

WORLD CONGRESS PARIS 2010

Topic Proposed by the French Chapter

Mandatory Insurance

Legal and Economic Myths and Realities

PART ONE – PRESENTATION OF THE TOPIC

I. Spirit

The existence of insurance coverage presupposes the existence of an insurance contract.

An insurance contract may be taken out:

- of the policyholder's own free will and volition, or
- because of an obligation imposed:
 - by law, in connection with a specified situation:
 - activity
 - profession or occupation (e.g. lawyer, or insurance intermediary)
 - leisure activity (e.g. sport)
 - personal status
 - family situation (e.g. parent of a child or children)
 - future retiree
 - owner or user of property exposed to the risk of a natural or technological disaster or an act or terrorism; or
 - by a co-contracting party in connection with a contractual transaction:
 - loan: death and disability insurance imposed by the lender
 - lease of property: fire and/or other insurance imposed by the lessor.

The required insurance may cover a risk falling within the scope of:

- property insurance
- liability insurance
- personal insurance.

The coverage of a risk may be mandatory either:

- through a requirement to carry specific insurance (e.g. motor vehicle liability insurance), or
- through automatic inclusion, in a freely effected insurance contract (e.g. insurance of a flat against risks of fire, burglary, etc.), of coverage not elected by the parties – insurer and policyholder – (e.g. coverage of natural disasters).

We are therefore in the presence either:

- *in former case, of a mandatory insurance contract; or*
- *in the latter case, of mandatory coverage included in a freely effected contract.*

II. Stakes

1. Financial Implications

If coverage of a risk were not mandatory, would the risk be *economically insurable*? What would be the limit of cover and the amount of the premium?

In other words, does the mandatory nature of coverage of a risk

- enable the risk to be insured: if coverage were not mandatory, would it be available on the free market?
- make it possible to pay a premium lower than that which would have been charged if coverage were optional?

Mutualisation is obviously at the heart of the issue.

2. Competition Implications

Where insurance is mandatory, the basic components of the insurance contract are regulated (risks to be covered, amount of coverage, etc.). Some people take the view that there is no longer any competition because all the insurers operating in the relevant market must abide by the rules and, consequently, all the contracts become identical. Is that view really valid? Doesn't practice show that some insurers try to improve on state-mandated coverage?

Competition at an international level should also be considered. The European Union furnishes quite a few instances of distortion of competition: an architect from a country where professional liability insurance for architects is not mandatory is at an advantage if he or she works on a construction project in a country where such insurance is mandatory.

And if certain coverage (natural disaster, for example) is mandatory in one country, the coverage and the payment of the corresponding premium can be evaded by taking out an insurance contract in another country where the coverage is not mandatory.

3. Reinsurance Situation

It is sometimes said that insurers are ostensibly hostile to, but basically in favour of, mandatory insurance because it brings them premiums.

Is that also true of reinsurers? How do they react, in practical terms, in the presence of mandatory insurance?

III. Critical Assessment

In the normal course of events, each national chapter of AIDA has had the opportunity to read the other chapters' responses to the questionnaire. Please give your **personal** assessment (the reporter's or your national chapter's assessment), regardless of the legal system in your own country. This will make it possible to identify a majority opinion within AIDA, at a worldwide, continental or regional level (e.g. South America, Central America or the European Union). You may, and indeed should, approve or criticize each legal mechanism of each country, based on the responses sent to you by the national reporter.

If such a majority opinion is identified, AIDA could consider acting as a lobby group. To that end, it would be desirable to **gather the views of insurers, reinsurers, insurance intermediaries and policyholders (large risks and/or consumers' associations)** in order to present concurring or divergent opinions.

Below are a few considerations that resulted in the formulation of item 6 of the questionnaire ("Assessment and Recommendations").

1. Can one speak of "optional" (and hence non-mandatory) insurance only when the state in no way intervenes?

It is legally correct and intellectually coherent to speak of "optional" insurance when the states at no time intervene.

That is obviously no longer the case if the state imposes an obligation to procure coverage or to take out an insurance contract.

All modes of state intervention should be taken into consideration. Without imposing a requirement to take out insurance, the state may nevertheless financially help:

- policyholders, by paying all or part of the premiums; or
- insurers, by paying a portion of the losses; or
- all concerned, including reinsurers, by acting as last-layer reinsurer (guarantee fund, reinsurance by a state body, etc.).

2. Trend in Mandatory Insurance

Once a country has made insurance or coverage mandatory, e.g. for motor vehicle liability, what are the reasons for extending, or, on the contrary, refusing to extend, the system to other risks? Historically, does a state make insurance mandatory only in the wake of a disaster, or when public opinion clamours for it, or when pressured to do so by insurers or other industry players?

Can one perceive, on the contrary, any political, economic or other movements towards abolishing existent mandatory insurance?

PART TWO – QUESTIONNAIRE

1. Basic Factors

1.1. The mandatory insurance contract or coverage requirement is laid down

1.1.1. By law

1.1.1.1. National law

There are approximately thirty insurance contracts that are mandatory in Poland. The source of their mandatory character is always constituted by a particular legal act passed by the Parliament and signed by the President.

1.1.1.2. International law

The owners of ships are obliged to conclude insurance contracts for the risk of oil pollution damage on the basis of the International Convention on Civil Liability for Oil Pollution Damage. Apart from this insurance, there are no other insurance contracts that are mandatory in Poland on the basis of international law. However, there are particular mandatory insurance contracts which result from the implementation of EU law.

1.1.2. Systematically by a co-contracting party

1.1.2.1. Bank in connection with a loan

Such insurances appear on the Polish market, however the possibility for a bank to force a creditor to take out insurance is partially controversial, i.e. there are opinions that state that such an action is contrary to the law and that the conclusion of the insurance contract should, in any case, be voluntary. It is assumed, however, that a bank may agree to granting a loan on the condition that the creditor concludes an insurance contract, should the creditor not have a satisfactory credit rating. Therefore, as far as an insurance contract is deemed to protect the repayment of the loan, it is assumed that the banks may also require it from clients since they can require other guarantees as well. However, a bank cannot require that a client concludes an insurance contract with a specific insurer. This problem relates only to the retail market of loans, when the creditor is the consumer. When both parties are professionals it is only a matter of internal arrangements.

1.1.2.2. Lessor in connection with a lease

Such insurances also appear on the Polish market. In such cases, it is the internal agreement of the parties as to whether the lessee will conclude the insurance contract and, as a principle, there is no problem of the lessor compelling the lessee

to conclude the contract due to the fact that there is usually no such imbalance of power between the parties as in the case of a bank and a creditor.

1.1.2.3. Other

In Poland there are very common and broadly applicable insurances relating to the insurance coverage of students in schools. Such insurances do not have a mandatory character and their popularity and range is mainly due to historical factors and custom.

1.2. Context in which a mandatory insurance requirement was laid down

1.2.1. Insurance was made mandatory

1.2.1.1. Without haste

1.2.1.2. In haste

Usually, mandatory insurances were implemented without any extraordinary haste or hurry. However, this was partly not the case in certain civil liability insurances for carrying out given professions, where such obligations were implemented as an aftermath of losses suffered by the clients who could not subsequently receive compensation, as a result of a lack of insurance. In such cases, the implementation of changes in the legislation was a form of reaction from the legislator.

It should additionally be stressed that all mandatory insurances in Poland were implemented in the form of Acts passed by the Parliament and signed by the President, which has prevented mandatory insurance from being implemented too quickly.

1.3. Nature of the risk

1.3.1. Property insurance

The only mandatory property insurance in Poland is insurance covering the risk of fire or other random incidents for buildings designated as farmstead,.

1.3.2. Liability insurance

1.3.2.1. Professional or business liability

Almost all mandatory insurances in Poland relate to professional or business liability and they relate to very different professions - e.g. lawyers, doctors, architects, pilots.

1.3.2.2. Liability in private life

Basically, third party liability (TPL) motor insurance should be treated as liability insurance in private life. In addition, the mandatory insurance from civil liability and an accident's outcome resulting from hunting activity, in certain situations, can also be treated as liability insurance in private life.

1.3.3. Personal insurance
1.3.3.1 Life insurance

It seems that the only mandatory life insurance in the Polish legal system is the insurance covering a person participating in medical experiments. Medical experiments are allowed in Poland only if the sponsor of the experiment has taken out obligatory civil liability insurance on behalf of the person about to be tested.

1.3.3.2. Health and/or accident insurance

There are no mandatory insurances in this respect in Poland. There is mandatory health insurance, but it is not connected with commercial insurance, and it should be treated as an obligation resulting from the Polish public social insurance system.

1.4. Exclusions

1.4.1. Permitted exclusions

Usually, a given Act does not provide any possibility of excluding liability, in addition it is usually specified that the provision of the given action for another person to act in the name of the insured does not result in excluding the insured from the liability. Usually, the Act strictly specifies the scope of the insurance coverage, and therefore only general exclusions (e.g. force majeure, intentional action of the insured) of liability are permitted.

1.4.2. Prohibited exclusions

See 1.4.1. above. In addition, all exclusion of liability contrary to the binding provisions of law are treated as prohibited.

1.4.3. Imposed exclusions

See 1.4.1 above.

1.5. Penalties for lack of insurance

1.5.1. Criminal penalties

There are no criminal penalties for breaching the obligation to conclude a mandatory insurance in the Polish system. The fines resulting from breaching such obligations have an administrative character.

1.5.2. Administrative penalties

1.5.2.1. Disqualification from practising or carrying on a profession, occupation, trade or business

There are no such penalties in the Polish legal system arising directly from the provisions of law. However, the codes of good

practices or the ethical codes issued by the associations of given professions usually provide the obligation to pay insurance premiums for civil liability. In addition, serious breaches of the resolutions of such codes may sometimes be the basis for punishment, including disqualification from practicing the profession. It seems rather unlikely, that a given professional could be banned from carrying out his/her activity only on the basis of breaching the duty to pay insurance premiums, but there is theoretically such a possibility.

1.5.2.2. Other penalties

Insurance agents are obliged to pay fines amounting to up to 1,000 EUR (equivalent in PLN), and are additionally obliged to cover the missing part of a premium, whereas the possessors of vehicles are obliged to pay fines ranging between 100 EUR to 800 EUR.

1.5.3. Civil penalties

There are no specific regulations in Polish law in this respect. It is assumed, however, that the parties may introduce contractual penalties into the insurance contract on the basis of the general freedom to conclude contracts, on the conditions that such clauses will comply with all the provisions of binding law, for instance, those within the regulations concerning consumer protection.

2. **Methods of Effecting Mandatory Insurance**

2.1. Taking out of a contract covering the risk

2.1.1. No

N/A

2.1.2. Yes

2.1.2.1. Under an individual contract

Yes, it is broadly available.

2.1.2.2. Under a group contract

Yes. The legislation does not provide any encumbrances on concluding a group insurance for mandatory insurance coverage. In fact, this form is often very useful and therefore available and applicable. Obviously, it is not always possible to conclude such contracts.

2.1.3. Selection of the risk by the insurer: Given that the insurance is mandatory for the insured, is there any way of compelling the insurer to contract?

2.1.3.1. No. Consequences?

2.1.3.2. Yes:

In accordance with the provisions of the Act of May 22, 2003, on compulsory insurance, the Insurance Guarantee Fund and the Polish Motor Insurers' Bureau, an insurance company possessing the respective permit to conduct insurance activity within the groups pertaining to mandatory insurance is not allowed to reject the conclusion of a mandatory insurance contract. If an insurance company has not responded, within 14 days, to an offer to conclude a mandatory insurance contract, it is assumed that such insurance company has accepted it.

Apart from the above provisions there are no specific regulations in respect of compelling an insurance company to conclude a contract. However, if regardless of the above provisions a given insurance company does not conclude a mandatory insurance contract, it is then possible for it to be subjected to supervisory measures from either the Polish Financial Supervisory Authority or the Polish Office of Consumer and Competition Protection. In addition, the insured could go to court in order to establish the conclusion of the contract with that insurance company.

2.2. Coverage automatically included in a freely effected contract

2.2.1. No

There are no legal measures to force a given person in a freely effected contract to conclude an insurance contract; however, a bank, for instance, may, in a given situation, refuse to grant a loan, which in practice usually compels the borrower to conclude an insurance contract. A similar situation may take place in the case of a leasing agreement, where the leasing-holder may be forced to insure the object of the leasing contract. See also the explanations provided in point 1.1.2.1.

2.2.2. Yes

N/A

3. Financial Aspects

3.1. Amount of cover

3.1.1. Limit of cover

3.1.1.1. Unlimited cover

3.1.1.2. Legally required minimum cover

Polish legislation, in this respect, always stipulates the minimum required cover. The insured is usually free to decide whether he/she wants a larger amount of cover which is usually connected to a larger premium.

3.1.2. Deductible

- 3.1.2.1. Prohibited
- 3.1.2.2. Mandatory
- 3.1.2.3. Optional

There are no specific provisions of Polish law in this respect, which means that it is not possible to conclude an amount of cover lower than the amount determined in a given act for a given mandatory insurance.

3.2. Amount of the premium

- 3.2.1. Fixed by the state
 - 3.2.1.1. No, never

The amount of premium in mandatory insurances is not fixed by law. The law stipulates only the minimum required cover on the basis of which the premium is calculated by the insurers.

- 3.2.1.2. Yes
 - 3.2.1.2.1. Percentage of another premium

N/A

- 3.2.1.2.2. Same amount for all policyholders

N/A

- 3.2.2. Freely fixed by the parties
 - 3.2.2.1. No, never

N/A

- 3.2.2.2. Yes

The parties are free to fix the amount of the premium. However, the insurance companies are obliged to submit to the supervisory authority the rates and amounts of premiums, and justify these amounts in cases of TPL motor insurance, TPL insurance of farmers, and the insurance of farm buildings.

In addition, in accordance with the Polish Act on Insurance Activity, the premium should be fixed at a level which should, at least, assure the fulfillment of all the obligations resulting from insurance contracts and the coverage of the costs of performing insurance activity by insurance companies.

- 3.2.3. Bonus-Malus system (premium reduction or increase according to the policyholder's individual claim history during the previous year)
 - 3.2.3.1. Unregulated

Such situations exist, for instance, in cases of TPL motor insurance, however it is the result of market practice and not the legal obligations imposed by the legislator.

3.2.3.2. Regulated

N/A

3.2.4. Do policyholders consider the premiums charged for mandatory insurance

3.2.4.1. Acceptable?

3.2.4.2. Unacceptable?

We are not aware as to whether any such surveys have ever been conducted.

3.2.5. If the insurance were not mandatory, would the premium charged for it be

3.2.5.1. The same?

3.2.5.2. Significantly higher?

The answer probably depends on the type of insurance coverage. We do not have such knowledge, as such information is probably considered to be the company secret of the insurers and as such is not publically available.

3.3. Financial data: Are there studies making it possible to know:

3.3.1. The profit or loss generated by mandatory insurance (premiums received/claims paid)?

3.3.1.1. Profit

3.3.1.2. Loss

We do not have any specific knowledge in this respect; as such information is probably considered to be the company secret of the insurers. However, from the general studies recently presented in the Polish press, it appears that, at least in 2009, TPL motor insurances generated a loss amounting to more than 500 million PLN for the insurance companies.

3.3.2. Whether the risk in question would be insurable if it were not mandatory?

3.3.2.1. Insurable

3.3.2.2. Uninsurable

3.3.2.3. Insurable, but at a higher premium or with less extensive cover

It is hard to answer these questions explicitly since in Poland mandatory insurances function in very different fields of business or private activity, and the answers would probably differ in respect of given insurance contracts. It may be stated, that most of the risks would be insurable, despite the legal obligation.

3.3.3. Whether persons exposed to a given risk (e.g. hurricane, flood or other natural disaster) would voluntarily take out insurance against it if it were not mandatory?

3.3.3.1. Few persons would take out the insurance

3.3.3.2. Many persons would take out the insurance

At another time the answers would probably differ in respect to the given risks. It may be stated, for instance, that the majority of lawyers or doctors would probably insure their professional liability even without legal requirements. On the other hand, most people, without the legal obligation, would probably not conclude TPL motor insurance contract. As to the risks of natural disasters, currently in Poland there is only one mandatory insurance contract, and that concerns the risk of fire or other random incidents relating to buildings constituting farmstead. It should be stated that, without this obligation, probably only a very few persons would actually take out this insurance.

4. Reinsurance

4.1. Mandatory reinsurance

4.1.1. Obligation for a private reinsurer

There is no such obligation in the Polish legal system.

4.1.2. Obligation for a public reinsurer

4.1.2.1. In the form of classic reinsurance

N/A

4.1.2.2. In the form of a state guarantee fund

There is the Insurance Guarantee Fund (Ubezpieczeniowy Fundusz Gwarancyjny - UFG) that functions in Poland as a state guarantee fund. The insurance companies are obliged to pay annual fees for the purpose of the functioning of the UFG. The UFG pays compensation to persons suffering losses in the outcome of vehicles accidents and in situations where the perpetrator of the car accident was not covered by mandatory insurance coverage. In addition, the UFG guarantees to pay all the claims and financial obligations of an insurance company in the event of its bankruptcy.

4.2. Attitude adopted by private insurers in your country

4.2.1. Refusal to reinsure mandatory insurance

4.2.2. Agreement to reinsure mandatory insurance

4.2.2.1. With domestic insurers

4.2.2.2. With foreign insurers

We do not have any detailed knowledge in this respect as it is covered by company secret, however it is assumed that in the

majority of cases there are agreements with foreign insurers to reinsure mandatory insurance.

4.3. Economic aspects

N/A

5. International Aspects

In order to simplify an extremely complex issue, please find below a few practical questions.

5.1. Does your country have any law that deals with the issue of mandatory insurance in an international context?

5.1.1. National legislation

N/A

5.1.2. International treaty

In accordance with the International Convention on Civil Liability for Oil Pollution Damage, the owners of ships are obliged to conclude insurance contracts for the risk of oil pollution damage.

5.2. Where insurance is mandatory in your country for a given activity, are foreign persons required to carry such insurance in order to engage in that activity in your country?

5.2.2. Yes, and they must take out the insurance locally

Such a regulation functions in the case of TPL motor insurances. However, foreign persons are obliged to take out the insurance locally in Poland at the moment of crossing the border, if, that is, they are not already insured (EU member states), or they do not have a so-called Green Card (non-EU member states).

5.2.3. Yes, but they may carry the insurance by taking it out in their home country

Such a regulation already functions, for instance, in the case of foreign insurance agents (from the EU) who are obliged to be insured, but do not have to be insured in Poland, if they have already concluded an insurance contract which fulfils the minimum guarantee sum.

5.2.4. No, they do not need to carry the insurance to engage in the activity

There are no such regulations in Poland.

5.3. Is it legal to take out mandatory insurance with a foreign insurer?

5.3.1. No

5.3.2. Yes

5.3.2.1. In the event of litigation between the insurer and the policyholder, what law would the court apply?

5.3.2.1.1. The law of the insurer

5.3.2.1.2. The law of the policyholder

The issue is rather complicated as the complex answer should include the country of the registered seat of the foreign insurer (EEA, non-EEA), the character of the policyholder (whether a consumer, or not) and the given mandatory insurance. In general, it can be stated that Polish law does not strictly stipulate that a mandatory insurance contract should be subject to Polish law.

With regards to foreign insurers from EEA member states conducting their activity on the basis of the freedom to provide services, or the freedom of establishment, there is no doubt that they are entitled to conclude mandatory insurance as well (on the condition that the scope of the insurance permission issued by the domestic supervisory authority embraces the given mandatory insurance). The same clarifications should be presented for foreign insurers from states outside the EEA which conduct their insurance activity in Poland *via* their main branch.

In the case of foreign insurers from states outside the EEA which do not operate in Poland, the possibility of concluding mandatory insurance is dubious, however Polish law is not clear in this respect. Nevertheless, even assuming that such a possibility exists, there are many practical problems related to mandatory insurance contracts concluded with foreign insurers, in particular the approach of the relevant Polish authorities towards such contracts. It cannot be excluded that such a contract might well be found to be invalid by a given authority.

5.4. Particular case of mandatory coverage included in an optional contract: Where the optional contract is taken out abroad,

5.4.1. The mandatory coverage

5.4.1.1. Is included in the contract by the foreign insurer

5.4.1.2. Is not included in the contract by the foreign insurer

5.4.2. The premium (or fee or charge) for the mandatory coverage, which is to be paid to the body in charge of collecting it (insurer, guarantee fund, etc.),

5.4.2.1. Is nevertheless paid to this body

5.4.2.2. Is not paid to this body

N/A

6. **Assessment and Recommendations**

Do you think:

6.1. The system of mandatory insurance (or coverage) should be prohibited?

6.1.1. As a matter of principle: No coverage should be mandatory.

Reasons:

6.1.1.1. Violation of the freedom to contract

6.1.1.2. Lack of selection of the risk

6.1.1.3. Interference with competition

6.1.1.3.1. Among insurers

6.1.1.3.2. Among policyholders

6.1.1.3.3. At an international level (see 5.2)

6.1.1.4. Other

6.1.2. For practical reasons

6.1.2.1. In the event of refusal, problem of compelling an insurer to provide coverage

6.1.2.2. Reluctance on the part of reinsurers

6.1.2.3. Other

The answer to the questions above will be provided together. In our opinion there is no need to entirely prohibit the system of mandatory insurance, since it is useful and necessary in many areas. However, in our opinion, there are fields where mandatory insurance is unnecessary. To give an example, the mandatory system is generally useful in the field of property insurance. Polish legislation specifies mandatory insurance for buildings constituting farmstead from the risk of fire or other random incidents. It should be stated that farmers, without such an obligation, would probably not insure their property as a result of limited awareness in this respect, limited access to the insurers and for financial reasons. Therefore, such an obligation to conclude mandatory insurance, especially taking into account, that loss in the event of fire or other random incident in a farmstead is usually extremely substantial, is useful and justified. Similar comments can be made concerning TPL motor insurance. On the other hand, mandatory insurances are unnecessary in the field of certain professional liabilities, e.g. lawyers, architects, as it does not provide any serious cover. In fact, in a situation where a lawyer renders a service for individuals there is usually no serious risk, that in the case of giving improper advice, the lawyer will not be able to compensate for the individual's loss. On the other hand, lawyers rendering services for large companies are always insured and their insurance coverage often significantly exceeds the legal requirements, since such insurance coverage is expected by the market and their clients. Therefore, they would insure themselves even without such legal obligation. To sum up, as a matter of principle, the system of mandatory insurance should not be prohibited for practical, economical or political reasons, as it ensures, in certain fields, many benefits both for the insured and for third parties.

6.2. The current mandatory insurance should be repealed?

6.2.1. Property insurance

No, it should not be repealed. See, also answer for 6.1.

6.2.2. Liability insurance

Yes, it should be repealed, but only in certain areas.

6.2.3. Personal insurance

No, it should not be repealed.

6.3. Mandatory insurance should be confined to certain specific risks?

6.3.1. Civil liability: motor vehicle, medical malpractice, etc.

Yes, see answer for 6.1.

6.3.2. Property damage: disasters, main residence, business interruption, etc.

Yes, see answer for 6.1.

6.3.3. Personal injury: through individual or group insurance, for children, etc.

Yes, see answer for 6.1.

6.3.4. Death insurance: for borrowers, etc.

No, it should be subject to the internal arrangements of banks and their creditors as to whether to conclude an insurance contract or not. See also explanations provided in 1.1.2.1.

6.3.5. Life insurance: retirement, etc.

No, persons that are retired are subject to an obligatory public pension system and therefore additional, mandatory coverage is unnecessary.

6.3.6. Dependency insurance

No.

6.4. Some types of mandatory insurance should be developed?

6.4.1. Which ones? Disaster risks, risks to the vulnerable and those in a weak situation (the elderly, children, victims of loss or injury caused by liable third parties), etc.

We do not think that, at this moment, any other risks should be covered by mandatory insurance, with reservations to answer 6.4.4. below.

6.4.2. At a national, international (European Union, Mercosur, etc.) or worldwide level

No.

6.4.3. For moral reasons: solidarity, protection of victims, etc.

No.

6.4.4. For reasons of efficacy:

6.4.4.1. Access to insurance facilitated by mutualisation: lower premiums

6.4.4.2. Need to compel those who do not concern themselves with precaution, prevention, contingencies, etc.

Currently, there is a public discussion in Poland on the obligation to insure property which is located in an area prone to flooding. It was triggered by the fact that certain areas are regularly flooded and afterwards the government compensates for the losses that occurred to the people who live there and are uninsured. Obviously, the government is not formally obliged to compensate for such losses, however it does so for various reasons (e.g. the pressure of the mass media and the necessity to show care and concern). In order to prevent such situations in the future, where the government is somehow forced to pay compensation for the injured, there is a plan to implement mandatory insurance for property located in areas prone to flooding. In our opinion, such a plan is legitimate, as it is aimed at developing the public's awareness of the necessity of concluding insurance contracts, especially those people who live in areas prone to flooding or to damage from other disasters.

6.5. If you agree with the principle of mandatory insurance, do you think:

6.5.1. Mandatory insurance should be effected

6.5.1.1. By taking out a specific insurance contract?

6.5.1.2. By automatic inclusion in an existing insurance contract?

6.5.1.3. By developing group insurance contracts?

6.5.1.4. By obliging insurers to provide insurance?

There is no one single solution for the appropriate form of mandatory insurance, since depending on the situation, either an individual or group insurance may be more suitable. In practice, insurers offer both individual and group mandatory insurance contracts. It is however assumed that a group insurance contract may not always be applicable. It is mainly applicable in cases of professional liability insurance.

6.5.2. A rate of premium should be

6.5.2.1. Fixed by law?

6.5.2.2. Fixed freely?

It is rather the minimum amount of cover that should be and is stipulated by law. Obviously, the minimum amount of cover strictly determines the rate of the premium. However, as a principle, the rate of the premium should be determined by the parties in the outcome of the price competition between insurers.

6.5.3. A Bonus-Malus system (premium reduction or increase according to the policyholder's loss experience) should apply?

Yes, it should apply, but yet again, not as a legal requirement, but instead, as a result of the competition between insurers.

6.5.4. The limit of cover should be

6.5.4.1. The same for everyone?

Yes, where it is applicable.

6.5.4.2. Subject to a minimum?

Yes.

6.5.4.3. Freely determined by the parties?

No.

6.5.5. Clauses defining the risks covered and the exclusions should be imposed by law?

Yes, all standard exclusions should be strictly specified by law, but insurers should be entitled to broaden their liability.

6.5.6. Reinsurers operating in the relevant domestic market should be required to provide reinsurance?

No.

6.5.7. The state should act as last-layer reinsurer?

As a principle, the state should not be liable for payments resulting from mandatory insurance, however, in a limited number of situations under specific conditions, it should guarantee compensation.

6.5.8. A Guarantee Fund system should be established?

Guarantee funds already function in certain areas of mandatory insurance and they generally fulfil their role. At this moment, we do not think that any additional guarantee funds should be established.