

## Response to the EC's proposal for a Regulation on re-registration of vehicles within the EU

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### Summary

Insurance Europe welcomes the European Commission's proposal for a Regulation simplifying the transfer of motor vehicles registered in another Member State within the Single Market.

Insurance Europe however notes the following key concerns:

- Current efforts to combat uninsured driving within the EU may be undermined;
- Current efforts to improve road safety within the internal market may be undermined;
- Risks arise in relation to temporary registration certificates and dispatched vehicles;
- The existing structures that underpin the use of motor vehicles within the EU (for instance, the Codified Motor Insurance Directive) may be negatively impacted.

Additional overarching comments are that:

- the link between the issuing of temporary registration certificates and licence plates must be preserved;
- it would be preferable to introduce a simplified re-registration process by means of Directive;
- risks having a negative impact on national provisions relating to taxation of vehicles;
- it must not ignore rules on de-registration of vehicles in specific cases.

The following practical solutions could address these concerns:

- Permitting registration authorities to refuse an application for re-registration on certain further grounds,
- Shortening the period for requesting a re-registration,
- Re-classifying the proposal as a Directive.

### Key messages

The European motor insurance industry welcomes the efforts made by the EC to simplify the registration procedures for vehicles previously registered in another Member State. Simplification will benefit citizens and businesses so long as existing structures relevant to the use of motor vehicles within the EU are not disturbed unnecessarily.

Insurance Europe, however, believes that the proposal for a Regulation raises several concerns:

- **Key message 1: Implications of proposal on uninsured driving.** The proposal undermines the current combat against uninsured driving in several EU Member States. For instance:

- **Weakening of existing registration systems designed to combat uninsured driving.** Several EU Member States (including Austria, Belgium, Czech Republic, Finland, Germany, Ireland, Lithuania, Luxembourg, Slovenia and Sweden) operate registration systems that require proof of valid motor third party liability (MTPL) insurance as a pre-requisite to vehicle registration<sup>1</sup>. This link is absent in the current proposal-wording.

To avoid negatively impacting on-going efforts to combat uninsured driving within the EU – and in particular in those countries where proof of motor insurance is a prerequisite to registration – the EC draft Regulation must be amended. The proposal must permit registration authorities to refuse requests for re-registration where there is no proof of insurance if this is the current practice for national registrations or national laws are changed to this effect.

- **No sanctions.** The proposal fails to stipulate sanctions for failure to re-register a vehicle within the deadline. It is unclear what sanctions may be imposed for failure to re-register within the requisite period in the new member state. Failure to have sanctions risks impacting the number of uninsured drivers, as there is little incentive to comply with the requirements to re-register within a set period. The proposal builds on the assumption of *voluntary* and *timely* requests for re-registration by the holder of a vehicle registration certificate.

This absence of sanction may have practical implications, for instance:

- In cases where a vehicle is involved in an accident after the expiry of the six month period, it is not clear which Green Card Bureau or Guarantee Fund (pursuant to the Codified Motor Insurance Directive) will be liable for the vehicle.
- The proposal implies that registration authorities *must* accept a subsequent request for re-registration - despite a delay in requesting re-registration - where all the other grounds for refusal are not met. The lack of incentive to observe the deadline for re-registration risks defeating the purpose of having a deadline.

It is advisable to clarify (i) whether, despite the failure to re-register in the new Member State, the country of departure remains the relevant place of registration by default<sup>2</sup>, and/or (ii) whether any sanctions that may discourage a disregard of the provision will apply.

- **Unnecessarily long period for requesting re-registration.** The period of six months risks permitting uninsured vehicles to be used on public roads. The period for making a request must be shortened to 30, or at most 60, days to minimise any risk of uninsured driving.

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<sup>1</sup> Please also refer to E-Reg's publication entitled "The vehicle chain in Europe 2011 – A survey of vehicle and driving licences procedures – Part II"

<sup>2</sup> Please note the possible tension between the implications of the definition of "place of registration" with existing Council of Bureaux (CoB) interpretations. CoB has concluded that where a vehicle is being driven to another member state for the purpose of re-registration, the vehicle will be deemed to be "normally based" in the member state of destination (under the Codified Directive). Thus the Guarantee Fund of the country of destination will be liable.

■ **Key message 2: Road safety implications of the proposal**

- **The proposal introduces an unnecessary risk of compromising road safety arising from movement of fleets.** There is an inadvertent risk that fleets of vehicles may be moved between member states within the EU and used before the fleet owner establishes a new branch. This would compromise observance of road safety requirements for up to six months because there is no basis upon which the re-registering member state authority can ensure road safety requirements are satisfied *during* the period for re-registering vehicles.

This unnecessary risk may be removed by limiting the period permitted to carry out the re-registration from six months to 30, or even 60, days. A shortening of the period for permitting re-registration would also prevent the risk of continuous, but tactical, moving of car fleets from one member state to another shortly before expiry of every new six-month period for re-registration.

- **Uncertainty as to the use of the vehicle during the period for review of a refusal to register it.** The EC proposes to permit an unsuccessful applicant for re-registration to require a registration authority to *review* its decision to refuse the request for re-registration. Such review may, in total, take up to two months.

It is unclear what happens to the vehicle during this two month period. If the intention is that member states may restrict the use of the vehicle within the member state during that period the proposal should clarify this. If this is not the intention, then safeguards should be introduced. There is otherwise a risk of uninsured vehicles, and/or vehicles not fit for use on public roads, circulating on public roads during this period. This would have a negative impact on road safety within the EU.

Additionally, it raises issues of which Guarantee Fund is liable for third party claims.

■ **Key message 3: Risks arise in relation to temporary registration certificates and dispatched vehicles.** The proposal raises further questions owing to a lack of clarity in respect of dispatched vehicles.

- **A new procedure for obtaining a temporary registration certificate.** Depending on the reading of the proposal it appears to introduce a requirement to request a temporary registration certificate from the registration authority in the country of *destination* of a dispatched vehicle. Currently, such a request is made from the country of *dispatch*.

However, requesting a temporary registration certificate for vehicles that are purchased “on the spot” in another member state will not be practically possible in many cases, since the purchaser has no forewarning of the vehicle’s identity. The purchaser will therefore not be in possession of sufficient information to enable him/her to make a prior request for a temporary registration certificate from the registration authority in the country of destination before the purchase. This is only possible in those instances where the identity of the vehicle to be dispatched is known in advance. This provision should be clarified.

- **There is an absence of obligation to re-register dispatched vehicles within a certain period after expiry of the temporary registration certificate.**

The central provision of the proposal, requiring re-registration within six months, applies to vehicles where the holder of the registration certificate *moves* his/her country of normal residence. The implication is that this provision does not apply to the situation of a dispatched vehicle where the purchaser is *not moving* his/her normal domicile, but merely purchasing a vehicle in another member state.

This deficiency should be resolved by requiring a full re-registration, in respect of dispatched vehicles, to be requested within the same period of time as in instances of a move of normal residence by the holder of the registration certificate (say, 30 or 60 days).

Whatever the period will be for re-registering a vehicle in instances of *moves*, the starting point of the time running for dispatched vehicles should be in reference to *the date of acceptance of delivery* of the purchased vehicle, so that the wording will match the existing wording of the Codified Directive on insurance against civil liability.

- **Key message 4: Negative impact on structures set up under the Codified Motor Insurance Directive.** Member states operate different systems for the management of vehicle ownership and traffic by use of taxation and charges. The current proposal would permit “strategic” registrations by leasing companies, employers offering company cars and car-rental companies to circumvent such charges.

However, permitting such strategic re-registration of vehicles risks undermining the current structures set up under the Codified Motor Insurance Directive. It manipulates *which* organisations (Guarantee Fund, Green Card Bureau etc.) should be called upon by victims. This consequently impacts the rights to *assistance* and *redress* of victims involved in accidents involving such vehicles.

- **Overarching comments**

- **Absence of reference to licence plates.** The absence of a reference to *when* and *where* licence plates are to be issued cause concern. The main concern arises from the perspective of the victims of road traffic accidents: without a licence plate the relevant insurer, Guarantee Fund, Green Card Bureau, Compensation Body and Information Centre cannot be identified.

Some provision must be included to enable the proper tracing of vehicles and to enable insurers to be identified. The link between the issuing of temporary registration certificates and licence plates must be preserved.

- **Legislation in the form of a Directive would be more suitable.** Current EU legislation relating to registration of vehicles is mainly contained in Directives, enabling member states to adopt the relevant provisions in a manner that fits in with existing national legislation, needs and sensitivities.

Since provisions relating to re-registration of vehicles make up only a minor proportion of laws applicable to registration of vehicles more generally, it would be preferable to have the new legislation in the form of a Directive.

In addition, no evidence has been made available to justify requiring national provisions on re-registration of vehicles previously registered in another member state to be subjected to a materially different regime, introduced by Regulation – and consequently without flexibility of adoption in member states.

- **Negative impact on national provisions relating to taxation of vehicles.** In member states where ancillary costs arising from registration (e.g. vehicle taxation) may be more elevated than in other member states, vehicles under the control of leasing companies, employers and car-rental companies may be “strategically” registered in other member states to circumvent payment of higher taxes. This would be permitted under the current proposal and would be to the detriment of national efforts to manage traffic and levels of vehicle ownership (e.g. by use of vehicle taxation).
- **New re-registration procedures must not ignore rules on de-registration of vehicles.** The proposal fails to address de-registration of vehicles in cases where a holder of a registration certificate does not succeed (or attempt) to re-register the vehicle in another member state. This



may have a negative impact on the allocation of responsibility between Guarantee Funds under the Codified Motor Insurance Directive. De-registration acts as a “line in the sand” to allocate responsibility for liability for claims having a cross-border element between Guarantee Funds. It is therefore an important safeguard to ensure a fair allocation of responsibility (and liabilities) between different markets.

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