

Practice note: Insurance update: Greece

Nov 20 2007 [Dimitris Economou](#)

In the past decade, there have been significant changes in the Greek insurance market. The country's accession to the European Economic Area in 1994 resulted in a liberalisation of the market which was further increased with the implementation of the relevant European Union directives. The Greek regulatory environment of insurance firms adjusted to these directives, opening its insurance market to both domestic and foreign competition.

The current regulatory environment of insurance companies

The legal framework in force today which regulates insurance companies is constituted by Legislative Decree 400/1970 "regarding private insurance companies", as amended and completed by Law 1380/1983, Law 2170/1933 and the law of the EU, as adjusted by virtue of Presidential Decrees: 118/1983, 159/1998, 169/2000, 288/2002, 10/2003 and 332/2003. The codified Law 489/1976 "regarding obligatory insurance by car accidents civil liability" has also been adjusted by virtue of the Presidential Decree 237/1986.

Furthermore, the following legislation has to be mentioned: Presidential Decree 551/1970 "regarding private insurance companies of boats and aircrafts" and Presidential Decree 298/1986 "regarding the rights and obligations of the insurance agents and insurance producers and code of practice for the exercise of the said professions".

Significant pieces of legislation

Other sources of law that govern insurance contracts are: Law 1569/1985 "regarding intermediation in private insurance contracts etc.", as amended by Law 2170/1993, Presidential Decree 190/2006 which also regulates the same matter, Law 225/1975 "regarding the insurance of export credits", Ministerial Decision K4-585/1978 "regarding the designation of the general terms for the insurance covering car accidents civil liability", Law 2251/1994 "regarding consumer protection", and Law 1792/1988 "regarding the Greek ratification of the Luxemburg Convention relating to the applicable law on contractual agreements" in relation to reinsurance contracts, in cases where the risk is situated outside the borders of the EU.

With regards to contractual agreements, where the risk lies within member states of the EU, see Article four, paragraph two of Legislative Decree 400/1970 as amended by virtue of Article seven of Presidential Decree 252/196.

Articles 1-34 of Insurance Law 2496/1997 regulate insurance contracts; these replaced Articles 189-225 of the Commercial Law, Articles 257-288 of the Code of Private Naval Law, and Articles 129-138 of the Aviation Code (Law 1815/1988)

respectively for ground and sea insurance.

Certain provisions of the Commercial Law and the Greek Civil Code are applied supplementary. There are also other provisions which regulate certain issues of Insurance Law. Such as Articles 600, 627, 1154, 1171, 1172, 1186, 1223, 1285 and 1287 of the Civil Code, and Articles 16 num. 9, 956 num. 7 and 992 of the Civil Procedure Code. The application of the Law of July 17-August 13 1923 "regarding special provisions regulating societe anonyms" also has to be noted.

Authorisation requirements: local and foreign insurance firms

Authorisation regarding local insurance firms

Legislative Decree 400/1970 distinguishes between Greek and foreign enterprises and lays down the requirements for the granting of authorisation of an operating licence for a Greek insurance company. The insurance company must be a "societe anonyme" company and it is required to have an operating licence from the Regulatory Committee for Private Insurance. (Article three of Law 3229/2004)

The seat of the company

The seat of the company is considered as being the place where the administration of the company is exercised and not the place where the company's commercial activity takes place. Article 15 of Legislative Decree 400/1970 describes the requirements which are submitted to the administration for evaluation purposes, in cases where the granting of a licence is possible. The requirements are different in cases regarding companies dealing with life and damages.

Article 17 of Legislative Decree 400/1970 regulates the minimum capital of each insurance company. The insurance agents play a significant part in the insurer's course of work. The definition of an insurance agent is contained in Article 2 of Law 1569/1985.

Authorisation regarding foreign insurance firms

The following is required for the operation of a foreign insurance company in Greece:

- A licence which the Regulating Committee for Private Insurance from the Ministry of Development has granted, when the prerequisites laid down in Article 20 paragraph 2b and paragraph 3 are met.
- Submission of the necessary documents to the above-mentioned authority.
- Approval of the above-mentioned committee following the submission of all the necessary documentation.

- Licence is published in the bulletin for societe anonymes and limited liability companies in the government's Gazette. (see Article 20 of Legislative Decree 400/1970 and Article three of Law 3229/2004).

Insurance companies domiciled in the EU

The required documents for companies which are members of the EU are provided in Article 20 of Legislative Decree 400/1970. The required documents for companies which are from outside the EU are described in Article 2 of Legislative Decree 400/1970.

Foreign companies have to appoint a legal representative in Greece. A copy of the decision appointing the said representative, following ratification, has to be submitted to the Regulating Committee for Private Insurance. Foreign insurance companies are obliged to establish a branch or agency in Greece to commence activities in the country, which will not be considered as a separate insurance company.

Rules which govern the way policies are sold and regulate communication with customers.

The fundamental provisions of Law 3471/2006 "regarding the protection of personal data and private life", Articles 11 and 12 in particular, describe the manner in which any communication to potential customers should be made, i.e., it must not be made contrary to one's will (spam, cold calling etc).

The insured is obliged to follow the directions of the insurer even when he does not agree with these directions. According to Article seven and Article 278 of the Code of Private Naval Law, the insured is obliged to take all appropriate measures to avoid or reduce the loss. The insurer can provide directions to the insured to avoid or reduce loss from the moment of the signing of the insurance agreement until the full completion of the loss but not after the loss has occurred.

According to Article seven of Law 2496/1997: "the person receiving the insurance is obliged — within eight days from the day he became aware of the loss — to communicate that information to the insurer". The insured is obliged to communicate with no delay to the insurer all relevant information otherwise he is liable for compensation, according to Article 278 of the Code of Private Naval Law. The communication of the information to the insurer can be made by letter, telegraph, telephone etc., since the afore-mentioned articles do not impose a certain type. The communication can also be made orally, even during a private discussion between the person negotiating the insurance and the employee of the insurance SA company.

Regulations applied in reinsurance

In theory, the legal nature of reinsurance was described as being an insurance against loss of a higher scale, especially when it concerns a risk management transfer to the reinsurer. The principles applied in the reinsurance contract are the ones laid down in

Law 2496/1997. Reinsurance is considered an insurance contract, therefore, the relevant regulations apply, i.e., Article two of Law 2496/1997. Reinsurance, as mentioned, is the insurance against loss and therefore the general provisions of the insurance against loss (Article 13 of Law 2496/1997) apply.

In cases concerning sea insurance, however, the provisions of the Code of Private Naval Law apply. The same principles apply in matters relating to the Aviation Code. The Rome European Convention of 19-6-1980 regarding the applicable law on contractual agreements, which was ratified by Greece (Law 1792/24-6-1988) does not apply to reinsurance agreements.

The state controls insurance companies and determines the rules which regulate them, with the intention of protecting the insured. This is achieved when an insurance company is and remains solvent. Solvency is the ability to compensate. This ability is possessed by anyone who has sufficient assets. This is the reason why each insurance company is obliged to preserve sufficient capital as "solvency capital". In this capital the following are included:

- The share capital and the regular reserve capital.
- The reserve capitals (legal and free of any burden).
- The profits and losses which are carried forward to the next business year, after the deduction of the dividends owed.
- The whole of the privileged share capital, when the company's articles of association provide for privileged shares issuance.
- The loans of reduced insurance which the regulating committee has to approve.
- The surplus value derived from the evaluation of evidence.
- The security capital.

The personnel of the insurance company can consist of Greek and foreign citizens (EU and non-EU). The nationality of the employees is not significant.

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