

IN-DEPTH

Insurance And Reinsurance Law

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Insurance and Reinsurance Law

13

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In-Depth: Insurance and Reinsurance Law (formerly The Insurance and Reinsurance Law Review) is an insightful overview of the legal and regulatory frameworks governing the insurance and reinsurance industry in key jurisdictions worldwide. With a focus on recent developments, it analyses the most pressing regulatory challenges for insurers and intermediaries; highlights practical considerations when drafting insurance contracts; examines noteworthy claims processing issues; and much more.

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[Rokas](#)

Summary

INTRODUCTION

YEAR IN REVIEW

REGULATION

INSURANCE AND REINSURANCE LAW

DISPUTE RESOLUTION

OUTLOOK AND CONCLUSIONS

ENDNOTES

Introduction

The insurance undertakings in Greece are distinguished into those practising life insurance, those practising non-life insurance and the composite ones that practise both (life and non-life) depending on the relevant licence granted by the supervisory authority, the Bank of Greece (BoG). The Greek insurance market's overall gross premium production is significantly lower than the EU average, among others due to the extensive social security system that covers a substantial portion of private insurance activities, such as compensation in the case of an accident at work.^[1] However, according to a survey conducted by the Hellenic Association of Insurance Companies (HAIC) among its members, the total premium production in 2024 increased by 8.7 per cent compared to the previous year, reaching €5.68 billion. HAIC's statistics specifically indicate, that in 2024 the gross premium production increased by 7.9 per cent in life insurance and by 9.4 per cent in non-life insurance.^[2]

The role of insurance intermediaries is very important in the Greek market, as most insurance policies are concluded through an insurance intermediary, while only a small percentage is concluded by means of direct sales. There is a notable trend towards concentration in both markets, of insurance undertakings and insurance intermediaries. There are a great deal of EU-based entities operating in Greece via the regime of establishment or the freedom of services, and very few examples of non-EEA undertakings that have established a licensed branch in Greece.

Year in review

Regarding the latest developments in (re)insurance law and regulation, Law No. 5116/2024, as amended by Law No. 5162/2024, introduces compulsory insurance for natural disasters, mandating coverage for all corporations with a gross income of at least €500,000, as well as for all vehicles, regardless of whether they are used for individual or corporate purposes. Additionally, Law No. 5170/2024 (Article 29), revises the methodology for readjusting annual life insurance premiums. It establishes a new index, issued by the Hellenic Statistical Authority, to ensure greater transparency and fairness in premium adjustment. Moreover, Law No. 5113/2024 transposed Directive (EU) 2021/2118, transposing Directive (EU) 2009/103 on motor third party liability insurance-into Greek law. In a broader context, various laws have been enacted that indirectly impact the insurance sector. Indicatively, Law No. 5162/2024 introduces tax incentives for mergers, while Law No. 5111/2024, amending Law No. 2251/1994, strengthens consumer protection by implementing price control mechanisms and addressing the issue of notional sales.

In terms of M&As, the most notable transactions include the acquisition of a 90 per cent stake in Ethniki Insurance Undertaking – Greece's oldest and one of its largest insurance undertakings – by Piraeus Bank,^[3] as well as the acquisition of Europa Insurance Company Single Member SA by Europe Holdings SA.^[4] M&A activity in the insurance brokerage sector reflects ongoing restructuring and consolidation in the industry.^[5]

On the claims front, the severe storm named 'Bora' caused widespread flooding across Macedonia and some Aegean islands in early December 2024, resulting in claims

exceeding €18.7 million, as reported by HAIC.^[6] Similarly, the wildfires that struck Attica in August 2024 led to estimated compensation claims totalling €11.14 million.^[7]

Regulation

The competent supervisory authority for private insurance in Greece is the BoG. Insurance and reinsurance undertakings fall under the supervision of the BoG. Law No. 4364/2016, which among others incorporates Directive (EU) No. 2009/138 (the Solvency II Directive) into Greek law, regulates the supervision of private insurance. It regulates, inter alia, the establishment and licensing of (re)insurance undertakings (both life and non-life), the cross-border operation of licensed EEA insurance undertakings via the freedom of establishment and the freedom to provide services (European passport), the operational requirements of (re)insurance undertakings, the supervision of insurance groups, as well as the reorganisation and winding-up procedures for insurance undertakings. It follows the 'three-pillar' approach of the Solvency II Directive regarding the structure and operation of insurance undertakings. The law addresses the quantitative requirements imposed on insurance undertakings, including asset and liability valuation rules, capital requirement calculations, and identification of eligible own funds. It further sets out qualitative requirements, such as corporate governance and risk management rules, as well as the supervisory process with competent authorities. Third, it addresses transparency issues including the requirements of reporting to supervisory authorities, and disclosure to the public (market discipline). Several of its provisions, however, cannot be classified as part of any of the three pillars.

Insurance undertakings licensed in non-EEA countries must establish a branch and obtain the relevant operating licence from the BoG to operate in Greece, thus being subject to qualitative conditions that are identical to those for establishing a Greek insurance undertaking. Foreign insurers are required to appoint a 'legal representative' who acts as their general representative in Greece, holding powers and responsibilities similar to those of the board of directors of an insurance undertaking.^[8]

Law No. 4583/2018, which, among others, transposed Directive (EU) No. 2016/97 on insurance distribution (the IDD) into Greek law, governs insurance intermediation. An insurance intermediary is not required to obtain a licence from the supervisory authority but must fulfil the requirements set out by such law and register with the intermediaries registry operated by the local Chambers of Tradesmen. In Greece, there is a distinction between (1) an intermediary exclusively providing insurance intermediation services upon the insured's mandate, referred to as insurance broker, and (2) an intermediary providing services solely on behalf of the insurance undertaking, referred to as agent. The cooperation between these two categories of insurance intermediaries is not allowed,^[9] pursuant to clearly local legal regulations that do not reflect EU law provisions.

The taxation of insurance business in Greece also involves a turnover tax (i.e., the insurance 'premium tax'), which applies to the aggregate premiums realised in most categories of insured perils. This tax is paid by insurance undertakings to the competent fiscal authority and is to an extent ultimately borne by the policyholders paying the premium. Reinsurance premiums are not subject to turnover tax, as this is already included in insurance premiums.^[10] There are certain types of insurance, such as marine transport,

cargo, hull, aviation and life insurance policies with a duration exceeding 10 years, which are exempted from the premium tax. Tax rates vary depending on the insurance coverage, for example, fire premiums are taxed at 20 per cent, life insurance premiums at 4 per cent (unless falling within the exemption), while the rest of the classes are taxed at 15 per cent.^[11] In cases where multiple risks are covered under the insurance policy, the tax rate is determined on the basis of the significance and likelihood of each risk.

Insurance and reinsurance law

Sources of law

Greek law regulates the supervision of (re)insurance undertakings and the insurance contract separately. As mentioned, Law No. 4364/2016, enacting the provisions of the Solvency II Directive, sets out the conditions for the operation of (re)insurance undertakings, while insurance contracts are governed by Law No. 2496/1997 (the Insurance Contract Act (ICA)), as amended and in force, with guidance from business practices and case law.

Law No. 4548/2018 on *sociétés anonymes* (SAs), along with general provisions of commercial and civil law, are also applicable to (re)insurance undertakings. Furthermore, Law No. 4583/2018 transposing the IDD, regulates the distribution of insurance products, including the requirements for the conduct of activities of (re)insurance intermediaries, as well as for the conduct of direct sales of insurance products by (re)insurance undertakings. This law covers aspects such as registration requirements, freedom of establishment and freedom to provide services, cooperation between insurers and insurance intermediaries, professional conduct and information requirements. Apart from Law No. 4583/2018, insurance distribution activity is also regulated by Acts issued by the BoG and EU Regulations implementing IDD provisions.

Compulsory third-party motor vehicle liability insurance contracts are specifically regulated by Codified Law No. 489/1976, along with provisions concerning the Motor Auxiliary Fund and the Motor Vehicles Insurers Bureau.

Consumer protection also impacts insurance contracts and the conduct of (re)insurance undertakings and intermediaries. Law No. 2251/1994 has, among others, enacted several EU Directives regarding consumer rights, notably Directive 93/13/EEC on unfair terms in consumer contracts and Directive 2011/83/EU on consumer rights.^[12]

The regulatory framework is further supplemented by numerous regulatory decisions issued by the BoG's competent bodies, such as the Governor and the Executive Committee, as well as by its administrative practices.

Drafting and interpreting the contract

The process of contract-making is critical, as it shapes the relationships between insurers, reinsurers and policyholders by setting out the conditions for the risk transfer, defining obligations and establishing the parameters within which the parties operate.

Reinsurance is conducted as in the rest of the world. Reinsurers essentially engage in a 'partnership relationship with' insurers,^[13] allowing them to spread their risk and maintain solvency. There is no special piece of legislation for the reinsurance contract, thus the rules of general contract law apply. In some small extent the ICA provisions can be applied to the reinsurance contract *mutatis mutandis*.

Each (re)insurance contract essentially contains the following:

1. Offer and acceptance: Similar to any other contract, (re)insurance agreements require a valid offer and acceptance. The applicant presents to the (re)insurer their coverage request, which usually includes questions posed by the (re)insurer and the applicant's responses regarding the risk to be covered. In turn, the (re)insurer provides its acceptance along with the terms of coverage. The (re)insurer issues a statement of coverage, followed by the policy.
2. Consideration: In insurance contracts, the consideration consists of the premium paid to the insurer in exchange for the promise of the agreed coverage of risks. Similarly, in reinsurance contracts, the consideration is the reinsurance premium paid by the ceding insurer to the reinsurer in exchange for assuming a portion of the risk.
3. Terms and conditions: Insurance contracts outline the general and special terms and conditions prepared by the insurer for various insurance products. The insurance contract includes among others the scope of coverage, exclusions, deductibles, limits of liability, the premium, the duration of the contract and any other necessary elements of each individual contract.
4. Representations and warranties: Applicants for insurance are obliged to disclose to the insurer the information and circumstances of the risk of which they are aware. This obligation corresponds to the notion of 'Representations and Warranties' and enables insurers to affirm the accuracy of certain statements or facts. These assurances are aimed at enabling risk assessment and may impact on the validity of the contract in the event of misrepresentation or simple non-disclosure.

In addition, insurance contracts are subject to regulatory requirements in as much as insurance legislation dictates the introduction of specific provisions in the insurance contract to ensure compliance with statutory requirements.

The negotiation and drafting of insurance contracts require attention to detail and a thorough understanding of the risks involved. Insurers, reinsurers and policyholders often engage in extensive negotiations to tailor the terms of the contract to their specific needs and preferences.

Experienced legal professionals specialising in insurance law play an important role in this process, advising their clients on the legal implications of various provisions and helping them navigate complex regulatory requirements. Effective negotiation and drafting can help minimise disputes and ensure that the contract accurately reflects the intentions of the parties.

Nevertheless, disputes may arise between insurers and policyholders over the implementation or interpretation of insurance contracts, as well as between insurers and reinsurers concerning the implementation or interpretation of reinsurance contracts.

Reinsurance contracts typically include provisions specifying the procedures for resolving such disputes, which may involve mediation, arbitration, or litigation, depending on the terms of the agreement and the applicable laws.

Intermediaries and the role of the broker

The role of insurance brokers stands out as pivotal, especially in large risks. Insurance brokers serve as intermediaries between insurance companies and clients, wielding expertise, market knowledge and negotiation skills to secure the most suitable coverage for their clients' needs. Beyond merely facilitating transactions, brokers can play a multifaceted role in the creation and maintenance of insurance contracts, ensuring that clients receive optimal protection tailored to their unique circumstances.^[14]

Insurance brokers leverage their expertise to provide clients with informed advice on the types of coverage available, policy features and risk management strategies. On the other hand, their demanding work results in a high level of professional liability. By thoroughly assessing clients' needs and risk profiles, brokers can recommend appropriate insurance solutions that align with their clients' objectives and budget constraints.

Brokers engage in consultations with clients to understand their risk exposures, business operations and future objectives. They are then required by law to advise clients on the eligible solution for coverage. Based on this assessment, brokers may collaborate with insurance companies to customise policies that address clients' unique needs.

Insurance brokers can maintain extensive networks within the insurance industry, allowing them to access a wide range of insurance markets and carriers. This market access empowers brokers to negotiate favourable terms, competitive premiums and comprehensive coverage on behalf of their clients. Brokers leverage their relationships with insurers to advocate for clients' interests and secure the most advantageous terms within the marketplace.

The provision of insurance through banks is also very common. Insurance programs offered through banks, often referred to as bancassurance,^[15] leverage the existing infrastructure and customer base of banks to provide insurance products and services to consumers. Several issues may ensue depending on the structure of the cover, which may take the form of group insurance policies, in which the bank may be the policyholder. The multi-faceted role of the bank in the respective relation, which shall also involve the role of the intermediary as well as of the group 'organiser' is not specifically regulated under Greek law.

Banks partner with insurance companies to offer insurance products, including life insurance, health insurance, property insurance, as well as programmes that insure credit and debit cards against risks such as theft or loss. These products are often marketed and sold to bank customers through various channels, including in-branch representatives, online platforms and mobile apps. Banks are required to clearly advise clients, especially consumers, that they are entitled to obtain insurance cover elsewhere, when such clients are proposed insurance in the context of their main relation to the bank (e.g., a mortgage). Consumers should compare offers from multiple providers to ensure that they are getting the best value for their insurance needs.

Insurance brokers partner with clients to conduct regular reviews of their insurance portfolios, reassessing risk exposures and adjusting coverage as needed, thus contributing to risk management. Brokers stay abreast of changes in clients' businesses, industry dynamics and emerging risks, ensuring that insurance contracts remain relevant and effective in mitigating potential liabilities.

Claims

Claims in insurance contracts refer to the process by which policyholders seek reimbursement or compensation from their insurance company for covered losses or damages. The claims process is a critical aspect of insurance contracts, as it represents the fulfillment of the insurer's promise to provide financial protection in exchange for premium payments. Notably, policyholders are required to notify their insurance company of the occurrence of the risk in a timely manner, and to promptly notify it in the event of a covered loss or occurrence that may lead to a claim. Sometimes, insurance policies specify the time frame within which claims must be reported to the insurer. Failure to adhere to these reporting requirements could jeopardise the policyholder's ability to receive coverage. Besides, the principle of 'good faith' requires both parties to act honestly, fairly and with integrity in all dealings related to the insurance contract, including the management of a claim.^[16]

More specifically, as far as the principle of good faith is concerned, it requires the insured to provide complete and accurate information to the insurer during the application process. This includes disclosing all material facts that could influence the insurer's decision to provide coverage or determine the premium. Moreover, the insured is under a duty of utmost good faith in the sense that they are obliged to disclose all relevant information, even if not explicitly queried by the insurer. Failure to disclose material facts can result in denial of coverage or voiding the policy.

On the other hand, insurers must also act in good faith by processing claims promptly, fairly and honestly. They should not attempt to avoid their obligations under the policy through unjustified delays or denial of valid claims. In this respect, they are expected to interpret policy terms and conditions in a reasonable manner that aligns with the insured's reasonable expectations. They shall not exploit ambiguities in the policy language to avoid paying legitimate claims.

If either party breaches the duty of good faith, it can have significant implications for the validity of insurance claims. For example, if the insured intentionally fails to disclose material information, the insurer may reject a claim based on misrepresentation or non-disclosure. Insurers have a duty to investigate claims thoroughly and fairly to determine their validity. Insurers cannot unreasonably delay or deny claims without sufficient cause, as this would constitute a breach of the duty of good faith, giving rise to legal remedies for the aggrieved party. This may include the payment of damages.

Upon receiving a claim, the insurance company investigates it to assess its validity and the extent of the loss. Claims adjusters or investigators may be assigned to gather information, review documentation and evaluate the circumstances surrounding the claim. The insurer may request additional documentation or evidence to support the claim, such as photographs, police reports or medical records. Once the investigation is complete, the insurance company evaluates whether the claim falls within the scope of coverage

provided by the policy. If the claim is deemed covered under the policy, the insurer proceeds to the next step in the claims process. If not, the insurer may deny the claim, citing the applicable policy terms.

In summary, claims in insurance contracts represent the mechanism through which policyholders seek compensation for covered losses or damages. The claims process involves notification and reporting of losses, investigation of the claim's validity by the insurance company, determination of coverage, settlement negotiations and resolution of any disputes that may arise.

Dispute resolution

Jurisdiction, choice of law and arbitration clauses

The basic rule of territorial jurisdiction determined in the Greek Civil Procedure Code (GCPC)^[17] is that the court in the region of which the defendant has their domicile or their residence has territorial jurisdiction to adjudicate on the case.^[18] Legal entities fall under the territorial jurisdiction of the court of the region where their registered office or branch is situated. Although this is the case for most disputes, Greek law permits agreements between the parties by which a first instance Greek or foreign court becomes competent for future disputes.^[19] Clauses that predetermine the jurisdiction for any future disputes are usual in insurance contracts and are valid if expressed in writing.

In domestic cases, the general rules of the GCPC apply. However, in cases with cross-border elements, European law relating to the determination of jurisdiction in civil and commercial cases and especially in insurance disputes also applies. Hence, Regulation (EU) No. 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters is applicable to insurance contracts.^[20] The main principle of the above-mentioned Regulation's provisions regarding determination of jurisdiction in matters relating to insurance is that in case of choice-of-forum clauses, the weaker party should be protected by rules of jurisdiction that are more favourable to its interests than the general rules.^[21] Similarly, clauses determining the applicable law are also common in the Greek insurance market, yet their validity is subject to the provisions of the Rome I Regulation (i.e., Regulation (EU) No. 593/2008).

Litigation

The main procedural rules in cases of litigation (e.g., on jurisdiction and procedural stages) are set out in the GCPC, which applies to insurance disputes concerning any type of civil claims. The court's jurisdiction and the procedure applicable to the insurance dispute's resolution are mainly determined based on the plaintiff's claim. Usually, the nature of an insurance dispute is either civil or commercial, and for these kinds of disputes the 'ordinary procedure' applies. Thus, disputes are subject to the jurisdiction of either the single-member courts of first instance (for disputes up to €250,000) or the multi-member courts of first instance (for disputes exceeding €250,001).^[22] On the other hand, in cases of claims for damages arising out of traffic accidents from any kind of motor vehicle, the GCPC provides that the special procedure for motor vehicle disputes is applied by

the above-mentioned courts of first instance. Finally, if a case qualifies as a 'labour dispute' (e.g., claims for supplementary pensions arising from group insurance policies), the competent court shall apply the special procedure for labour disputes.

Regardless of the procedure applied, any court judgment regarding a claim that exceeds the amount of €5,000 can be appealed before the competent Court of Appeals. The GCPC does not provide any restriction concerning the grounds on which an appeal may be filed, and these grounds may relate to procedural errors, errors in the application of the law, or errors relating to the assessment of the evidence, which can be attributed to the judgment of the Court of First Instance. Following the Second Instance stage, a judgement can only be appealed before the Supreme Court by means of a cassation appeal, the Supreme Court adjudicating solely on questions of law.

One of the main principles of the GCPC is that each party bears the burden to prove its claims; in this regard, the claimant is normally obliged to present the facts and prove their case and allegations before the competent court, whereas the defendant must prove the counter claims on which their defence is based.^[23]

The GCPC provides for the following means of proof: admissions, inspections, expert reports, documentary evidence, the hearing of parties, witness statements, presumptions of fact and affidavits. According to the GCPC, as a rule, the court assesses the evidence freely and decides at its own discretion whether the statements made are true (pursuant to Article 340 GCPC); it is explicitly provided, however, that certain means of proof have increased probative value (i.e., admissions, pursuant to Article 352 GCPC, and documents, which produce full evidence pursuant to Article 438 et seq., 441,445 GCPC). The rest of the provided means of proof are legally equivalent, so that it is for the court to decide their evidential weight by assessing them freely.^[24]

The cost of the civil court procedure includes the court fees and the legal fees. The court fees are determined in relation to the amount of the claim. The legal fees are regulated by Law No. 4194/2013 only as to their statutory minimum; the exact amount is determined by means of an agreement between the client and the lawyer. In the absence of a prior written agreement, the above-mentioned law determines the legal fees per procedural act, the rate of which is calculated as a percentage of the value of the subject matter of the proceedings. Following the finalisation of the court proceedings, the defeated party is usually ordered by the court to bear all fees and expenses relating to the proceedings, including the legal fees of the opponent. Litigation funding is not a common practice in Greece.

Arbitration

The GCPC stipulates that future disputes can be solved through arbitration, provided that the arbitration agreement is concluded in writing and that it refers to the specific legal relationship out of which disputes may arise. Thus, an insurance contract can include a written arbitration clause upon prior negotiation and agreement between the insurer and the insured. Arbitration clauses may not be very common in insurance contracts in Greece, but they are more common in reinsurance contracts and in contracts concerning specific classes of insurance involving large financial risks. As already mentioned, domestic arbitration is governed by the GCPC (Articles 867–903); international arbitration, when the

chosen forum of arbitration is in Greece, is subject to Law No. 5016/2023, which repealed the former Law No. 2735/1999.

Alternative dispute resolution – mediation

Given that litigation procedures are lengthy, and that the issuance of an irrevocable judgment may require a period of approximately five to eight years, Law No. 4640/2019 was introduced to facilitate access to ADR mechanisms and promote amicable extrajudicial settlements to the broader public.^[25] It regulates the procedure of mediation between the parties, which is performed by a certified mediator. Informing the plaintiff of the possibility to resolve the dispute via mediation is rendered as a mandatory preliminary stage that must precede the filing any new action on pain of inadmissibility. In practice, a written statement of notification must be filed before the competent court no later than the filling of the pleadings. Following the mandatory initial mediation session, the parties are allowed to decide freely whether they wish to engage in the resolution of their dispute through mediation or to proceed with litigation.

If the parties decide to resolve their dispute through mediation, the finalised written agreement must be signed by all participants in the proceedings and filed before the competent court of first instance by either party. This agreement constitutes an enforceable title under the conditions laid down by the GCPC.

Outlook and conclusions

The Greek insurance market, being less developed than some other European markets, is evolving in line with the economic growth of the country. The solvency rate of the insurance market players by far exceeds the Solvency II requirements.

There is a trend of mergers and acquisitions of insurance companies, which results in an increase in the turnover of these companies and a corresponding reduction of their operating costs. This trend seems to be leading to insurance companies with a much wider financial reach, thus enabling more favourable pricing and improvement of the services provided to policyholders.

The market is responding to new challenges regarding risks related to cybersecurity (such as cyberattacks, data loss and hacking), as well as to the consequences of climate change by improving its insurance policies providing coverage against these risks, and taking into account the severe recent losses attributed to weather phenomena. Significant steps have been taken for the application of new technologies to the insurance sector. These include data processing and analysis through AI technologies, such as machine-learning algorithms employed to predict risks and effectively respond to the insureds' personalised needs, tracking and combating insurance fraud and risk modelling.

The increasing frequency of extreme weather conditions with a significant economic impact is increasing the investment directed to the development of parametric insurance-^[26] (i.e., a type of insurance under which the insurer automatically reimburses the insured based on predetermined trigger parameters (such as weather conditions)), upon

occurrence of which the parties have agreed in advance to activate the right to claim compensation at the predetermined rate.

Endnotes

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