



European Convention on Civil Liability for Damage caused by Motor Vehicles

Strasbourg, 14.V.1973

Preamble

The member States of the Council of Europe, signatories of this Convention,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that the steady growth of road traffic has resulted in an increase in the number of accidents, which calls for an improvement of the systems of liability for damage;

Considering that international road traffic is at present subject to legal systems of liability which differ from one State to another;

Considering that it is appropriate to harmonise the law in this matter and to improve the position of victims,

Have agreed as follows:

Article 1 – Duties of Contracting States

- 1 Each Contracting State shall make its national law conform with the provisions of this Convention not later than the date of the entry into force of the Convention in respect of that State.
- 2 Each Contracting State shall communicate to the Secretary General of the Council of Europe, not later than the date of the entry into force of the Convention in respect of that State, any text adopted or a statement of the contents of the existing law which it relies on to implement the provisions of this Convention, including any option of which the State avails itself.

Article 2 – Scope of the Convention

This Convention shall apply to civil liability for damage caused by a vehicle and resulting from an accident connected with traffic. Each Contracting State may, however, limit the application of the Convention to accidents connected with traffic on the public highway and in grounds open to the public.

Article 3 – Definitions

- 1 For the purpose of this Convention:
 - a "vehicle" means a vehicle which is provided with a motor for its propulsion and intended to travel on the ground, other than a vehicle running on rails or a hovercraft;

- b "keeper", in relation to a vehicle, means the person who controls the use of the vehicle. The person under whose name a vehicle is registered or, in the absence of registration, the owner of a vehicle shall be presumed to control the use of the vehicle, unless the contrary is proved. The occasional user of a vehicle shall not be considered to control the use of the vehicle, unless he has taken possession of the vehicle illegally. Each Contracting State may, however, implement the provisions of this sub-paragraph with the modifications it considers necessary.
- 2 For the purposes of this Convention, damage caused by the vehicle includes damage caused by a trailer or any object hauled by or attached to the vehicle or by anything transported even when detached accidentally.

Article 4 – Principle of liability

- 1 The keeper of a vehicle shall be liable for damage caused by the vehicle, subject to the restrictions provided in this Convention.
- 2 Each Contracting State may provide that the direct liability of an insurer shall be wholly or partly substituted for the liability of the keeper under this Convention, provided that the victim shall be protected to the same extent as if the keeper were liable.

Article 5 – Contribution of the victim to the damage

- 1 If a victim or person suffering damage, other than a keeper of a vehicle involved in the accident, has committed a fault which contributed to the damage, the compensation may be reduced or disallowed having regard to the circumstances of the accident within the meaning of Article 9.
- 2 The same shall apply when the contribution to the damage is due to circumstances in which the victim or the person suffering damage would be liable irrespective of his fault.

Article 6 – Liability of two or more keepers to third parties

- 1 When, as a result of an accident, damage is caused by two or more vehicles to persons other than the keepers of the vehicles involved, the keepers of the vehicles which caused the damage shall, subject to the provisions of Articles 8 and 10, each be liable for such damage in full (*in solidum*).
- 2 In this case, in the mutual relations between the keepers liable, the damages shall be apportioned having regard to the contribution of the vehicles to the damage.

Article 7 – Damage to keepers

When, as a result of an accident, one or more keepers of the vehicles involved in the accident suffer damage, each keeper liable shall be liable only for his share of the damages according to the contribution of the vehicles to the damage. Each Contracting State may, however, derogate from this rule by providing for liability in full (*in solidum*).

Article 8 – Exceptions to the keepers' liability in full

- 1 As regards damage for which the keeper of a vehicle is not liable by virtue of Article 10 or under the terms of a contract permitted by national law, the keepers of other vehicles which have contributed to the damage shall not be liable under this Convention for the share of the damages which would fall on the keeper in question having regard to the contribution of the vehicles to the damage.

- 2 When the keeper of a vehicle is liable for damage caused to the driver of the vehicle, each Contracting State may nevertheless provide that the keepers of other vehicles which have contributed to the damage shall not be liable for the share of the damages that falls on the keeper in question.

Article 9 – Apportionment of liability between keepers

- 1 For the purposes of this Convention, the contribution of the vehicles to the damage shall be determined having regard to the circumstances of the accident, such as the fault of ill-health of a driver or passenger, the inherent risks of the vehicles or the irregular behaviour of a vehicle, whatever may be its cause, for instance a defect of the vehicle, the intervention of a third party, or a natural event other than a grave natural disaster of an exceptional nature.
- 2 If the circumstances do not indicate otherwise, the contribution of the vehicles to the damage shall be regarded as equal.
- 3 If and to the extent that the share of the damages for which a keeper is liable cannot be recovered wholly or partially from him, from the insurer, or from a guarantee fund or a similar body, it shall be borne by the other keepers in proportion to the contribution of their vehicles to the damage.

Article 10 – Damage excluded

- 1 The keeper of a vehicle shall not incur liability under this Convention in respect of any damage to the vehicle, a trailer or any object hauled by or attached to that vehicle or any thing transported by the vehicle even when detached accidentally, with the exception of the personal effects, such as clothes and luggage, of a person carried.
- 2 Each Contracting State may provide that the keeper of a vehicle shall not be liable under this Convention for damage caused to the driver of the vehicle.

Article 11 – Exceptions to the application of the Convention

- 1 This Convention shall not apply to:
 - a damage caused by a vehicle and resulting from its use exclusively for a non-vehicular purpose;
 - b nuclear damage;
 - c damage directly due to an act of armed conflict, hostilities, civil war, insurrection or a grave natural disaster of an exceptional character.
- 2 Each Contracting State shall have the option not to apply this Convention to damage caused by specified categories of vehicles creating little risk for the traffic, for example pedestrian-controlled vehicles, certain agricultural machines and mopeds of low power and speed.

Article 12 – Matters left to national law

- 1 Amongst the matters left to the law of each Contracting State are the following:
 - a the nature, form, extent and any limits on the amount of compensation;
 - b actions for damages against persons other than keepers and recourse actions brought by or against such persons;

- c recourse actions brought by keepers in respect of the share of the damages of another keeper for which they are made liable under Article 9, paragraph 3;
 - d whether a claim may be defeated or the compensation may be reduced because of the assumption of an exceptional risk by the victim or person suffering damage, or because of his criminal conduct or his acquiescence in such conduct of the driver.
- 2 Each Contracting State may assimilate wholly or partially to a keeper of a vehicle involved in an accident any other person involved in the accident who, according to national law, is liable irrespective of fault for damage resulting from the accident.
 - 3 Each Contracting State shall have the option to derogate from this Convention so as to avoid conflicts with its law on workmen's compensation or any social security scheme.

Article 13 – Extended protection and application

This Convention shall not prevent the Contracting States:

- a from adopting rules more favourable to persons suffering damage, except as regards the mutual relations between keepers liable;
- b from applying the rules of the Convention to accidents, damage or means of transport other than those covered by this Convention.

Article 14 – Entry into force of the Convention

- 1 This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification or acceptance. Instruments of ratification or acceptance shall be deposited with the Secretary General of the Council of Europe.
- 2 This Convention shall enter into force six months after the date of deposit of the third instrument of ratification or acceptance.
- 3 In respect of a signatory State ratifying or accepting subsequently, the Convention shall come into force six months after the date of the deposit of its instrument of ratification or acceptance.

Article 15 – Accession of a State not a member of the Council of Europe

- 1 After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite non-member States to accede.
- 2 Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect six months after the date of its deposit.

Article 16 – Territorial scope of the Convention

- 1 Any Contracting State may, at the time of signature or when depositing its instrument of ratification, acceptance or accession, specify the territory to which this Convention shall apply.
- 2 Any Contracting State may, when depositing its instrument of ratification, acceptance or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.

- 3 Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn according to the procedure laid down in Article 19 of this Convention.

Article 17 – Reservations

- 1 No reservation shall be made to the provisions of this Convention except that mentioned in the annex to this Convention.
- 2 The Contracting State which has made the reservation mentioned in the annex to this Convention may withdraw it by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective as from the date of its receipt.

Article 18 – Declarations concerning options

- 1 Each Contracting State which wants to avail itself of one of the options set forth in Article 2, Article 3, paragraph 1. b, Article 4, paragraph 2, Article 7, Article 8, paragraph 2, Article 10, paragraph 2, Article 11, paragraph 2 and Article 12, paragraphs 2 and 3 shall, when signing this Convention or when depositing the instrument of ratification, acceptance or accession, declare by means of a notification to the Secretary General of the Council of Europe its intention to do so and in what way it intends to exercise the option.
- 2 If, after the entry into force of the Convention in respect of a Contracting State, that State deems it necessary to avail itself of one of the options mentioned in the preceding paragraph, it shall notify the Secretary General of the Council of Europe of its intention to do so before the entry into force of the relevant provisions under domestic law.
- 3 Each Contracting State may, at any time, by means of a notification addressed to the Secretary General of the Council of Europe, declare that it no longer avails itself of an option exercised in accordance with the preceding paragraphs. The notification shall indicate the date on which the change takes effect.

Article 19 – Duration of the Convention and denunciation

- 1 This Convention shall remain in force indefinitely.
- 2 Any Contracting State may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
- 3 Such denunciation shall take effect six months after the date of receipt by the Secretary General of such notification.

Article 20 – Functions of the Secretary General of the Council of Europe

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Convention of:

- a any signature;
- b any deposit of an instrument of ratification, acceptance or accession;
- c any date of entry into force of this Convention in accordance with Article 14 thereof;
- d any reservation made in pursuance of the provisions of Article 17, paragraph 1;

- e withdrawal of any reservation carried out in pursuance of the provisions of Article 17, paragraph 2;
- f any communication received in pursuance of the provisions of Article 1, paragraph 2, Article 16, paragraphs 2 and 3 and Article 18, paragraphs 1, 2 and 3;
- g any notification received in pursuance of the provisions of Article 19 and the date on which denunciation takes effect.

In witness whereof, the undersigned being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this 14th day of May 1973, in English and in French, both texts being equally authoritative, in a single copy, which shall remain deposited in the archives of the Council of Europe. The Secretary General shall transmit certified copies to each of the signatory and acceding States.

Annex

Belgium may, at the time of signature or when depositing its instrument of ratification or acceptance of the Convention, declare that she reserves the right to exclude from the scope of the Convention material damage to vehicles, for a period of three years from the date of the entry into force of the Convention in her respect.