

სამშენებლო საქმიანობის დაზღვევის სახელმწიფო რეგულაციების
ლირება უკრაინაში

THE PUBLIC REGULATION OF INSURANCE OF
CONSTRUCTION ACTIVITIES IN UKRAINE

ვლადიმერ მელკო

ჩერნიგოვის ეროვნული ტექნოლოგიური
უნივერსიტეტის ასპირანტი,
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ანოტაცია

სტატია ეძღვნება სამშენებლო საქმიანობის დაზღვევის სახელმწიფო რეგულირებას უკრაინაში. გაანალიზებულია სამშენებლო დარგის განვითარების და სადაზღვევო პროდუქტის შეთავაზების დინამიკა. დასაბუთებულია, რომ დღეისათვის უკრაინაში სამშენებლო რისკების შემცირების მიზნით საკმაოდ აქტიურად და დინამურად ვითარდება როგორც სამშენებლო ინდუსტრია, ასევე სადაზღვევო პროდუქტები. გაკეთებულია დასკვნა მთლიანი სადაზღვევო დაფარვის შემოღების მიზანშეწონილობის შესახებ, ცალკეული რისკების დაფარვის ნაცვლად. ამ შემთხვევაში დაზღვევა იცავს მნიშვნელოვანი ფინანსური დანაკარგებისაგან და ამოფხვრის სარეზერვო ფონდების მომსახურების აუცილებლობას.

საკვანძო სიტყვები: მშენებლობა, სამშენებლო რისკების დაზღვევა, სამშენებლო საქმიანობის დაზღვევის რეგულირება.

Abstract

The article deals with the public regulation of insurance of construction activities in Ukraine. The dynamics of the construction industry development and insurance products supply are analyzed. It is proved that the construction industry and insurance products in the area to diminish construction risks are developing now in Ukraine very dynamically. It was concluded that it is appropriate to introduce total insurance coverage instead of individual risks coverage. In this case insurance protects against significant financial lost and eliminates the need for maintenance of reserve funds, diverting investment capital.

Keywords: construction, construction risks insurance, public regulation of construction activities. of the insurance market.

Problems definition. Insurance in construction industry is an integral part of the investment process in the transition and development of market relations. Insurance allows to compensate the policyholder losses arising in sudden and unforeseen manner during all stages of investment and performance of construction, such as the development of technical specifications to commissioning. Insurance of construction risks is aimed to protect the investment in the industry.

Analysis of recent research. An important contribution to research on the regulation of insurance was made by Ukrainian scientists such as V. Bazylevych, A. Zaruba, M. Mnich, V. Oparin, S. Osadets, V. Plisa, L. Reitman and others. In particular, scientists defined the theoretical approaches to the essence of insurance operations, the classification of types of insurance, and also the strategic directions of improvement of public administration

Unsolved aspects of the problem. At the same time, it is necessary to fulfil relevant research on insurance in the construction industry in the context of finding ways to improve public regulation of insurance of construction risks. The article is to determine areas of improvement of public regulation of insurance of construction activities in Ukraine.

Presenting main material. Despite the economic crisis in Ukraine that befell the construction industry, it can be observed a positive trend. Here are some details. In view of the total area of housing put into operation (according to information of The Ministry for Regional Development, Building and Housing of Ukraine), it has been commissioned housing more than 11 mln m² in 2015, compared to 2,4 mln m² in 2010.

Slightly decreased the total number of unfinished buildings and engineering structures: from 27,383 in

2004 to 16,380 in 2014 [2].

Underlined that the construction industry is one of the most risk one on industrial accidents. The impact of weather events and natural disasters, failure to perform its obligations by third persons are factors to increase risks. Making insurance of construction risks allow the construction company to remove the burden of possible additional costs. Risks can not only significantly affect the profitability of the project, but also disrupt the time of construction. In the case of insurance, the customer also ceases to be a hostage to the financial capacity of the contractor and receives effective controller of the construction process in the face of engineers provided by the insurance company.

The relationship of insurance regulated by the Law of Ukraine "On insurance~ [7]. However, this legal act does not contain specific provisions concerning insurance for construction. Also, insurance risks inherent in the construction industry not related to the compulsory risks. Such shortcomings in the state regulation of insurance of construction risks lead to neglect of builder's insurance protection mechanism for saving working capital, despite the numerous facts of injuries, damages, obligations.

In order to resolve the issues of insurance activity in construction it was approved Regulations on insurance risks in construction [4] (1994). It contains a procedure for insurance of construction risks insurance conditions and requirements for organizations engaged in insurance coverage. In terms of insurance it was stated that the standard amount covering insurance risks in construction include: fire, lightning, explosion of gas; performance of the underground heat, rock falls, landslides, storm, hurricane, rain, flood, flood, hail, rural; steam explosion devices, gas storage, gas pipelines; blast machinery, apparatus and appliances that operate on compressed gas and air; internal damage to electrical installations, equipment and machinery from the effects of electric current; theft, destruction, damage to the insured property as a result of illegal actions of third parties; destruction or damage to building structures during the construction or installation works at the construction site of the fault of the insured (staff) and individuals for the acts of which he is responsible. The Regulation refers to the transition to the principle of risk insurance "All risks of construction.~

Also Recommendations on insurance risks in construction [6] (2008) contain provisions on voluntary insurance of construction project (work package) and third party's liability related to the execution of construction and commissioning of the construction process.

In practice, no provisions or recommendations are not fully applied. Scientists say that today the insurance of construction risks in Ukraine are afforded only by large professional insurers that have reinsurance with foreign reinsurers - members of IMIA. These companies also usually provide the qualified analysis process of construction risks and have real assets and technical reserves to maintain their own risks. Only a few companies now meet these requirements. Most companies insure construction risks for fire damage. However, this does not mean that the insurance of construction risks in Ukraine has no future. First, according to market participants' information,

though very slowly, but the share of such policies in the total amount of insurance increases. Secondly, the certain steps were made to streamline the legal and regulatory framework. Thirdly, the growing culture of security developers themselves and their interest in building high-quality insurance risk is the real fact today in Ukraine [8].

At the same time, domestic insurance companies developing insurance products for the construction industry, recognize the development of building technology and the growing complexity of problems that arise in the construction of modern buildings. To have the usual difficulties of carrying out a high-rise work includes the need to respect advanced technologies and new building materials. Obviously, in the case of compliance with all regulations and requirements, destruction facilities and risk of injury to workers and equipment are not significant, but when allowance engineering or technical errors it significantly increases.

In particular, CJSC ~European Insurance Union~ offers insurance of construction risks [10]. Insured may be a legal entity or capable individuals (customers, contractors, subcontractors and other regardless of subordination and ownership) which are located in Ukraine and concluded with the Insurer Agreement of voluntary insurance of construction risks.

Under certain conditions specified in the insurance contract to insurance claims may include: an impression of the insured property electrocution as a short circuit, overload the electrical outlet; breaks ropes, chains, falling parts and other items on the insured property; errors in installation work, leading to damage or destruction of insured property; accident vehicles used on the construction site, which resulted in damage or destruction of insured property [10].

Analyzing the above mentioned insurance products of the domestic insurance company it may be concluded their inconsistency nature. A list of these types of insurance do not exceed the standard property insurance and liability insurance. The only difference is that domestic insurance companies are trying to inflate rates due to increased riskiness of construction activity. However, no practice of complex insurance of construction risks and no specific insurance products were designed specifically for insurance of risks in construction in Ukraine.

Insurance coverage on "all risks" must provide protection not only from classical dangers such as fire, natural disasters, the onset of civil liability to third parties, etc., but also from a purely specific risks, such as designer error; the use of defective materials; negligence of staff; impact of electric current; ropes break, slings break and other auxiliary equipment.

The insurance amount includes the amount for facilities construction and installation (in the amount of their actual value), and on the amount of liability for damage that may be caused to third parties. Insurance coverage is provided for the duration or scope of the implementation of construction and installation project from the moment of unloading construction materials and / or equipment to the construction site until commissioning. It is possible to increase provided insurance period for a period of trial or warranty.

At present, the share of construction risks in the

portfolio in Ukraine is no more than 2% of the total insurance. It is impossible to have more precisely learn about specific numbers. Worldwide almost 100% construction risks are insured [8].

No doubt that the insurance of property and technical risks are rather complex insurance products that meet the needs of insurers and policyholders. A wide variety

of categories of property objects presupposes the existence of questionnaires that reflect the specific risk and take into account that insurance may be used related to typically high cost items [1].

General dynamics of insurance in terms of the types, characteristic, including for the construction sector is shown in Figure 1.

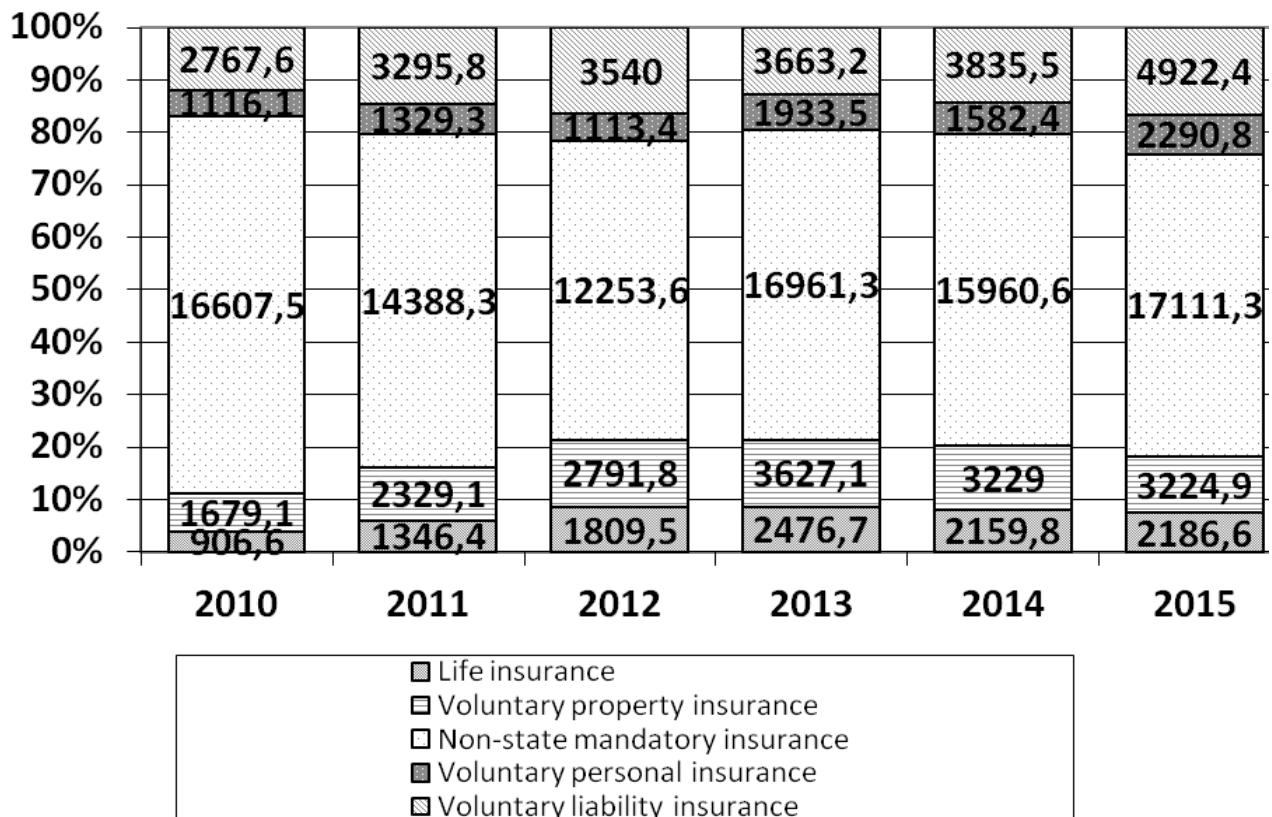


Fig. 1. Gross premiums by type of insurance in years 2009-2015, mln. UAH.

Source: Compiled by the author of the source [3]

These figure show a relatively stable performance of the insurance industry in terms of gross premium income. Slight increase in 2015 primarily attributed to the cost of insurance policies, rather than expanding the range of insurers.

According to the practice of insurance of construction risks by domestic insurance companies, insured amount (liability limit (liabilities) insurer) in case of insurance of construction risks are generally set at the full estimated value of construction and assembly work (transaction value building and construction works), including the cost of design, technical documentation and labor. The sum insured can be established: for construction works; for assembly work; for building materials and structures; construction machinery and equipment; equipment for construction sites; auxiliary facilities; existing objects (property), etc. [5].

Also the adjustment of the sum insured and the insurance payment according to the final cost of construction works may be provide in the insurance contract.

If the insurance amount is a fraction of the cost of

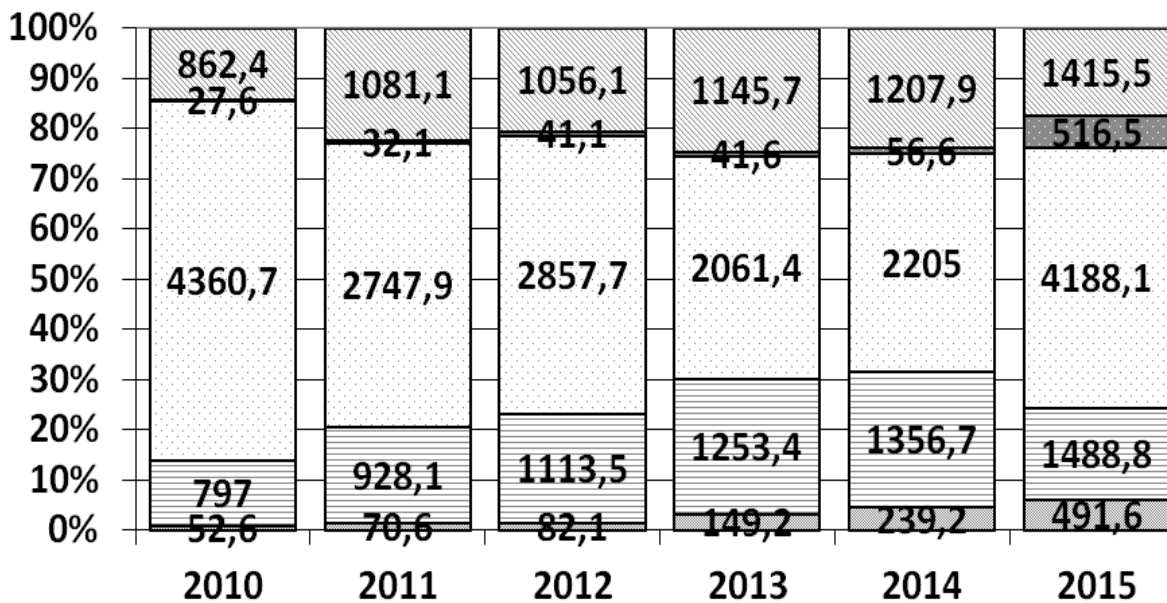
the insured object of construction works or insured property, insurance compensation is paid in the same proportion of the insured event defined for damages, unless otherwise provided by the terms of the contract. This applies to every object of construction works or property separately. Insurance contract may provide for the level of deviation from the previous value of work, the final cost of the work, which does not apply the rule of proportionality.

Insurance rates are calculated actuarially (mathematically) on the basis of relevant statistics of insurance cases. The specific amount of the insurance rate is determined at the conclusion of the contract by mutual consent.

Depending on the type of construction works, insurance risk and other factors, the insurance contract may provide for conditional and (or) unconditional franchise whose dimensions are determined by the parties at the conclusion of the contract. If the insurance contract provides for a conditional franchise, the insurer does not indemnify the Insured in the insurance if their size is less

than or equal to the conditional franchise, and completely compensates insured losses under the terms of the contract within the sum insured if their size exceeds the insurance contract conditional franchise. Typically, the fran-

chise established in respect of all damage for one claim. If there are several insurance claims, the franchise will be deducted from the amount of damage of any and every insured event.



■ Life insurance ■ Voluntary property insurance ■ Non-state mandatory insurance ■ Voluntary personal insurance ■ Voluntary liability insurance

Dynamics of claims for certain types of insurance and related construction activities are shown in Figure 2.

Fig. 2. Insurance payments by type of insurance in years 2009-2015, mln. UAH.

Source: Compiled by the author of the source [3]

In respect of claims we can observe a relatively stable performance. However, we may have stepped out significantly increased payments for voluntary liability insurance, from 27.3 million in 2010 to 56.6 million in 2014 and a sharp increase in 2015 to 516.5 mln. But again, we cannot analyze the level of insurance premiums for the insurance of construction risks.

According to the rules of domestic insurance companies, insurance compensation in case of loss of the object of construction works and (or) insured property is defined within the respective sum insured. It is a subject to the conditions of the insurance contract, whichever is with smaller amounts will be based on: replace the value of the object of construction works and (or) insured property or the present value of the construction works and (or) used for functional purposes etc.

The insured has no right to abandon the property remaining after the insured event, even damaged. The residual value of such property is subject to deduction of the amount of loss. If it is stipulated in the insurance contract, the insurer has the right to object in case of loss of construction works and (or) define the insured property insurance compensation based on the value of the sum insured on the basis of the contract. This remains the property suitable for further use or sale of the property transferred to the insurer or its representative within the period specified

by the latter.

Insurance indemnity in case of theft of the insured property is determined based on its actual value at the date of the insured event within the respective sum insured subject to the conditions of the insurance contract.

Insurance compensation in case of damage to the object of construction works and (or) insured property is determined based on the value of the cost of its restoration (repair) to the statement in which they were immediately before the insured event, but no more appropriate sum insured. In determining insurance compensation to the calculation accepted only construction and assembly works and their cost parameters that were included in the contract (estimate) value and sum insured under the contract of insurance.

The cost of the necessary cost recovery (repair) of damaged facilities of construction works and (or) insured property are only costs caused by the insured event. Costs for restoration (repair) includes the cost of materials and spare parts needed to repair property.

One of the main peculiarity of the insurance mechanism in construction activities is a specific insurance product that has high scientific standards, including underwriting insurance risks and the implementation of all complex insurance services. The complexity of the mechanism of insurance of construction risks primarily ex-

plained by the complex nature of the technical risks and their diversity, which in turn complicates the task of government regulation on the development of this segment of insurance.

Conclusions. Undoubtedly, the insurance of construction risks is an effective mechanism for protecting investments in construction. The need for insurance protection mechanism is confirmed by international practice.

Subject to the rules of the Commercial and Civil Codes of Ukraine and regulations of the Cabinet of Ministers of Ukraine and the Ministry of Regional Development, it is appropriate to amend the Law of Ukraine "On insurance" as part of making the insurance of construction risks to compulsory insurance. Thus, in our view, construction risk insurance should be one of the important stages of construction projects.

For the construction industry are inherent in almost all insurance risks excluding agricultural (crops, animals). All materials, equipment and contract work can

be the subject of insurance. It includes preparation of the construction site for signing the act of acceptance of the object and the warranty period, including of construction, including zero cycle, building walls, ceiling installation, etc. installation of all systems, networks and communications engineering, decoration, equipment installation, commissioning, landscaping, temporary buildings and structures, construction equipment construction site.

In our opinion, given the international experience of building activity risk insurance is advisable not to introduce coverage of individual risks and all risks that can occur on the site. Such a policy made in terms of CAR (Contractors All Risks), can provide effective insurance coverage under construction and the real financial protection of construction companies. Insurance in this case protects against significant financial lost and eliminates the need for maintenance of reserve funds, diverting investment capital.

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