

Specific Non-Life Insurance Directives

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Screening process
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Legal Framework

1. Directive 78/473/EEC on Community Coinsurance
2. Directive 84/641/EEC on Tourist Assistance
3. Directive 87/343 on Credit and Suretyship insurance
4. Directive 87/344/EEC on Legal Expenses Insurance

Community Coinsurance

Directive 78/473/EEC

- Applies to certain large industrial and commercial risks of which nature or their size call for participation of several insurers for their coverage – Art. 1(1) and (2)
- Scope of application limited to coinsurance operations that meet conditions of Art. 2
 - Single contract at an overall premium
 - Risk situated within the EC
 - At least one of the coinsurers should come from a MS other than that of the leading insurer
 - Leading insurer authorized in accordance with the First Non-Life Directive (treated as if he covered the whole risk) – this last conditions applied restrictively by most MS – ECJ C- 205/84 (Commission v. Germany)

Tourist Assistance

Directive 84/641/EEC

- Inserts tourist assistance cover into the scope of the First Non-Life Directive by creating a separate class of insurance No 18
- « Assistance provided for persons who get into difficulties while travelling, while away from home or while away from their permanent residence » Art. 1 (2)
- Typical type of tourist assistance operation to be regarded as insurance
- Assistance provided in cash or in kind
- Servicing, maintenance, after-sale service or the mere indication of aid as an intermediary, and on –the spot breakdown assistance commonly provided by motoring clubs within the territory where they are based EXCLUDED
- Article 15 – enables MS to consider other assistance activities (not only helping travellers and tourist) as class No 18

Credit and Suretyship Insurance

Directive 87/343/EEC

- Abolition of specialization requirement of credit insurers (amendment to the First Non-Life Directive)
- Obligation to set up equalization reserve (reflecting the cyclical nature of credit insurance) – 4 methods offered to Member States to calculate
- Exemption for non-specialist insurers possible
- Minimum guarantee fund
- Exclusion of State-backed credit insurance from the scope of the EC Directives – ECJ C - 63/89 *Assurance du Crédit*

Legal expenses Insurance

Directive 87/344/EEC

- Abolition of specialization requirement (amendment to the First Non-Life Directive)
- Alternative provisions laid down in order to prevent potential conflicts of interest
 - Legal expenses insurance subject to separate contract or separate section of a single policy covering other classes of risk – Art. 3(1)
 - In addition 3 methods offered to Member States to ensure that conflicts of interest are avoided
- The right of the insured person to go to a lawyer of his own choice – Art. 4(a)
- In case of a conflict of interests Member States obliged to adopt all appropriate measures (arbitration, free choice of lawyer)

Thank you for your attention

- **More information at :**

http://europa.eu.int/comm/internal_market/insurance

- **Or contact:**

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