Motor Insurance
Republic of Serbia

Chapter 9 – Financial Services
Outline

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1. Relevant sources of the Acquis

• **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 (**MID**)

• **COUNCIL DIRECTIVE 90/618/EEC** of 8 November 1990 amending, particularly as regards motor vehicle liability insurance, Directive 73/239/EEC and Directive 88/357/EEC which concern the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance
2. Serbian Legal Framework

- **The Law on Compulsory Traffic Insurance** (RS Official Gazette, Nos. 51/09, 78/11, 101/11 and 93/2012 13 – decision of the CC)
- **The Law on Road Traffic Safety** (RS Official Gazette, Nos. 41/09, 53/10, 101/11, 32/13 – decision of the CC and 55/14 – other law)
- **The Insurance Law** (RS Official Gazette, No. 139/2014)
- **The Decree establishing the minimum sum insured in motor third party liability insurance** (RS Official Gazette, No. 108/2014)
2.1. Competent Authority

- **National bank of Serbia** supervises the operation of insurance companies providing MTPL insurance, compliance with the obligations prescribed by the Law and market conduct, as well as the new Guarantee fund.
- Public functions performed by the **Association of Serbian Insurers** (ASI) are supervised by the **Ministry of finance** (currently - IC, Green Card Bureau Serbia, existing Guarantee fund).
- Supervision is also performed by the Ministry of Interior and the Traffic Police.
3.1. Current state of play
MTPL Insurance in RS

Compulsory insurance of vehicles

- The owner of motor vehicles is required to sign a contract on compulsory insurance before the vehicle is used for transport
- The MTPL covers the damages (**personal injury and to property**) occurring in the territory of the Republic of Serbia, unless otherwise regulated by an international treaty
- The **Multilateral Guarantee Agreement** signed in 2011 (System based on the license plates – Deemed Insurance Cover System)
- The Commission Implementing Decision of 22 November 2011 (2011/754/EU)
- **Green Card or Border Insurance** required for motor vehicles normally based in the territory of a state whose national insurance bureau is not a signatory to the Multilateral Agreement when entering RS

EU validity of MTPL insurance and the **single premium** (*EU Rules*)
3.2. Association of Serbian Insurers (ASI)

The ASI, the members of which are all insurance companies carrying out operations in the area of compulsory traffic insurance, performs the following public functions:

• Activities of a national insurance bureau in accordance with international treaties
• Maintains the Information Centre, Claims Compensation Bureau and the Loss events register
• Collects, processes, keeps, delivers and publishes on its website data significant for carrying out its operations
• Determines the amount of contribution to be paid by insurance companies for the provision of funds for carrying out its operations

The Green Card Bureau at the ASI has been a member of the International Association of Green Card since 1954. ASI has 21 members/founders

The Government approves the provisions of the Statute of the ASI pertaining to the performance of public functions

The ASI submits its annual reports to the Government regarding the performance of public functions
3.3. Current state of play - MTPL Insurance

*EU Rules*

**Checks on insurance (EU Rules)**

- The body responsible for internal affairs in the Republic of Serbia shall undertake non-systematic checking which is not aimed exclusively at MTPL insurance verifications

**Vehicles dispatched from one Member state to another (EU Rules)**

- In case the motor vehicle was sent from the territory of an EU member state into the Republic of Serbia, the risk shall be deemed to be located in the Republic of Serbia during the period of 30 days from the date the vehicle is received by the buyer

**Exemption from compulsory insurance**

- The obligation of compulsory insurance does not apply to the means of transport of the Serbian Armed Forces
- The Republic of Serbia is responsible for any compensation arising due to the use of these means of transport
3.4. Current state of play - MTPL insurance
Minimum Amounts

The minimum sum insured for which motor third party liability insurance may be contracted, from 13 October 2014, is the dinar equivalent of:

• 1) EUR 1,000,000 – for personal injury, caused by a single loss event, regardless of the number of damaged parties
• 2) EUR 200,000 – for damage to property, caused by a single loss event, regardless of the number of damaged parties

Deregulation of tariff calculation in MTPL insurance is envisaged from the accession of RS to the EU
An insurance company includes a bonus-malus system in its premium system and scales of premiums
4.1. Settlement of claims - Injured party

Persons not entitled to claim damages under MTPL insurance (negative definition of an injured party):

- Owner of a motor vehicle whose usage caused him damage
- Driver of a motor vehicle whose usage caused him damage
- Person entering a motor vehicle of his free will and aware that the vehicle was illegally taken away
- Person affected by damage caused by motor vehicles in special cases

An insured person shall lose his insurance rights in the following instances:

- If the driver did not possess a valid driver's license for the appropriate vehicle category
- If the driver's license was taken away or the vehicle was removed from the traffic
- If the driver was operating a motor vehicle under the influence of alcohol above the regulated limit or other psychoactive substances
- If the damage occurred because the vehicle was technically defective and the driver of the vehicle was aware of this circumstance

Compensation for the damage caused by unauthorised person
4.2. Settlement of claims
Special provisions

Direct right of action
• The claimant shall exercise his entitlement to claim under MTPL insurance by filing it directly to the insurance company

Statement relating to the third party liability claims
• The insurance company shall issue a certificate of filed compensation claims to the insured under his MTPL insurance, including data for the last 5 years
4.3. Procedure for settlement of claims

Procedure for deciding on compensation claims
• The insurance company shall determine the liability and the amount of the claim within 14 days from claim receipt
• The insurance company can addresses the claimant within 8 days after claim receipt and request the documentation to be completed
• If it is not possible to determine the liability and the amount of claim, the insurance company shall determine the liability and the amount of the claim within 45 days from claim receipt in case of damage to property, and within 90 days from claim receipt in case of personal injury
• In cases where the insurance company assesses that no liability exists for compensation, it notifies the claimant including the respective explanation, within 8 days from the liability assessment

Compensation of small claims
European Accident Report
5.1. The Guarantee fund

- The new Guarantee Fund as a separate legal entity has been envisaged by the Law on Compulsory Traffic Insurance
- Operation of the Guarantee Fund is supervised by the NBS
- The Guarantee Fund is established for the purpose of financial protection of passengers in public transport and third party claimants
- The funding sources of the Guarantee Fund are: insurance companies’ contributions, budget funds of the Republic of Serbia in the first year of operation, investment income and other sources
- Until the commencement of operation of the new Guarantee Fund, the tasks falling within its scope of operation are conducted by the Guarantee Fund within the Association
5.2. The Guarantee fund Compensation

The Guarantee Fund pays the sum insured i.e. compensates damages to claimants, specifically:

• caused by the use of a motor vehicle, aircraft, boat or other means of transport for which **no compulsory insurance** has been contracted

• caused by the **use of an unknown** motor vehicle, aircraft or boat

• caused by the use of a motor vehicle, aircraft, boat or other means of transport for which compulsory insurance was contracted with the **insurance company against which bankruptcy proceedings have been initiated**
6.1. Compensation for „Visiting victims“/Claims Representative (EU Rules)

- A claims representative is a person who for the account of the liable insurer in the country of permanent residence of the injured party carries out settlement of claims for damages caused by use of a motor vehicle insured and normally based in a EU member states, resulting from accidents occurring in a member state other than the country of permanent residence of the claimant
- Registered office or permanent residency/language requirement
- A domestic insurance company providing MTPL insurance shall appoint its claims representatives in all EU member states
- The liable insurance company or its claims representative shall, within three months from the date of claim receipt, submit a reasoned offer or a reasoned reply
6.2. Information Centre

• The Information Centre (IC) is established within the ASI
• IC collects data relevant for payment of compensation claims and keeps a register of data
• IC cooperates with information centres of EU member states
• IC enables access to certain data from its registers or registers of information centres of EU member states to claimants during ten years after a traffic accident
• IC enables access to and use of data to all claimants and other participants in a traffic accident
6.3. Claims Compensation Bureau (EU Rules)

- The Claims Compensation Bureau (CCB) is established within the ASI.
- The claimants with permanent residence in RS may file a claim for compensation to the Claims Compensation Bureau.
- CCB is liable only in exceptional instances.
- CCB is obliged to decide on a compensation claim within the period of two months from the date the compensation claim was filed.
- CCB informs all involved parties of the receipt of a claim for compensation.
- CCB which has compensated damages to the claimant has the right to reimbursement.
6.4. Other special provisions

Loss events register

- The Loss events register is established within the ASI for the purpose of holding data on loss events and compensation claims under MTPL insurance, for the last 5 years.

Engagement in MTPL insurance by persons from the EU and foreign countries (*EU Rules*)

- An EU or foreign insurance company or a branch of such insurance company which are authorised to engage in compulsory insurance in RS under the Insurance Law, shall be members and participate in the financing of the ASI and the Guarantee Fund.

- This insurance company or branch shall appoint a representative with registered offices or permanent residence in RS and shall notify the NBS and the ASI of his name or title and address.
7. Penalties

• When in carrying out supervision the NBS determines that the insurance company has violated provisions of the Law regulating the procedure for deciding on compensation claims it may impose **supervisory measures** and a **pecuniary fine** to the company.

• An insurance company and the responsible person in such insurance company, the responsible person in the ASI and legal and natural persons (owner or means of transportation) may be **fined for economic offence** if they do not act in accordance with provisions of the Law on Compulsory Traffic Insurance.
8. Alignment with the Acquis

- Law on Compulsory Traffic Insurance is compliant with MID
- Further harmonisation, by the date of accession of RS to the EU, will include the minimum amounts covered by MTPL insurance
- The amount of sum insured will be gradually raised in accordance with The Law on Compulsory Traffic Insurance
- The minimum amount of the sum insured for which MTPL insurance may be contracted shall be established by the Government, upon the proposal of the NBS (phased approach)
Thank you for your attention