Within the European Union, harmonisation of motor insurance regulations facilitates the free movement of people and vehicles. With regard to bodily injury compensation, claim components such as “loss of earnings”, “assistance”, and “pain and suffering” are already recognised across Europe. However, assessment of and compensation for severe bodily injury claims can differ considerably across countries in Europe.

In this 2018 edition of our “Bodily injury landscape Europe” series we outline the main changes in motor liability since the last overview published in 2015. The series, put together by claims experts at Swiss Re, takes a look at recent regulatory developments in 13 European countries. It also provides an overview by country of compensation levels in severe bodily injury cases based on Swiss Re’s tetraplegia and fatality scenarios.

The tetraplegia claims scenario for 2017 shows that the differences in compensation levels across European countries continue to be large. Claims costs for the tetraplegia scenario have increased to EUR 21.8 million in the UK. This compares with figures of below EUR 1 million for countries like Denmark, Sweden and Hungary.

**Costs for assistance and care still loom large**

Compensation for assistance and care varies greatly from country to country. For the five countries with the highest levels of compensation, assistance and care amounts to more than 50% of the total. “Loss of earnings” is the second most important single claim component, reaching EUR 1 million in countries like the UK, Switzerland and Germany.

Differences across countries are also pronounced for pain and suffering. In Belgium, Italy and Spain in particular, pain and suffering makes up a considerable share of the total bodily injury compensation per country.
Motor insurance market developments in Europe

In today’s technology landscape, autonomous cars, telematics-based insurance and smartphone-induced distracted driving are the trends that are changing the motor insurance world – and capturing the most attention. These trends do not have a direct impact on the systems used for compensation of bodily injury to third parties, however. So, what is driving recent developments in bodily injury compensation in Europe? Two clear drivers are the reduction in the discount rate in some countries such as the UK, and far-reaching regulatory reforms in others such as the new Baremo in Spain. Also, bodily injury inflation from 2014 – 2017 varied considerably by country, from less than 5% per annum in some stable countries to more than 15% per annum in others. We highlight some of the most recent developments in bodily injury compensation in Europe here:

Discount rates for personal injury claims

The continuing low interest rate environment has led to a downward trend in discount rates impacting the present value of future cash flow. For instance, the decision to cut the discount rate from 2.5% to minus 0.75% in the UK effective March 2017 was not fully anticipated by the industry; the rate adjustment has adversely impacted motor reserves in particular and the motor business in general.

The new Spanish Baremo

The first compulsory compensation system for fatality or injuries in traffic accidents (the so called “Baremo”) was implemented in Spain in 1995. More than 20 years later, a panel of experts appointed by the Insurance Authority carried out an in-depth review of the system. In September 2015 the Spanish Parliament approved the new “Baremo” and it came into force on 1 January 2016. Within the first two years, it appears the reform has achieved what it set out to do: adjust compensation levels for fatality and severe injuries cases and reduce the level of fraud in frequent claims such as whiplash. In terms of compensation, the most noticeable changes affect prejudiced parties in case of fatality and third-party assistance and loss of earnings in case of injuries. Prejudiced parties in case of death have been extended to close relatives and the regulation and level of compensation for third-party assistance and loss of earnings has been reviewed in line with the principle of full reparation of damage.

ECJ case C-162/13, Damijan Vnuk v Zavarovalnica Triglav d.d.

In 2007, Mr Vnuk was knocked off a ladder by a reversing tractor on a farmyard. The insurer Triglav refused to pay as the tractor was not being used as a vehicle but as a propulsion device (tractor). The Court of Justice of the European Union ruled that compulsory insurance extends to: (i) any use, (ii) consistent with normal function of vehicles, (iii) anywhere. The ECJ Vnuk Judgment is a final judgment directly applicable in all member states.

Motor & Terror

The recent terrorist attacks involving motor vehicles in many countries have dramatically highlighted a vulnerability of our society – one that can take a heavy human toll and cause very large losses. To find answers to the crucial questions concerning the insurance industry’s potential exposure via motor third party liability covers, Swiss Re has looked at the legal regulations in selected European countries in light of likely scenarios based on past experience. We have compiled the findings in a new publication entitled: “Terrorist attacks through the use of motor vehicles in selected European countries”.

For more information about the report, please contact your Swiss Re claims expert.
The legal and claims environment in Italy

In 2015/2016, total damages paid (for both property damage and personal injury) amounted to EUR 11 billion; of this, more than two thirds (EUR 7.4 billion) was in relation to personal injury (including the property damage component for mixed claims).

In terms of personal injury compensation in 2015/2016, two facts stand out:
- Compensation for minor injuries with permanent disability from 1 to 9% amounted to EUR 2.6 billion (23.2% of the total claims cost)
- Serious injuries with more than 9% permanent disability or death generated costs of EUR 4.8 billion (43.2% of the total claims cost)

The percentage of all motor liability claims involving personal injury was 19.5% in 2015, about the same as in 2014. After peaking in 2010 at 22.7%, this share saw a first modest downturn in 2011 with more significant declines in 2012 and especially 2013. The main driver for the improvement was a reduction in the number of minor injury claims, especially those with less than 3% disability.

Source: The figures above are taken from the Italian Insurance Report of the Italian National Insurance Association
Minor injuries: permanent disability of 1 to 9%

The effects of Art 27/2012 (the “liberalisation” decree) appear to have been fully incorporated. The law introduced provisions against speculative claims for very minor injuries, principally “whiplash” injuries, changing the eligibility requirements for compensation. The sharpest reductions in minor injuries claims (calculated as claims for permanent disability of 1 to 9% as a percentage of total risks insured) were in 2012 and 2013. In fact, claims for minor injuries went down to 1.016% in 2013 from 1.401% in 2011, a decrease of 27 percent. Over the same period, property damage claims fell 10 percent. In 2014 the figure was 1.017%, rising to 1.026% in 2015. The increase can be attributed to an overall increase in claims frequency, although personal injury claims rose slightly less than claims in general (1.0% vs 1.2%). The average cost of minor personal injury claims, however, declined further. Since 2011 it has decreased by over 10%, from EUR 6 135 to EUR 5 508 in 2016.

Death and permanent disability of more than 9 percent.

There was no comparable decrease for more serious injuries claims (resulting in death or permanent disability of more than 9 percent). Serious injuries are not subject to Art 27/2012. From 2009 to 2014, claims frequency for these injuries went down significantly (by 21.5 percent), but actually by less than the frequency of property damage claims (down 27.3 percent), and much less sharply than claims for minor injuries (which decreased by 37.5 percent). In 2015, moreover, there was a marginal rise in the frequency of the latter claims to 0.056% from 0.055% in 2014.

The average claims cost of more serious injuries (including damages for fatalities) rose steadily until 2013: from EUR 155 000 in 2009 to nearly EUR 200 000 in 2013. It then went down slightly and in 2015 was at about the same level as in 2012 at just over EUR 190 000.

Personal injury claims: Italy vs Europe

The percentage of claims involving personal injury reached record highs in some Italian provinces in 2014 – as high as 35% in some places. In 2014 (the year of the most recent available data at regional level) percentages for the southern provinces were much higher than the national average of 19.5%. The highest levels were in Puglia, Calabria, and parts of Campania.

By European standards, as shown in Insurance Europe’s 2015 “European Motor Insurance Markets” report, Italy continues to have one of the highest levels of personal injury claims despite a decline from 22% in 2009 to 19% in 2013. In other European countries, excluding Slovenia, Finland and Turkey, the percentage of claims involving personal injury is less than 10%, around half the rate in Italy.

When looking at the frequency of personal injury claims (ie, the number of claims per policyholder), Italy’s exceptionally high rate also stands out. Whereas this frequency was 1.8% in 2009 (more than twice the European average of 0.8%), by 2013, in keeping with the general downtrend in claims, it was almost down to 1%; however, the European average had also declined to 0.6%, maintaining the substantial gap.
Legislative decree 4 August 2017, n. 124 – “Legge annuale per il mercato e la concorrenza” (Competition Law)

The changes introduced by the above law are expected to substantially affect the insurance sector and motor third party liability (MTPL) insurance in particular. Some key changes:

**Mandatory discounts**

The law introduces mandatory discounts for MTPL policies if vehicles are equipped with black boxes or similar devices whose functional requirements will be identified by inter-ministerial decrees. Moreover, within one year of the law coming into force, the Government has been delegated to adopt measures to regulate the installation of black boxes in any means of transport, so as to enable the provision of new public and private mobility services, the use of ‘open data’, the development of smart cities and the adoption of urban plans based on sustainable mobility. Further discounts on motor insurance will be granted to consumers who agree to submit their vehicle to an inspection or install sensors that cause the vehicle to shut down if the driver is over the legal blood alcohol limit.

**National table for severe bodily injury compensation**

In order to guarantee full compensation for the non-pecuniary damages suffered by the victims of road accidents as well as to rationalise the costs affecting the insurance sector, the law establishes the adoption of a specific national table for highly severe bodily injuries. The table’s parameters will be drafted taking into account the jurisprudence criteria primarily consolidated by the Court of Milan.
**Tetraplegia claim scenario**

30-year old male, married, single earner, 2 minor children, average income in dependent employment, severe spinal or head injury, no ventilation necessary, 100% disablement, no return to work, highest level of assistance/care.

**Tetraplegia claim scenario 2017 – Italy**

![Chart showing tetraplegia claim scenario 2017 – Italy]

*Source: Swiss Re*
Fatality claim scenario 2017 – Italy

30-year old male, married, single earner, 2 minor children, average income in dependent employment

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