

Compulsory Professional Indemnity Insurance

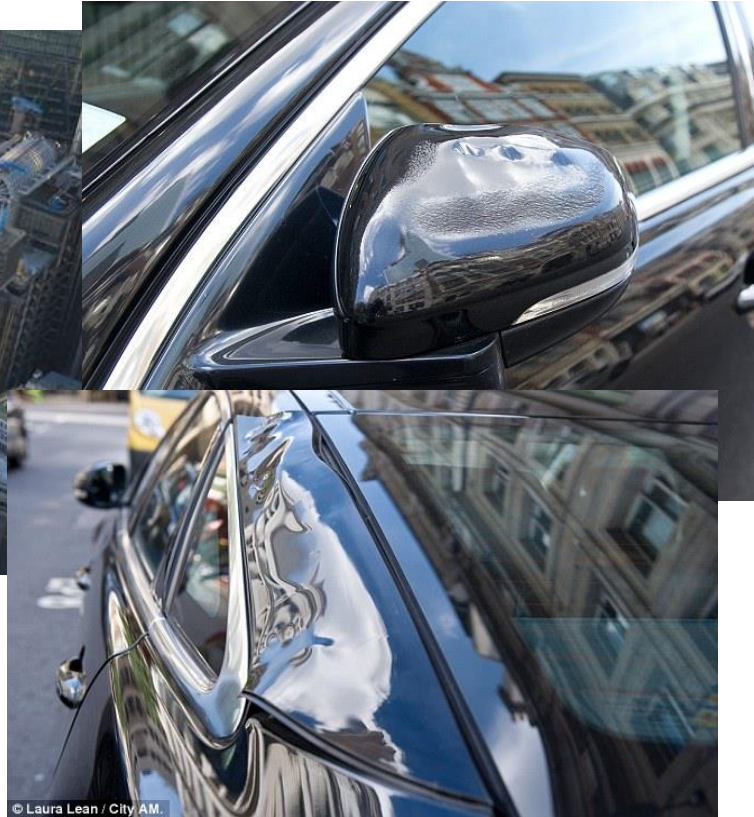
Russian Insurance Summit 2019



Dangerous "Walkie Talkie" façade (2013)



Source: www.theguardian.com



Source: www.dailymail.co.uk

The "Walkie Talkie" melted my Jag!

- Sunlight reflected from skyscraper is causing heat damage to cars beneath
- Several panels (bodywork and mirror) of a Jaguar XJ had buckled in the glare
- Other drivers say their vehicles have wilted in the beam of light

Source: <http://www.dailymail.co.uk/news/article-2409073/Walkie-Talkie-melted-Jag-Londons-Fenchurch-Street-skyscraper-melts-businessmans-car.html>

Compulsory Professional Indemnity Insurances in Germany

- Lawyers
- Architects and Engineers
- Auditors
- Tax Advisors
- Insurance Brokers / Agents
- Financial investment intermediaries
- Real Estate Brokers
- ...

More and more harmonization within EU
(EU Directives to be implemented into local law), e.g. The IDD (Insurance Distribution Directive) sets a minimum professional indemnity insurance requirement for intermediaries of at least €1.25 million per claim or €1.85m in aggregate, unless such insurance or comparable guarantee is already provided by an insurance or other undertaking on whose behalf the intermediary is acting

Advantage of insurance solutions:
Claims Handling / Defence against claims organised and paid by insurance companies

New Requirement for Property Managers

- Property Managers take care of real estate and financial reserves totalling several millions. Next to the commercial management they are in charge of technical and legal questions.
- New Law since 01/08/2018 in terms of professional licensing:

Minimum level of expertise / experience / insurance protection

increases

- Trust of the owner of the real estate in the services of the property manager
- Consumer protection
- Higher professionalization / increased quality

Obligation for Training (20 hours in three years)
+
Mandatory Professional Indemnity Insurance

Legal Minimum Requirements for Mandatory Liability Insurances

Versicherungsvertragsgesetz (VVG) – Insurance Contract Law

Release of the policyholder from any claims (§ 100 VVG) and legal protection against unfounded claims (§ 101 VVG)

Minimum sum insured of 250.000€ per insured event / 1m € in the annual aggregate (§ 114 VVG)

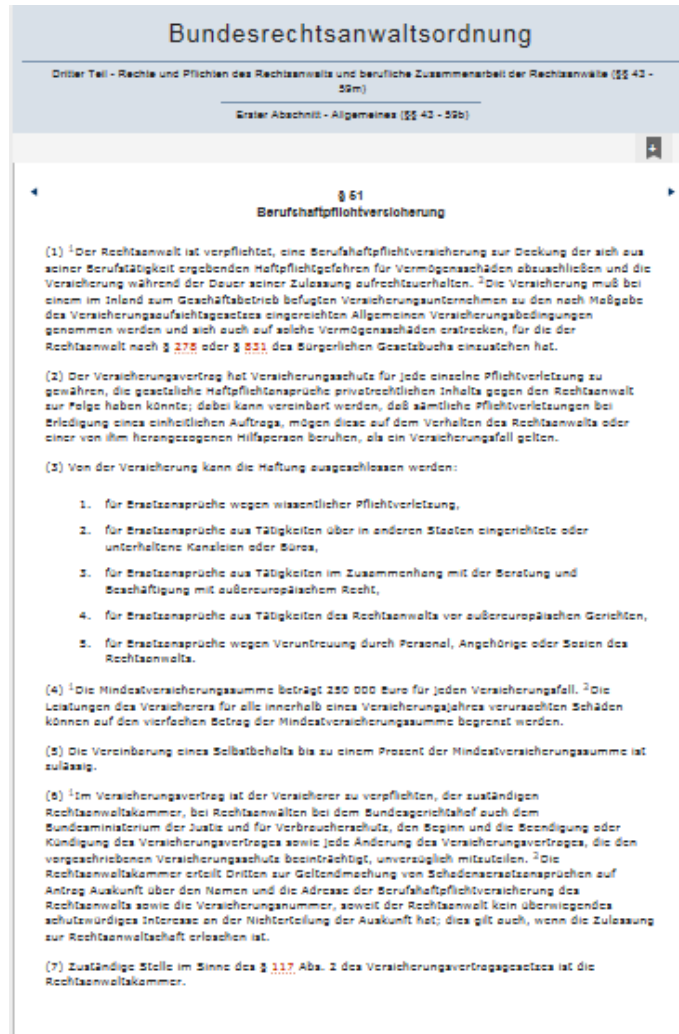
Coverage of ordinary and gross negligence / no coverage only in case of intentionally and unlawfully caused losses (§ 103 VVG)

Possibility to claim directly against the insurance company in case of insolvency of the policyholder or if the policyholder's whereabouts are unknown (§ 115 VVG)

Minimum Coverages in Germany

	Minimum coverage	Legal Specification
Lawyers	250.000€/1m € in the annual aggregate	Bundesrechtsanwaltsordnung (Federal Lawyers' Act) §51
Tax Advisors	250.000€ /1m € in the annual aggregate	Verordnung zur Durchführung der Vorschriften über Steuerberater, Steuerbevollmächtigte und Steuerberatungsgesellschaften (DVStB) §52
Accountants	1m € / unlimited in the annual aggregate	Wirtschaftsprüferordnung §54 / Handelsgesetzbuch (Commercial Code)§323
Notaries	500.000€ / 1m € in the annual aggregate	Bundesnotarordnung §19a

Bundesrechtsanwaltsordnung / Federal Lawyers' Act



→ Requirement to insure

→ Possible exclusions

→ Minimum coverage

→ Duty of the insurance company to report to the bar association the begin/end/cancellation/material changes to the insurance policy. **No admission without insurance!**

Insurance Companies on Compulsory Coverages: We Just Want More, More, More?



Additional business for insurance companies

Administrative burden (reporting to the associations/chambers)



No differentiation in coverage (same fits all? / no differentiation in competition)

Increasing costs for claims handling / defence

Insurance Europe

Compulsory Insurance: When it works and when it doesn't

What are the conditions?

There are only limited situations in which compulsory insurance can be appropriate because the following basic conditions — at the very least — must be met:

- **Sufficient data** for insurers to assess the expected frequency and size of claims, so that they can price policies correctly.
- **Sufficient similarity in the risks being covered.** If risks are very different, complex or not well known, insurers instead need to have the flexibility to tailor their underwriting to specific risks.
- A variety of insurers interested in offering cover, so that there is:
 - **sufficient insurance capacity** and
 - **adequate competition.**
- **Enough reinsurance capacity** to allow risks to be sufficiently spread, particularly large and long-term ones.

Insurance Europe

Compulsory Insurance: When it works and when it doesn't

What if the conditions are not met?

Inappropriate compulsory schemes are very likely to be counterproductive — actually making life more difficult for individuals, businesses and insurers.

Effects on the insurance market:

- A lack of underwriting/contractual freedom **stifles insurance product innovation** and insurance market growth.
- There is **insufficient or no insurance**, as insurers are unwilling to offer cover under the restrictions imposed by a compulsory scheme.
- There is **less loss prevention/increased moral hazard** because policyholders who have been obliged to purchase insurance do not implement adequate protection measures or behave in a riskier manner, as they feel the burden is on the insurer.

Effects on individuals and businesses:

- **Individuals are unprotected or businesses are unable to operate or grow** because they cannot obtain the cover that they need by law, as insurers are unwilling to offer cover.
- There are **higher premiums** due to:
 - the uncertainty created by the lack of data on which insurers can base underwriting judgements
 - lack of a competitive market
 - additional administrative costs for insurers created by compulsory schemes
- **Individuals/businesses could be required to purchase more cover than they need, while others could be under-insured** due to inflexibility in distinguishing between risk levels.

Thank You /спаси́бо



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