

Insight

Vnuk

Vnuk How it affects you

What is 'Vnuk'?

'Vnuk' is a European Court judgement given in September 2014. Mr Vnuk was injured when a tractor manoeuvring a trailer in a farmyard in Slovenia knocked him off a ladder. He tried to claim compensation for his injuries from the insurer of the tractor.

The Slovenian court had to consider how Slovenia had implemented the EU Motor Insurance Directive into its local law. They referred a question to the European Court, to clarify whether the need for compulsory third party insurance should include use of a vehicle as a machine (rather than as a means of transport) away from public roads. Slovenian law only required compulsory insurance for use of a vehicle as a means of transport on public roads.

The European Court ruled that the requirement for compulsory insurance should cover any **use** of a vehicle, so long as that use is consistent with the normal function of the vehicle.

But we're in the UK, not Slovenia?

Every country in the EU must reconsider their local law because of the Vnuk ruling. We don't know precisely when the UK Government will begin the formal process of leaving the EU and we don't know how long that process might take. In the meantime, the UK remains part of the EU and is obliged to consider how the Vnuk judgement impacts UK law and in particular the Road Traffic Act.

Why have we only heard about Vnuk in the last few weeks?

The Government launched its consultation on 22 December, bringing the matter into greater public focus and leading to media coverage of the issue.

Why does this affect motorsport?

The Vnuk judgement affects all vehicles which are not currently required to have third party insurance. This includes everything from electric bicycles, golf buggies, quad bikes and ride-on lawn mowers, through to forklift trucks, agricultural machines and construction plant. Even static vehicles in museums and SORN'd vehicles would be affected.

All motorsport vehicles from karts, single seaters, saloons, rally, rallycross and cross country vehicles, trials cars, production cars in autotests, and even land speed record vehicles and Formula 1 cars would be required to have compulsory third party insurance. Many competition vehicles are already road registered, taxed, MOT'd and insured, but this insurance is usually limited to their activities on public roads, and not during competitive sections. A similar situation applies to vehicles on trackdays. No insurance policy is available to cover such a compulsory obligation.

What is the MSA's position?

The European Motor Insurance Directives since 1974 have encouraged harmonisation of rules for compulsory motor insurance across the EU, to provide adequate compensation to victims of accidents. This allows vehicles to move freely across the EU without the need to take out separate insurance policies in every country. It also promotes a healthy and competitive market for insurance companies to provide such motor insurance policies.

It should not be the purpose of the Motor Insurance Directives to regulate compensation for injuries or damage in motorsport. Other sports do not suffer from similar compulsory third party insurance requirements, whether it be cycling, football, rugby, golf or any others.

Motorsport competitors willingly take part in competitions and understand the risks they take. They may insure their vehicles against damage caused, and they may insure themselves against accident or injury. Over 100 years of case precedent in the UK has defined how competitors in sport may be liable to each other for injuries.

The MSA has an umbrella insurance policy which covers public liabilities up to £65million for all events run under MSA permits. All competitors and officials also have the benefit of an umbrella personal accident insurance policy.

The MSA believes that motorsport should be excluded from the Motor Insurance Directive. The MSA supports the UK Government's preferred option in the consultation, which is to change UK law only when the European Commission has amended the Motor Insurance Directive (referred to as the "Amended Directive option" in the consultation document). Any other outcome runs the very real risk of stopping regulated motorsport for an estimated 200,000 participants, and pushing it into illegal unregulated events. It would also fundamentally damage the UK's motorsport industry with over 40,000 jobs and worth £10billion to the UK economy.

What has the MSA been doing about Vnuk?

The MSA has been concerned about the possible consequences of Vnuk since late 2014. Since then we have been lobbying in Westminster, Brussels and across Europe to build support for amending the directive. The process to amend the directive has already begun.

The MSA has been working with a wide range of groups including the Motorsport Industry Association (MIA), the Association of Motor Racing Circuit Owners (AMRCO), the Auto-Cycle Union (ACU), the AMCA and the MCIA, as well as other European ASNs, the FIA and the insurance industry. We have promoted a strong joint message to MPs, the Department for Transport (DfT), Ministers and Secretaries of State. The Vnuk issue has also been a standing item at Motor Sports Council and MSA Board for more than a year.

Should I take part in the consultation?

The MSA is formulating its own detailed response and will communicate that response to the UK motorsport community in due course. You may prefer to wait until then before submitting your own response.

How can I help in the meantime?

Please write to your MP, bringing this important matter to their attention. You may wish to share this article and make the following key points:

- Vnuk has the potential to destroy your hobby and/or livelihood
- As a result it could also destroy an industry employing over 40,000 people across 4,500 companies in the UK, with an annual industry turnover of £10billion.
- The UK is a world leader in motorsport and home to one of the strongest domestic motorsport scenes globally, with an estimated 200,000 participants.

Lastly, am I breaking the law if I compete in or organise a motor sport event in 2017?

The Road Traffic Act has not changed, which means there is currently no requirement for compulsory third party insurance for motorsport.