

LICENSING OF INSURANCE ACTIVITIES OF FOREIGN ENTITIES IN INTERWAR POLAND

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Abstract. Licensing of activities is a form of securing the interests of the state and citizens in a economic sector that is important to them. In the interwar period, the Polish authorities used this instrument, among other things, to control the insurance market. Licenses were required from both insurance companies with domestic and foreign capital. However, due to the specific nature of the insurance market in Poland at that time and the problems that the founders of independence encountered in relations with foreign countries, the government treated non-Polish entities in a special way. The experience with the reliability of this type of insurers during the partition period and immediately after the establishment of an independent Polish state was of great importance for mutual relations, prompting us to treat foreign insurers in a special way. Therefore, we observe a significant number of regulations and a large dose of activity towards foreign economic entities operating in the field of insurance.

Keywords: insurance; reconstruction of the Polish state; Second Polish Republic; economy in 1918-1939.

INTRODUCTION

Licensing business activities leads to restrictions on freedom in a specific branch of the economy. Such rationing is introduced when the state sees the need to protect its own interests or the interests of citizens who, in the absence of such a mechanism, could be exposed to significant losses from their point of view. It is used especially in industries considered strategic from the perspective of the above-mentioned interests.

In practice, the idea is to limit the number of entities conducting a given activity to those that will guarantee the production of products or the provision of services at an appropriately high level. This measure is also intended to eliminate initiatives that do not meet the criteria specified by the legislator and to reject at an early stage those that do not promise success in a given industry.

The occupying powers introduced various systems of operation of insurance companies on Polish lands, mainly in the 19th century. In the Prussian partition, there were public companies, but without a monopoly in any

insurance sector, and private companies. An efficient supervision system meant that these entities, competing with each other, complemented their offers to the benefit of customers. Compulsory insurance has not been introduced here either. In the Austrian partition, the activities of the insurance market were licensed, there were no public entities and, apart from a few exceptions regarding schools and churches, no insurance obligation was introduced. Compulsory fire insurance of buildings was used in the lands of the former Kingdom of Poland under Russian rule, where a state monopoly was introduced in the field of this type of insurance. However, the rest of the Russian partition was no longer subject to the regulations regarding the area of Congress Poland [Pokorzyński 1958, 47-49].

Licensing of security activities was therefore known in Polish lands during the partition period and treated by a significant part of the political elites of reborn Poland as a necessary instrument for the protection of citizens. Hence, work on domestic solutions was carried out towards regulating the insurance market through concessions issued by authorized state bodies. The normative acts adopted in the first months of the existence of the independent Polish state imposed the division of insurance companies, maintained in later years, into domestic and foreign, state and private, small and large entities. Depending on the category, the legislator provided different requirements to be met for a given entity to obtain a license [Wyszynski 1926, 31, Biskupski 1925, 42].

1. REGULATIONS REGARDING DOMESTIC INSURERS

1.1. Public bets

The least concerns about solvency and fair approach to customers were towards public establishments. Hence, state-owned entities were treated preferentially. In their case, it was considered that the level of risk for citizens when using the insurer's services would be the lowest. For these reasons, the existence of a monopoly in the field of compulsory fire insurance, i.e. a public company called *Ubezpieczenia Wzajemne*, operating in the territory of the former Kingdom of Poland, was maintained, while at the same time it was decided to temporarily maintain the order inherited from the partitioners.¹

In the following years, the obligation to insure real estate against fire was extended to other provinces, while largely maintaining the monopoly

¹ See *Dekret Naczelnika Państwa z dnia 7 lutego 1919 r. w przedmiocie przepisów tymczasowych dla Ubezpieczeń Wzajemnych budowli od ognia w b. Królestwie Polskim*, "Dz. Pr. P. P." of 1919, No. 14, item 190.

of public companies,² which benefited from a privileged position in this area of insurance and extensive assistance from public authorities. In other departments, they competed freely with private societies.³

The obligation to insure buildings against fire covered the full value of the insured buildings, but the Act of June 23, 1921 introduced compulsory insurance in public institutions only up to the value of 2/3 of a given property. The owner could insure the remaining part in the company of his choice. This allowed private insurance companies to effectively compete with public insurers also in the fire insurance section, but only in the free part. The legislator also decided that the monopoly would not apply to industrial and factory buildings that had to be insured, but it was not specified what type of plant.⁴

Public institutions were created, changed and reorganized through normative acts. They defined the scope of activities, the organization of authorities, the structure of the plant, the principles of creating financial reserves and at least general insurance conditions. This procedure, involving state institutions in the process of creating the entity, gave a sense of control by public authorities over the principles of operation of this type of insurers.

1.2. Private bets

The initial requirements for all private entities in the insurance industry were quite modest. The basic condition was to declare the activity in the appropriate form of a business entity. In the case of domestic insurers, only mutual insurance companies or joint-stock companies could apply for a license to conduct insurance activities. The second condition was to submit an application for a permit to operate in this industry with attached documents. These included the statute, the company agreement, general insurance conditions and the plant's activity plan [Szytko 1927, 1-3].

² Act of 23 June 1921: *o przymusie ubezpieczenia budowli od ognia i Polskiej Dyrekcji Ubezpieczeń Wzajemnych*, Journal of Laws No. 64, item 395; Regulation of the President of the Republic of Poland of 27 May 1927: *o przymusie ubezpieczenia od ognia budowli w m. st. Warszawie i o Zakładzie Ubezpieczeń Wzajemnych m. st. Warszawy*, Journal of Laws No. 116, item 983; Decree of the President of the Republic of Poland of 10 December 1935: *w sprawie zmiany rozporządzenia Prezydenta Rzeczypospolitej z dnia 27 maja 1927 r. o przymusie ubezpieczenia od ognia i o Powszechnym Zakładzie Ubezpieczeń Wzajemnych*, Journal of Laws No. 90, item 576.

³ For more information see Bednaruk 2019, 135ff.

⁴ This exception caused numerous disputes about the concept of factory buildings, because the freedom to secure real estate depended on its understanding. The owners tried to extend this freedom also to buildings accompanying the properties, known as factories, cf. Judgment of the Supreme Administrative Court of 18 April 1933, ref. no. 9359/30, where written: "Za budowle fabryczne [...] mogą być uznane tylko takie zabudowania gospodarcze i mieszkalne, które się znajdują na tym samym co i zakład fabryczny terenie."

Over time, it was clarified that all annexes were to have a specific form and content. The statute had to specify the scope of the insurer's activity, list the planned insurance departments and the type of activity conducted. The statute of the mutual insurance company, drawn up by way of an official act, should have indicated the name of the company, which should clearly indicate that it is based on the principle of reciprocity. There, the registered office of the entity had to be indicated, and in addition to the above-mentioned elements common to all insurers, also the rules for acquiring and losing membership.⁵

Much smaller requirements were placed on small insurance companies that operated locally or provided insurance only in certain insurance sectors. The obligation to have a statute was waived for them, and by decision of the Minister of Treasury they could be exempted from the need to create share capital and supplementary capital.⁶

Meeting these and subsequent conditions was necessary to apply for a license, but it did not result in automatic entry in the commercial register. The decision was always made by the supervisory authority, which could content itself with the conditions specified by law, but could also impose new ones. In individual cases, it is possible to request additional documents or submit a special deposit to protect clients' interests against unfair practices of the insurer [Bednaruk 2019, 109ff].

2. FOREIGN INSURANCE COMPANIES

2.1. The first months after regaining independence

In relation to foreign plants, the legislator had the greatest requirements in the process of obtaining licenses. From today's perspective, this may at first look like discrimination between foreign entities and domestic entities, but at that time most countries used protectionist practices that were not treated as exceptional or reprehensible tools. And to better understand the basis and even the necessity of using this type of security, we need to go back to the times of the partitions. Because only knowledge of unfair practices of external entities towards Polish citizens makes it possible to fully understand the situation on the domestic insurance market.

⁵ Article 20 and 21 of the Regulation of the President of the Republic of Poland of 26 January 1928: *o kontroli ubezpieczeń*, Journal of Laws No. 9, item 64.

⁶ Cf. Regulation of the Minister of Treasury of 25 February 1928: *o trybie i zasadach prowadzenia rejestru małych towarzystw ubezpieczeń wzajemnych*, Journal of Laws No. 30, item 283; Circular of the State Insurance Control Office No. 68 of 7 February 1928, L.481/U.U/III: *do małych towarzystw ubezpieczeń wzajemnych bydła w sprawie podań o zezwolenie na dalszą działalność*, "Rocznik Państwowego Urzędu Kontroli Ubezpieczeń" of 1928, p. 156.

Well, in individual partitions, for decades, insurance companies have been collecting customer funds on the accounts of numerous companies that found excellent conditions for development in Polish lands. Suffice it to mention that only within a few months of 1915, right after the occupation of Polish territories from which the Russians withdrew, the Germans introduced 43 German insurance companies to the occupied territory and completely dominated the local market, crowding out the competition. Even incomplete data show that every year millions of marks and rubles in insurance premiums flowed into the coffers of insurance companies with foreign capital [Wysznacki 1926, 50; Handelsman 1936, 79].

The capital accumulated before the establishment of the Polish state was withdrawn to headquarters located outside the borders of the reborn state. Only Russia withdrew 20 million gold rubles of collected insurance premiums, and the other two countries probably withdrew more [Kozłowski 1923b, 13; Szczeńsiak 2003, 180]. The victorious powers in the just-ended World War I were aware of the importance and volume of funds accumulated by insurance companies in recent years, hence they saw the need for them to settle accounts with customers remaining outside their previous borders. During the peace talks, great emphasis was placed on the need for meticulous settlements in this respect.⁷

Unfortunately, the partitioning countries were not willing to cooperate with the Polish state authorities in this respect. Their policy depended on the position of the country with which they negotiated and can be briefly summarized as: submission to the strong and stubbornness towards the weak. Thus, while settlements with citizens of stronger countries were reached relatively quickly [Kozłowski 1922a, 12; Idem 1923c, 27], no will to cooperate was observed with respect to Poles. The Polish state made unsuccessful attempts to recover the contributions of its citizens throughout the interwar period, and it must be said that entities with capital from countries other than the invaders did a lot to prevent fair settlements with customers [Bednaruk 2018, 132].

This aspect was the basis for the actions taken by the Polish authorities in the first years of the existence of the independent state. The efforts began with an attempt to estimate the scale of receivables owed to the citizens of the Republic of Poland, which is why the governments of the partitioning countries were first called upon to sit at the table and present documents illustrating the scale of the analyzed phenomenon. The authorities of the requested countries, using various techniques and excuses, avoided talks and deceived Polish negotiators for many months.

⁷ See *Traktat pokoju między mocarstwami sprzymierzonymi i skojarzonymi i Niemcami, podpisany w Wersalu* of 28 June 1919, *Journal of Laws* of 1920, No. 35, item 200, Article 77, 238 and 239.

When it turned out that it was impossible to achieve the expected results quickly using the above-mentioned method, more emphasis was placed on direct pressure directed directly at entities insuring Poles in the past period. The vast majority of plants wanted to continue their operations in independent Poland, hence the opportunity to obtain information about the contributions collected in the past in exchange for granting a license for the following years. This was also the first condition of the Polish authorities towards foreign insurers – providing settlements of their activities in previous years.⁸

Unfortunately, many entities preferred to resign from opening their branches in Poland rather than reveal the amount of contributions collected in the past. Those who applied for a license despite clearly stated conditions, tried to outsmart Polish officials and presented incomplete data, postponed or refused to send them, explaining their loss in the turmoil of war. Almost all of them were playing for time, hoping that as the months passed, the determination of the Polish authorities would weaken. Especially in the face of the solidarity of the environment of foreign insurers and the poverty of the Polish insurance market [Kozłowski 1922a, 12; Idem 1923a, 10].

The weakness of the domestic insurance market, resulting from the lack of capital, was to the detriment of the Polish side. After huge sums were transferred from the insurance and banking systems and with such a significant destruction of practically the entire economy, there was not enough money to rebuild the structures of the insurance industry with its own resources. Representatives of foreign capital were perfectly aware of this fact, hence their tendency to comply with the orders of the Polish authorities was largely moderate [Bednaruk 2019, 188].

Despite these circumstances, attempts were made to induce foreign insurers to submit. The position of Chief Commissioner for Foreign Companies was created in the Ministry of Treasury, which was entrusted with the authority to control the activities of this part of the insurance market. Already in December 1918, foreign entities were ordered to submit a detailed report on their activities in the years 1915-1918 within three months under penalty of a high fine or arrest to the plant authorities [Kozłowski 1922b, 3; Idem 1922c, 15]. In addition, an obligation was introduced to keep books in Polish branches, enabling control of the society's activities at any time.⁹

⁸ Regulation of the Minister of Treasury of 31 December 1918: *o zagranicznych towarzystwach ubezpieczeniowych*, "Monitor Polski" of 1918, No. 241; Regulation of the Minister of Treasury of 29 April 1919: *w przedmiocie działalności zagranicznych Zakładów Ubezpieczeniowych na obszarach Państwa Polskiego, należących poprzednio do krajów, wchodzących w skład byłej Monarchji Austro-Węgierskiej*, "Monitor Polski" of 1919, No. 96.

⁹ Regulation of the Minister of Treasury of 31 December 1918: *o zagranicznych towarzystwach ubezpieczeniowych*; Regulation of the Minister of Treasury of 1 March 1919: *uzupełniające rozporządzenie z dnia 31 grudnia 1918 roku o zagranicznych towarzystwach ubezpieczeniowych*, "Monitor Polski" of 1919, No. 51.

Each foreign insurer wishing to open a branch in Poland had to appoint its main representative with Polish citizenship, equipped with a power of attorney to issue policies. All operations of the insurer were to be secured by reserves that had to be deposited in Polish currency on the account of the Polish central bank within a specified period. The amount of the reserves, after examining the state of the plant's finances, was determined by the Minister of Treasury, and until they were secured, it was forbidden to conclude new contracts with customers.¹⁰

3. IN THE FOLLOWING YEARS

The actions of the Polish authorities to subordinate all aspects of life to their regulations in structures sometimes built from scratch were not easy due to the environment in which the newly created state had to function. The fight over the borders, the threat to the state's existence, financial and organizational problems meant that the government was unable to enforce the application of all the introduced regulations. Especially in relation to foreign entities that enjoy the protection and support of their countries.

In the following years, the legislator imposed further obligations on insurers, the fulfillment of which required obtaining or extending licenses for further years. They were intended to increase the safety of customers, especially those with policies of foreign entities, who were too often surprised by the liquidation of an insurer disappearing from the market along with the premiums collected for many years [Kozłowski 1924, 19]. The rules for creating capital, reserves and deposits securing funds for the payment of compensation in the event of problems have been clarified. This was particularly important in the case of foreign insurance companies because, as observed, they pursued a consistent policy of eating up profits on a scale unknown to domestic insurers and transferring funds to their headquarters located in other countries.¹¹

Subsequently, an obligation was introduced to attach complete plant documentation in the language of production and translation into Polish to the license application; a certificate of legal personality in the home country and confirmation of the principle of reciprocity, which gives Polish entities the right to conduct insurance activities in a given country.¹² Those obliged tried to avoid

¹⁰ Article 5 and 7 of the Regulation of the Minister of Treasury of 1 March 1919.

¹¹ See *Korespondencja w sprawie transferu sum ubezpieczeniowych do Szwajcarii, AAN, zespół Ministerstwo Skarbu*, ref. no. 4089, card 1ff; *ibid.*, ref. no. 4111, card 3ff, where there is similar content in correspondence regarding Italian societies, and *ibid.*, ref. no. 5018, card 9ff, where correspondence about the transfer of profits of Swiss plants.

¹² Circular No. 66 of the State Insurance Control Office of 31 January 1928, L.371/U.U/III: *do zagranicznych zakładów ubezpieczeń w sprawie podań o zezwolenie na dalszą działalność*.

the imposed obligations. Hence, the analyzed period is a time of constant struggle to impose the same framework of activity on everyone and civilize the market, which put up stiff resistance to government interference.

After introducing the previously mentioned regulations, officials tried to force compliance of the plants, which consistently refused to fulfill their obligations and, first of all, to present balance sheets for previous years. In response, actions were taken to stop the activities of resistant entities, which sparked protests from the governments of many countries. The situation was complicated by the fact that numerous insurers had permits issued by the governments of the occupying countries, the validity of which had not yet expired.

The initially stubborn stubbornness of both sides of the conflict weakened over time, because on the one hand, the citizens of the Polish state, impoverished as a result of the war, were no longer as attractive customers as before; on the other hand, the sharp decline in the number of foreign societies cooled the temperature of the dispute. The first few months of 1919 showed a reduction in the number of foreign entities in the insurance industry by half – from the initial 70 to just over 30. Over the next 5 years, subsequent companies disappeared, up to 26 in 1923 [Sangowski 1988, 21]. In the following years we observed a further decline in foreign entities to 12 in 1926.¹³

The reduction in the number of foreign insurers, although initially desirable, was surprising in its scale and forced the government to relax its policy. For a decade, many foreign entities did not comply with all the requirements of Polish law, and yet they were allowed to operate, while issuing increasingly threatening calls to respect the applicable regulations. Documents from that period include warnings about the need to “use the strictest possible legal measures” in the event of non-compliance with applicable regulations, including failure to meet the requirements necessary to issue a license, and yet there were still entities operating on the Polish insurance market that consciously violated local law.¹⁴

The Polish authorities tried various methods to force all entities to comply with the applicable rules, including through intergovernmental consultations. Several agreements were concluded, which were supposed to result in a radical improvement of the situation,¹⁵ but no significant changes

¹³ See *Wykaz Zagranicznych Zakładów Ubezpieczeń*, “Rocznik PUKU” 1926, Warsaw 1927, p. 110; *Wykaz zakładów ubezpieczeń, działających na obszarze Państwa Polskiego. II. Zagraniczne zakłady ubezpieczeń*, “Rocznik PUKU” 1928, Warsaw 1929, p. 268.

¹⁴ See Circular No. 17 of the State Insurance Control Office of 26 October 1921, L.1252/U.U.: *do Generalnych Reprezentacji Zagranicznych Zakładów Ubezpieczeń działających na obszarach należących poprzednio do b. Monarchji Austro-Węgierskiej*, “Rocznik PUKU” 1928, Warsaw 1929, p. 129; Circular No. 28 of the State Insurance Control Office of 2 June 1923, L.981/U.U.: *do niemieckich zakładów ubezpieczeń działających na górnośląskiej części województwa śląskiego*.

¹⁵ See Act of 17 March 1926: *w sprawie ratyfikacji konwencji między Rzeczpospolitą*

in the policy of foreign insurers were noticed. They still avoided fulfilling all obligations, the market was plagued by constant attempts to circumvent the law, including conducting insurance activities without a license [Bednaruk 2019, 203ff; Kozłowski 1923c, 29].

The breakthrough was to be the comprehensive reform of the insurance market in 1928. At that time, the regulation of the President of the Republic of Poland defined the most important rule: "Insurance business may be carried out only with the permission of the supervisory authority."¹⁶ The rules for obtaining licenses have also been clarified by including earlier conditions in the regulation, and Article 111 all previous operating permits issued by both domestic and foreign authorities have been terminated.

This procedure was intended to lead to the entire procedure of granting licenses being carried out from scratch for each participant of the insurance market in Poland. This, in turn, will force all insurers, both domestic and foreign, to comply with the rules. Unfortunately, not everything went according to plan. Some foreign plants did not apply for a license, and investors from this industry decided to change their tactics, making their operations easier by purchasing domestic entities. The German government forced the Polish authorities to grant concessions to several German plants without meeting all the necessary conditions. They started operating in Silesia. In return, Germany promised to make its position more flexible regarding the refund of insurance premiums due to Poles [Bednaruk 2018, 146ff].

Unfortunately, the German promises were not kept. The coming years were marked by a continuous fight between insurance supervisory authorities and foreign entities to ensure their compliance with applicable regulations. The second sign of the times was the progressive takeover of domestic companies by foreign companies, which from then on operated under the Polish banner. There were more and more such cases, leading to a significant scale of removal of Polish capital from the domestic insurance market [Bednaruk 2019, 206ff; Kozłowski 1931, 28].

Polską a Królestwem Włoch, dotyczącej przepisów finansowych dla włoskich towarzystw ubezpieczeniowych, które działały na obszarze należącym obecnie do Rzeczypospolitej Polskiej, podpisanej w Rzymie dn. 22 lipca 1925 r., Journal of Laws No. 30, item 184; *Konwencja między Rzeczpospolitą Polską i Królestwem Włoch, dotycząca przepisów finansowych dla włoskich towarzystw ubezpieczeń, które działały na obszarze należącym obecnie do Rzeczypospolitej Polskiej, podpisana w Rzymie dn. 22 lipca 1925 r.*, Journal of Laws of 1926, No. 30, item 184.

¹⁶ Article 1 of the Regulation of the President of the Republic of Poland of 26 January 1928: *o kontroli ubezpieczeń*, Journal of Laws No. 9, item 64.

CONCLUSIONS

The struggle of Polish authorities to impose conditions on foreign insurers for obtaining licenses to operate in the insurance industry was long and, unfortunately, not fully effective. The intensified efforts of officials and reference to the principle of reciprocity did not help – after all, Polish regulations were not unique in this market segment. Similar and even more severe measures were also used in other countries. However, the power of foreign capital combined with effective pressure from the governments of the countries from which the companies operating on the Polish market came from outweighed the determination of our officers, striving to control and fully regulate the domestic insurance industry. Of course, the circumstances in which the fight against existing pathologies was carried out did not help – many years of struggle over the shape of the borders, the state's financial problems and numerous economic crises weakened the country and hindered the proper functioning of its organs.

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