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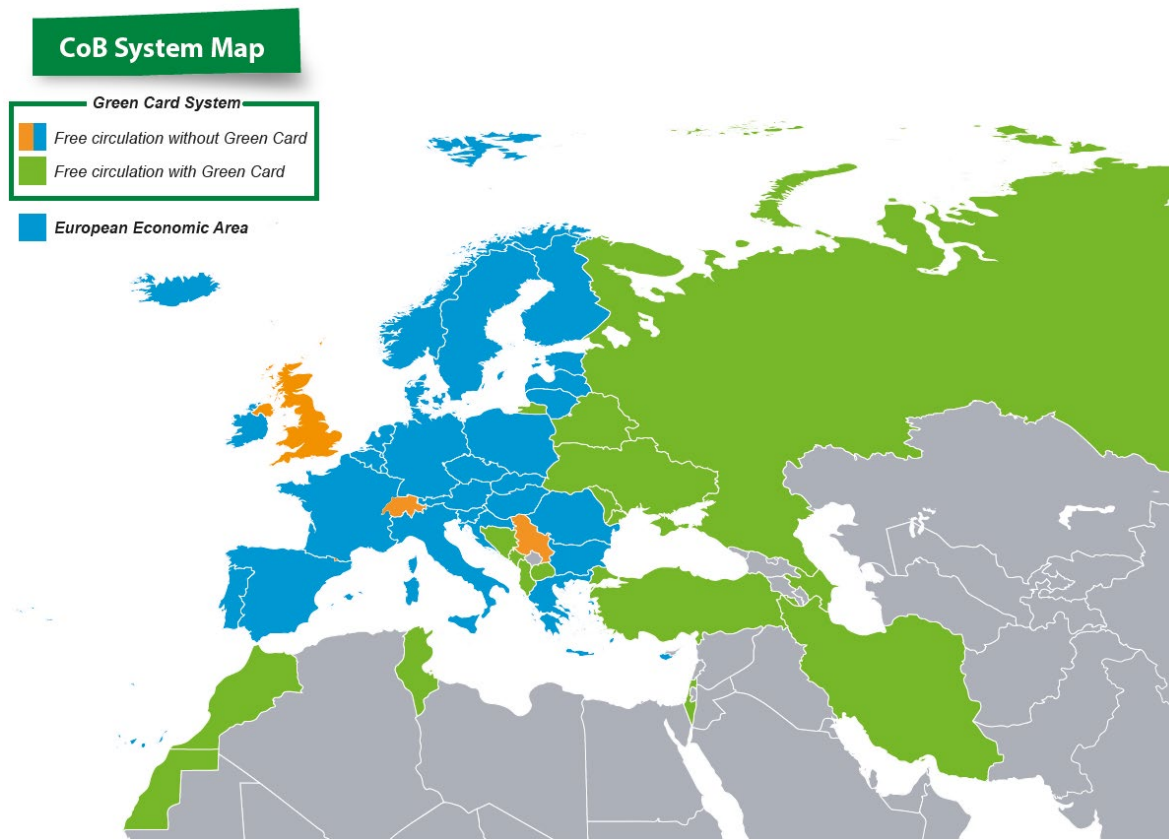
**Annual Report by the Managing Director of the Council of
Bureaux**

Submitted by the Council of Bureaux

This document, submitted by the COB, contains the COB Secretary General's annual report to SC.1.

This year, the 55th General Assembly of the Council of Bureaux (CoB) took place on 3rd June 2021 via electronic way

1. Some Key Figures



The system covers 48 countries and has 47 Members.

Over 450 million vehicle fleet (source: UNECE statistical database and CoB Member Bureaux, 2013-2019).

Around 455 000 cross-border accidents annually (source: CoB Member Bureaux, estimate, 2019).

Cash flow turn-over: circa 1.5 billion EUR (rough estimate, based on the number of Green Card accidents reported by Member Bureaux and estimates of average claim cost).

More than 1.500 MTPL insurers are active throughout the whole system (source: CoB, 2021). In addition, several hundreds of other (non-insurance) entities are active in the system playing key roles in the cross-border claims handling process, such as Correspondents or Claims Representatives.

Financial Stability

Safeguarding the financial stability of the Green Card system and its individual players – CoB Member organisations – continued to remain one of the key tasks of the Council of Bureaux in the past year. Traditionally, the activities of the CoB in this area were concentrated on the oversight of the financial stability of Member Bureaux. Indeed, with the recent revision of the structure of the organisation on which we reported last year, the scope of this function will have to be gradually expanded in the future to include an effective oversight of the Members comprising the other ‘pillar’ of the organisation – Guarantee Funds and Compensation Bodies.

Throughout 2020, the focus of the financial stability remained however on Green Card Bureaux. Exercising efficient monitoring of the financial stability of Green Card Bureaux is inherently challenging, due to several objective reasons:

- Financial stability issues faced by Green Card Bureaux are, for the most part, extrinsic to these Bureaux themselves, or at least they are more often on the ‘receiving’ end of these phenomena rather than directly ‘causing’, or contributing to, them. More often than not, the Bureaux’ liquidity and financial stability is challenged due to lack of discipline and/or failure to perform financial obligations on time on the part of individual insurers in their markets. When these insurers have a large share on the local MTPL market, the strain on the national Bureau can be significant.
- Where effective early warning systems are not put in place or where those fail to kick in quickly enough, Bureaux can be confronted with financial stability or liquidity issues of potentially systemic magnitude, and in some instances even with a non-negligible time lag between the first occurrence such issues and the moment a Bureau can react or intervene.
- Even when Bureaux can react or intervene, their possibilities to them remedy the situation is limited, as Bureaux are not regulatory institutions by definition and often have to rely heavily on national supervisory authorities for any corrective or combative mechanisms applicable. Even more limited are the instruments at the disposal of the Council of Bureaux, to re-establish financial discipline or affect measures aiming at an improved financial health on individual markets. The potential and willingness of markets to self-regulate and the power and initiative of national supervisory authorities therefore play a key role – albeit often under-appreciated –in safeguarding the financial stability of the system.

The past year was not without challenges for the financial stability of the system; these were at the same time both geographically clustered and dispersed. On the one hand, financial difficulties experienced by individual MTPL insurers operating in more than one market on the basis of freedom of establishment or freedom to provide services, continued to create frictions in the smooth functioning of the system and the ultimate protection of cross-border road traffic victims across multiple, geographically unrelated, markets – including inter alia some “mature” European markets. On the other hand – and to a much larger financial magnitude – two markets in South-Eastern Europe, Bulgaria and Romania, remained the focus of attention.

In the reports of previous years we presented the guarantee call system operating between Green Card Bureaux, a formal way to invoke the guarantee of an ultimately responsible Bureau in cases where the liable insurer fails to respect its obligations related to a cross-border claim involving their insured as the liable party. In 2020 the two countries mentioned, Romania and Bulgaria, accounted for more than 80% of the number and amount of these guarantee calls issued to all Bureaux system-wide. While these guarantee calls were due to a lack of discipline on the part of individual market players and not indicative of the behaviour of the entire markets, the large market shares held by the insurers in question and the geographical spread of the portfolio of unpaid liabilities (the Bureaux of Germany, Italy, and France – to name only a few – were among the largest creditors of these two Bureaux in an important majority of cases of delayed or unpaid reimbursements) was nevertheless cause for concern.

As a potential positive trend, it should be noted that while in 2021 the share of these two guaranteeing Bureaux in guarantee calls issued system-wide remained more or less the same, the absolute volumes of these figures nevertheless seem to be decreasing. Roughly at the end of the first five months of 2021, the amounts of guarantee calls reached approximately 40% of the annual figures for 2020.

The Council of Bureaux continues to follow closely the developments in these markets and the discipline of the two Bureaux concerned. A draw-down on the bank guarantee provided by the Bureau of Bulgaria has been made recently to reimburse counterpart Bureaux for some of the unpaid obligations. In the case of the Romanian Bureau, measures

taken by the CoB so far have been less extreme as the Bureau is judged to have satisfactory liquidities and risk management mechanisms in place to be able to guarantee the obligations arising from its market. It has to be said however that any further deterioration in the financial health and discipline of the market risks putting the finances of the Romanian Bureau through a serious test, the consequences of which will have to be absorbed by the (rest of the) market as contributors to the liquidities of the Bureau.

As reported in the previous years, the financial stability of the system and its smooth functioning across all regions is sometimes also influenced by geopolitical realities, namely the existence of international sanctions against the Islamic Republic of Iran. Iran is long-standing Member of the Green Card system with important volumes of cross-border traffic especially with neighbouring Green Card Member countries, and the difficulties in effectuating cross-border transfers when reimbursements related to road traffic accidents are due impede on one of the fundamental features of the system.

2. Membership Issues

2.1. Armenia

As explained in earlier reports, the candidacy of the Armenian Motor Insurers' Bureau to become a Member of the Council of Bureaux is challenged by the difficulties resulting from the particular position of Nagorno-Karabakh. The Council of Bureaux wishes to respect the United Nations' view on the region of Nagorno-Karabakh as an entire part of the territory of Azerbaijan.

The CoB is of the opinion that the military and political developments that took place in 2020 are of no substantial influence on the application process of the Armenian Bureau. Border controls continue to be performed between Armenia and the region of Nagorno-Karabakh. Moreover, the territory of Armenia as recognised by the United Nations remains unaltered.

Following numerous communication exchanges with the Armenian Bureau and the advice received from the United Nations, the Council of Bureaux informed the Armenian Bureau that the application process of Armenia can be continued, provided that there is a strict respect for the principle that Green Cards can only be issued by the Armenian Bureau to vehicles originating from the territory of Armenia as recognised by the United Nations.

The CoB invited the Armenian Bureau to pursue the preparatory works in the framework of their membership application. In that view, the CoB awaits an English translation of the Armenian Bureau's constitutional texts and of the Armenian MTPL insurance legislation. This will allow controlling the compliance with the conditions of membership in the Green Card system.

2.2. Israel

In December 2020, the Israeli Bureau addressed a letter to the Council of Bureaux, announcing their resignation from CoB Membership. The resignation is believed to be caused by the low number of Green Cards issued under the authority of the Israeli Bureau, the important financial contributions to the CoB and the financial risks for the Israeli Bureau resulting from the legal system in Israel. Legal rules applicable in Israel require Motor Third Party Liability insurers to also compensate the driver of the liable vehicle for personal injuries suffered by the driver. However, these expenses cannot be recovered from the MTPL insurer of the liable driver.

In order to maintain the relationship with Israel, the CoB proposes the possibility for the Israeli Information Centre to become an affiliated Member of the Council of Bureaux. Such affiliated Membership allows the cooperation between Information Centers in order to help the victim of a road traffic accident in identifying the insurer of a vehicle, deemed

liable for an accident. The affiliated Membership of an Information Centre currently does not result in membership contributions.

3. Further integration of the new members after the harmonisation process

At our General Assembly of September 2020, the Guarantee Funds, Compensation Bodies and Information Centers of the EEA have been admitted with an overwhelming majority as new members of our organisation.

This is an important step forward towards further improvement of the protection and rights of victims of a cross border traffic accident.

While the green card system was primarily designed to guarantee compensation to victims of road traffic accidents caused by a visiting motor vehicle, by onboarding the new members we are also able to guarantee a better protection of the visiting victims of a road traffic accident, at least in the EEA members states.

In general, we can say that the aim of the CoB, with all the important players on board, is to protect the victims of cross border road traffic accidents!

This year and the years to come will be spent on the further integration of all members into the committees and working groups and on insuring good cooperation and communication between the members. To reach this goal new tools will be made available on the CoB communication platform, which should improve the cooperation but also will avoid duplication of work between the organisations of one country.

The complexity of settling claims for victims of cross-border accidents has not escaped our attention, reason why we developed on our website a tool (competent body search engine see also point 5) to assist victims in any easy way to find the most appropriate organisation taking into consideration the specificities of their cross-border accident.

4. Victim's Charter

The Council of Bureaux was delighted to learn about UNECE's support for the Charter of Road Traffic Victims' Rights, expressed during their meeting in March 2021.

Following this support, the CoB unanimously adopted the text of the Charter during their General Assembly of 3rd June 2020.

The CoB learned that the text will now be presented to the Institute for European Traffic Law during their October 2021 Traffic Law Days (online event).

The CoB will give their support to the promotion of the document, which can contribute to reinforcing victims' rights following the occurrence of a road traffic accident.

5. IT developments – Collaboration platform - Competent Body Search Engine on the CoB website

Since several years now, the CoB Secretariat has embarked on a large-scale project of building a new, revamped and expanded Collaboration Platform for our membership, which replaces the previous Extranet. The Collaboration Platform brings together all CoB member organisations and their staff and provides the necessary infrastructure to exchange and collaborate in their day-to-day business related to the handling of cross-border claims.

In that sense, one of the major aims of the Collaboration Platform is to serve as a consolidated knowledge base, bringing together a comprehensive body of information about the legislation (both national and international), rules and procedures, guidelines and recommendations applicable in the field of cross-border claims handling, the internal procedures, requirements and working arrangements of the CoB as an international organisation, as well as useful statistical and analytical resources. Most importantly, the Collaboration Platform is intended to provide to our member organisations various IT tools and automated solutions to carry out their day-to-day business in cooperation with each other, from the full process of organisation of committee and working group meetings within the organisation (scheduling, dissemination of meeting documents, online collaboration on and co-creation of working documents, etc.), to dedicated applications to exchange of information and follow the pre-defined procedures during different stages of handling a cross-border claim (for example, launching requests to counterpart Bureaux to confirm the normally based status of a vehicle involved in an accident or to check the validity of its Green Card, issue reimbursement demands following the compensation of victims as well as online guarantee calls after a certain prescribed period of non-payment of the reimbursement demands, etc.).

This is a long-term, ambitious project at the heart of CoB Secretariat's activities, and we are confident it will bring sizeable added value to our membership base by allowing them to cooperate more efficiently using the power of automation and interoperability, as well as to enjoy a smoother, more structured cooperation between themselves. While some of the mentioned functionalities are already in place – often in their 'basic' versions – the CoB Secretariat will have more work to do in the coming years to offer new possibilities on the Collaboration Platform as well as enhance and improve the existing ones.

Developments are also foreseen (and to some extent already implemented) for the public website, among the most important ones being the launch of the "Competent Body Search" tool, which based on a few parameters such as the country of accident, the country of residence of the victim, the accident date and, if known, the name of the MTPL insurer, direct the victims of transborder traffic accidents to the organisation (either the National Green Card Bureaux, Compensation Body, Information Center, Correspondent or claims representative of the MTPL Insurer) which is best placed to handle their claim(s),

6. Data Protection

6.1. Brexit

The CoB's Working Group on Data Protection examined the consequences of the so-called "transition period" regarding Brexit at the end of the previous year. At that time there was still a risk of a "hard Brexit" while the European Commission refrained from informing about its readiness to issue an adequacy decision in favour of the UK in accordance with Article 45 of the General Data Protection Regulation (GDPR). Under those circumstances, the exchange of personal data within the CoB system had to be envisaged in accordance with the safeguards available under Chapter V of the GDPR and more specifically, under Article 46 of the GDPR (Standard Contractual Clauses "SCC").

The transfer of personal data within the system between the EEA and non-EEA countries had to be examined, which led to the following:

- an amendment to the personal data processing agreement between the National Bureaux;
- a draft of Standard Contractual Clauses regarding the exchange of personal data between EEA Guarantee Funds and Compensation Bodies on one side and the UK Guarantee Fund / Compensation Body on the other;

- a draft of Standard Contractual Clauses regarding the exchange of personal data between EEA Information Centres on one side and the UK Information Centre on the other.

It is important to mention that on 28th June 2021, the European Commission adopted an adequacy decision for transfers of personal data to the United Kingdom, under the General Data Protection Regulation. The effect of such a decision is that personal data can now flow from the EU to the UK without any further safeguards as the above-mentioned being necessary. In other words, transfers to the UK will be assimilated to intra-EU transmissions of data.

6.2. Cooperation for Fraud Contact Persons

The difficult relationship between (insurance) fraud fighting and the current rules on data protection within the European sphere is mentioned on a continuous basis within the meetings of the fraud contact persons organised by the CoB. It is not always clear for the fraud contact persons what activities are compliant and what activities are not compliant in view of the fight against fraud under the current EU rules on data protection.

The fraud contact persons welcomed the possibility that the CoB would mandate an external legal advisor specialised in matters of data protection. The purpose was to obtain a general opinion on the legal basis of the data exchange and the categories of data allowed to be exchanged. Based on the opinion of the advisor, a minimum set of data fit to exchange in case of possible fraud, could be worked out later on by the CoB Fraud Working Group. Further to the opinion of the external legal advisor, the Data Protection Working Group also produced an analysis in support of the foregoing paper.

Some countries consider fraud fighting of major importance, whereas other countries may not consider it essential. Hence, the legal basis might be very different from one country to another. Therefore, it was difficult for the Data Protection Working Group to provide an exhaustive list of data that could be used by the fraud contact persons when exchanging information on a cross-border basis. Consequently, a number of adequate and more targeted questions were developed. These questions were intended to assist the fraud contact persons to identify the appropriate legal basis in compliance with their national legislation. They are not intended to justify the fraud contact persons' day to day business. However, answers to these questions may be useful in case fraud contact persons would be questioned by their national authorities.

6.3. Transport Layer System (TLS)

In order to maintain security and to prevent processing in infringement of the GDPR, the CoB occasionally evaluates the risks inherent in the processing and implements measures to mitigate those risks, such as encryption. Those measures should ensure an appropriate level of security, including confidentiality, taking into account the state of the art and the costs of implementation in relation to the risks and the nature of the personal data to be protected. In assessing data security risk, consideration should be given to the risks that are presented by personal data processing, such as accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed which may in particular lead to physical, material or non-material damage.

Regarding data security, both CoB's Data Protection Working Group and the IT Committee share the opinion that the CoB should continue emphasising the importance of the security of data transfers between the members. One of the means for strengthening the security of the personal data transfers is through the use of Transport Layer Security (TLS). This measure consists of securing email communications by means of an encryption protocol. The method requires standard IT configuration of the electronic messaging services. Therefore, the 2021 General Assembly decided that the use of TLS version 1.2 or higher shall be mandatory within the system for all Green Card Bureaux, Compensation Bodies and Guarantee Funds as of 1st January 2022.

6.4. Data minimisation

The personal data exchanged within the CoB system contains not only personal data as defined by Article 4(1) of the GDPR, but also special categories of personal data as defined by Article 9 of the GDPR. The GDPR does not forbid as such the exchange of information containing data of special categories (e.g. health data). However, a balancing test must be performed on an ad hoc basis before disclosing / requesting information in this regard. This data must be sent in a proportionate way: e.g. summary of a medical report and / or only when necessary. The Data Protection Working Group is of the opinion that this data minimisation must be taken into consideration by all CoB bodies involved in claims handling.

The Data Protection Working Group therefore prepared a general recommendation for all Green Card Bureaux, Compensation Bodies and Guarantee Funds regarding the limitation of information containing health data during the claims handling process. The foregoing recommendation was approved during the 2021 General Assembly.

7. e-IMIC

7.1. Evaluation of recent changes (white PDF version)

The 2019 General Assembly of the CoB had decided that the National Bureaux are authorised, on a voluntary basis to issue the International Motor Insurance Certificates (IMICs) or the so-called “Green Cards” in black on white. The National Bureaux now allow the interested insurance markets inter alia to send PDF files directly and electronically by e-mail or any other facility to their policyholder, who can later print it in black on white. Therefore, if asked by the authorities of the visited country (border authorities, road traffic police authorities, etc.), the visiting motorist must present the IMIC in paper format. Since this decision became applicable on 1st July 2020, 28 member countries are currently issuing black on white IMICs, out of which 10 countries are issuing solely black on white IMICs and no longer black on green IMICs.

In addition, the CoB Secretariat had also prepared a FAQ document dedicated to this topic, which is available for any interested party at the following address: <https://www.cobx.org/article/39/green-card>.

7.2. Draft Consolidated Resolution on the International Motor Insurance System (IMIC)

Following an enquiry of the CoB’s Managing Director to the Secretariat of the UNECE regarding the possibility to present IMICs in PDFs on electronic devices (e.g. smartphone, laptop, tablet etc.) the CoB envisages to progress in its endeavours related to the digitalisation of the IMIC.

Apart from the possibility to introduce amendments in such a way that IMCs may also be valid / presented in PDF, the CoB was additionally given the opportunity to submit a proposal that would re-organise the text dedicated to the IMIC system in a Consolidated Resolution and no longer as an Annex to the current Revised Consolidated Resolution on the Facilitation of the Road Transport (R.E.4). The proposal for the draft Consolidated Resolution is now submitted for the approval of the Working Party on Road Transport of the Inland Transport Committee (SC.1).

The main changes to the envisaged Consolidated Resolution on the International Motor Insurance System (known as the “Green Card system”) mainly focus on the possibility to present IMICs in PDF in an electronic form independent of the software, hardware or operating system that is displayed on.

7.3. Further reflection on paperless proof of insurance

The CoB Working Group dedicated to the digitalisation of the IMIC, decided during their last meeting that a compound assessment of the financial implications, resources, advantages and disadvantages of cooperation with EUCARIS should be done in comparison with an option of a decentralised electronic exchange platform organised by the CoB (e.g. CoB public web tool redirecting authorities' validity check requests to national public services).

The CoB will seek the help of an external consultancy firm in this area with the aim to finalise the study in the first half of 2022. Subsequently, the CoB should be able to take a strategic decision on the solution to be adopted in view of the digitalisation project of the IMIC.

8. MID refit

In June 2021, the European Institutions reached a political agreement on the text of a new Motor Insurance Directive that may be believed to be formally adopted later in 2021.

The most important impact for the CoB lies in the adoption of new protective rules for insured persons and injured parties in case of insolvency of an insurance undertaking. The Member States will have to set up or authorise bodies responsible for providing compensation in case an insurance undertaking is in a state of insolvency. The rules provide for reimbursement procedures in case of cross-border implications. These can be either cross-border road traffic accidents or the cross-border operation of insurers based on rules of Freedom to provide Services or Freedom of Establishment. In order to ensure the smooth operation of such reimbursement obligations, the CoB will prepare agreements setting out the details of the reimbursement procedures between the new insolvency bodies.

Apart from the provisions on insolvency, the CoB will examine the impact of other rules of the new Directive on their daily functioning. Amongst others, the changed scope of the mandatory insurance (defining which vehicles need to be insured in what circumstances) may have an impact on the compensation and reimbursement obligations of Green Card Bureaux, Compensation Bodies and Guarantee Funds.

9. e-Learning project

As of the beginning of 2021, the CoB has initiated the project of an e-learning training program intended for CoB member organisations and their national partners (insurers, claims handling offices acting as claim representatives and correspondents). The users will have the possibility to access the training materials anytime and anywhere according to their needs in order to gain or refresh their knowledge on particular topics about the Green Card system and the EU MID system.

This project addresses a specific need for a continuous training as a complement to the existing educational programme (CoB Academy) which is organised at the CoB premisses every two years.

Based on the priorities expressed by our members, the first topic to be covered will be the 'claims handling of cross-border road traffic accidents'. The aim of this first programme will be to offer a 'how to' tool to claims handlers that would guide them through the process of claims handling based on agreements and legislation. It will consist of an animated video with links to the reference documents, as well as of a quiz for self-assessment.

The release of the first module is planned for the first half of 2022.
