

Motor Insurance indemnity limits: Comparison of Greek, French and Texas jurisdictions

PEOPIL - Road Traffic Accident Conference

Thessaloniki

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I. Liability Rules & Damages in Road Traffic Accidents

A brief summary of liability and damages principles compared in Greek, French and Texas jurisdictions



France

A legal scheme favourable to the victims

- Strict liability rules = Act n°85-677 of 5 July 1985 (said “*Loi Badinter*”)
- Exclusively applicable
- 3 conditions (Art. 1) with broad construction by French courts
 - i. Traffic accident
 - ii. Land motor vehicle
 - iii. Involvement of the vehicle in the accident
- Available defences:
 - The defendant is not entitled to invoke an act of God or a third-party intervention (Art. 2)
 - The defendant may invoke contributory negligence in a limited way (Art.3), depending upon the category of victim (driver / non-driver aged between 16 and 70 / non driver aged less than 16 or more than 70 or disabled)
- Compensation of direct and indirect victims – assessment based on Dintilhac Classification (but no schedule)

Greece

- “Strict Liability” – Law ΓπΝ’/ 4.12.1911 “*About the criminal and civil liability deriving from vehicles*”
 - ‘mechanical’ vehicle
 - during its operation
 - NOT for collision between 2 or more vehicles
 - NOT for the passengers of the liable vehicle (exception buses)
 - liability of driver & owner for compensation
 - defences (a) force majeure, (b) fault of the victim, (c) fault of a third party
 - Contributory negligence of both parties – General tort law
 - Limitation 2 years

Greece

- General Tort Law

1. Civil Law system

2. Fault-Based Liability

3. Comparative Negligence (contributory negligence of the parties)

4. Damages – compensation of the loss suffered

- Pecuniary Damages (medical expenses, loss of earnings, property damage etc)

- Non – pecuniary Damages (pain and suffering)

5. Limitation – 5 years from the accident

USA [Texas]

Texas is the Wild West

- Insurance company does not have to pay unless the plaintiff proves negligence by preponderance of evidence.
- Negligence is a reasonable person standard meaning what duties does the driver “As a Reasonable Person” have to the Plaintiff and others to drive with reasonable care so as not to cause an accident and did the defendant breached his duty of care in causing the accident. Did this result in damages.
- Legal facts such as speeding, driving inattentively, and running a red light are examples of negligence.

II. Motor insurance

EU/US systems compared



Comparison of general principles

EU : Motor insurance directive

The directive does not regulate issues on liability or on compensation => left with member States, but provides a set of rules on motor insurance that are applicable within all member States

- All motor vehicles in the EU to be covered by compulsory third party insurance
- No border checks on insurance within EU
- In case of personal injury, the minimum amount of cover is now [€1,220,000] per victim or [€6,070,000] per claim, whatever the number of victims
- Mechanism to compensate local victims of accidents caused by vehicles from another EU country

US: All States have their own distinct insurance laws which apply; except for Federal Motor Carrier Safety Act (safety standards for interstate commerce)

I. States Compared

- If resident in Texas with Texas insurance, but accident in Louisiana, then Louisiana law applies.
- Insurance limits are different
- Parties sued are different
- Damage model is better in Louisiana, because paid and incurred does not apply

II. Federal Motor Carrier


Standardized national safety rules for interstate trucking



Out of Control: Houston's roads, drivers are nation's most deadly

Six hundred-forty people a year die on Houston-area roads, and 2,850 more are injured badly enough to go to a hospital. The carnage, all factors considered, makes the nine-county region the most dangerous major metro area for drivers in the United States, a Houston Chronicle analysis reveals.


OUT OF CONTROL HOUSTON CHRONICLE



Authorities investigate the scene of single-vehicle crash, where two people died, on the Interstate 69 HOV off-ramp near Townsen Boulevard Tuesday, June 12, 2018, in Humble, Texas. (Godfredo A. Vasquez / Houston Chronicle)

TUESDAY, 11:43 p.m.

In Conroe, just a few minutes before midnight, James Martinez lost control of his Nissan Maxima on State Road and crashed into a



Date	Tuesday, June 12
Time	1:55 p.m.
Address	Interstate 69 HOT lane T-ramp at Townsen
Victim	Ronald and Kimberly Willhide

www.houstonchronicle.com

Insurance limits

Greece	France	Texas
<p>Since 01/01/2022, Decision 195/3/29.11.2021 of the Bank of Greece, the lowest possible insurance coverage is:</p> <ul style="list-style-type: none">-1.300.000€ per victim, for damages related to personal injury- 1.300.000€ per accident for material damages <p><i>(previous limit in both cases was 1.220.000€)</i></p> <ul style="list-style-type: none">- Legal Costs & Interest are not included in the limits	<p>In the case of personal injury: no limits (Art. R.211-7 of the insurance code)</p> <p>In the case of material damage: no less than € 1,3 million per claim irrespective of number of victims (Art. A.211-1-3 of the insurance code)</p>	<p>Mandatory Minimum is 30/60</p> <p>Can get more coverage on your own volition- increased monthly premiums</p>

III. Special occasions

Discussion on several specific subjects related to RTAs and insurance limits in the case of personal injury

What happens if...?

	Greece	France	USA
There are several insurers? (collision of more vehicles)	The claimant can chose to claim from any of the insurers involved for the total amount of the claim.	Victim has the choice to sue any of the motor insurers <i>involved</i> in an accident (Badinter Act) + direct right of action (art.L.124-3 insurance code)	Take your pick- choose the right one
What about subrogation?	<i>in case more than one persons/parties have sustained damages and the total amount of the compensations that are due exceeds the insurance limit, then the right of each one these persons against the insurer is reduced pro rata, up to the completion of the full insurance cover</i>	Insurer, social security organism, etc. can make a subrogated claim	Texas has statutory i.i. for hospitals and contractual for health insurance
What about contribution?	If there is contributory negligence the amounts of compensation will be reduced accordingly The party that paying in full can claim from the rest liable parties the share of responsibility	A motor insurer who paid full compensation to a victim is entitled to seek the share from driver/insurer of another involved vehicle, from a person who caused the accident, or a person who aggravated the prejudice (e.g. clinical negligence)	At time of trail jury makes the decision, but if Plaintiff is 51% responsible or more, then no recovery

What happens if...?

	Greece	France	USA
A cross-border accident took place?	<ul style="list-style-type: none"> • Insurers appoint a correspondent in each Country • Motor Insurers' Bureau of Greece (MIB) • Hellenic Information Center (HIC) 	EU mechanism is applicable: obligation to appoint a correspondent in the country of the victim. In France: Bureau Central Français	Home state rule - the State where the accident occurred controls the Policy Limits
A State/Public entity vehicle is concerned?	Public vehicles are not insured – the State will cover the compensation of the victims No limit of coverage	<ul style="list-style-type: none"> - State vehicles: no need to be insured (Art. L.211-1 insurance code) - Other public entities vehicles: same rules on insurance 	Sovereign Immunity available to government vehicle such as police vehicle or metro bus. Exception found in Texas Tort Claims Act with limitations.
A lorry (18-wheelers) is concerned?	Same rules apply	Same rules on liability and insurance Applicable to trailer	Depends on Policy Limits
If the insurer does not cover full compensation?	The liable person/driver is liable for compensation. Alcohol/drug etc – the insurance covers the claim but can recover from the liable party afterwards	Not applicable in the case of personal injury	Homestead Act protects Debtors as well as bankruptcy

IV. Auxiliary funds



When can an auxiliary fund be triggered?

Greece	France	Texas
<p>Auxiliary Fund – <i>Epikouriko Kefalaio</i> Only if the claimant cannot claim from another party</p> <ul style="list-style-type: none">-Liable person/vehicle unknown-Vehicle without insurance-insolvency of the insurer <p>•Application to the EK before the lawsuit</p> <p>•Passengers that knew that the vehicle was not insured are not covered</p> <p>•Limit of 100.000€</p> <p>•Supreme Court - <i>violation the principle of proportionality between damages and compensation</i></p>	<p>A special guarantee funds may under certain conditions compensate victims of RTAs = <i>Fonds de Garantie des Assurances Obligatoires</i> (FGAO). Its intervention is subsidiary: it will compensate the victim, only if the victim establishes that he/she cannot be compensated by anybody else. It can be triggered <i>inter alia</i> when the third-party involved in the RTA:</p> <ul style="list-style-type: none">• is unknown - having fled; or• if he is identified, he is not insured;• if he is identified and insured, he is not able to obtain the guarantee of the insurer who raised a valid exception enforceable against the victim, or;• if he is identified, insured and effectively covered, in the event of a failure of his insurance. <p>Limits: same as insurers</p>	<p>In general No - only when an insurance company files for bankruptcy or liquidated by the State of Texas</p>

ΕΥΧΑΡΙΣΤΟΥΜΕ!
(Thank you!)

The speakers



Valérie Augros ~ **Avocat**

Valérie Augros set up her own legal practice dedicated to travel and aviation law.

She assists businesses in the travel industry (such as airlines, travel agents, TMCs, etc.) in their daily activities and she represents them in their disputes with customers or other professionals.

Valerie Augros also provides legal assistance to individuals who sustained personal injuries during their travel. She has an extensive experience in cross-border personal injury matters and in particular in holiday accidents claims. She often advises European citizens who sustained injuries or any incident during their journey in France.

She regularly provides expert written opinion for the assistance of foreign courts requiring evidence on French domestic law in travel disputes of any description (including personal injury disputes).

contact@va-avocat.fr

The speakers



Ben is fourth generation Texan. Practicing for 30 years the majority of the firm's clients are Spanish speaking injured parties from Mexico, Central America, and South America. "We are all bilingual" and one of the firm's attorneys is licensed in Spain.

Our firm focuses primarily on catastrophic injuries such as paraplegia and traumatic brain injuries cases. Many of the cases also require surgical intervention.

Ben has a daughter residing in the NL, and he would to slow down and live part-time in Greece.



The speakers



Paschalis Moschos is a member of Pavlakis-Moschos & Associate Law Firm since 2014. Graduated from the Faculty of Law of the National and Kapodistrian University of Athens, Greece in 2014. Obtained a master's degree from the University of London, Queen Mary and Westfield College, Faculty of Law (LL.M., 2009) focusing on the International Commercial Law, Medical Negligence and Cyberspace Law. Was admitted to the Athens Bar Association in 2016 and was promoted to practice before the Court of Appeal in 2020.

He specializes, among other things, in the representation of victims of labor, maritime and road traffic accidents. He has been extensively involved in handling maritime cases and claiming compensation on behalf of injured victims.



He is also actively involved in handling accidents which occur during leisure and holidays (such as tourist and consumer accidents in general), as well as handling cases involving serious health damage caused by long-term occupational exposure to asbestos.