INSURANCE MARKET IN ALBANIA

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Abstract
The activity of the financial market during communism in Albania, that is during the years 90s, has been very limited and completely in the hands of government. During this period in Albania there was only one Governmental Institution Savings Bank and Insurance, which focus was on collecting the savings of people, of those few savings that had, and security of cooperatives and enterprises of import-export. This institution is founded in 1949, at the beginning only with collection of people savings and later on in 1953 even with the insurances.
So, during this period in Albania there were not banks that could offer banking services or insurance companies so that they could cover the different risks.
This article consists in a study of a detailed study of insurance market in Albania beginning from 1953 until nowadays. As mentioned before, in 1953 in Albania there was only Governmental Institution Savings Bank and Insurance, which was focused only on security of cooperatives and later during 1980s even with that of import-export enterprises. During this period there did not exist other security products and they were limited. The first pluralist Parliament of Albania in July 1st 1991 approved the first laws for the foundation of Savings Bank and Insurance Institute.

Introduction

In insurance market today there are ten insurance companies, which offer their products in life insurance and non-life and concretely they are: Sigal Life Uniqa Group Austria; SiCRED, Sigma Vienna Insurance Group; Sigal Uniqa Group Austria, Atlantik; Intersig, Albsig; Interalbania; Eurosig dhe Insig.

These companies offer their services in the provision of 23 classes approved by law such as: life insurance, security because of fire and forces of nature, the provision of guarantees, securitization of vehicles, insurance of accidents, in case of diseases etc. These classes are defined in details in the law for insurance thus enabling the development of a complete legal frameworks in the area. The legal framework is also designed on the basis of European Union directives, which has made possible not only the legal regulation of this market but also the creation of legal institutions in its service, such as the Financial Supervisory Authority.

Founded in 2006, the Albanian Financial Supervisory Authority (AFSA) is a public institution independent form the executive and responsible for regulating and supervising non-banking financial system operators carrying out their activities in this sector. AFSA will report to Parliament for its activities. The main areas of AFSA activity is the regulation and supervision of:

- The activity of the insurance market and its operators,
- The activity of securities market and its operators.
- The activity of supplementary private pensions market and its operators.
- The non-banking financial activities.[1]

Of course during these 20 years, market has significant developments, where is mentioned the increase of voluntary insurance, its ability to cope with complicated securities, network creation and absorbing and attractive structures for the customers, the integration of the national market with the international one through his cooperation with reinsurance markets, the increase of the specific value of payments toward the income etc. It is very important that this market now is well-regulated, with better legal framework, well supervised through parameters set by EU standards. It has become more attractive to invest by the foreign companies etc.

However the market still continues to suffer from phenomenon such as unfair competition, the application of prices below cost which increase artificially market percentage, high cost of administration damages in law processes, abusive marketing and other deformations which among other things brings the image for the market and don't influence on people to require insurance products.

The progress has been so high during these years, but the majority of business property is not insured. The people do not insure their houses and capital goods, shops, bars, restaurants, factories, agricultural products, livestock etc. This happens not because of the insurance companies don't have made their work as it must be done, but because all the governmental organisms that direct and monitor the economy are not including obligatory criteria so that they exercise the economical activity with insurance, especially those that are related with the protection of people in general. A thing like that would bring not only profits for the population and reinforcement of insurance market, but at the same time, it would add an important supervisory element for economic activity, because the insurance companies would exercise their control for the fulfillment of conditions before, during and after the process of insurance. This function is very important in the countries with a high level of development.

Through this article I would like to highlight some problems of the insurance market during the transition process and set my solutions and conclusions within the legal framework.

I. Principles of Insurance

Insurance aw is the name given to practices of law surrounding insurance, including insurance policies and claims. It can be broadly broken into three categories - regulation of the business of insurance; regulation of the content of insurance policies, especially with regard to consumer policies; and regulation of claim handling. At common law, the defining concept of a contract of commercial insurance is of a transfer of risk freely

[1] Annual Report 2011 - FSA

negotiated between counterparties of similar bargaining power, equally deserving (or not) of the courts protection.[2]
In civil law countries insurance has typically been more closely linked to the protection of the vulnerable, rather than as a device to encourage entrepreneurialism by the spreading of risk. Civil law jurisdictions - in very general terms - tend to regulate the content of the insurance agreement more closely, and more in the favor of the insured, than in common law jurisdictions, where the insurer is rather better protected from the possibility that the risk for which it has accepted a premium may be greater than that for which it had bargained. As a result, most legal systems worldwide apply common-law principles to the adjudication of commercial insurance disputes, whereby it is accepted that the insurer and the insured are more-or-less equal partners in the division of the economic burden of risk.

Principle 1: Principle of Utmost Good Faith:

Principle of Utmost Good Faith is the primary principle of insurance. The doctrine of uberrimae fides - utmost good faith - is present in the insurance law of all common law systems. An insurance contract is a contract of utmost good faith. The most important expression of that principle, under the doctrine as it has been interpreted in England, is that the prospective insured must accurately disclose to the insurer everything that he knows and that is or would be material to the reasonable insurer.
Something is material if it would influence a prudent insurer in determining whether to write a risk, and if so upon what terms. If the insurer is not told everything material about the risk, or if a material misrepresentation is made, the insurer may avoid (or "rescind") the policy, i.e. the insurer may treat the policy as having been void from inception, returning the premium paid. In a nutshell, a higher degree of honesty is imposed on an insurance contract than is imposed on other contracts. Honesty is mainly imposed on the insurance applicants. It is supported by three legal doctrines; Representation, Concealment & Warranty. According to this principle, the insurance contract must be signed by both parties (insurer and insured) in an absolute good faith or belief or trust. Both parties in the contract must disclose all material facts for the benefit of each other. False information or non-disclosure of any important fact makes the contract voidable.

Principle 2: Principle of Insurable Interest:

The person getting an insurance policy must have an insurable interest in the property or life insured. A person is said to have an insurable interest in the property if he is benefited by its existence and be prejudiced by its destruction. The presence of insurable interest is a legal requirement. So an insurance contract without the existence of insurable interest is not legally valid and cannot be claimed in a Court. The object of this principle is to prevent insurance from becoming a gambling contract.
Most common law jurisdictions require the insured to have an insurable interest in the subject matter of the insurance. An insurable interest is that legal or equitable relationship between the insured and the subject matter of the insurance, separate from the existence of the insurance relationship, by which the insured would be prejudiced by the occurrence of the event insured against, or conversely would take a benefit from its non-occurrence. Insurable interest was long held to be morally necessary in insurance contracts to distinguish them, as enforceable contracts, from unenforceable gambling agreements (binding "in honor" only) and to quell the practice, in the seventeenth and eighteenth centuries, of taking out life policies upon the lives of strangers. In case of life insurance policies, insurable interest must exist at the time of a policy inception, but not at the time of a loss (death). The intent behind this principle is that the insured must be in a position to financially suffer if a loss occurs. This principle helps in preventing gambling by way of taking insurance on a property and waiting for a loss occur. In case of life insurance contracts it reduces moral hazard whereby a person takes life insurance on a person and prays for his/her death for insurance proceeds.

Principle 3: Principle of Indemnity:

The essence of insurance is the principle of indemnity that the person who suffers a financial loss is placed in the same financial position after the loss as before the loss occurred. He neither profits nor is disadvantaged by the loss. In practice, this is much more difficult to achieve in life insurance than in property insurance. No life insurance company would provide insurance in an amount clearly exceeding the estimated economic value of the covered life. Limiting the amount of life insurance sold to reflect economic value gives recognition to the rule of indemnity. Additionally, only persons exposed to the potential loss may legitimately own the insurance covering the insured's life. The principle of indemnity is applicable to all types of insurance policies except life insurance. Indemnity means security, protection and compensation given against damage, loss or injury. The insurer promise to help the insured in restoring the financial position before loss has occurred. Whenever there is a loss of property, the loss is compensated. The compensation payable and the loss suffered should be measurable in term of money. The insured will be compensated only up to the amount of loss suffered by him. He will not earn profit from the contractor. The maximum amount of compensation will be up to the value of the policy which is fixed at the time of contract. The courts rely upon the principle of indemnity to hold that an insured may not recover more than his true loss.

Principle 4: Principle of Subrogation:

Subrogation means substituting one creditor for another. Principle of Subrogation is an extension and another corollary of the principle of indemnity. It also applies to all contracts of indemnity. According to the principle of subrogation, when the insured is compensated for the losses due to damage to his insured property, then the ownership right of such property shifts to the insurer. It must be clarified here that the insurer's right of subrogation arises only when he has paid for the loss for which he is liable under the policy and this right extend only to the rights and remedies available to the insured in respect of the thing to which the contract of insurance relates. The principle of subrogation is applicable to all insurances other

[2] Property and Casualty Insurance License Exam Cram™

than the life insurance. If the insured party gets a compensation for the loss suffered by him, he cannot claim the same amount of loss from any other party. It prevents the insured being indemnified from two sources in respect of the same loss.[3]
Hence this principle of subrogation provided for substitution of the insurer in place of the insured for the purpose of claiming indemnity from a third party wrongdoer for a loss paid by the insurer. This helps in preventing collecting twice by the insured, to hold the negligent party responsible and to bring down insurance rates.

Principle 5: Principle of Contribution:
Sometimes a property is insured with more than one company. The insured cannot claim more than total loss from all the insurance companies put together. He cannot claim the same loss from different insurance companies. If one insurer pays full compensation then that insurer can claim proportionate claim from the other insurers. A person cannot be restored to a better position than before the loss occurred. The total loss suffered by the insured will be contributed by different companies in proportion to the value of policies issued by them.
Principle of Contribution is a corollary of the principle of indemnity. It applies to all contracts of indemnity, if the insured has taken out more than one policy on the same subject matter. According to this principle, the insured can claim the compensation only to the extent of actual loss either from all insurers or from any one insurer. If one insurer pays full compensation then that insurer can claim proportionate claim from the other insurers.

Principle 6: Principle of Proximate Cause:
Principle of Proximate Cause means when a loss is caused by more than one causes, the proximate or the nearest or the closest cause should be taken into consideration to decide the liability of the insurer. This principle is found very useful when the loss occurred due to series of events. The principle states that to find out whether the insurer is liable for the loss or not, the proximate (closest) and not the remote (farthest) must be looked into.
However, in case of life insurance, the principle of Proximate Cause does not apply. Whatever may be the reason of death the insurer is liable to pay the amount of insurance.
Under this rule, in order to determine whether a loss resulted from a cause covered under an insurance policy, a court looks for the predominant cause which sets into motion the chain of events producing the loss, which may not necessarily be the last event that immediately preceded the loss.

Principle 7: Principle of Loss Minimization:
According to the Principle of Loss Minimization, insured must always try his level best to minimize the loss of his insured property, in case of sudden events like fire etc. The insured must take all necessary steps to control and reduce the losses and to save what is left. This principle makes the insured more careful in respect of this insured property, just as any prudent person would do in those circumstances. If he does not do so, the insurer can avoid the payment of loss attributable to his negligence. But it must be remembered that though the insured is bound to do his best for his insurer, he is, not bound to do so at the risk of his life.
The insured must not neglect and behave irresponsibly during such events just because the property is insured. Hence it is a responsibility of the insured to protect his insured property and avoid further losses.

II. Definition of Insurance

Insurance is a contract (policy) in which an individual or entity receives financial protection or reimbursement against losses from an insurance company. The company pools clients' risks to make payments more affordable for the insured. [4]
Insurance law is the name given to practices of law surrounding insurance, including insurance policies and claims. It can be broadly broken into three categories - regulation of the business of insurance; regulation of the content of insurance policies, especially with regard to consumer policies; and regulation of claim handling. At common law, the defining concept of a contract of commercial insurance is of a transfer of risk freely negotiated between counterparties of similar bargaining power, equally deserving (or not) of the courts protection.
In civil law countries insurance has typically been more closely linked to the protection of the vulnerable, rather than as a device to encourage entrepreneurialism by the spreading of risk. Civil law jurisdictions - in very general terms - tend to regulate the content of the insurance agreement more closely, and more in the favor of the insured, than in common law jurisdictions, where the insurer is rather better protected from the possibility that the risk for which it has accepted a premium may be greater than that for which it had bargained. As a result, most legal systems worldwide apply common-law principles to the adjudication of commercial insurance disputes, whereby it is accepted that the insurer and the insured are more-or-less equal partners in the division of the economic burden of risk.

III. New products of compulsory insurance in Albania

The focus of Financial Supervision Authority for the next period will be the promotion and encouragement of the development of non-banking financial market. This objective will be achieved not only by improving the quality of services and products on the market, but also by improving the range of products offered, in order to fulfill customer needs.
In the context of European integration, the Albanian economy is developing rapidly and it is open up to new markets, therefore, the FSA is working on a new legislation that will introduce compulsory insurance products on the market for commercial activity.

[3] Property and Casualty Insurance License Exam Cram

[4] Industria e Sigurimeve – Ilir Hoti

Hotel Insurance

Property insurance (provides protection against most risks to property, such as fire, theft and some weather damage) and liability until now has been a criteria for obtaining a license for the operation of the hotel, however, there are no standard products in terms of conditions or the level of insurance. This law is needed to protect the losses of goods or health damages of consumer as a result of services provided by the hotels.[5]

Insurance public liability for Construction Industry

Construction activity contains risks for operators, as well as for the public and currently there are no legal basis for the regulation of these risks. Consequently, a lot of market operators are not insured. Public liability insurance cost will compensate for all the loss that you face with regard to the public. Since public is what you will be working with all the time, you need to make sure that they are not affected by you in any way. Public liability insurance does just this. All you need to do is get public liability insurance online quote so as to know how much the insurers will charge you. This is ultimately an investment that you are making to secure your future. Liability insurance for the construction industry provides protection for companies against legal liability for injury and/or damage to employees and third parties arising in connection with the operation of their business. Specific covers can be individually tailored to the requirements of your business. Liability Insurance can be split into the following categories:

- **Employers Liability insurance** protects your business against your legal liability to employees for injury, illness, disease or death occurring during the course of their employment.
- **Public Liability insurance** protects your business against your legal liability to third parties for injury occurring to them or damage to their property arising from the operation of your business.
- **Products Liability Insurance** protects your business against your legal liability to third parties for injury or damage to their property arising from defective goods or products supplied by you.
- **Pollution Liability insurance** protects your business against your legal liability to third parties for injury or damage to their property arising from accidental/sudden pollution.

Ministry of Transport, Infrastructure and Communications is drafting a new law to regulate the construction industry.

Compulsory insurance for personal accidents of employees during their work

There are professions with a high level of risk, such as in the field of construction. Your workplace can be fun, hectic, interesting, friendly, infuriating and challenging, but no one would imagine the workplace as being somewhere that serious injury can occur or, in the worst possible scenario, even death. Such injuries are associated with financial consequences for the workers and their families. In accordance with national legislation, such damages are covered by mandatory social insurance schemes and health insurance, but insurance under these schemes cannot cover all the treatment costs inside and outside the country and their family. Whilst Employers' Liability cover is required by law and protects you in the event that an employee claims against you for an injury incurred during their employment, Personal Accident cover is predominantly a benefit. In the event you or an employee are unable to work due to an injury incurred in the course of employment, Personal Accident cover will make a weekly payment to the individual, or in the unlikely event of death, a lump sum payment to the family. At a time when finances may be short due to the inability to work, this cover can give much needed financial assistance - and that's why many of the business insurance policies from the Business include Personal Accident as an optional extra. Albanian legislation is working to set this insurance as a compulsory insurance of employees in these professions for personal accidents at work.

Natural Disaster Insurance

Most of the properties insured in Albania of natural disaster are related with the condition of banks to give a credit. This insurance is a requirement for the approval of credit by banks. Currently, there is no legal basis that makes this type of insurance compulsory. Albania is a country prone to natural hazards such as earthquakes dhe floods. For this reason, it is imperative to develop national programs for protection from natural disasters, based on international best practices. This remains a major challenge for the country, particularly for the insurance sector.

Compulsory insurance of aircraft[6] and ships

The Republic of Albania is located in the heart of the Balkans, surrounded by a very rich and useful Riviera. Economic growth and tourism will influence the activity of aircraft and ships in and out the country. These changes related to the international rules in force, brought the necessity of drafting a new law on compulsory insurance for the aircraft and ships. Exactly, insurance of this sector was arranged by Law no. 10 076, dated 12.2.2009 "On compulsory insurance within the transport sector" (as amended). This law in its Article 2, says: " Compulsory insurance within the transport sector includes:

a) accident insurance of passengers in public transport;

b) insurance of the owner or user of the vehicle (hereinafter referred to as: the owner's insurance) against liability for damage caused to third parties; insurance of the owner or user (hereinafter referred to as: the owner' insurance) of an aircraft against liability for damage caused to third parties and passengers; insurance of the owner or user (hereinafter referred to as: the owner) of a motorboat or yacht against liability for damage caused to third parties.." [7]

The owner of any means of transport, pursuant to Article 2, paragraph 1 of this law, shall be obliged to conclude an insurance contract prior to the use of a means of transport in traffic and to ensure its renewal thereof as long as the means of transport shall remain in traffic.

[5] Annual Report 2011 - FSA

[6] "Accident" means an event where damage has resulted from the use of a means of transport.

[7] Law no. 10 076, dated 12.2.2009 "On compulsory insurance within the transport sector" (as amended)

If the means of transport is subject to the obligation of registration or licensing, and, according to law, it must have a registration or a licensing certificate, the responsible body may issue a registration certificate or any other document equivalent to it only after the owner of the means of transport shall confirm by evidence that he has concluded an
insurance contract pursuant to this law; If the means of transport, in accordance with laws on registration, is recorded in the name of the user of the means of transport, the provisions of this law applicable to the owner of the means of transport shall be correspondingly applicable also to the user of the means of transport.[8]

Insurance of oil trade, gas and their products

Business activity affects the safety and health of people living near this objects and the damage that can be caused to the business can be disastrous. For this reason, with a decision of Council of Ministers, all entities which exercise their activity in the field of oil and gas, first must get a police insurance for their liability to third parties.

IV. Insurance Contract

Insurance contracts can be written to cover a variety of exposures and contingencies. Although certain portions of the contract must be modified to reflect the individual insured, each insurance contract contains some common elements. There are distinct parts of insurance contracts and common policy provisions.

The six basic sections of insurance contracts are:

1. Declarations
2.Definitions
3.Insuring agreement
4.Exclusions
5.Conditions
6.Miscellaneous provisions

The declarations section provides information about the property or life to be insured. Declarations are usually found on the first page of the policy. The name and address of the insured, the age of the insured, and a physical description of the property are examples of declarations.

The definitions section of the policy is analogous to the glossary in your text. The definitions section clearly defines what key terms in the contract mean. For example, many policies now use personal pronouns to refer to the insured and the insurer. An "occurrence" and an "accident" can be interpreted in different ways, so these terms are specifically defined in the policy. If an insured is unclear as to how to interpret a word or phrase, he or she may refer to this section.

The insuring agreement summarizes the promises of the insurer. The insuring agreement can take one of two forms: named-perils coverage or all-risk coverage. Named-perils, as the phrase implies, provides coverage for only those perils specifically named in the policy. All-risk coverage is broader, insuring all perils except those specifically excluded. All-risk coverage is typically more expensive than named-perils coverage because the scope of the coverage provided is broader. The exclusions section complements the insuring agreement. This section lists specific perils, losses, and property that are not covered by the policy. Exclusions are used for several reasons, including: (a) the peril may not be commercially insurable; (b) extraordinary hazards may be present; (c) the coverage may be available under another policy; (d) moral hazard and claims problems; and (e) the coverage may be unnecessary for the insured. Some examples of commonly excluded losses include: intentional injury, losses attributable to nuclear energy or war, losses exceeding a specified dollar value, and suicide during the first year of a life insurance policy.[9]

The conditions section of an insurance contract qualifies or places limits upon the insurer's promise to perform. For example, the insurer's promise to indemnify a covered loss is conditional upon the insured's timely notification of loss. In fire insurance, the insurer's promise to provide payment after a loss is conditional upon "no material increase in hazard." Thus, if you start manufacturing fireworks in a residence, the insurer could avoid liability if the fireworks started a fire. Finally, miscellaneous provisions may be inserted in the policy. These provisions pertain to such subjects as assignment of the policy, cancellation procedures, how disputes regarding the amount of the loss will be settled, and other items of interest between the insured and the insurer.

Conclusions

In 2012 the Albanian insurance industry continued to grow, albeit at a lower rate than one year before. The number of insurance companies operating in Albania was the same. Ten insurance companies continued to operate in 2012, of which six were Non-Life insurance companies, two Life insurance companies, one combined Life and Non-Life insurance company, and one Non-Life insurance and reinsurance company. [10]

Albania’s membership into EU is quite a dynamic process, which depends on compliance with the Copenhagen criteria that were adopted in 1993, and especially by Albania’s ability to harmonize with the constant changes to the acquis communautaire and their full transposition into the Albanian legal system.

The implementation of the Stabilization and Association Agreement and the application for EU membership are two separate processes that require legislation harmonization and implementation of the acquis communautaire, and the strengthening of administrative capacities that will lead to the next stage of the EU integration process. Since its establishment in 2006 as a single regulator and supervisor of the nonbanking financial market, AFSA has constantly intensified its efforts for improving the infrastructure and establishing the necessary regulatory basis for a normal and sustainable development of non-banking financial markets. One of the main goals priorities for the Authority was the development and adoption of regulatory and supervisory legislation in the area of non-banking financial services that would enable further development of the market and consumer protection. In the context of

[8] Law no. 10 076, dated 12.2.2009 "On compulsory insurance within the transport sector" (as amended)

[9] Industria e Sigurimeve – Ilir Hoti

[10] Annual Report 2011 - AMF

improving the existing legal framework and approximating it with the current EU directives with the purpose of establishing and strengthening of clear, transparent and sustainable regulatory and supervisory processes.
AFSA has undertaken to further align the non-banking financial sector legislation with European Directives, and build its institutional capacities in order to achieve the most efficient regulation and supervision of nonbanking financial sector that is possible.
The Authority was involved in the process of revising and developing the National Plan for SAA Implementation 2012-2015, which will include all the measures for the implementation of SAA obligations and the measures for the transposition of EU acquis communautaire. To that end, the Authority gave its inputs. The Plan envisages not only the meeting of all obligations deriving from SAA but also the approximation with EU legislation and its implementation in the non-banking financial sector.

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