

# Guarantee Fund Compendium

## I – Italy

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### General information

**Please provide the official full name of your Guarantee Fund.**

Consap S.p.A. - Fondo di garanzia per le vittime della strada (Italian Guarantee Fund for the road traffic victims)

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

Entity without legal personality managed by Consap (a State-owned company whose shares are 100% owned by the State through the Ministry of Economy).

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

The Guarantee Fund is a public entity without legal personality and administered by Consap, under the supervision of the Ministry of Economic Development, with the support of a Management Committee chaired by the President of Consap S.p.A. and composed of representatives of the Ministry of Economic Development, the Ministry of Economy, Consap itself, IVASS (Insurance Supervisory Authority), insurance companies and consumer associations.

The Guarantee Fund is financed at a rate on each third-party motor liability premium, currently equal to 2.5%, and operates within the limits of the legal limits in force at the time of the accident.

## 1 - Unidentified or uninsured vehicles

**1.1. What is the full identity (exact name, address, etc.) of the body established or authorised in accordance with Article 10 of the Codified Motor Insurance Directive? Please specify.**

Consap S.p.A. - Fondo di Garanzia per le vittime della strada

Via Yser, 14 – 00198 Rome (Italy)

**1.2. What is the legal nature of this body?**

Public.

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

Law (Insurance Code)

**1.4. Is compensation by this body subsidiary?**

No.

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

N/A.

**1.6. Is this body a VAT liable entity?**

No.

**1.7. If yes, please indicate the VAT number:**

N/A.

**1.8. If this body is a VAT liable entity, is the service of claim handling VAT exempted?**

N/A.

**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.**

Art. 292 Insurance Code: the designated company that has compensated the damage (on behalf of the Guarantee Fund) has recourse against the person responsible for the accident to recover the compensation paid, as well as interest and expenses.

Art. 1916 Civil Code: the insurer who paid the indemnity is subrogated, up to the amount of the indemnity, in the insured party's rights towards liable third parties; this provision also applies to the social insurer.

**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?**

No.

**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.**

Material damages are reimbursed with an excess of € 500,00 only in case of serious personal injuries.

**1.14. If yes to question 1.12, what are the conditions provided for by your legislation so that the personal injuries may be considered as significant (cf. Article 10.3 of the Codified Motor Insurance Directive)? Please specify briefly.**

Permanent disability of more than 9%.

**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.**

Claims addressed to the Guarantee Fund are subject to the ordinary limitation period. The limitation period is normally **two years** from the date of the accident (art. 2947 Civil Code).

If the fact is provided for by law as a criminal offence (vehicular homicide or injuries, regardless of whether by negligence or intentional) and the period for such an offence is longer, the limitation period also applies to compensation for damages. For this to happen, however, it is necessary that the fact be recognized as a criminal offence in criminal proceedings or *incidenter tantum* by a judge in civil proceedings.

The limitation period is interrupted by writ of summons and by any letter of formal notice (e.g. a registered letter with acknowledgement of receipt). The limitation period is suspended during court proceedings.

**1.17. According to Article 11 of the Codified Motor Insurance Directive “In the event of a dispute between the body referred to in Article 10(1) 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.**

There is not a specific rule. The Guarantee Fund is obliged to compensate the victim only if it is proved that the vehicle is uninsured.

**1.18. Are there certain types of vehicles or certain vehicles having a special plate exempted from the obligation of compulsory MTPL insurance in your country? (Article 5.2 of the Codified Motor Insurance Directive)**

Answer to this question is available in the Green Card Bureau Compendium, question 14.3.

**1.19. If yes, please list those vehicles:**

Answer to this question is available in the Green Card Bureau Compendium, question 14.4.

## **2 - Stolen vehicles or vehicles obtained by violence**

**2.1. Has your Member State made use of the possibility offered by Article 13(2) of the Codified Motor Insurance Directive to make the Guarantee Fund responsible for paying compensation instead of the insurer?**

Yes.

**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.**

The accident must be occurred the day after the date in which the owner has reported to the Police the car theft.

**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?**

Yes.

## **3 - Other cases of intervention by the body**

**3.1. Does 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?**

Yes.

<b>3.2. If yes to question 3.1, what are these situations?</b>
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In case of:

- 1) insolvency/liquidation of an insurance company;
- 2) foreign vehicles with registration plates that do not correspond or no longer correspond to the vehicle involved in an accident;
- 3) dispatched vehicles not insured during the time limit of 30 days after the date of the acceptance of delivery by the purchaser.