

Common Compendium

RO - Romania

Review date: 27.07.2022

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Country Code: RO

Organisation (s): BIROUL ASIGURATORILOR DE AUTOVEHICULE DIN ROMANIA (BAAR)

1. Basic Information (GCB/GF/CB)

This section is aimed at all three organisations. The questions are repeated three times to be filled out by each organization

1.1. If relevant, please indicate the name of the organisation that operates as:

Green Card Bureau: BAAR

Guarantee Fund: BAAR

Compensation Body: BAAR

Information Centre: BAAR

1.2. What is the legal status/form of your organisation? Only one option can be selected by each organisation.

Please answer in your capacity as Green Card Bureau:

Non-profit organisation

Association of legal entities

Limited liability company

Other. Please specify. Click or tap here to enter text.

Please answer in your capacity as Guarantee Fund:

Non-profit organisation

Association of legal entities

Limited liability company

Other. Please specify. Click or tap here to enter text.

Please answer in your capacity as Compensation Body:

Non-profit organisation

Association of legal entities

Limited liability company

Other. Please specify. Click or tap here to enter text.

1.3. How is the ownership of your organisation structured? Only one option can be selected by each organisation.

Please answer in your capacity as Green Card Bureau:

Owned/controlled by all Members equally

Part of state government

Other. Please specify.

Please answer in your capacity as Guarantee Fund:

Owned/controlled by all Members equally

Part of state government

Other. Please specify.

Please answer in your capacity as Compensation Body:

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Owned/controlled by all Members equally

Part of state government

Other. Please specify.

1.4. How is the membership/governance of your organisation structured? Only one option can be selected by each organisation.

Please answer in your capacity as Green Card Bureau:

Only insurance undertakings are Member to the organisation

Mixed membership of insurance undertakings and other members

Only Members participate in the governance

Others may participate in the governance

Other. Please specify. Only MTPL insurance undertakings are Member to the organisation

Please answer in your capacity as Guarantee Fund:

Only insurance undertakings are Member to the organisation

Mixed membership of insurance undertakings and other members

Only Members participate in the governance

Others may participate in the governance

Other. Please specify. Only MTPL insurance undertakings are Member to the organisation

Please answer in your capacity as Compensation Body:

Only insurance undertakings are Member to the organisation

Mixed membership of insurance undertakings and other members

Only Members participate in the governance

Others may participate in the governance

Other. Please specify. Only MTPL insurance undertakings are Member to the organisation

1.5. Is your organisation a VAT liable entity? Only one option can be selected by each organisation.

Please answer in your capacity as Green Card Bureau:

Yes

No

If answered yes to question 1.5., please indicate the VAT number: RO7681180

If answered yes to question 1.5, is the service of claim handling VAT exempted?

Yes

No

In what instances is VAT refundable? Please specify. VAT would become refundable only temporarily, when VAT collected from issued invoices could be lower than VAT deductible out of received invoices. In general, BAAR is in the position of net VAT payer to Romanian state budget. We also mention that Romanian legislation is fully harmonised with VAT Directive. VAT is deductible if it is incurred in connection to taxable activities (such as claim handling activity).

Please answer in your capacity as Guarantee Fund:

Yes

No

If answered yes to question 1.5., please indicate the VAT number: RO7681180

If answered yes to question 1.5, is the service of claim handling VAT exempted?

Yes

No

In what instances is VAT refundable? Please specify. VAT would become refundable only temporarily, when VAT collected from issued invoices could be lower than VAT deductible out of received invoices. In general, BAAR is in the position of net VAT payer to Romanian state budget. We also mention that Romanian legislation is fully harmonised with VAT Directive. VAT is deductible if it is incurred in connection to taxable activities (such as claim handling activity).

Please answer in your capacity as Compensation Body:

Yes

No

If answered yes to question 1.5., please indicate the VAT number: RO7681180

If answered yes to question 1.5, is the service of claim handling VAT exempted?

Yes

No

In what instances is VAT refundable? Please specify. VAT would become refundable only temporarily, when VAT collected from issued invoices could be lower than VAT deductible out of received invoices. In general, BAAR is in the position of net VAT payer to Romanian state budget. We also mention that Romanian legislation is fully harmonised with VAT Directive. VAT is deductible if it is incurred in connection to taxable activities (such as claim handling activity).

1.6. For a full overview of your national GCB/GF/CB please provide the link of your website:

GCB: <https://www.baar.ro/>

GF: <https://www.baar.ro/>

CB: <https://www.baar.ro/>

The following questions are only aimed at Guarantee Funds and Compensation Bodies :

1.7. On what legal basis is your organisation authorised to carry out compensation?

Please answer in your capacity as Guarantee Fund:

Please provide the name and date of the law: Law no.132/2017 on the compulsory insurance against civil liability for the damages caused to third parties by vehicle and tram accidents

Please answer in your capacity as Compensation Body:

Please provide the name and date of the law: Law no.132/2017 on the compulsory insurance against civil liability for the damages caused to third parties by vehicle and tram accidents

1.8. Is compensation by your organisation subsidiary? Only one option can be selected by each organisation.

Please answer in your capacity as Guarantee Fund:

Yes

No

Please provide further explanations: No entity which has compensated the injured persons in any way whatsoever or offered them services in relation to the damage suffered, including medical services, on the basis of contracts or under the law, has the right to request from BAAR reimbursement of the expenses incurred

If the compensation is subsidiary, which entities are excluded? Social security bodies, Insurance undertakings, any other entity which has to compensate/has compensated the injured party by law or by contract

Please answer in your capacity as Compensation Body:

Yes

No

Please provide further explanations: The legal persons which are subrogated in the rights of the injured persons in car accidents are not allowed to claim for compensation from BAAR.

If the compensation is subsidiary, which entities are excluded? Social security bodies, Insurance undertakings, any other legal person which has to compensate/has compensated the injured party

2. Applicable law (GCB/GF/CB)

This section is aimed at all three organisations. You are invited to complete this section in cooperation amongst your organisations, if applicable. Only one common answer is expected to be provided.

2.1. Provide the title and if applicable, the number of your national law which forms the basis for making a claim (Road Traffic Act, Insurance Law, Liability Law, etc.)

Law no.132/2017 on the compulsory insurance against civil liability for the damages caused to third parties by vehicle and tram accidents. Norm no.20/2017 regarding car insurance in Romania issued by the Financial Supervisory Authority

2.2. What liability regime do your organisations operate with? Only one option can be selected.

Fault based liability

Strict liability

Other . Please specify. [Click or tap here to enter text.](#)

2.3. Are there any restrictions to the activities of your organisations regarding the way the law applies to visitors with regard to:

Country of residence. Please specify. In its capacity as Guarantee Fund, BAAR guarantees without the benefit of discussion the compensation of injured persons, residents of EEA Member States by accidents

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occurring on the territory of Romania or on the territory of a Member State other than their State of residence, by means of uninsured vehicles normally based on the territory of Romania

Nationality. Please specify. Click or tap here to enter text.

Other. Please specify. Click or tap here to enter text.

2.4. For what types/categories of motor vehicles is insurance compulsory?

Natural or legal persons who own vehicles subject to registration or locally registration in Romania, as well as trams, have the obligation to insure themselves for cases of civil liability as a result of damages caused by vehicle accidents. The term “vehicle” under the Romanian MTPL Law represents - means of transport with or without its own propulsion, intended for land-based travel, including any type of trailer, whether coupled or not, for which in Romania there is a legal obligation of registration or local registration, except for those moving on rails, other than trams, bicycles or vehicles with animal traction.

Are there any exemptions? Please specify. Persons who use vehicles exclusively for the purpose of training, races, races or rallies, legally organized, are not obliged to conclude a compulsory MTPL contract

2.5. Does the MTPL insurance law apply to private areas?

Yes

No

How do you define a private area according to your national law? Please specify. Any area traffic route which is not considered public pursuant to the Romanian traffic law. A public road is defined as “any land communication route, except for railways, specially arranged for pedestrian or road traffic, open to public traffic. Roads that are closed to public traffic are signposted at the entrance with visible inscriptions.” E.g.: a parking mall, a courtyard or roads signposted at the entrance with no trespassing sign aren't public roads.

2.6. What is the minimum amount of cover required for material and personal injury damage? State the minimum value of sum insured, the date as of which it is in effect from and please indicate whether the limit is per accident or per victim:

For material damages produced in one and the same accident, regardless of the number of injured persons, the compensation limit is set, for accidents, at a level of 1,220,000 euros, equivalent in LEI at the exchange rate of the foreign exchange market at the date of the accident, communicated by the National Bank of Romania.

For personal injuries and fatalities, including for non-patrimonial damages produced in one and the same accident, regardless of the number of injured persons, the compensation limit is set, for accidents, at a level of EUR 6,070,000, equivalent in LEI at the exchange rate of the foreign exchange market at the date of the accident, communicated by the National Bank of Romania.

The minimum coverage limits specified above are in effect since 12th July 2017.

2.7. In which cases is an MTPL-insurer permitted by Law to reject/refuse cover for a third party claim? Please specify for the below-mentioned sub-items:

Accident caused by stolen vehicles: The insurer doesn't provide compensation for damages caused to persons or goods in the vehicle liable for the accident, if the MTPL insurer can prove that the injured parties were aware that the vehicle was stolen

Accident caused by drunk driving: Click or tap here to enter text.

Accident caused with intent (for instance homicide, suicide): Click or tap here to enter text.

Accident caused by a terrorist attack: The MTPL insurer doesn't provide compensation for damages caused by using a vehicle during a terrorist attack or war, if the event is directly related to the respective attack or war

Accident caused by a driver without a license: Click or tap here to enter text.

Other instances: Besides the 2 exclusions marked above, the MTPL insurer doesn't provide compensation for:

1. the cases in which the owner, user or driver of the responsible vehicle doesn't have liability, that is if the accident was produced:

a) by force majeure;

b) by the exclusive guilt of the injured party;

c) by the exclusive guilt of a third person, with the exception of damage caused to third parties as a result of its passengers opening the vehicle doors while driving or when the vehicle is stopped or parked, without making sure that the safety of other traffic participants is not endangered;

2. damages suffered by the driver of the vehicle liable for the accident;

3. damages produced to assets belonging to individuals or legal entities, if they were caused by an insured vehicle owned or used by the same person or entity and driven by an agent/subordinate of the same legal entity or another person for whom the natural person or the legal person is responsible;

4. the damaged goods and the insured vehicle are part of the spouses' common patrimony;

5. the damaged property is used by the owner of the insured vehicle that caused the damage;

6. damages produced in the situations where there is no proof of the MTPL insurance validity at the day of the accident or the MTPL insurer has no liability;

7. the part of the damage exceeding the agreed limits of cover produced in one and the same accident, regardless of the number of victims and the number of persons responsible for the damage

8. fines of any kind and the criminal charges to which the owner, user or driver of the insured vehicle liable for causing the damage would have to pay;
9. expenditures of the owner, user or driver of the insured vehicle, liable for the damage, incurred in the criminal proceedings even if during the trial the civil side was settled;
10. the amounts that the driver of the vehicle responsible for the prejudice is required to pay to the owner or user who entrusted him with the insured vehicle, for the damage or destruction of this vehicle
11. damages caused to goods carried, if between the owner or user of the vehicle that caused the accident or the responsible driver and the injured parties there was a contractual relationship at the date of the accident;
12. damages caused by the devices or installations assembled on the vehicles when they are used as working equipment or machinery;
13. damages caused by accidents occurred during loading or unloading operations, which constitute risks of professional activity;
14. damages caused as a result of the transportation of dangerous goods: radioactive, ionizing, flammable, explosive, corrosive, inflammable, that have determined or aggravated the damage;

2.8. Does your national law require cover in respect of passengers carried in the vehicle?

Yes

No

Please specify. [Click or tap here to enter text.](#)

Is there any category of passenger excluded from this cover?

Yes

No

Please specify. [Click or tap here to enter text.](#)

2.9. Does your national law require the insurer and/or Bureau to make an offer of compensation to a claimant within a specified time?

Yes

No

If yes, what is the nature of the damages to which the time-limit applies? For all damages the same time-limit applies with the exception of claims for securities, deeds, manuscripts, jewelry, precious stones, works of art, other objects made of platinum, gold or silver, postage stamps, stamps and for the disappearance or destruction of money. For this kind of goods, a court decision is required.

If yes, what is the specific time-limit? Within 30 days from the date of the formal request of the compensation by the injured party.

2.10. What is the statute of limitation periods (prescription) according to your national law against the MTPL insurer when there is a direct action?

In such cases the statute of limitation period is 3 years. However, by way of exception, in all cases in which the compensation arises from an action subject by the criminal law to a longer statute of limitation period than the civil one, the statute of limitation period of criminal liability also applies to the right to action for civil liability. E.g.: In case of a traffic accident with fatalities, the statute of limitation is usually 8 years and if there are only injured persons resulted from the accident, the statute of limitation is 5 years. The prescription term is 3 years for the person who has subrogated to the rights of the injured party and it begins from the date on which the injured person was compensated (the Insurer can pay the compensation after the fulfilment of the prescription term as well, but it cannot be obliged to do so by a court)

2.10.1. When does the period of limitation begin and when does it expire?

In respect to material damage: The statute of limitation begins to run (i) from the date when the injured person knew or should have known both the damage and the person responsible for it or (ii) from the date when the court decision of obligation to payment remained definitive.

In respect to bodily injuries: The statute of limitation begins to run (i) from the date when the injured person knew or should have known both the damage and the person responsible for it or (ii) from the date when the court decision of obligation to payment remained definitive.

2.10.2. Are there any provisions in your national law which allow the suspension/extension of the limitation period? How about interruption? Please specify.

The statute of limitation of the right of action regarding the compensation for bodily injury or death of a person is suspended until the pension/alimony/benefits granting that would be paid, within the social insurance system, to the person entitled to compensation – this is a specific case of suspension. GENERAL PROVISIONS FOR SUSPENSION: The prescription does not begin to run, and if it has begun to run, it shall be suspended: 1. between the spouses, how long the marriage lasts and they are not de facto separated; 2. between the parents, guardian or curator and those who lack capacity to exercise or with limited capacity to exercise, or between the curators and those whom they represent, as long as the protection lasts and the accounts have not been given and approved; 3. between any person who, under the law, a court decision or a legal act, administers the property of others and those whose property is thus administered, as long as the administration has not ceased and the accounts have not been given and approved; 4. in the case of a person who lacks legal capacity or has limited legal capacity, as long as he has no legal representative or protector, unless there is a legal provision to the contrary; 5. as long as the debtor deliberately hides from the creditor the existence of the debt or its chargeability; 6. throughout the negotiations conducted with the aim of amicably resolving the disagreements between the parties, but only if they were held in the last 6 months before the expiry of the limitation period; 7. if the person entitled to the

action must or is able, according to the law or the contract, to use a certain prior procedure, such as the administrative complaint, the attempt at reconciliation or the like, as long as he did not know and did not have to know the outcome of that procedure, but not more than 3 months after the initiation of the procedure, if no other time limit has been set by law or contract; 8. if the right holder or the liable one is part of the Romanian armed forces, as long as they are in a state of mobilization or war. The civilians who are in the armed forces for reasons of service imposed by the necessities of war are also taken into account; 9. if the person against whom the prescription period is flowing or would run is prevented by force majeure from interrupting acts, as long as such obstruction has not ceased; force majeure, when is temporary, does not constitute a reason for suspension of prescription unless it occurs in the last 6 months before the expiry of the limitation period; 10. in other cases provided for by law.

GENERAL PROVISIONS FOR INTERRUPTION: The prescription is interrupted: 1. by a voluntary act of enforcement or by recognizing, in any other way, the right of the action of which is prescriptible, made by the person for whose benefit the statute of limitation period runs; 2. by filing an application for summons or arbitration, by registering the claim with the insolvency table within the insolvency procedure, by submitting the application for intervention in the enforced prosecution initiated by other creditors or by invoking, by way of exception, the right whose action is time-barred; 3. by being constituted as a civil party during the criminal investigation or before the court until the beginning of the judicial investigation; if the damages are granted, according to the law, ex officio, the initiation of criminal prosecution interrupts the course of prescription, even if the constitution as a civil party has not taken place; 4. by any act by which the person for whose benefit the limitation period runs is put into delay; 5. in other cases provided for by law.

2.10.3. Are there special circumstances in your national law regarding statute of limitations?

Please describe in short:

Prescription is a private order matter not a public one. The competent judicial body may not enforce the prescription of its own motion. The prescription may be opposed only in the first instance, by way of defence, or, in the absence of invoking it, at the latest at the first hearing at which the parties are legally summoned.

Are there any differences for limitation period of liable party? Please see the answer from point 2.10

The following questions are only aimed at Compensation Bodies. Please answer in your capacity as Compensation Body:

2.11. Under your legislation, does a victim who has requested compensation under Articles 24 and 25 of the Codified Motor Insurance Directive have the right to remedy against the decision/omission of the Compensation Body?

Yes

No

If yes, please specify (i.e. appeal to administrative authority, judicial review of the latter's decision or action to court directly, i.e., passive procedural legitimacy of the Compensation Body):

Click or tap here to enter text.

3. Trucks and trailers (GCB/GF/CB)

This section is aimed at all three organisations. You are invited to complete this section in cooperation amongst your organisations, if applicable. Only one common answer is expected to be provided.

3.1. Does your national law regulate trailers?

Yes

No

3.2. Liability

3.2.1. If the truck is coupled with the trailer, does liability strictly fall on the truck or is there a division of liability? Please specify.

When a trailer is coupled to a truck identified and insured, the MTPL policy of the truck covers the consequences of an accident caused through the couple even if the trailer is unidentified or uninsured. In the case that the accident is a consequence of a hidden technical failure of the trailer which can't be observed by the driver, the MTPL insurer of the truck has a right of recourse against the MTPL insurer of the trailer. Additionally, Romanian law provides special provisions in certain cases regarding the body obliged to compensate the victims of an accident in Romania caused through a truck-trailer couple as it follows: a) BAAR or the national bureau of the State in which the truck is normally based, for vehicles registered in other states part of Section III, if the truck is identified and uninsured, whether or not the trailer / semi-trailer is identified or insured; b) the MTPL insurer of the trailer / semi-trailer, in case the truck is unidentified and the trailer / semi-trailer is identified and insured; after payment of the compensation, the trailer / semi-trailer insurer has the right of recourse against the liable person of the accident and, as the case may be, against the insurer of the truck, if they will be identified later; c) BAAR, if the truck is unidentified and the trailer / semi-trailer is identified and uninsured.

3.2.2. Can liability arise in case of an uncoupled trailer in an accident?

Yes

No

If yes, what are the conditions? In any case when the trailer is uncoupled and causes damages of any kind to a third party.

3.3. Do trailers need to bear a registration plate in your country?

Yes

No

If yes, please specify the conditions: The registration procedure for the trailers is the same as is for all other motor vehicle subject of registration

3.4. Is the trailer given separate plates or does it bear the same registration plate as the truck?

Yes

No

Please specify. In Romania, registration plates for a trailer are different from those of the truck. There is no connection between them.

3.5. Does your country have an established practice in determining where (the component parts of) a truck-trailer combination bearing the registration plates of different countries is/are:

- "normally based"

Yes

No

Please specify.

- "originating from"

Yes

No

Please specify. [Click or tap here to enter text.](#)

3.6. Is there an obligation to insure the truck and the trailer separately?

Yes

No

If yes, please specify the conditions/exemptions: MTPL policies are issued in consideration of the registration plates of the vehicles and not as a couple. Any truck can be coupled with any trailer and the policies are activated depending which vehicle is liable as it is specified at points 3.2.1. and 3.2.2. above

3.7. Do trailers need their own Green Card?

Yes

No

Please specify. The trailers have the same treatment as the trucks with no exception.

3.8. If there is no insurance obligation for a trailer in your country but liability is ascertained under the applicable law, does the Guarantee Fund intervene?

Yes

No

Please specify. N/A

3.9. If there exists a separate liability, is a claimant obliged to make a claim against either the truck or the trailer?

Yes

No

Please specify. Click or tap here to enter text.

3.10. If there is a division of liability?

Yes

No

If yes, Please specify.

- **the criteria (i.e. joint/several liability, percentage):** Click or tap here to enter text.

- **on what is the division of liability based (i.e. law/jurisprudence/agreement between insurers)?**

Click or tap here to enter text.

3.11. Can the division of risk between truck and trailer be based on any other rules than liability (e.g. such as on the basis of double insurance)?

Yes

No

Please specify. Click or tap here to enter text.

3.12. Who is responsible for the damage to a connected trailer in case of a solo accident?

The towing unit

The trailer

Other.

Please specify. Under Romanian MTPL legislation, such case represents exclusion from the coverage of the MTPL policy. Please see the answer from point 2.7 box 6 no.11

3.13. Who is responsible for the damage to a connected trailer in cases involving Third Parties?

The towing unit

The trailer

A third party, depending on the situation

Other. **Please specify.** Click or tap here to enter text.

4. Property Damage – Claims (GCB/GF/CB)

This section is aimed at all three organisations. You are invited to complete this section in cooperation amongst your organisations, if applicable. Only one common answer is expected to be provided.

4.1. For the following sub-items please state the different possibilities for a claimant to file a claim against a MTPL-insurer for property damage

4.1.1. How is vehicle damage covered with regards to repair costs?

The compensation is granted in an amount equal to the extent of the damage up to the maximum limit of liability of the MTPL insurer which is equal to the highest value between the limit of liability provided for in the applicable law and that provided for in the MTPL contract. The value of the repair is calculated using the specialized evaluation systems or through documents issued in accordance with the law in which the repair shop can use its own value of the displayed labour hour.

4.1.2. How is vehicle damage covered with regards to total loss?

Pursuant to the law, a total loss occurs when the repair costs for a damaged vehicle exceeds its market value. The claimant may choose to repair his vehicle up to the market value of it, calculated following the evaluation of the MTPL insurer, or to settle the case as a total loss by being compensated with the difference between the market value of the vehicle and the value of the wreckage.

4.2. Does the claimant have right to compensation for loss of value for a damaged vehicle?

Yes

No

If yes, Please specify. Theoretically, the loss of value for a damaged vehicle is covered under the MTPL policy but in practice it isn't very usual to ask for it. One of the reasons could be that there isn't a standard calculation formula available on the Romanian insurance market.

4.3. Does the claimant have right to compensation for costs of expert reports?

Yes

No

If yes, Please specify. [Click or tap here to enter text.](#)

4.4. Does the claimant have right to compensation for costs of vehicle recovery/rescue and towing a vehicle to a repair shop?

Yes

No

If yes, please specify the criteria: The expenses incurred for rescue of the vehicle are covered if these are proven with supporting documents or expertise. The expenses for towing a vehicle are covered from the place of the accident to the location of insurer's claim handler or to the repair shop chosen by the injured party closest to the place of the accident or from the home of the injured party, as the case may be, if the vehicle can no longer be moved by its own means, and the insurer does not provide the transport.

4.5. Does the claimant have right to compensation for the loss of use of a damaged vehicle?

Yes

No

If yes, please specify the criteria: Pursuant to the law, MTPL policy covers damages representing the consequence of the loss of use of the damaged vehicle, including the temporary replacement of the vehicle, based on the option of the injured party. In practice, compensation which covers replacement of the damaged vehicle by hiring another one is the most frequent. For additional information regarding the criteria used for calculation the costs hiring see below the answer to point 4.6.

4.6. Does the claimant have right to compensation for costs of hiring another vehicle in case of a damaged vehicle and/or a lump sum as a substitute?

Yes

No

If yes, please specify the criteria: Costs for the period of hiring another vehicle instead of the damaged vehicle are covered by MTPL and are established based on supporting documents or expertise.

4.7. Does the claimant have right to compensation for registration fees related to cases where the vehicle is a total loss?

Yes

No

If yes, please specify the criteria: These costs must be proven with supporting documents

4.8. Does the claimant have right to compensation for costs related to overnight accommodation and meals?

Yes

No

If yes, please specify the criteria: In Romania the principle "*restitutio in integrum*" is applicable according to which a person who caused a damage to another person is obliged to compensate that person for its entire damage. Therefore, such costs can be compensated if they are necessary, in direct causal link with the accident and proven with supporting documents.

4.9. Does the claimant have right to compensation for pre-financing costs related to a vehicle damage (for instance borrowing money because of an accident)?

Yes

No

If yes, please specify the criteria: In Romania the principle "*restitutio in integrum*" is applicable according to which a person who caused a damage to another person is obliged to compensate that person for its entire damage. Therefore, such costs can be compensated if they are necessary, in direct causal link with the accident and proved with supporting documents.

4.10. Does the claimant have right to compensation for general costs (i.e. telephone and mailing costs, administrative costs, etc)?

Yes

No

If yes, please specify the criteria: In Romania the principle “*restitutio in integrum*” is applicable according to which a person who caused a damage to another person is obliged to compensate that person for its entire damage. Therefore, such costs can be compensated if they are necessary, in direct causal link with the accident and proven with supporting documents.

4.11. Any other instances/cases which are covered?

Yes

No

If yes, Please specify. Court expenses, stamps duties of the injured party or related costs when the claim is settled in front of a court or through on alternative dispute resolution for consumer disputes if the solution is favourable to the injured party;

4.12. How can the claimant claim recovery for damages if the responsible vehicle is uninsured?

Please specify. In such cases BAAR, in its capacity as Guarantee Fund (art.10 of the Directive 2009/103/EC), has the obligation to compensate the injured parties, residents in a Member State.

5. Personal Injuries and death – Claims (GCB/GF/CB)

For the following sub-items please state the different possibilities for a claimant to file a claim against a MTPL-insurer for bodily injury. Please specify for each question when applicable.

5.1. Does the claimant have right to compensation for costs of medical treatment?

Yes.

No.

Please specify. Click or tap here to enter text.

5.1.1. Does your national law make a distinction between public and private healthcare?

Yes.

No.

Please specify. Public National Healthcare Security Fund covers a minimum medical/healthcare services package regulated by several norms (primary and secondary legislation) and only when the treatment/healthcare is provided in the medical public system and in the medical private system only if the private healthcare provider has a contract concluded with the National Health Insurance House in this respect.

5.2. Does the claimant have right to compensation for costs of care and increased needs due to an accident?

Yes.

No.

Please specify. General provision in the Civil code stipulates the principle that the damage shall be repaired in full and the injured party is entitled to full compensation that means *damnum emergens* and *lucrum cessans*. It will also be possible to award compensation for a future damage if its occurrence is unquestionable. According to the special MTPL regulations, policy covers any expenses incurred in connection with the accident, such as the costs of transporting the injured party as a result of bodily injury, treatment, hospitalization, recovery, prosthesis, supplementary feeding, according to medical prescriptions, proven by supporting documents, expenses with personal assistants if this is recommended by the medical certificate, but not more than the minimum gross salary in the economy and other expenses which are not supported by the social insurance funds (E.g.: Public National Healthcare Security Fund).

5.3. Does the claimant have right to compensation for disability?

Yes.

No.

Please specify. Please see the answer from point 5.2

5.4. Does the claimant have right to compensation for pain and suffering?

Yes

No

If answered yes, how is the amount of compensation assessed (fixed sum, tables, court)? Please specify. Usually, on amicable bases, the insurers use their own procedures and internal tables based on historical data and/or jurisprudence/case-law and/or other tools - i.e. „Guide for moral damages settlement” drawn-up by the former Romanian GF (now BAAR). In court, the judge is the only one who is empowered to assess the amount based on the circumstances and consequences of the accident, situation of injured party/parties, the administered evidence/proofs and case-law.

5.5. Does the claimant have right to compensation for loss of earnings?

Yes.

No.

Please specify. The amount of compensation is the difference between the net income of the bodily injured party and the allowance received from his employer or/and social security funds state/pension funds if the injured party is employee. The average monthly net income earned in the last year from activities carried out by the injured party, if he isn't employee. The minimum gross salary per economy, in the case of injured party as a result of his bodily injury for persons with no income. The compensation is due for all period in which the injured party is unable to carry out his activity or, in case of diminishing of the work capacity, for all active life proportional with this diminution.

5.6. Does the claimant have right to compensation for loss of future earnings?

Yes.

No.

Please specify. Pursuant to Romanian Civil code, the compensation must include the loss suffered by the injured party, the earnings which he would have been able to gain under normal circumstances and which he was deprived of. If the consequence of an accident consists, also, in the loss of the chance to obtain an advantage or to avoid a damage, the compensation will be proportional to the probability of obtaining the advantage or, as the case may be, of avoiding the damage, in consideration of the circumstances and the concrete situation of the victim. In practice, such compensation is granted in a lawsuit not in amicable settlements.

5.7. Does the claimant have right to compensation for loss of dependency (for instance a victim is fatally injured in a traffic accident and leaves a spouse/children behind)?

Yes.

No.

Please specify. The dependant members of the family of the deceased persons are entitled to receive based on MTPL policy survivor's pension in certain condition. For instance, children are beneficiaries of such pension up to their age of 18 years and above but not more than up to the age of 26 years if they continue their studies.

5.8. Does the claimant have right to compensation for funeral expenses?

Yes.

No.

Please specify. In amicable settlement these expenses must be provided with supporting documents. In lawsuits, judges accept usually as evidence for expenses, besides supporting documents, witnesses' statements

5.9. Does the claimant have right to compensation for moral damages (limitations in life, loss of quality, etc)?

Yes.

No.

Please specify. In Romania, pain and suffering, limitation of life, loss of quality etc. are subject of the same legal treatment from the perspective of moral damages and their coverage. What differs is the level of the compensation granted in consideration of the previous mentioned elements which actually affect the injured party.

Is it part of the pain and suffering according to your national law?

Yes.

No.

Please specify. Please see the answer from point 5.4 and previous explanations

5.10. Does the claimant have right to compensation in case of aggravation of the damage suffered?

Yes.

No.

Please specify. Please see the answer from point 5.2. Usually, such compensation is granted by courts

5.11. Are relatives/next of kin entitled to compensation (tort, pain and suffering, other)?

Yes.

No.

Please specify. Ascendants, descendants, brothers, sisters and husband/wife are entitled to be compensated for the pain and suffering caused by the death of their relative/husband/wife. In practice, some courts granted compensation for such relatives even in the case of heavy bodily injuries of another member of the family (e.g. tetraplegia).

5.12. Any other cases? Please specify.

Romanian Civil code regulates also the possibility for anyone to be compensated for moral damages if he could prove the existence of such damage in case of death of a person. In practice, these cases are very rare (e.g. – partner of the deceased person)

6. Claims Settlement Procedures – in and out of court (GCB/GF/CB)

This section is aimed at all three organisations. You are invited to complete this section in cooperation amongst your organisations, if applicable. Only one common answer is expected to be provided.

6.1. What evidence is considered as acceptable/lawful in your country? More than one of the following options can be selected.

- Constat amiable (European Accident Statement)
- Police report
- Pictures
- Witness statements
- Medical statements
- Other

Please specify in detail: According to the Romanian Code of civil procedure, proof of a legal act or fact may be provided by documents, witnesses, presumptions, confession of one of the parties, made on its own initiative or obtained at interrogation, by expertise, by means of material evidence, by on-the-spot investigation or by any other means provided by law. In the specific case of a traffic accident covered by an MTPL/Green Card policy, for the settlement of claims, the evidence provided and/or obtained must prove: the right of compensation for the claimant, the liability of the owner/driver covered by an MTPL/Green Card policy, the damage/loss, the causal link between accident and damage suffered by the injured party.

6.2. Out of court settlement

6.2.1. What are the conditions for filing a claim according to your national law? Please specify in detail:

Depending on the circumstances (place of accident, state of registration of the cars involved, citizenship of the victim), the injured party must present his claim for compensation directly to the insurance undertaking of the person who caused the accident or to its claims representative or to national bureau or the correspondent of the insurance undertaking of the person who caused the accident or to the guarantee fund or to the compensation body in his home residence state. The conditions are as follows: the damage is the

consequence of a vehicle accident, the event is covered under MTPL national law, the injured party is entitled for compensation based on the evidence provided/obtained

6.2.2. Do you require proof for the following 3 indicators and please specify in detail (including limitations):

- **Proof of involvement – including the recording/requirement of the accident (i.e police report, constat amiable, etc.)**

Yes

No

Please specify. In Romania, the settlement of claims based on EAS is available only when all of the following criteria are met: 1. only two vehicles are involved in the accident and 2. both vehicles are insured with valid MTPL policies and 3. the consequences of the accident consist only in the material damages to the two involved vehicles and 4 the drivers of the two involved vehicles both agree to conclude and sign an EAS. In all other cases, the police report is mandatory. If the action falls under provisions of criminal law, procedural acts of the prosecutor or/and courts can be also a proof of involvement.

- **Proof of damage**

Yes

No

Please specify. Please see the answer from point 6.1.

- **Proof of causal link between liability and damage**

Yes

No

Please specify. Please see the answer from point 6.1.

6.2.3. Is a visiting victim required to file a report about the accident to the local authorities before returning to the State of residence?

Yes

No

Please specify. It depends on the accident consequences. If there are involved only two insured vehicles in the accident and the damage consists only in the material damages of only these two vehicles, it is enough if both drivers involved fill and sign an EAS. In all other cases (e.g.: bodily injuries, three cars involved, damage of other goods belonging to other persons – houses, fences etc.) it is mandatory to contact the competent traffic police station within 24 hours from the accident, if the police didn't come to the place of the accident.

If they fail to do so, does that exclude the visiting victim from filing a claim for compensation?

Yes

No

Please specify. Any person who considers himself entitled for compensation due a traffic accident has the right to claim it, but problems may occur in the handling of the claim's process due to the lack of objective evidence provided by the claimant. Usually, insurers will not settle the claim on amicable basis without an EAS, in those cases where the law allows the use of an EAS, or without a police report/statement.

6.2.4. Which are the conditions according to your national law in considering a vehicle as identified? Please specify in detail.

There are no specific conditions in this respect. Any vehicle is identified if it results from the evidence and one knows the registration number. On the other hand, an accident caused by a vehicle which has remained unidentified is an accident in which that vehicle collided directly with the injured person or with the property which it damaged, after which it left the scene of the accident.

6.2.5. Are there any other requirements for filing a claim?

Yes

No

If yes, please specify in detail. [Click or tap here to enter text.](#)

6.2.6. Are legal fees for out of court settlements reimbursed?

Yes

No

If yes, how are these fees assessed/calculated? [Click or tap here to enter text.](#)

6.3. Court settlements

6.3.1. What are the requirements when filing a claim in relation to civil and/or criminal proceedings? Please specify in detail:

In the civil proceedings, a claimant fills a writ of summons against the defendant (insurer, BAAR/Correspondent in the name of the insurer) which must fulfil certain requirements regulated by the Romanian Civil procedure code such as: (i) the coordinates of the parties and their representatives in the lawsuit (name, address of domicile/residence/office, tax identification code, other elements such as, for e.g.: the registration number in the Trade Register or the registration in the register of legal entities and the bank account, if they are known by plaintiff), (ii) object of the claim and its value, (iii) the reasons of fact and of law on which the claim is based, (iv) showing the evidence on which each head of claim is based.

In the criminal proceedings, an injured party may join the criminal proceedings as a civil party, which means that they bring their civil action as part of the criminal proceedings against the offender and, by case, against the party liable under civil law (e.g. insurer). This operation can be done until the commencement of the judicial investigation in front of the court. Joining the criminal proceedings as civil party shall be made in writing or orally, showing the nature and scope of the claims, the reasons and the evidence on which they are based.

6.3.2. What legal remedies are available (possibility of appeal, etc.)? Please specify in detail:

For the time being, in insurance matters, the decisions of the first court can be appealed both in civil and criminal procedures. In case of injured parties in traffic accidents with uninsured or unknown vehicles, the jurisprudence in civil cases isn't unitary, some courts considering that in such cases parties are allowed to challenge also a recourse (second appeal). The law also regulates some extraordinary remedies but in certain cases and they are not very usual in insurance litigation mainly in criminal proceedings.

6.3.3. How do you handle any costs in connection with proceedings in and out of court and please specify the types of costs (lawyers fee, legal fees, court experts, translation, etc.)? Please specify in detail.

Out of court (arbitration/mediation, etc.): Expenses incurred by the claimants with lawyers, experts and so on in out of court proceedings are not covered.

In court: Any such expenses which are granted by the court in favour of the claimants and against insurers are covered.

6.4. Any other procedure of settlement? Please specify.

N/A

7. Involvement of National Guarantee Funds (GF) EEA/Non-EEA

This section is aimed only at Guarantee Funds. Please only provide answers to this section in your capacity as Guarantee Fund.

7.1. In which cases does your National Guarantee Fund intervene (stolen vehicles, intent, etc.)? Please specify in detail. (Article 11 MID).

Romanian Motor GF (BAAR) intervenes in accidents caused - with or without intention - by uninsured or unknown vehicles but not in accidents caused by stolen vehicles with a valid mtpl policy. In these cases, of accidents caused by stolen vehicles the insurer (if the stolen vehicle was insured) or the GF (if the stolen vehicle was uninsured) will not cover/provide compensation for damages caused to persons or goods in the stolen vehicle liable for the accident, if the MTPL insurer or the GF can prove that the injured parties were aware of the fact that the vehicle was stolen.

7.2. What is the procedure (including any specific requirements) to be followed by a claimant when filing a claim to your national Guarantee Fund? Please specify.

The procedure is the same like the one in relation to an mtpl insurer and settlement is also similar, these being provided by law. Please see the answer from point 6.2. One can notify/file a claim via the form which can be found on BAAR's website www.baar.ro.

7.3. Can a claimant who is resident in a foreign country make a claim against your National Guarantee Fund? Please specify.

Yes, if he is a resident in an EEA Member State.

7.4. Are there any exceptions when handling a claim for uninsured and/or unidentified vehicles (excess, property damage only when bodily injury, severity of bodily injuries, passenger voluntarily entering an uninsured vehicle, other)? Please specify in details.

In hit-and-run cases (unidentified vehicles), damage to property is covered by BAAR as Motor GF only if in the accident at least one person has suffered severe bodily injuries - B.I. and only for the sums above the deductible of 500 Euro. Severe B.I. are those = when at least one injured person needs more than 60 days of medical care. Additionally, please see the answers from point 1.8. and 7.1.

7.5. Does the statute of limitations mentioned above under "Applicable Law" apply for the National Guarantee Fund or are there any exceptions?

Yes

No

If yes, Please specify. Yes, without any exception.

7.6. Involvement of the Guarantee Fund or any other bodies responsible for insolvencies for protection of victims in case of insolvency of an MTPL insurer? / Insurance Guarantee Scheme

When does this intervention mechanism start its intervention? Only one option can be selected.

- The insurance undertaking is subject to bankruptcy proceedings
- The insurance undertaking is subject to winding up proceedings
- The insurance undertaking has had the authorisation withdrawn
- After withdrawal of the authorisation

Please specify. As from the date of withdrawal of the authorization by the Decision of Financial Supervisory Authority (ASF), an insurer can no longer perform insurance activity (neither underwriting new policies nor handling claims) for any insurance class, so neither for class 10 - compulsory MTPL insurance. It is important to highlight that in Romania there was set up by law a dedicated body entrusted with the task of providing compensation for insurer creditors of any insurer from which the authorisation has been withdrawn, no matter what insurance classes it has underwritten. This body is named Fondul de Garantare a Asiguratilor – Insureds Guarantee Fund (FGA). An insurer creditor is that person entitled to ask for compensation in consideration of a policy issued by that insurer with the authorization withdrawn. After 60 days from the date of publication in the Official Journal of Romania of the decision of the ASF to withdraw the authorization and ascertain the existence of indications of insurer insolvency, FGA is entitled to pay compensation for insurance creditors who have completed the administrative procedure in front of FGA according with the law. The compensation amount is capped at a maximum level of aprox.100.000 euro on a policy for each insurance creditor. For accidents caused in states having a National Bureau part of the Green Card System with vehicles registered in Romania and covered by an MTPL insurance policy issued by an insurer before the withdrawal of its authorization by ASF, BAAR, in its capacity as guaranteeing bureau, takes the obligation for compensation pursuant to IR and EM provisions.

7.7. Stolen vehicles- 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, they are excluded.

According to Romanian Law such an intervention is excluded from the coverage of valid MTPL insurance policies in case of stolen vehicles. Therefore, such people are also excluded from the intervention of the Motor Guarantee Fund (BAAR) in case of accidents caused by uninsured stolen vehicles.

8. Involvement of Green Card Bureaux (GCB)

This section is aimed only at Green Card Bureaux. Please only provide answers to this section in your capacity as Green Card Bureau.

8.1. What is the procedure (including any specific requirements) to be followed by a claimant when filing a claim to your national Green Card Bureau? Please specify.

Please see the answer from point 7.2. In case a foreign insurer of the “liable” vehicle has a correspondent in Romania, the claimant is guided to address to that correspondent for filing a claim.

8.2. Does a claimant resident in a foreign country have a direct right of action against the local Bureau of the country of accident or the agent/ insurer representing the Bureau?

Yes

No

Please specify. Click or tap here to enter text.

8.3. Are there any other considerations that claimants should bear in mind? Please specify.

N/A