Survey on compensation for future loss including the personal injury discount rate (PIDR) in different jurisdictions: responses received from PEOPIL (Pan-European Organisation of Personal Injury Lawyers) members[14]

	Does your country have a single, dual or multiple discount rate?	**What are those rates and are they set by the duration of losses, head of loss or some other means?**	**Please provide additional detail on any benefits, complexities, difficulties or unfairness with your PIDR regime.**	**Do you have a system of periodical payments for future losses? If so, is it mandatory (subject to the court's discretion) or voluntary by settlement agreement of the parties?**	**If you have a periodical payments framework, which heads of loss does that relate to and is there indexation for inflation**	**Do your laws enable the claimant to return to court for additional or varied damages in the event of a future worsening or improvement in their injuries, related needs and losses?**
Austria	N/A—no PIDR.	N/A.	N/A.	Compensation for future loss of earnings (only) must generally be paid in the form of periodical payments absent an important reason for a lump sum. Lump sums are the only form of award for other heads of loss and in practice many earnings claims also settle for a lump sum.	Future loss of earnings only. The Austrian Supreme Court rejected a value adjustment of periodical payments for earnings according to the CPI as the loss was not subject to process inflation. Rather, it is up to the parties to bring a later claim(s) to adjust the payments in the event of a (significant) change.	No—primary damages and all foreseeable and likely consequential damages form a unit ("unit theory") and must be claimed in the primary process. However, possible but uncertain changes are not taken into account. If they later occur, a reassessment of the original payment can be claimed.
Belgium	There are tables incorporating inflation with a range of rates from 0.5% to 3%.	The courts use 1% but with the recent interest rate hikes, it looks like the courts will budget at 1.5% or even 2%.	Price increases can e.g. be increased by 10 to 20% from the start under the guise of inflation.	Yes discretionary.	Compensation for future loss of earnings is generally paid in the form of periodical payments. For other heads of loss, sometimes a lump sum will be paid and sometimes a PP. Indexation is on a monthly or yearly basis.	Yes—but a strict approach. A reservation may have to be made in order to revise certain allowances in the future, should the victim's medical condition change or should certain device prices increase (or decrease) significantly.

[14] With thanks to those who provided evidence for this survey; E. Grubert (Austria), Peter De Maeyer (Belgium), Klara Dvorakova (Czech Republic), Julie Harder (Denmark), Julian Chamberlayne (England & Wales) Sebastian van Teslaar (France), Stefano Dangel (Germany), George Moschos (Greece), Tibor Pataky (Hungary), Jolanta Budzowska (Poland), Loredana Dumbrava (Romania), Natalia Astigarraga (Spain), Silvio Riesen (Switzerland), Cecilie Haukalid (Norway), Mark Gibson and Simon Richards (Scotland), Liam Moloney (Ireland), Giulia Oberto (Italy), Clara Tilinus (Netherlands) and Joakim Jäderström (Sweden).

	Does your country have a single, dual or multiple discount rate?	What are those rates and are they set by the duration of losses, head of loss or some other means?	Please provide additional detail on any benefits, complexities, difficulties or unfairness with your PIDR regime.	Do you have a system of periodical payments for future losses? If so, is it mandatory (subject to the court's discretion) or voluntary by settlement agreement of the parties?	If you have a periodical payments framework, which heads of loss does that relate to and is there indexation for inflation	Do your laws enable the claimant to return to court for additional or varied damages in the event of a future worsening or improvement in their injuries, related needs and losses?
Czech Republic	N/A—no PIDR.	N/A.	N/A.	Subject to agreement or by court decision for loss of income and cost of care. Lump sum awards for care are rare (and only if the paying party agrees).	Yes, for loss of income and cost of care. Indexation only for loss of income. Costs of care is paid as a monthly sum with an annual review based on changes in expenditure.	Yes, but in practice, this is usually precluded by settlement terms which are termed to be full and final.
Denmark	N/A—no PIDR.	N/A.	N/A.	Mandatory for temporary losses until future losses can be assessed (on lump sum basis).	Temporary losses (loss of income, pain and suffering, expenses related to medicine, rehabilitation).	Yes, in cases of future worsening of the ability to work or the permanent injury percentage.
England & Wales	Single PIDR.	-0.25%.	As in England & Wales dual rates are being considered as an option in the 2024 review, but there are mixed views on their pros and cons even within insurer lobby group. If exceptionality can be proved it is possible under the Damages Act 1996, to seek different PIDR for claimant's resident abroad.	Yes. Court has to consider whether PP or lump sum more appropriate for each head of FL. Parties can settle on lump-sum or PP basis, but for Protected Parties (children and mental incapacity) court approval is required. Most insurers try and force lump sum settlements. State defendants inc. NHS prefer PPs.	The vast majority of the modest proportion of claims with PPOs are for care only and indexed to ASHE data on earnings of carers. Earnings index used for loss of earnings. Other heads of future loss are by default indexed to RPI (prices). Very occasionally PPOs are made for earnings, medical/therapy costs and/or deputyship (incapacity) costs.	Provisional damage (PD) awards are relatively rare and heavily resisted by insurers. They (and variable PPOs) can only be awarded for specified/identified risk of material deterioration (e.g. epilepsy, syrinx etc). No right to further compensation for any future worsening that is not specified as a PD award.

	Does your country have a single, dual or multiple discount rate?	What are those rates and are they set by the duration of losses, head of loss or some other means?	Please provide additional detail on any benefits, complexities, difficulties or unfairness with your PIDR regime.	Do you have a system of periodical payments for future losses? If so, is it mandatory (subject to the court's discretion) or voluntary by settlement agreement of the parties?	If you have a periodical payments framework, which heads of loss does that relate to and is there indexation for inflation	Do your laws enable the claimant to return to court for additional or varied damages in the event of a future worsening or improvement in their injuries, related needs and losses?
France	Rate published by *La Gazette du Palais* is most commonly used by the courts. Insurers use rate called BCRIV.	*La Gazette du Palais* = 0% or -1% (1.6% invest return — 1.6% or 2.6% inflation). BCRIV is more complex. It uses the interest rate curve for risk-free financial investments published by EIOPA, the European Insurance and Occupational Pensions Authority.	*La Gazette du Palais* rates: enhances full compensation principle. BCRIV rates are prepared by insurers and diminishes FC especially for younger victims. The charts only address general cost-of-living inflation, but not inflation of salaries.	Subject to the court's discretion or voluntary by settlement agreement between the parties. By law, PPs are preferred. However, since victims often ask for no, or limited, periodic payments, lump sum is more common.	Future care needs and future financial losses.	Yes, in cases of future worsening but not for improvement.
Germany	German procedural law gives court wide discretion to apply any differing capitalisation/discount rate or related multipliers under ZPO s.287.	Judges have discretion to apply different rates to different heads of loss. 4–6% is the usual range.	No response.	Damages for future loss of earnings (only) can take the form of an annuity. (German Civil Code s.843) but in practice, parties usually agree a lump sum settlement for all heads of loss.	Future loss of earnings only with indexation for wage inflation.	No response.
Greece	N/A—no PIDR. In 1990, the Supreme Court ruled that future compensation consists of the total future payments, without any discount.	N/A—0%.	Discount rates are not fair for the claimant as the profitable use of the compensation depends on the claimant's management actions and market fluctuations and cannot be calculated accurately for the future.	Voluntary by settlement agreement between the parties or subject to the court's discretion. Settlements and court awards are almost always agreed in lump sum. Insurers prefer lump sum payments rather than PP, but Government agencies prefer PPs. Lack of trust is a significant factor for claimant.	All future losses of a recurrent nature, but there is no indexation. This is why PPs are not popular as they devalue over time. Theoretically, the court could take into account the inflation and order that it should be calculated in the future payments, but not yet seen in a personal injury case.	Yes, as long as these could not have been known/expected at the time of the initial claim/trial. Simple health deterioration, increase of life cost, etc would not create a right to further damages at a later stage.
Hungary	N/A—no PIDR as the court must	N/A—although some Ds apply	N/A.	The court must order PPs unless the	Loss of earnings, maintenance and	Yes, for PP awards if the

QUANTUM/ DAMAGES

QUANTUM/ DAMAGES

	Does your country have a single, dual or multiple discount rate?	What are those rates and are they set by the duration of losses, head of loss or some other means?	Please provide additional detail on any benefits, complexities, difficulties or unfairness with your PIDR regime.	Do you have a system of periodical payments for future losses? If so, is it mandatory (subject to the court's discretion) or voluntary by settlement agreement of the parties?	If you have a periodical payments framework, which heads of loss does that relate to and is there indexation for inflation	Do your laws enable the claimant to return to court for additional or varied damages in the event of a future worsening or improvement in their injuries, related needs and losses?
	order PPs, but the parties can make an agreement for a capitalised sum.	their own (hidden) PIDR when offering lump sums, but they are rarely accepted by claimant.		parties agree a lump sum settlement. Rare to agree lump sum in cases involving lifetime losses.	future costs. No indexation, but it is quite common to subsequently seek an annual increase in annuity if the costs have increased. These are often agreed but if not can be determined by the court.	needs of the claimant have changed. Usually excluded in lump sum settlements.
Ireland	Dual rate adopted by judicial decision (upheld in 2017 by Irish Supreme Court in *Russell v HSE*). The Civil Liability and Courts Act 2004 allows the Minister for Justice to determine the discount rate. This has not been done to date but a consultation process is in progress now.	In *Russell*, dual discount rates allowed were +1% for the cost of future care was with +1.5% for all other future losses. Recent expert evidence and anecdotal stories of settlements suggest much lower discount rates are being applied in practice; at effective discount rates ranging from -1.5% to -3.25%.	Enhanced as it allows for the long-term impact of earnings inflation on the largest heads of claim, care and earnings. Cases presented with the right expert evidence are resulting in significantly higher compensation.	Civil Liability (Amendment) Act 2017 s.2 provides that a judge may order a defendant to pay damages toward future medical care and treatment of the plaintiff in the form of periodic payments, if in best interests of the claimant.	Future medical care and treatment. May also include future loss of earnings if parties' consent. Annual amount awarded will be adjusted in accordance with the Harmonised Index of Consumer Prices (HICP). The PPO regime ignores the long-term differential between earnings and prices inflation This has been the subject of judicial criticism and PPOs are very rare in practice.	No Provisional Damages Regime.
Italy	Single.	4.5% by 1922 Royal Decree but according to Italian case law, the courts are free to adopt capitalisation coefficients they deem preferable, provided they are up-to-date and scientifically correct. The capitalisation coeffi-	The courts usually apply the same capitalisation coefficient in the same case for all heads of losses.	The choice is left to the discretion of the court. Traditionally, compensation is preferentially in the form of a lump sums, but in 2022, the Supreme Court held in favour of compensation in the form of a life annuity for (serious) personal injury.	Periodical payments refer to both pecuniary and non-pecuniary losses. The court must provide for appropriate indexation. Common approaches include (a) the cost-of-living index drawn up by the National Institute of Statistics; or (b) the rate of growth	A claimant is entitled to return to court after a judgment only if the worsening of the injury was not foreseen nor foreseeable at the time of the judgment/settlement, and it represents a new fact and as such the subject of a new assessment and judgment.

	Does your country have a single, dual or multiple discount rate?	**What are those rates and are they set by the duration of losses, head of loss or some other means?**	**Please provide additional detail on any benefits, complexities, difficulties or unfairness with your PIDR regime.**	**Do you have a system of periodical payments for future losses? If so, is it mandatory (subject to the court's discretion) or voluntary by settlement agreement of the parties?**	**If you have a periodical payments framework, which heads of loss does that relate to and is there indexation for inflation**	**Do your laws enable the claimant to return to court for additional or varied damages in the event of a future worsening or improvement in their injuries, related needs and losses?**
		cient is never negative.			of wages (for damage to work capacity); or (c) the consumer price index (for medical expenses).	
Netherlands		For a long time, a return of 6% and inflation of 3% was "standard".	A discount rate of 3% has been untenable in the current climate, so judges are applying lower discount rates (sometimes even negative).	The court has wide discretion to award PP or lump sum. In personal injury practice, there is a clear preference for a lump sum.	For PPs, the judge may also include a power of amendment and may impose an obligation on the liable party to provide security to ensure future payments.	No, the standard is final discharge, unless this is a clear possibility in the contract or court ruling.
Northern Ireland	Single PIDR.	-1.5%.	As in England & Wales, dual rates are being considered as an option in the 2024 review.	Periodical Payments are very rare in practice.		Provisional damage awards also very rare, occasionally for pleural plaques in asbestos claims.
Norway	Single PIDR with caveat (see next box).	For future losses: 2.5% following legislation effective from 1 October 2022, before that, the discount rates were set by the courts. In 2014, the Supreme Court decided that the rate should be 4%, compared to 5% and 6% in the past. If money placed into a deposit scheme with a legal guardian (state official) on behalf of C (typically a child): 1.5%.	N/A but for single PIDR problems arise when the discount rates is too high, or the claimant does not invest the sum like the legislator assumed.	The main rule is a lump sum payment, but PP may be claimed by either the injured or the liable party (most often the latter). If the parties do not agree on this issue, it will be up to the court to decide whether there are special circumstances. That mainly applies in cases of very uncertain life expectancy.	All heads of future economic loss, but without indexation.	Only in cases of future worsening of the injury.
Poland	N/A—no PIDR and lump sums	N/A—in some cases we use the	N/A.	Yes—usually mandatory and	All heads of pecuniary loss that are	Yes.

QUANTUM / DAMAGES

	Does your country have a single, dual or multiple discount rate?	What are those rates and are they set by the duration of losses, head of loss or some other means?	Please provide additional detail on any benefits, complexities, difficulties or unfairness with your PIDR regime.	Do you have a system of periodical payments for future losses? If so, is it mandatory (subject to the court's discretion) or voluntary by settlement agreement of the parties?	If you have a periodical payments framework, which heads of loss does that relate to and is there indexation for inflation	Do your laws enable the claimant to return to court for additional or varied damages in the event of a future worsening or improvement in their injuries, related needs and losses?
	are so rare that there is no standard approach.	years of loss. We have never applied any discount rates.		routinely awarded. Lump sum settlements are rare but can be agreed by the parties or awarded by court on application.	permanent, recurrent, and not expected to cease in the foreseeable future. No annual indexation of PPOs unless provided for in a settlement agreement.	
Romania	N/A—no PIDR.	N/A.	N/A.	Voluntary by settlement agreement between the parties or subject to the court's discretion.	PPOs usually relate to part of the damage and the rest is settled by lump sum. In the vast majority of cases, the entire damage is settled by paying a one-off sum.	Yes—strictly applied.
Scotland	Single PIDR.	-0.75%.	As in England & Wales, dual rates are being considered as an option in the 2024 review.	Subject to the court's discretion.	In theory, PPs for any pecuniary future loss but in practice, PPs are mostly for care and case management, trusts running costs, and rehabilitation and equipment costs. Much more rarely use for earnings. Indexation as in England and Wales. Damages (Investment Returns and Periodical Payments) (Scotland) Act 2019 once in force, will require practitioners to consider PPs for all cases where future pecuniary losses are awarded/valued at over £1m.	Yes, but only where provisional damages award or variable PP for specified condition. At present, achieved through voluntary agreement but once the aforementioned legislation comes into force., there is a specific provision enabling the claimant to return to court.

	Does your country have a single, dual or multiple discount rate?	**What are those rates and are they set by the duration of losses, head of loss or some other means?**	**Please provide additional detail on any benefits, complexities, difficulties or unfairness with your PIDR regime.**	**Do you have a system of periodical payments for future losses? If so, is it mandatory (subject to the court's discretion) or voluntary by settlement agreement of the parties?**	**If you have a periodical payments framework, which heads of loss does that relate to and is there indexation for inflation**	**Do your laws enable the claimant to return to court for additional or varied damages in the event of a future worsening or improvement in their injuries, related needs and losses?**
Spain	The PIDR is built into the actuarial calculations for multipliers under the Baremo which correspond to public pensions but also the duration of the damage, the risk of death of the injured party and the discount interest.	Reduced from 3.5% to 2.5% in October 2022 but note the multipliers combine different factors including the duration of the damage, the risk of death of the injured party, the discount interest rate or the deduction of public pensions.	The Baremo contains differing inflation assumptions for different heads of loss. For the costs of prostheses, orthoses, technical aids and rehabilitation expenses, the percentage used is 2%. For future loss of income and for third person support costs, the percentage is 1.50%. Otherwise, it is 0.50%.	Voluntary by settlement agreement between the parties or subject to the court's discretion. But in practice, 90% of the cases are concluded by victims receiving a capitalised lump sum. Insurers are reluctant to offer lump sum. PPs may be preferred by the courts for vulnerable claimants.	All heads of loss with indexation annually in accordance with the percentage of the pension revaluation index, along with other factors.	Yes—but only due to the substantial alteration of the circumstances or the appearance of supervened damage.
Sweden	Single PIDR.	3%.	N/A.	PP (annuities) are mandatory and are the main type of future compensation and especially for loss of income. In cases where the annuity corresponds to a livelihood need, the requirements for exchange for a lump sum are set high.	All heads of loss with annual increases to annuities in order to deal with current inflation. Lump sums can only be issued to a very small extent regarding loss of income and then as a capitalisation of part of the annuity unless special reasons speak against it.	A possibility to reopen the case can generally be made in all cases if the conditions that were the basis for the compensation have changed significantly, such as an extended inability to work, worsening problems etc.
Switzerland	Single PIDR.	3.5% for the entire future damage.	N/A.	For court awards, the injured person can choose PPs or lump sum and courts always accept that preference. But in the vast majority of cases, the entire damage is settled by a one-off lump sum. This is largely due to convention and conve-	All heads of loss, but in practice in that respect since such claims are almost never made. It would be up to the injured party to present the relevant evidence to justify indexation rate(s) for differing types of loss. An example of when PPs are used	Yes, where the consequences of the personal injury cannot be assessed with sufficient certainty at the time the award is made, the court may reserve the right to amend the award within two years. However, this provision is of very little practi-

QUANTUM/ DAMAGES

	Does your country have a single, dual or multiple discount rate?	What are those rates and are they set by the duration of losses, head of loss or some other means?	Please provide additional detail on any benefits, complexities, difficulties or unfairness with your PIDR regime.	Do you have a system of periodical payments for future losses? If so, is it mandatory (subject to the court's discretion) or voluntary by settlement agreement of the parties?	If you have a periodical payments framework, which heads of loss does that relate to and is there indexation for inflation	Do your laws enable the claimant to return to court for additional or varied damages in the event of a future worsening or improvement in their injuries, related needs and losses?
				nience, without input from experts.	would be for severely injured young persons with an uncertain future. Note PPs for loss of earnings are taxable, but the underlying award is based on gross earnings.	cal relevance. In many cases, a partial claim is filed only for the heads of loss which can be quantified at that point in time. Claimant can then apply later for other aspects.