

# Final Report for the Project Car Insurance Tariffs

## Part I

### Project Description

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## **I. Description of the difficulties in third party motor insurance rating**

The aim of the European Union to create a single European market without borders also in the domain of consumer insurances has not yet been achieved. The insurance fields of the member states of the Community have remained apart. There are no cross-border offers for insurance services at the consumer level worth mentioning.

As a result, the Economic and Social Committee (ESC) of the EU has listed the most important difficulties and impediments hindering the concrete realisation of the single European market in the insurance field in a statement dated March 30<sup>th</sup>, 1998 (Abl. C 95/72) whereby it explicitly mentions first the *lack of harmonisation in material law* and in particular *the lack of minimum regulations* in insurance law in the European Union.

If a consumer wants insurance coverage for the third party motor risk with an insurance company in another member state, he will not usually get an offer. The foreign company will refer to the different legal requirements and the different practices in the settlement of claims. Instead of cross-border offers, there is an abandonment of penetration into neighbouring markets. The consumers do not even have the chance to compare different offers and, particularly, to evaluate the premium-performance ratio financially. For this reason, there are severe doubts whether competition in the insurance field really works. Nor will the consumers succeed in comparing offers after the introduction of the EURO, although it is a great step forward that the insurance premiums will at least be listed in the same currency in future and will thereby become comparable.

Just as in the domain of the contracts with improper clauses, the single European market for insurance services can only be created if the Community develops fundamental principles for consumer insurance contracts which have validity in all member states of the Community.

In view of the increasing mobility of Europe's citizens, the third party motor insurance is particularly important for the consumers. This significance is also underlined by the present four directives of the Community in the domain of third party motor insurances. The Community is therefore rightly of the opinion that the single European market should take shape very soon in this insurance sector. But this can only be achieved, if transparency in third party motor insurance is improved by a far-reaching standardisation especially in the domain of the *tariff criteria*.

In third party motor insurances, there is an increasing lack of transparency due to a variety of tariff criteria. It is completely unclear, which tariff criteria are authorised and which are not. Tariff criteria with risk relevance stand side by side with those which have nothing to do with the insured risk, as for example rating according to starsigns (England), to the ownership of a garage (Germany) or to skin colour (USA). Other tariff criteria could also be difficult such as citizenship,

age, sex, profession, health or place of residence. There may not even be any risk relevance for these factors. As a consequence, it is possible that good drivers (without claims) for instance, because of their age or their skin colour, their sex or citizenship, may be classified into rate categories with high claims expenses without any chance of doing something about it. In view of such cases, it is at least reasonable to think about the question of discrimination on account of tariff structures. This question also imposes itself, as third party motor insurances in the European Union are compulsory insurances.

Insurance companies are also in part beginning to grant irrelevant rebates, to win customers or to keep them, or to achieve the conclusion of other insurance contracts. In this way, too, the risk relevance of the premium rates paid by the insured persons and a fair distribution of the contributions among the compulsorily insured is at least questionable. Proliferation in the domain of tariff criteria though can be a lasting impediment to effective competition in the markets of the member states and most of all to cross-border offers.

## **II. Task and work approach of the project representative (German Association of the Insured)**

### **1. Project application and resolution of the EU Commission**

On the basis of these findings, the Association of the Insured, represented by Lilo Blunck (1. chairperson and former member of parliament) as well as Hans Dieter Meyer (managing director until march 2002), supported by the Scientific Advisory Council of the Association of the Insured<sup>1</sup>, has applied for financial support from the European Union on Nov. 27<sup>th</sup>, 1998 for a project on the elaboration of fundamental principles for decisions of the EU Commission concerning a pan-European third party motor insurance rating structure. The basis of the application was the project appeal of the European Union for the promotion and the protection of consumer interests 1999 (Abl. 98/C 298/08).

On August 11<sup>th</sup>, 1999, the European Union decided to financially support the project.

### **2. Project objectives**

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<sup>1</sup> *Prof. Dr. Jürgen Basedow*, Director of the Max-Planck Institute for Foreign and International Private Law, Hamburg – *Prof. Dr. Ulrich Meyer*, University of Bamberg, Mathematics, Economics – *Prof. Dr. Dieter Rückle*, University of Trier, Business Administration – *Prof. Dr. Hans-Peter Schwintowski*, Humboldt University of Berlin, Law, (Chairman of the Advisory Council).

The project serves the penetration and answering of the question, whether it is necessary, for the avoidance of discrimination and competition deficits as well as the creation of the single European market in the domain of third party motor insurances, to develop European standards for third party motor tariff criteria, and as a result possibly for a pan-European tariff system, for the third party motor insurance. For this purpose, the insurance technical practice in the fixing of premiums and the classification in third party motor rating has to be considered and analysed in view of possible deviations from the general insurance technique.

In this context, the question has also to be examined, whether and, if need be, to what extent the insurance companies have to rely on the selection of groups of insured persons to perform their economic services. It must be examined whether this selection is permitted and which consequences result from it. The question is also open and needs clarification as to whether an enumerative determination of authorised tariff criteria can and should exist. Reversely, one could also think of a negative list of unauthorised tariff criteria (black clauses). But it is not excluded, that there are also other concepts for avoiding discrimination and competition deficits in third party motor insurance as a compulsory insurance; similarly it can neither be excluded, that several options for action as a basis for decisions resulting from the finalised project of the EU Commission could be offered. The aim of the project therefore is principally to supply the EU Commission first of all with data and facts which are imperative as a basis for decisions in the domain of third party motor rating, so as to induce, if need be, further examinations and, based on this, concepts of action considering the related retrospective effects on the consumers and the insurance companies.

### **3. Basic Questions**

For the implementation of these objectives, four questions need to be answered:

- a) Does European law allow the development and the setting up of pan-European third party motor insurance tariff structures, or do such structures violate the objective of the single European market and/or the principle of subsidiarity ? - This question is examined under II (European legal framework).
- b) Can statistically valid and reliable statements be made concerning which ascertainable indicators (such as the sex of the insured person, mileage per year, age of the car, ownership of a garage) are suitable risk characteristics or not, and how these indicators stand in relation to each other (multicollinearity)? Can, in this way, unauthorised tariff criteria (black clauses) be developed along side authorised tariff criteria (white clauses) ? - An examination of this question is

given in III. (Empirical basic principles and Europe-wide comparison of third party motor markets).

- c) Which rating models exist at present in the domain of third party motor insurance, which practical consequences do they have relating to possible discrimination of compulsorily insured persons and to what extent do they conform to general theories on the nature of insurance and insurance technique, to general theories on production and competition. - The examination of these questions is given in part IV. of this final report (tariff models).
- d) On which empirical basic principles are the currently existing third party motor insurance rates in the member states of the Community based ? Which role does state interference play in rating, in liability and civil damages law as well as in levels of premiums and losses ? - This question is examined under V. (basic conditions of liability and insurance law for the third party motor insurance in a European comparison).

#### **4. Project implementation**

To answer the four question complexes, the German Association of the Insured has concluded contracts for the allocation of the individual projects with *Prof. Dr. Jürgen Basedow* (European legal framework), *Prof. Dr. Ulrich Meyer* (Empirical basic principles and Europe-wide comparison of the third party motor market), *Insurance Advisor Hans-Dieter Meyer* (tariff models) as well as with *Prof. Dr. Hans-Peter Schwintowski* (Basic conditions of liability and insurance laws for the third party motor insurance in a European comparison).

*Prof. Schwintowski* and *Prof. Meyer* have developed questionnaires for the investigation of empirical material, which were distributed to the supervisory authorities, to company associations and companies in Europe and in some cases world-wide. On the basis of the evaluation of these questionnaires (partly in sub-project-groups) the attached country reports were drawn up.

#### **5. Annexes serving as references**

On November 25<sup>th</sup> and 26<sup>th</sup>, 1999, a first workshop on the topic of a *Pan-European tariff structure in the third party motor insurance* was held in Munich. More than 50 academics and practitioners from many European countries participated in the workshop. Reference is made to the conference report in the annex.

Apart from the basic conditions of liability and insurance laws for the third party motor insurance in Europe (and in some instances of the world), 20 national reports have been drawn up. The reports are on France, Belgium, Luxembourg,

the Netherlands, Italy, Spain, Portugal, Greece, Sweden, Norway, Denmark, Finland, Austria, the United Kingdom, Ireland, Germany, Switzerland, the USA, Japan and the Philippines. The country reports are attached to the final report.

Finally, on June 15<sup>th</sup>, 2000, on a second workshop at the University of Leuven (Belgium, with more than 100 participants) the experts presented the results of their examinations on the four question complexes. The conference report is attached, the examinations are listed under parts II to V in this final report.

## **6. Requirements and possibilities of action**

In conclusion, under VI, the final report develops basic principles for *requirements and possibilities of actions* of the EU-Commission.

The German Association of the Insured and the Scientific Advisory Council of the Association of the Insured (Professors Basedow, U. Meyer, Rückle and Schwintowski) expresses thanks to *Ms. Bettina Tugendreich* (scient. ass.) and *Dr. Thomas Kadner*, *Dr. Wolf-Henning Hammer*, lawyer *Mr. Nicco Hahn* and *Mr. Oliver Sietz* (scient. ass.), who elaborated the country reports under the supervision of Prof. Dr. Schwintowski.

Many thanks also to all participants in the project from the areas science/academics, authorities, companies and consumers, who contributed with their papers and their oral contributions in the workshop discussions, to the collection and description of opinions in the project report as a basis for further examinations.

Special thanks also to the team of interpreters and translators, who, under the supervision of Marie-Luise Pesch (Dolmetschen-Übersetzen, Interpreting-Translation, Wiesbaden) have contributed to the fact, that the project results can be distributed internationally.

Very special thanks, of course, to the EU Commission which supported the project financially by 50%, and to the staff of the Directorate General Health and Consumer Protection responsible for the project.

All participants of the project also express thanks to the staff of the German Association of the Insured, who actively worked on the organisation of the workshops and on the elaboration of the comprehensive project material and the final report.

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