

## THE INSURANCE MARKET IN THE REPUBLIC OF CRIMEA AND SEVASTOPOL: THE ISSUES OF ADAPTATION TO THE RUSSIAN LAW

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*Harmonization and bringing the law of the Republic of Crimea and the city of federal status Sevastopol into compliance with the Russian legal framework is a necessary element to be implemented following the accession of the foregoing territories to the Russian Federation. The 10-month transition period established for the Crimean territory expired on 1 January 2015. The legislator created apparent law execution problems arising from the short transition period, which can be addressed by introducing more tools and instruments.*

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However legal problems in certain economic domains, in particular insurance, still remain to be addressed. These problems are existing because Russia has taken a formal approach to the convergence of the insurance law: no consideration was made as to how Crimean citizens would apply the laws adopted in compliance with the Russian legislation. The issues arising on the accessed territories cannot be tackled only by legal instruments. A holistic approach should be taken: a combination of law enforcement, economic and other methods of applying the laws and regulations which were established on the foregoing territories. The formal existence of a law cannot guarantee effective legal regulation of relations arising therefrom. In addition, Russia amid economic sanctions should strengthen its insurance sector, because insurance is considered as the basis of safe economic development of both the new territories and Russia as a whole. In particular, this postulate is also embodied in the studies conducted by international organizations. According to the OECD, insurance is one of the most important risk management instruments available for governments and the private sector: insurance, according to the OECD, accounted for 7.5% of the world GDP in 2014 and 7.0% in 2013.

The insurance sector in the accessed territories is being faced first of all by general problems arising in the entrepreneurship regulation. The key problem is registration of legal entities and self-employed entrepreneurs. There is no problem with new legal entities and self-employed entrepreneurs, because they are registered in compliance with Federal Law No. 129-FZ "On State Registration of Legal Entities and Self-

employed Entrepreneurs" dated 8 August 2001. All of the previously registered legal entities and self-employed entrepreneurs must be reregistered pursuant to Federal Law No. 506-FZ "On Amendments to Article 19 of the Federal Law "On the Introduction of Part 1 of the Civil Code of the Russian Federation"" dated 31 December 2014.

The Law was designed for the purpose of providing legal entities which were located on the territory of the Republic of Crimea and Sevastopol on the date of their accession to the Russian Federation with possibilities to bring their articles of association into compliance with the Law of the Russian Federation.

The legislator extended the term for this purpose, prior to the expiration of which such legal entities may apply for being registered with the Unified State Register of Legal Entities, 1 January 2015 to 1 March 2015, and until 1 July 2015 for legal entities other than farmer enterprises.

At the same time, it is provided for by Federal Law No. 506-FZ that legal entities located on the territory of the Republic of Crimea and Sevastopol which will fail to apply for being registered with the Register and will not be granted the status of foreign legal entity's branch (office) within the prescribed time limit may not conduct any activity on the territory of the Russian Federation and are subject to liquidation.

There are no fundamental differences between Russia and Ukraine in the registration procedure for business entities and documentation requirements. This is why it seems, in our opinion, reasonable to introduce more legal instruments. For instance, the number of self-employed entrepreneurs was reduced six times from 137,000 in January 2014 to 22,000 in January 2015<sup>1</sup> due to organizational problems in reregistering in the Republic of Crimea. In our opinion, the registration term should be extended, because created technical barriers have an adverse effect on the freedom of enterprise.

<sup>1</sup> Delovloi Krym (Business Crimea) [electronic resource] // URL: <http://d-crimea.ru/> (date of access: 13.07.2015)

The organizational problems had an adverse effect on the insurance sector too. The All-Russian Union of Insurers previously anticipated that the Crimea accession to the Russian Federation would increase 1%, or by Rb 9bn, the aggregate volume of insurance premiums of Russian insurers, given the substantial difference in tariffs between Ukrainian and Russian insurance companies. In addition, such companies would have more than 2 million new customers. It didn't happen in practice however. According to the Russian central bank, the volume of insurance premiums under voluntary and compulsory insurance generated in the first nine months of 2014 by Russian insurance companies in the Crimea and Sevastopol accounted for Rb 72.2m or 0.01% of the total amount of premiums of the entire market (Rb 741.77bn) including Rb 63.2m in the Crimea and Rb 9m in Sevastopol<sup>1</sup>. This can be explained first of all by the existing problems in the motor insurance domain on the territory of the Crimea and Sevastopol. This insurance domain is prevailing on the accessed territories: 33513 insurance contracts including 25,088 OSAGO (stands for 'compulsory third party car insurance') contracts were concluded in the Crimea, 4316 in Sevastopol, of which 3,676 are OSAGO insurance contracts<sup>2</sup>.

Amendments were made in 2014 to the Russian Internal Affairs Ministry Executive Order No. 282 dated 28 March 2002 "On State Vehicle Registration Plates"<sup>3</sup>. As a result, Russian vehicle registration plates were introduced on the territory of the Republic of Crimea and Sevastopol. At the same time, special replacement of state vehicle registration plates is performed routinely, for example, when a vehicle (car) is sold. This creates problems when an OSAGO policy is purchased. Insurance companies cannot issue OSAGO policies until vehicle registration plates are replaced, and motor vehicle driving without an OSAGO policy is prohibited in the Russian Federation<sup>4</sup>.

1 The 2014 Report of the Central Bank of the Russian Federation [electronic resource] // URL: [http://www.cbr.ru/sbrfr/?prtid=insurance\\_industry](http://www.cbr.ru/sbrfr/?prtid=insurance_industry) (date of access: 13 July 2015).

2 The 2014 Report of the Central Bank of the Russian Federation [electronic resource] // URL: [http://www.cbr.ru/sbrfr/?prtid=insurance\\_industry](http://www.cbr.ru/sbrfr/?prtid=insurance_industry) (date of access: 13 July 2015).

3 Russian Internal Affairs Ministry Executive Order No. 282 dated 28 March 2002 "On State Vehicle Registration Plates"// Rossiyskaya Gazeta. No. 70. 2002.

4 Author's note: Under Paragraph 6, Article 13 of Federal Law No. 37-FZ of 2 April 2014 "On the Specific Features of Functioning of the Financial System of the Republic of Crimea and the city of federal status Sevastopol During the Transition Period", OSAGO insurance for the citizens of the Republic of Crimea and Sevastopol with regard to motor vehicles registered under the legislation of Ukraine and employed on the foregoing territories shall be performed pursuant to the rules and provisions set forth in Federal Law of 25 April 2002, No. 40-FZ "Concerning Compulsory Civil Insurance of Owners of Means of Transport".

Thus, upon expiration of the transition period, motor vehicles registered under the Ukrainian law in the Republic of Crimea and Sevastopol may not be legally employed until an OSAGO policy is purchased. OSAGO policies for motor vehicles registered under the Ukrainian law are purchased at different tariffs which are normally applied to foreign car owners.

In addition, the price of OSAGO policy in the Crimea until 31 December 2014 was about 1,500 rubles, i.e. the lowest coefficient (0.6) was applied (which is used to calculate the OSAGO base tariff) given the currently low level of wages in the Crimea. However, as early as since 1 January 2015, when the transition period for the Crimea and Sevastopol expired, Russian insurers raised the OSAGO policy cost so that it can be equal to that applied to other Russian regions (for example, the cost (1,800 rubles) of OSAGO policy in the Crimea and Sevastopol is as much as that in the Samara and the Ulyanovsk Regions)<sup>5</sup>. Nevertheless, yet this cost is less than the Russian average cost of OSAGO policy (2,400 rubles) even after the former has been raised (and insurance companies derive no benefit from selling such policies on the territory of the Crimea and Sevastopol. In addition, there is another factor – a weak competition in the insurance market – which keeps up high cost of the OSAGO policy, and it is related to the risk of sanctions being imposed on insurance companies by the global community. This is what prevents major Russian insurance companies from operating directly in the Crimean Peninsula, and this is why it is companies with the membership in the Russian Association of Motor Insurers that are acting as main enterprises in the Crimean OSAGO market. Note that a few of small-sized insurers in which the Russian central bank has a temporary administration representing the Russian central bank were active in 2014 in the OSAGO. At present, however, it is RECO-Garantia and Rosgosstrakh, two of the largest members of the Russian Association of Motor Insurers, that are most active in selling insurance policies through insurance intermediaries in the region.

For general law purposes, these issues can be addressed as follows:

- amid the regime of sanctions and poor development of the car insurance market, extend until 1 January 2016 the transition period (which may be further extended) of the Crimea and Sevastopol for the purpose of insurance adaptation. In doing so, the insurance market must develop within the context of the Russian social policy which aims to raise wages;

5 OSAGO Calculator [electronic resource] // URL: <http://www.1calculator.ru/osago> (date of access: 03 July 2015)

- simplify procedures for issuing Russian vehicle registration plates and bind owners of vehicles to replace the Ukrainian vehicle registration plates. The procedure can be simplified by drawing on the Moscow practice through opening a around-the-clock Office of the State Automobile Inspectorate of the Russian Federation, which operates under the principle of one-stop-shop and queue management system;
- introduce until 1 January 2016 additional tax allowances for insurance agents on the territory of the Crimea and Sevastopol (for example, tax holidays).

These problems are being faced by the medical insurance as well. About 1.5 million Crimean citizens have to date obtained a compulsory medical insurance policy, about 240,000 persons have applied for the policy and received a provisional document which may be used as authentic policy until the latter is issued. Furthermore, about 12% of the inhabitants of the Crimean Peninsula have to date not obtained a compulsory medical insurance policy.

Nevertheless, the inhabitants of the accessed territories were supposed to get registered by 1 January 2015 with the compulsory medical insurance system to be eligible to free medical assistance. The procedure for the foregoing registration is defined in the Federal law "On Compulsory Medical Insurance in the Russian Federation". The Territorial Federal Compulsory Medical Insurance Fund of the Republic of Crimea admit that the key problems relating to the execution of the compulsory medical insurance law are as follows:

- Some of the inhabitants of the accessed territories have no Russian passports;
- medical institutions run short of equipment and are poorly equipped with office appliances;

- wait time until original medical records relating to the introduction of patient-specific record-keeping are prepared<sup>1</sup>.

The above problems can result in that persons who need medical assistance may be denied of such, which is illegal, because it is set forth in Part 1, Article 41 of the Russian Constitution that every person has the right to health protection and medical assistance. On its face, however, persons who face such problems indeed may be denied medical assistance pursuant to the Executive Order "On Approval of the Procedure for a Person to Choose a Medical Institution for Medical Assistance as Part of the Program on State Guarantees of Free Medical Assistance to Citizens" issued in 2012 by the Russian Health and Social Development Ministry, because the list of documents which a person must provide to a medical institution includes his/her passport (birth certificate) and CMI policy.

Hence due to the short term of the transition period the legislator has created apparent law execution problems which can be addressed by introducing more tools and instruments. One of these should include the possibility of electronic registration with the compulsory medical insurance system, provision of medical assistance prior to the policy issuance, provided that a person belongs to the Russian Federation (i.e. he/she has the Russian citizenship). In addition, it is our opinion that the transition period should be extended, because 10 months appear to be too short for a transition period. ●

1 The 2015 Territorial Program of State Guarantees of Free Medical Assistance to the Citizens of the Republic of Crimea [electronic resource] // URL: <http://tfoms.rk.gov.ru/rus/info.php?id=611239> (date of access: 4 July 2015).