

COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION

on the situation in the Member States benefiting from
the transitional measures provided for in Article 5(3) (a) and (4) (b)
of Council Directive 84/5/EEC
on the approximation of the laws of the Member States relating to
insurance against civil liability in respect of the use of
motor vehicles

I. INTRODUCTION

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Under Article 6 of the Second Council Directive of 30 December 1983, (84/5/EEC, OJ L 8 of 11 January, 1984) on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, the Commission is obliged to present to the Council a report on the situation in the Member States benefiting from the transitional measures provided for in Art. 5(3)a and Art. 5(4)b).

Article 5(3) stipulates that the Kingdom of Spain, the Hellenic Republic and the Portuguese Republic shall have a period until 31 December 1995 in which to increase guarantees to the levels required by Article 1(2). This article lays down a minimum requirement of 350.000 Ecus in the case of personal injury where there is only one victim and 100.000 Ecus per claim in the case of damage to property. Member States may, however in the place of these thresholds provide for a minimum amount of 500.000 Ecus for personal injury where more than one victim is involved in a single claim or in the case of both personal injury and damage to property by a minimum overall amount of 600.000 Ecus per claim whatever the number of victims or the nature of the damage. As the Member States concerned have all availed themselves of this option to increase the minimum guarantees in stages, the levels to be reached by reference to the amounts laid down in Article 1(2) will have to be :

- more than 16 % not later than 31 December 1988,(1)
- 31 % not later than 31 December 1992.

Article 5 (4) provides that the Kingdom of Spain, the Hellenic Republic, Ireland and the Portuguese Republic may provide that :

- compensation by the Guarantee Fund for damage to property shall be excluded until 31 December 1992,

(1) See Annex 1, table on implementation of Dir 84/5.

- the excess referred to in the fifth subparagraph of Article 1 (4) (damage to property by an uninsured vehicle) and the excess referred to in the second subparagraph of Article 2(2) (damage to property caused by vehicles stolen or obtained by violence), shall be 1 500 ECU until 31 December 1995.(1)

II. IMPLEMENTATION OF DIRECTIVE 84/5/EEC IN GREECE, SPAIN, PORTUGAL AND IRELAND

Greece

Greece has availed itself of the option given to it by Article 5(3) (a) of Directive 84/5/EEC.

The minimum amounts of insurance cover currently applicable are DR 3 million (Ecus 18.999 (2)) for damage to property and DR 15 million for personal injury. The limits constitute respectively 18.9 % out of 100.000 Ecus and 27.1 % of 350.000 Ecus and thus respect the above mentioned minimum thresholds allowed until Dec.31.1992.

These limits will be raised to DR 5 million for damage to property and DR 25 million for personal injury with effect from 1 January 1992.

The limits are to be adjusted once again with effect from 1 January 1993, bringing the minimum insurance cover to DR 7 million (Ecus 44.333 i.e. 44 %) for damage to property and to DR 35 million (Ecus 221.667 i.e. 63 %) for personal injury.

After these adjustments the minimum limits of cover are to be increased at regular intervals up to 31 December 1995, in order to bring them into line with the limits laid down in Directive 84/5/EEC.

(1) See Annex 1, table on implementation of Dir 84/5.

(2) Under Directive 84/5/EEC Article 1(3) the conversion value in national currency (to be adopted for successive four year periods starting Jan.1. 1984) is that obtained on the last day of the preceding September, i.e. 30 September 1987)

Greece has informed the Commission of its intention to speed up the pace of the adjustments as far as possible, but equally has indicated that the successive increases are causing a great deal of protest on the part of ordinary consumers. Though reliable figures are hard to come by, the number of uninsured vehicles appears to be high and increasing.

As regards the compensating body provided for in Article 1(4) of the Directive, the only exemption from the compensation scheme is that for damage to property by an unidentified vehicle.

Lastly, under the domestic legislation in force no exclusion is permitted from the compensation to which the victim is entitled where damage is caused by an uninsured vehicle or by a vehicle which has been stolen or acquired by the use of force. Greek Presidential Order No 264/91 provides that where damage is caused by a vehicle which has been stolen or acquired by the use of force the responsibility for compensating the victim rests with the insurance company which covers the civil liability of the driver/owner of the vehicle.

Spain

As soon as Spain joined the European Community, it passed the following legislation to bring compulsory third party motor insurance into line with the Community rules :

- as far as territorial coverage is concerned, Real Decreto No 447/1986 of 10 January 1986 and the Orden Ministerial of 18 March 1986;
- with regard to various aspects of the contract (persons covered or exclusions), Real Decreto Legislativo No 1301/1986 of 28 June 1986 and Real Decreto No 2641/1986 of 30 December 1986.

The limits for cover provided for in Article 5 (3) (a) of Directive 84/5 are being incorporated into Spanish law in the following stages :

- under Real Decreto Legislativo No 1301/1986, damage to property is covered;
- Real Decreto No 2641/1986 sets the limit (per claim) for compensation for damage to property at Ptas 500 000 and raises the limit (per victim) for personal injury from Ptas 1 Million to Ptas 2 million;
- Real Decreto No 15436/1988 of 23 December 1988 raises the above-mentioned limits to Ptas 2 200 000 (Ecus 15.957) and Ptas 8 million (Ecus 58.024) respectively.

The present extent of cover as a proportion of the amounts laid down in Directive 84/5/EEC is thus 15.95 % for damage to property (Ecus 15.957 out of 100.000 Ecus) and 16.57 % for personal injury (Ecus 58.024 out of Ecus 350.000). The latter lies above the minimum 16 % level allowed until 31 December 1992. but the former does not, if the conversion value of Sept 30, 1987 is used, as stipulated by the Directive . Spain, however has used that of December 1988, according to which the amount reached is Ecus 16.541 or 16.5 %. The Commission has asked the Spanish authorities to explain this non-compliance with the Directive Spain has not availed itself of the first option of Article 5,4b) i.e. to exclude compensation by the Guarantee Fund for damage to property until Dec 31, 1992. It has however used the second option and laid down an excess of 70.000 Ptas (Ecus 508), for which the victim is responsible as far as damage to property caused by an uninsured vehicle is concerned and 35.000 Ptas (Ecus 254) for the case of vehicles stolen or obtained by violence. Spain, has informed the Commission of potential difficulties of non-compliance if minimum guarantee levels were to be increased at a faster rate than that laid down in the Directive, citing the increasingly large number of uninsured vehicles.

Portugal

The minimum amount applicable, under Decree-Law No 522/85 of 31 December 1985, in cases where there are several injured parties was Esc 5 million. This was raised to Esc 10 million (Ecus 61.118) by Decree-Law No 436/86 of 31 December 1986 and later to Esc 20 million (Ecus 122.256) by Decree-Law No 394/87 of 31 December 1987, in order to comply with the minimum requirement of 16 % of 600.000 Ecus, which is the minimum amount of compensation required in cases where there are several injured parties. As it will be seen the conversion value in Escudos (20.37 %) is in fact above the minimum required. The minimum amount of compensation in single action personal injury cases is 12.mio Esc (Ecus 73.200, i.e. 20.9 % of 350.000 Ecus))

Portugal has not availed itself of the first option of Art 5,4 b). Damage caused by vehicles stolen or obtained by violence are covered by the Guarantee Fund, with the exception of damage or injury to the owner and to passengers knowingly entering a stolen vehicle.

Ireland

An agreement dated 21 December 1988 between the Minister for the Environment and the Motor Insurers Bureau of Ireland (MIBI), provides as follows :

- compensation by the MIBI for property damage caused by uninsured vehicles (including stolen vehicles) with effect from 31 December 1992; and
- an "excess" of 1500 ECU or IR £ 1150 approximately until 31 December 1995.

III Conclusion

The Commission, though fully aware that widely divergent guarantee amounts are hard to reconcile with the principle of a single insurance market, does not wish to propose modifications at the present time to the transitional measures laid down in Directive 84/5/EEC which were agreed by the Council of Minister as part of a carefully negotiated compromise. It would in its view push up premiums too quickly (which in certain member States have been increasing at a cumulative annual rate of around 20 %) and consequently have adverse repercussions on compliance with the obligation to take out motor vehicle insurance at a time when the number of uninsured vehicles constitutes a real problem in all of the Member States concerned.

This notwithstanding, the Commission in the context of the progress report to be presented to the Council before 31 December 1993 under Art. 6(2) of Directive 84/5/EEC, intends to consider carefully the implementation of this Directive in all member States and, where appropriate, submit proposals, in particular as regards adjustment of the minimum cover laid down in Article 1(2) and (4). Furthermore, during the transitional period laid down by Directive 84/5 the Commission will take steps to encourage those concerned in the member States to improve the information of Community citizens as regards the practical implications of the divergences in compulsory guarantee amounts for civil liability, such as f. ex the need to take out additional travel insurance, legal protection cover etc. when traveling abroad.

Annex 1
The implementation of the transitional measures of Directive 84/5/EEC

		5,3 a)			5 4 b)		
	Legislative Act	Personal Injury	Damage to property	Prop damage + pers. inj.	Legis.act.	Exclusion	Excess(1.500 Ecus)
Greece	K3/6423 of 20 Dec 1989	15 Mio. Drs. (ca.Ecus 95.000)	3 Mio. Drs. (ca.Ecus 19.000)		K 3/6423	exclusion of damage to property by unidentified vehicle	no excess
Irel.					Agreement of 21.12.1988	yes, until 31.12.1992	yes, 1500 Ecu (Ir £1150)until 31.12.1995
Port.	Decree-Law No 394/87	12 Mio. Esc. (Ecus ca. 73.000)		20 Mio Esc (Ecus ca 122.000)	Decree law 122/1/86 of May 30, 1986	no exclusion	yes, 60.000 Esc. (Ecu +/- 333)
Spain	Royal decree 1564/1988	8 Mio. Ptas (Ecus ca. 58.000)	2.200 Ptas (Ecus ca. 18.000)		Royal Decree 731/1987 of May 15	no exclusion	yes, 70.000 Ptas (Ecu +/- 507 (35.000 Ptas in case of stolen veh.