



**European Commission Public consultation on
REFIT review of Directive 2009/103/EC on motor insurance**

RESPONSE BY THE FEDERATION INTERNATIONALE DE L'AUTOMOBILE

1. INTRODUCTION

Founded in 1904, the FIA's¹ initial aim was to bring coherent governance and safety to motor sport. Through the expertise gained in that area, the FIA has since grown into a global organisation that not only promotes motor sport, but also promotes safe, sustainable and accessible mobility for all road users across the World.

The FIA is the governing body for world motor sport recognised by the IOC and the federation of the world's leading motoring organisations. In 2017, the FIA brings together 245 national motoring and sport organisations from 143 countries on 5 continents, reaching globally 80 million members. As such, the FIA works across three key interlinked areas of activity: Sport, Socially Responsible Campaigns and Mobility.

In the context of the European Commission current Public consultation on REFIT review of Directive 2009/103/EC on motor insurance, the FIA has initiated a consultation process with all its National Motor Sport Associations (hereafter ASNs) in Europe². The FIA represents 102 ASN's across Europe.

This position paper aims to share the outcome of the extensive feedback received from our ASN's across Europe. On behalf of all European ASNs, the FIA is very grateful for the opportunity given by the European Commission to contribute to this public consultation.

¹ www.fia.com

² About FIA membership in Europe : <http://www.fia.com/members/region/europe-7>

2. Scope of the MOTOR INSURANCE DIRECTIVE (MID) and Potential Impact on Motorsport in Europe

With regard to framework of the consultation document provided by the European Commission, please note that the following sections of the present position paper focus on the scope of the Motor Insurance Directive (point “1.7. B.2.7 SCOPE », question 27 to 32 of the questionnaire).

2.1: General concerns on governance of motor sport in Europe

The governance and development of motor sport is a priority mission of the FIA at worldwide level and of the ASNs at national level, following the sport pyramidal structure. From grassroots to professional sport level, the common goal of those sport-governing bodies is to govern and ensure safe competitions for all kind of participants and for all types of motor sport competitions within their respective territories.

Since the VNUK ruling in 2014, the perspective of the Motor Insurance Directive’s reform has generated growing concerns among motor sport stakeholders, especially on unintended economic effects this new context might generate. This aspect covers notably the potential exponential growth of insurance premium policies, which seems to be a credible scenario according to the insurance sector.³ This would have a major impact on the ability to carry out motorsport in Europe.

Taking the example of grassroots level, such a pattern would undoubtedly undermine the organization of motor sport competitions within the European Union and substantially decrease the overall number of participants. As a whole, this situation would therefore be highly detrimental to a very important industrial sector in Europe, as motor sport is perceived as an essential experimental laboratory for car manufacturers, and motorsport provides substantial employment and volunteer engagement in an area known for its contribution to high technology.

Those legitimate serious concerns have also been shared by our ASNs during the FIA consultation process.

2.2: The specific nature of motorsport competitions

The Treaty on the Functioning of the EU has enshrined with the article 165 the recognition of the “specific nature of sport”, and it is legitimate to underline this in the context of this consultation.

³ In addition to the contributions sent to the European Commission by the insurance sector and public authorities, see also example hereafter, point 2.2

Indeed, the implications of a compulsory driver-to-driver liability insurance for motorsport competitions is an issue concerning the specific nature of sport in the context of the reform of the Motor Insurance Directive. In practical terms, assuming this becomes compulsory, what happens if two motor racing cars hit each other during an event and the cars are damaged? Regarding the organizers of the competition, do they have to stop the sporting event to make sure that the insurance liability question can be settled with a damage claim form? In addition, from an economic perspective, a compulsory driver-to-driver liability policy might lead to an exponential increase of the annual insurance costs per participant in motorsport. According to insurance experts, it would simply not be possible in some countries to comply with a compulsory driver-to-driver liability policy and no such policy would be available. If a similar requirement was to be applied across Europe, it would jeopardise the organisation of most of motor sport competitions and have a significant negative impact on this important sector of EU wide sport.

With regard to the principles governing insurance for motor sport competitions, the overall comments the FIA has received from its ASN's demonstrate that motor sport has numerous specificities, which are currently well taken into account by the Member States at national level (especially concerning the driver-to-driver liability).

2.3: Outcome of the FIA internal process of consultation on the scope of the Motor Insurance Directive

In light of the consultation conducted by the FIA and the above-mentioned comments, the overwhelming majority of the contributions received from FIA Member ASN across Europe underline that:

- **The scope of the Directive should relate only to accidents caused by motor vehicles in the context of traffic** (following the option 3 as presented in the European Commission Inception Impact Assessment, response question 27)
- **In addition, activities that should fall outside of this definition would be regulated at Member State level (subsidiarity principle) and it would be for them to decide whether they wish to pool them with other activities by regulatory means** (response question 28)
- **Compulsory Motor Third Party Liability insurance should not cover accidents resulting from motor sport activities on circuits and private land** (response question 30-31). This aspect should be left at the discretion of the Member States as described for the question 28.

3. CONCLUSION

On behalf of its ASNs members in Europe, the FIA fully supports the initiative of the European Commission to revise the Motor Insurance Directive and clarify its scope. The legal uncertainty due to the current context is not satisfactory and has raised concerns since 2014.

The Motor Insurance Directive has undoubted benefits across Europe for road traffic, but it should be limited to this scope. It is not the purpose of the Directive to Regulate motorsport, and no other Sport in the EU is regulated in this way. Motorsport is an important sport within the EU not only providing competition and engaging numerous volunteers and supporters but also underpinning an unusually valuable industry known for STEM education, high technology employment, and providing a laboratory for developing safe and sustainable transport. The FIA would ask that the specificity of this important sport be recognised and supported.

As far as motor sport is concerned, the FIA and its European ASNs welcome the opportunity to share their views together with the European Commission and all stakeholders, and to continue this structured dialogue (terminology used for the dialogue between the European Commission – Directorate General for Education and Culture - and the sport stakeholders) during the forthcoming EU legislative process.

Should the European Commission wish to exchange further on the specificities of motor sport, the FIA and its ASNs remain at the entire disposal of the European Commission.