

## QUESTIONNAIRE FOR AIDA WORLD CONGRESS, RIO, 2018

### New Technologies

(Autonomous Vehicles and Robots- Cyber Risks- New Technologies and Insurance Process)

General Co-Reporters: Kyriaki NOUSSIA and Rob MERKIN

#### I. DRIVERLESS/AUTONOMOUS VEHICLES AND VESSELS

**1 Are there any specific laws already adopted in your jurisdiction, or proposals for laws, relating to liability in tort for injuries inflicted by the use of such vehicles or vessels? If so, please provide a short explanation. (Comment: answers may include the liability of drivers, producers of vehicles and the suppliers of satellite technology.)**

There are no specific legal provisions regulating liability in tort by the use of driverless/autonomous vehicles and vessels.

The relevant are general legal provisions: a) of the Civil Code, particularly the general provisions on tort (article 914 – 938); b) of the Law 2251/1994<sup>1</sup> on Consumer protection, particularly article 6 on the Liability of Producer for Product Defects (which transposed into Greek legislation EU Directives on Product liability 85/374/EEC as amended by the Directive 1999/34/EC on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products), but also article 5 on sale of consumers goods and guarantees, and article 7 on health and security of consumers; c) of the Joint Ministerial Decision Z3-2810/2004 (Official Journal B' 1885/2004) on the General security of products which transposes the Directive 2001/95/EC of 3 December 2001 on general product safety into Greek legislation; and d) of the Compulsory Motor Liability Insurance (see below).

**2. Are there any specific laws already adopted in your jurisdiction, or proposals for laws, relating to compulsory insurance coverage for injuries inflicted by the use of such vehicles or vessels? If so, please provide a short explanation. (Comment: answers may relate to motor vehicle insurance and product liability insurance).**

There is no specific law regulating insurance of driverless/autonomous vehicles and vessels.

However, the provisions of the Law 489/76 on Compulsory Motor Liability Insurance<sup>2</sup>, as amended (**the Law**), should apply also to these issues. The Law was codified by the PD no. 237/1986, and has been

---

<sup>1</sup> It was amended by the L. 3587/2007.

<sup>2</sup> The law entered into force on 1 January 1978.

amended numerous times<sup>3</sup>. Greece has harmonized its motor insurance legislation with all EU Motor Insurance Directives. Particularly, the L. 4364/2016 it harmonized the Law on Compulsory Motor Liability Insurance with the 4<sup>th</sup> Motor Insurance Directive 2009/138/EC relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability.

According to article 1 a) of the Law: “‘vehicle’ means any vehicle intended for travel on land, but not running on rails, and propelled by mechanical or electrical power, regardless to the number of wheels. Vehicle also includes any trailer whether or not coupled behind the main vehicle, as well as a bicycle equipped with an auxiliary motor.”

According to article 2 of the Law, “an owner or holder of a vehicle which circulates on roads in Greece is obliged to have the third parties liability insurance cover, in compliance with the Law”.

Since the definition of the vehicle is broad, it provides ground for the respective broader interpretation in regard to its application. It will be the task of the courts to provide relevant interpretation in a specific case, as a result of the use of these vehicles on the roads in Greece. Potentially, the legislator may assess that certain amendments or clarifications of the definition are needed. As presented below in this Report, the use of the listed types of vehicles in Greece is still very limited, and the above definition of vehicle would apply to the types of vehicles used so far in Greece.

It should be noted that this issue has already being discussed on the EU level and if necessary it would be regulated in more details on the EU level, whether through the amendments of the Motor Insurance Directive or in other way. In such case Greece will harmonise its legislation accordingly.

It should be also noted that the GEAR 2030 Working Group 2<sup>4</sup> Roadmap on automated and connected vehicles, Project Team 1 “Policy and regulatory issues for Automated and connected vehicles” on 5 July 2017 issued its Summary of the draft final recommendations<sup>5</sup>, which among other concludes:

“ 2) *Liability and data storage needs:*

- *Motor insurance and product liability directives are sufficient to compensate victims.*
- *Data storage should be included in the type - approval legislation to clarify liability. It shall cover*

---

<sup>3</sup> There have been numerous amendments of the law 489/1976, as follows: L 1569/1985, PD. 1019/1981 and 118/1985, L. 1867/1989, PD 264/1991, PD 314/1993, L. 2170/1993, L. 2367/1995, PD. 252/1996, L. 2496/1997, L. 2648/1998, L. 2741/1999, L. 2753/1999, L. 2837/2000, L. 2919/2001, PD. 10/2003, L. 3419/2005, L. 3557/2007, L. 3693/2008, L. 3746/2009, L. 3867/2010, L. 3904/2010, L. 4092/2012, L. 4141/2013, L. 4261/2014, L. 4364/2016, L. 4438/2016, and 4484/2017.

<sup>4</sup> Established by the Commission Decision of 19.10.2015 Setting up the High Level Group on the Competitiveness and Sustainable Growth of the Automotive Industry in the European Union (GEAR 2030), C (2015) 6943 final, with the aim to hold a regular dialogue on all matters relating to the competitiveness and sustainable growth of the automotive industry, to assist and advise the Commission on the policy in these fields, in identifying key areas which need to be addressed, and to bring the exchange of experience and best practices. One of the tasks of the group WG2 was to make recommendations for an EU strategy on the roll out of automated and connected vehicles that will include regulatory and policy recommendations as well as financing support recommendations.

<sup>5</sup> See <https://circabc.europa.eu/webdav/CircaBC/GROW/automotive/Library/GEAR2030/2017-07-105thGEAR2030SherpaMeetingon10July2017/20170705GEAR2030WG2PT1Draftrecommendations.pdf>

*the minimum set of data needed to clarify liability and mechanisms to regulate the data access from a technical point of view.*

- *The Commission should monitor the need to revise the Motor insurance directive and product liability directive (e.g. definition of product/service, definition of defect) as well as the need for additional EU legal instruments with the future development of technologies.”*

Product Liability Insurance is in Greece regulated by the general provisions of: a) the Insurance Contract Law no 2496/1997 (particularly the indemnity insurance and the civil liability insurance), and b) the Law on Private insurance company no. 400/1970 in regard to the classes of insurance. This is not mandatory insurance.

### **3. How do you envisage the future of personal lines in motor vehicle insurance in the next 5-10 years in your jurisdiction? Comment: you may wish to comment on the future of motor vehicle insurance and the plans being made by the industry for new products**

The future of motor insurance is undoubtedly connected to the new opportunities emerging from new technologies such as automated vehicles, telematics applications, etc. Further development of new technologies and their use in Greece may in certain cases require new regulation, starting from definition of autonomous vehicles, civil liability issues, and of the insurance regulation (combination of TPL motor vehicle insurance and product insurance).

In regard to insurance legislation, any new regulation of these types of vehicles and the respective insurance legislation should be at least on the EU and/or wider international level in order to secure that the same or similar regime is applied in all Member States and/or other states, as it is the case with the current TPL motor vehicles insurance.

The technological revolution would require new generation of insurance products and significant changes in the existing insurance procedures. Underwriting and claims handling procedures should also be redesigned in accordance to the new conditions. The main issue would be to clarify whether in case of an accident the damage would be covered by the motor liability insurance and/or the product liability insurance legislation. A clear and simple claim procedure should be established in order to protect the damaged party when there is also product liability involved.

The following parameters are expected to be crucial in the designing process of the new insurance products and procedures:

- Autonomous vehicles could potentially lead to a substantial reduction in motor insurance claims due to the expected reduction of motor accidents. Lower claims could result in lower premiums and tighter profit margins. However, for the present at least, autonomous / semi – autonomous vehicles are significantly more expensive than the traditional counterparts. It should also be

highlighted that in case of damage, the said cars would need more money to be fixed than non-autonomous vehicles. Consequently, the damages would be more expensive and thus, the need of insurance coverage will be higher than the non-autonomous vehicles.

- The role of claims analysts and loss adjusters could also change due to the expected availability of significant data on the frequency and nature of accidents. Access to “liability data” would be essential to ensure the swift handling of claims and, where applicable, the correct apportionment of liability. However, an accident caused by autonomous technology would need extensive software and hardware analysis expertise from the part of insurance companies in order to understand in details how and why it occurred.
- In addition, one of the biggest challenge for all the involved stakeholders would be the rendering of responsibility between the driver of the autonomous vehicle and the vehicle’s manufacturer but also software engineer, software manufacturer, as well as data provider. Thus even if the claims are reduced in numbers they may be significantly more complex in regard to determining of liability and joint liability. At this time, there is an ongoing discussion regarding this issue at European level. The conclusions of this debate are expected to clarify this important issue.
- Cars are becoming more and more “computers on wheels”. Roads and traffic control systems are becoming more and more “electronic” and remotely controlled. Even if still a bit distant, insurers should also take into account the potential larger – cumulative losses in case of specifically targeted cyber-attacks to the above (cyber policies).

At present, few insurance companies in Greece have begun designing and offering new MTPL products based on telematics (black box technology such as GPS which enables insurer to track driving record and behavior of the insured in order to determine risk as well as liability). In such cases, insurers using telematics devices in Greece incur the cost of their installation. As sensors and computers become more commonplace in vehicles, the telematics - based policies would be increased.

**4. Driverless cars and autonomous vehicles apart, how do you assess the following technological developments that are expected to not only reshape the auto sector but also the insurance industry around it? Comment: answers may include identifying the legal and regulatory regime and provisions in your jurisdiction.**

**(a) connected cars (i.e., Internet enabled vehicles, (IEV)) and (b) automated driver assistance systems (ADAS):**

- Advantages for the insurance industry:

- Automated driver assistance systems, road side assistance, traffic/safety and collision warnings (lane change assistance, blind spot monitoring, emergency brake light warning, intersection movement assist, emergency vehicle approaching, road works warning, automatic notification of crashes, notification of speeding and safety alerts) could lead to claims reduction;
- The increased car awareness could also lead to car theft reduction;
- Vehicle and driver data gathering could lead to the identification of fraudulent insurance claims, more effective customer segmentation, personal and regional risk assessments.
- Potential disadvantages:

The aforementioned technology could raise complex legal issues and lead also to potential loss of privacy, risks of hacking and terrorist attacks.

- In 2016, a bus without a driver completed its pilot operation in the "Intelligent City" of Trikala Greece, attracting the attention of scientists and operators from all over the world. This was the first attempt of using a driverless bus in an urban area in Greece.

**(c) car/ride sharing:**

The existing cases of car/ ride sharing are the following:

- **Fleet car sharing**

This is where businesses such as car2go or communauto purchase and insure a large fleet of vehicles. These may be based in one location or free-floating. Some companies specialize in case in car sharing at airports. Consumer may take the car from anywhere on the street and drop it off anywhere on the street in the operating area. It pays for the time it used the car.

- **Peer-to-peer (P2P) car sharing**

This is where individual car owners rent their personal vehicles to private individuals. They do this using a peer-to-peer company. This system is brought in Greece by «Carky», who developed an online platform that allows car owners to offer their car for rental in order to gain extra money. The company ensures that there is full (casco) insurance of all cars admitted to the system for the duration of the agreement.

- Consequences for the insurance industry: In general, car/ ride sharing could reduce the number of circulated vehicles. It normally increases the risk per vehicle having in mind that the same vehicles

are driven by more drivers (not only its owner) and the average number of hours would be increased. This should affect the insurance policy. However it does not affect the legal basis of insurance and regulation of the liability.

**(d) Alternative fuel vehicles.**

Directive 2014/94/EU of the European Parliament and of the Council, on the deployment of alternative fuels infrastructure has been transposed into Greek legislation by law 4439/2016 (Gov. Gazette A' 222/30.11.2016). There is still no estimation on the impact for the insurance industry as of the risks related to different type of fuels used.

## **II. CYBER RISKS**

**5. Identify the concerns have emerged in your jurisdiction as a result of cyber risks. Is there any legislation in place or under consideration that might affect such risks? Comment: possible matters include cyber-terrorism, hacking, computer or software failure and financial fraud.**

The main peaces of legislation relevant for the cyber risk are:

- Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data which was transposed to the Greek legal order by the Law 2472/1997;
- This Directive has been repealed by the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), which however will apply from 25 May 2018. Since it is a regulation, not directive it does not have to be transposed into Greek legislation by a law, but will have direct implementation in Greece.
- Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) which was transposed into Greek legislation by the law 3471/2006<sup>6</sup>, while the amendments to the Directive i.e. Directive 2006/24/EC of 15 March 2006 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC were transposed by the law 3917/2011<sup>7</sup>.

---

<sup>6</sup> L. 3471/2006 Protection of personal data and private life in the electronic communication sector and amendments of the L. 2472/1997.

<sup>7</sup> L. 3917/2011 on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks, use of use of surveillance systems by taking or recording audio or video in public places and other relevant provisions.

- NIS Directive, Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union. The Member States should by 9 May 2018 adopt laws and regulations to comply with this Directive and shall start its application from 10 May 2018.

Greece is currently in the process of preparing a cyber security strategy in compliance with the above EU legislation.

## **6. How has the insurance industry responded to cyber risks? In particular:**

The Main concerns of the insurers include:

- The limited publicly available data / the lack of actuarial data in order to develop the tariff of the product
- The limited awareness among Small and Medium Size Enterprises (SMEs). It is essential to raise awareness especially among SMEs of the need to be prepared against cyber threats.
- A cyber breach has a long and unpredictable tail
- Cyber security breaches can remain undetected for several months
- Sales person extensive training need
- The handling of the threatened fines (in some cases, up to €20m or 4% of global annual turnover)

### **(a) Do property policies cover losses from cyber risks, or is special insurance required?**

Property policies in Greek insurance market exclude losses from cyber risks. More specifically property policies cover material/ physical damage (e.g. property software) to the property arising out of covered perils (e.g. fire, lightning, explosion etc), but exclude any loss, damage, destruction, distortion, erasure, corruption or alteration of data from any cause (including computer virus, computer malicious act/ computer malware/ human error/ system failure on insured's computer systems, cyber extortion etc).

Cyber risks insurance is mainly offered as a stand-alone insurance product. However, in some cases general liability policies (professional indemnity policies) and property policies may include a cyber-extension.

### **(b) Is insurance and reinsurance readily available?**

Cyber risks insurance is available in the Greek insurance market. According to the Greek Association of Insurance Companies available data, a very limited number of Greek insurers already offer stand-alone cyber insurance products. There are also international brokers that offer cyber insurance coverage in Greece.

Stand-alone products usually cover:

- Information security and Privacy Liability

- Privacy Notification Costs
- Crisis Communication Costs
- Regulatory Defense and Penalties
- Multimedia liability
- Cyber extortion
- Business Interruption

Reinsurance is readily available (only facultative reinsurance covers).

**c) Are there any special restrictions imposed on cyber risks, e.g. event limits or deductibles?**

There is no specific legal regime. The event limits or deductibles are different in each policy. The evaluation is being carried out on a case-by-case basis.

### **III. NEW TECHNOLOGIES AND THE INSURANCE PROCESS**

**7. To what extent have the availability of new technologies affected the way in which insurance policies are placed? In particular:**

**(a) Has there been any effect on the traditional use of agents and brokers?**

New technologies are affecting the way in which insurance policies are placed. For example, direct business/sales/ channels (internet based ones) offer a straight link to end customer, reduce significantly issuance time and offer to the company customer data for coverage- premium and behavioural analysis.

Additionally, the use of portals and services by sales agents to place/ issue policies, results to more efficient delivery of end product to customer. Moreover, the usage of technologies by the customers and sales agents (i.e. web page, mobile app) reduces company's administrative costs.

New technologies applied also in agents' and brokers' training (i.e through e- learning), which is another positive effect.

However, it should be noted that the market share acquired so far by direct insurance platforms, is rather limited. Online tools address mainly to younger customers, therefore it is expected that online sales will increase over the years.

**(b) Has the underwriting process been affected by the availability of information, particularly big data, from sources other than the applicant for insurance?**



The underwriting process is being done according to existing legislation and within the compliance perimeter. No external databases big data are used so far. That might require approvals by the Data Protection Authorities. Insurers may use specific information from the internet (i.e. technical characteristics of vehicles) in analyzing the risk for their clients. Moreover, it is not far away the time that social media will be used by insurers for the underwriting process.

**(c) Has the means of providing information to policyholders changed significantly, e.g. are written documents provided or are policyholders directed to websites?**

The means of providing information to policyholders are changing. Customers are directed to website for product information, terms and conditions, mobile applications personalized webpages, and are receiving emails & SMS regarding their policies. Even, the traditional channels take advantage of new technologies to eliminate the time intervals for the client's notifications and the underwriting of their contracts.

However, it should be noted that the use of new technologies has to follow the insurance legislation. Therefore written documents have not been vastly replaced, (i.e. according to existing legislation insurance policies should still be issued and sent to the insured).

**8. To what extent is genetic testing regarded as important by life and accident insurers? Is there any legislation in place or in contemplation restricting requests for genetic information, and are there any relevant rules on privacy that preclude its disclosure?**

In general terms no genetic testing is performed until today by the local life and accident insurance market. In Greece there is in place a legislation restricting genetic information processing. More specifically, law 2619/1998 that ratified Convention on Human Rights and Biomedicine prohibits any form of discrimination against a person on grounds of his or her genetic heritage. Genetic testing is allowed only for health purposes or for scientific research linked to health purposes, and subject to appropriate genetic counselling.

**9. Has the assessment of claims been affected by the availability of data. In particular, are there any industry-wide arrangements in place whereby insurers can share information on fraud?**

Until today there is not any industry-wide arrangement in place with regard to information sharing on fraud.

**10. Are there any other ways in which the new technologies have affected the insurance process in your jurisdiction?**

Applying new technologies in insurance process (automated process, online insurance, automated payments, e-underwriting) allows faster and more accurate data collection, limited however at company level, for the time being. Thereby up to the extent implemented, new technologies have offered new ways of doing things increasing efficiencies and productivity (i.e mobile applications as a source of information for compensation process, price comparison platforms, anti-fraud software).

#### **IV. OTHER NEW TECHNOLOGY RISKS**

**11. Are there any other particular risks from new the new technologies that have been identified in your jurisdiction? If so, is there any legislation in place or under consideration to regulate them?**

Risks identified are:

- Data privacy issues
- New technologies impact on health costs and claims (modern medical methods might be more efficient and help cure diseases / medical conditions but are more expensive and lead to prolonged longevity. Insurance companies need to readjust the pricing of the health products.
- Errors and omissions of technologies insured (liability laws might need to evolve).