

TRANSFRONTIER INSURANCE SERVICES AS THE DIRECTION OF THE EUROPEAN COMMON MARKET DEVELOPMENT

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Abstract. The goal of this article is to present transfrontier insurance services as a tendency of unified European market development. Development of transfrontier services in insurance sector is connected with the common insurance market creating. Borders crossing of insurance services is connected with freedom of human capital flow or with freedom of services. It is one of the fields of European financial market integration. Homogeneous market of insurance services works on the rule of harmonization of legal acts concerning minimal requirements in scope of: unified insurance license, supervision by the country where insurance company is based, freedom of establishment in both insurance sectors, technical reserves requirements according to total institution's assets, annual and consolidated reports requirements. Introducing reforms in European law and national laws helps to reveal insurance services in EU countries. The number of foreign insurers which will to operate basing on the freedom of services in Poland after EU accession in 2004 increased almost three times. In 2007 number of notifications gained 425 where 410 were from EU. In the meantime insurance companies seated in Poland engage more and more in transfrontier activity.

Key words: European Union common market, transfrontier insurance services, Poland

INTRODUCTION

Transfrontier insurance services are the subject of this study, were chosen because of union's market inconstancy perquisites. EU common market which develops dynamically

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is the subject of continuous changes. That's why we can not state that it's creation process is finished. Most of the problems connected with it are already legally regulated although there still are loopholes and regulations as well as execution implementation don't proceed with the same intensity on each particular market.

Common market of 21. century needs to cope with challenges: globalisation which brings many new opportunities [Jędrzejczyk 2007], structural changes connected with economy development of basing on knowledge, growing significance of services in economy, bigger energetic dependency, climate changes and growing old societies problems as well as bigger and more diverse European Union (EU) with 27 members.

The aim of this article is to show the results of directions on services development on the transfrontier market analysed on the European integration background processes.

Common EU market in 21. century is a solid base on which Europe can adjust to new reality. The unification of EU Law permitted on creating the standards, which in spite of big differentiation of member countries internal markets, integrated these markets with themselves [Przybytniowski 2007]. However, the common market needs to change and adjust continuously to keep the meaning and the role it has in stimulation of economic growth and social cohesion increase.

Treaty establishing the European Community [Dz. U. UE C 321 E z 29.12.2006] defines in art. 14 the common market as an area without any internal borders where the free flow of goods, human, services and finances is assured. This legal and commercial point of view makes it an area close to one country's territory.

The most significant meaning to companies has the freedom of entrepreneurship and the freedom of services regulated by the Treaty establishing the European Community.

THE FREEDOMS IN ASSURANCE SERVICES FLOW

The person who wants to take up business activity in other EU member country may exercise the freedom of human flow or the freedom of services. Distinction between these two freedoms has the key meaning in respect of the duties imposed by the internal law of the host country. The requirements for enterprisers are much further going in case of using the freedom of human flow than in case of using the freedom of service.

THE FREEDOM OF HUMAN FLOW

The freedom of human flow [art. 43 - 48 TWE] guarantees each EU citizen the right to move without visas or permissions, the right to settle down and take up business activity and work in any country of EU¹. Coordination of works was established on the union's level to eliminate adverse results of taking up work by EU citizens also in the sector of finance and insurance.

The citizens of one EU country taking up work or other economic activity in another EU country must be treated by this country in the same way its citizens are being treated

¹European Justice Tribunal statement in case C – 213 /89 „Factortame”.

without any discrimination. This rule with reference to workers means equal treating EU citizens i.e. in access to work payment and other work conditions. The freedom of human flow refers also to family members of migrating people. Realisation of freedom of human flow requires specified guarantees. The guarantees apply to election rights, access to work market, diplomas and work qualifications acceptance and social insurance systems coordination.

This means that assurance company with its seat in one EU country has the right to assurance activity in form of department or representation on another country territory on the rights of national treatment or equal subjects treatment.

The characteristics of this freedom are: independence, transfrontier and operate consistency. The member country citizen can take up economic activity in another member country. Polish citizen can take up and carry on economic activity in any EU country. This situation is called the primary enterprise freedom [Cieśliński 2002]. EU law guarantees that Polish entrepreneur can do his economic activity without any discrimination when compared to other countries citizens i.e. host country citizens.

There is another way of using the freedom of enterprise it's so called secondary freedom of enterprise (people who are entrepreneurs in their country e.g. in Poland but want to use the freedom of enterprise in another EU member country). This freedom guarantees the ability to widen the range of activity which already runs in native country [Cieśliński 2002]. In this case the ability of opening agency department or other unity has been foreseen.

FREEDOM OF SERVICES

Service according to EU law [art. 49 – 55 TWE] means the ability to create companies on other member country territory and economic activity based on self employment rules.

The following kinds of freedom connected with services flow are identified:

1. Active freedom of service, the service provider goes to customer's country to service, he crosses the border himself (e.g. device installation);
2. Passive freedom of service, the customer goes to service provider's country to take service (e.g. tourists, medical care takers);
3. The freedom of good/service flow, service provider as well as customer stay in their countries and the product crosses the border (e.g. TV or radio programs transmission).

In EU legal system assurance domain is regulated by number of directives referring to each of assurance activity field: life insurance and property insurance and other personal as well as an extra supervision to assurance financial groups, obligatory civil liability and assurance agency. This freedom [Maria Blahova, Anna Majtanova] allows the insurance company with its seat or agency in one member country to operate in other member country without placing there separate organisational unit on the same rules as family insurance companies.

In practice it has the following form [Sodolska 2005]:

1. Insurer goes to another member country to service potential customers – insureds placed in this country,

2. Potential insurant goes to member country where insurer is placed,
3. Both – the insurer and insurant go to the third country where none of them is placed,
4. Situation when neither insurer nor insurant are going to another country but the service is moving, in this case the assurance contracts are made at a distance by post or any other communication medium e.g. Telephone or Internet.

Information transfer is an important thing in transfrontier activity of particular assurance institutions. As only national supervisory institutions have essential information, EU supervisory institutions are obliged to exchange statistic information about transfrontier activity of controlled assurance companies in EU together for all of them.

NOTIFICATION OF INSURANTS ON HOMOGENEOUS ASSURANCE MARKET

Directive's decisions (so called first generation changed by the third generation) arrange categories of subjects which do assurance activity in sectors I and II in one of union's countries. Proper permission by appropriate institution of native country is needed to drive an assurance activity on one Union's country territory. This rule is based on one license and enables to do assurance activity within the framework of the two freedoms (of service and of enterprise) on European Community territory. It isn't requisite to confirm the license in the countries where the activity is being done.

According to the legal acts valid in Poland the only possible legal forms of assurance activity are: joint-stock company and mutual assurance company. On the other hand in Great Britain insurers legal forms are joint-stock companies or Lloyd's corporation members². The directive allows the possibility of doing assurance activity in any permitted by public law form under the circumstance that the subject of activity is identical to assurance companies activity set on private law.

The fact that permission for assurance activity gained in proper institution of native country does not undergo to control of the country where the activity is done is essential. The situation is different when assurance company wants to open the branch of mother company in other union's country. The opinion of supervisory authorities of the native country needs to be inquired.

On the base of information from Financial Supervision Commission (KNF) we can state that assurance companies from 16 EU/EEA countries have been operating in Poland in 2006. In 2004–2006 the biggest share in collected premium was to companies from Great Britain (in 2004 – 45% and in 2006 – 37% of total collection from foreign insurants in Poland).

In 2004 160 foreign companies reported the will of doing activity in Poland on the base of notification, 157 of them where from EU. In 2007 the number of notifications

²Lloyd's of London – established in the end of XVII century. Since the very beginning Lloyd's led the assurance industry. Lloyd's was the creator of the first car insurance policy, satellite, against the computer crimes and covering the risk of false cheques and credit cards. The corporation has the opinion of specialist of taking non-standard risk www.lloyds.com

Table 1. Assurance companies of EU and EFTA countries – the sides of EEA in 2004–2007

Tabela 1. Notyfikowane w Polsce zakłady ubezpieczeń państw członkowskich UE i Europejskiego Porozumienia o Wolnym Handlu (EFTA) – stron umowy o Europejskim Obszarze Gospodarczym (EEA) w latach 2004–2007

Country	2004	2005	2006	2007	Summary
Great Britain	48	22	28	13	111
Ireland	29	25	11	8	73
Luxemburg	4	11	6	5	26
Germany	1	5	5	7	28
Sweden	6	9	2	6	23
Italy	11	7	3	1	22
France	9	4	5	2	20
The Netherlands	7	4	1	6	18
Austria	8	2	5	2	17
Czech Republic	5	3	0	1	9
Hungary	3	3	1	5	12
Belgium	5	3	0	1	9
Spain	2	0	2	3	7
Finland	2	4	0	0	6
Denmark	3	1	1	2	7
Slovakia	1	3	1	0	5
Lithuania	1	1	2	0	4
Slovenia	1	2	0	0	3
Estonia	0	2	0	0	2
Malta	0	1	0	2	3
Latvia	1	0	0	1	2
Cyprus	0	0	1	0	1
Romania	0	0	0	1	1
Bulgaria	0	0	0	1	1
Together (EU countries)	157	112	74	67	410
Lichtenstein	3	0	4	2	9
Norway	0	0	0	5	5
Gibraltar	0	0	0	1	1
Summary EEA	160	112	78	75	425

Source: Own elaboration on statistical data of KNF and the report of KNF, Warszawa 2008.

Źródło: Opracowanie własne na podstawie sprawozdania statystycznego i raportów KNF, Warszawa 2008.

grew up to 425 where 410 were from EU. Most of the companies came from Great Britain (111 notifications) and Ireland (73 notifications) [KNF report 2008]. On the agencies market [Insurance... 2007] brokers cooperated with 30 notified companies from EU/EFTA where 13% of total collections by brokers where located.

Assurance companies seated in Poland engage more and more in transfrontier activity. notifications for external (foreign) activity by agency has i.e. AMPLICO-LIFE S.A. – in Lithuania, Latvia and Estonia. 17 national assurance companies have notifications for external (foreign) activity based on freedom of service in 27 countries [www.knf.gov.pl].

Table 2. Notification of assurance companies from EU operating in Poland as departments
 Tabela 2. Notyfikacje zakładów ubezpieczeń z UE prowadzących działalność na terenie Polski w formie oddziału

Designation department	Country	Date of notification
Prevoir-Vie Groupe Prevoir S.A.	France	2000 (conversion on 1 May 2004)
Cardif-Assurances Risques Divers SA	France	2001 (conversion on 1 May 2004)
COFACE Austria Kreditversicherung AG	Austria	2003 (conversion on 1 May 2004)
XL Insurance Company Limited	Great Britain	2004 (conversion on 1 May 2004)
Atradius Credit Insurance NV	The Netherlands	2004 (notification on 1 May 2004)
Europaiache Reiseversicherung Aktiengesellschaft	Germany	2004 (notification on 1 May 2004)
ACE European Group Limited	Great Britain	2005 (notification on 1 May 2004)
AIG Europe S.A.	France	2006 (notification on 1 May 2004)
Avanssur S.A.	France	2006 (notification on 1 May 2004)
Liberty Europe	Spain	2007 (notification on 1 May 2004)
Medicover Insurance AB	Sweden	2007 (notification on 1 May 2004)

Source: Own elaboration on statistical data of KNF and the report of KNF, Warszawa 2008.

Źródło: Opracowanie własne na podstawie sprawozdania statystycznego i raportów KNF, Warszawa 2008

The most of national insurers have the notification for foreign activity based on freedom of service on the territory of Czech Republic and Lithuania (13 companies). Trans-frontier activity Polish companies do in three countries: Czech Republic (deals based on the freedom of service – one company) and in Lithuania and Latvia (deals based on the freedom of enterprise – one company).

LISBON STRATEGY AND FINANCE MARKETS

The conception of finance market in EU integration should be considered on two grounds [Leszczyński 2007]:

1. integration of sectors (dependence of bank assurance and finance sectors increase),
2. transfrontier integration (merger of finance markets into one European finance market with common infrastructure).

Since 2000 the conversations about financial system safety are in process in EU. The process should cope with common finance market requirements. The works on standardising financial market in EU are the base of Lisbon Strategy³. This strategy is an answer to globalisation challenges. Without united financial market EU won't be able to compete Asian or USA's economy.

Consolidated financial market is connected with bigger competition between financial institutions: banks, stocks, assurance companies, investment funds etc... Greater compe-

³Lisbon Strategy – progress plan for European Union accepted by European Council in 2000. Its aim is to make the EU „the most dynamic and competitive knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion, and respect for the environment by 2010” set against the background of productivity in the EU being below that of the US.

Table 3. National assurance companies in Poland having notification to operate abroad
 Tabela 3. Krajowe zakłady ubezpieczeń w Polsce posiadające notyfikację na działalność zagraniczną

Assurance Companies	Countries where insurant operates basing on notification
Commercial Union Polska TUnŻ S.A.	Lithuania, Latvia, Slovakia
Commercial Union Polska TU Ogólnych SA	Lithuania
TUiR Cigna STU S.A.	Sweden, Germany, Lithuania
AIG Polska TU S.A.	Czech Republic, France, Great Britain, Hungary, Ireland, Latvia, Slovakia
Euler Hermes TU S.A.	Italy, Great Britain, Finland, Slovakia, Luxemburg, Greece, Portugal, Denmark, Belgium, Spain, Sweden, Cyprus, Malta, Czech Republic, Austria, Slovenia, Latvia, Estonia, Hungary, Ireland, France, The Netherlands, Germany
Royal Polska TUnŻ S.A.	Slovakia, Lithuania, Latvia, Estonia, Czech Republic
PZU S.A.	Germany, Lithuania, Latvia
TU Allianz Polska S.A.	Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Spain, The Netherlands, Ireland, Lithuania, Luxemburg, Latvia, Malta, Germany, Portugal, Slovakia, Slovenia, Sweden, Hungary, Great Britain, Italy
STU Ergo Hestia S.A.	Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Spain, The Netherlands, Ireland, Lithuania, Luxemburg, Latvia, Malta, Portugal, Slovakia, Slovenia, Sweden, Germany, Hungary, Great Britain, Italy
TU Filar S.A.	Hungary, Slovakia, Germany, Czech Republic, Estonia, Lithuania, Latvia
FinLife TUnŻ S.A.	Ireland
MetLife TUnŻ S.A.	Great Britain, Czech Republic, Hungary
Gerling Polska TU S.A.	Lithuania, Finland, Slovakia, Czech Republic, Austria, Slovenia, Latvia, Estonia, Hungary, Luxemburg, Greece, Island, Portugal, Norway, Denmark, Great Britain, Belgium, Spain, Sweden, Cyprus, Malta, Ireland, France, The Netherlands, Italy
TUnŻ SKOK S.A.	Great Britain, Hungary, Czech Republic
Uniqa TUnŻ S.A.	Czech Republic, Estonia, Lithuania, Latvia, Germany, Slovakia, Hungary
Uniga TU S.A.	Czech Republic, Estonia, Lithuania, Latvia, Germany, Slovakia, Hungary
TUiR Warta S.A.	Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Spain, The Netherlands, Ireland, Island, Liechtenstein, Lithuania, Latvia, Malta, Germany, Norway, Portugal, Slovakia, Slovenia, Switzerland, Sweden, Hungary, Great Britain, Italy

Source: Own elaboration on statistical data of KNF and the report of KNF, Warszawa 2008.

Źródło: Opracowanie własne na podstawie sprawozdania statystycznego i raportów KNF, Warszawa 2008.

tion means lower credit prices and lower cost of capital gaining finance transfers, more attractive forms of saving, better service etc...

It's estimated that securities market and getting into this market procedures standardising will allow gross domestic product (GDP) in EU to grow by 1,1% and employment by 0,5%. However particular countries will benefit in other ways.

CONCLUSIONS

Homogeneous market of insurance services works on the rule of harmonization of legal acts concerning minimal requirements in scope of: unified insurance license („single passport”), supervision by the country where insurance company is based, freedom of establishment in both insurance sectors, technical reserves requirements according to total institution's assets, annual and consolidated reports requirements and special supervision to insurance groups („solo plus” supervision).

Introducing solutions in European law and national laws helps to reveal insurance services in EU countries.

The number of foreign insurers which will operate basing on the freedom of service in Poland after EU access increased almost three times. In 2007 number of notifications gained 425 where 410 were from EU.

In the meantime insurance companies seated in Poland engage more and more in transfrontier activity.

Most of the national insurers have notification for foreign activity basing on the freedom of service (17 companies operate in 27 countries) basing on the freedom of service – one company and basing on the freedom of enterprise – one company.

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TRANSGRANICZNE USŁUGI UBEZPIECZENIOWE JAKO KIERUNEK ROZWOJU JEDNOLITEGO RYNKU EUROPEJSKIEGO

Streszczenie. W artykule zaprezentowano rozwój transgranicznych usług ubezpieczeniowych jako tendencję pogłębienia się integracji w ramach jednolitego rynku Unii Europejskiej. Jednolity rynek usług ubezpieczeniowych funkcjonuje na zasadzie harmonizacji przepisów dotyczących minimalnych wymagań w zakresie: jednolitej licencji ubezpieczeniowej („single passport”), nadzoru sprawowanego przez kraj siedziby zakładu ubezpieczeń, swobody zakładania przedsiębiorstw w obu działach ubezpieczeń, wymogu rezerw technicznych w odniesieniu do całości aktywów instytucji, wymogu rocznych i skonsolidowanych sprawozdań oraz specjalnego nadzoru nad grupami ubezpieczeniowymi (nadzór „solo plus”). Wprowadzanie w życie rozwiązań w prawie europejskim i prawach krajowych sprzyja rozwojowi transgranicznych usług ubezpieczeniowych w krajach UE. Liczba zagranicznych ubezpieczycieli, którzy na zasadzie swobody świadczenia usług zgłosili zamiar prowadzenia działalności na terenie Polski po wstąpieniu do UE wzrosła niemal trzykrotnie. W 2007 liczba notyfikacji wzrosła do 425, z czego z UE 410. Jednocześnie zakłady ubezpieczeń z siedzibą w Polsce w coraz większym stopniu angażują się w działalność transgraniczną.

Słowa kluczowe: Jednolity rynek Unii Europejskiej, transgraniczne usługi ubezpieczeniowe, Polska

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