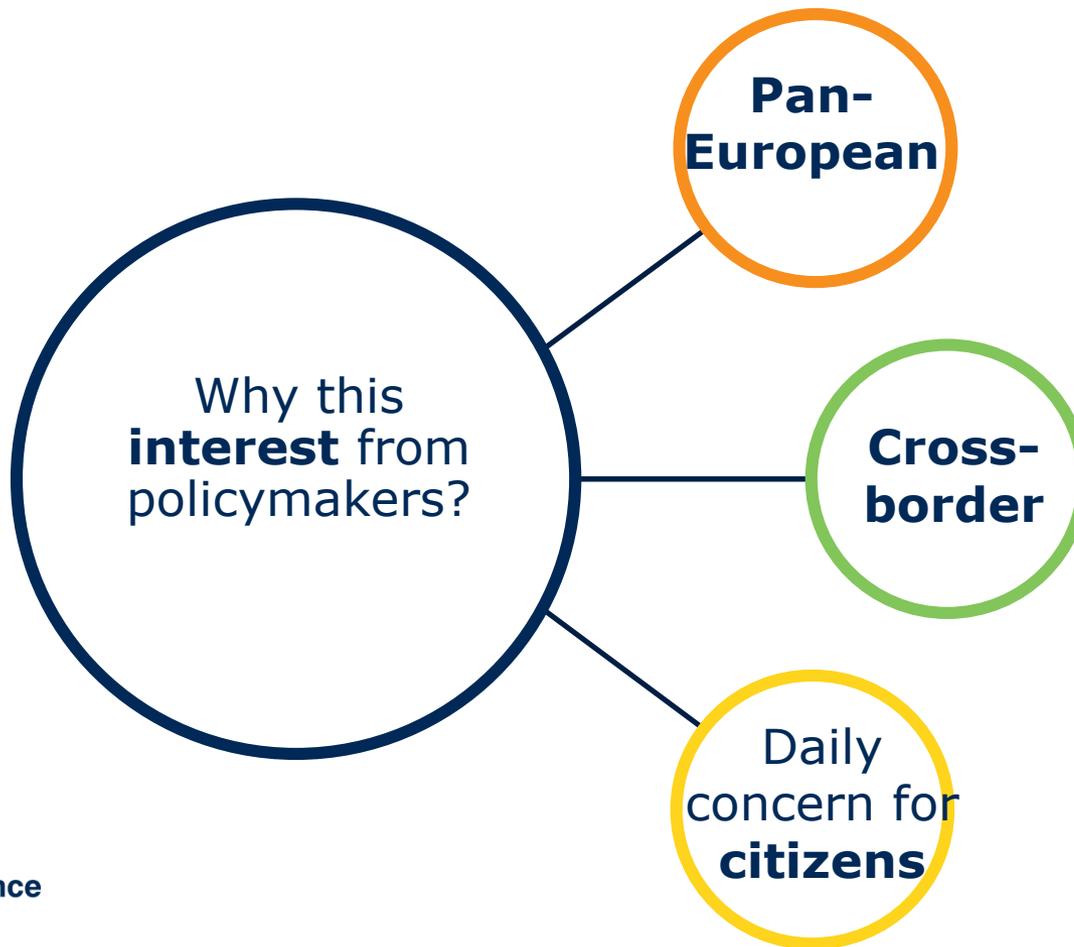
# 1 – Regulatory developments

## Motor Insurance Directive

- Does **NOT** cover:
  - Liability rules
  - Calculation of compensation
  - Extra-MTPL cover, ie comprehensive cover
    - Physical injury of the driver
    - Material damage to vehicles
    - Theft, fire, etc.
- Allows **derogations** by member states for:
  - Certain persons
  - Categories of vehicles

# 1 – Regulatory developments

## Motor Insurance Directive



Relevant to all member states

An instrument of **freedom of movement**

Shows EU-action results in everyday life

# 1 – Regulatory developments

## Motor Insurance Directive revision

### The European Commission

- 2016 – EC Work Programme announces 'REFIT' review
  - REFIT = **R**egulatory **F**itness and Performance programme
- 2017 – Roundtable with stakeholders
  - Inception Impact Assessment
  - Public consultation
- 2018 – **EC publishes proposal** to revise the MID with Impact Assessment

# 1 – Regulatory developments

## Motor Insurance Directive revision

### The European Parliament

- EP reviews the proposal:
  - IMCO as lead committee
    - IMCO = Internal Market and Consumer Protection
  - JURI as opinion-giving committee
    - JURI = Legal Affairs
  - No role for ECON (financial services)
- EP adopts its opinion in February 2019 in plenary
  - Will remain position after elections

# 1 – Regulatory developments

## Motor Insurance Directive revision

### The Council

- 2 Working Party meetings...
  - On just one issue (scope)
- ...not a priority of the Romanian presidency.
  - A third scheduled in April (still just scope)

# 1 – Regulatory developments

## Motor Insurance Directive revision

- MID's aims:
  - Protection of victims of motor vehicle accidents
  - Freedom of movement
- EC Proposal's stated aim:
  - Better protection for victims of motor vehicle accidents
  - Improve rights of insurance policyholders
    - Notably when moving from one country to another

# 1 – Regulatory developments

## MID revision

- Topics covered:
  - Claims history statements
  - Guarantee funds and insolvencies
  - Minimum amounts of cover
  - Insurance checks
    - Uninsured driving
  - Scope of the MID
    - Vnuk ruling
    - Autonomous vehicles
    - New electric vehicles

# 1 – Regulatory developments

## Claims history statements

- Article 6 of the MID:
  - Consumers can request a claims history statement from their insurer for the previous 5 years
- The perceived issue:
  - Not always possible to carry your bonus/malus from one country to another
- The EC's suggested solution:
  - Standardise the format of claims history statements

# 1 – Regulatory developments

## Claims history statements

- EP view:
  - Support for this proposal
  - Slight improvement on detail (value of claims no longer in the standardised statement)
- Insurance Europe view:
  - Only anecdotal evidence of an issue
  - Respect insurers' free commercial judgement
  - Insurance Europe developed **guidelines** in 2014

# 1 – Regulatory developments

## Claims history statements



### **Insurance Europe Guidelines on information for motor insurance claims history declarations for cross-border use**

*These guidelines should be used in the framework of the Single Market to facilitate the circulation of information on claims history and assessment of bonus/malus by insurers operating on two distinct national markets.*

*These guidelines should be adapted to the national regulations in place and could be applied by insurance companies on a voluntary basis and on request of policyholders for cross-border use only.*

# 1 – Regulatory developments

## Guarantee funds and insolvencies

- Article 10 of the MID:
  - Ensure compensation of victims of road traffic accidents where the vehicle is:
    - Unidentified
    - Uninsured
- The issue:
  - The MID does not extend this guarantee to cases where the insurer is insolvent
- The EC's suggested solution:
  - Add provision on insolvency to the MID
  - Rules to decide which guarantee fund bears the final cost of an insolvency (home Member State principle)

# 1 – Regulatory developments

## Guarantee funds and insolvencies

- EP view:
  - Support for the EC proposal
  - More details on the mechanism
  
- Insurance Europe view:
  - Support for the proposal
    - No victim without compensation
  - Proper supervision and implementation of Solvency II rules

# 1 – Regulatory developments

## Minimum amounts

- Article 9 of the MID:
  - Minimum amounts of policy cover for personal injury and damage to property
- The issue:
  - Because of available transition periods, some Member States are still subject to lower minimum amounts
- The EC's suggested solution:
  - Update minimum amounts set out in the MID to ensure all Member States now have the same minimum amounts

# 1 – Regulatory developments

## Minimum amounts

- EP view:
  - Support
- Insurance Europe view:
  - Support but avoid too sudden an increase for markets with lower amounts
    - Differences in economies and infrastructures mean differences in cost of claims

# 1 – Regulatory developments

## Checks on insurance

- Article 4 of the MID:
  - Ban on systematic checks on insurance
- The issue:
  - Uninsured driving remains an issue yet MID prevents stops at border for checks on insurance
- The EC's suggested solutions:
  - New technological developments allow for insurance checks without stopping vehicles

# 1 – Regulatory developments

## Checks on insurance

- EP view:
  - Support but additional data protection guarantee
    - To prevent risk of storing drivers data longer than necessary
- Insurance Europe view:
  - Support, but use existing EUCARIS network

# 1 – Regulatory developments

## Scope of the MID

- Article 3 of the MID:
  - Compulsory insurance for civil liability in respect of the *use of vehicles*
- The issue (Vnuk ruling):
  - The *Vnuk* ruling created uncertainty as to the scope of the MID's compulsory insurance requirement
    - Any use of a vehicle that is consistent with 'the normal function' of that vehicle
- The EC's suggested solution:
  - Maximum interpretation of the scope of MID
    - Member States can then use derogation mechanisms (article 5)

# 1 – Regulatory developments

## Scope of the MID

- EP view:
  - Scope limited to use of vehicles *in traffic*
  - Clear exclusion of motor sports and 'new electric vehicles'
  - Refer to Type Approval regulation
  
- Insurance Europe view:
  - Support for EP view
    - The MID is not meant to cover accidents on construction or industrial sites, agricultural accidents or accidents between competitors in motor sports
    - Article 5 derogation not sufficient

# 1 – Regulatory developments

## Scope of the MID

### New electric vehicles

- The perceived issue:
  - More and more new electric vehicles on European streets



# 1 – Regulatory developments

## Scope of the MID

### New electric vehicles

- The EC's response:
  - These vehicles are *already* within the scope of the MID
- The EP's view:
  - Compulsory insurance is unnecessary...
  - ...and will slow down uptake
- Insurance Europe view:
  - These vehicles are more like bicycles – not in scope
  - Insurers already insure them

# 1 – Regulatory developments

## Scope of the MID

### Autonomous vehicles

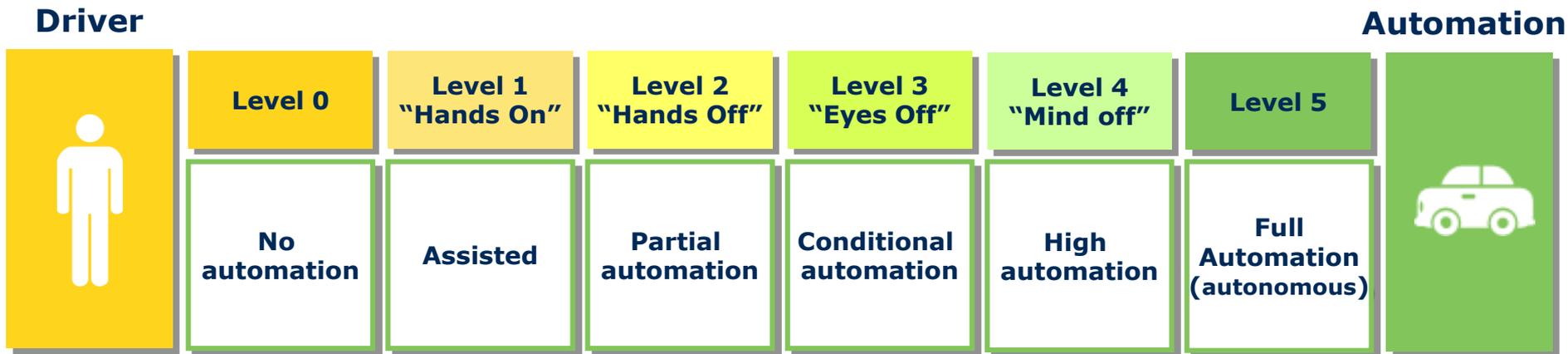
- The perceived issue:
  - The MID may need to be updated to accommodate autonomous vehicles
- EC, EP and Insurance Europe:
  - The MID is fit for purpose for autonomous vehicles...
    - ... but EC and EP: to be reviewed in 5 years.

# 2 - Technological developments

## Automation

### *Automated vehicles*

Vehicles equipped with **sensors** allowing to navigate their environment with limited human input.



## 2 – Technological developments

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### Automation

- Insurance Europe's messages on **automated** vehicles:
  - Accidents will still happen and **road users' safety** must be the priority
  - **Legal framework** is fit for purpose:
    - Motor Insurance Directive ensures protection and compensation for road users
    - Product Liability Directive allows recovery actions where the vehicle was defective
  - Insurers need **access to data** about accidents to be able to do their job

## 2 – Technological developments

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### Automation

- Main question from EU to insurers: who will be liable?
- Who will be liable?
  - National rules apply...
    - National liability regimes
  - ...but if product defect:
    - European ground rules: Product Liability Directive

# 2 – Technological developments

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## Automation

- Product Liability Directive
  - Adopted in 1985
  - Harmonises liability rules at EU level:
    - Strict liability on producers of defective products that cause death, personal injury or damage to property
    - Burden of proof on injured party
    - Defences available to manufacturers
  - Any product marketed in EU
    - Cars included

# 2 – Technological developments

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## Automation

- No revision of the Product Liability Directive but Expert Group set up in June 2018
  - Assess suitability of PLD for new and emerging technologies
  - Provide guidance where needed (due May 2019)
- Insurance Europe view:
  - The PLD has been a success
  - Focus on product safety requirements over new liability rules

## 2 – Technological developments

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# Artificial Intelligence

- Artificial intelligence (AI):
  - Systems that display intelligent behaviour by:
    - analysing their environment; and
    - taking actions to achieve specific goals.
  - Purely Software-based
    - Eg search engines
  - Embedded in hardware
    - Eg autonomous vehicles

## 2 – Technological developments

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### Artificial Intelligence

- Communication by the EC on AI (April 2018) to:
  - Boost financial support and encourage uptake by public and private sectors
  - Prepare for socio-economic changes brought about by AI
    - Encourages Member States to modernise their education and training systems and support labour market transitions
  - Ensure an appropriate ethical and legal framework
    - EC issued draft guidelines on the use of AI

# 3 – Business developments

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## Access to data

Vehicles equipped with **internet access**, and often connected to other local/specialised networks, including wider infrastructure.



# 3 – Business developments

## Access to data

- **Type of data:** more and diverse data will be generated, eg:

Today	2025
Car repair diagnostics	Predictive service scheduling
Vehicle settings based on memory	E-commerce in-car/targeted advertisements
Real-time maps	Preventive safety adaptation

# 3 – Business developments

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## Access to data

- **Data generated:**

- Today approximately **25 gigabytes** of data per hour
- Figure expected to **double by 2020**
- Autonomous vehicles will generate 4 terabytes (4000GB) of data per hour

- **Role of telecom networks:**

- Processing times to accelerate with **5G** & new infrastructure

- **Need for**

- ***In-vehicle*** access
- ***Real-time***
- ***Raw*** data

# 3 – Business developments

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## Access to data

- **DATA** at heart of new business models
  - New types of policies offered
    - Usage-based insurance: pay as you drive, pay how you drive
  - New services offered and new ways of offering existing services
    - Driver coaching
  - Claims handling: faster validation and payment

# 3 – Business developments

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## Access to data

- Data-based motor insurance products:
  - Pay As/How You Drive
  - Driver coaching
  - Accident notification
  - Theft notification
  - Breakdown services
  - Other claims-related services
  - Location-based services

## 3 – Business developments

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# Access to data

- No action:
  - Vehicle manufacturers maintain unfair advantage
- Need for EU **regulatory** action to promote
  - In-vehicle access
  - For all stakeholders
  - True consumer choice
- A fair and competitive vehicle service industry in the digital era [[video](#)]



## **For more information**

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