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#### Facilitation of international road transport

#### International Motor Insurance System (Green Card)

## Facilitation of international road transport

### Report from the President of the Council of Bureaux (CoB)<sup>1</sup>

#### Submitted by Council of Bureaux

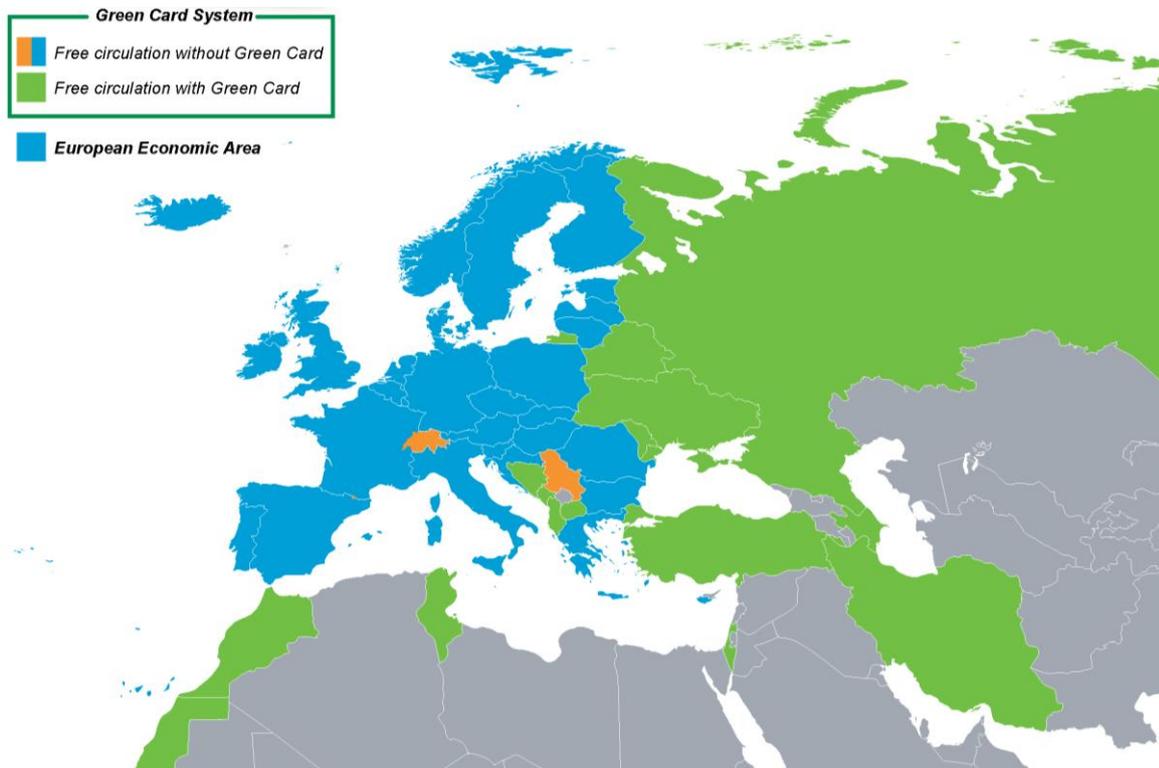
This document, submitted by the Council of Bureaux, provides the COB President's report to SC.1.

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<sup>1</sup> This document was submitted late due to delayed inputs from other sources.

This year, the fifty-first General Assembly of the Council of Bureaux (CoB) was held on 8th June - in Helsinki, Finland. The main issues addressed over the last 12 months are presented below:

## I. Some Key Figures



1. The system covers 48 countries and has 47 Members. Over 450 million vehicle fleet (source: CoB Member Bureaux and other sources, 2013-2015) Over 450 000 cross-border accidents annually (source: CoB Member Bureaux, estimate, 2016) Cash flow turn-over: circa 1.5 billion EUR (rough estimate, based on the number of Green Card accidents reported by Member Bureaux and estimates of average claim costs).

*Approximately 1.500 MTPL insurers are active through the whole system (source: CoB, 2017)*

## II. Financial Stability

2. As in previous years, last year as well the financial stability of the Green Card system remained the focus of a continued effort of the Council of Bureaux (CoB). It has been always underlined that the smooth running of the Green Card system depends heavily on each Bureau's capacity to guarantee the reimbursement of claims caused abroad by vehicles that are subject to a Green Card issued on their behalf, or that are normally based on their territory (in case of applicability of the so-called Multilateral Agreement). The protection of victims of cross-border traffic accidents, including their timely and adequate compensation, is a paramount priority of the Green Card system and for the Council of Bureaux, and the financial stability and liquidity capacity of all involved players – be it National Bureaux, insurers issuing Green Cards, correspondents handling the claims, etc. – is a key prerequisite for this.

3. The financial stability of the system has been challenged on many occasions in the past year. The financial consequences of a number of insolvencies occurred in Europe throughout the last years (Astra and Carpatica in Romania, Enterprise in Gibraltar, Gable in Lichtenstein, etc.) continue to be a subject of constant follow-up at the CoB. The effect of these insolvencies is exacerbated by the fact that some of these insurers were also active in other EEA countries under the Freedom of Enterprise or Freedom to Provide Services.
4. In addition, some Green Card member markets such as Moldova and Romania were under the magnifying glass of the CoB due to the financial difficulties and underperformance of individual MTPL insurers operating in those markets, some of them having been placed under special administration or financial recovery by national supervisory authorities. In Bulgaria, the joint balance sheet review of the insurance sector by the financial supervisor and EIOPA was concluded in 2016: the insurance sector as a whole was judged to be financially healthy, but some individual insurers were short of required capital levels and were prescribed remedial measures.
5. National market developments such as these are of utmost concern for the financial stability of the Green Card system. The compensation of victims in cross-border accidents is predominantly based on the principle of paying the victim first and recovering the outlays from the liable insurer only afterwards: as a result, the financial underperformance of insurers results in significant financial strain for the entities handling those claims as recoveries from troubled insurers become difficult. Notably, as a rule the markets concerned are “net exporters” of Green Card accidents: the number of accidents caused abroad by vehicles from these countries significantly outweighs those caused in these countries by foreign vehicles. The financial burden for these “exported” accidents is ultimately borne by the Green Card Bureaux and Guarantee Funds of these countries, resulting in extra costs for the markets as a whole including the disciplined players. The situation is further exacerbated by the regional concentration of these markets, which results in stronger regional inter-dependencies and can potentially cause undesirable “domino” effects.
6. Two Full Members of the system, Albania and Moldova, continue to remain under formal “Monitoring” status. This entails periodic reporting of market and Bureau performance and close follow-up by the CoB, together with strict financial guarantee requirements. These Members have had to subscribe to a reinsurance treaty for the whole MTPL market including the National Bureau, and to provide a bank guarantee (or a cash deposit) in favour of the CoB. The reinsurance treaty protects the MTPL market against the financial consequences of large and catastrophic claims. The bank guarantee, in turn, should allow to cover long open standing debts of these Monitored Bureaux towards other CoB Members. The Bureaux of Russia and Azerbaijan are also subject to similar financial guarantee requirements (the Bureau of Azerbaijan is currently a Transitional Member of the system, while the membership of the Russian Bureau was recently upgraded from Transitional to full but financial guarantee requirements were maintained).
7. In this respect, the CoB also facilitates reinsurance cover for all other interested Member Bureaux and Guarantee Funds, offering them to participate in the CoB Excess of Loss reinsurance programme launched 2013. Seventeen Bureaux and Guarantee Funds from 11 countries participate in the programme as of end-2016. The programme provides coverage against risks of individual large claims arising from uninsured vehicles/drivers and/or false Green Cards, as well as bankruptcies of insurance companies. In essence, the contract covers the risks for which the Bureaux or/and the Guarantee Funds are the ultimate debtors. It offers the benefit of an unlimited protection, after a retained deductible depending on the capacity of the MTPL market, while the multi-country and multi-entity structure of the programme allows the participants to reap additional market scale benefits.

### **III. Revision of the structure of the Council of Bureaux to optimize cooperation between Green Card Bureaux, Guarantee Funds and compensation Bodies**

8. CoB not only handles the so-called Green Card system, but also provides secretarial and administrative support to Guarantee Funds and Compensation Bodies of EU/EEA countries in the framework of protection of foreign visitors foreseen in EU Directives.

9. In order to increase the efficiency of these tasks and to even better facilitate international road traffic and the protection of victims of international MTPL accidents, the CoB is currently working on the optimisation between these bodies.

10. This important project goes along with a revision of the CoB Constitution and the organisational as well as the managerial structures of CoB.

11. This task reveals to be more complex than initially thought, a proper balance should be pursued on several fronts: between EEA and non EEA countries, between Green Card Bureaux and Guarantee Funds/Compensation Bodies. The Membership is consulted on a regular basis.

12. If initially the CoB planned to finish this work in the course of 2017, the complexity of the project and the importance for the future of the CoB, indicates that much more time will be required.

### **IV. Membership Issues**

#### **A. Membership: Israel**

13. Further to our report of last year in which we informed you that the Bureau of Israel had informed the CoB in February 2015 that they would like to withdraw from the organisation with effect from 1st January 2015. However, under the Constitution this was legally not possible. Since the withdrawal is only possible with effect from January 2017, consequently the Israeli Bureau was still bound to pay the contribution for 2015 and 2016. Since all efforts of the Management Committee to take up contact with the Israeli Bureau, the insurance association and the authorities, didn't bring any result and no reply was received, the General Assembly of 2016 gave the Management Committee a mandate to start legal proceedings against the National Motor Insurers' Bureau of Israel in any appropriate jurisdiction in order to receive from the National Motor Insurers' Bureau of Israel the amounts that are due to the Council of Bureaux and that cannot be received by way of an amicable settlement.

14. In December 2016 the Management Committee decided to start legal proceedings in Israel against the Israeli Bureau which has lead in the first half of 2017 to a settlement agreement with the Israeli Bureau by which they engaged to pay not only the contributions for 2015 and 2016 but also for 2017 since the Board of the Israeli Bureau decided to remain in the Green Card system.

#### **B. Application: Armenia**

15. Since our previous report the Armenian Bureau has been working hard on the requested legal changes, it is however not yet sure if the Bureau will manage to complete the whole process in time to be proposed as the 48<sup>th</sup> member of the Green Card system by the next General Assembly in 2018.

### C. (Re)new(ed) Interest: Georgia and Algeria

16. Georgia had shown a renewed interest in 2016 in adhering to the Green Card system but still didn't start the formal application procedure.

17. From Algeria a first request for information regarding the application process to the Green Card system has been received in June 2016, but no further initiatives have been taken by the latter in 2017.

### D. Cooperation with other Card systems

#### *Orange Card system*

18. The Orange card system is established between most of the members of the Arab League (except Comoros, Djibouti and Palestine) and is applicable primarily in the Middle East and North Africa.

19. Participants to this system are: Algeria, Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates and Yemen. Morocco and Tunisia are also Members of the Council of Bureaux.

20. Notwithstanding the fact that the system is operational, they asked last year for closer cooperation with the Green Card system in view of obtaining a more efficient functioning. We expressed our willingness to cooperate but are still waiting for a date to meet.

#### *White Card System (ECO)*

21. ECO is a ten-member organisation (comprised of Afghanistan, Azerbaijan, Iran, Kazakhstan, Kyrgyz Republic, Pakistan, Tajikistan, Turkey, Turkmenistan, and Uzbekistan), out of which two members are also Members of the Council of Bureaux (Iran & Turkey). ECO has adopted initiatives to set up a regional motor vehicle third party liability scheme (known as the White Card system with a secretariat in Teheran).

22. The CoB remains ready to continue its efforts to assist the ECO Secretariat with the implementation of the ECO White Card system in the ECO Region, but is without any contact sine nearly 4 years.

### V. CoB Academy

23. The CoB Academy consists of two main training sessions.

(a) CoB Academy Basic: aims to giving a general introduction of the main topics regarding the Green Card system, the functioning of a National Bureaux as well as regarding the particularities of claims handling of cross-border accidents. Last year we had to cancel the session because of lack of interest. We adapted the program and shortened the session from one week to 3 days and the interest was greater than the maximum admitted number of participants.

(b) CoB Academy Advanced: targets a more experienced audience of specialists. It is the opportunity to receive training about some specific topics and regulations and to keep up to date with novelties and changes. Topics can vary according to the most recent events and to the specific needs of the audience. In February 2017 the third session has taken place and was dedicated to 'Data Protection'. During the morning session, different

presentations were given: ‘The necessity of Data Protection’, ‘The implication of Data Protection for the CoB’, ‘Explanation of the existing system’, ‘The General Data Protection Regulation (GDPR)’, the CoB toolkit under preparation’ and ‘How to secure data’. The afternoon session was organised in workshops with the aim to tackle the practical and implementation problems Green Card Bureau, Guarantee Funds, Compensation Bodies, Information Centres and correspondents will be confronted with.

## **VI. Data Protection**

24. On 8<sup>th</sup> April 2016 respectively 14<sup>th</sup> April 2016, the Council of the European Union and the European Parliament have adopted the new General Data Protection Regulation (GDPR). The Regulation will become directly applicable across the EEA on 25<sup>th</sup> May 2018. The forthcoming application of the GDPR implied a whole range of tasks for the CoB Working Group on Data Protection.

25. The CoB acknowledges that under the aegis of the GDPR, Green Card Bureaux, Compensation Bodies, Guarantee Funds and Information Centres will have to have procedures in place to respond and cooperate with the data protection supervisory authorities or the data subjects. Under these circumstances, cooperation and information exchange between the previously mentioned entities will be essential. As a consequence, the CoB had created a network of contact points for matters related to data protection for the purposes of complying with the procedures foreseen by the GDPR.

26. A notable consequence of the future application of the GDPR was the necessary review of the existing agreements and recommendations in the field of data protection.

27. The CoB Working Group on Data Protection is also analysing the influence of the GDPR on the existing CoB Data Protection Agreements (Controller to Controller Agreement, Data Transfer Agreement and Processor Agreement).

28. In April 2016, the CoB Working Group on Data Protection started a review of the existing CoB Tool Kit on Data Protection. The CoB Tool Kit on Data Protection is intended to assist Green Card Bureaux, Guarantee Funds, Compensation Bodies and Information Centres with the implementation of the corresponding necessary measures and to determine important operational and practical issues relating to the GDPR, in order to remain at the forefront of data protection and privacy policies in the years to come. The recommendations follow the structure of Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. Equally important, the addressees of the CoB Tool Kit on Data Protection are also recommended to follow the opinions, recommendations and statements of best practices published by the European Data Protection Board (EDPB).”

## **VII. Fraud**

29. For a cross-border activity such as the Green Card system, the difficulties to identify fraudulent claims, to find evidence and to fight against the criminals, is even more complex than national fraud cases.

30. Since several years, the CoB has a working group on Fraud Fighting, with the aim to coordinate the different initiatives taken by Green Card Bureaux, Compensation Bodies and Guarantee Funds in the fight against cross-border motor insurance fraud.

31. In 2016, the Council of Bureaux started a network of fraud contact persons, consisting of (internal or external) collaborators of Green Card Bureaux, Compensation Bodies and Guarantee Funds. These contact persons operate as a single point of contact in

their respective bodies in matters related to fraud cases. They can be contacted in individual claims and help to give or gather relevant information in case of serious suspicions of fraudulent behaviour. The Working Group is currently working on guidelines for these contact persons, describing the goals and working procedures of the network and including awareness-raising about compliance with rules on data protection.

## **VIII. International Insurance certificate – Green Card**

32. We informed you last year that on demand of an important number of Green Card Bureau, the CoB started reflections on the concept (and prospective introduction) of electronic Green Cards. Unfortunately, after one year, it becomes clear that the members have not a common view on how to reach the goal. It forced us to set up a Working Group dedicated to the topic.

33. It goes without saying that each change in the concept of the International Insurance certificate will be done in close consultation with UNECE.

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