

Distr.: General
17 October 2016

Original: English

Economic Commission for Europe

Inland Transport Committee

Working Party on Road Transport

111th session

Geneva, 25–26 October 2016

Item 7 (a) of the provisional agenda

Facilitation of international road transport

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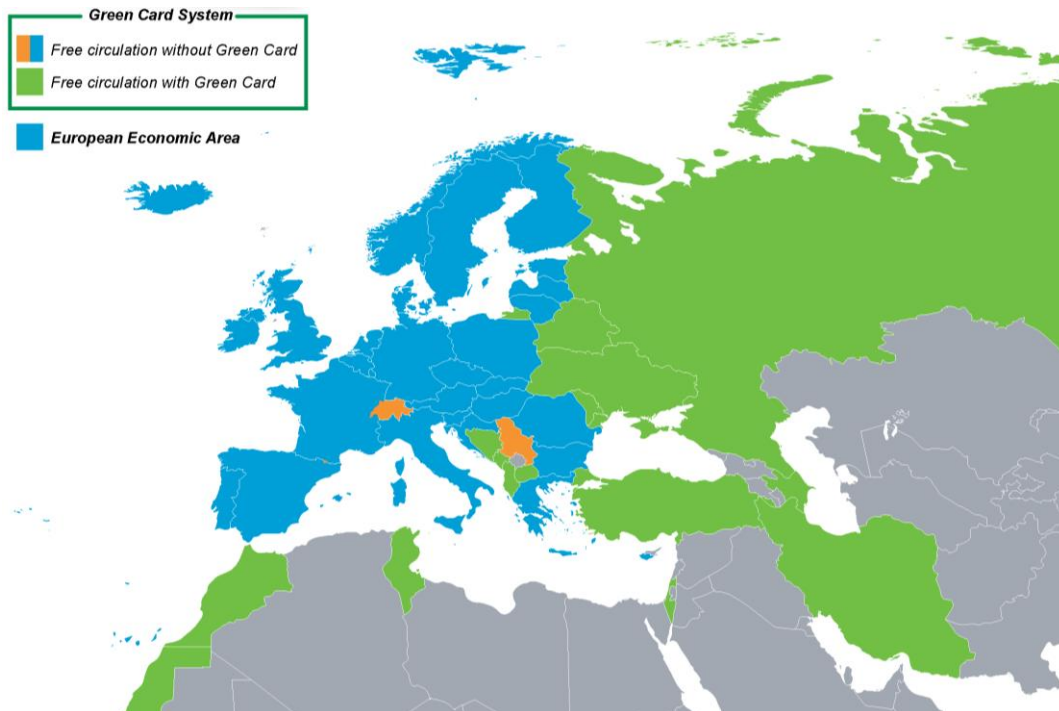
Report from the President of the Council of Bureaux

Submitted by the Council of Bureaux

This document, submitted by COB, contains an annual report from the president of the Council of Bureau to SC.1.

This year, the 50th General Assembly of the Council of Bureaux (CoB) was held on 2nd June - in Tallinn-, Estonia. The main issues addressed over the last 12 months are presented below.

I. Some Key Figures



The system covers 48 countries and has 47 Members.

Over 450 million vehicle fleet (source: CoB Member Bureaux and other sources, 2013-2015) Up to 450 000 cross-border accidents annually (source: CoB Member Bureaux, estimate, 2015) 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 costs) More than 1.300 MTPL insurers are active through the whole system (source: CoB, 2013).

II. Financial Stability

It has been repeatedly underlined that the smooth running of the Green Card system mainly depends on each Bureau's capacity to guarantee the reimbursement of claims caused abroad by vehicles that are subject to a Green Card issued on their behalf or that are normally based on their territory in case of applicability of the so-called Multilateral Agreement. The financial stability of the Green Card system remains the focus of a continued effort of the Council of Bureaux (CoB). It hasn't been different the last year.

The financial stability of the system has been challenged on many occasions. The CoB has had to handle the repercussions of capital controls introduced in Greece, has had to deal with the threat of the suspension of the Bureau of Moldova which would have endangered the financial stability of the whole Moldovan market. As far as Bulgaria is concerned, EIOPA is conducting an assessment of the capital markets, the results of which will soon be

available. Regarding Romania, the market has had to face the insolvency of the company Astra Asigurări (MTPL market share circa 16%), will follow up the bankruptcy procedure against another insurer Carpatica (MTPL market share circa 18%) as well as the financial recovery procedure of City Insurance (MTPL market share circa 7%).

In this respect the bankruptcy of Setanta should also be mentioned, a Maltese company active in Ireland under the Freedom to Provide Services. Recently Enterprise, a Gibraltar based insurer, has also been declared Insolvent. This insurer was also active under the Freedom to Provide Services in France, Greece, Ireland and Italy.

Furthermore, 2 full Members are under Monitoring Status (AL and MD). These Members have had to subscribe to a reinsurance treaty for the whole MTPL market including the National Bureau and to provide a Bank Guarantee in favour of the CoB. The reinsurance treaty should protect the MTPL market against the financial consequences of large and catastrophic claims. The Bank Guarantee in favour of the CoB, should allow to cover long open standing debts of these Monitored Bureaux towards other CoB Members.

The last 3 years we informed you about the CoB Excess of Loss reinsurance cover offered to the CoB Members. For the 2016 renewal, the number of participants remained unchanged (15 Bureaux and/or Guarantee Funds from 10 different countries). The programme provides coverage against risks of individual large claims arising from uninsured vehicles/drivers and/or false Green Cards, as well as bankruptcies of insurance companies. The protection basically covers the risks for which the Bureaux or/and the Guarantee Funds are the ultimate debtors and offers the benefit of an unlimited protection, after a retained deductible depending on the capacity of the MTPL market.

III. Revision of the structure of the Council of Bureaux to optimize cooperation between Green Card Bureaux, Guarantee Funds and compensation Bodies

CoB not only handles the so-called Green Card system, but also provides secretarial and administrative support to Guarantee Funds and Compensation Bodies of EU/EEA countries in the framework of protection of foreign visitors foreseen in EU Directives.

In order to increase the efficiency of these tasks and to even better facilitate international road traffic and the protection of victims of international MTPL accidents, the CoB is currently working on the optimisation between these bodies.

This important project goes along with a revision of the CoB Constitution and the organisational as well as the managerial structures of CoB.

This task reveals to be more complex than initially thought, a proper balance should be pursued on several fronts: between EEA and non EEA countries, between Green Card Bureaux and Guarantee Funds/Compensation Bodies. The Membership is consulted on a regular basis.

If initially the CoB planned to finish this work in the course of 2017, the complexity of the project and the importance for the future of the CoB, indicates that much more time will be required.

IV. Membership issues

A. New Member: Azerbaijan

In our report of last year, we announced that Azerbaijan would become the 47th Member of the CoB as from the 1st January 2016 provided that the financial guarantees would be in place by the 1st November 2015.

We can confirm that this last condition has been successfully completed.

B. Member leaving: Israel

The Bureau of Israel has informed the CoB in February 2015 that they would like to withdraw from the organisation with effect from 1st January 2015. Under the constitution this was legally not possible. Since the withdrawal is only possible with effect from January 2017, the Israeli Bureau is still bound to pay the contribution for 2015 and for the current year (2016). Despite the efforts of the Management Committee to take up contact with the Israeli Bureau, the insurance association or the authorities, this did not bring any result and no reply was received.

The Management Committee was therefore obliged to apply the measures foreseen under the Constitution and recommended the General Assembly to take the following decisions:

- In accordance with Article 4.5 of the CoB Constitution, a financial penalty is imposed on the National Motor Insurers' Bureau of Israel
- The Management Committee has a mandate to start legal proceedings against the National Motor Insurers' Bureau of Israel in any appropriate jurisdiction in order to receive from the National Motor Insurers' Bureau of Israel the amounts that are due to the Council of Bureaux and that cannot be received by way of an amicable settlement.

C. Application: Armenia

An official application request has been received in 2016, however after examination it turns out that Armenia still has to go through a legislative process which makes membership unlikely in the very near future.

D. (Re)new(ed) Interest: Georgia and Algeria

Georgia had shown a renewed interest in adhering to the Green Card system but has not yet started the formal application procedure.

From Algeria a first request for information regarding the application process to the Green Card system has been received in June of this year.

E. Cooperation with other Card systems

1. Orange Card system

The Orange card system is established between most of the members of the Arab League (except Comoros, Djibouti and Palestine) and is applicable primarily in the Middle East and North Africa.

Participants to this system are: Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates and Yemen. Morocco and Tunisia are also Members of the Council of Bureaux.

The system is operational but they asked for closer cooperation with the Green Card system in view of obtaining a more efficient functioning. The first meeting is still to be planned but should normally take place before the end of 2016.

2. White Card System (ECO)

ECO is a ten-member organisation (comprised of Afghanistan, Azerbaijan, Iran, Kazakhstan, Kyrgyz Republic, Pakistan, Tajikistan, Turkey, Turkmenistan, and Uzbekistan), out of which two members are also Members of the Council of Bureaux (Iran & Turkey). ECO has adopted initiatives to set up a regional motor vehicle third party liability scheme (known as the White Card system with a secretariat in Teheran).

The CoB remains ready to continue its efforts to assist the ECO Secretariat with the implementation of the ECO White Card system in the ECO Region, but hasn't been approached since nearly 3 years.

V. CoB Academy

The CoB Academy consists of two main training sessions.

(a) CoB Academy Basic: aims to giving a general introduction of the main topics regarding the system and the Bureaux as well as regarding the particularities of claims handling of cross-border accidents. It is specifically conceived for newcomers, people taking over new positions or participants who need to enhance their experience with workshops and simulations. This year, the third session should have taken place during the first week of July, but has been cancelled because of a low number of participants. This can be explained by the duration of the programme (1 week) which proved to be too long for a lot of Bureaux to excuse their employees for reasons of participation in the event. So it was decided to shorten the programme to three days for the 2017 session.

(b) CoB Academy Advanced: targets a more experienced audience of specialists. It is the opportunity to receive training about some specific topics and regulations and to keep up to date with novelties and changes. Topics can vary according to the most recent events and to the specific needs of the audience. In February 2016 the second session has taken place and was dedicated to 'combating international insurance fraud in MTPL business'. During the morning session, three presentations were given: 'International Dimensions of Insurance Fraud', 'Legal and medical aspects of Insurance Fraud' and 'Finding patterns of fraud in massive data organisation'. The afternoon session was organised in workshops.

VI. Data protection

On 27th April 2016, the new General Data Protection Regulation (GDPR) was adopted and published in the Official Journal of the European Union a few days later. The new European set of rules on data protection will become applicable on 25th May 2018, leaving a transitional period of two years to make the necessary adaptations.

The following points of the GDPR have our particular attention:

- The list of states outside the EU and EEA, recognised by the European Commission as providing an adequate level of protection remains valid, except for the United

States of America (as a consequence of the Court of Justice's judgment in the case C-362/14 Schrems);

- Despite the direct application of the new Regulation in the Member States, there will be room for national differences regarding the rules about the consent which has to be given by data subjects prior to the exchange of "special categories of data" (which is the terminology to designate sensitive data);
- The designation of Data Protection Officers;
- The right to retain and erase personal data. The "right to be forgotten" can however be overridden by legal grounds specified in the GDPR;
- The fight against (insurance) fraud constitutes a legitimate interest for the processing of personal data.

The CoB Working Group on Data Protection will now examine the influence of the GDPR on the existing CoB Data Protection Agreements as well as on the recommendations collected in the CoB Data Protection toolkit.

The CoB further emphasised that data protection is a responsibility of each Bureau, Compensation Body, Guarantee Fund and Information Centre. This is an individual responsibility that cannot be delegated to the CoB. The latter can only, where possible, provide assistance via agreements, tools and advice. The CoB and their Members will have to be ready to comply with the GDPR on 25th May 2018 at the latest.

VII. Fraud

For a cross-border activity such as the Green Card system, the difficulties to identify fraudulent claims, to find evidence and to fight against the criminals, is even more complex than national fraud cases. Probably the most important hindrance to an effective fight against (insurance) fraud are the rules on data protection on the European level, which are perceived as too rigid and often totally unrealistic. However, the GDPR seems to provide more flexibility by considering 'fight against (insurance) fraud' as a legitimate interest for the processing of personal data.

The cooperation in this area should start with a structured exchange of information.

CoB created a specific working group to analyse the problem and to propose effective measures to the insurers and the national Bureaux.

During the 2014 General Assembly the working group presented an action plan. In 2016 some of the objectives have been realised:

- The organisation of a CoB Academy Advanced seminar on fraud;
- Integration of the Fraud Risk Assessment Form (FRAF) in the claims handling
- Close cooperation with other stakeholders, Insurance Europe (the association of European insurers), and EReg (the association of European registration authorities).
- Participation in European Insurance Fraud Summit
- Network for Fraud Contact Persons

The activities of this working group are on-going and the results will be covered in our report of next year.

VIII. International Insurance certificate Green Card

The CoB furthermore would like to deal with the concept (and prospective introduction) of electronic Green Cards. Currently we are conducting an internal enquiry about the concept itself, since there seems to be some confusion as to what it exactly means. Then, in cooperation with IT specialists, the CoB will examine what can be done in this field.

It goes without saying that each change in the concept of the International Insurance certificate will be done in close consultation with UNECE.
