

Railway insurance coverage in case of accidents - National requirements

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Railway insurance coverage in case of accidents – National requirements

- A questionnaire survey by ILGGRI during August/ September 2003
- Originated by Norway for the purpose of defining national requirements for insurance (liability) coverage in case of accidents
 - Requirements towards Railway operators, to cover
 - 2nd and 3rd party liability, related to
 - Injury/ death
 - Damage

The history...

- Appropriate insurance coverage based on risk assessment
- Significant cost – influencing competitive position
- Harmonisation between different operations
 - National
 - Boarder crossing
- Harmonisation between operations representing different risk level
 - Personnel
 - Goods

ILGGRI Questionnaire National insurance requirements

1. Is there regulatory requirements for liability coverage/ insurance related to railway accidents: Yes No
- 1.a If yes; Please describe (e.g. regulation, standard, national, based on international standards, similarity to regulations for other means of transportation etc.):
2. If yes on 1; Is the liability/ insurance level described in the regulations (e.g. specific amount, minimum level, based on risk assessments etc.): Yes No
- 2.a If yes; Please describe:
3. If yes on 1; Is there differences e.g. between types of transportation, area, company etc. (e.g. personnel vs. goods, city vs. urban vs. country, commercial vs. non commercial companies etc.): Yes No
- 3.a If yes; Please describe:
4. Other comments:

Please fax or E-mail the completed questionnaire to:
 Norwegian Railway Inspectorate - Oystein Ravik (fax: +47 22 99 59 07) (E-mail: or@sjt.no)

Questionnaire reply

Country	1. Is there regulatory requirements for liability coverage/ insurance related to railway accidents		2. Is the liability/ insurance level described in the regulations		3. Is there differences e.g. between types of transportation, area, company		4. Comments
	Yes	No	Yes	No	Yes	No	
SUM	12	1	9	3	8	4	
			National law/ regulations		10 MC - 156MC On basis of risk assessment		Most countries no differences. For some: less on private tracks etc.
Belgium	1		1			1	
							Art. 27 of the Royal Decree (12 March 2003) - Requirements for the Railway Undertaking in relation with exploitation of the railway infrastructure. The Railway Undertaking must prove that he is owner of a sufficient insurance or that similar arrangements are taken in application with the National and International legislation to cover his civil liability regarding accidents. And more particular in relation with the clients, costumers, the luggage, the goods, third parties and the infrastructure manager. The Minister defines on a not discriminatory way the minimum amount of the coverage, which is required for all Railway Undertakings.
Denmark	1		1		1		
							No specific national or international standards were used. The decision was based on a general evaluation of the railway sector at the time of the introduction of the necessary regulation.
Finland	1			1	1		
							The railway company must have an insurance according to the legislation (Railway law). The insurance has to cover the damages which have been caused to the freight and the passengers.
France	1			1	1		
							Obligation is included in décret n°2003-194 of 7th March 2003 related to the use of national railway network.
Germany	1		1		1		
							German law „Eisenbahnhilfspflichtversicherungsverordnung“
Holland	1		1		1		
							Now: condition in track access agreement; future: clause in new Railway Act with the minimum level itself in a Ministerial Decision. Apply only to the "national" rail network.
Ireland		1					
							The specific amount is 10.226.000 € per occurrence and year. This must be at least 2 times every year to have at ones disposal. No deductible allowed.
							Yes, minimum amount of 10.000.000 euro's. Higher amount only for dangerous goods related damages.
							Formally no, practically yes. In practice lower requirements for shunting-only operations in low-risk area's.
							As indicated in earlier e-mail the only formal requirement has been in respect of the licensing of smaller heritage railways the need to hold public liability insurance was specified. For our national 'heavy' rail undertaking, which is state owned, there is no specific requirement and the company effectively carries it's own insurance whether property or public liability and meets costs from revenue. This is the norm for all large state companies as far as I am aware.

Questionnaire reply

Country	1. Is there regulatory requirements for liability coverage/ insurance related to railway accidents		1 a) Description	2. Is the liability/ insurance level described in the regulations		2 a) Description	3. Is there differences e.g between types of transportation, area, company		3 a) Description	4. Comments
	Yes	No		Yes	No		Yes	No		
SUM	12	1	National law/ regulations	9	3	10 M€ - 156M€ On basis of risk assessment	8	4	Most countries no differences. For some: less on private tracks etc.	
Italy	1		Regulation. The new d.lvo 8 July 2003 n. 188, that put into effect the European Directive 12,13,14/2001/CE in Italian legislation, foresees, such as it was just contained on previous legislation, the implementation of a document – called PIR- that contains all the technical and administrative condition for the railway infrastructure access. According with this document both Infrastructural Manager and Railway Undertaking have to take out an insurance policy to carry out their job on the national railway infrastructure.	1		The levels of liability described in the above document are: Civil liability in relation to the third person maximum 258.228.449 Euro per accident and per year. G) Carrier's liability maximum 10.329.137 Euro per accident and per year Civil liability in relation to the third person maximum 103.251.379 Euro per accident and per year. IF Carrier's liability maximum 5.164.379 Euro per accident and per year	1		In general there are not differences, but the IF has to activate the carrier's liability only in the case that it carries out the freight transport.	
Norway	1		General requirement in Regulation for the application to obtain licence and safety certificate (Tilatelsesforskriften).	1		"Adequate insurance or guarantee covering liabilities which may arise as a result of the undertaking's activity"	1		Differences between obligations aimed towards traffic on the national railway net and traffic on private tracks (not linked to the national network).	The Railway inspectorate has suggested that an insurance limited to 250 mill NOK (30 M€) will be sufficient for operating on the national railway net, but this should be supported by risk assessments in every case.
Portugal	1		Last week the government approved a new Decree-Law which make the transposition of the 1st Infrastructure Package Directives. In this new law, the insurance is one of the requirements for the licence issuing.	1		Minimum amount: 10.000.000 euros. Coverage – passengers, infra-structure, luggage, freight, mail and third parties.	1		NO. The minimum amount is equal for all.	
Sweden	1		Requirement for liability coverage/ insurance exists in the Railway Safety Act (1990:1157) and the Swedish Railway Inspectorate's (Jernvegsinspektionen) regulations on applications for permits to manage track installation, rail traffic or special traffic-management operations (BV-FS 1996:2).		1		1		Museum Railways (musejerveg) on own track are obligated to have liability coverage of at least 50 Million SEK (~5.4 M€)	According to custom we demand an insurance liability coverage of 300 Million SEK (~32 M€). Work with designing regulations with more detailed information is under process. The current level is based on worst case scenario within the road transport system and other known severe railway accidents.
Switzerland	1		Train operating companies operating over other companies' network must have a liability insurance (amount: up to 100 Million CHF for every incident). Legal base: Railway Act of 20 Dec. 1957 (last version 5 Dec. 2000) and Free Access Ordinance of 25 Nov. 1998 (last version 9 March 1999). Regulations applying to all railways can be found in the Railways Liability Act of 28 March 1905 (last version 15 Dec. 1996).	1		For insurance in the case of free access traffic see 1 a, no minimum or maximum limits for all other cases.		1		
UK	1		A requirement of all licences (including those granted under EU Directive 95/18/EC and certain exemptions (for rail maintenance contractors). The detailed requirements are set out in "Guidance on Insurance Against Third Party Liability - Fourth Edition January 1999". See Strategic Rail Authority Website for full text (NB all references to the Rail Regulator are now to be taken as references to the SRA).	1		Minimum normal level of £155 million. This applies to all licensed operators (i.e. including network, station and certain depot operators, as well as train operators - passenger, freight, and others including operators of maintenance vehicles such as tampers, etc.). Operators may request approval of a lower level. This is not expected for operators on the national network (i.e. Network Rail), but approval has been given to lower levels for small operators on other smaller networks on the basis of risk assessment.	1		As described above, there are no pre-determined differences, but approval may be given to lower levels of insurance on the basis of risk assessment.	Please contact Peter West (tel: 020 7654 6261, e-mail Peter.West@sra.gov.uk, SRA 55 Victoria Street London SW1H 0EU) if you need more information.

ILGGRI Questionnaire

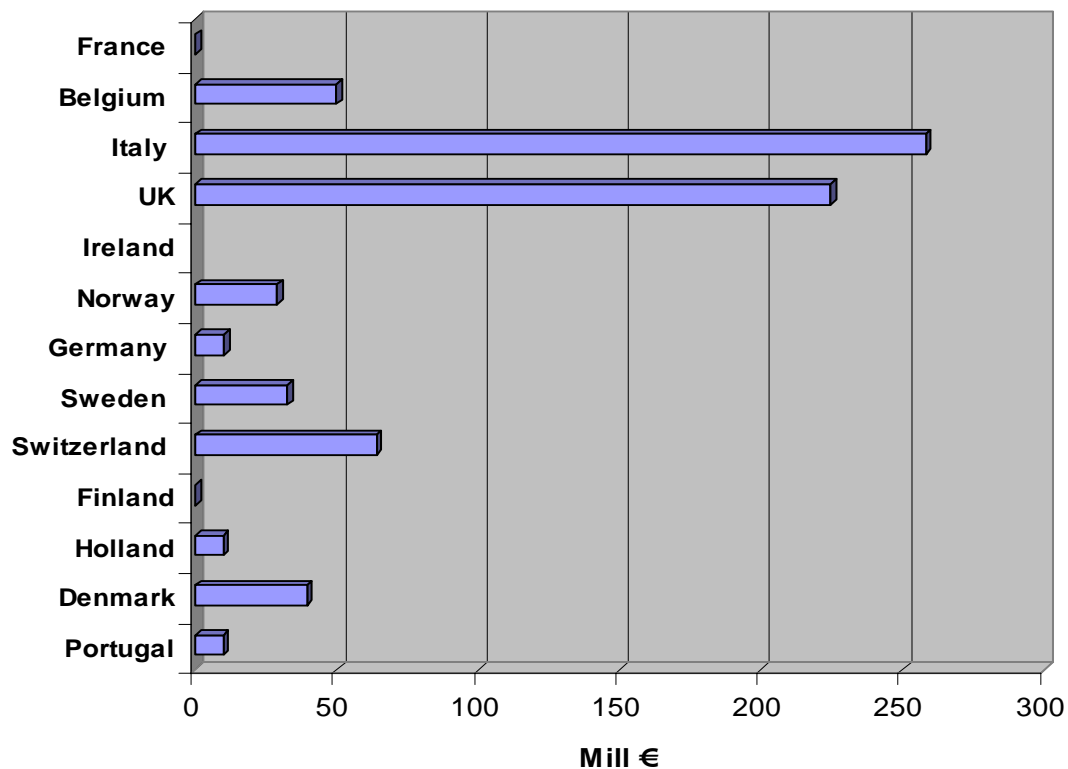
National insurance requirements summary

- Requirements for liability coverage/ insurance
 - 12 - have requirement in National law/ regulation (implementing EU Directives)
 - 1 - has no requirements
 - No international standards are identified
- Liability/ insurance level specified in regulation
 - 9 - have specified the level in regulation
 - 2 - are defining the level based on individual assessment
 - 1 - is implementing a level based on best practice
- Differences based on type of activity
 - On national railway network Museum type of activity may have less requirements

ILGGRI Questionnaire

National insurance requirements summary

Liability/ insurance level



Comments:

- France – Level based on individual assessments
- Ireland – State risk
- Finland – Level based on individual assessments