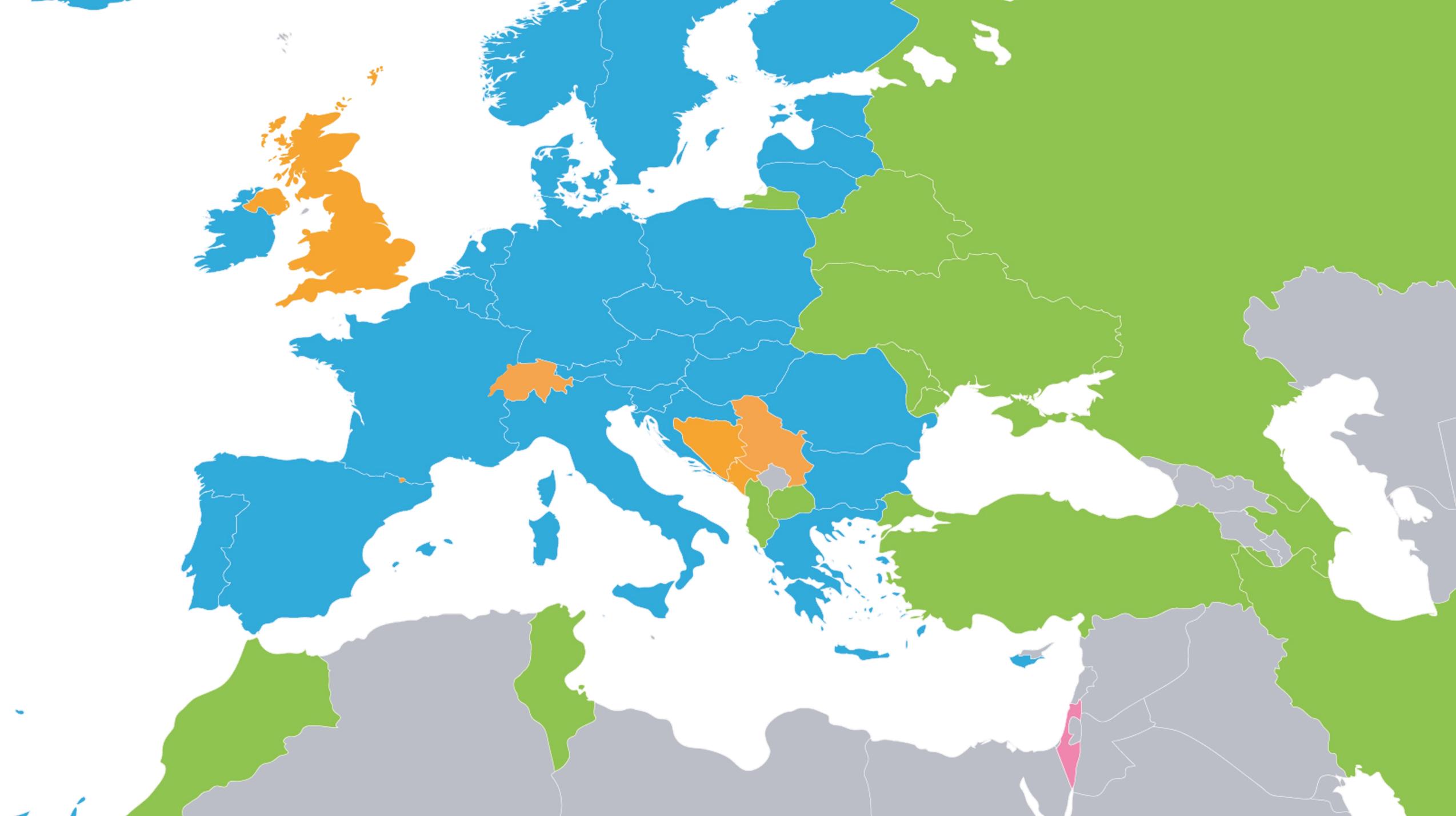


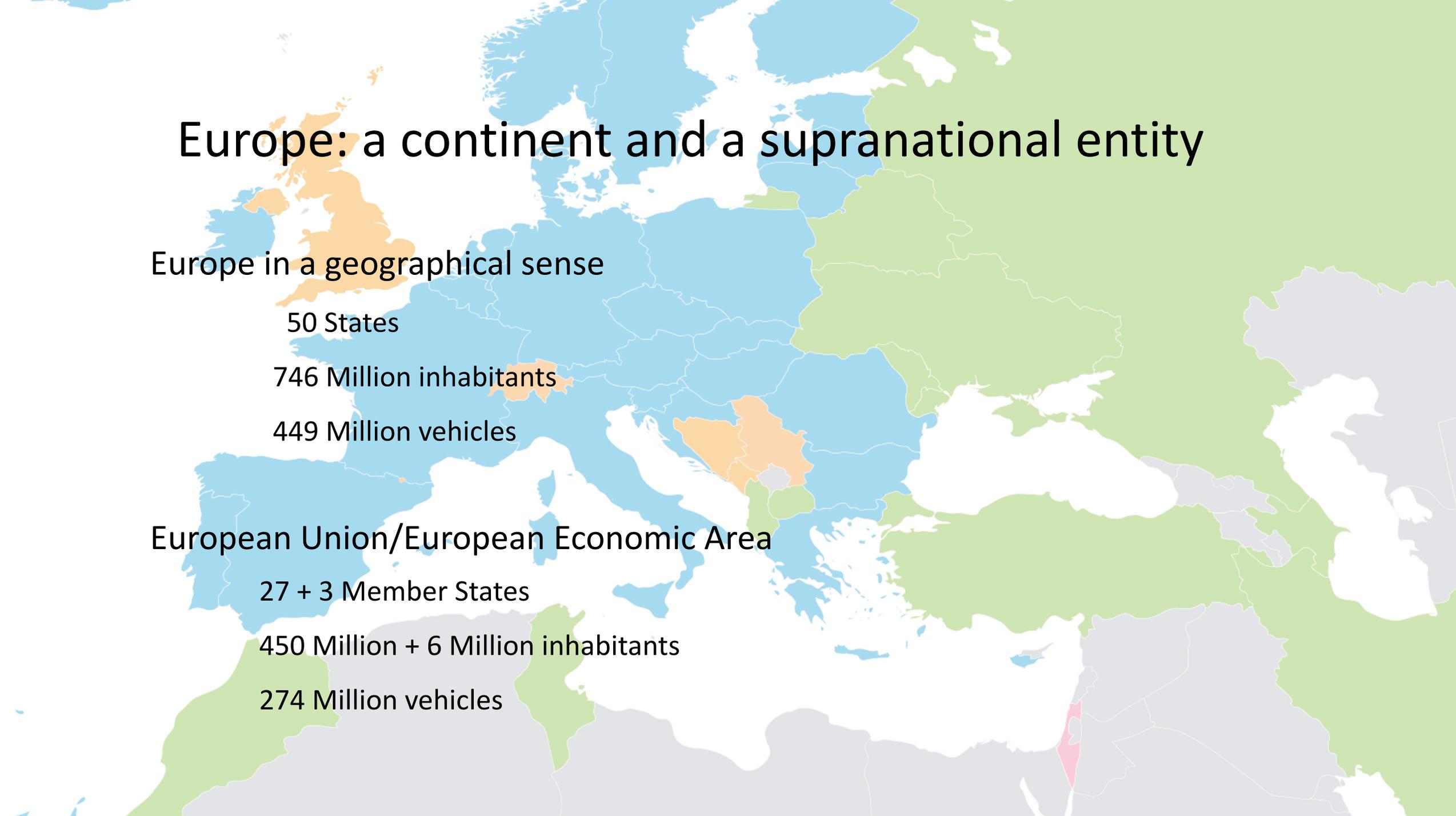


Cross-border traffic accidents and claims handling in Europe

Frits Blees



Europe: a continent and a supranational entity



Europe in a geographical sense

50 States

746 Million inhabitants

449 Million vehicles

European Union/European Economic Area

27 + 3 Member States

450 Million + 6 Million inhabitants

274 Million vehicles

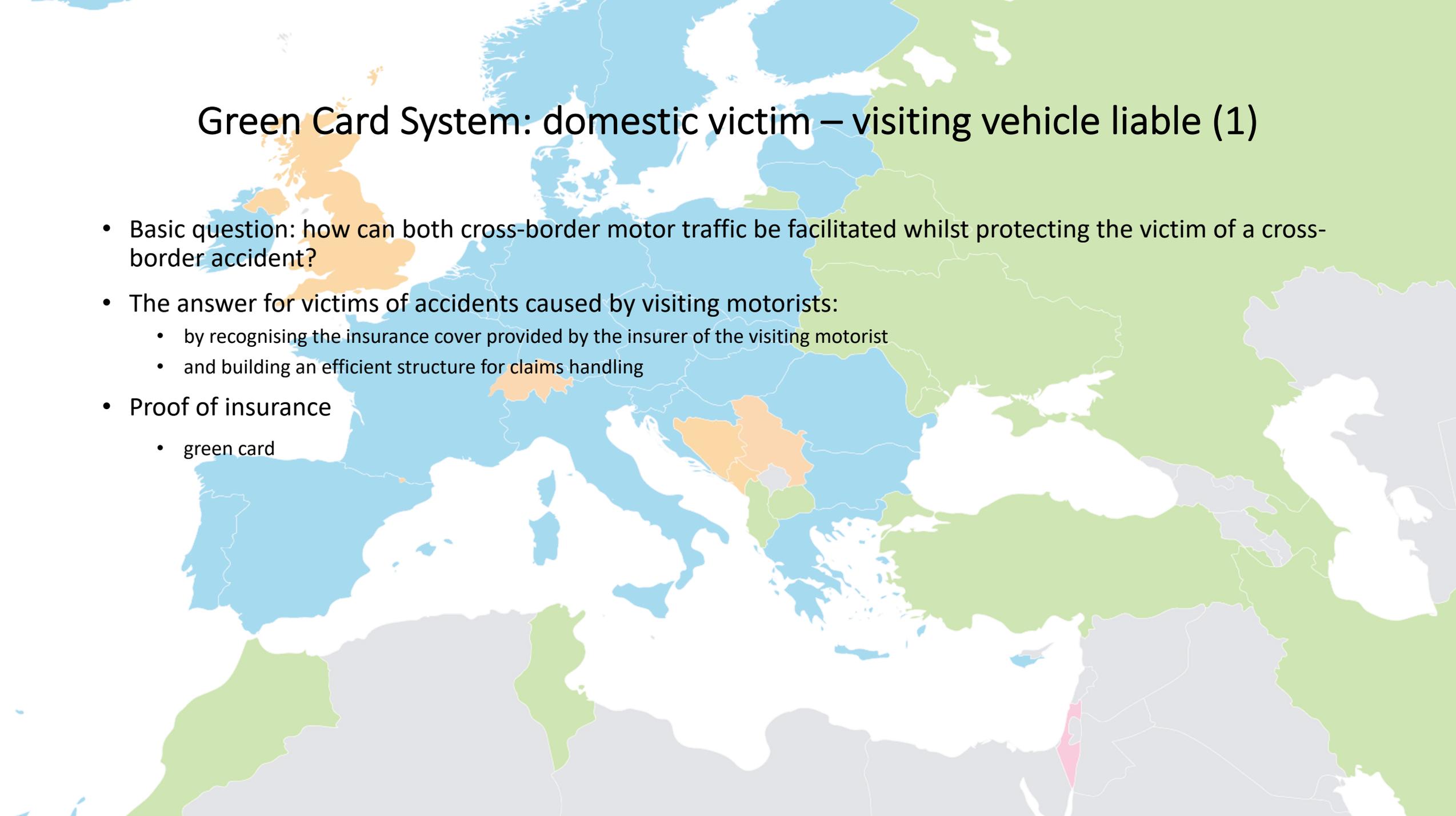
Two types of cross-border traffic accidents

Two systems for facilitation of free movement and the protection of victims

- Visiting vehicle is liable for the accident; domestic victim
 - Green Card system: the green, blue and orange countries
 - 47 countries in Europe, North Africa and the Near East
 - Actors:
 - 46 Green Card Bureaux
 - ± 1580 insurance companies
 - ± 400 nominated correspondents
- Victim is visiting another country; domestic vehicle is liable
 - Protection of visitors Directive (4th Directive) of the EU: the blue countries
 - 27 Member States of the EU + 3 Member States of the EEA (Iceland, Liechtenstein and Norway)
 - Actors:
 - ± 1250 insurance companies
 - ± 330 claims representatives
 - 30 Compensation Bodies
 - 30 Guarantee Funds

Green Card System: domestic victim – visiting vehicle liable (1)

- Basic question: how can both cross-border motor traffic be facilitated whilst protecting the victim of a cross-border accident?
- The answer for victims of accidents caused by visiting motorists:
 - by recognising the insurance cover provided by the insurer of the visiting motorist
 - and building an efficient structure for claims handling
- Proof of insurance
 - green card



OHIGINE: LUXEMBURG

1. INTERNATIONALE MOTORUITVOERVERZEKERINGSKAART
 1. INTERNATIONAL MOTOR INSURANCE CARD
 1. CARTE INTERNATIONALE D'ASSURANCE AUTOMOBILE

3. GELDIGVALD
 3. VALIDITY

VAARTROUW			TOEGANG		
Dag / Month / Year					
01/01/2024	31/12/2024	01/01/2024	31/12/2024	01/01/2024	31/12/2024

4. Landcode/Code van het land/Code du pays
 4. Country Code/maatschappijcode/Code du pays

5. Kenteken of landen geen kenteken
 5. License plate or country code
 5. Plaque du véhicule ou pays

6. Soort motorrijtuig
 6. Motor category
 6. Catégorie de véhicule

7. Merk motorrijtuig
 7. Make of vehicle
 7. Marque du véhicule

8. DEKKNINGSREBIED

Dit kaartje is geldig in de landen die hier zijn doorkruist met een asterisk (*). Het is niet van toepassing op landen die hier niet zijn doorkruist met een asterisk (*). Dit kaartje is niet van toepassing op landen die hier niet zijn doorkruist met een asterisk (*). Dit kaartje is niet van toepassing op landen die hier niet zijn doorkruist met een asterisk (*).

Bekijk voor het juiste land op de achterzijde

A	B	BT	CY	CZ	DK	E	ES	F	FR	GR	GP
H	HR	I	IRL	IS	L	LI	N	NL	NL	PL	PT
RD	S	SK	SD	SI	SI	TH	TR	UK	X	XX	XX
YD	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX	XX

* Dit kaartje is niet van toepassing op landen die hier niet zijn doorkruist met een asterisk (*). Dit kaartje is niet van toepassing op landen die hier niet zijn doorkruist met een asterisk (*). Dit kaartje is niet van toepassing op landen die hier niet zijn doorkruist met een asterisk (*).

2. UITGEBEVER OF HET BEZAG VAN:
 2. ISSUED UNDER THE AUTHORITY OF:
 NEDERLANDS BUREAU VOOR MOTORRIJTUIGVERZEKERING

8. Naam en adres van de uitgever of de houder van het motorrijtuig
 8. Name and address of the holder of the vehicle or user of the vehicle

9.220
 9.220
 9.220

10. De houder is uitgegeven door:
 10. This certificate has been issued by:

9.220
 9.220
 9.220

9.220
 9.220

11. Ondertekening verzekerder
 11. Signature of issuer

* SOORT MOTORRIJtuig (CODE) / CATEGORY OF VEHICLE (CODE)

- A. PERSONEEL RIJVOER
- B. NIET RIJVAEL MOTORVOER
- C. VIERWIELIGEN OF TROMMELRIJVOER (TACHTER)
- D. BROMFIER/OPRIJFTUIG MET BIJZONDERE ENGINEN
- E. AUTOBROMFIER
- F. AANMARRANGINGEN OF LIGGERTRAILER
- G. OVERGOTIERS

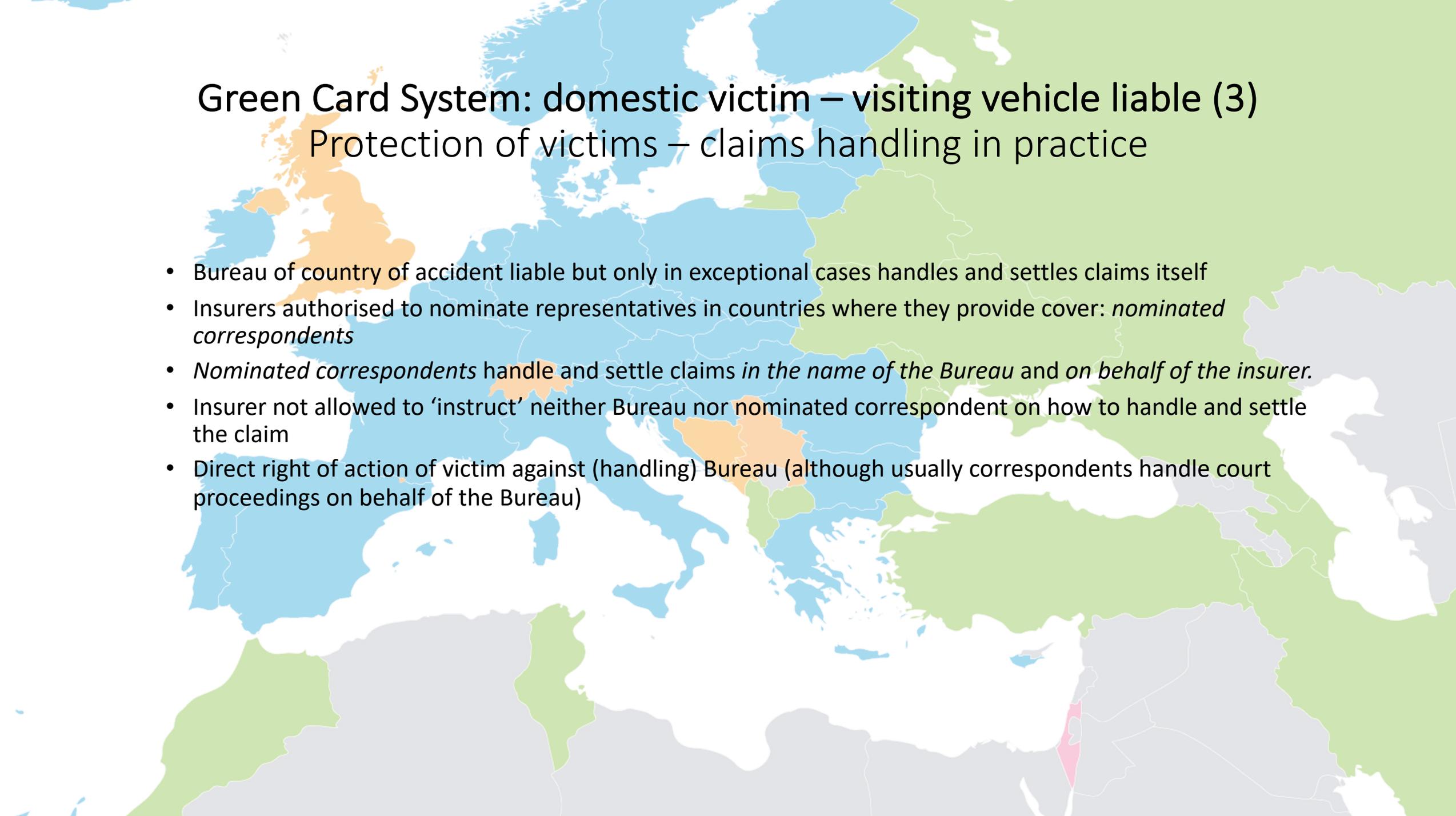
Green Card System: domestic victim – visiting vehicle liable (1)

- Basic question: how can both cross-border motor traffic be facilitated whilst protecting the victim of a cross-border accident?
- The answer for victims of accidents caused by visiting motorists:
 - by recognising the insurance cover provided by the insurer of the visiting motorist
 - and building an efficient structure for claims handling
- Proof of insurance
 - green card *or*
 - vehicle normally based in participating country: vehicle bears registration plate, insurance plate or other distinguishing sign, of a MS, or the custodian of the vehicle has permanent residence in a MS
- Structure for claims handling:
 - establishment of Bureaux (associations of MTPL insurers)
 - which in the country of accident guarantee handling and settlement of claims (handling Bureau)
 - and which in the home country of the visiting motorist guarantee reimbursement of the handling Bureau's outlays (guaranteeing Bureau)

Green Card System: domestic victim – visiting vehicle liable (2)

Protection of victims – basic principles

- Visiting vehicle is 'covered' on basis of either green card or normally based-concept
- Bureau of country of accident liable for handling and settling claims
 - Direct action of victim against handling Bureau
 - Claims handled according to applicable law = (usually) *lex loci delicti* or *lex damni*
 - Cover according to requirements visited country
- Reimbursement guaranteed by Bureau
 - that issued green card
 - illegally altered or false green cards also guaranteed
 - or of country where vehicle normally based
 - uninsured vehicles also guaranteed
 - no guarantee if registration does not/no longer correspond with vehicle



Green Card System: domestic victim – visiting vehicle liable (3)

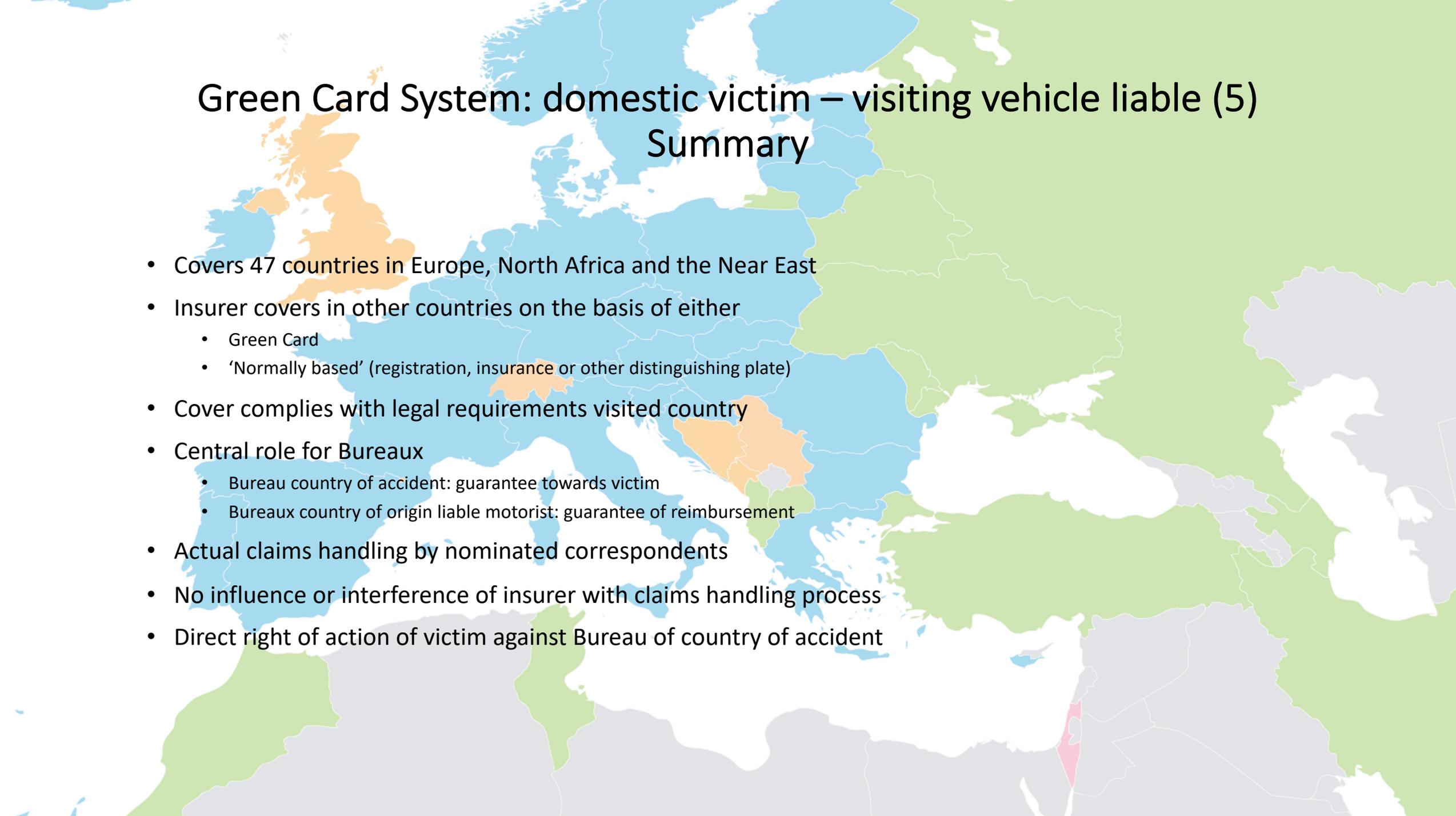
Protection of victims – claims handling in practice

- Bureau of country of accident liable but only in exceptional cases handles and settles claims itself
- Insurers authorised to nominate representatives in countries where they provide cover: *nominated correspondents*
- *Nominated correspondents* handle and settle claims *in the name of the Bureau and on behalf of the insurer.*
- Insurer not allowed to ‘instruct’ neither Bureau nor nominated correspondent on how to handle and settle the claim
- Direct right of action of victim against (handling) Bureau (although usually correspondents handle court proceedings on behalf of the Bureau)

Green Card System: domestic victim – visiting vehicle liable (4)

Reimbursement procedures

- Compensation of victim before demanding reimbursement
- Reimbursement of compensations paid to injured parties + external costs + handling fee (15 % of compensation + costs with a minimum and maximum)
- Reimbursement within 2 months under penalty of 12 % late payment interest
- Handling Bureau or correspondent can call in guarantee of debtor Bureau if no reimbursement within 2 months
- If vehicle uninsured reimbursement demand directly to Bureau



Green Card System: domestic victim – visiting vehicle liable (5) Summary

- Covers 47 countries in Europe, North Africa and the Near East
- Insurer covers in other countries on the basis of either
 - Green Card
 - 'Normally based' (registration, insurance or other distinguishing plate)
- Cover complies with legal requirements visited country
- Central role for Bureaux
 - Bureau country of accident: guarantee towards victim
 - Bureaux country of origin liable motorist: guarantee of reimbursement
- Actual claims handling by nominated correspondents
- No influence or interference of insurer with claims handling process
- Direct right of action of victim against Bureau of country of accident

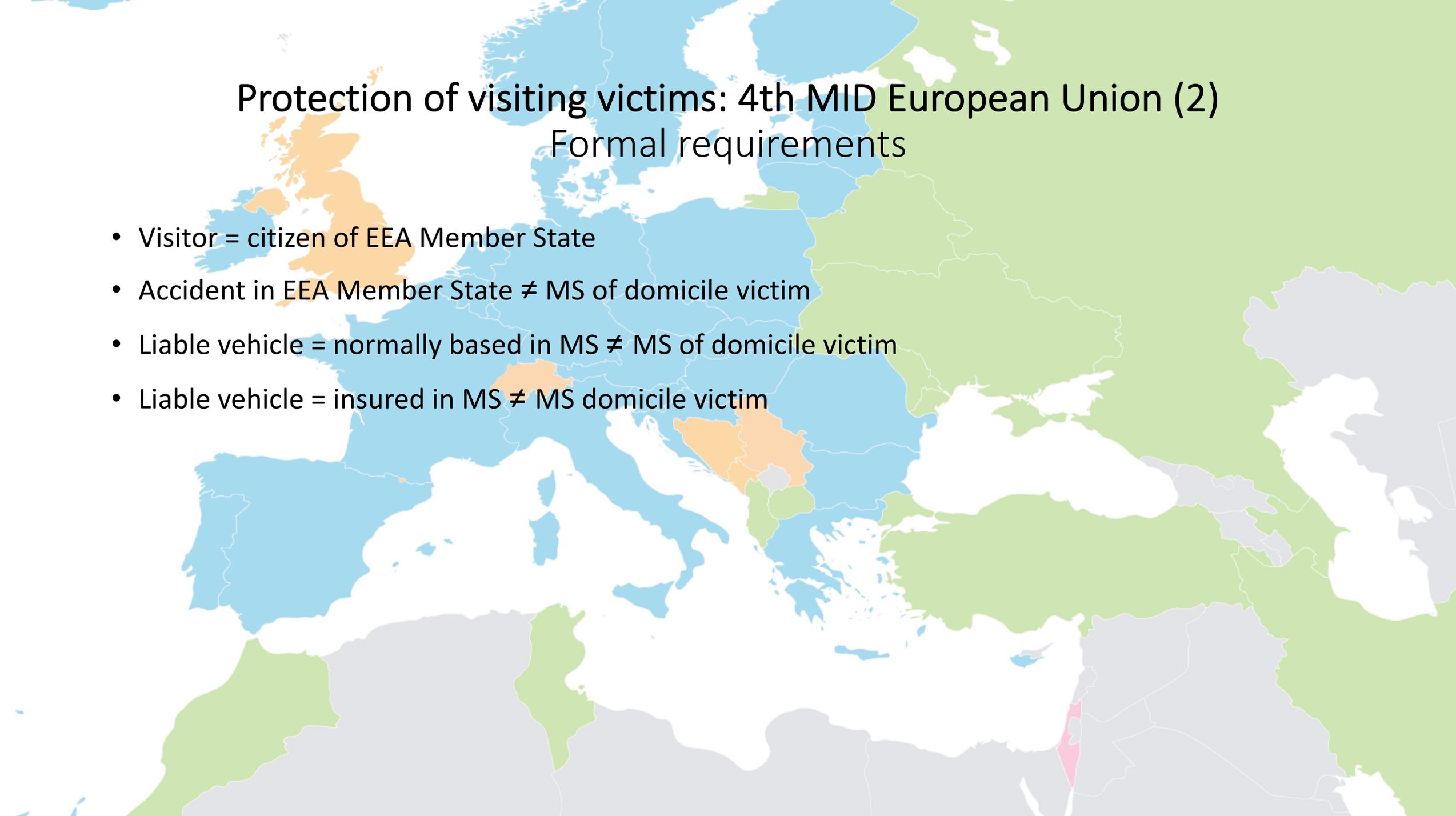
Protection of visiting victims: 4th MID European Union (1)

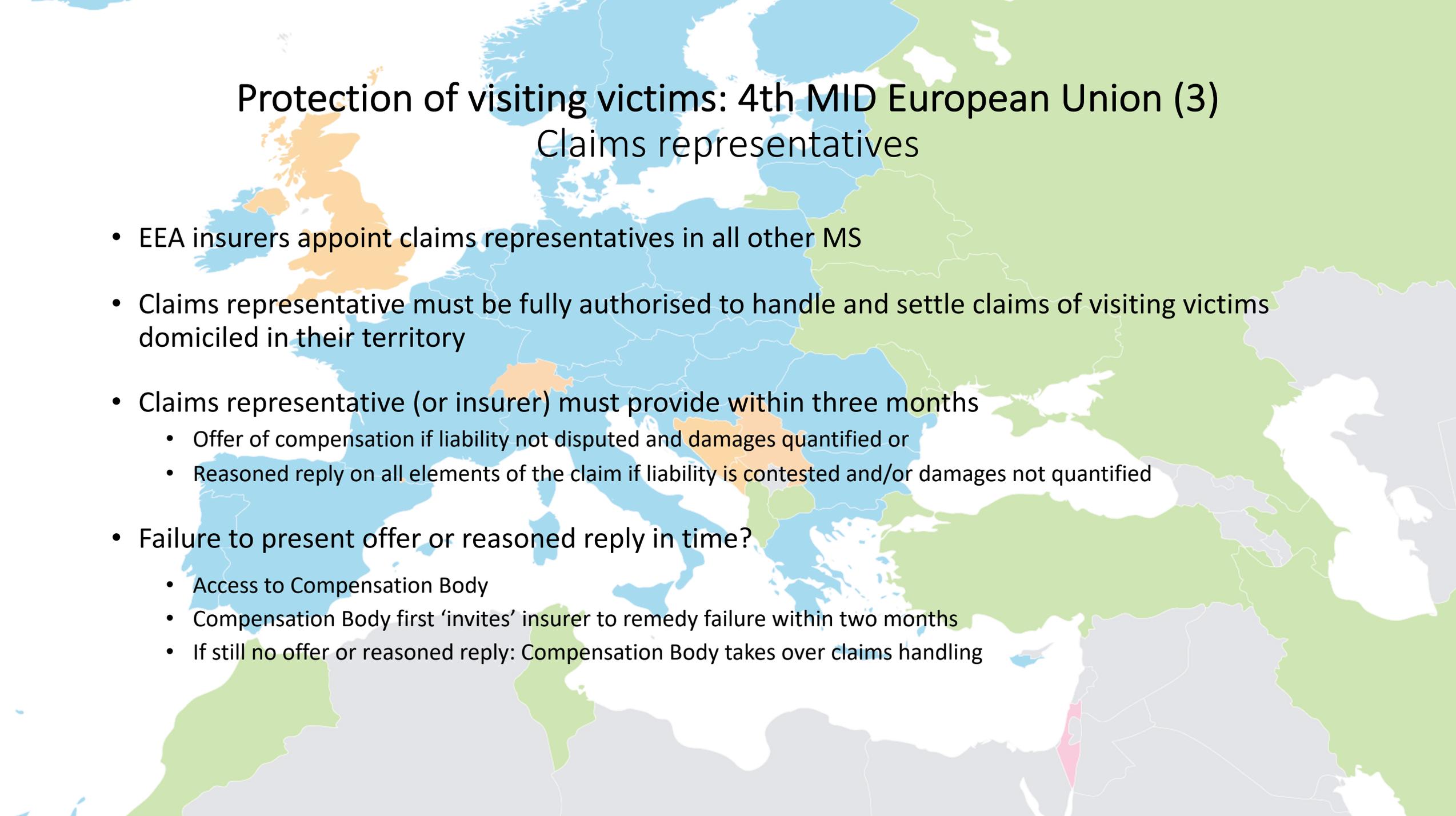
- Mirror situation of Green Card system: visitor = victim and not liable party
- Visitor can be motorist, cyclist, pedestrian
- Narrower geographical scope: in principle only EEA
- Focus almost entirely on insurers and claims representatives
- Role of Compensation Body not to be compared with Green Card Bureau

Protection of visiting victims: 4th MID European Union (2)

Formal requirements

- Visitor = citizen of EEA Member State
- Accident in EEA Member State \neq MS of domicile victim
- Liable vehicle = normally based in MS \neq MS of domicile victim
- Liable vehicle = insured in MS \neq MS domicile victim





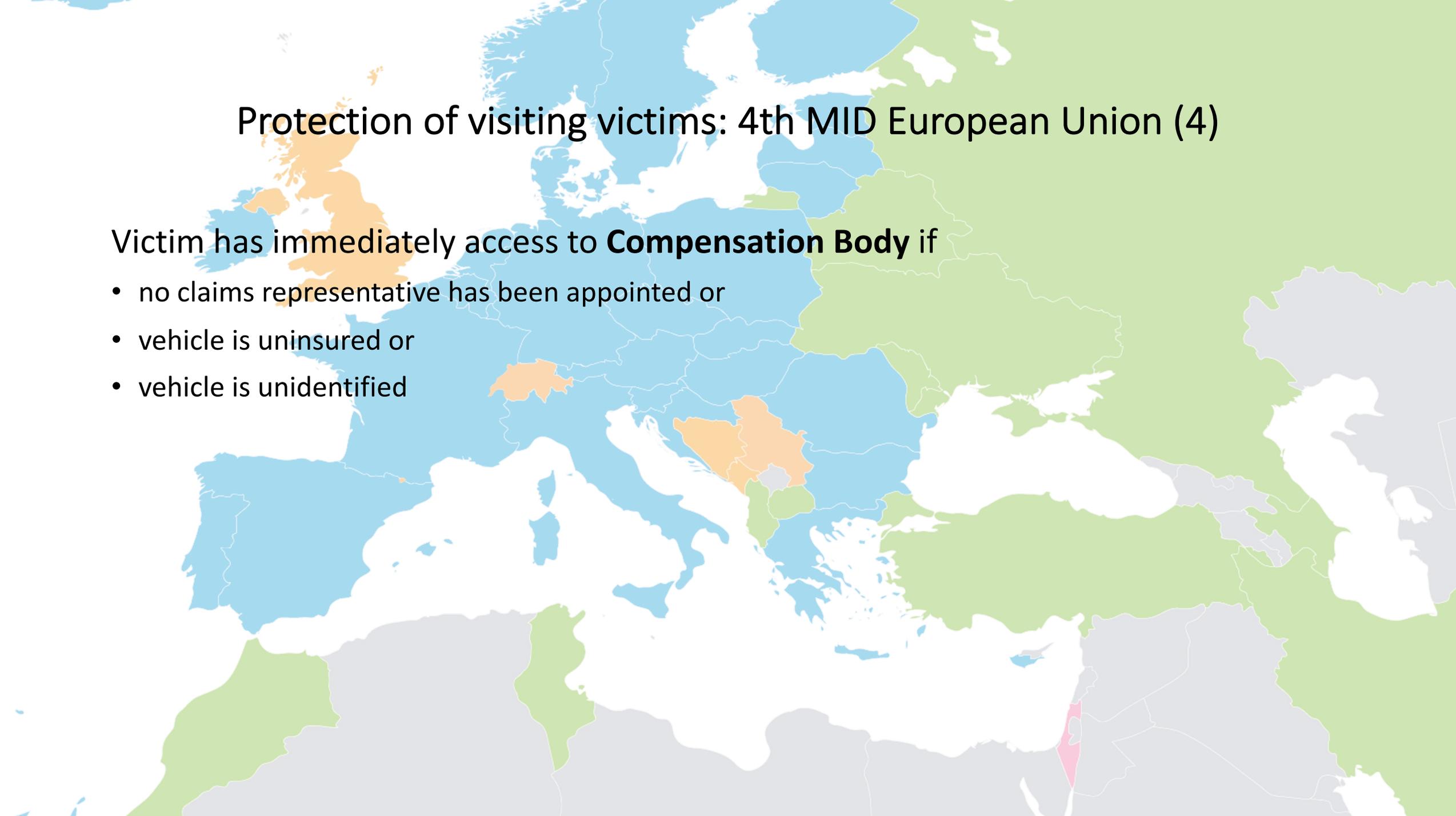
Protection of visiting victims: 4th MID European Union (3) Claims representatives

- EEA insurers appoint claims representatives in all other MS
- Claims representative must be fully authorised to handle and settle claims of visiting victims domiciled in their territory
- Claims representative (or insurer) must provide within three months
 - Offer of compensation if liability not disputed and damages quantified or
 - Reasoned reply on all elements of the claim if liability is contested and/or damages not quantified
- Failure to present offer or reasoned reply in time?
 - Access to Compensation Body
 - Compensation Body first 'invites' insurer to remedy failure within two months
 - If still no offer or reasoned reply: Compensation Body takes over claims handling

Protection of visiting victims: 4th MID European Union (4)

Victim has immediately access to **Compensation Body** if

- no claims representative has been appointed or
- vehicle is uninsured or
- vehicle is unidentified



Protection of visiting victims: 4th MID European Union (5)

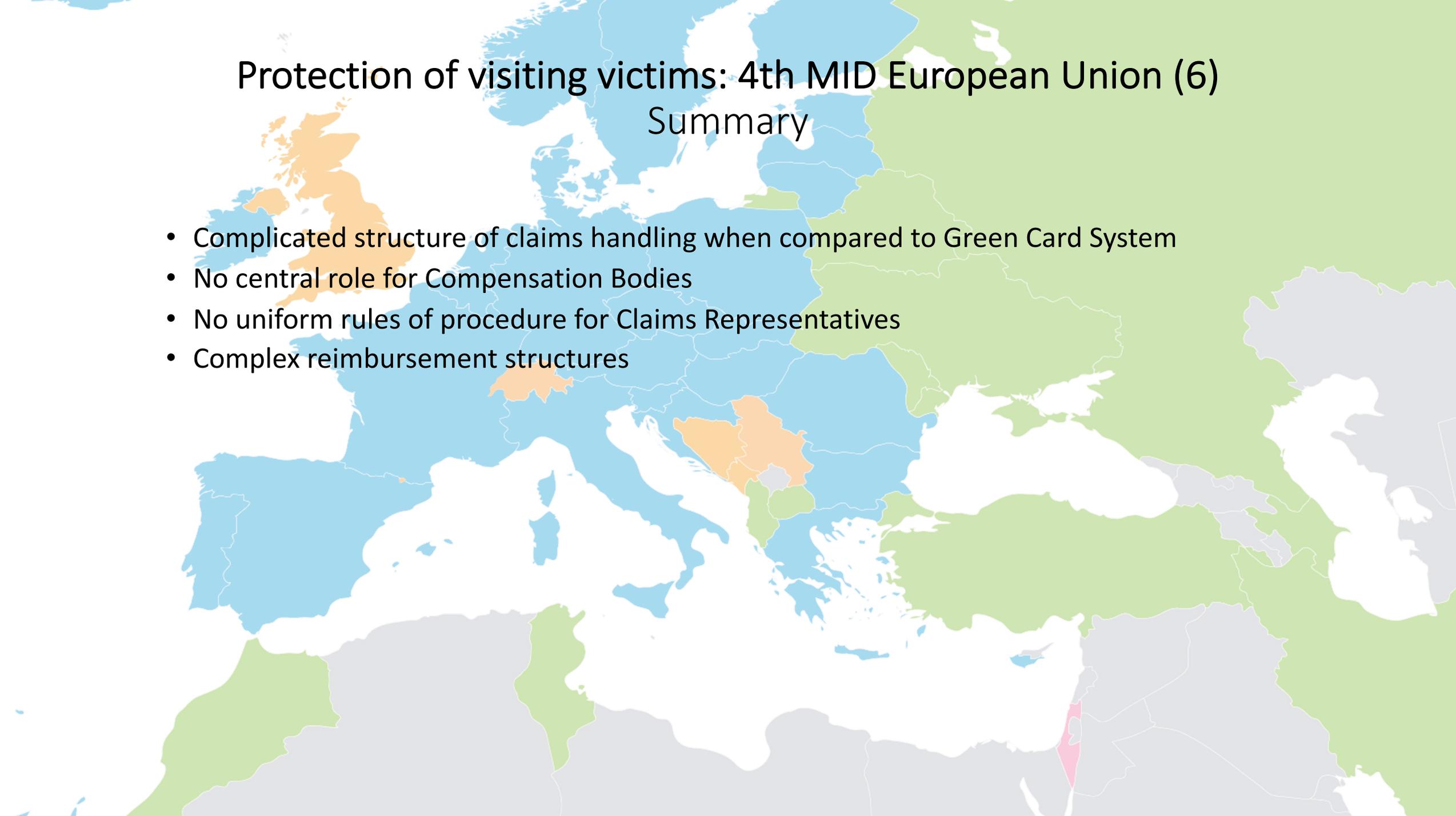
Recourse and reimbursement

- Claims representative – insurer:
 - Based on private agreements;
 - No 'guarantee' by Compensation Body
- Compensation Body MS domicile victim – Compensation Body MS insurance undertaking:
 - If no offer or reasoned reply by insurer or claims representative within 3 + 2 months
 - If no claims representative appointed
- Compensation Body – Guarantee Fund
 - If vehicle uninsured → Guarantee Fund MS normally based
 - If vehicle unidentified → Guarantee Fund MS of accident

Protection of visiting victims: 4th MID European Union (6)

Summary

- Complicated structure of claims handling when compared to Green Card System
- No central role for Compensation Bodies
- No uniform rules of procedure for Claims Representatives
- Complex reimbursement structures





Conclusions

- **Accidents caused by visiting motorists:**
 - Protection under Green Card system in practically all of Europe
 - Proven efficacy in almost 70 years
 - Very few complaints from victims/injured parties
 - Very few court cases/arbitration procedures between Bureaux on reimbursement issues
- **Accidents with visiting victims**
 - More limited geographical scope: EEA
 - Claims handling and reimbursement structures more complicated
 - Less central steering than under Green Card system; stronger position of insurers
 - Therefore less information about quantity and quality of claims handling and settlement
 - Yet: recently published 6th Directive contains no new rules → structures work well enough?