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FOIL backs motor insurance law review after ECJ Vnuk ruling



BY MAREK HANDZEL ON JANUARY 10, 2017

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The Forum of Insurance Lawyers (FOIL) is backing UK and EU government moves to address the crippling implications for individuals and motor insurers of a European Court of Justice (ECJ) ruling in the case of *Damijan Vnuk v Zarovalnica Triglav*, which suggests that everything from racing cars to golf buggies requires compulsory insurance.

In *Vnuk*, the ECJ ruled that the tractor involved in an accident in a farmyard accident in Slovenia which left the claimant with injuries, should have been insured. The ruling has caused considerable concern among legislators and the insurance industry as it was only being used on private land and for agricultural purposes.

The detail of the Motor Directive, which sets the framework for motor insurance across the EU, is now being revisited. As things stand, FOIL says the ECJ ruling would suggest that a wide range of vehicles which are only used on private land and for designated purposes would require compulsory insurance. This could range from construction and agricultural vehicles to golf buggies, quad bikes, dodgem cars and motorised ride-on toys.

The UK Department for Transport (DfT) has signalled a consultation to examine the issues arising from a potential amendment of the Motor Directive.

Peter Allchorne, a motor partner at DAC Beachcroft and head of FOIL's motor sector focus team, said: "It is clear that allowing EU law to follow the *Vnuk* judgment would have a very significant impact on motor insurance across Europe. As the DfT has said, it is a complete game-changer for motor insurance in the UK potentially bringing further categories of vehicle within the compulsory insurance regime and requiring insurance for vehicles used purely on private land.

"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."

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

"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," said Allchorne. "FOIL intends working with other sectors of the insurance industry to ensure the full implications are understood and the best options are identified."

<http://www.claimsmag.co.uk/2017/01/foil-backs-motor-insurance-law-review-ecj-vnuk-ruling/7748>