

The scope of this report - by *Rokas (Sofia)* - is to present the legal regime framework related to insurance in the Republic of Bulgaria, which is as follows below...

1. REGULATION

Insurance Code	Commercial Act.
Consumer Protection Act	Ordinance No. 24 of 08.03.2006 on the Compulsory Insurance Pursuant to Items 1 and 2 of Article 249 of the Insurance Code and on the Procedure of Settlement of Claims for Compensation of Damages Caused to Motor Vehicles.

2. INSURANCE AND REINSURANCE COMPANIES, BRANCH OFFICES OF FOREIGN INSURANCE COMPANIES AND DIRECT PROVISION OF INSURANCE SERVICES, WHEN APPLICABLE

According to Bulgarian legislation insurance services may be provided by a joint-stock company, a cooperative society, or an insurer from third state via a branch registered under the Bulgarian Commercial Act licensed under the terms and conditions of Bulgarian legislation as well by insurers from other Member State under the freedom of establishment or the freedom of providing services conditions. Reinsurance services may be provided by a joint-stock company licensed for active reinsurance under the Bulgarian legislation, a person licensed for active reinsurance under its seat in other Member State as well as a person licensed for active reinsurance under its seat in third state via a branch registered and licensed in Bulgaria. License for providing re/insurance services can also be issued to a person established as a European company (SE).

Providers of re/insurance services should be licensed with the Bulgarian Financial Supervision Commission. The license of insurers is being issued for insuring as well as for the different types of insurances. The license of re-insurers is being issued for life reinsurance; for general reinsurance; or for life and general reinsurance.

3. INSURANCE SUPERVISION

Under the Bulgarian legislation insurance supervision is regulated by the Financial Supervision Commission (<http://www.fsc.bg>), hereinafter referred to as "the Commission". The Commission's jurisdiction extends over other entities which are securities markets, public companies, issuers of securities, investment and management companies, special investment purpose companies, securities brokers, investment advisers, insurance and health insurance companies, insurance agents, brokers and supplementary social insurance companies. The Commission maintains the following registers which are available on the official website of the Commission:

- Electronic Register (ERIK)
News from e-Register
- Insurance agents
Motor Third Party Liability check system
- Unit value of pension funds
Documents check
- Short Selling

As well E-portals, which could be loaded also through the official website of the Commission, as follows:

- e-Register
FSC-Motor Third Party Liability
- eFSC: Social insurance supervision
eFSC: Investment Intermediaries

The types of licenses issued by the Commission are being described in Section 2 hereof.

4. QUALIFICATIONS AND SUPERVISION OF THE MANAGEMENT

Under the provisions of the Insurance Code any member of a managing or control body of a joint-stock insurance company, as well as any person empowered to manage or represent a joint-stock insurance company shall:

1. have a higher education degree and possess appropriate professional qualifications necessary to manage the shareholder insurance company's activities;
2. possess professional experience in the field of economics or finance;

3. never had been convicted of a deliberate criminal act of general character;
4. never had been a member, within the three years preceding the initial date of insolvency ruled by the court, of a managing or control body or a general partner of a company, with regard to which insolvency proceedings have been initiated or which has been dissolved due to insolvency, where creditors still remain unsatisfied;
5. never had been declared bankrupt and is not undergoing bankruptcy proceedings;
6. not be a spouse or a relative by direct or collateral line of descent up to the fourth degree inclusive of, or connected by marriage up to the third degree inclusive to, another member of the company's managing or control body;
7. never had been debarred from the right to hold a materially accountable office;
8. never had been a member, within the one year immediately preceding the deed of the respective competent authority, of a managing or a control body or a general partner in a company whose licence has been withdrawn and whose activity is subject to licensing, except in cases where the licence has been withdrawn at the request of the company, or if the order for withdrawal of the issued licence has been repealed in due order;
9. never had been dismissed from office in a managing or control body of a corporation on the basis of a compulsory administrative measure imposed, except in cases where the order issued by the competent authority has been repealed in due order.

All these requirements shall also refer to physical persons who represent legal entities: members of the managing and control bodies of the joint-stock insurance company. A member of a managing or control body of a joint-stock insurance company, as well as a person empowered to manage or represent it, shall be a person who has a good reputation and does not jeopardise the insurer's management and the interests of the consumers and does not impede insurance supervision. The executive director or another person empowered to manage or represent the joint-stock insurance company shall hold a master's higher education degree or a Ph. D degree, and may not engage in other gainful employment under a labour contract, except as an associate at an academic institute or a lecturer in a higher educational institution. Physical persons who are citizens of a third state shall also have a permit for long-term residence in the Republic of Bulgaria.

5. CAPITAL REQUIREMENTS AND RESERVES

The Insurance Code provides for mandatory requirements on the assets of the insurance companies deemed to guarantee the availability of technical reserves in compliance with the insurance undertakings. The Insurance Code provides for a minimum guarantee capital. The amount of the registered capital of a joint-stock insurance company might be at least as much as the minimum amount of the guarantee fund. For insurance and reinsurance companies it varies from BGN 2.2 million (approximately EUR 1.1 million) to BGN 7 million (approximately EUR 3.5 million); for mutual insurance co-operatives it is depending on the level of the reached premium income. In addition to the requirement for guaranteed capital, each insurance and reinsurance shall have sufficient free and unencumbered capital recourses in relation to all of its activities (a solvency margin). This solvency margin is determined on the basis of the risks the insurer or the re-insurer is exposed to, the lines of business that it writes and the amount of the premiums.

6. INSURANCE INTERMEDIATION

According to the Bulgarian legislation insurance and reinsurance intermediaries can be two types: insurance brokers and insurance agents.

An insurance broker can be a company or a sole trader who, in return for payment, performs insurance intermediation following assignment by a consumer of insurance services and, following assignment by an insurer or a reinsurer, performs reinsurance intermediation. An insurance broker may not perform operations as an insurance agent. This restriction also applies to members of the managing and control bodies of an insurance broker, to all other persons authorised to manage and represent an insurance broker, as well as to its employees directly involved in carrying out insurance or reinsurance intermediation. An insurance broker may not be a shareholder, a partner or a member of a managing or controlling body of an insurance agent.

An insurance agent can be a natural person, or a merchant, who, in consideration of payment and upon assignment by an insurer, carries out insurance intermediation on their behalf and at their expense. Insurance agents can be tied and untied. The difference is that a tied insurance agent may not collect premia and effect payments to the consumers of insurance services. An insurance agent may not work for an insurance broker. An insurance agent who is a natural person may not be in labour relations with an insurer.

Insurance intermediaries are being registered in the Register of Insurance brokers and insurance agents kept with the Financial Supervision Commission. Every insurer must also keep a list of the insurance agents with whom it has

concluded contracts for insurance agency and is obliged to register each change in the facts and circumstances for these insurance agents.

They need license and/or certification for professional and other qualifications.

There is a compulsory coverage for their liabilities to their customers (policyholders, insured).

7. MARKETING AND SALES PRACTICES (CONSUMER PROTECTION)

Part of this issue is covered in the Insurance Code and part is covered by the Consumer Protection Act, Distance Supply of Financial Services Act and by other consumer protection legislation. There is a list of information to be disclosed by an intermediary/insurer to a potential policyholder.

Bulgarian Insurance Code does not provide definition for unfair insurance contract terms and unfair/misleading practices. Chapter Six of Consumer Protection Act called 'Unfair Terms In Consumer Contracts' applies in general for insurance contracts as well. Chapter Four, Section IV called 'Unfair Commercial Practices' generally applies for insurance as well. The only provision regarding unfair/misleading practices specifically in insurance business is included in Article 68k, Item 4 of Consumer Protection Act. It stipulates that 'requiring a consumer, who wishes to claim on an insurance policy, to produce documents which are not relevant as to whether the claim was valid, or failing more than twice to respond to pertinent questions raised by a consumer, in order to dissuade the consumer from exercising the contractual rights thereof shall be considered unfair and misleading commercial practices and therefore are prohibited.

8. TYPES OF COMPULSORY INSURANCES

- Compulsory third party motor liability insurance
- Green card
- Compulsory Personal Accident Insurance for Passengers in Public Transport in Bulgaria
- Insurance against professional responsibility:
- Compulsory insurance "Accident" and "Life" at the expense of the employers of these employees occurring during or in connection with the performance of their duties.
- Employer Liability Insurance for damages that may occur due to the fault or performance in the exercise of certain professional activities.
- Compulsory statutory property insurance must be concluded for certain types of properties explicitly listed in special laws.

■ Other compulsory insurances:

In other laws introduced various compulsory insurances are being prescribed, e.g.:

- The tour operator or travel agent is required to be insured 'medical expenses in case of illness or accident of the tourist "when traveling abroad;
- The pledge holder s retains possession of the pledged property must insure the pledged property for its own account against common risks in trade in a way that enables the creditor to receive benefits from the insurance indemnity;
- Children involved in various forms of organized recreation and tourism must be insured for their own account or on behalf of the organizer;
- Foreigners residing in the Republic of Bulgaria are required to have compulsory health insurance covering the costs of treatment and hospitalization during the stay in the country. And the Foreigners residing on a short-term basis or passing transit are required to have also Compulsory sickness insurance.
- Compulsory health insurance of the persons subjected to medical research against damage to their health or death

9. INSURANCE MARKET

According to a report of The Financial Supervision Commission (FSC) in the end of 2011, the total number of the licensed insurers having a legal seat in the Republic of Bulgaria was 37. 18 of these were general insurance companies, 14 – life insurance companies and 2 – mutual life insurance co-operatives and 1 reinsurer carrying out the activity for general insurance and 2 branch offices.

The number of the voluntary health insurance companies was 19. Activity of insurance intermediation at the end of 2011 was carried out by 373 brokers and 28 765 agents.

The Bulgarian insurance market is dominated by the general (non-life) insurance, whose share in 2011 diminished to 84.8%, against 84, 9 % at the end of 2010, 87% at the end of 2009 and 85% at the end of 2008, and Bulgaria ranked in one of the last places among the European countries according the share of life insurance in the total insurance business.

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