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FOIL backs review of motor insurance law

Department for Transport wants compulsory insurance cover where a vehicle is 'used in traffic'

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The European Court of Justice's ruling in Vnuk will have serious implications for motorists and insurers, said the Forum of Insurance Lawyers, which is backing an amendment to the EU's Motor Insurance Directive.

The ECJ's ruling in [Damijan Vnuk v Zararovalnica Triglav](#) concerned injuries sustained in a farmyard accident in Slovenia. The court found that the tractor involved in the accident should have been insured, even though the vehicle was being used on private land and only for agricultural purposes.



The implication of the ruling is that all vehicles, be they sports cars, mobility scooters, or golf buggies, must now require compulsory insurance even if they are only used on private land. This ruling has, therefore, caused considerable concern among legislators and the insurance industry.

Andrew Jones MP, the parliamentary under secretary of state for transport, said the judgment was 'disappointing' and 'a complete game-changer' for motor insurance.

'We can understand the principle of ensuring that victims of motor vehicle accidents have protection, and we share that aspiration. But we have serious misgivings about the extent to which the Vnuk judgment has broadened the scope of the directive,' he said.

'As the European Commission itself has recognised, the judgment has generated some potentially costly consequences and some quite challenging issues, including ones which government firmly believe were unintended when the directive was drafted.'

The Department for Transport has launched a [consultation](#) to examine the issues arising from a potential amendment of the directive.

The consultation, which is open until 31 March, is considering an amendment to the directive which would bring more categories of vehicle within the compulsory insurance regime but with insurance cover only required where the vehicle is being 'used in traffic'.

Peter Allchorne, head of FOIL's motor sector focus team, said that allowing EU law to follow the Vnuk judgment would have a significant impact on motor insurance across Europe.

The ruling, said the DAC Beachcroft partner, would potentially bring further categories of vehicle within the compulsory insurance regime and require insurance for vehicles used purely on private land, from construction and agricultural vehicles to quad bikes and dodgem cars.

'FOIL has supported the European Commission's move to propose amendments to the motor directive and we welcome the DfT's consultation on one of the amendment options,' said Allchorne.

'The possible amendment being consulted upon is not a panacea for the issues raised by Vnuk which would still require some difficult issues to be addressed,' he added. 'FOIL intends working with other sectors of the insurance industry to ensure the full implications are understood and the best options are identified.'

John van der Luit-Drummond is deputy editor of Solicitors Journal

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