

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.

Polish law does not provide for a specific rules of liability in tort inflicted by the use of driverless cars. According to the present regulations in force, basically it is the owner of the vehicle who is liable for damage, eventually the driver. In case of driverless cars, the general rule of the owner's liability would apply.

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.

As above, no specific laws, or drafts law exist, however the insurance basically covers the damages for which the owners is liable for the reason of being an owner of the car. The method of driving the car does not cause difference in coverage.

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 Polish insurance industry is quite reactive to the market changes. It means that before adopting any new laws, the good market practices are elaborated by the industry self-government organizations and they are usually followed by the soft law measures adopted by the supervisory authorities. Such an outcome of the driverless cars appearing on the market is quite probable. The Polish legislator reacts as the last one, be enacting a new law, unless it is obligatory under the EU rules.

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?

- (a) connected cars (i.e., Internet enabled vehicles, (IEV));
- (b) automated driver assistance systems (ADAS);
- (c) car/ride sharing;
- (d) alternative fuel vehicles.

Comment: answers may include identifying the legal and regulatory regime and provisions in your jurisdiction.

It seems that the necessary changes resulting from the new technologies being introduced by motor industry will concern in the first place, the change of the risk assessment tools, while it is expected that general rules of liability for damage in tort, will remain unchanged in Poland (also due to the broad and strict liability rules binding so far). The risk assessment related to the use of new technologies seem to respond better the needs

calculating fair insurance rates. It however may also require the regulatory changes with respect of to the currently binding rules on non-discrimination due to gender, etc.

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.

Polish insurance law does not regulate cyber risks. Under Polish law, the legal provisions concerning the data protection are obviously in interaction, the insurance market being forced to adjust to the new provisions binding upon the new law on data protection enacted in 2017 (with the binding force since May 2018).

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

- (a) do property policies cover losses from cyber risks, or is special insurance required?
- (b) is insurance and reinsurance readily available?
- (c) are there any special restrictions imposed on cyber risks, e.g. event limits or deductibles?

Polish insurance market usually offers cyber risk policies as a separate insurance product, though in case of large risks, the cyber-risk start to form a part of general insurance agreement, especially in case of negotiating the terms by the brokers. The cyber-risk insurance is nowadays actively marketed on the Polish market, on usual terms with regard to the deductibles, with no specific event limits. These are however purely the market practice and not legal restrictions.

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?
- (b) has the underwriting process been affected by the availability of information, particularly big data, from sources other than the applicant for insurance?
- (c) has the means of providing information to policyholders changed significantly, e.g. are written documents provided or are policyholders directed to websites?

New technologies in selling insurance affect the use of agents in mass insurance. It concerns mostly the travel insurance and property policies. No change is observed with respect of insurance of large risks, which tend to be sold via brokers.

As regards the risk assessment process, the new technologies implemented by the public bodies in charge of motor insurance (Insurance Guarantee Fund) affect changes in collecting data on loss history. Apart from that, there is a trend of using new technologies in cooperation between policyholders (usually in large risks) and insurers or brokers, that help in collecting the data used in risk assessment.

New technologies affect the means of providing information to policyholders in a limited extent. It results from the restrictive regulations concerning the delivery of the insurance information and documents to the policyholder. Thus, only the method of delivery changed (less information handed over in paper, for the benefit of transferring documents and info in an electronic form)).

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?

Under Polish law, the genetic tests are regulated restrictively, i.e. they cannot be required from the policyholders as a condition of granting insurance coverage.

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?

According to the Polish law, the insurers cannot reveal data concerning individual insurance contracts. Though the insurers share aggregate data on frauds. Collecting such data and analysing them for purposes of claims assessment is one of the task of the self-government of insurers organization.

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

Currently the insurers develop tools based on new technologies which serve better the risk assessment in motor insurance ('pays as you drive' rule). These tools focus on monitoring the cars insured.

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?

No. Polish insurance market practice seems to follow the Western patterns.