



# Issues for resolution: Stage 4 cars

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# Who pays if something goes wrong?

- Traditional claim = breach of duty of care + causation + loss
- Who is to blame for an accident?

Driver? Car manufacturer?  
Programmer? Map provider?



# Not necessarily manufacturer

- What happens if you aren't fully updated?
- What happens in reception fails = accidents in tunnels, underground parking and other dead zones
- What happens as you pass outside geo-fenced zones
- What happens if the system is hacked by a mischievous 13 year old



# Not just a national problem

- What country's court?
- What country's law?

# Conflicts of Law: the European Model

## WHICH LAW? (SUBSTANTIVE LAW)

- Rome II = law of the country where the damage occurs (irrespective of where the event occurred and irrespective of where the indirect consequences are felt):

### Article 4(1) EXCEPT IF

- both Claimant and Defendant reside in the same country, then it is that country: Article 4(2)
- Some other country is manifestly more closely connected: Article 4(3)

## WHICH COURT? (PROCEDURE)

- Brussels 1 (Recast) = A person domiciled in a member state shall be sued where the defendant is domiciled

# Rome Convention 1 + Brussels Recast

<b>Substantive Law (Applicable Law)</b>	<b>Procedural Law (Law of the Court seised with jurisdiction)</b>
<b>Primary Liability</b>	Evidence and Procedure
<b>Vicarious Liability</b>	Quantification of Damage
<b>Contributory Negligence</b>	Limits on Damages
<b>Bringing Claims after Death</b>	Availability of periodical payments
<b>Availability of heads of loss</b>	Availability of provisions damages awards
<b>Limitation</b>	Interest

# Marshall v Motor Insurers' Bureau; Picard v Motor Insurers' Bureau [2015]

## THE FACTS

- In Paris, France
- An uninsured French car driven by a French national
- Collides with A and C, UK nationals, as they stood behind
- a UK registered Ford Fiesta motorcar
- insured by a UK insurer
- Shunting into the French recovery truck
- insured by a French insurer
- UK Motor Insurers' Bureau was sued; their scheme insures UK nationals where a driver is uninsured
- The MIB denied liability contending, under French law the UK and French insurers were liable.

## THE DECISION

- The court ruled:
  - Claims against their insurers
  - =French law
  - Evidence and procedure
  - = English law
  - Assessment of damages
  - = English law

# Black Box: fault = transparency

- If the Manufacturer or their insurer is to bear the primary risk, it will want to know what caused the accident.
- Novus actus interveniens?
- Contributory negligence?
- Act voiding the insurance



# Responsibility v Privacy

- How much should be recorded and shared?
  - where the driver was going?
  - What the driver was doing in the car?
  - And with whom?
  - What was the driver saying?

# Data Protection

- Yes for an accident.
- But otherwise?
- And who stores and controls data?
- How long is it kept?
- Data Protection Act 1988 = consent
- Insured driver = probably?
- But passenger?

# Thank You

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