



Recommendation 100 (1956)¹

Draft European Convention on compulsory motor insurance

Parliamentary Assembly

The Assembly,

Considering that, in their Special Message of 20th May 1954, the Committee of Ministers announced that they intended to study possibilities of unifying and harmonising the laws of Member States and that they would welcome the Assembly's proposals in this matter ([Doc. 238](#), paragraph 87) ;

Considering that the Assembly has already expressed the view that compulsory motor insurance is a suitable subject for an attempt to be made at introducing identical provisions in the domestic laws of Member States ;

Having given careful consideration to the preparatory work on this question done by the International Institute for the Unification of Private Law at Rome ;.

Having regard to the Treaty on compulsory third-party insurance for motor vehicles signed in Brussels, on 7th January 1955, by the Governments of Belgium, Luxembourg, and the Netherlands ;

Considering that it is essential at a time when motoring is becoming more and more widespread that in all countries victims of accidents caused by motor vehicles should receive proper compensation and that motorists should be protected against their liability to third parties arising out of accidents caused by the use of their motor vehicles on the road ;

Recalling its [Recommendation 59 \(1954\)](#) and Resolution (55) 8 of the Committee of Ministers, which recommended that member countries where insurance against third-party risks is not at present compulsory should give consideration to the possibility of making it so ;

Considering that a number of projects have been prepared in certain Member States where compulsory insurance, though contemplated, is not yet compulsory and that it is all the more necessary and urgent that action should be taken to ensure that the same system of compulsory motor insurance is introduced by such countries,

Approves the draft European convention on compulsory motor insurance put forward in the report of the Committee on Legal and Administrative Questions ², which is based on the Treaty of 7th January 1955 between the Benelux countries ;

Recommends to the Committee of Ministers :

1. that they should appoint a Committee of Government Experts to examine the draft European Convention on compulsory motor insurance as approved by the Assembly and that the Governments of Member States should proceed to the signature of the Convention at an early date ;

1. This Recommendation was adopted by the Assembly at its 20th Sitting, on 22nd October 1956 (see [Doc. 560](#), draft Recommendation of the Committee on Legal and Administrative Questions and Explanatory Memorandum by M. von Merkatz).

2. See [Doc. 560](#).



2. that, in view of the resolution adopted by the Committee of Ministers during their ninth session in August 1951, for the signature of partial agreements, the Committee of Experts should be set up at least among those States which have not yet adopted compulsory motor insurance and those which are prepared to harmonise laws in this subject ;
3. that, should the Committee of Experts find it necessary to make important changes in the Convention adopted by the Assembly an exchange of views should take place between the appropriate Subcommittee of the Assembly Committee on Legal and Administrative Questions, on the one hand, and the Committee of Government Experts or a Subcommittee thereof, on the other hand ;
4. that the final draft of the proposed European Convention should be communicated to the Assembly for an opinion before being finally approved by the Committee of Ministers.

Draft European Convention on Compulsory Motor Insurance³

The Governments signatory hereto, being Members of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity among its Members for the purpose, among others, of facilitating their economic and social progress by the conclusion of agreements and common action in economic, social, cultural, scientific, legal and administrative matters ;

Holding it advisable to protect the rights of victims of motor accidents in their territories, by the introduction of a system of compulsory insurance ;

Holding that it would be difficult to secure the complete unification of their laws in this matter, and that it would suffice if such basic rules as are considered essential were standardised in the member countries of the Council of Europe, each country remaining free to apply in its territory regulations affording greater protection to injured parties ;

Deeming it advisable, moreover, to promote, in their respective countries, the organisation of an office for the issue of international insurance certificates and the creation of a guarantee fund to make good the default of persons incurring liability or of their insurers ,

Have agreed as follows :

Article 1

Paragraph 1 - The High Contracting Parties undertake to introduce, within six months of the entry into force of this Convention, a law governing compulsory third-party insurance for motor vehicles, which shall comply with the provisions annexed to this Convention.

Paragraph 2 - Each High Contracting Party shall retain the right to replace any of the Provisions annexed to this Convention by others affording greater protection for injured parties.

Article 2

Each High Contracting Party shall retain the option :

1. to require the deposit of a security, in lieu of insurance, in respect of such persons as it shall determine ;
2. to exempt from compulsory insurance certain motor vehicles which are not considered to be dangerous ;
3. to exempt from compulsory insurance motor vehicles owned by public authorities or by such public utilities as it shall determine ;
4. to determine the amount of insurance coverage necessary ;
5. to depart from the provisions of Article 11 of the Annex to this Convention in matters of invalidity, avoidance and expiration.

3. The amendments are printed in italics.

Nevertheless, derogations by way of laws or regulations published by a Contracting Party in conformity with the reservations listed in this Article shall be valid only in the territory of that Party and may in no wise hinder the full enforcement of the compulsory insurance law of the other Contracting Parties, through whose territories journeys are made.

Article 3

In order that exclusion from the guarantee authorised under Article 4, paragraph 2, of the Annexe to this Convention may not cause prejudice to injured parties, the High Contracting Parties undertake to make the holding of motor races or competitions, whether for speed, reliability or skill, subject to the authorisation of an administrative authority in each of the States on whose territory the race or competition takes place, which shall grant such authorisation only if the civil liability of the organisers and the persons referred to in Article 3 of the Provisions annexed to this Convention is covered by a special insurance policy complying with the conditions in those provisions :

Article 4

The High Contracting Parties undertake to admit to their territories, without insurance coverage, motor vehicles carrying a certificate issued by the Government of one of the Contracting Parties to the effect that the vehicle is owned by the State concerned and that the latter accepts civil liability arising from any accident which may be caused by the vehicle ; the certificate shall name the authority against whom the injured party may take proceedings.

In cases where the Contracting Party owning the vehicle does not incur civil liability under its own laws, it shall afford all assistance necessary to the injured party in pressing his claim against the person responsible for the accident and shall guarantee payment of any damages awarded in final recovery to the injured party by the competent court.

Article 5

The High Contracting Parties hereby recognise the competence of their respective courts to hear cases referred to them in accordance with Article 7 of the provisions annexed to this Convention.

Judgements which have become enforceable in the territory of one of the High Contracting Parties pursuant to Article 7 of the Provisions annexed to this Convention, shall become enforceable on the territory of any of the other High Contracting Parties as soon as the formalities required in the State concerned have been complied with. The merits of the case shall not be the subject of further proceedings.

Article 6

The High Contracting Parties shall together make whatever arrangements may be expedient for the enforcement of compulsory insurance and the recovery of damages, in particular by facilitating the establishment of the Bureaux referred to in Article 2, paragraph 2, of the Provisions annexed to this Convention.

Article 7

The High Contracting Parties undertake, each in its own territory, to establish or facilitate the establishment of a guarantee fund for the protection of injured parties, designed to make good the total or partial default of persons incurring civil liability or their insurers, or to take any other equivalent measures.

Article 8

The High Contracting Parties undertake to take all appropriate steps to enforce the obligations resulting from the Provisions annexed to this Convention.

They undertake to introduce penal legislation against :

1. the owner of a motor vehicle or in default the person who is normally entitled to use it who drives or allows his vehicle to be driven on the public highway, in grounds open to the public or in private grounds to which certain persons have right of access, without insurance having been taken out in accordance with the Provisions annexed to this Convention or after the insurance surety has lapsed ;

2. the driver of a motor vehicle who is unable to produce the prescribed insurance certificate or the international certificate referred to in Article 2, paragraph 2, of the Provisions annexed to this Convention, or who fails to return an insurance certificate or international certificate which has become valid, although requested by the competent authority or the insurer to do so.

Article 8 (a)

Any High Contracting Party may, when signing this Convention or depositing its instrument of ratification or accession, reserve the right to limit the application of Article 5 of this Convention, and of Articles 5, 6, 7, 9 (para. 3), 10, 11 and 13 of the Provisions annexed thereto, in cases where civil liability is incurred on the territory of a High Contracting Party by a motor vehicle registered in the territory of another Party.

Article 9

Paragraph 1 - Except in a case of emergency, a High Contracting Party may denounce this Convention only after the expiry of two years from the date on which it became a Party to it, Notice of termination shall be given in writing and addressed to the Secretary General of the Council of Europe, who shall inform the other Contracting Parties ; it shall take effect on the first of January following the expiry of a period of three months from the date on which notification was given by the Secretary-General.

Paragraph 2 - Each High Contracting Party may, as an alternative to denunciation of the Convention, put forward a specific proposal for the amendment of one or more Articles of the Convention or of the provisions annexed thereto ; in that case the other Contracting Parties shall be informed in the manner described for notice of termination. The Contracting Parties shall then try to reach an agreement. Should no agreement be reached by the first of January, following the expiry of a period of three months from the date on which the Secretary-General was informed of the proposal, the Contracting Party making the proposal may amend its legislation on the lines proposed. Such amendment shall be brought to the notice of the other Contracting Parties in the same manner as the proposal. If, however, one or more of the other Contracting Parties informs the Secretary-General, within three months of the date of the notification given by him, of objections to such amendment, the Contracting Party which has amended its legislation shall cease to be a Party to this Convention.

Article 10

Ratification of this Convention shall not entail any obligation on the part of the High Contracting Parties to introduce in their overseas territories legislation complying with the Provisions annexed to the Convention.

Article 11

Subject to the terms of Article 9, paragraph 2, the High Contracting Parties undertake not to conclude hereafter any treaty containing derogatory clauses.

Article 11 (a)

The Committee of Ministers of the Council of Europe may invite any non-Member State of the Council to accede to this Convention. Any State receiving such an invitation may accede to this convention by depositing its instrument of accession with the Secretary-General of the Council, who will notify all the Contracting Parties of such deposit The State concerned shall become a Party to this Convention on the date on which it deposits its instrument of accession.

Article 12

This Convention shall be open to signature of the Members of the Council of Europe. It shall be ratified. Instruments of ratification shall be deposited with the Secretary-General of the Council of Europe.

This Convention shall come into force on the date of deposit of the fourth instrument of ratification.

Any signatory ratifying subsequently shall become a Party to the Convention on the date of deposit of its instrument of ratification.

The Secretary-General shall notify all the Members of the Council of the entry into force of the Convention, the names of the Contracting Parties who have ratified it and the subsequent deposit of any instrument of ratification.

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in the English and French languages, both texts being equally authoritative, in a single copy which shall remain in the archives of the Council of Europe and of which the Secretary-General shall send certified copies to each of the signatories.

Common Provisions annexed to the draft Convention⁴

Article 1

For the purposes of this law :

the term "motor vehicles" shall mean : vehicles which can be mechanically propelled otherwise than on rails; trailers, whether coupled to the vehicle or not, are deemed to be a part of the vehicle ;

the term "assured" shall mean : persons whose liability is covered in accordance with this law ;

the term "injured parties" shall mean : persons who have suffered damage giving rise to the enforcement of this law, likewise their beneficiaries ;

the term "insurer" shall mean : the insurance undertaking approved by the Government in accordance with Article 2, paragraph 1, or, in the case of Article 2, paragraph 2, the Bureau entrusted with the settlement of damages caused on the territory of a High Contracting Party by vehicles normally used abroad.

Article 2

Paragraph 1 - No motor vehicles may be used on the public highway, in grounds open to the public and in private grounds to which certain persons have right of access, unless civil liability to which it may give rise is covered by an insurance policy complying with the provisions of this law.

The obligation to effect the insurance rests with the owner of the vehicle or in default with the person who is normally entitled to use it. If another person has effected such insurance, the obligation of the owner is suspended for the duration of the contract entered into by that other person.

Insurance must be effected with an insurer duly approved by the Government.

Paragraph 2 - Notwithstanding the foregoing, motor vehicles normally stationed abroad may be used on the territory of a High Contracting Party upon presentation of a certificate delivered by a Bureau established for the issue of international insurance certificates, provided that the Bureau for the settlement of damages caused by such vehicles on the territory of a High Contracting Party assumes direct responsibility towards injured parties for damages in accordance with the provisions of this law and has been approved for this purpose by the Government.

Article 3

The insurance must cover the civil liability of the owner and of any driver or person in charge of the insured vehicle, with the exception of persons acquiring the vehicle by theft of property or through usage or violence.

The scope of the insurance must include damage suffered by persons or property as a result of accidents occurring on the territory of the High Contracting Parties in which the insured vehicle is used. It must also include damage or injury caused by the vehicle responsible for the damage to passengers travelling in whatever capacity. Goods and property carried by the vehicle need not be insured.

The insurance must cover such civil liability for damage caused by the motor vehicle as arises from the law in force at the place where the accident occurs.

Article 4

Paragraph 1 - The following may be excluded from the benefits of the insurance :

1. the driver of the vehicle causing the damage, the holder of the policy and all persons whose civil liability is covered by the policy ;

4. The amendments are printed in italics

2. spouses of the persons mentioned above and their relations including relations by marriage, provided that they reside with them and are dependent on them for their maintenance ;
3. beneficiaries of special laws concerning damages arising from employment injury, except insofar as such persons retain the right to sue the assured for civil liability.

Paragraph 2 - The following may be excluded from ordinary insurance policies : damages resulting from the participation of the vehicle in authorised races or competitions, whether for speed, reliability or skill.

Article 5

Should it be stipulated in the contract that the assured shall make a part contribution towards settlement of the damages, the insurer shall nevertheless be bound to pay the injured party for the whole of such damages.

Article 6

The insurance shall confer upon the insured party a personal right against the insurer.

Should there be more than one injured party, and the total damages due should exceed the sum insured, the rightful claims of the injured parties against the insurer shall be reduced in proportion to that sum. Nevertheless, an insurer who, through ignorance of the existence of other claims, has in good faith paid an injured party more than his proper share shall be accountable to the other injured parties only for the remainder of the sum insured.

Article 7

When invoking the terms of this law, the injured party may institute proceedings against the insurer either before the court of the place where the accident occurred or before the court of the place where the insurer has his headquarters.

Article 8

The assured must report to the insurer all accidents of which they have knowledge. The holder of the policy must supply the insurer with all information and documents prescribed by the policy. Assured persons other than the holder of the policy must supply all information and documents required by the insurer, at the request of the latter.

Article 9

A judgement pronounced in a dispute arising from damage caused by a motor vehicle may be cited against the insurer, the insured or the injured party only if they attended or were summoned to the proceedings.

Nevertheless, a judgement pronounced in a suit between the injured party and the assured may be cited against the insurer, if it is clear that the proceedings were, in fact, conducted by him.

The insurer may implead the assured in proceedings instituted against him by the injured party.

Article 10

Any action by the injured party against the insurer, arising from this law, shall be barred after three years have elapsed since the time of the accident.

Any action which interrupts the period of limitation governing proceedings by the injured party against the assured shall likewise interrupt the period of limitation governing his proceedings against the insurer. Any action which interrupts the period of limitation governing proceedings by the injured party against the insurer shall likewise interrupt the period of limitation governing his proceedings against the assured.

The period of limitation shall be interrupted in respect of the insurer by any negotiations between the insurer and the injured party. A further period of three years shall take effect immediately one of the parties has informed the other, by writ or by registered letter, that he has broken off the negotiations.

Article 11

No point of invalidity, avoidance or forfeiture arising from the law or the insurance policy may be held by the insurer against the injured party. The insurer may reserve the right to take action against the holder of the policy and, if necessary, against an assured person other than the holder of the policy, insofar as the law or the policy gives him authority to refuse or reduce his benefits.

Article 12

Should the ownership of the vehicle be transferred, the holder of the policy or his beneficiaries must inform the insurer of this fact within eight days.

Article 13

Expiration, annulment, termination or suspension of the policy or the guaranty, whatever their cause, maybe invoked by the insurer against the injured party, only in respect of accidents occurring at least sixteen days after the insurer has notified the authorities of the above-mentioned facts. Such notification must be sent by registered letter to the administrative authority competent to receive notifications concerning insurance covered by this law.

The time-limit shall be calculated from the day following the deposit of the registered letter with the postal authorities.

Notification may not be given earlier than :

1. the day on which the guaranty covering the assured ceases to have effect, if it is a question of suspension ;
2. the day on which one of the parties notifies the other of the cancellation, termination or annulment of the policy ;
3. the day on which the policy expires, in all cases not covered by paragraph (2) above.

Article 14

No departures, by way of special conventions, may be made from the provisions of this law, unless the right to do so follows from the provision itself.