

# Decision on the implementation of an automated decision-making procedure Compensation under Motor Third Party Liability Insurance

<p><b>The responsible for decision-making</b> If P&amp;C Insurance Company Ltd (publ), branch in Finland</p> <p><b>Decision-making procedure</b> Compensation of traffic accidents</p> <p><b>Date of implementing the decision-making procedure</b> implemented before the entry into force of automation legislation</p> <p><b>Decision date</b> 31 October 2024</p> <p><b>Record Number</b> IF-APT-LIIKENNE-K-Claims-KORV-001</p>
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*The official decision on the implementation is in Finnish. This English document is an unofficial translation.*

## 1. Decision

This is a decision in accordance with section 28d of the Act on Information Management in Public Administration (906/2019, hereinafter “the Information Management Act”) that If P&C Insurance Company Ltd (publ), branch in Finland (hereinafter “If”) will adopt automated decision-making concerning insurance compensation paid on the basis of the Motor Liability Insurance Act to a party suffering loss or damage due to a traffic accident.

## 2. Justifications

### 2.1. Introduction

If has assessed the prerequisites of the implementation of automated decision-making with this implementation decision. In its assessment, If has taken into consideration the prerequisites laid down in the Motor Liability Insurance Act (460/2016), the Damages Act (412/1974), the Administrative Procedure Act (434/2003), the Information Management Act (906/2019) and the General Data Protection Regulation (GDPR, EU 2016/679).

Based on the justifications presented below, If considers that the decision-making procedure subject to the implementation decision fulfils all the prerequisites for the implementation of the automated decision-making.

### 2.2. Compensation for property damage in a traffic accident

According to section 37.1 of the Motor Liability Insurance Act, compensation for property damage is determined in accordance with chapter 5, section 5 of the Damages Act. According to section 37.2 of the

Motor Liability Insurance Act, the cost of repair or a corresponding amount will be compensated as damage to a vehicle. No compensation will be paid due to impairment of the value of the vehicle.

According to chapter 5, section 5 of the Damages Act, damages for property damage shall cover the costs of repair of the damaged object, other expenses arising from the damage, or the value of a destroyed or lost object, and loss of income and maintenance.

On the basis of the above provisions, the compensation to a party suffering damage due to a traffic accident may include the repair costs of the vehicle and other expenses arising from the damage, such as the towing costs of the vehicle, as well as costs incurred from using a rental car. The amount of damage is assessed equitably in relation to all parties who have suffered damage. The automated decision-making procedure described in this implementation decision only applies to compensation payable to a party suffering damage on the basis of the Motor Liability Insurance Act to which the party suffering damage is entitled on the basis of the Motor Liability Insurance Act or the Damages Act and when the basis for liability for the damage has already been decided by our company.

## 2.3. Prerequisites laid down in the Administrative Procedure Act

### 2.3.1. Automated decision-making

Under section 53e, subsection 1 of the Administrative Procedure Act, decision-making is automated when the authority makes a decision that concludes the processing of a matter using automated data processing without the decision being reviewed and approved by a natural person. According to section 53e, subsection 2, the authority may make an automated decision on a matter that does not involve circumstances requiring case-by-case discretion or that involves circumstances requiring case-by-case discretion that have been assessed by a public official or other person processing the matter. The decision must be based on processing rules based on applicable law and advance discretion.

According to the rationale for section 53e of the Administrative Procedure Act (government proposal 145/2022, p. 98), matters that can be decided automatically are those whose decision can be derived with sufficient unambiguity directly from legislation and the facts of the case. Automated decision-making may also be applied to matters where the underlying legislation contains a considerable amount of scope for interpretation, but the authority has an established decision-making policy for the group of matters in question, according to which matters with certain characteristics (typical cases) are always decided in the same way.

As a rule, motor third party liability insurance is mandatory by law for all vehicles used in traffic, and the insurance company's procedure for compensation of traffic accidents is always based on legislation. Once the basis for liability for damage from a traffic accident has been decided in our company, and a claim for the repair of a damaged vehicle or other expenses arising from the damage to an injured party is presented to our company, the claim may be processed and paid automatically. This is a case of making a decision that concludes the processing of the matter, and the prerequisites for the automated decision-making of a matter apply.

Processing a claim for the repair of a vehicle or other expenses arising from the damage does not involve the need for case-by-case consideration or discretionary elements, as processing such claims is based on If's pre-established processing rules and claims are only processed after the basis for liability for damage has been decided in our company. The processing rules govern the processing and automated decision-making of the matter. The processing rules have been drawn up in such a way that, for each automatically processed claim, the automated decision-making procedure leads to a result in compliance with the Motor Liability Insurance Act and the Damages Act.

The processing rules include defined restrictions based on which the matter is transferred to a natural person for decision-making. The restrictions are based on the need to ensure the protection of the party's legal rights and the proper investigation of the matter in general.

### 2.3.2. Legal protection in automated decision-making

According to section 53f, subsection 1 of the Administrative Procedure Act, a prerequisite for automated decision-making is that the natural person whom the decision concerns may in all respects request a review of the decision free of charge with a request for review in accordance with chapter 7a or a similar claim, which will be processed by the authority that made the decision or an authority belonging to the same controller.

If the party suffering loss is dissatisfied with the automated decision given in the matter, in which the party's claim was not accepted as such, the party suffering loss can contact If and request that the matter be processed by a natural person.

### 2.3.3. Notification of automated decision-making

Under section 53g, subsection 1 of the Administrative Procedure Act, an administrative decision must indicate if the matter has been decided automatically and provide information on where the implementation decision referred to in section 28d of the Information Management Act is available.

The decision on the claim addressed to the party suffering loss will include an indication that the claim has been processed automatically as prescribed in section 53e of the Administrative Procedure Act. The decision on the claim will also include the If website address where this implementation decision is available.

## 2.4. Prerequisites laid down in the Information Management Act

### 2.4.1. Documentation of the division of duties and processing rules

According to section 28a, subsection 1 of the Information Management Act, the authority must document the division of duties of the persons responsible for the implementation of the duties laid down in chapter 6a of the Information Management Act. If has documented the division of duties in a separate document. The division of duties is determined by the responsibilities and job descriptions defined in If's organisational structure.

According to section 28a, subsection 2 of the Information Management Act, the authority must ensure that the processing rules of automated decision-making are documented sufficiently clearly and comprehensively so as to demonstrate their legality. The processing rules must particularly indicate how the non-discrimination of decision-making is ensured, how the matter is investigated adequately and appropriately, including hearing the party concerned, and how the decision is justified or why no justifications are required.

If has prepared a processing rule document in accordance with section 28a, subsection 2 of the Information Management Act, detailing the operation of the automated decision-making that this implementation decision concerns. The documentation describes the stages of the automated decision-making that affect the decision on the matter and the processing rules for each stage of the decision-making.

The documentation describes the legislation applicable to automated decision-making and assesses how the non-discrimination of the decision procedure is ensured. The processing rules also define how the matter will be investigated adequately and appropriately and on what grounds it is unnecessary to hear the party concerned or provide justifications for the decision. The documentation also describes the information and information sources required for making a decision on the matter and the practices for acquiring the information, as well as ensuring that the information is up-to-date and accurate. The documentation also includes information on the quality assurance of automated decision-making and the implementation of the requirements for information security measures.

The legality of the content of the processing rule documentation in accordance with section 28a, subsection 2 of the Information Management Act has been checked in accordance with section 28a, subsection 3 of the Information Management Act and the documentation has been approved. If will retain the approved processing rule documentation for at least five years from the beginning of the calendar year following the discontinuation of the automated decision-making as required by section 28a, subsection 3 of the Information Management Act.

In accordance with section 28a, subsection 4 of the Information Management Act, If has ensured that, based on the prepared processing rule documentation as well as the implementation of the information systems used for the decision on the matter, it can be demonstrated which processing rules were used to automatically decide on an individual matter for at least five years after deciding on the matter.

#### 2.4.2. Quality assurance, quality monitoring and the processing of errors

According to section 28b of the Information Management Act, before implementing automated decision-making and upon changing the procedure during use, the authority must ensure that the automated decision-making corresponds to the documentation referred to in section 28a, subsection 2 of the Information Management Act, i.e. the processing rules prepared on automated decision-making. In addition, the authority must ensure that the language of the automatically produced documents provided to the party concerned is of high quality and that the key measures for quality assurance are documented.

According to section 28c of the Information Management Act, the authority must monitor the quality and accuracy of the content of the matters subject to automated decision-making. The section also lays down provisions on risk management and the planning of the procedure for correcting any errors detected.

The quality assurance and quality monitoring practices to be followed in the automated decision-making that this implementation decision concerns have been documented, and the persons responsible for quality assurance and monitoring have been appointed.

Before implementation of the automated decision-making procedure, If has ensured that the procedure complies with the established processing rules through comprehensive testing of the procedure. If has also ensured that the automatically produced documents fulfil the requirements for high-quality language.

If has documented how the quality of the automated decision-making will be monitored after its implementation. Quality monitoring will be carried out by selecting a random sample of automatically decided cases for manual review. Procedures for handling any errors have been established and documented.

### 2.4.3. Provision of information

As referred to in section 28e of the Information Management Act, If will provide information about the automated decision-making on matters, the justifications for using automated decision-making, and other information relevant to the rights of the customer on its website at [www.if.fi/en/automated-decision-making](http://www.if.fi/en/automated-decision-making). This implementation decision will also be published on the website.

### 2.4.4. Use of data

According to section 28f of the Information Management Act, the authority must use risk assessment to ensure that appropriate technical measures are in place to ensure that the information used in automated decision-making is up-to-date and accurate.

If has assessed the up-to-dateness and accuracy of the information used in automated decision-making through risk assessment and has implemented the technical measures deemed necessary to promote the quality of the information used in the processing of a matter.

The automated decision-making that this implementation decision concerns will utilise information from insurance and claims management systems, insurance companies' database of insurance and claims history data, information from Traficom's vehicle register, and address information from the Digital and Population Data Services Agency in case of address changes, ensuring that the information is up-to-date and accurate.

## 2.5. Data protection legislation

If processes personal data in accordance with data protection regulations, other laws and the If Privacy Notice ([www.if.fi/henkilotietojen-kasittely](http://www.if.fi/henkilotietojen-kasittely)).

### 2.5.1. Making automated decisions

Automated decision-making concerning a natural person must meet the requirements of the GDPR (EU 2016/679). Decisions made in the decision-making procedure described in this implementation decision are based on an agreement between the insurance company and the policyholder, as well as on law. The decisions made meet the prerequisites of Article 22 of the GDPR. The following details the legal prerequisites and protective measures.

Under the GDPR, a data subject has the right not to be subjected to a decision based solely on automated processing, such as profiling, that produce legal effects concerning the data subject or similarly significantly affect the data subject. However, automated decision-making is permitted if the decision is necessary for the conclusion or performance of a contract or is based on law or consent.

The legal basis for automated decision-making is laid down in chapter 8b of the Administrative Procedure Act and chapter 6a of the Information Management Act as allowed by the GDPR. National legislation confirms the protective measures followed in automated decision-making within the scope of the regulation.

Under the GDPR, protective measures for automated decisions include the right of the data subject (a natural person) to require that a natural person participates in the data processing. In legislation concerning automated decision-making, this protective measure is implemented with a requirement for legal protection in accordance with section 53f of the Administrative Procedure Act, i.e. in such a way that the data subject can request a review of an automatically made decision. However, in a situation where the party's claim is approved as requested, the party can no longer be considered to have the need for

protection under data protection law to have the decision processed by a natural person (government proposal HE 145/2022 vp, p. 154).

The implementation of motor third party liability insurance is considered a public administration task. Therefore, the provisions of the Administrative Procedure Act are applied to the operations of insurance companies and the Finnish Motor Insurers' Centre, unless otherwise provided in the legislation concerning motor insurance. Because an individual traffic accident claim is a civil damages claim subject to the Damages Act, which is appealed to in a general court, it differs from the processing of typical administrative matters. For example, the provisions concerning the review of an administrative decision do not apply to decisions made on the basis of the Motor Liability Insurance Act (government proposal HE 123/2015 vp, p.30–31).

A decision given by If can be appealed in accordance with the provided instructions for appeal. However, the recipient of the decision is advised to always contact If first if they wish to obtain or provide more information about their matter or to request a review. Such contacts are always handled by a human.

### 2.5.2. Informing data subjects

The obligation of the controller to inform data subjects and related procedures are laid down in Articles 12, 13 and 14 of the GDPR. According to the GDPR, the controller must inform the data subject of automated decision-making. The purpose of the regulation concerning the provision of information in the GDPR is to provide the data subject with a comprehensive and clear view of the processing of personal data as a whole. This includes the obligation to inform the data subject in advance that a decision on the matter can be made automatically.

If automatic decision-making has been used in the decision, according to section 53g of the Administrative Procedure Act, the decision must indicate that the matter has been decided automatically and provide information on where the implementation decision referred to in Section 28d of the Information Management Act is available. The provision is one of the protective measures referred to in the GDPR.

Natural persons will be informed by If if their case may be processed through automated decision-making. The information does not yet indicate whether the particular application will be processed automatically, as this cannot be reliably determined at the initial stage of the process. Further information about automated decision-making, is available on If's website at [www.if.fi/en/automated-decision-making](http://www.if.fi/en/automated-decision-making). In order to ensure the legal protection of data subjects in automatic decision-making in their matter, natural persons will also be informed if the decision issued to them was made automatically.

### 2.5.3. Data protection impact assessment

Article 35 of the GDPR lays down provisions on data protection impact assessment. Based on paragraph 3 (a) of the Article, a data protection impact assessment shall in particular be required in the case of a systematic and extensive evaluation of personal aspects relating to natural persons which is based on automated processing, and on which decisions are based that produce legal effects concerning the natural person or similarly significantly affect the natural person. If has prepared and approved an impact assessment of automated decision-making as referred to in the GDPR prior to its implementation.

### 2.5.4. Practical protective measures in If

- If provides information about the processing of personal data and the situations in which automated decision-making is used in If.

- The person is heard before the decision is made in situations prescribed by law.
- The person will be informed if the decision they receive has been made through automated decision-making.
- The person always has the right to request a review of the decision by contacting If, in which case the matter will be processed again by a human. Instructions on how to appeal will be provided with the decision.

### 2.5.5 Position of a child

Automated decision-making is not targeted specifically at children in If, but decisions concern individuals in the same way regardless of whether they are legally competent or incompetent. Decisions and procedures relating to statutory lines of insurance are always based on law. All customers are treated equally in decision-making.

## 3. Documents used as the basis of the implementation decision

List of documents used as the basis of the implementation decision:

- Processing rule documentation referred to in section 28a, subsection 2 of the Information Management Act
- Document on the division of duties referred to in section 28a, subsection 1 of the Information Management Act
- Documentation on quality assurance referred to in section 28b, subsection 3 of the Information Management Act and documentation on quality monitoring referred to in section 28c, subsection 2 of the Information Management Act
- Data protection impact assessment

The above documents contain trade secret information (Act on the Openness of Government Activities (621/1999) section 24, subsection 1, paragraph 20).

## 4. Retention period and appeal

If automated decision-making is discontinued, If will retain this implementation decision for at least five years after this date. The period begins at the start of the calendar year following the discontinuation (Information Management Act, section 28d, subsection 3).

This implementation decision may not be appealed (Administrative Judicial Procedure Act, section 6, subsection 2).



Decision made by:

Head of Motor Claims Operations Finland, Alexander Jansson

More information on the use of automated decision-making and contact details are available at:

[www.if.fi/en/automated-decision-making](http://www.if.fi/en/automated-decision-making)