

News Release

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Guy Carpenter Publishes Update on Key European Legal Developments Impacting Insurance Industry

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In a new report released today, Guy Carpenter & Company, LLC, the leading global risk and reinsurance specialist and a member of Marsh & McLennan Companies (NYSE: MMC), examines key legal issues unfolding in Europe that are of significance to the insurance industry.

Available at www.gccapitalideas.com, *Recent Legislative and Judicial Developments in Continental Europe Affecting the Casualty Insurance Industry* was compiled with the input of Düsseldorf-based law firm Heuking Kühn and its network of insurance legal experts across Continental Europe. The comprehensive report summarizes each issue, providing background, analysis of legal decisions and implications for the insurance industry. The issues covered include:

- **European Free Trade Association (EFTA) Court: Definition of “Durable Media”**
On January 27, 2010, the EFTA Court handed down a judgment defining and explaining the criteria by which Internet sites can qualify as “durable medium” under Directive 2002/92/EC of the European Parliament and the Council on Insurance Mediation. The Directive and EFTA Court are explained, with a discussion of the judgment and its implications.
- **Austria: Absolute Limitation Period for Insurance Claims**
The Austrian Supreme Court recently ruled that in “timely stepped” insurance cases, the insured is at least obligated to file a declaratory lawsuit in time to avoid a limitation of the insurance claim at hand. The report discusses the case, underlying legal context, Supreme Court decision and resulting implications.
- **France: Arbitration Agreements vs. Expert Determination Clauses**
The report analyzes how differentiating between a proper arbitration agreement and an expert determination clause can be difficult. The difference is significant since a decision rendered as a result of arbitration proceedings is binding and subject to limited review, while a decision rendered as a result of expert determination proceedings leaves open the possibility of litigation before a court in case of disagreement on the expert’s findings.
- **Germany: Liability for Energy Installations**
With utility supply models moving away from direct delivery to end users by producers and instead towards delivery through intermediate, smaller networks, new issues are emerging in liability law – particularly when damages are incurred between network operators. The

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report reviews the Federal Court of Justice of Germany's recent ruling on such a case filed by an electric utility company.

- **Italy: Claims-Made Insurance Policies**
In recent years, insurance companies have most commonly offered professional civil liability insurance through policies based on a claims-made system, rather than on a loss occurrence. However, this can be problematic since the claims-made system does not follow specific features of civil liability insurance as provided in the Italian Civil Code. Recent developments in Italian court rulings are discussed.
- **The Netherlands: Statute of Limitation and the Obligation to Complain about Professional Legal Malpractice**
The report provides an overview of legal malpractice under Dutch law, summarizing the issues of statute of limitation and obligation to complain.
- **Poland: Changing Perspective on Insurance Law**
Poland's transition to full European Union membership has resulted in numerous changes to its legal system. The report examines legal changes impacting re/insurance activities.
- **Spain: Simultaneous Payment and Claims Control Clauses**
In April 2010 the Spanish Supreme Court handed down a judgment regarding the simultaneous payment and claims control clauses inserted in the particular conditions of a direct insurance policy and in a reinsurance contract, respectively. The case, court decisions and implications are analyzed.
- **Sweden: Enforcement of Romanian Judgment in Sweden**
In a judgment rendered in October 2006 by a Romanian court, a Swedish insurer was ordered to pay compensation to a traffic injury victim said to be nine times more than what the victim could have been awarded by a Swedish court. The details of the case and court decisions are presented.
- **Switzerland: The New Swiss Product Safety Act**
The Federal Convention of the Swiss Confederation enacted a new federal law covering product safety, effective July 1, 2010. The new law is intended to bring the safety requirements of products under Swiss law in line with European law and to ease the free movement of goods in the economic area of the European Union (EU) and Switzerland. The report summarizes the scope of the law, responsibilities for placing products, sanctions and liability and insurance law implications.

QUOTES

David Lewin, Managing Director, Guy Carpenter & Company

"This latest installment in our annual legislative update series is designed to provide our international clients and markets with a concise overview of key trends in the Continental European legal environment that either have had an impact on insurers and reinsurers or are expected to in the near future."

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TAGS/KEYWORDS

Guy Carpenter, European legal developments, legal, Continental Europe, insurance law, European Free Trade Association Court, Lewin

About Guy Carpenter

Guy Carpenter & Company, LLC is the world's leading risk and reinsurance specialist and a member of Marsh & McLennan Companies. With over 50 offices worldwide, Guy Carpenter creates and executes reinsurance solutions and delivers capital market solutions* for clients across the globe. The firm's full breadth of services includes line of business expertise in Agriculture; Aviation; Casualty Clash; Construction and Engineering; Excess and Umbrella; Life, Accident and Health; Marine and Energy; Medical Professional Liability; Political Risk and Trade Credit; Professional Liability; Property; Retrocessional Reinsurance; Surety; Terrorism and Workers Compensation. GCFac® is Guy Carpenter's dedicated global facultative reinsurance unit that provides placement strategies, timely market access and centralized management of facultative reinsurance solutions. In addition, GC AnalyticsSM utilizes industry-leading quantitative skills and modeling tools that optimize the reinsurance decision-making process and help make the firm's clients more successful. Guy Carpenter's website address is www.guycarp.com.

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