



Pursuant to Article 35, paragraph 1.1 of the Law No. 03/L-209 on Central Bank of the Republic of Kosovo (Official Gazette of the Republic of Kosovo, No.77/16 August 2010), and pursuant to Article 42 and Article 26.3 of Law No. 04/L-018 on Compulsory Motor Liability Insurance (Official Gazette of the Republic of Kosovo/No.4/14 July 2011), the Board of the Central Bank of Republic of Kosovo at the meeting held on 27 December 2012, approved the following:

## **REGULATION**

### **ON PROCEDURES FOR HANDLING CLAIMS FOR COMPENSATION OF DAMAGES ARISING FROM COMPULSORY MOTOR LIABILITY INSURANCE**

#### Article 1

##### Purpose and Scope

1. The purpose of this regulation is to promote fair and equitable treatment of policyholders and damaged parties by insurers. This regulation sets out the procedures for the receipt, registration, handling, payment and control of claims for damages arising from compulsory motor liability insurance.
2. This Regulation applies to all Insurers licensed by the CBK for the sale of compulsory motor liability insurance as well as for the Kosovo Insurance Bureau in relation to its liabilities for handling the damages that are Compensation Fund liabilities.

Article 2  
Definitions

1. All terms used in this Regulation shall have the same meaning as set forth in Article 2 of the Law No. 04/L-018 on Compulsory Motor Liability Insurance and as defined below by this Regulation.
2. *Handler* - means a licensed person handling and assessing the damages arising from an insurance policy.
3. *Authorized person of the insurer* - means the employee of the Insurer who receives and verifies claims for compensation.
4. *Insurer's physician* - means a qualified physician who is contracted by the insurer to perform professional services during the procedures of handling damages in persons.

Article 3  
Unification of procedure for handling the damage

1. The unification of the procedure for handling the damage from the motor liability insurance refers to:
  - a) Reporting and recording damages
  - b) The flow and processing of compensation claims until the compensation decision
  - c) The complaint procedure
  - d) Supervision, control and execution of payment of claim for damage compensation.
  - e) Recording of cases that are in court proceedings
  - f) Filing of completed cases.

Article 4  
Procedure for claiming damages

1. Damages from auto liability insurance are handled by the Insurer whose insured is causing the damage.
2. Insurers may enter into an agreement under which the claim for compensation on the basis of auto liability insurance may be filed and handled by the direct insurer.
3. The claim for damage compensation shall be received by the person authorized by the Insurer. Upon receipt of a claim for damages, the authorized person is obliged to verify the validity of the insurance cover.
4. The claim for compensation shall be made in writing by the damaged party in person, through his legal representative or his authorized representative.
5. If the claim submitted is not completed with the evidence and documentation necessary to decide on the compensation, the Insurer is obliged, within three (3) days from the day

- of receipt of the compensation claim, to notify the damaged party, his legal representative or his authorized representative in writing, specifying with what evidence and documentation his claim should be accompanied with.
6. The claim for damage compensation must be filed with the head office or branches of the Insurer in one of the following ways;
    - a) directly
    - b) by mail,
    - c) by e-mail
    - d) by fax,
  7. The claim for damage compensation is made by filling out the *unique form* "Filing a Claim for Damage Compensation from Motor Liability Insurance".
  8. If the damaged party or his or her representative has filed the claim by e-mail or fax, it is not necessary to fill out the form referred to in paragraph 7 of this Article. In such cases, the Insurer shall be obliged within three (3) days to notify the party claiming damage compensation, to provide the required original documentation in a physical form.
  9. When the authorized person of the Insurer receives the form on the written claim for damage compensation, he is obliged to:
    - a) Review the completed form (Filing a Claim for Damage Compensation from Motor Liability Insurance), verify the regularity of completion, ascertain if it is clear who is involved in the accident, if a detailed description of the course of the event and the outline of the accident is provided and if the form is signed. In case the completed form is incomprehensible or does not contain all the required data, the claimant will be required to complete the form once again.
    - b) Signing of the form by the damaged party confirms the data presented in the claim for damage compensation.
    - c) The insurer may request to determine the place and time of viewing - assessing the material damage, jointly with the damaged party.
    - d) The documentation for damage compensation shall be kept in duplicate, whereby one copy shall be kept by the Insurer, while the other copy shall be kept by the damaged party or his authorized representative.
  10. Regarding the manner of damage compensation for motor vehicles, the injured party shall be informed about the following possibilities of compensation:
    - a) By agreement between the parties, on the basis of repair invoices
    - b) By signing the consent of the damaged party for the repair to be carried out and paid by the insurer at one of the vehicle repair services with which the Insurer has a contract of cooperation.

## Article 5

### Documentation for damage compensation

The authorized person of the Insurer shall verify if the claim for damage compensation is completed with the following documentation:

1. For motor vehicle and property damages:

- a) Claim for damage compensation (unique form);
- b) Accident report - from police, original or certified copy;
- c) European Accident Statement;
- d) Copy of insurance policy;
- e) Certificate of registration of motor vehicle (copy);
- f) Photocopy of ID card and bank card as well as address and phone number details;
- g) Authorization for the right to damage compensation certified by a licensed notary or other competent authority for certification of authorizations;
- h) Minutes of damage to the motor vehicle, with photos of damaged motor vehicle;
- i) Evidence of ownership of the damaged property, evidence of the use of property, and minutes of the damage;
- j) As a consequence of not using the motor vehicle - for lost profit, when the motor vehicle is used for commercial purposes, evidence from the Tax Administration of Kosovo;
- k) If necessary, the Insurer may also request any of the following documents:
  - i. Photo documentation,
  - ii. expertise of traffic expert performed during the course of criminal proceedings.
  - iii. the final decision of the competent court,
  - iv. statement of the insured regarding the accident,
  - v. statement of the vehicle repair service,
  - vi. Pro invoice specifying the value of damaged parts, work, work material, etc.
  - vii. Fiscal receipts on vehicle repair.

2. For damages in persons resulting in injuries:

The documentation referred to in paragraph 1 of this Article shall be required for compensation of damage in persons:

- a) Birth certificate or ID card of the damaged party;
- b) Original medical documentation (emergency report or other medical evidence proving injury on the day of the accident, hospital discharge letter and medical examination reports;

- c) In special cases, additional reports from various radiological examinations, and other specialistic examinations, if required by the Insurer.
  - d) Bills on medical expenses;
  - e) Evidence of the amount of income earned during sick leave and the income that would be earned during the period of incapacity to work;
  - f) In case of temporary or permanent incapacity, evidence of personal income from employment. If the damaged party is not employed, the average salary according to the qualification of the injured party is taken as a basis;
3. For damages in persons resulting in death:
- a) Death Certificate issued by the Health Institution;
  - b) Original death certificate, original marriage certificate, original joint household certificate and original certificate of birth for all claimants/damaged parties;
  - c) Evidence of the deceased's occupation and income;
  - d) Medical documents (if the deceased received medical treatment) as well as other possible expenses before death;
  - e) Average burial costs.
  - f) Any other document that the damaged party considers reasonable to substantiate any compensation related to possible expenses incurred as a result of the death.

#### Article 6

#### Receiving and recording the claim for damage compensation

1. Upon receipt of the claim for compensation, the authorized person of the Insurer should:
- a) record the claim for compensation in the special book/record of damages in numerical order;
  - b) all claims for compensation from an insured case are registered with a damage reference (number) and then, all other claims are attached to this case with the same reference. If there is an online claims registration system, the number of cases used by this system can also be used in the register maintained by the Insurer;
  - c) notify and submit to the claimant the "card with reference/damage number" as well as the specification of the missing documentation/evidence, in writing, that must be completed to consider the claim for compensation complete;
  - d) in the event that the claim for compensation has not been personally filed by the damaged party or its authorized person, the latter, after having recorded the claim for compensation, is obliged within three (3) days to notify the party of the reference number of his claim and of the documentation required to complete the claim;

- e) To verify whether the same case has been previously recorded or to verify the possible existence of another participant's counterclaim in the insured case.
2. The person authorized to receive claims for compensation should create the case file in the following way:
- a) The case number should be noted in the case folder;
  - b) All documentation received should be placed in the case folder in chronological order.
  - c) The case assembled for compensation is submitted to the relevant sector for damage handling, which also determines the expected amount of damage.

## Article 7 Handling compensation claims

1. Deadlines for handling and payment of damages
- a) For damages in persons, the Insurer is obliged to handle the claim at the latest within sixty (60) days, whereas for damages in the property at the latest within fifteen (15) days from the date of filing the claim for damages, and notify the damaged party in writing of the:
    - i. compensation offer with relevant explanations;
    - ii. the decision and the legal reasons for rejecting the claim for compensation, when the liability and the amount of the damage are disputable.
  - b) In case of inability to determine the amount of compensation, or to handle the claim for compensation in full in the event of serious bodily injury for which the recovery process takes longer, the insurer shall pay the damaged party the uncontested portion of the damage for continuing the recovery in the form of advance payment, within the deadlines specified in this Article, with the prior assessment of the Insurer's physician provided that the injured party provides evidence of the use of the amount received.
2. If the Insurer fails to handle the claim for compensation within the deadlines set forth in paragraph 1 of this Article, the damaged party shall have the right to file a lawsuit with the competent court.
3. When the handler receives the case, he/she is obliged to ascertain whether the case contains the required documentation under which the liability and the amount of insurance coverage can be ascertained.
4. The handler may, as appropriate, request:
- a) Evidence for the verification of damage amount,
  - b) Evidence for the verification of medical documentation as recommended by the physician,
  - c) The opinion of the relevant physician,

5. All documents and assessments, including the expertise received, shall be placed and recorded in the case folder, indicating the date of acceptance and signature.
6. When the handler ascertains that the claim is complete, then the handling-assessment of the claim for compensation is done by the handler or commission according to the authorization, and determines:
  - a) Existence of liability of the insured;
  - b) Existence of joint liability, and if joint liability exists, proposes the appropriate degree of joint liability;
  - c) The adequacy of the minimum amount of insurance cover in case there are more damaged persons and if the claims for compensation exceed the minimum amount. In such cases, the rights of the damaged parties to the insurer are reduced in proportion to the extent of the damage;
  - d) In the case folder or the relevant form should shall be indicated the handling findings, including the date and signature of the handler;
7. In the absence of a police accident report, the damaged party's right to compensation for material damage to a motor vehicle may be ascertained on the basis of:
  - a) Statement of accident participants;
  - b) Statement of eyewitnesses to the accident;
  - c) Reconstruction of traffic accident;
  - d) "European Accident Statement";
  - e) Pictures of vehicles involved in the accident;
  - f) Other evidence deemed necessary by the Insurer and the injured party;

## Article 8

### Compensation of damage to motor vehicles

1. Assessment of material damage to motor vehicles is done on the basis of the summary/report of damage to the vehicle signed by both parties.
2. The amount of damage is determined on the basis of invoices, pro invoices or offers based on the agreement with authorized services.  
After receiving the receipts from the party, the handler is obliged to take the following actions:
  - a) compare the descriptions from the form "summary/report of damages to motor vehicles or property" with the descriptions from the invoices;
  - b) compare the price of parts indicated on the invoices with the repair calculations. In case the prices indicated on the repair invoices are not in accordance with the repair calculations, consult the damage assessor;
  - c) in cases when the prices on the repair invoices do not match with the repair

calculations, the assessor is obliged to compile a written report and to state the reasons for the mismatch between the price on invoices and repair calculations.

- d) prices in invoices of auto parts services or dealers, which are not authorised to sell parts, can be accepted according to the price of the respective catalogue. Motor vehicle damage assessor must verify if the motor vehicle has been repaired according to invoices for the purpose of returning it to its previous condition;
- e) in the case of damage to a motor vehicle with foreign number plates, the insurer must ensure that this fact is immediately recorded in the summary of damage to the vehicle, supported by photo documentation, where a copy is submitted to the damaged party. If the assessor is notified that the repair will be carried out abroad, he shall not state the repair hours in the damage report but only describes in detail the damages to the motor vehicle, specifying the parts to be replaced and those to be repaired;
- f) when determining the reasonableness of the repair of damages to motor vehicles that are legally exempt from customs (KFOR and with prefixes UN, EU, OSCE, CD, and others) for which import and tax contributions have not been paid, particular care must be taken as to the value of the vehicle, as it is normally lower than the value of the vehicle with a country registration. In this case, the summary/report indicates that the assessment relates to repairs in the Republic of Kosovo and that the number of hours worked and their price applies only to the territory of the Republic of Kosovo;
- g) In the case of total damage, the assessor shall calculate the damage according to the prices and criteria applicable in Kosovo and the costs of transport at the place of registration by simultaneously determining the value of the remaining parts of the motor vehicle. The damage caused to the motor vehicle with foreign registration plate can be accepted on the basis of the invoice of the repair made at the country of motor vehicle registration by comparing that repair with the summary/report on the damage.
- h) in case of evaluating the total damage to the motor vehicle, the remaining part may be offered to the injured party and if the injured party does not accept it then it shall remain with the insurer.
- i) in the event that the owner of the damaged motor vehicle refuses to sign the summary/report on the damages to the motor vehicle, the Insurer's adjuster shall draw a report stating the reasons for the party refusing to sign the minutes on the damages to the motor vehicle and attach photo documentation for the disputed parts of the motor vehicle;
- j) Invoices for parts imported from abroad shall be increased by the amount of tax paid and decreased by the amount of tax payable under the laws of the country where the purchased parts are returned to the buyer after the export of goods;

- k) in case of compensation for material damage to a motor vehicle, when the damage is to be paid based on the agreement, the adjuster shall ensure that the repair assessment is not higher than the one agreed on the repair calculation agreement according to the relevant catalogue, ensuring to reach an accord which shall be signed by both parties.

#### Article 9

##### Compensation of material damage in case of death, bodily injuries and health endangerment

1. The amount and the right of the injured party to compensation for material damage in case of death, bodily injuries and health endangerment shall be determined separately for each case as follows:
  - a) Average burial costs;
  - b) Medical treatment costs and other medical-related costs;
  - c) Foreign aid and fortified food;
  - d) Profit lost due to inability to work;
2. The amount of damage compensation to persons shall be determined by the Insurer taking into account all the circumstances of the claim in question, based on the Insurer's compensation policy and on the provisions of the Law on Obligational Relationships, as well as the limits set forth in the Law on Compulsory Motor Liability Insurance.
3. In cases where the injured party does not agree on the damage compensation amount, the injured party shall be entitled to file a complaint in accordance with Article 14 of this Regulation.
4. The insurer shall execute the payment of the damage only if the party has agreed to the insurer's offer and after the party and the insurer have signed the agreement on the proposed amount of compensation.
5. The insurer is obliged to pay for the damages in accordance with the agreement concluded with the party, no later than 15 calendar days from the date of its signing.

#### Article 10

##### Compensation of non-material damage

1. Compensation of non-material damages, respectively the fair determination of the compensation of the injured party, or close family members in case of the injured party's death, disability, according to compulsory motor liability insurance policies, shall be done in accordance with the provisions of the Law on Obligational Relationships.

2. In such cases, the Handler shall immediately forward the received medical documentation to the Insurer's physician, who ascertains the amount of damage compensation.
3. Insurer's physician shall, based on medical documentation and other documents as well as through medical examination if necessary, provide the written evaluation in the "Opinion of the Physician" form.

#### Article 11

##### The role of the Insurer's physician in handling damages to persons

1. In handling the damages to persons, the Insurer's physicians shall:
  - a) Verify and ascertain, as necessary, whether the medical documentation is issued in accordance with the legal provisions and whether it is reliable based on injuries caused by the road traffic accident;
  - b) Ascertain the causal link between the diagnosis and the course of treatment and, as needed, in cooperation with the damage assessor, ascertain the cause and effect links between the injuries caused and the road traffic accident;
  - c) Provide arguments for the existence of earlier disability, degenerative diseases, chronic diseases, and other diseases;
  - d) When he deems it necessary, with the consent of the Insurer's authorized person, shall request the opinion of the specialist physicians in the relevant field;
  - e) Verify, if necessary, that the injured person has indeed been cured at the medical institution which issued the medical documentation;
  - f) Identify the activities that the injured party was able to perform prior to the road traffic accident, which after the concerned accident he is no longer able to perform.
  - g) Complete all the information required in the "Opinion of the Physician" form.
  - h) If deemed necessary, the Insurer's physician may call the injured person for medical examination in order to ascertain the consequences of the road traffic accident.
  - i) Provide his/her opinion within seven (7) calendar days from the day of receipt of documentation.
2. Based on the evaluation of the Insurer's physician, the amount of non-material damage compensation shall be determined by the Handler, taking into account all the circumstances of the concerned case, based on the Insurers' criteria for damage compensation, on the provisions of the Law on Obligational Relationships and on the limits defined by the Law on Compulsory Motor Liability Insurance.
3. The handler shall, based on the documentation collected, for the case of death determine the costs and amount of compensation to persons who, according to the applicable legislation, are entitled to compensation in case of death, taking into account all the circumstances and

customs of the place where the expenses are made.

4. The handler shall enter the amount of compensation in the case folder.
5. Upon ascertaining the liability, volume and amount of the damage compensation, the handler shall promptly inform the injured party of the damage compensation amount.

## Article 12

### Submission of the injured party's agreement

1. The handler shall, upon the approval of the decision, respectively agreement on compensation by the responsible person of the Insurer, notify the injured party or the injured party's representative about the damage compensation offer, and invite him/her to sign the agreement if the party agrees to the amount offered.
2. The insurer is obliged to, within 5 calendar days from the date of issuance of the decision regarding the offer made, notify the injured party on the amount of damage compensation.
3. If the injured party agrees to the offer made by the Insurer, the Insurer and the injured party shall sign an agreement drawn up by the Insurer.
4. In case of disagreement with the amount of damage compensation, the injured party shall be entitled to file an appeal in accordance with Article 14 of this Regulation.
5. Following the receipt of the signed agreement by the Handler, the Insurer is obliged to pay the damages under the agreement no later than 15 calendar days from the date of signing the agreement.
6. In case of failure to comply with the deadline set forth in paragraph 5 of this Article, the Insurer shall be charged late payment interest of 12% of annual interest rate, which is calculated for each day of delay after the expiry of this term.

## Article 13

### Notifying in writing the injured party on the refusal of the claim for damage compensation

1. In case of refusal of the claim for damage compensation, the Insurer is obliged to notify in writing the injured party within 5 calendar days from the date of issuance of the decision on the refusal.
2. The decision shall contain the justification of the grounds for refusal and the advice on the remedy, through which the same is advised on the right to file an appeal to the Complaints

Commission of the Insurer.

#### Article 14

##### Procedure according to the complaint

1. Against the Insurer's decision on damage compensation, the injured party is entitled to file a complaint to the Complaints Commission of the Insurer.
2. The Commission referred to in paragraph 1 of this Article shall consist of 3 members appointed by the Insurer in accordance with its internal procedures.
3. The Complaints Commission shall verify whether the complaint is grounded and, within seven (7) calendar days from the date of the complaint receipt, issue a decision on the complaint.
4. After the Complaints Commission issues a decision on the complaint, the case file shall be forwarded to the handler who, within 3 calendar days from the date of the Decision, informs the injured party of the Decision of the Complaints Commission.

#### Article 15

##### Insurers' liabilities with regard to cases in court proceedings

1. Upon receipt of the court document, the authorized employee must verify whether the Insurer has previously initiated the compensation procedure regarding the same case (the verification should be performed in other subsidiaries as well).
2. If the proceeding is initiated, in the Insurer's case of damage must be entered the reference number of the case, so that case of damage be indicated in the case file.
3. In case when several court proceedings have been initiated regarding the same case, a separate case must be opened for each of these proceedings.
4. The authorized representative shall be obliged, in the course of court proceedings, to endeavor to complete the dispute as soon as possible by judicial, arbitration or extrajudicial agreement.
5. When the authorized representative receives the judgment of the first instance court, the Insurer is obliged to review the legality of the judgment, then to assess the rationality and economics of the exercise of the complaint.
6. When the Insurer decides not to file a complaint against the judgment of the first instance

court, it shall be obliged to pay the principal, interest and cost according to the judgment.

7. If the Insurer decides to file a partial complaint on the judgment of the Court, it shall be obliged to execute the payment of the undisputed part of the principal, interest, and cost.
8. The Insurer is obliged to keep the evidence for court cases which includes:
  - a) day and hour of the hearing;
  - b) file number of the Insurer and file number of the court case;
  - c) name and surname of the representative, who is authorized to lead the case;
  - d) name and surname of the legal representative of the claimant (injured party);
  - e) Name of the Competent Court;
9. The Insurer opens the case of damage which is in court proceeding, as follows:
  - a) open the case of the damage online, and in the registry book;
  - b) open the case file for the damage incurred;
  - c) open the case file, enter all the potential data in the file and attach the whole available documentation;
  - d) register the case file in the “Register of Court Cases”;
  - e) verify the validity of the insurance policy;
  - f) ensure all the necessary evidence to verify the liability and the amount of the damage in line with this Regulation;
10. The legal representative of the Insurer shall record in the case folder the evaluation of the expected amount of damage (reserves for damage).
11. The insurer must take all lawful actions in order to execute the cases in enforcement according to the Court Decisions.
12. Court decisions for execution shall be registered in the Registry of the Court Cases of the Insurer.

## Article 16 Royalties

1. Royalty is a form of cash compensation paid, on a monthly basis, periodically or in the form of a total amount based on the agreement between the Insurer and the injured party.
2. At the time of concluding the agreement on royalties, the Insurer shall notify the Kosovo Pension Administration.
3. The royalty shall be determined by the specialized person or actuary.

4. Royalty, as compensation for bodily injuries and health damage, is based on:
  - a) Profit lost due to complete or partial inability to work.
  - b) Increased permanent financial needs.
5. In case of the death of the head of the household, the royalties belong to the injured person for whom the deceased was responsible or whom it has regularly helped, but also to the person who was legally entitled to claim the royalty from the deceased in the amount determined taking into account all the circumstances of the case, at most, up to the amount the injured party would receive if the deceased was alive.
6. The Insurer is obliged to audit once a year the records of the royalties on the basis of which the payment shall be performed. The Insurer shall notify the person paying the rent if any material change of circumstances has occurred in relation to the circumstances at the time the royalty was set, and shall take the necessary legal actions with a view to increasing, reducing or terminating the royalty.

#### Article 17

##### Damage payment execution

1. Upon receipt of a payment order, the Insurer's finance service shall, without delay, make payment in the amounts specified within the time limit set forth in paragraph 5 of Article 12 of this regulation.
2. The payment order and other evidence of the execution of payment of damages shall be recorded in the case file.

#### Article 18

##### Closing and archiving the case of the damage

1. Upon payment of the damage, the Insurer shall consider the case closed and shall archive it in accordance with its internal procedures.
2. The closed case documentation shall be kept and stored in the Insurer's Archives for up to 5 years.

#### Article 19

##### Application from the Kosovo Insurance Bureau

The provisions of this Regulation shall also apply to the Kosovo Insurance Bureau and to damages that are liabilities of the Compensation Fund.

Article 20  
Punitive measures

For violations of the provisions of this Regulation, the CBK shall impose punitive measures in accordance with the provisions of Articles 37 and 38 of the Law on Compulsory Motor Liability Insurance.

Article 21  
Entry into force

This Regulation shall enter into force 15 days after its approval by the CBK Board.

Chairman of the Board of the Central Bank of the Republic of Kosovo

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Sejdi Rexhepi