CMS | Romania extends insurance policies from Euroins Romania to avoid market consequences

On 31 August 2023, the Romanian government passed emergency Government Ordinance (GEO 2023), which extends by 90 days the validity of the insurance policies issued by Euroins Romania Asigurare-Reasigurare S.A., which is now in bankruptcy. Prior to the issuance of GEO 2023, motor third liability insurance policies (MTPL) issued by Euroins Romania were due to expire on 8 September 2023 while the guarantee policies issued by this insurer were due to expire within 150 days after the opening of its bankruptcy procedure (i.e. 7 November 2023).

According to a government statement, GEO 2023 has been enacted to extend the validity period for the policies issued by Euroins Romania (as it undergoes bankruptcy proceedings) in order to avoid the significant negative consequences that would occur should these policies expire early. The negative consequences include a potential decrease in the level of compulsory MTPL insurance coverage at the national level, which would place Romania being in breach of its obligations under EU regulations, and could adversely impact other parts of the Romanian economy.

By way of background, on 17 March 2023 the Romanian Financial Supervisory Authority (FSA) issued FSA Decision No. 262, withdrawing Euroins Romania's operating licence, ascertaining its insolvency and stating its intention to file for Euroins Romania's bankruptcy.

FSA's Decision 262 was made despite assurances from Euroins Romania, Euroins Insurance Group and the Bulgarian Financial Supervision Commission that the measures taken by Euroins Romania would ensure its solvency. The withdrawal of the licence was controversial at the time as various FSA officials declared that Euroins Romania is solvent.

"We are not talking about a market bankruptcy, but a company that entered bankruptcy due to economic reasons", " said Daniel Apsotol, FSA Communication Director.

FSA Vice-President Cristian Roșu declared that "the current situation of Euroins Romania and of the insurance market is different and better than the moment of the insolvency of City Insurance. [Euroins Romania] is almost up to date with payments, the recourse claims between the company and other market insurers are almost up to date, the damages' payments, paid by the company, are almost up to date. All in all, Euroins is not in the situation of City Insurance, and the impact of Euroins's exit will not be similar to the City Insurance exit".

On 9 June 2023, the Bucharest Tribunal declared Euroins Romania bankrupt and formally initiated bankruptcy procedures against this company.

As of the day that the court declares an insurance company bankrupt, Romanian Bankruptcy Law provides that: all insurance and reinsurance contracts concluded by the said insurer are automatically terminated within 90 days from the decision on the opening of bankruptcy proceedings; and all insurance and reinsurance contracts classified under “insurance class 15 – Guarantees” (i.e. Direct or Indirect Guarantees) are automatically terminated within 150 days from the decision on the opening of bankruptcy proceedings.

Prior to GEO 2023, Romanian Bankruptcy Law did not allow any derogation from the automatic termination of insurance policies or reinsurance after the expiry of the 90- and 150-day terms.

The mandatory automatic termination of insurance policies after the commencement of the bankruptcy procedure was first introduced within the Bankruptcy Law on 2 October 2018. The stated reasons for this contained in the legislation: the 90-day termination is required to prevent the possibility of increasing the liabilities of the insurance company subject to bankruptcy proceedings.

Thus, the automatic termination of insurance policies was intended to avoid the accumulation of further debts based on insurance policies and further burdens on a company that has lost its operating licence and is already undergoing bankruptcy procedure with new payment obligations arising out of such ongoing insurance policies. The termination was also meant to prevent the negative social effects that would occur if drivers, insured by a company under bankruptcy proceedings, were involved in accidents.

The Romanian government’s change of policy on the automatic termination of insurance policies is explained by FSA records showing that there were approximately 1.7 million contracts of compulsory MTPL insurance contracts concluded by Euroins Romania that were likely to be affected by the automatic termination on 8 September 2023, which represents approximately 17% of Romania’s motor vehicles. In addition, prior to enactment of the GEO 2023 there had been few requests for cancellation of insurance contracts made by the policyholders. These policyholders prefer to keep Euroins Romania policies due to their more convenient commercial conditions, disregarding the imposed pricing cap.

Moreover, according to GEO 2023, only six companies licensed in Romania and two foreign branches are currently operating on the Romanian compulsory MTPL insurance market. If the Euroins Romania MTPL insurance policies were automatically terminated, these companies would have to absorb a high demand of compulsory MTPL insurance policies in a short time, which could cause upheaval in the insurance sector.

In this context, the Romanian government determined that there was a danger that the level of compulsory MTPL insurance coverage for the national motor vehicle fleet would drastically fall, which would place Romania in breach of obligations under EU law. Moreover, this situation could generate other negative consequences, including the increased need of governmental funding for the National Guarantee Fund to allow this authority to cover damages caused to third parties by uninsured drivers.

Hence, GEO 2023 is an attempt by the government to avoid these severe negative consequences, ensure the stability of the insurance market and protect policyholders.

For more information on the Romanian insurance sector, contact your CMS client partner or these local CMS experts **Horia Draghici** and **Anna Morogai**.