



**A GENERAL PERSPECTIVE ABOUT THE MOTOR
INSURANCE SY
TEM AND INSURANCE MARKET IN SPAIN**



IURA & PRAXÍS

**by
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A GENERAL PERSPECTIVE ABOUT THE MOTOR INSURANCE SYSTEM AND INSURANCE MARKET IN SPAIN

CHAPTER I Basic principles

Legal Background: The MTPL was created in Spain in 1962 but the law was not in force till 21st March 1968 and in the first period only covered the personal injuries with a low level. The normal situation in Spain was to contract a compulsory insurance and also a voluntary MTPL insurance with unlimited cover and risk Casco insurance.

MTPL Legal System:

Civil liability arising from traffic accidents and the claims that can be made on the basis of it are governed by Law (RDL 8/2004, 29th October) that approve the refund text of the MTPL Law and insurance in motor traffic road containing the Four Directives on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles. A new amendment of the law is now preparing to adapt the internal law to the content of the 5TH Directive.

The Royal Decree 7/2001 on 12th January approved the General Rule of civil liability and insurance in MTPL complementing the Law 50/95. This General Rules contain the definition of motor vehicle, fact of circulation, scope and limits of MTPL insurance, functions and tasks of Spanish National Bureau, Compensation Body functions, diversity of damages and causing, conditions of the contract on MTPL insurance, identification of insurers, consequences of fail to comply with the obligation to be insured and National Guarantee Fund.

Minimum sums insured: Damages for bodily injury must be insured for up to 350,000 € For property damage, the maximum sum is 100,000 € per accident, regardless of the number of victims. Each year this sum increases according the value of the consumer prices. In 2005 the value was increased in 4% according the level of prices of consumption. In the case of gross negligence or when the total consequences of the damages caused,



beyond the compulsory insurance limits, must be dealt with under the rules of general liability and affect to the coverage of the voluntary MTPL insurance. The cost of medical assistance, hospital fees, and medical and chirurgical treatments are independent of limits of the compulsory cover and they are cover unlimited. The cost of funeral and burial is consider independent of the damages and is provided according the local used.

Now for the effect of the fifth Directive the limits have to be increased as minimum of 1million Euro per victim and 1 million per material damages. This will be the probably final solution because the Authority control considers the most favourable for victims but the Spanish Market would like to adopt a global limit of 15 million €per accident.

Anyway Spanish Control Authorities will impose the transitional period of five years to adapt the compulsory limits of the 5th Directive.

Court's proceeding: Civil Liability in traffic accidents can be established via both the civil and criminal courts; through article 1902 following the Spanish Civil Code which establishes Civil Liability derived from guilty and/or negligent acts. In the Criminal courts, it is also possible to pursue civil actions to obtain damages resulting from punishable acts. The TPL can be recognised by the Civil or Criminal Courts depending if the victim acts civil or criminal procedure (for bodily injuries only).In cases of material damages only is possible to acts in a civil process.

Character of the liability:

Damages for bodily injury are governed by the principle of liability through risk (strict liability/objective responsibility).

The material damages are governed by the principle of negligence (causal acts/ fault system/ breach of a duty of care)

The insurance covers the liability of the driver for a specific vehicle. And all owner of a vehicle has the obligation to insurer the risk of circulation of this vehicle.

Solely fault of the victim: The driver has no liability where the accident is due to the sole fault or negligence of the victim, or where the cause is Force Majeure or other than the driving or functioning of the vehicle. The behaviour of the victim where it amounts to contributory negligence will reduce the assessment of damages. In others words, there is a system of sharing of responsibilities in case of concurrence of faults. Now, as a consequence of the fifth Directive, pedestrian and cyclists can not be



declared excluded to right to be indemnified even in case of their solely fault.

In general terms, to facilitate a list of the most relevant aspects in the Spanish national legislation I should consider the following principles:

BASIC PRINCIPLES

1.-Bodily injuries, even the value of lost, lost of incomes; moral damages (pretium doloris) are calculated according a legal scale into the Compulsory MTPL Law (named Scale)

2.-The legal amounts of payments to the victims are free of the legal taxes (payments made according Compulsory MTPL Law).

3. - MTPL insurance policy may include other covers freely agreed between policyholder and insurer all of them under law in force. (Voluntary covers in MTPL, passengers (for the driver) Casco insurance, theft, break of glasses; defence and claim insurance)

4. - The Border Customs Authorities are responsible of the insurance traffic control of vehicles arriving from other third countries extra-EEA. A border insurance system is established by all companies authorised to work on MTPL in Spain. Under a Co-insurance Agreement, every company takes its part according their ratio in the general portfolio of the Spanish Market.

5. - MTPL Law includes penalties for two different types of offences referred to the insurance fault: a) to circulate without documents referred to the insurance of the vehicle. In this case the fine is 60 € whenever the driver prove after to be insured and b) to circulate without compulsory insurance with a fine between 601€ and 3.005 € Anyway the law impose the immobilization of the uninsured vehicles. The level of uninsured vehicle is around the 3%. More difficulties present the control of foreign vehicles that are permanently placed in Spain. (German and British number plates even cancelled or not longer exist in their original countries).

6. - Interest of retard are 20% of the amount of payments to the victims since 3 months of the date of the accident if payments was made two years from the date of the accident. Still two years from the date of the accident the interest is the legal rate 1.5%.



The particular features of the interests delay are:

- 1) Law is clear. The interests delay is not applicable when the indemnity has been paid or legally deposited in the Court in the 3 months following the date of accident.
- 2) For injuries that last for more than 3 months or those which can not be determined at the time of the legal deposit, the Judge must take a decision about whether the amount deposited by insurers is sufficient or not, if it is necessary, the Judge may increase the amount after consulting the legal medical expert, to guarantee the economic limits for seen in the law have been covered.
- 3) It is not possible to appeal the Court's decision about the amount to be deposited.
- 4) After a sentence or another judicial decision the amount may be applied in the sense of the Court's decision.
- 5) It is possible to find different criteria in the legal judicial system. Some Courts consider applying 20% of interests delay from the date of the accident. Others consider that 20% is only applicable from the second year from the date of accident and before only 1'5% of value of interest.

7.-The insurers can refuse to insure somebody or a car. When two different insurers companies give to the owner of a vehicle a written refuse to insure it, the owner can get a MTPL insurance with the Consorcio de Compensación de Seguros (Spanish National Guarantee Fund) Then, the National Guarantee Fund is obliged to insure of MTPL insurance risks refused by insurers, but now there is not necessary to prove both refusals.

8.-Prescription period is of one year from the date of the accident. The prescription can be interrupted by means of a legal process, official claim, or answers of the insurer.

The Spanish Guarantee Fund

- a) **Preconditions to the statutory obligation to meet claims:** The national guarantee fund was created in 1962 and has covered the risk of uninsured vehicles since 1968. The national guarantee fund in Spain is a public entity with independent juridical personality with financial capacity independent of the national wealth but assigned



under the dependency of the Ministry of Finance. The national guarantee fund is financed by means of 3% of the total of the premium collected by the insurers

b) The Guarantee Fund (Consortio de Compensación de Seguros Address Paseo de la Castellana 32, 28046 Madrid) is obliged to intervene if :

The vehicle which caused the accident and its driver have not been identified (currently for bodily injuries but material damages must be included when it coincides with bodily injuries of consideration, that is to say, dead or stay in an hospital for at least 7 days).

The vehicle causing the accident was stolen or was not insured (it must, however, be registered in Spain) but there have not cover for passengers that occupied a place in the vehicle knowing the circumstance of the theft.

The insurance company is bankrupt (or insolvency cases).

Vehicle belong a third country out of the EU or EEA for accident caused in Spain when the vehicle was not insured by a green card or border insurance.

The reimbursement for payments made by Compensation bodies in EEA for accidents involving uninsured Spanish vehicles or for accident caused in Spain by foreign vehicles belonging to third non European countries or not identified vehicles when the victim is resident in other European member State.

The period of limitation of legal actions against the Fund is one year from the accident date.

Scope of damages: The payment by the Guarantee Fund is limited to the minimum legal cover (Compulsory Insurance limits).



CHAPTER II

MATERIAL DAMAGES

Material damages claims.

a) Repair cost: The owner of the vehicle has the right to be indemnified for the cost of repairing the damage suffered. The cost can be proved by means of the repair bill, an estimate or a report from an expert. The right to the indemnity doesn't presuppose that the vehicle is, in fact, repaired. The claimant can also repair for his own means. If the repair exceeds the market value of the vehicle, the indemnity is reduced to the market value. However, the Court recognises the right to compensation when the owner has presented an invoice proving the total cost of the repair.

If the damaged party wants to be indemnified but he is not interested in repair the car, then an expert named by the insurer made a report considering only the damages of vehicle (not included hand labour or time to repair etc). Normally this situation is only acceptable when the cost of repair is near of value of vehicle (technical total lost) and in this case the compensation is only referred to value of damage caused.

b) Total loss: When there is a total loss, the owner has right to indemnity for the value of the vehicle according to its age, deducting the value of the remains (salvage). In general terms, the value of a new vehicle is not paid save where the damaged vehicle was relatively new. However, in this circumstance there is no uniform approach by the courts.

c) Decrease in value: Is only recognised by the Court where the damaged vehicle was relatively new. The recognition of the right to indemnity for the decrease in value can never be obtained other than through the Court.

d) Cost of expert's report: The fees for an expert's report are not paid, not even amongst the TPL Motor Insurers.

e) Towing Charges: These charges can be claimed for transporting the damaged vehicle to the nearest workshop or workshop where the repair will be made providing there is evidence in the form of an invoice.



f) Costs of overnight accommodation and meals: The Courts always recognise the cost of overnight stays and meals but, in practice, these costs are only paid in special cases and after presentation of the invoice.

g) Hire car costs: Extrajudicially it is difficult to obtain the payment made for a hired car. The Court only recognises the reimbursement of the cost for a hired car if the claimant proves that a replacement car is entirely necessary for him. This mainly applies to taxi-drivers or commercial agents.

h) Loss of use: In lieu of the cost of a hire car, the claimant can claim an indemnity for loss of use. This claim is limited in principle exclusively to the cost of public transport, proved by the relevant tickets. In the case of commercial vehicles, in addition to the loss of use, loss of income can be claimed. This is proved, for instance, by means of salary slips. There is not recognised the loss of value of the damaged vehicle for effect of the accident. The technical control inspection (ITV) doesn't reduce the value of the vehicle or its capacity to circulate.

The cost of loss of use of a vehicle for the time needed to repair it is only recognised for business and industrial vehicles destined to public transport, public services or transportations of goods.

No means of evaluation exist but the Transport trade unions have average tariffs in relations to daily service cost or average profits of the activity. This information has the value as an official certificate and it contains the estimated time to repair damages. The number of days of immobilisation of the vehicle multiplied by the average profits gives the final solution to calculate for the loss of use.

i) Finance costs. Were introduced for the first time into the Law 39/95 8th November in relation with The Insurance contract Law 50/80 8th October. It established a penalty of 20% for insurers who did not comply with their obligations to pay in three months from the date of the accident.

Interest delay given by a Court decision are established on the annual legal interests at the moment of the accident increased by 50%, that is to say, 1'5% of value of the interest.

The interest is determined by increasing the rate of legal interest by 50% (2005 was 4.25% + 50% = 6, 38€).

j.- Liability in case of towing vehicles



The Spanish legal system obliges for each truck and each trailer to have an individual insurance. Before 1965, each insurer had to respond in proportion of the premium of the insurance contract.

In 1986, the law and regulations supplied no answer in relation with this matter to solve the situations the Court's decision made the insurance companies' share 50% of the liability following solidarity rule.

Currently the Spanish insurers have solved the problem by an agreement for towing vehicles sharing the liability according the rule of 70% for the truck and 30% for the trailer 95% of insurers work with this agreement for accidents in Spain and also for accidents in other countries of the Green Card System.

K.- Casco reimbursements of foreign insurers against the Spanish insurer. In case of the accidents in Spain it is necessary to pay attention at the period of prescription of one year from the date of the accident. It is necessary to present the claim clear and by irrefutable means in case of lack of answer from the insurer. The cost of repairs by means of an invoice will be adequate to claim, taking in account the rules applicable about the loss of use and costs of overnight accommodation and meals or hired car. In some cases, the Spanish Bureau receives the demand of intervention when the Spanish insurer remains in silence.

In case of Slovenia vehicles suffering an accident in Spain the Slovenian insurer can use the Four Directive System to claim against the Spanish insurer through the representative or directly. If in three months the Spanish insurer or their representative in Slovenia wouldn't gave an offer or a motivated answer to claimant, then the Compensation body in Slovenia could be claimed by the victim to get a compensation of damages in two months. Also the system can be used if a Compensation body works in Croatia.

For accident in Slovenia or Croatia caused by Spanish vehicles the green card system (Section II of Internal Regulations) will be used to reimburse the material damages or bodily injuries.



CHAPTER III

Claims for bodily injury:

According to the Law 8/2004, 29th October, “Refund Text of law about Civil Liability and Motor Insurance Car “the insurance companies and Courts are obliged to calculate damages for bodily injuries in accordance with the system of an scale for the evaluation of damages set out in the annex of this Law, (excluding injury as a consequence of a premeditated criminal act).

The first section of the Annex of the law prescribes a series of general criteria and the second section contains a series of rules explaining how the tables of the scale work.

The Court decisions are basis on the articulated principles of full compensation and the principle of assessed compensation. Law has determined who may claim damages for fatal accidents as well as those cases in which compensation may be recovered not only by the injured party but also by the victim’s close relatives. In this respect, scale law has defined the concept of damage and had determined what heads of damage may be claimed through a process which gives rise to relative certainty.

The amount of indemnity is indicated in charts which are revised yearly according to the general cost of living of the previous year. They can produce variations to reflect the socio-economic situation of the victim (mainly his family and economic circumstances etc.)

The payments made to a victim by the Social Security system of workers, or any compensation for injuries under a private insurance policy are not claimable against the MTPL insurance and they are independent of any right that the victim has against the insurance company on the basis of the damage suffered. We will examine this point later on.

a) Cost of medical treatment: These costs are reimbursed only if the victim has had actual need of treatment.

The cost incurred by close relatives as a consequence of visits to the hospital is not reimbursed to them.



The Social Security and the hospitals have contracted with the insurance companies of TPL Motor Insurance an agreement about the cost of treatment and therefore these are normally covered by the insurance companies. When the cost of treatment is higher than the amount established in the agreement, the difference is paid by the Social Security and recharged to the normal medical assistance system in Spain. In any case, all costs of medical treatment provided in a medical centre pertaining or reached to Social Security are covered without limit by the insurance company

b) Nursing costs/supplementary need: These costs are paid if the claimant proves them by means of the relevant bills. To the totally handicapped person with permanent disabilities that need the help of other persons to be able to carry out the most important activities of the daily life, there are granted, according to the chart for 2005, assistance given by other persons (up to 310.556,47 €), adaptation of the housing (up to 77.369,12 €) and / or of the vehicle (up to 23.291 €) as well as for the usual non-material or moral complementary damages (up to 77.639 €).

c) Loss of earning :

Employed Persons: There is a right to be indemnified for loss of earnings during the period of temporary or permanent incapacity. In the case of temporary incapacity a set amount is paid (in 2005 this was 58, 19 € per hospital day/ 47,28 € per incapacity day /and 25,46 € for the remaining days of loss of earnings). In the case of permanent disability, the amount paid is calculated from a chart which sets the amount against the level of disability, which is in turn, calculated from a scale under which points are allocated for specific disabilities. The future loss of earnings is always paid as a lump sum.

Unemployed Persons: Housewives that as a consequence of the injuries suffered in an accident can no longer carry out their tasks, in compliance with the requirements of their families; have a right to an indemnity. The inability to carry out housework is compensated by a lump sum. However, the right only exists if a person is hired to carry out the work. In the case that the remaining members of the family take charge of the work of the housewife no compensation is paid.

d) Damages for pain and suffering: The overall indemnity fixed in relation damages for bodily injuries already includes this. For this reason, compensation for pain and suffering is not separately indicated. However if a disability is over 75 points or all the disabilities together amount to over



90 points of the disability chart, it is assumed that the claimant has a special (additional) right to indemnity for pain and suffering (in 2005 was up to 77.639 €). The close relatives of the deceased also have a right to indemnity. It is calculated with regard to the degree of kinship and cohabitation (in 2005 up to 139.750 €).

e)Funeral costs: The heirs have right to the reimbursement of the standard funeral cost.

f)Loss of maintenance (dependancy):

In the case of death of an employed person: if the victim of accident dies, the survivors (it can be a spouse, the children, the parents and in some cases, even the brothers and sisters of the deceased) have a right to the maintenance lost. The amount depends on the chart that indicates set amounts according to the number of survivors eligible for maintenance.

In the case of death of an unemployed person: in the case of death of a housewife, the relatives have no right to any maintenance lost.

g) Recobable non pecuniary loss:

- 1.-Pain and psycho-physical injury (connected with permanent incapacity).
- 2.-Temporary and permanent injury.
- 3.- Aesthetic Damage.
- 4.- damage to sexual function.
- 5.- Loss of earning capacity, loss of congenial employment, and loss of housekeeping ability.(connected with permanent incapacity).
- 6.- Loss of life expectancy: Not separate category but connected with the permanent injury.
- 7.- Damages for spoiled holidays: It constitutes exceptional (atypical) kind of damage which can be independently compensated
- 8.-The protection of mental health (permanent or temporary connected with permanent or temporary incapacity).

Whiplash problem in Spain is not different to the other countries. Normally in criminal proceedings there will be the forensic doctor who determines the serious injuries concerning the whiplash damage and also the time needed for recovering in case of temporary incapacity or the permanent effects in other case. In case of civil proceedings the victim can prove the injury by means of a medical report from the Social Security medical services. The time of recover is fixed by the medical expert in the



Social security medical services and normally it is accepted as irrefutable proof of damages.

The whiplash is valued according the legal scale for bodily injury according the kind of incapacity suffered by the victim. Really this type of injury is considered in some cases as a source of fraud in claim in which the victim try to extend the period of temporary disability or the seriousness of injuries.

Anyway it is difficult to fight against the medical expert solution when the doctor is a civil servant with capacity to link the Social Security or the Criminal court decision.

h) Foreign victims claiming in Spain: Judges determine compensation for non pecuniary damage suffered as a result of a personal injury without differentiating between national or foreign victims and regardless of whether the victim lives in Spain or not

i) Claims for legal costs, court fees and general expenditure:

A) Legal costs: Costs in relation to judicial proceedings are only reimbursed if the claimant obtains a judgment in which the other party is condemned to pay the trial cost. The costs incurred for extrajudicial representation by a lawyer are generally not reimbursed.

B) Court fees: Only in exceptional cases must the Court fees be paid. Translation fees and expert's invoices are always paid (in Spain witnesses are not entitled to receive payment of any expenses). Even with a judgment completely in his favour the claimant is not entitled to the total reimbursement of the legal fees.

C) The role of the medical experts in assessing compensation for personal injury. There is an administrative body of medical experts (forensic doctors) who appear in the proceedings whenever it is necessary to determine the existence of a personal injury and to provide a medical assessment. Each criminal Court has a forensic doctor assigned to it who provides a medical report upon judicial order, which is always produced for the judge or the Court. These doctors are legal experts in the medical assessment of personal injury.

In criminal Court, the judges always refer to the expertise of forensic doctor (they are civil servants attached to the criminal jurisdiction) who act only in criminal proceedings without being paid by either party. In other



type of proceedings (civil action) a lawyer instructs a medical expert specialized in assessment in personal injury.

CHAPTER IV

General lines of 4th Directive adaptation

The 4th Directive has been introduced into the legal system in Spain by Law 44/2002 - 22st November. The Spanish system has chosen the National Guarantee Fond as Information Centre because it was the administrator of the file for the insured vehicles (FIVA) established by law in 1991.

FIVA is the result of computerised crossover of data from the insurers with the data from the Traffic files authorities and FIVA has incorporated the data referred to the representatives of Spanish insurer in other member status of the EU and EEA. The Information Centre has the obligation to provide adequate information about the insurer of the vehicle that cause the damages in a short period of time (no more than 10 days) to any person who is legally interested in the accident (even Police, Hospital, lawyers, compensation bodies, Information Centres, etc.) the email address from the Spanish Information Centre is iccs@consorseguros.es.

The Compensation Body is the Green Card Bureau (OFESAUTO) and its functions are adapted to the 4th Directive intervening in cases where there is a lack of offer or motivated response from the insurer or its representative in the 3rd months after receiving the claim.

Also OFESAUTO intervenes when there is not a representative nominated by the insurer or in cases in which the insurer can not be identified in two months following the date of the accident

So far, representatives and OFESAUTO were sanctioned with the general interest delay (legal interest increased by 1'5%) but the new rules in the 5th Directive obliges the Government to impose administrative sanctions for not respecting the period to pay victims.

LAWYERS FEES



In Spain each legal body of lawyers has its own system of fees.

The official fees are normally respected and considered as prudent and acceptable tariffs both in judicial way as in legal advice.

The defence victims cost of are not reimbursable by the insurer. Normally the victim pays his own lawyer fees and in the indemnity this type of cost is not taken into account. This always happens when the claim is solve out of Court legal.

Only when in a process the Court's decision obliges the insurer to pay the legal cost of the Trial, them the insurer must pay all judicial fees including the fees of the victim's lawyer.

PRESCRIPTION PERIOD – INTERRUPTION

One of the most important thinks to know with regard to the Spanish legislation is the short period of time established by the law for prescription. Only one year from the date of the accident without claiming is sufficient to make the victim lose their right to be indemnified.

The legal period required to report a crime (if the events had a criminal element) is 6 months. After this period it is only possible to act in civil way and the prescription is one year.

The victim or, their lawyer, can interrupt the period of prescription by means of a official letter (sent by certified, post or bureau fax or similar) and then a new period of prescription will start to run for a new year counted day by day.

The prescription is also interrupted if the insurer gives the victim an answer to their claim a Court' decision derived from a criminal procedure has a prescription of one year if the victim doesn't claim in this period.

But for Civil Court's decision the Criteria is considerer that the victim will have a period of 15 years to claim against the insurer.



CHAPTER V
SOME CHARACTERISTIC QUESTIONS ABOUT THE SPANISH
MOTOR INSURANCE MARKET

MARKET INDICATIONS (NUMBERS) LIKE PREMIUM INCOME, RELATION BETWEEN DAMAGES AND PREMIUM, TECHNICAL BENEFITS, RELATING TO THE DIFFERENT BRANCHES TPL AND CASCO.

This has been made taking in account 2003 and 2004 as available years. This report has been calculated over a share market quota of 71.40% of issued premiums in 2004.

TOTAL PREMIUMS INCOME IN MOTOR INSURANCE BRANCH

| <u>Millions of Euros</u> | <u>2003</u> | <u>2004</u> | <u>Economic Growth</u> |
|-----------------------------|-------------|-------------|------------------------|
| <u>TPL</u> | 6.259 | 6.544 | 4.60% |
| <u>Motor insurance</u> | | | |
| <u>Other risks</u> | 4.358 | 4.695 | 7.60% |
| <u>TOTAL PREMIUM INCOME</u> | | | |
| <u>FOR MOTOR VEHICLES</u> | 10.617 | 11.239 | 5.80% |

RELATION BETWEEN DAMAGES AND PREMIUMS
Motor car insurance branch.
Comparative analysis referred to the applied premiums

| | <u>YEAR 2003</u> | <u>YEAR 2004</u> | <u>EVOLUTION</u> |
|---------------------------------|------------------|------------------|------------------|
| DAMAGES | 75.86% | 71.72% | -4.14 |
| COMBINED RATE* | 91.59% | 87.32% | -4.27 |
| TECHNICAL ACCOUNT RESULT | 13.04% | 16.87% | 3.83 |

*Note: damages calculated over applied premiums in plus fees over issued premiums.



TECHNICAL BENEFITS IN GENERAL MOTOR INSURANCE BRANCH

TECHNICAL RESULT

| <u>DATA IN %</u> | <u>2003</u> | <u>2004</u> |
|-------------------------|-------------|-------------|
| Base | 100.00 | 100.00 |
| Damages | 75.86 | 71.72 |
| Fees(without provision) | 19.57 | 19.02 |
| RESULT | 4.57 | 9.26 |

COMPONENT OF APPLIED PREMIUMS.

| <u>DATA IN %</u> | <u>2003</u> | <u>2004</u> |
|---------------------------|--------------|--------------|
| TPL | 53.57 | 54.50 |
| DEFENCES AND CLAIM | 4.73 | 4.49 |
| CASCO | 20.24 | 20.38 |
| STOLEN CAR | 4.33 | 5.60 |
| PASSENGERS | 4.86 | 3.79 |
| ASSISTANCE | 5.92 | 5.69 |
| OTHER COVERS | 1.24 | 1.34 |

POLICIES FOR DIFFERENT COVERS

| <u>POLICIES FOR COVER</u> | <u>2003</u> | <u>2004</u> |
|----------------------------|-------------|-------------|
| TPL. | 100,00% | 99.99% |
| DEFENCES AND CLAIM. | 98.93% | 98.31% |
| CASCO | 36.42% | 34.96% |
| STOLEN CAR | 53.23% | 52.02% |
| PASSENGERS | 97.38% | 97.49% |
| ASSISTANCE | 94.10% | 93.22% |

AVERAGE PREMIUMS FOR COVERTS

| <u>Data in Euro</u> | <u>2003</u> | <u>2004</u> |
|---------------------------|---------------|---------------|
| TPL | 262.62 | 270.50 |
| DEFENCES AND CLAIM | 20.02 | 20.62 |
| CASCO | 231.66 | 238.61 |
| STOLEN CAR | 49.74 | 51.23 |
| PASSENGERS | 22.39 | 23.06 |
| ASSISTANCE | 27.41 | 28.23 |



| | | |
|--------------|---------------|---------------|
| TOTAL | 431.72 | 444.68 |
|--------------|---------------|---------------|

F) % OF DAMAGES IN RELATION WITH THE APPLIED PREMIUMS

| DATA IN % | 2003 | 2004 |
|---------------------------|--------------|--------------|
| TPL | 83.10 | 78.60 |
| DEFENCES AND CLAIM | 63.45 | 76.00 |
| CASCO | 79.07 | 77.27 |
| STOLEN CAR | 44.75 | 33.10 |
| PASSENGERS | 28.97 | 20.83 |
| ASSISTANCE | 53.39 | 57.67 |
| TOTAL | 80.00 | 74.46 |

PERCENTAGE OF CASCO INSURANCE IN MTPL POLICIES(2004)

CASCO COVER APPEARS IN THE 41,09% AT THE MTPL POLICIES

Product offer: some typical combinations? As for example TPL and Casco? Or TPL and assistance? What is the percentage for Casco?

A) Typical combinations

**TPL
DEFENCES AND CLAIM
CASCO
STOLEN CAR
PASSENGER
ASSISTANCE
OTHER: BROKEN GLASSES**

PERCENTAGE PER MTPL COVER IN RELATION TOTAL MOTOR INSURANCE PREMIUMS

| | | |
|-------------|--------------|--------------|
| % | 2003 | 2004 |
| MTPL | 58.95 | 58.23 |



PERCENTAGE PER OTHER COVERS IN RELATION TOTAL MOTOR INSURANCE PREMIUMS

| % | 2003 | 2004 |
|--------------------|--------------|--------------|
| OTHER RISKS | 41.05 | 41.77 |

CRITERIA FOR TARIFICATION: WHAT IS USUALLY USED BY THE MARKET? ARE THERE SPECIFIC CRITERIA?

| A)CRITERIA FOR PREMIUMS | | | | | | |
|--------------------------------|--|----------------------------------|--|------------------|--|--|
| ITEM 4 | PREMIUMS ARE CALCULATED IN BASE ON AVERAGE COST AND FREQUENCY | | | | | |
| | THE TARIFFS ARE CALCULATED TAKEN INTO ACCOUNT: | | | | | |
| | | * SEX | | | | |
| | | * AGE OF DRIVER | | | | |
| | | * DATE OF DRIVING LICENSE | | | | |
| | | * USE OF VEHICLE | | * PRIVATE | | |
| | | | | * PUBLIC | | |
| | | * AREA OF CIRCULATION | | | | |

| PREMIUMS ACCORDING CATEGORY OF VEHICLES 2004 | |
|---|--------|
| 1 ST .Private Cars and Vans | 88.56% |
| 2 nd Trucks and buses | 7.54% |
| 3 rd motor cycles and motorbike | 3.90% |

Control of the insured vehicles The Spanish Experience

In 1995 the FIVA was created as a public register composed of the database of all insured vehicles in Spain. Each authorised insurer must provide daily information about the insured vehicles, the make and the type of the vehicle and the number of the policy including the period of cover.



The non-compliance by the insurer of this obligation is an administrative infringement and it might be sanctioned with administrative measures or even financial penalties. FIVA was modified in 2002 to fulfil the requirements to become the information centre under the 4th Directive. The FIVA is administrated by the national guarantee fund in Spain under the authority of the Ministry of Finance.

It is really a database to all Spanish insured vehicles in which it is possible to find the number plates, type and make of vehicle, policy number, insurer and period of insurance cover. Any other personal data are not registered in FIVA. Using FIVA it is also possible to exchange the databases of this register with the traffic number plate register which allow access to information about the owner and the other technical data of vehicles.

The cost of FIVA was taken on by the Spanish national guarantee fund without repercussions for the Spanish insurance market. The cost of implementation in 1995 was €35,000. The cost of the upkeep of FIVA and the amount to pay for claims caused by uninsured vehicles is funded by 3% of the total premium of MTPL insurance collected by the national guarantee fund from the insurers.

By means of a system such as FIVA it is possible to the list of non-insured vehicles and the traffic police can check the real situation of those vehicles but in practice this method has not operatively started to work but in theory FIVA is a perfect tool which enables access to the number of vehicles that are truly out of circulation.. Vehicles that are not in FIVA are uninsured vehicles. On one hand all of the aforementioned enables us to have an update of the total number of cars that are in circulation and on the other hand to control the number of uninsured vehicles.

The crossing between Traffic register and insured vehicles data base in 2004 revealed a percentage around 3% of uninsured vehicles.

Procedure of sanctions, penalties and fines.

One of the most important actions against the uninsured traffic is to introduce in the legal system a very strict system of penalties and sanctions. The first consequence has to be to stop the uninsured vehicles and remove them from circulation. The first measure in the law has to be to stop and block the uninsured vehicles. The measure can be an order of non circulation from one to three months depending on the amount of time that the vehicle has been without insurance or depending on the case of repetitive behaviour from the driver. Secondly: prohibiting uninsured



vehicle from circulating. The Spanish law obliges the Police to seal an uninsured vehicle and impound it in an administrative way. Thirdly to circulate with an insured vehicle is sanctioned with an economic penalty.

The Spanish law shows two possible types of infringement:

- a) Circulating without proof of MTPL insurance in the vehicle. It is sanctioned automatically with a fine of €60 and
- b) Circulating without insurance is sanctioned with a fine between €600 and €3,000. The sanction and fines collected are equally shared by Traffic Police and the national guarantee fund. They are then distributed to cover the costs of damages and risks caused by uninsured vehicles.

Madrid, 7th March 2006
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