Insurers’ Institute on Personal Injury Claims

Annual Report 2010

Looking back as a preamble

The memorable January broadcast of Radar about “secret deals between insurers and legal representatives” caused turmoil early in 2010 in the personal injury world with its suggestion that the injured party was the victim of these practices.
Fortunately it could be explained that agreements about legal costs, on the contrary, actually influence the claims settlement process in a positive manner and that these agreements really have a constructive effect in daily practice. Thus “every cloud has a silver lining” and the broadcast has led to even more transparency from both the insurers and the legal representatives about the standardized remuneration.

Disappointing for victims and their surviving relatives was the unexpected rejection by the Dutch Upper House of the bill on Affection Damages. The decision hit the industry hard, especially because a number of initiatives had been developed to introduce this form of claim, which would be new to the Netherlands, in a correct ad emphatic manner. It is rather bizarre that a limited number of politicians can oppose something which the whole personal injury industry consents to. Although the role of the Dutch Upper House appears to be growing more important in the daily political arena –as is borne out by the recent election of the Provincial Governments- the compensation of affection damages can hardly be seen as a political issue.

There was also some good news in 2010, such as the introduction of the partial dispute proceedings, which will be dealt with extensively in chapter two of this annual report.
In addition, an excellent report on research, commissioned by The Personal Injury Board (De Letselschade Raad) and carried out by the Vrije Universiteit Amsterdam on the medical assessment trajectory in personal injury cases was published. For a number of years now, parties are in agreement that the medical trajectory is one of the main bottlenecks in the settlement of personal injury claims. Fortunately, there are increasingly more defined plans and initiatives to streamline this process. The PIV is eager to learn what the next steps will be and will take a positive stance.

The PIV, conjointly with the Association of Solicitors for Victims of Personal injury (ASP) has held a meeting of experts on the assessment of the compensation for pain and suffering.
The mere fact that these organisations, often representing opposing camps, jointly organised this meeting, is indicative of the fact that things have changed in the manner in which the different parties interact with each other. Moreover, it is gratifying that during the meeting many good ideas were put forward, which will undoubtedly be followed-up through the Personal injury Board.

Finally, the Gedragscode Openheid medische incidenten; betere afwikkeling Medische Aansprakelijkheid (GOMA) [Code of Conduct Transparency of Medical Incidents, better Management of Medical Liability] was introduced in the summer of 2010. The PIV played an important steering role in its inception.
In spite of the GOMA, the settlement of medical negligence claims will remain complex. This code, however, gives a number of handles to make the settlement of these claims run as smoothly as possible. The Code, in any case, puts an end to the age old myth that physicians are forbidden by their insurers to admit their mistakes, let alone to make apologies. The GOMA explicitly encourages them to do so.
Seen from the perspective of the victim in the settlement of his personal injury claim, 2010 has overall been a good year. The PIV is proud that it has been able to contribute to this in many ways.

Theo Kremer, Managing Director
March 2011

1. Application of the Code of Conduct for Handling Personal Injury Claims in practice

The time scale of two years
Principle 5 of the Code of Conduct for Handling Personal Injury Claims (GBL) states: *"Every aspect of the claims settlement process will be completed expediently and each step will be swiftly taken. Parties endeavour to conclude the claim settlement process within two years after the accident. In cases where this time limit is not met, there will be an annual evaluation and appropriate measures will be taken".*
Although this time scale of two years is not a compulsory but rather a target norm, the PIV wanted to know in how many traffic injury cases this target was not complied with. To this end the PIV, together with the Dutch Association of Insurers, in the summer of 2010, commissioned an in-depth analysis, which focused on personal injury cases that were opened in the second quarter of 2008, and were not yet (fully) settled with the victim on 1st July 2010. Most insurers participated in this study. For the purpose of this research a fixed *format* was developed, enabling the insurers to carry out the in-depth analysis themselves by means of self-assessment. Employing a random check of 10% of the entered files, Eiffel B.V. checked whether or not the format had been filled out correctly.

With this in-depth analysis the PIV pursues four goals:
1. A point of departure for future comparative analyses;
2. Locate 'red herrings' in files that have not been settled, that might provide input for adapted policies.
3. To once more bring the Code of Conduct for Handling Personal Injury Claims (GBL) to the claims handlers' attention;
4. To give an extra stimulus to arrive at a speedy conclusion of the cases that are still open.

The point of departure
In some 10 percent of the files, the case had not yet been (fully) settled with the victim. There will, per definition, always be cases that run longer than two years. This can, for example, be due to the fact that no medical status quo has been reached. There can also be discussion about the exact extent of the loss. Naturally, it is important in these cases that after two years (at the latest) parties must confer on how the discussion can be brought to an end. That, for example, is possible by submitting the matter to the courts (especially partial dispute proceedings are a suitable means) or to opt for mediation.
The most important consideration is that parties do not 'haggle' for years over a contentious issue without seeking assistance from a third party.

Red herrings
The assumption that the number of neck injuries (whiplash) among the unresolved claim files would be disproportionately high, proved to be incorrect. With 36 percent, neck injuries scored highest on the list of reported injury types, but that percentage is virtually identical to that of neck injuries in traffic accidents in general. What did come as a surprise, though, was that bone fractures featured disproportionately high with 36 percent. It must be assumed that these are cases with a complicated bone healing process, cases where no medical status quo has been reached, or a medical assessment is being awaited.
It is worth noting that the delay in these cases is party caused by waiting times for medical examinations. In terms of time, inroads can be made by applying for these medical examinations earlier.
The study gives a clear insight into why claims have not yet been settled. Apart from the medical trajectory, discussion about the actual assessment of the claim is a major factor.

Claims handling phase
Diagram 1

An analysis of the points of discussion in the claim assessment phase demonstrates that establishing the loss of earning capabilities scores by far the highest.

Points of discussion in the loss assessment phase
Diagram 2

Would it have been possible within two years?
An interesting question in the format was if the claim, in the opinion of the claims handler and with the wisdom of hindsight, could have been settled within the two year period. It transpires that this could have been the case in approximately one third of the claim files.

It is noteworthy that, according to this research, the delay is due to the victim or his legal representative in ten per cent of the unsettled cases. In these claim files, letters from the insurers sometimes remained unanswered or information requested by the insurers was not or only laboriously provided.

The conclusion that can be drawn from this is that insurers should also actively pursue the possibility of partial dispute proceedings.

Conclusions

Three important conclusions can be drawn from the in-depth analysis.
The first conclusion is that there will always be a number of personal injury claims that are not fully settled with the victim within the two year time scale. That, as such, is not in breach of the Code of Conduct. It must, however, be clear to the parties what is causing the stalemate. There must also have been set in motion -or be set in motion- a process to resolve the remaining contentious issues. In case the discussion does not centre on the basic question of liability, adequate advance payments must of course be made.
The second conclusion is that the number of cases that are not fully settled in time, can be brought below the ten per cent mark. This is for example possible through more hands-on claim settlement or through better and more proactive logistics of the required medical assessment trajectory. Moreover, insurers have to stimulate victims and their legal representatives even more to gain their active cooperation.
The third conclusion is that the period of two years should not become a goal in itself. Even if a case is settled within this period of time, the question remains if it could have been even quicker or more efficient.
The next in-depth analysis will take place in 2012.
The PIV will do its utmost to utilise the lessons learnt from this current research, so that in 2012 the percentage of open cases will be considerably under 10 per cent.

2. Partial dispute proceedings: a chance or a threat?

Since 1st July 2010 it is possible, specifically in personal injury and fatality cases, to submit a case to partial dispute proceedings. This step can be taken by (either one of the) parties, i.e. the victim, his legal representative, the responsible party and/or his insurer. This form of litigation, which has a low accessibility threshold, starts with filing a petition. Subsequently the court, after (in principle) one oral pleading, will quickly come to a judgement.
All players in the personal injury field have been positive about this new development. The objective of partial dispute proceedings is after all to improve and, where possible, to speed up the amicable trajectory of settlement of personal injury and fatality cases.
The PIV has always been a great advocate of the partial dispute proceedings, also because it seamlessly fits in with Principles 15, 16 and 17 of the Code of Conduct for Handling Personal Injury Claims (GBL).

How are cases finalized?
The course of the claims settlement has, broadly speaking, five alternatives:
1. The insurer pays the requested compensation;
2. After negotiations, a settlement is agreed to the satisfaction of both parties;
3. The victim reluctantly accepts the insurer's point of view;
4. A third party becomes involved (for example in case of litigation or mediation);
5. There is a stalemate, often lasting several years.

Partial dispute proceedings are specifically intended for the third and fifth categories. The purpose of these proceedings is aimed at reaching an early and quick resolution of a partial issue, so that parties can arrive more quickly at a settlement of the entire claim. This approach will have a positive influence on the claim handling costs and will also have a positive effect on the so-called victim' s empowerment, thereby helping to prevent secondary victimization.

Four questions
Parties in the personal injury field eagerly awaited the first rulings in partial dispute proceedings, especially because there remained some questions and doubts about the exact scope and outcome.
These related in particular to the following questions
a. How loose/strict is the interpretation of 'a partial dispute'?
b. Will the question of liability be seen as a partial dispute?
c. At what stage can a case be submitted for partial dispute proceedings?
d. Will parties find their way to partial dispute proceedings, and will the courts be able to handle the influx of cases?

What is a partial dispute?
It transpired from the first batch of rulings that the courts interpret the concept of a 'partial dispute' rather loosely. In a number of cases the defendant (mostly the insurer) argued first and foremost that the issue was not a partial dispute, but typically this was dismissed by the courts. The PIV is of the opinion that insurers should not invoke this argument too readily. They too, benefit from an early judicial opinion, even if the court does not agree with the insurer's point of view. Clarity can only be of benefit to the settlement process.

Besides, insurers can bring counter applications so that the judicial ruling covers a number of issues.

Does it also cover the question of liability?
Especially in non-traffic personal injury cases, the question of liability can play an important role. For example in medical negligence of employers' liability cases
It was not entirely clear from the explanatory notes to the proposed bill Partial Dispute Proceedings whether or not the liability issue could be seen as a partial dispute.
The first rulings suggest that this is the case. It is a prerequisite, however, that parties have discussed the issue in some form or another at an earlier stage. In reality, the partial dispute judge can only marginally examine the liability issue. There is, in principle, no room for additional expert opinions in these proceedings. Discussion about contributory negligence on the part of the victim (for example because he did not wear his safety belt or because he accepted a lift from a drunk driver) are ideally suited for a ruling by the partial dispute court. This is certainly the case when the facts of the case are clear.

At what stage?
Based again on the explanatory notes to the proposed bill Partial Dispute Proceedings, one would assume that partial dispute litigation is only opportune when a final settlement is in sight. The first 'rivulet' of rulings has fortunately shown that the possibilities are broader. It was decided in a number of cases that it is not critical that the ruling immediately leads to a final settlement.
The court will often take the so-called proportionality test into consideration: to what extent can the requested ruling contribute towards a final settlement? The decision in the partial dispute must, in other words, bring

the settlement of the entire case closer. Whether or not this is the situation must be decided on the merits of each case. This test must not be an obstacle for an early submission of a case to the partial dispute court. However, there must be some perspective for an amicable conclusion of the case. Going to the partial dispute court at too early a stage must hence equally be avoided.

Can the courts deal with the influx of cases?

As far as can be ascertained, the partial dispute courts have in 2010 rendered judgement in some twenty cases. More than half of these related to traffic accidents and approximately a quarter were medical negligence cases.

In many cases, the ruling was in favour of the victim. Only one partial dispute case was initiated by ~~the~~ an insurer.

The mere fact that from these approximately twenty cases, half related to accidents that had taken place five years or more beforehand demonstrates that partial dispute proceedings foresee a need in cases that have come to a stalemate.

A positive aspect is that in virtually all cases, the partial dispute court came to a swift decision, with generally soundly motivated judgements. In fifty per cent of cases, there was a ruling within four months from the written application to the court.

In 2011, there is already a steady rise in the number of rulings in partial dispute cases. (Jenny, Eileen en ik zijn beiden van mening dat gevoelsmatig “are” beter klinkt, doch dat het grammatical “is” zou moeten zijn. De discussie moe, heb ik de zin maar iets aangepast!!!

Taking stock

Although the floodgates have not yet opened, partial dispute proceedings have led to a breakthrough in a significant number of cases.

It is, incidentally, unavoidable that legal representatives will use the threat of partial dispute litigation as a coercive measure to force insurers to further concessions. It must be remembered here that the insurer must in principle bear the costs of the partial dispute proceedings as cost of legal assistance. Insurers might perceive this as an ominous sign, but the situation equally offers opportunities for a more swift settlement and might put a stop to untenable standpoints.

It is a pity that the insurers have not yet found the way to the partial dispute courts. Research has shown that it is not uncommon for victims or their legal representatives to be equally at fault for the lack of progression of a case, for example because the insurer must wait a long time for information requested by him.

Again in these cases, partial dispute proceedings should provide a window of opportunity.

The possibility of a joint petition has hardly been used. This is regrettable, because such a scenario would best fit in with Principle 16 of the GBL.

In conclusion, it can be said that the PIV is pleased with the partial dispute proceedings. It makes it possible to resolve a stalemate, thereby positively influencing the running time of a claim. In addition, it gives the victim a basically cost free, low threshold opportunity, to have the insurer’s opinion, which is perceived by him as unreasonable, judicially tested.

Hence a lot of chances for many!

3. Quality Certification Customer orientated Insurance and injury claims handling

The Quality Certification Customer orientated Insurance and injury claims handling was awarded to twenty five insurers. Since 1st January 2011, the personal injury settlement also forms part of the Quality Certification. An insurer who, after the initial appraisal by the Stichting toetsing verzekeraars (Stv) receives the Quality Certification Customer orientated Insurance, will during the next regular assessment by the Stv be evaluated according to the certification norms which apply to the handling of personal injury claims. These standards have been compiled in 2010 by the Stv in cooperation with the PIV. To this end, the PIV has sought the involvement of representatives of the industry and a firm of management consultants. For the quality norm, a linkage with the already existing PIV Audit has been chosen. This standard guarantees a high quality of injury claims handling and a further improvement of same.
The standard and norms were presented to the industry at a participants' meeting on 16th December 2010.

Areas that are examined
The Quality Certification norms apply to three areas:
1. Quality;
2. Satisfaction levels; and
3. Time scales

According to the Quality Certification Insurance, each area is reviewed according to its 'set-up/structure' and 'effectiveness'.
'Set-up/structure' relates to the existence of the required research, policy and management requirements.
'Effectiveness' concerns the extent to which standards are carried out and fulfilled.
In order to obtain (and maintain) the Quality Certification Customer orientated Insurance; the insurer must meet with all the required 'set-up' objectives.
For its validity, some compensation with other areas is possible. In case of discrepancies, the insurer is in principle given a period of six month to meet with the required standard.

Basis for the standard
The standard is based on existing Codes of Conduct, regulations and standardisations. In order to comply with the requirements of the certification, the insurer is subjected to an audit every two years, during which policy and standards are checked on:
- Observance of and compliance with the GBL,
- Organization of the medical trajectory,
- Training,
- Time scale for the first contact with the victim,
- Time scale for establishing liability
- An evaluation of cases that run beyond two years,
- An annual satisfaction survey among victims.

These standards apply to liability insurers, but emphatically also to third parties (for example adjusters) who act on behalf of insurers.

Evaluation
For evaluating the section 'personal injury' the PIV Audit can be availed of. In the PIV Audit all the criteria for the Quality Certification Customer orientated Insurance are reviewed in the proper manner.
- The set-up is reviewed by applying for internal policy directives, procedural and process descriptions.
- The effectiveness norms of GBL-compliance are considered during the files audit.
- The extent to which the norms for time scales, training and the satisfaction surveys are complied with, are measured by means of an evaluation of results.
- All aspects are discussed during interviews, so that the input from these interviews can be used as a supplement to or differentiation of the findings.
- In order to guarantee the reliability of the results, the external audit team carries out random checks on the file studies, as well as on the result analysis.

Appraisal
In his findings on the PIV Audit, the *lead auditor* reports to what extent the insurance company complies with the certification norms and, if applicable, what improvements must be made. Partly on the basis of the report, the PIV gives an evaluation, which incorporates per category a score for 'set-up' and effectiveness. For 'set-up', the evaluation indicates if the requirements have been complied with and with regard to 'efficiency' the score good, sufficient or insufficient is given. A valid appraisal by the PIV must be submitted for the biennial assessment by the Stv. To this end the compulsory audit must take place at least twelve months prior to the regular Stv assessment.

On the basis of the assessment by the PIV, the Stv will eventually award the points for the category personal injury.

4. The PIV as Knowledge Centre

PIV Annual Conference 2010

The tenth PIV Annual Conference took place on Friday 26th March 2010. Its theme was *In the shadow of the victim*. The conference was attended by some five hundred people. Under the guidance of the chairman of the day, Tom van 't Hek, they discussed and listened to presentations about people close to the victim. What impact does an accident have on family members and surviving relatives? To what extent does the legal system foresee the possibility of compensation?

The morning program was filled by Willem van Boom – professor of private law at Erasmus University Rotterdam; Erik van Orsouw – lawyer with Kennedy Van der Laan Solicitors; Paul Meijer – lawyer with Mens Solicitors; and Esther Pans – lawyer with Beer Solicitors. They discussed, each from the perspective of their own area of expertise, their experiences with and suggestions for the improvement of the position and approach of the victim's partner, child, parent or carer.

During the afternoon session, Liesbeth Hulst – researcher at the Faculty of Law of the Vrije Universiteit Amsterdam (VUA) – reported on the results of a study, commissioned by the PIV and carried out by the VU. The study addressed whether or not it is advisable for insurers to encourage perpetrators of traffic accidents to apologise to their victims and if affirmative, to ascertain what the conditions must be for these apologies to be effective, how insurers can encourage their insureds to apologise, as well as how these apologies should best be Willem Wagenaar - professor emeritus of psychological function theory and legal psychiatry - finally considered the question of how accidents happen and can be prevented. He indicated that it is not the accident that occurs, but that it is the human factor involved that actually causes it. Rounding off, Wagenaar pointed out to those present, that the general mistake of attribution also plays a major role in the handling of personal injury claims. The exact role and the level of impact is unknown, but such a problematic question only arises if a psychologist gets involved, according to Wagenaar. It is therefore more effective, Wagenaar asserted, to have psychiatrists involved when influencing people to avoid causing accidents.

Subsequently Arno Akkermans – Professor of Private Law at the Vrije Universiteit Amsterdam – received the PIV Giraffe 2010 from Henk den Hollander, who won the award in 2009. This token of appreciation is awarded to a person (or organization) who has applied himself in an outstanding manner to the handling of personal injury claims and has thus 'stuck out his neck'. Akkermans received the award for his scientific research in this field.

PIV Injury Plaza

On 26th May 2010 and 13th October 2010, another PIV Injury Plaza took place in De Roskam restaurant in Houten. Since 2008, the PIV organizes the PIV Injury Plaza twice yearly. The objective of the meeting is to give delegates from both legal representatives and insurers an opportunity to meet informally and -if they so desire- to discuss claim files. Both meetings were attended by approximately eighty delegates. A significant number of legal representatives and insurers had agreed beforehand which files they wanted to discuss with each other. During these two meetings, agreement was reached in a large number of cases; in other files, steps were taken towards a final settlement. Delegates, who attend once, often come back. It is perceived as very positive to meet each other in this way and it can be very efficient to have talks with various legal representatives or insurers during one afternoon.

The Injury Plaza is expressly meant for claims handlers who normally communicate with one another by letter, e-mail or phone. If all of those people were to attend the Injury Plaza, it could become even busier.

PIV-Bulletin

In 2010, eight editions of the PIV-Bulletin were published, with a circulation of 2,500 copies. The 2010 publications featured various articles on scientific findings. Arno Akkermans and Annelies Wilken of the Vrije Universiteit Amsterdam wrote, for example, on the subject of the medical assessment trajectory in personal injury. There was also an interview with Professor emeritus Freek Bruinsma on his publication *De Hoge raad van onderen* (The Supreme court from the bottom up). Kiliaan van Wees of the Vrije Universiteit discussed the rejection by the Dutch Upper House of the proposed bill Affection Damages. We are pleased about the willingness of a great number of lawyers to submit articles. Moreover, there is an increase of articles written by employees of insurers and firms of adjusters. Hot off the press, the PIV reported on the presentation by Aleid Wolfsen – chairman of the Personal Injury Board – of the first copy of the Gedragscode Openheid medische incidenten; betere afwikkeling Medische Aansprakelijkheid (GOMA) [Code of Conduct Transparency of Medical Incidents, better Management of Medical Liability] to the Minister of Justice, Hirsch Ballin, in the then caretaker cabinet. In June a number of articles on privacy and the entitlement to pre-disclosure of medical reports to personal injury victims were bundled in the special edition *Privacy; a pyrrhic victory?*

Current Developments Lecture 2010

The Current Developments Lecture is first and foremost intended as a refresher and enhancement course for graduates of the former PIV Training for advanced injury claims handlers and its predecessors, the Moderate Injuries Course (Mzl) and Severe Injuries (Zwl) Course. If there are places left, other employees of insurers and claims adjusters can subscribe to the course. Because the Moderate Injuries Course (Mzl) and

Severe Injuries (Zwl) Course are open to all players in the personal injury field, it is pleasing to see that slowly but surely, employees of legal representatives are also attending the Current Developments Lecture. On 21st and 23rd September 2010 their lecturers were Chris van Dijk – Kennedy Van der Laan Solicitors – and Geertruid van Wassenaar – Beer Solicitors. They covered the jurisprudence from the past year and their implications for daily practice. Subsequently the Partial Dispute Proceedings with regard to fatalities and personal injury cases was dealt with. Many ‘dark spots’ which existed among the attendees about this new legislation were filled in. Unfortunately, in September 2010, there was not yet much case law available on the subject. In total 110 participants attended the Current Developments Lecture 2010.

5. The PIV Agreement Costs of legal Assistance in the media spotlight

The costs of legal representation (BGK) are often a contentious item of discussion in personal injury cases. The subject received a lot of (media) attention after it featured in the television program Radar. As a consequence of this broadcast, the manner in which the costs of legal assistance are dealt with in every day practice has been critically reviewed on a number of fronts.
The program has led to questions in the Dutch House of Commons. The Personal injury Board and Slachtofferhulp Nederland (Office Help for Victims) opened 'hotlines' for victims who thought that their legal representatives wrongly charge costs to them.

Insurers have also investigated how, in daily practice, they can contribute towards improvements. Subsequent to the questions in the Dutch House of Commons, the Minister of Justice has indicated that he considers it of prime importance that it is made clear to the victim what costs are paid to the legal representative. This has led to a recommendation by the Dutch Association of Insurers to its members and participants that a victim is always informed upon conclusion of a case of the amount that has been paid by way of cost of legal assistance. Transparency stands to the forefront.

The PIV Agreement Costs of Legal Assistance (BGK) has also been critically reviewed. Is it sufficiently clear to the victim how the scheme works and who participates?
The basis for the PIV Agreement BGK is the PIV scale. This is based on a link between the level of compensation and the cost of legal representation.
When a case has been settled in full, an amount is paid which corresponds to the amount of compensation. This can therefore not lead to any controversy.

The Agreement itself contains a stipulation that the legal representative is obliged to inform his client about the compensation of his costs on the basis of the agreement. A victim thereby knows where he stands.

Insurers and legal representatives conferred in the course of 2010 about possibilities to improve the Agreement. This has led to the following adaptations in the PIV Agreement 2011.

- The Agreement contains a clause that explicitly protects the victim's interests. It states that the legal representative is prohibited from charging costs to the victim in addition to the compensation for legal costs received from the insurer. This has always been the intention but has now been explicitly stipulated in the agreement. The clause does not apply in cases of contributory negligence on the part of the victim.
- The text of the agreement has been simplified, so that it is now clear to everybody what compensation is paid by the insurer.

With these adaptations, the PIV hopes to arrive at an even better Agreement.

All information about the PIV Agreement can be found on www.stichtingpiv.nl.
The PIV website also contains details of all participating insurers and legal representatives. The number of participants to the PIV Agreement has yet again grown in 2010. The number of participating insurers has increased to 18 and the number of legal representatives to 26.
The participating parties are in general very positive about the Agreement. Both insurers and legal representatives consider it constructive that there is no longer discussion about legal costs and that all the time and energy can be devoted to the actual claims settlement process.

6. PIV Personal Injury Statistics

"*Whiplash claims represent more than 50 percent of all injury cases".*
"In 80% of all injury cases, the personal injury claim does not exceed € 10,000."

Is there any credence to these statements? That can be verified thanks to the PIV Personal Injury Statistics. To this purpose, and with the assistance from a significant part of the insurance industry, a large database has been compiled. In 2010 three insurers joined the users' group, through which the number of participating insurers has risen to twelve.

The objective of the PIV Personal Injury Statistics is to:

- provide reliable market information on the claim burden and response times,
- generate, as accurately as possible, benchmark figures for the participating insurance companies,
- give an insight into trends and developments of the claim burden,
- actuarially calculate the effects of legislation and regulations.

How does the company benefit?
By means of the PIV Personal Injury Statistics, the claim burden and response times can be determined per injury category, legal representative or item of claim, thereby giving the insurer a detailed and segmented insight into how his claim burden is built up in relation to the benchmark.

Companies can also determine the effects of policy changes. They can, for example, get an answer to the question of what the effects of a more lenient approach to minor injury cases are on the claim burden as well as on response times.
In addition, the PIV Personal Injury Statistics provides details on the results of individual claims handlers so that they can learn from each others' methods.

The strength of the PIV Personal Injury Statistics lies in its quick accumulation of a vast database. Data is supplied immediately after the personal claim has been settled. Only the paid compensation is registered. The figures are permanently available to the management through an online information tool. Via a download application, the participants can, in addition to a set number of tables and graphs, avail of statistical data for their own analyses. Through the users' platform, they have input into how to further develop the online system. They can also exchange experiences.

Supplying information is not time consuming and can take place either digitally or by means of a *web based* registration form. In 2010, three insurance companies ensured that their claims handling IT-systems registered the correct data. As a result, the complete data set can be digitally supplied via data export.

Because of its large database and its rapid data accumulation, the PIV Personal Injury Statistics can in due course be used for various studies. In 2010, for example, the data on the distribution of the amounts of compensation over the various categories of injuries was used for an in-depth study on the application of the Code of Conduct for Handling Personal Injury Claims (GBL). We expect that in 2011 the PIV Personal Injury Statistics will also be consulted for other studies.

7. Organisation

Board of Management

At the end of 2010 and early in 2011 the General Insurance division of the Dutch Association of Insurers appointed the following members:

- M.G. Delfos, to succeed Mrs. A.H.A.M. Jeuken MBA – both of Delta Lloyd Group.
- C.J.A.M. Schneijdenberg – Allianz Netherlands General Insurance – in the position opened by the departure of F. de Jager – London Verzekeringen.

Due to the transferral of its insurance activities by Neerlandia van 1880 to Ansvarldéa, E. Schipaanboord has laid down his function as board member.

Advisory Board

In 2010, the PIV Board of Management appointed the following members:

- P.A.M. van den Bedem, as successor of A.J. van Iwaarden – both Achmea Claims Centre.
- H. van der Hoeven -Allianz Netherlands General Insurance- as successor of M.G. Speelmans.

Epilogue – looking ahead to 2011

Towards the end of 2010, the PIV's ultimate goal was phrased even more exactingly: *Promoting the best possible claims settlement by motor and liability insurers (and third parties thereto instructed by them).*
The PIV aims at accomplishing this, among others, by deploying more own initiatives and to participate as much as possible in initiatives by others that can contribute to this.

On 7th March 2011, the Association The Ombudsman presented its report The Code of Conduct for Handling Personal Injury Claims: a well kept secret? The question mark adds an intriguing dimension.
It would appear from the study on which the report is based, that the effects of the GBL are barely discernable, certainly from the victim's perception.

Although the report is not without its shortfalls –for example some very general conclusions are drawn on the basis of a limited claim files review of, for the most part, long running cases- the PIV welcomes the ten recommendations.
The first is that the insurer routinely informs the victim at the outset of a personal injury case of the GBL. Fortunately, many insurers avail of clear brochures, in which extensive reference is made to the GBL. However, the brochures are often sent via the legal representative, where they fail to reach the victims(?). It might be better to send this information directly to the victim.
The factual circumstance arises, however, that through Collective Market Agreement 15, insurers have (implicitly) prohibited themselves from entering into direct contact with the victim if the latter is legally represented. The underlying reasoning is that insurers do not discuss the claim directly with the victim, let alone negotiate it without the legal representative's involvement.

Collective Market Agreement 15 must therefore be adapted, because providing information should not be governed by this embargo.

The second recommendation is that the legal representative would do well to mandatorily talk the client through the GBL at the beginning of the mandate. The PIV fully endorses this recommendation. It will be interesting to see if, and how, particularly the legal profession will pick up this gauntlet. In this regard we take away from our own rank and file the opportunity not to work in accordance with the GBL, even when the legal representative does not comply with this either.
Partly with this in mind, the General Insurance division of the Dutch Association of Insurers has declared the GBL obligatory for all of its members in the summer of 2010.

The report by the Association the Ombudsman, too, will expedite existing initiatives and lead to new ones. In view of our mission, the PIV will not be lacking in these processes.
There are, for example, still inroads to be made in preventing discussions on the costs of legal representation. We are currently in discussion about this with the associations of personal injury lawyers.

It is to be expected that in 2011 the medical trajectory will also run more smoothly.

The theme of the 2011 PIV Annual Conference is *New players in the personal injury field*. These are, for example, the partial dispute proceedings, the (convalescence) coach and also the social media. Personal injury is the subject of many twitter messages. This makes it all more voluminous, but it keeps the existing players on edge: insurers, legal representatives and certainly the PIV.