

Guarantee Fund Compendium

E – Spain

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General information

Please provide the official full name of your Guarantee Fund.

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

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

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.

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

1.2. What is the legal nature of this body?

Public Entity attached to the Ministry of Economy and Competitiveness.

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

Law:

- The Legal Statute of the “Consortio de Compensación de Seguros” (hereinafter CCS) passed by the Spanish Parliament.

- The Law relating to civil liability and motor vehicle insurance.

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?

1.7. If yes, please indicate the VAT number:

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

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 CCS exercises the right of recourse in the same way as is contemplated for the insurance entities according to article 10 of the Law relating to civil liability and motor vehicle insurance. The CCS may also seek recourse against the owner and person responsible for an accident in the case of an uninsured vehicle, or against those who steal a vehicle that causes an accident, as well as the person responsible for the accident who is aware that the vehicle was stolen.

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?

Yes.

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.

In the case of accidents caused by unidentified vehicles the CCS shall pay compensation for damage to property if severe bodily injury resulted, considered to be severe personal injury: death, permanent incapacity or temporary incapacity which requires, at least, hospitalization for 7 days or more.

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.

There is no distinction as to the significance of the material damages. The damages are paid in full (an excess of no more than € 500 could legally be applied, but it is not in force) if the bodily injuries are severe.

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.

The affected party or his/her heirs may exercise direct action within one year. The limitation period doesn't run from the date when the damage was caused but from the date when it can be quantified the amount of the claim.

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.

The Guarantee Fund, which is the CCS.

It falls upon the CCS within the territorial scope and up to the quantitative limit of the mandatory insurance, to effect payment of the indemnities because of damage to persons and property when controversy arises between the CCS and the Insurance Entity over who ought to indemnify the affected party. If it is eventually agreed that the company must settle the claim, the CCS can recover its outlay plus legal interest calculated from the date of payment of the compensation, increased in 25 % of same.

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 CCS shall pay compensation for any damage to persons and property caused by an insured vehicle that has been stolen. Excluded are damages to the people or the property of the people who voluntarily occupied the vehicle that caused the loss knowing that the vehicle was stolen, as long as the CCS can prove that they were aware of such circumstances.

Damages to persons and property caused in another Member State by an insured vehicle normally based in Spain which has been stolen shall be compensated by the CCS when the national Guarantee Fund of the Member State where the accident occurred doesn't assume functions of compensation for damages caused by stolen vehicles.

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?

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, as long as the CCS can prove that they were aware of such circumstances.

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

Besides the above mentioned functions whereby the CCS pays compensations to victims of unidentified, uninsured and stolen vehicles, as well as in the cases of dispute between the CCS and the civil liability insurer, the additional functions are the following:

- Insurance entity that is insolvent or in liquidation: damages to persons and property when a Spanish insurance undertaking has been dissolved or has become insolvent, and is undergoing winding-up proceedings or is being liquidated by the CCS itself. It includes business underwritten in Spain or abroad.

- Affected parties resident in other Member States of the European Economic Area: reimbursement of the compensations paid to third parties by the corresponding compensation entities, in the cases set out under the 4MID.

- Vehicle imported into Spain from another Member State of the European Economic Area: damage to persons and property, as long as the vehicle is not insured and the accident has occurred within a period of 30 days from the date on which the purchaser has taken delivery of the vehicle.