

Insurance and reinsurance
in Romania

LAW
on insurance and reinsurance
in Romania

L A W

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CHAPTER I **General provisions**

Art. 1. – In Romania the insurance activity is taking place in the form of optional and compulsory insurance, as well as of reinsuring operations, by commercial insurance companies, insurance-reinsurance and reinsurance companies, hereinafter called *insurers*, respectively *reinsurers*.

Art. 2. – In optional insurance, the relations between the insured and insurer, as well as the rights and obligations of each party are established by the insurance contract.

Art. 3. – In compulsory insurance, the relations between the insured and insurer, the present law establishes the rights and obligations of each party.

Art. 4. – The insurance of civil liability for damages caused by motor vehicle accidents is compulsory.

Art. 5. – The compulsory insurance is practiced only by the insurers authorized by the Office of supervising the insurance and reinsurance activity.

The insurers that obtained the authorization stipulated in the previous paragraph are obliged to carry out the insurance, by issuing a proving document of the insurance.

Art. 6. – The reinsurance operations complete the activity of insurance by ceding and receiving certain risks on the home and international insurance market.

The ceding in reinsurance on international market shall be made only to the extent to which the risks making the object of reinsurance cannot be placed on the home market.

In the reinsurance operations, the relations between the reinsured and the reinsurer, the rights and obligations of each party are established by the reinsurance contract.

*The Law No. 136/1995 was published in "Monitorul Oficial al României" (Official Gazette of Romania), Part I, No. 303 of 30 December 1995.

Art. 7. – The Romanian natural and legal persons conclude the insurance contracts with companies established in Romania, except for the cases in which the requested insurance are not practiced on the home market. The Office of supervising the insurance and reinsurance activity shall make public the list of the companies authorized to operate in Romania and the kinds of practiced insurance.

Art. 8. – The finding of the insured risks having taken place, the establishing and the payment of the compensation and of the insured amounts are carried out under the terms of the law, for the compulsory insurance or of the insurance contract, in the case of the optional insurance.

CHAPTER II The insurance contract

Section I

Concluding of the contract. Rights and obligations

Art. 9. – By insurance contract, the insured undertakes to pay a premium to the insurer, while this undertakes to pay the insured or the beneficiary, upon a risk taking place, the compensation or the insured amount, further to be called *indemnity*, within the agreed limits and terms.

Art. 10. – The insurance contract is concluded in written form and shall include:

- the name or denomination, domicile or head office of the contracting parties;
- the object of insurance: goods, persons and civil liability;
- the risks to be insured;
- the moment of starting and that of ceasing the responsibility of the insurer;
- the insurance premiums;
- the insured amounts;
- other elements that establish the rights and obligations of the parties.

The insurance contract cannot be proved through witnesses even if there is a beginning of written proof.

Art. 11. – The proof of concluding the insurance contract also results from the issuing and sending of an insurance document such as the policy or certificate, the request for payment of the premium or from the document by which the will of the insurer to conclude the contract is expressed.

Art. 12. – The insurance document can be, as the case may be, nominal, to order or to bearer.

Art. 13. – The person that is to conclude the insurance is obliged to answer, in writing, the questions formulated by the insurer, with regard to the essential circumstances referring to risk, that he knows.

If the essential circumstances regarding the risk are modified during the implementation of the contract, the insured is obliged to communicate in writing the change to the insurer.

Art. 14. – If before the beginning of the insurer's obligations the insured risk has taken place or its taking place has become impossible, as well as in the case in which, after the beginning of the insurer's obligations the taking place of the insured risk has become impossible, the contract is cancelled by law.

Art. 15. – The payment of the premiums shall be made to the insurer's head office or that of his representatives, in the absence of an other clause stipulated in the insurance contract, established by the parties.

Art. 16. – The proof of the insurance premiums payment is incumbent on the insured, the finding document being the insurance policy, the receipt, the order of payment or other proving document of the payment.

Art. 17. – If not otherwise agreed upon, the insurance contract is cancelled in the case in which the amounts due by insured, as premium, are not paid within the time stipulated in the insurance contract.

Art. 18. – The insurer has the right to compensate the premiums due until the end of the insurance year, on the basis of any contract, by any due indemnity to the insured or beneficiary.

Art. 19. – The insured is obliged to notify the insurer the taking place of an insured risk, within the time stipulated in the insurance contract.

In case of non-fulfilment of the obligation stipulated in the previous paragraph the insurer has the right to refuse the payment of the indemnity, if for this reason he could not determine the reason for the insured event having taken place and the extent of the damage.

Art. 20. – In the cases established through the insurance contract, in the insurance of goods and civil liability, the insurer does not owe indemnity, if the insured risk was deliberately caused by the insured or by the beneficiary or by a member in the management of the insured legal person, that works in this capacity.

The provisions of the previous paragraph also apply, if the parties agree upon, in the case that the insured risk was caused by:

a) the natural persons of age that, permanently, live and keep house together with the insured or the beneficiary;

b) the representatives of the insured or of the beneficiary.

Art. 21. – In case the insurance contract is modified, by the agreement of the parties, denounced or is cancelled, the payment or, as the case may be, the return of the premiums shall be made according to the insurance contract or the judicial decision.

Art. 22. – Within the limits of the paid indemnity in the insurance of goods or of civil liability, the insurer is subrogated in all the rights of the insured or of the beneficiary of the insurance against those liable for causing the damage.

The insured is liable for the damages caused to the insurer through documents that would prevent the carrying out of the right stipulated in the previous paragraph.

The insurer may give up totally or partly the exercising of the right stipulated in para 1, according to the insurance contract, except for the case in which the damage was deliberately caused.

Art. 23. – The insurer may oppose the titular or the holder of the insurance document or to the third party or the beneficiary, that claim rights deriving from it, all the exceptions that are opposable to the initial contract.

Section 2 Insurance of goods

Art. 24. – In the insurance of goods, the insurer is obliged to pay to the insured, the designated beneficiary or to those entitled an indemnity upon the insured risk having taken place.

Art. 25. – The insured has to have an interest in the insured good.

Art. 26. – The insured is obliged to keep the insured good in proper conditions and in accordance with the legal provisions, in view of preventing the insured risk from taking place.

The insurer has the right to verify the way in which insured goods are being kept.

In the cases stipulated in the insurance terms, upon the risk taking place, the insured is obliged to take, on the account of the insurer and within the amount the insurance was made, according to the circumstances, measures for limiting the damages.

Art. 27. – The compensation that is paid by the insurer is established depending on the state of the good from the moment of the insured risk taking place.

The compensation cannot exceed the value of the good at the moment of the insured risk taking place, the quantum of the damage, nor the amount at which the insurance was made, if not otherwise stipulated in the insurance contract.

In the insurance contract a clause may be stipulated, according to which the insured remains his own insurer for a franchise or a determined amount that is not compensated by the insurer.

Art. 28. – In the case that the insurance contract was concluded for an insured amount, lower than the value of the goods, the entitled compensation is diminished in accordance to the relation between the amount stipulated in the contract and the value of the goods, if not otherwise stipulated in the contract.

Art. 29. – In the case of the existence of several insurance concluded for the same goods, each insurer is obliged to payment, proportionally with the insured sum and up to its amount, without the insured to be able to cash a higher compensation than the actual damage, a direct consequence of the risk.

The insured has the obligation to state the existence of other insurance for the same goods with different insurers, both upon concluding the insurance contract and during its implementation.

Art. 30. – In the absence of a contrary provision in the insurance contract, in the case in which the insured good is alienated, the insurance contract is cancelled.

Section 3 **Insurance of persons**

Art. 31. – In the insurance of persons, the insurer binds himself that, upon the insured risk taking place, to pay an insured amount.

The insurance against a risk regarding another person than the one that concluded the insurance contract may be concluded according to the insurance contract.

Art. 32. – The insured amount is paid to the insured or to the beneficiary designated by him. In the case of death of the insured, if no beneficiary was designated, the insured amount is paid to the insured's inheritors, in the capacity of beneficiary.

Art. 33. – The designation of the beneficiary may be made upon the concluding of the contract, or during its implementation, by written statement notified to the insurer or by will.

The replacing or the revoking of the beneficiary may be made at any time during the contract implementation, in the way stipulated in the previous paragraph.

Art. 34. – If the insured did not otherwise dispose, then when there are several designated beneficiaries, these have equal rights over the insured amount.

Art. 35. – The insurer does not owe the insured amount, if the insured risk has taken place by the suicide of the insured within 2 years from the concluding of the insurance contract or by the deliberately committing by the insured or by the beneficiary of certain severe deeds stipulated in the insurance contract.

If a beneficiary has deliberately induced the death of the insured, the insured amount is paid to the other designated beneficiaries or to the inheritors.

Art. 36. – In the insurance in which premium reserves are constituted, the insured may cease the payment of the premiums with the right to maintain the contract at a reduced insured amount or cancel it, requesting the

return of the constituted reserve, according to the insurance contract.

Art. 37. – The insured may request the reinstating of the insurance to which premium reserve is constituted, in the cases stipulated in the insurance contract.

Art. 38. – The insured amount is due, independently of the amounts due to the insured or to the beneficiary, out of the social insurance, of the repairing of the damage by those responsible causing it, as well as of the amounts received from the insurer on the basis of the compulsory insurance of civil liability for the damages caused by car accidents.

The insured's creditors have no right to pursue the insured amount due to the beneficiary.

Art. 39. – By the insurance contract there may be stipulated that the insured amounts be paid to the insured on the basis of depreciation or in other modalities.

Art. 40. – The rights of the insured over the amounts resulting from the premiums reserve that is constituted in the insurance of persons for payment obligations due in the future are not subject to prescription.

Section 4 **Insurance of civil liability**

Art. 41. – In the civil liability insurance, the insurer undertakes to pay a compensation for the damage of which the insured is liable on the basis of the law before the harmed third persons and for the expenses made by the insured in the civil suit.

By the insurance contract there may be included in the insurance also the civil liability of other persons than the one that concluded the contract.

Art. 42. – The rights of the harmed persons shall be exercised against those liable for causing the damage.

The insurer may be sued by the harmed persons within the limits of the obligation that are incumbent on him from the insurance contract.

Art. 43. – The compensation is established on the basis or the convention between the insured, the harmed person and the insurer, in accordance with the insurance contract or by judicial decision.

To establish the compensation, in the case of the events taking place on the territory of Romania, the

parties are obliged, if they do not come to an understanding, to submit the solving of the litigation to a Romanian jurisdiction body.

Art. 44. – The insurer pays the compensation directly to the harmed one to the extent to which this has not been compensated by the insured, a compensation that cannot be pursued by the creditors of the insured.

The compensation is paid to the insured in the case he proves that he had compensated the harmed one.

Section 5
Other insurance

Art. 45. – The provisions of the present chapter also apply in the case of concluding other insurance, to the extent to which, by law or by international agreements to which Romania is a party, it is not otherwise stipulated.

Section 6
Reinsurance

Art. 46. – By reinsurance:

a) the insurer, in the capacity of reinsurer, receives reinsurance premiums in exchange of which it contributes, according to the obligations undertaken, to the covering of the indemnities that the reinsured pays upon the taking place of the risk that was the object of reinsurance;

b) the insurer, in the capacity of reinsured, cedes reinsurance premiums, in exchange of which the reinsurer contributes, according to the obligations undertaken, to the covering of the indemnities that the reinsured pays upon the taking place of the risk that was the object of reinsurance.

Art. 47. – The reinsurance does not sink the insurer's obligations and does not establish any legal relation between the insured and the reinsurer.

CHAPTER III

The compulsory insurance of civil liability for damages caused by motor vehicle accidents

Art. 48. – The natural and the legal persons, that own motor vehicles registred in Romania, are obliged to insure them for the cases of civil liability as a result of the

damages caused by motor vehicle accidents on the territory of Romania.

The persons that enter the territory of Romania with motor vehicles registered abroad are considered insured, under the conditions of the present law, if they fulfil one of the following conditions:

a) they own international insurance documents valid on the territory of Romania;

b) the matriculation number proves the existence of insurance according to the bilateral convention concluded between the motor vehicle insurers Office in Romania and the motor vehicle insurers Office in the country of origin.

Exception from the provisions of the present article are the natural and legal persons during the using of the motor vehicles for races, rallies or training, that may be optionally insured for such risks.

Art. 49. – The insurer grants compensation for the damages for which the insured are liable, on the basis of the law, before third persons harmed by motor vehicle accidents as well as for the expenses made by the insured in the civil suit.

The compensations is granted irrespective of the place in which the motor vehicle accidents took place, both during driving and during standing.

The compensations are paid also for the damages caused by the existence or the operation of the installations mounted on the motor vehicle, as well as for the damages caused by trailers or by side cars.

Art. 50. – The compensation is granted for the amounts that the insured is obliged to pay as title of compensating and lawsuit expenses to the persons harmed by body injury or death, as well as by the damaging or destruction of goods.

In case of body injury or death, the compensations are granted for the persons found outside the motor vehicle that caused the accident, while for the persons found in that motor vehicle, only if these were not transported on the basis of an existing contract relation with the owner of the respective vehicle.

For the damaging or destruction of goods, the compensations are granted for the goods found outside the vehicle that caused the accident, while for the goods in that motor vehicle, only if these were not transported

on the basis of a contract relation existing with the owner of the respective motor vehicle as well as they did not belong to the owner or driver of the motor vehicle responsible for causing the accident.

Art. 51. – The compensations, as stipulated in art. 49 and 50 are granted also in the case in which the one driving the motor vehicle, liable for the causing of the accident, is another person than the insured.

The compensation are paid also in the case the harmed persons do not have the domicile, residence of head office in Romania.

In case of body injury or death of a person or of damage or destruction of goods, compensation is granted if the motor vehicle that caused the accident is identified and insured, even if the author of the accident remained unidentified.

Art. 52. – In the case in which, for the same owner of motor vehicle, upon the accident taking place there are several valid insurance, the compensation is covered equally by all the insurers.

The insured has the obligation to inform the insurer of the concluding of such insurance with other insurers.

Art. 53. – The level of the insurance premiums, the maximum limit of the insurance compensation, the terms of payment, the sanctions and other elements regarding the applying of the insurance are established by Government decision, upon the proposal of the Ministry of Finance.

Art. 54. – The compensation is established on the basis of the convention between the insured, the harmed person and the insurer or, in case the understanding has not been reached, by judicial decision passed in Romania.

In the cases in which the compensation are not to be recovered according to art. 58, the convention stipulated in para 1 may also be concluded by the driver of the motor vehicle responsible for causing the accident, other than the insured.

The convention concluded only between the insured and the harmed person, followed by a judicial decision of expedient, that sanctions their transaction, does not compel the insurer to payment.

In the case of establishing the compensation by judicial decision, the insured are obliged to defend themselves in

court. The summons in the lawsuit of the insurer is compulsory.

Art. 55. – The compensation is paid by the insurer directly to the natural or legal harmed persons to the extent to which these have not been compensated by the insured.

The compensation cannot be pursued by the insured's creditors.

The compensation is paid to the insured if these prove that they have compensated the harmed ones and the compensation is not to be recovered according to the provisions of art. 58.

Art. 56. – The persons that use on the territory of Romania motor vehicles matriculated abroad and they are not insured abroad, according to art. 48. para. 2, or the insurance of which expires while they are on the territory of Romania, owe the insurance premiums, corresponding to the period of the entering, respectively the expiry of the insurance validity, until the exit of the motor vehicle from the country.

Upon the entering and the exit from the country, the border police bodies from the control points for the crossing of the state border of Romania shall check the insurance documents and shall request the motor vehicle owner the proof of payment of the due insurance premium.

The uninsured persons, that cannot make, upon a control, the proof of insurance or of its payment, shall be directed to pay the due premiums to the bodies at the control point, designated for that purpose.

Art. 57. – The rights of the persons harmed by motor vehicle accidents are exercised against those responsible for the causing of the harm. These rights can also be exercised directly against the insurer of civil liability, within the limit of his obligation, established in the present chapter, with compulsory summons of the one responsible for causing the harm.

The rights of the persons harmed by accidents caused by motor vehicles owned by persons insured abroad are exercised against the insurer through the motor vehicles insurers Office in Romania, if the conditions stipulated in art. 48 para. 2 are met.

Art. 58. – The insurer recovers the amounts paid as compensation from the person responsible for causing the harm, in the following cases:

- a) the accident has taken place deliberately;
- b) the accident has taken place during committing of certain deeds incriminated by the legal provisions regarding the traffic on public roads as crimes deliberately committed, even if these deeds did not take place on such roads or during committing other crimes deliberately;
- c) the accident took place during the time when the author of the deliberately committed crime tries to avoid the pursuit;
- d) the person responsible for causing the harm has driven the motor vehicle without the consent of the insured.

Art. 59. – The insured or their representatives are obliged to notify in writing the insurer of the insured event taking place within 4 working days from the date of its taking place, except for the cases of the force majeure in which the time of 4 working days begins from the date of their cessation.

CHAPTER IV Protection funds

Art. 60. – In view of protecting the insured, by the contribution of the insurers, the protection Fund of the insured is set up, meant for the payment of compensation and insured amounts in case of bankruptcy of the commercial companies in the field of insurance.

The Fund shall be set up and shall be managed by the supervising Office of the insurance and reinsurance activity in the Ministry of Finance, that shall establish, annually, a percentage quota that shall be applied on the volume of gross premiums cashed by the insurance, of insurance-reinsurance and of reinsurance companies, and shall draw up norms regarding its utilization.

*The protection Fund of the insured in case of bankruptcy of the insurance companies, constituted according to law, is kept in the general account of the

* The article No. 60 was completed by paragraph 3, according to the Ordinance for the completion of the Law No. 136/1995 on insurance and reinsurance in Romania, published in the Official Gazette of Romania, Part. I, No. 208 Of 26 August 1997.

state treasury and is interest bearing. The interests cashed represent sources of income of the insured protection Fund and has the same destination of payment of the compensation and the insured amounts, in case of bankruptcy of the commercial companies in the field of insurance.

Art. 61. – With a view to protecting the victims of car traffic accidents, ending in body injuries or deaths, in which the author remains unidentified and the motor vehicle is uninsured, the Fund of protection of street victims is constituted.

This fund shall be constituted and shall be managed by the motor vehicles insurance Office, that shall establish a percentage quota that shall be applied to the volume of gross premiums cashed for the compulsory insurance of car civil liability by the authorized companies and shall draw up norms regarding the utilization of the fund, with the endorsement of the Ministry of Finance.

CHAPTER V Sanctions

Art. 62. – For the non-payment on time of the amounts meant for the funds constituted according to art. 60 and 61, increases for delay are calculated, according to the norms drawn up by the Ministry of Finance. The increases for delay shall be paid to the account of the respective funds.

In case of repeating the deed in para 1 the measure of suspending the activity, up to one year, may also be taken.

Art. 63. – The refusal of the authorized commercial company to conclude the compulsory insurance, at the request of the insured, represents contravention and is punished by fine from 500,000 lei to 2,000,000 lei, the measure of suspending the activity, for a period of up to one year being also possible to be taken.

Art. 64. – The infringement by the natural and legal persons of the insurance obligation stipulated in art. 48 and 56 represents contravention and is punished with fine from 50,000 lei to 200,000 lei and with the retaining of the motor vehicle matriculation certificate, until the submitting of the document regarding the concluding of the insurance.

Art. 65. – The finding of the contraventions and the applying of the sanctions stipulated in art. 63 in the present law are made by the specialty personnel in the Ministry of Finance, authorized in this regard, while that stipulated in art. 64, by police officers and non-commissioned officers.

Art. 66. – For the measure of suspending the activity of the commercial company, stipulated in art. 63, and, respectively, of retaining the matriculation certificate, stipulated in art. 64, the dispute shall be submitted to the competent judicial instances, according to law.

Art. 67. – The level of the fines in art. 63 and 64 shall be brought up to date by Government decisions, in correlation with the inflation index.

Art. 68. – The regulation regarding the contraventions stipulated in art. 63 and 64 is completed with the provisions of Law No. 132/1968 on the establishing and sanctioning of contraventions.

CHAPTER VI

Final and transitory provisions

Art. 69. – The police authorities, the fire fighting units and the other public authorities competent to find and investigate the motor vehicle accidents or other events, as the case may be, at the request of the insurers shall communicate the documents and the data regarding the cases and the circumstances of the insured risks taking place and the damages caused with a view to establishing and paying the compensation and of the insured amounts by the insurers.

Art. 70. – The present law comes into force beginning with the date of February 1, 1996.

On the date of coming into force of the present law there are abrogated: Title XIII, Book I “On insurance contract”, in the commercial Code, decree No. 471/1971 on state insurance, republished in 1988, the Decision of the Council of Ministers No. 1,715/1971 on the establishing of certain measures in the implementation of Decree No. 471/1971, the Government Decision No. 387/1990 on certain measures in connection with motor cars vehicles insurance, as well as any other provisions to the contrary.

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