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SCIENCES**

**ABSTRACT OF THE PHD THESIS**

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**THE POSSIBILITIES OF THE DEVELOPMENT OF  
COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE**

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# 1. SUMMARY OF THE RESEARCH TARGET

The compulsory motor vehicle liability insurance has an important role within the non-life insurance branch in terms of both the contract portfolio<sup>1</sup> and the revenue<sup>2</sup>. Consequently, the compulsory motor vehicle liability insurance exercises a considerable influence on our everyday life, whose rules have an effect not only on the relationship between the insurer and insured but also on the relationship between the aggrieved party and the liability insurer of the tortfeasor, since it is important for the aggrieved party to receive just and fair compensation within a reasonable period of time. This does not relate to Hungary only, but the situation is the same in the European Union and in the European Economic Area<sup>3</sup>, as well.

In connection with the provisions of the compulsory motor vehicle liability insurance not only the national legal regulations and judicial practice need to be examined, but also the legal regulations and the judicial practice of the European Union have to be taken into account as a result of the motor insurance directives containing a broad field of provisions.

When I started to deal with this topic as a university student, I realised that there were several researches on tort law, however, the subject matter of the compulsory motor vehicle liability insurance was not caught in the crossfire of the scientific research. Thus, after having obtained my legal degree, I decided to study the problems of the compulsory motor vehicle liability insurance thoroughly both on a theoretical and on a practical basis as an attorney.

Taking into account that to my knowledge no PhD thesis has been written in Hungary in the subject matter of the compulsory motor vehicle liability insurance, yet; on the one hand, the aim of my research is to elaborate the history of the Hungarian provisions of the compulsory motor vehicle liability insurance and present the current legislation as well as make de lege ferenda proposals in the interests of the improvement of the legislation. In my PhD thesis I

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<sup>1</sup> According to the data of the Hungarian National Bank the number of the compulsory motor vehicle insurance contracts was 4,459,876 pieces at the end of 2015. This data was 4,245,476 pieces at the end of 2014, while it was 3,989,489 pieces at the end of 2009. Consequently, the trend is increasing. Source: <http://www.mnb.hu/felugyelet/idosorok/iii-biztositasi-piaci-szervezetek/biztositoi-idosorok>; downloaded on 27 February 2016.

<sup>2</sup> In accordance with the data of the Hungarian National Bank the revenue of the compulsory motor vehicle insurance was 96.322 billion Forints in 2015, while it was 81.939 billion Forints in 2014, it was 74.862 billion Forints in 2013 and it was 74.870 billion Forints in 2012. Therefore, it can be concluded that the insurance revenue hardly increased before 2015, while in 2015 a significant increase in the revenue can be established. Source: <http://www.mnb.hu/felugyelet/idosorok/iii-biztositasi-piaci-szervezetek/biztositoi-idosorok>; downloaded on 27 February 2016.

<sup>3</sup> The motor insurance directives are also applicable to the European Economic Area.

intend to deal with the special provisions (*lex specialis*) of the compulsory motor vehicle liability insurance which means that it is not the aim of my research to analyse the civil law background provisions.

On the other hand, my aim of research is to elaborate the evolution of the motor insurance directives of the European Union analysing the judicial practice of the European Court of Justice in detail relating to motor insurance directives. Moreover, it is an important aim of my research to formulate *de lege ferenda* proposals in the interest of refinement as to how the current motor insurance directive can be improved at the level of the European Union. Within this framework the aim of my research is to study the special rules of the motor insurance directives which means that I do not mention other European Union legislation in detail which may touch upon the motor vehicle liability insurance but only refers to general insurance provisions.

In my PhD thesis I search for the answer to the question whether the legal regulations in Hungary and in the European Union need to be improved and in case the answer to this question is affirmative, which provisions should be developed. I think taking the importance of the compulsory motor vehicle liability insurance into consideration it is useful to conduct such a research. It also plays a prominent role that the consolidated motor insurance directive<sup>4,5</sup> was adopted in 2009 within the framework of the European Union which is substantially the codified version of the provisions adopted until 2005; therefore it is high time for the European Commission to deal with this topic again and hence the results of my thesis may be utilised in the course of the EU legislation.

In the course of my research I came to the conclusion that although the highest level of harmonisation can be noticed in case of the compulsory motor vehicle liability insurance within the framework of insurance, the relevant provisions of the Member States are significantly different. Consequently, I do not find it a feasible solution even for a medium-

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<sup>4</sup> Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (consolidated motor insurance directive).

<sup>5</sup> In this thesis I also use the term consolidated directive as an abbreviated form of the Directive 2009/103/EC of the European Parliament and of the Council of 16 September 2009 relating to insurance against civil liability in respect of the use of motor vehicles, and the enforcement of the obligation to insure against such liability (consolidated motor insurance directive).

term that entirely uniform rules relating to the whole compulsory motor vehicle liability insurance will be adopted in the European Union and in the European Economic Area.

In my PhD thesis I examined the rules on the compulsory motor vehicle liability insurance which can be found in Hungarian legal regulations and in the European directives and their judicial practice. So I was unable to deal with the provisions of the green card system ó even if these provisions are interesting and important ó for the reason of extent and the analysis of the rules exceeded the framework of my thesis which are about the civil law compensation, i.e. about the questions under which provisions the tortfeasor is obliged to compensate the losses. Although, it is true that the French rules of *loi Badinter*<sup>6</sup> are rather interesting<sup>7</sup> but they are provisions relating to the legal basis of the claim that can be the topic of a separate essay.

In the second chapter of my thesis I dealt with the general questions of the compulsory motor vehicle liability insurance. Then, I set myself the aim to make a survey of and analyse both the Hungarian and the European Union rules and judicial practice. I am of the opinion that it is necessary to present and analyse the history of the Hungarian provisions and the practical questions raised at that time so that we could understand the present rules and practice. Consequently, the third chapter of my thesis contains the review of the Hungarian legal regulations firstly, then I analysed the present Hungarian legislation and the judicial practice. At the end of the chapter my thoughts on the development of the Hungarian legal regulations and my *de lege ferenda* proposals can be read since the main goal of my thesis is to elaborate my proposals for the purpose of improvements on the basis of my research results.

In the course of my research I drew the conclusion that there are significant differences between the rules on motor vehicle liability insurance of each state. Therefore, I did not strive for comparing the Hungarian provisions totally to the rules of one or more states but I saw the sense where appropriate that I would point out the existing different solutions relating to the given question which can be interesting for the development of the Hungarian legal regulations.

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<sup>6</sup> See the analysis of these provisions: Cannarasa, Michel: Personal injury compensation in France, in: Bona, Marco ó Mead, Philip: Personal Injury Compensation in Europe, Kluwer, Deventer, 2003, p. 180-181, .Lemor, Ulf D.: Ein weiterer Schritt in Richtung Europa, Versicherungswirtschaft, 2006. No 1, p. 18-24., Lábady Tamás: A felel sségbiztosítás jelenkori fejl dési tendenciái, Biztosítási Szemle, 1989. No. 2., p. 24-34.. és Lábady Tamás: Fejezetek a felel sségbiztosítás köréb 1, Szikra Nyomda, Pécs, 1989.

<sup>7</sup> In Belgium provisions which are similar to the French version are in force. See: de Kezel, Evelien: Personal injury compensation in Belgium, in: Bona, Marco ó Mead, Philip: Personal Injury Compensation in Europe, Kluwer, Deventer, 2003, p. 42.

In the fourth chapter of my thesis I set myself the target to present and analyse the legislation of the European Union. However, in order to perform this task it was required to introduce the Strasbourg Convention which Convention was not adopted within the framework of the then European Economic Community but within the framework of the Council of Europe. Nevertheless, this Convention had a great influence on the adoption of Council Directive of 24 April 1972 on the approximation of the laws of the Member States relating to insurance against civil liability in respect of the use of motor vehicles, and to the enforcement of the obligation to insure against such liability (72/166/EEC), i.e. the first motor insurance directive. After presenting the Strasbourg Convention my aim was to analyse the motor insurance directives and their judicial practice. At the end of the fourth chapter my theses concerning the development of the consolidated motor insurance directive can be found.

In addition, I also dealt with rules of Principles of European Insurance Contract Law, abbreviated PEICL, in the fourth chapter. The PEICL will not replace the national insurance contract law rules<sup>8</sup> but ó as the 29th European legal system ó it will be optional for the parties that can be applicable if the parties agree in this respect.<sup>9</sup>

The fifth chapter of my thesis is about the introduction of a future convention of the Economic Commission for Europe of the United Nations Organization (UN ECE) which is under preparation. Taking into account that the development of the convention is only in an initial stage I was able to give brief information on the main principles of the project and to point out how feasible it is in practice.

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<sup>8</sup> Fontaine, Marcel: An Academic View, in: Heiss, Helmut: Principles of European Insurance Contract Law: A Model Option Instrument, Sellier, Munich, 2011, p. 33.

<sup>9</sup> Locker, Leander D.: Insurance soft law? Versicherungsrecht, 2009. No 7, p. 294.

## **2. METHODS AND SOURCES OF THE RESEARCH**

On the one hand the sources of my research are comprised of Hungarian, foreign and European Union legal regulations. When I searched for the legal regulations which were in force previously, it played an important role that I had access to the printed compilations of legal regulations of the then Attorneysø Cooperative in Törökszentmiklós. On the other hand, the sources of the legal regulations are legal regulations from electronic databases. In the course of my research I made use of the Hungarian legal databases and the legal databases of other European countries which were accessible either free of charge or for a payment. I reached the European Union legal regulations in the legal database that can be found on the website of the European Union.

I also paid particular attention to the presentation of the judicial practice during my research which means that several judicial decisions can be found among the sources of my research. The reviewed judicial decisions originate from printed and electronic law reports as well as from my own practice. I did not restrict my research to Hungarian judicial decisions but I tried to enrich my thesis with foreign judicial decisions. Besides, I need to emphasise the decisions of the European Court of Justice to which I had access on the legal information portal of the European Union. I dealt with not only the judicial decisions of the European Court of Justice which were passed after the accession of Hungary to the European Union but I also reviewed the judicial decisions adopted previously which I needed to translate from English or German. When reviewing the judicial decisions of the European Union I made use of the Hungarian and foreign publications in which these judicial decisions were analysed.

In addition, the source of my PhD thesis is the Hungarian and foreign legal literature. Since I am fluent in English and German, my PhD thesis is based on the legal literature written in English or German that I obtained during my foreign researches beside the Hungarian legal literature which is mostly in Hungarian. I owe thanks to my supervisor and those Hungarian and foreign colleagues who drew my attention to various legal publications and books.

During my research I also reviewed the contractual terms and conditions of the compulsory motor vehicle liability insurance since I came to the conclusion that such questions and problems arose where it is advantageous for the demonstration to present the terms and

conditions of the insurance contracts. As far as the terms and conditions of the insurance contract are concerned, I downloaded them mainly from the websites of the insurance companies, but I also used the printed insurance terms and conditions which were elaborated as samples for insurance companies in the given country ó primarily relating to German insurance terms and conditions.

I started to search for the materials within the field of my research when I was a law student as in 2005 I took a one-month work experience at an English law firm when I made myself familiar with the activity of the English solicitors and I also had the opportunity to use the legal library of the law firm. In the first term of the academic year 2006/2007 I studied at the Faculty of Law at University of Potsdam as an ERASMUS scholar which was a great opportunity for me to gather legal materials and make notices relating to the topics in my spare time which are the basis of the PhD thesis. At the Faculty of Law at University of Potsdam I had access to a number of printed books and several online legal databases. By means of online legal databases I could reach and collect articles and judicial decisions besides legal regulations.

After obtaining my legal degree I studied the Hungarian and international legal literature, including the available electronic databases as well, within the framework of the PhD studies which were accessible at the given university. I conducted research in the library of the Faculty of Law of Károli Gáspár University of the Reformed Church, the Faculty of Law and Political Sciences of Pázmány Péter Catholic University and the Faculty of Law and Political Sciences of Eötvös Loránd University as well as the National Széchényi Library.

In 2012 I gained the scholarship for attorneys of Deutsche Stiftung für internationale rechtliche Zusammenarbeit e.V. based in Bonn where I took a six-week work experience in Germany. Besides, I undertook researches at the Faculty of Law of University of Bonn where I had access to printed and electronic books, articles and judicial decisions.

Moreover, I made use of the possibility of the Hungarian inter-library lending in order to obtain the legal literature. Since I live and work in Törökszentmiklós, I took the occasion of the inter-library lending through the Ipolyi Arnold Library, Museum and Cultural Centre based in Törökszentmiklós.

When elaborating the topic of the research I used the method of analysis, description, history and comparison primarily. I paid particular attention to present and analyse the history of the Hungarian legislation and to point out the problems of the judicial practice in connection with certain topics which problems are partially discredited but they have partially effect to the present legislation and practice. I analysed the current Hungarian provisions both from theoretical and from practical point of view; moreover, I studied the legislation in force in the respect whether there are any Hungarian provisions which are contrary to the consolidated motor insurance directive, i.e. whether failures of harmonisation can be proved from the part of the Hungarian legislator in connection with certain questions. The presentation of the evolution of the motor insurance directives was important for me in such a manner that I started the legal historical analysis with the Strasbourg Convention because this convention had enormous influence on the adoption of the motor insurance directives of the European Union. I also carried out an in-depth analysis of the judicial decisions of the European Court of Justice in connection with the motor insurance directives. In the course of writing the PhD thesis I drew particular attention to the presentation of the judicial practice beside the analysis of the legal environment. In addition I not only strived for presenting and analysing the judicial practice but I also pointed out relevant questions in such a manner that I examined the terms and conditions of the insurance contract. Although, it exceeds the limit of my PhD thesis to compare the Hungarian provisions totally to the rules of one or more states but where it seemed important and useful, I presented the rules of the given countries at least partially in order that I could come to a conclusion from a broader perspective.



### **3. SUMMARY OF THE SCIENTIFIC RESEARCH**

In my PhD thesis I wished to prove ó by means of the analysis and comparison of the previous Hungarian legal regulations, the present legal regulations and the provisions of other European countries ó that the improvement of the rules on the Hungarian compulsory motor vehicle liability insurance is required, moreover, they are contrary to the consolidated motor insurance directive in some points.

On the other hand, I wished to justify on the basis of my research that the amendment of the consolidated motor insurance directive or the adaption of a new, codified motor insurance directive is required.

The results of my research can be used in the practice in such a manner that the national provisions and the rules of the European Union can be amended and improved on the basis of my scientific results.

As a result of my research I make the following de lege ferenda proposals.

#### **3.1. Proposals relating to the Hungarian legal regulations**

*Who can conclude an insurance contract?*

It would be useful to amend the persons concerned who are obliged to conclude an insurance contract in such a manner that on the basis of the prior written consent of the operator or the owner registered in the motor vehicle registration certificate other operator and/or owner may also be entitled to conclude a compulsory motor vehicle liability insurance contract.

In addition, I propose in case of fleet insurance that within the framework of a recognised group of corporations the member defined in the agreement of the members participating in the group of corporations should also be entitled to conclude a compulsory motor vehicle liability insurance contract relating to the motor vehicles operated by all members of the group of corporations.

### *The question of alienation of the motor vehicle and the termination of insurance contract*

On the basis of the presented and analysed foreign provisions I propose that it would be useful to amend the Hungarian rules on the compulsory motor vehicle insurance in case of the transfer of ownership in the following manner:

In the event of the transfer of ownership of the insured motor vehicle the insurance contract will be transferred to the person acquiring the ownership at the time of the alienation. The person alienating the motor vehicle and the person acquiring the motor vehicle are obliged to report the alienation of the motor vehicle to the insurer. If the person alienating the motor vehicle and the person acquiring the motor vehicle fail to comply with this obligation to report within 30 days after the alienation, the obligations of the insurer terminate. It is the right and obligation of the insurer to adapt the insurance premium to the data of the acquiring person and to his bonus-malus grade from the effect of the date of alienation for which premium the alienating person and the acquiring person are jointly and severally liable in the current payment term. In case of alienation the insurer can terminate the contract in writing addressed to the acquiring person without reasoning with 30 days notice within 30 days after gaining knowledge of the alienation. The acquiring person can terminate the contract in writing without reasoning within 30 days after the alienation which can have an immediate effect or at the latest can last until the end of the insurance period. If the acquiring person takes out a new insurance contract and shows the document verifying the conclusion of the insurance contract to the motor vehicle registration authority, the previous insurance contract will be terminated at the date of the conclusion of the new insurance contract.

The risk of uninsuredness could be decreased by these provisions in case of alienation of the motor vehicle. Moreover, these rules could be applicable to the change of the operator, as well.

### *The legal problems of the insurance contract concluded for the same insurance period*

My proposal is that Section 10(1) of Act LXII of 2009 on Compulsory Motor Vehicle Liability Insurance (hereinafter referred to as Gfvt.) should be amended in such a manner that in case of the partial overlapping of the old and new insurance period the contract will be invalid (null and void) only for the overlapped period, namely the rule of partial invalidity should be applied.

*The failure of harmonisation relating to the minimum insurance cover*

According to the notice<sup>10</sup> of the European Commission published in the Official Journal on 9 December 2010 the minimum insurance cover has been changed. As a consequence of the review, the amounts laid down in the directive are increased from 1,000,000 Euros to 1,120,000 Euros, from 5,000,000 Euros to 5,600,000 Euros and from 1,000,000 Euros to 1,120,000 Euros. In addition, the amount of 1,120,000 Euros was increased to 1,220,000 Euros and the amount of 5,600,000 was increased to 6,070,000 Euros on the basis of the communication<sup>11</sup> of the European Commission dated 10 May 2016.

Under Section 13(1) of Gfbt., which is in force until 31 December 2016, the minimum insurance cover is 500 million Forints in case of damage to property and 1,600 million Forints in case of personal injury. According to the European Central Bank rate<sup>12</sup> of 314.13 Forints / 1 Euro as of 28 December 2015 500 million Forints equal to 1,591,697.70 Euros and 1,600 million Forints equal to 5,093,432.65 Euros.

After the publication of the communication of 2016 the Hungarian legislator determined the minimum insurance coverage in conformity with the communication of the European Commission dated 10 May 2016 on the bases of Act LIII of 2016 with the effect from 1 January 2017.<sup>13</sup>

Consequently, the Hungarian provisions relating to the damage to property correspond to the consolidated motor insurance directive as amended by the notice and the communication of the Commission. However, the minimum insurance cover for personal injury is under the amount specified by the directive until 31 December 2016 which means that there is a harmonisation failure from the part of the Hungarian legislator until 31 December 2016, since

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<sup>10</sup> OJ 2010/C 332/01.

<sup>11</sup> COM/2016/0246 final

<sup>12</sup> Source: <http://www.ecb.europa.eu/stats/exchange/eurofxref/html/index.en.html>; downloaded on 28 December 2015

<sup>13</sup> Section 13(1) of Gfbt. which is effective from 1 January 2017 stipulates: §In connection with an insurance event, the insurance company shall cover up to a Forint amount which is the equivalent of one million two hundred and twenty thousand Euros per claim in the case of damage to property, whatever the number of victims, and up to a Forint amount which is the equivalent of six million seventy thousand Euros per claim in the case of personal injury, whatever the number of victims, including all related claims arising out of the damage event, the costs of enforcement of the claim (including legal expenses) and interest for the period until the settlement payment is made.ö

the Hungarian provisions do not even correspond to the minimum insurance coverage of 5 600 000 Euros as specified in the notice of the European Commission dated 9 December 2010.

*Questions of the non-payment of premium and the termination of insurance contract*

Taking practical experiences into consideration as well, I deem it necessary to supplement Section 21(4) of Gfvt. with the provision that if the insurer fails to dispatch a notice concerning the termination of the contract in a verifiable manner, the insurance contract will not be terminated even in spite of the delayed payment.

*The obligation of the insurer to notify the bureau of insurance policy and the development of the procedure of the bureau of insurance policy*

According to Section 21(7) of Gfvt. ö[t]he insurance company shall satisfy its obligation of notification specified in Section 49 concerning the termination of the contract on the grounds of non-payment of premium as specified in Paragraph (4) above to the bureau of insurance policy records within eight working days from the date of termination of the contract.ö

In accordance with practical experiences ó in my opinionó the regulatory authority has to attach more importance to supervise effectively the insurers whether they perform this obligation.<sup>14</sup>

Under Section 45(2) of Gfvt.: öWhere the bureau of insurance policy records determines ó upon cross-referencing the motor vehicle registry with the insurance policy records carried out quarterly ó that a vehicle has no valid insurance cover, or if the authority vested with powers to check insurance cover discovers that a motor vehicle has no valid insurance cover, the competent district office of jurisdiction by reference to the operatorø home address (registered office) shall, upon receipt of notice from the bureau of insurance policy records or from the said authority, move to have the motor vehicle deregistered, excluding the motor vehicles exempted according to Paragraph (1) of Section 57/A.ö

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<sup>14</sup> According to the 2011 annual report of the Hungarian Financial Supervisory Authority it also paid particular attention to the supervision of the obligation mentioned by me. See Éves Jelentés 2011 (Annual Report 2011) p. 53, source: <http://www.mnb.hu/letoltes/pszaf-eves-jelentes-2011.pdf>; downloaded on 28 December 2015.

According to my experience the procedure prescribed by the above mentioned Section which means if the operator receives the decision from the district office, he immediately takes measures in the vast majority of the cases in order that there will be insurance coverage again. Therefore, I propose that the cross-referencing of the motor vehicle registry with the insurance policy records has to be carried out monthly ó taking the development of the computer sciences into account ó and thus the operator could receive the decision of the district office sooner, consequently the uninsuredness might be decreased or at least the period of uninsuredness could be lessened.

*The amendment of Section 27 of Gfbt.*

If the legislator wishes to apply the rules on non-contractual liability to the damage caused by motor vehicles, I deem it necessary to clarify the second sentence of Section 27 of Gfbt.

*Legal questions of Sections 32/A and 32/B of Gfbt.*

If the aim of the legislator was that the VAT can only be claimed provided that there is an invoice, my proposal is that following the German provision<sup>15</sup> the Civil Code should contain that the aggrieved party shall only be entitled to claim value-added tax as compensation if and to the extent that it is actually incurred. With regard to it I propose that Paragraph (2) Section 32/A of Gfbt. should be repealed.

As far as Section 32/B of Gfbt. is concerned, I deem it necessary to repeal the whole Section. I point out that the legislator repealed Section 32/B of Gfbt. with effect of 1 January 2017.

*The recourse claim of the manager of the Guarantee Fund*

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<sup>15</sup> The German Civil Code, namely the second sentence of Section 249(2) of Bürgerliches Gesetzbuch (Bürgerliches Gesetzbuch in der Fassung der Bekanntmachung vom 2. Januar 2002 (BGBl. I S. 42, 2909; 2003 I S. 738), das zuletzt durch Artikel 1 des Gesetzes vom 20. November 2015 (BGBl. I S. 2018) geändert worden ist) stipulates that: Bei der Beschädigung einer Sache schließt der nach Satz 1 erforderliche Geldbetrag die Umsatzsteuer nur mit ein, wenn und soweit sie tatsächlich angefallen ist. Translation: When a thing is damaged, the monetary amount required under sentence 1 [that is the amount of compensation ó added by me T. P. Cs.] only includes value-added tax if and to the extent that it is actually incurred. Source of the English translation: [http://www.gesetze-im-internet.de/englisch\\_bgb/englisch\\_bgb.html#p0746](http://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p0746); downloaded on 30 April 2016.

My proposal is that in case of the recourse claims specified in Section 36(8) of Gfvt. such a system should be elaborated which has a prevention effect but it would not follow the consequence that the situation of the operator or the owner with moderate means becomes impossible which means that the obliged person can perform the recourse claim within a reasonable period of time. I am of the opinion that an amount limited up to 5,000,000 Forints would be appropriate in such a manner that the recourse claim is not limited if the damage was caused intentionally and unlawfully. This limit should only be applied to consumer as specified in Point 3 of Section 8:1(1) of Act V of 2013 on Civil Code since I do not find it necessary for legal persons or other persons who are not consumers to make use of this limit.

#### *The question of filing a lawsuit against the Indemnification Body*

On the basis of the order of the European Court of Justice adopted in case C-541/11 and the analysis of the foreign legal regulations I came to the conclusion that Section 39(5) of Gfvt. is contrary to Article 24 of the consolidated motor insurance directive which means that I propose the amendment of this provision of Gfvt. in such a manner that if the requirements are met not declaratory action but action for condemnation can be initiated against the compensation body, according to the Hungarian term against the indemnification body.

#### *The question of excess*

On the basis of my research I find it possible that Gfvt. could be amended that in case of the agreement of the parties the party contracting with the insurer can undertake to pay an excess in such a manner that it does not have an influence on the aggrieved party. Furthermore, Gfvt. should contain the maximum amount of excess and the fact that there is no possibility to agree on the excess within the framework of general terms and conditions but the agreement on the excess should be fixed in the offer sheet. According to my proposal the legal consequence of failing to pay the excess would be as if the contracting party fails to pay the subsequent insurance premium.

#### *The question of direct claims settlement*

When the direct claims settlement is applied, this system is based primarily on the agreement concluded between the insurers, consequently I do not find it appropriate that the direct claim

settlement would be introduced in Hungary in such a manner that the legislator prescribes its detailed rules in a legal regulation. After the consultation process made by the Hungarian Financial Supervisory Authority it seems to me that there is no mutual understanding in the Hungarian insurance market in this respect, consequently I do not consider it reasonable for the time being to introduce the direct claims settlement.

### **3.2. Proposals concerning the provisions of the European Union**

#### *The question of unlimited cover*

On the basis of my research I make the proposal that unlimited cover for personal injury should be introduced. I do know that an appropriate transitional period is required both for the legislators and for the insurance market. Taking the transitional period of the previous directives into consideration as well, five years from the entry into force of the amendment or the new directive would be sufficient so that all the concerned Member States of the European Union and the European Economic Area can implement the rule of unlimited cover to their national law.

#### *The concept of significant personal injury*

In my PhD thesis I showed how differently the concept of significant personal injury is interpreted in the various Member States, therefore I propose that the directive should define the concept of the significant personal injury in the future in such a manner that it should mean the personal injury with a healing period of more than eight days or the significant personal injury should be determined if the accident was fatal.

#### *The question of the role of claims representative*

The European Court of Justice has decided in case C-306/12 that the claims representative is considered as an ex lege agent for service of process ó at least relating to the acceptance of the service of claim form ó in the lawsuit against the insurer represented by it, but it would mean a more unambiguous situation for those who need to apply these rules that the directive explicitly contains the right and obligation of the claims representative in the future that it is considered as an ex lege agent for service of process for the whole period of the lawsuit

against the insurer represented by it, except for the case when the foreign insurer instructed an eligible person other than the claims representative, for example an attorney at law for its representation in the Member State where the lawsuit is pending.

*The reimbursement of the attorney's fee*

My proposal is that the motor insurance directive should stipulate that the tortfeasor or his liability insurer reimburse the proved attorney's fee which is incurred at the aggrieved party and which is proportional to the work carried out according to law applicable to the legal relationship of compensation both in the course of the out-of-court settlement procedure and in the lawsuit upon the decision of the court.

*The question of compensation of damage in case of an articulated vehicle consisting of a towing vehicle and a trailer*

Taking the aspects of the aggrieved parties into consideration I propose that the liability insurers of the towing vehicle and the trailer should be jointly and severally liable for the damage caused by the articulated vehicle consisting of a towing vehicle and a trailer towards the aggrieved party, while the national substantial law applicable to the legal relationship of compensation should determine the question of liability between the towing vehicle and the trailer.

*The question of compensation in case of insolvent insurers*

As a result of my research I make the proposal that the introduction of the obligation on the indemnification instead of the insolvent insurers should be included in the amendment of the consolidated motor insurance directive or in a new directive, a special body should be created for this purpose, regulating the basic rules on indemnification (among others the exclusion of the application of excess in respect of the aggrieved party and declaring that a recourse claim can only be made against the insured person if the liability insurer could otherwise enforce a recourse claim against the insured person) and the provision that this body is obliged to satisfy the claim for indemnification of the aggrieved party if the operating permit was withdrawn by the supervisory authority or the application for liquidation of the insurer was



lodged by the eligible organisation so that the order of liquidation of the insurer does not need to be awaited.

*The question of limitation period of the claim for compensation*

I propose that the motor insurance directive should stipulate that the limitation period for the claims for compensation arising from road traffic accidents is at least four years which starts from the date of the accident.

#### **4. LIST OF PUBLICATIONS IN CONNECTION WITH THE FIELD OF RESEARCH**

##### *Professional articles*

1. A Magyar Jogász Egylet Biztosítási Jogi Szakosztályának 2007. november 28-i szekcióülése [*Session Meeting of the Insurance Law Section of the Hungarian Lawyers Association on 28th November 2007*] *Biztosítási Szemle 2008 No. 1*
2. A Magyar Jogász Egylet Biztosítási Jogi Szakosztályának 2008. március 26-i szekcióülése [*Session Meeting of the Insurance Law Section of the Hungarian Lawyers Association on 26th March 2008*] *Biztosítási Szemle 2008 No. 5*
3. Beszámoló a Magyar Jogász Egylet Biztosítási Jogi Szakosztályának 2008. június 4-i szekcióüléséről 1 [*Report on the Session Meeting of the Insurance Law Section of the Hungarian Lawyers Association on 4th June 2008*] *Biztosítási Szemle 2008 No. 10*
4. Beszámoló a Magyar Jogász Egylet Biztosítási Jogi Szakosztályának 2008. október 28-i szekcióüléséről 1 [*Report on the Session Meeting of the Insurance Law Section of the Hungarian Lawyers Association on 28th October 2008*] *Biztosítási Szemle 2009 No. 1*
5. Összefoglaló beszámoló a X. AIDA BUDAPEST Biztosítási Kollokviumról és a II. AIDA EUROPE Konferenciáról [*Summary of the X. AIDA BUDAPEST Insurance Colloquium and the II. AIDA EUROPE Conference*] *Biztosítási Szemle 2009 No. 2*
6. Habemus legem! (Az új gfb. törvényről 1) [*Habemus legem! (About the new Act on the Compulsory Motor Vehicle Liability Insurance)*] *Biztosítási Szemle January 2010*
7. A kötelező gépjármű-felelősségbiztosítás története Magyarországon 1959-től 2009-ig [*History of the Compulsory Motor Vehicle Liability Insurance in Hungary from 1959 to 2009*] *Biztosítási Szemle February 2010*
8. A Magyar Jogász Egylet Biztosítási Jogi Szakosztályának 2010. március 3-i szekcióülése [*Session Meeting of the Insurance Law Section of the Hungarian Lawyers Association on 3rd March 2010*] *Biztosítási Szemle March 2010*
9. A Magyar Jogász Egylet Biztosítási Jogi Szakosztályának 2010. május 5-i szekcióülése [*Session Meeting of the Insurance Law Section of the Hungarian Lawyers Association on 5th June 2010*] *Biztosítási Szemle May 2010*
10. Vermes Attila és Pataky Tibor: Beszámoló a XI. AIDA BUDAPEST Biztosítási Kollokviumról [*Summary of X. AIDA BUDAPEST Insurance Colloquium*] published on:

<http://www.aidahungary.hu/index.cgi?r=&v=&l=&mf=&p=11>Kollokvium\_beszamolo

11. Beszámoló az Európai Közlekedési Jogi Intézet és az AVUS Belgrádban 2011. május 5-én és 6-án megrendezett konferenciájáról [*Summary of the Conference of Institute for European Traffic Law and AVUS held in Belgrade on 5-6 May 2011*] published on:  
[http://www.aidahungary.hu/index.cgi?r=&v=&l=&mf=&p=-letoltes\\_beszamolo\\_belgrad\\_pataky\\_tibor.pdf](http://www.aidahungary.hu/index.cgi?r=&v=&l=&mf=&p=-letoltes_beszamolo_belgrad_pataky_tibor.pdf)
12. A Magyar Jogász Egylet Biztosítási Jogi Szakosztályának 2011. október 17-i szekcióülése [*Session Meeting of the Insurance Law Section of the Hungarian Lawyers Association on 17th October 2011*] published on:  
[http://www.aidahungary.hu/index.cgi?r=&v=&l=&mf=&p=2011\\_10\\_17](http://www.aidahungary.hu/index.cgi?r=&v=&l=&mf=&p=2011_10_17)
13. Joghatósági kérdések a kötelező gépjármű-felelősségbiztosítási ügyekben a 44/2001 EK tanácsi rendelet és a Luganói Egyezmény alapján [*Questions of Jurisdiction in Compulsory Motor Vehicle Liability Insurance Cases based on the 44/2001 EC Council Regulation and the Lugano Convention*] *Magyar Jog* 2012 No. 3
14. A kötelező gépjármű-felelősségbiztosítás harmonizációja az Európai Unióban [*Harmonisation of the Compulsory Motor Vehicle Insurance in the European Union*] *Jogtudományi Közlöny* 2013 No. 6
15. Eine wichtige Entscheidung abgewartet bezüglich der Rolle des Schadensregulierungsbeauftragten [*Awaiting an Important Decision as to the Role of the Claims Representatives*] *VOX Newsletter No 2 (October 2013)*
16. Urteil des Europäischen Gerichtshofs in der Sache C-306/12 [*Judgement of the European Court of Justice on Case No. C-306/12*] *VOX Newsletter No. 3 (January 2014)*
17. Zusammenhang zwischen den EU-Kfz-Haftpflichtversicherungsrichtlinien und dem nationalen Haftungsrecht ó Urteil des EuGH in der Sache C-371/12 [*Status of EU Motor Vehicle Third Party Liability Insurance Directives with regard to National Liability Law ó Judgement C-371/12*] *VOX Newsletter No. 4 (July 2014)*
18. Concept of "Use of Vehicles" ó Accident Caused in the Courtyard of a Farm ó Judgement of the ECJ in Case C-162/13 *VOX Newsletter No 5 (January 2015)*
19. A gépjármű-biztosítási irányelvekkel kapcsolatos legújabb európai bírósági döntések *Magyar Jog* [*The Most Recent Decisions of the European Court of Justice relating to the Motor Insurance Directives*] *Magyar Jog* 2016 No. 6

*Lectures delivered in scientific conferences*

1. Socio-professional Rehabilitation of Victims of Road Traffic Accidents in Hungary, delivered in the conference entitled X. European Traffic Law Days in Luxembourg on 15 October 2009 (in English).
2. I delivered a lecture on insurance law and traffic law on 17 June 2010 in Dunakeszi in Educational Directorate of the National Police Headquarters.
3. On 17 March 2011 I delivered a lecture on the Hungarian tort law and insurance law in Hannover at the conference of Hannover Re und E+S Re (in German).
4. On 17 October 2011 I delivered a lecture on the questions of liability arising out of the accidents caused by game at the Session Meeting of the Insurance Law Section of the Hungarian Lawyerø Association.
5. On 23 April 2015 I delivered a lecture on the most recent judicial practice of the European Court of Justice relating to the Motor Insurance Directives on Copenhagen at the conference of Pan European Organisation of Personal Injury Lawyers (in English).
6. At the conference entitled XVII. European Traffic Law Days organised by Institut für Europäisches Verkehrsrecht and held in Budapest on 6-7 October 2015 I delivered a lecture on the Hungarian tort law and insurance law (in German).
7. I delivered a presentation entitled The Most Recent Questions of the Compulsory Motor Vehicle Liability Insurance to Judicial Motor Vehicle Experts in Tata on 6 November 2015 at the Jubilee Motor Vehicle Expertsø Seminar and Vehicle Academy on the 25th anniversary.
8. On 22 March 2016 I delivered a lecture on the most recent judicial practice of the European Court of Justice relating to the Motor Insurance Directives at the Session Meeting of the Insurance Law Section of the Hungarian Lawyerø Association.
9. On 22 April 2016 I delivered a presentation on the fatal accident compensation relating to the English, Dutch and Hungarian law together with an English barrister and a Dutch attorney at the conference of Pan European Organisation of Personal Injury Lawyers (in English).
10. I delivered a presentation entitled Changes in the Legislation of the Compulsory Motor Vehicle Liability Insurance in Tata on 2 December 2016 at the Motor Vehicle Expertsø Seminar and Vehicle Academy.

*Participation in scientific researches*

1. Centre de Recherche International - International Research Centre ó EU Project - Compensation of victims of cross-border road traffic accidents.
2. FFSA - Fédération Française des Sociétés d'Assurances ó Social and Professional Rehabilitation of Victims of Road Traffic Accident; within its framework I made a presentation of 77,100 characters on the introduction of the Hungarian legal environment in English.
3. Pan European Organisation of Personal Injury Lawyers ó Personal Injury and Fatal Accidents Compensation in Europe; within its framework I wrote a study of 107,000 characters in English which will presumably be published as a book in the spring of 2017.