

Guarantee Fund Compendium

GR – Greece

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General information

Please provide the official full name of your Guarantee Fund.

Auxiliary Fund

Insurance of Liability arising out of Motors Accidents

What is the legal status (form) of your Guarantee Fund (non-profit organisation, association of legal entities, limited liability company, etc.)?

Non-profit organisation

How is the ownership/membership of your Guarantee Fund structured (e.g. owned/controlled by all members equally, part of state government, etc.)?

All insurance companies operating in MTPL branches in Greece are members of the Greek Auxiliary (Guarantee) Fund.

1 - Unidentified or uninsured vehicles

1.1. What is the full identity (exact name, address, etc.) of the organisation established or authorised with a view to transposing the 2nd MID? Please specify.

Please visit the CoB [website](#) or [extranet](#).

1.2. What is the legal nature of the organisation?

Private.

1.3. On what legal basis is it authorised to carry out compensation?

Law 489/1976 was codified by Presidential Decree 237/1986.

1.4. Is compensation by this body subsidiary?

Yes

Law 489/1976, was codified by Presidential Decree 237/1986.

Article 19

1. The Auxiliary - Guarantee Fund is obliged to pay compensation to persons that have suffered damages due to death, bodily injury or property damage through motor vehicle accidents in accordance with paragraph 2 under this article where:

a) The person that is held liable remains unknown. In that case however, there is no obligation for compensation due to property damage, unless bodily injuries that require hospital treatment were concurrently sustained; provided the case has been brought before the police authorities and this treatment lasted for a period of at least five days in a public or a private hospital.

b) The accident was caused by motor vehicles, in respect of which an obligation has not been fulfilled in accordance with article 2 (COMPULSORY INSURANCE COVERAGE).

“The persons that voluntarily boarded the vehicle that caused the damage are excluded from compensation, where the Guarantee Fund proves that they knew the vehicle was not insured”.

c) The insurer became insolvent or the execution against it was unsuccessful, or the license of an insurance company was revoked due to a violation of the law.

In that case, the Auxiliary - Guarantee Fund has a right of recourse against the intermediary person in the insurance up to the equivalent of 1500 euro, unless this person proves that s/he did not know and could not have known about the impending insolvency or license revocation, no matter what diligence s/he could have exercised. The hereinabove limitation of the intermediary's liability does not apply where s/he has acted fraudulently. Furthermore, under the hereinabove case the Auxiliary - Guarantee Fund has its own claim against the reinsurer in relation to the reinsurer's obligations to the insurance company arising from civil liability reinsurance policies for motorised land vehicles.

COMMENTS: In accordance with regulation 4364/2016 (article 239) as in effect since 01/01/2016, third parties ought to address to the Liquidator of the Insurance company said from now on in order to deal with their claim for compensation, as a result from a road traffic accident occurred during the time that the Insurance company was in action, both for the amount of indemnity and for their compensation or not, within the time limit where the Liquidator sets.. Consequently, the Liquidator will send a list with the beneficiaries of the complaint to the Auxiliary - Guarantee Fund which will proceed to their indemnity.

d) The accident resulted from certain types of vehicles or certain vehicles having a special registration plate and whose liability had not been covered in accordance with article 2 herein. In that case, the Auxiliary - Guarantee Fund, which has compensated damages caused by a specific type of vehicle or a special registration plate of another member state, has a right of recourse against the corresponding Guarantee Fund at the place where the vehicle is normal garaged.

2. The compensation that is paid by the Auxiliary - Guarantee Fund as compensation for pain and suffering shall not exceed the amount of 6,000 Euros for each beneficiary.

The compensation for sections (a) and (b) under the previous paragraph in this article shall not exceed the lower insurance amount limits at the time of the accident in accordance with article 6 paragraph 5.

In the cases of section (c) under the previous paragraph (The insurer became insolvent or the execution against it was unsuccessful, or the license of an insurance company was revoked due to a violation of the law), the total amount of compensation shall be paid in accordance with the following:

a) For compensation of up to 4,000 Euros, a total amount that is equal to 90 % shall be paid;

b) For compensation from 4,001 to 10,000 Euros, a total amount that is equal to 87.5 % shall be paid, with a minimum of 3,600 Euros;

c) For compensation from 10,001 to 30,000 Euros, a total amount that is equal to 85 % shall be paid, with a minimum of 8,750 Euros;

d) For compensation from 30,001 to 60,000 Euros, a total amount that is equal to 80 % shall be paid, with a minimum of 25,000 Euros;

e) For compensation from 60,001 to 100,000 Euros, a total amount that is equal to 70% shall be paid, with a minimum of 48,000 Euros; and

f) For compensation that exceeds 100,000 Euros, a total amount that is equal to 70% shall be paid, with a maximum of 100,000 Euros.

The Auxiliary - Guarantee Fund is even obliged to pay compensation above 100,000 Euros for persons that have sustained disabilities, whose nature and degree of disability, as well as the amount of compensation will be established by a joint decision of the Ministers for Finance and Labour, Social Security and Welfare, which shall be issued following an opinion by the Centre for Disability Certification (KEPA). The hereinabove opinion shall be formulated within 30 days from the receipt at KEPA of the relevant request from the Minister of Finance. In the case where the time limit of 30 days expires without action, the joint ministerial decision shall be issued without this opinion.

The regulation under this paragraph includes claims that are already vested against the Auxiliary - Guarantee Fund, but without prejudice to claims that have been adjudicated by a final court judgment.

The beneficiaries of compensation may claim the remaining amount of the damages from the joint settlement. The interest that the Auxiliary - Guarantee Fund is required to pay in the cases under the previous paragraph in this article is calculated in each case at the rate of six percent (6 %) per annum. The decision by the Minister of Finance that is issued upon the recommendation of the Bank of Greece may

vary this rate. The claims for compensation against the Auxiliary - Guarantee Fund are subject to the limitation period at paragraph 2 under article 10.

COMMENTS : In accordance with the above mentioned paragraph (2), it is noted that the relevant Law is in effect, but we clarify that some decisions have been published by the plenary session of the Supreme Court of Greece, which judge the relevant provisions as unconstitutional. The Greek Courts do not apply these provisions, but the Law has not been amended, nor abolished.

3. In the cases under paragraph 1 in this article, the injured person has the same type of claim against the Auxiliary - Guarantee Fund, however not against its members. The Auxiliary - Guarantee Fund, based on the information that is provided by the victim and further to the victim's relevant request, is obliged to provide a justified response regarding the payment or non-payment of compensation. Moreover, the Auxiliary - Guarantee Fund is not permitted to demand that the victim proves in any way that the person liable for the accident is unable or refuses to pay, in order to pay the compensation.

4. Upon payment of the compensation, the Auxiliary - Guarantee Fund is subrogated in all of the rights of the person injured under the accident against the person liable for compensation or its insurance company. As an exception, in case (d) at paragraph 1 the Auxiliary - Guarantee Fund is not subrogated in the rights of the person injured under the accident against the person liable for compensation, it is however subrogated in the prerogative of the insured in accordance with article 10 pursuant to Legal Decree 400/70, "regarding private insurance business".

5. The Compensation that is payable by the Auxiliary - Guarantee Fund is limited to supplementing the amount that is required to be paid by a Social Security Fund or other Social Security Organisation under this cause to the injured party.

The previous section is not implemented in the cases where the Motor Insurers' Bureau – Greece pays compensation under these provisions to foreign Insurance Bureaux for accidents that occur outside of Greece.

6. The compensation that is paid by the Auxiliary - Guarantee Fund to beneficiaries of civil liability insurance due to vehicular traffic is exempted from stamp duty.

7. The Auxiliary - Guarantee Fund is required to pay the compensation that is demanded by the compensation bodies in the Member States up to the amount that has been paid to permanent residents in these states due to losses that were caused by:

- a) Motor vehicles that are normally garaged in Greece and are uninsured;
- b) Motor vehicles with unknown particulars and the accidents that have occurred in Greece; and
- c) Uninsured third country vehicles, whose national Insurance Bureaux have acceded to the Green Card system and for accidents that have occurred in Greece.

Upon payment of the hereinabove compensation, the Auxiliary - Guarantee Fund is proportionally subrogated in accordance with paragraph 4 in this article.

8. The action against the Auxiliary - Guarantee Fund is only admissible where the Plaintiff has previously lodged a written application for compensation with the Auxiliary - Guarantee Fund, with the attached documents that prove its claim. The Auxiliary - Guarantee Fund is obliged to provide a justified response to

the application within a period of three months from its lodgement, in accordance with paragraph 6 under article 6 pursuant to this Law. The injured party may exercise legal proceedings against the Auxiliary - Guarantee Fund after receiving the response from the Auxiliary - Guarantee Fund or where the time limit expires without action.

1.5. If the compensation is subsidiary, which entities are excluded?

Social Security Bodies - Funds. Law 489/1976, article 19, par. 5.

1.6. Is your organisation a VAT liable entity?

Yes.

1.7. If yes, please indicate the VAT number:

EL 090012333

1.8. If your organisation is a VAT liable entity, is the service of claim handling VAT exempted?

No.

1.9. Are there any specific provisions governing the recourse between this body and those responsible for the accident and other insurers or social security bodies obliged to compensate the victim for the same accident?

Yes.

1.10. If yes to question 1.9, what do these specific provisions consist of? Please specify briefly.

The answer is yes, but only if the victim works at a civil service in which case the compensation concerns the income loss (salary) that the victim suffers due to accident and comes both from the insurer as well as from the Auxiliary - Guarantee Fund of Greece.

1.11. Are people who voluntarily entered the vehicle which caused the damage when they knew that the vehicle was uninsured, excluded from the intervention of the body?

The answer is yes, but only in cases where the Auxiliary - Guarantee Fund proves in the court that people knew that the vehicle was not insured.

1.12. In the event of an accident caused by an unidentified vehicle, is the intervention of the body subject to specific provisions as regards the compensation of damage to property?

Yes.

1.13. If yes to question 1.12, what are the specific provisions? Please specify briefly.

LAW 489/1976 – ARTICLE 19, SECTION 1a – (There is no obligation for compensation due to property damage, unless bodily injuries that require hospital treatment were concurrently sustained; provided the

case has been brought before the police authorities and this treatment lasted for a period of at least five days in a public or a private hospital.)

1.14. If yes to question 1.12, what are the conditions provided for by your legislation so that the damage to property may be considered as significant? Please specify briefly.

N/A.

1.15. If the injured party is not a resident of an EEA Member State, can it benefit from the intervention of the body?

Yes.

1.16. What periods of limitation are the demands for compensation addressed to the body subjected to? Please specify briefly.

Five years from the date of the accident.

1.17. According to Directive 90/232/EEC, Article 4 “In the event of a dispute between the body referred to in Article 1 (4) of Directive 84/5/EEC and the civil liability insurer as to which must compensate the victim, the Member States shall take the appropriate measures so that one of these parties is designated to be responsible in the first instance for paying compensation to the victim without delay”. Which of these parties has been designated in your country to be responsible in the first instance for paying compensation to the victim in the event of a dispute between the body and the insurer responsible for civil liability as to which must compensate the victim? Please specify.

No party is designated to be responsible for paying compensation to the victim without delay in the event of a dispute between the Guarantee Fund of Greece and the civil liability insurer. In case of dispute the victim should file a claim to the court which will resolve the conflict.

1.18. Are there certain vehicles or certain types of vehicle having a special plate exempted from the obligation of compulsory insurance in your country? (Article 5.2 of the MID)

No.

1.19. If yes, please list those vehicles:

N/A.

2 - Stolen vehicles or vehicles obtained by violence

2.1. Has your Member State made use of this possibility?

No.

2.2. If yes to question 2.1, what are the conditions provided in the event of compensation for damage to property? Please specify briefly.

N/A.

2.3. If yes to question 2.1, are people who voluntarily entered the vehicle which caused the damage when they knew that the vehicle was stolen, excluded from the intervention of the body?

N/A.

3 - Other cases of intervention by the body

3.1. Do the legislation of your Member State provide for other situations where the injured party can claim compensation from the body after a road traffic accident?

No

3.2. If yes to question 3.1, what are these situations?

N/A