

11. Study into compensation of victims of cross-border road traffic accidents in the EU

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ABI Lead Committee: Motor
Other interested committees: European

Issue: The European Commission launched a study on how to ensure that victims of cross-border accidents get fair compensation.

Status: The European Commission released its study on compensation of victims in cross-border road traffic accidents in January. The study analyzed the compensation paid to victims of cross border accidents as well as the limitation periods of motor claims across Member States. The main conclusions of the study were:

- Compensation paid in different Member States varies due to the different economical, legal, social and cultural environments.
- Limitation periods differ across different member states, however, victims usually rely on professional legal advice when making a claim and the limitation period for the particular member state is explained as part of that advice. Therefore, it is rare for a victim to find their claim has been rejected because the limitation period has expired.

The Commission presented this study to the Parliament in April and the head of the Commission's insurance unit, Karel van Hulle, said he considered the study to be a sound basis for a debate on compensation in the EU. He went on to acknowledge that that some issues are difficult to compare between EU member states due to the differences in national tort law, and that levels of compensation will differ from state to state. Diana Wallis MEP (JURI) welcomed the debate, but argued that the subject would be better dealt with in the "justice area", meaning the Commission's DG for Justice, Freedom and Security (DG JLS). She also said she was attracted by the idea of a European advisory body on compensation for personal injuries in cross-border cases. Mr Van Hulle replied that such a body would lead to inconsistent treatment of victims, because victims of a cross-border accident would be privileged in comparison to victims of a national accident.

This study formed the basis for the EC consultation on the compensation of victims of cross-border accidents in the EU. This was issued in March to obtain the views of all interested parties on the effects of the application of foreign law to claims arising from cross-border road traffic accidents. This ran until the end of May and the Commission finally published a report on 21 December. They received in total 46 responses, most of which were national trade associations, which agreed with an industry led solution, however, some consumer responses were not as supportive of this approach. FIN-USE suggested that better information cannot be the sole solution, suggesting that consumer organisations would be a better distribution channel. It is expected that, as a follow-up to the study and consultation, the EC will suggest measures that could pave the way for a Green Paper in 2010.

ABI Action: The CEA set a task force to look at the study and the potential solutions identified by the study. The ABI participated in the task force and worked with the CEA to ensure that an agreed position on the solutions, suggested in the study was reached. Whilst the Commission suggested different solutions ranging from a standardised brochure to the introduction of a direct settlement system in its consultation paper, it was proposed that better consumer information and voluntary insurance solutions would be the most proportionate response to the concern of under-compensation raised by the European Parliament.

The ABI responded to the consultation suggesting better consumer information as did the CEA. The CEA have also offered to enter into a dialogue with the Commission and other stakeholders to find efficient market-led solutions to the Parliament's concern of under-compensation, such as better consumer information. At the same time, the insurance industry will work on promote existing voluntary insurance solutions.

Background: During the debate on Rome II, Diana Wallis led a campaign to ensure that victims of cross-border traffic accidents received the same level of compensation they would have received had the accident occurred in their home state. The EP then commissioned the Centre for European Policy Studies (CEPS) to undertake a study to look at the limitation periods as well as the applicable regime for compensation awards. CEPS also looked at the economic impact on Member States and their insurance markets – an aspect that the ABI has maintained should be a key feature of any study into cross-border compensation. The study was released in March 2007.

Useful Documents:

[CEPS Study](#)

[European Commission Study January 2009](#)

[European Commission Public Consultation April 2009](#)

[European Commission Consultation Responses December 2009](#)