



**REPUBLIC OF ALBANIA
COUNCIL OF MINISTERS**

DECISION

No 164 Dated 28.01.2008

**ON ESTABLISHING CRITERIA AND PROCEDURES FOR LICENSING EVALUATORS
OF DAMAGES IN INSURANCES**

Pursuant to Article 100 of the Constitution and point 2, Article 89, of the Law no.9267, dated 29.07.2004 “On activity of insurance, reinsurance and intermediation in insurances and reinsurances”, upon proposal of the Minister of Finance, the Council of Ministers

D E C I D E D:

1. The evaluator of damages in insurance is licensed by the financial Supervision Authority to evaluate the damages incurred, in accordance with rules specified in this decision.
2. The licensed evaluator of damages, while exercising his profession, can perform only those secondary activities, which are in compliance with the nature of the relevant profession and the Law on conflict of interests.
3. The person who exercises his activity as an entrepreneur and chief manager of insurance and reinsurance entrepreneurship, cannot be licensed as an evaluator of a person's damages.
4. The damages evaluators' licence in insurances is professional, individual, and inalienable. The Authority, in accordance with the applicant's request, education and qualifications, establishes in the damages evaluators' licence in insurances, the scope of activity in compliance with the types of damages:
 - a) licensed evaluator of material damages (motor and of property)
 - b) licensed evaluator of health damages

5. The licensed evaluators of damages in insurances are recorded in the relevant register kept by the Financial Supervision Authority. The evaluator's statute employed or independent is recorded in the register as well.
6. Only a licensed damages evaluator may be engaged by the state bodies in regulating and evaluating the damages.
7. Damages evaluator in insurances provides in an insurance company professional responsibilities towards third parties, in cases of violations during exercising of activity, limiting 30 000 000 leke for an insurance event and maximum limit of 100 000 000 lekë , for a one period.
8. The natural person who requires to be provided with a licence for conducting activity of damages evaluator, must have university diploma. He submits a written request to the Financial Supervision Authority, having the identification data, residence address, address of headquarters where the activity of damages evaluator will be exercised, following point 4 of this decision. The application for licence is accompanied by:

a) documentation with general character:

- i) Identification data;
- ii) The original certificate or a notarized copy, certifying that financial liabilities have been paid, according to the legislation in force within a deadline no later than 3 months from the date of submission of the application;
- iii) University diploma (original or notarized copy);
- iv) Documentation, certifying the work experience according to the profession (CV);
- v) A declaration of interest that activity shall be exercised independently and in accordance with professional standards;
- vi) At least, a letter of recommendation.

Requests under subdivision "ii", letter "a", are not implemented for a natural person, who applies for the first time.

b) documentation, confirming fulfillment of one of the following conditions:

- i) Graduation of University specialized studies in insurances, reinsurances or related to the process of compensation or intermediation in insurances;
- ii) Termination of a certain qualification regarding damages evaluation in insurances, at a training institution in insurances, both within or outside the country, with a program recognized by the Financial Supervision Authority, and also have professional experience in the field of insurances or reinsurances, no less than 2 years;
- iii) No less than 5 years professional experience, continuously, in the field of insurances or reinsurances, related to the evaluation process.

c) documentation proving reliability, such as:

- i) Criminal record which is not submitted by the natural person, but is verified by the Financial Supervision Authority, certifying that the applicant has never been convicted of any crime (economic or not);
- ii) Declaration that owns no shares or has no business ties, direct or indirect with insurance companies;
- iii) Certification, which proves his assets are not declared under bankruptcy process;
- iv) Notarial Declaration, that during the past 5 years, prior to the date of submission of application, he has not been a member of supervisory councils or a manager of companies, undergoing bankruptcy or liquidation process.

Documentation specified in point 8, letter “a”, subdivisions “i” and “v” and “c”, subdivisions “ii”, “iii” e “iv”, must be self declared by the natural person, according to the legislation in force.

- 9. Legal entities requiring to be provided with a licence for conducting activity of damages evaluator must have at least 70% of shares, licensed evaluators of damages.
- 10. Legal person, requiring to be provided with a licence for conducting activities of damages evaluator submits a written request to the Financial Supervision Authority, where are provided data regarding the manager of the company, legal form of the company and fields to which exercise of damages evaluator activity is required, under point 4, of this decision.

Application for a licence is accompanied by:

a) the following documentation with general and professional character:

- i) Identification data for the director of the company and members of the highest managing bodies;
- ii) Decision of registration to the court, the statute and the act of establishment of the company (original or a notarized copy);
- iii) Certification, that it is not a debtor to tax and duties bodies and to social insurances, within a deadline no later than 3 months from the date of submission of the application;
- iv) Documentation, confirming that the administrator and any other employee in the company, that will be directly included in the activity of damage evaluation, was graduated and has experience and professional skills provided for in point “b”, of point 8, of this decision;
- v) Declaration of the legal manager, confirming that the company shall exercise its activity independently and in accordance with professional standards.

Requests under subdivision “iii” letter “a”, of this point, are not implemented for companies applying for the first time.

b) Documentation certifying reliability:

- i) Criminal record, which is not submitted by the entity, but is verified by the Financial Supervision Authority for members of the managing bodies of the company, proving that the person has not been convicted of any crime (economic or not);
- ii) Declaration of the legal manager, certifying that the company has no shares or business relations, direct or indirect with the insurance company;
- iii) Certification that company’s assets have not been declared under bankruptcy process.

Documentation specified in letter “a”, subdivisions “i” and “v” and “b”, subdivision “ii”, above, must be self-declared by the legal person, according to the legislation in force.

11. For providing the relevant documentation and receiving a licence, the applicant pays, on behalf of the Financial Supervision Authority, fees specified in decision no.403, dated 9.06.2005, of the Council of Ministers.
12. The Financial Supervision Authority, within 30 calendar days from the date of documentation completion as required upon this decision, expresses itself on granting or refusing the licence for exercising activity for damage evaluator in insurances.
13. The licence for exercising activity of damage evaluator in insurances, is renewed every 5 years.
14. The natural person or manager and official engaged in damage evaluation of the legal person requiring to be provided with a licence as a damages evaluator, or requiring renewal of his licence, is subject to testing on knowledge in the insurance field, in accordance with rules adopted by the Financial Supervision Authority.
15. The person seeking to be provided with a licence, this is refused if:
 - a) fails to meet the requirements of this decision;
 - b) fails to successfully pass the test on knowledge, under point 14, of this decision;
 - c) has committed violations of legal framework in the field of insurances.

16. Damages evaluator in insurance is obliged:

- a) to exercise activity with professionalism, concern and commitment towards the insured;
- b) to act in good trust and honesty, respecting the insured's rights;
- c) to inform the insured and the insurance company, on authenticity of the damage evaluation;
- ç) evaluate solely on objective grounds;
- d) provide no information and data that result to be false, inaccurate, inexplicit or conceal information concerning types and details of services performed;
- dh) not to promise unjustified financial advantages to the customer, relating to the exercising of his activity.

17. Damages evaluator in insurance is not allowed to carry out evaluator's actions, if previously he has conducted any activity aligned with the object or insured event, if the job is the same or similar to that of the supervisor, agent, broker, or consultant.

18. Damages evaluator in insurance submits in writing to the insurance company all its practice arguing and verifying accuracy of damage evaluation.

19. Damages evaluator in insurances is responsible for damage caused due to his activity. He bears no responsibility if it is verified that the damage caused did not arise due to exercise of his activity.

20. Damages evaluator in insurances is obliged to retain confidentiality of the data, facts and circumstances, related to the insured, and of data, with which he is acknowledged in the course of exercising his activity.

21. Damages evaluator in insurance provides the insured with the following information:

- a) Name, surname and address where he exercises his activity;
- b) A document confirming that he is licensed to exercise the activity of damages evaluator in insurances;
- c) Advise and information for conducting a fair analysis, that better meets the insured's needs;
- ç) Data on how to benefit the reward.

22. The list of damages evaluators in insurances, licensed by the Financial Supervision Authority is proclaimed in the bulletin and in the official website of the relevant Authority.

23. The Financial Supervision Authority keeps the register of damages evaluators where their data are evidenced, and also notifies the insurance company for persons who have received the licence.

24. The licensed damages evaluator is obliged to inform the Financial Supervision Authority on any change of the data, incorporated in the register, in particular, declaring bankruptcy or liquidation, as soon as informed on such a fact.
25. The Financial Supervision Authority cancels the licence, if it is verified that the damages evaluator in insurances:
- a) has conducted erroneous and subjective evaluations;
 - b) has violated the licensing conditions or requirements of this decision;
 - c) has conducted false evaluations and violations of procedures;
 - ç) has conducted evaluations, inconsistent with legal provisions in force and with professional standards;
 - d) has submitted false or untrue documents for receiving a licence;
- dh) Voluntarily waives from licence to exercise his activity.
26. In case of licence cancelation, it is deposited to the Financial Supervision Authority, within 30 calendar days.
27. The Financial Supervision Authority, informs the insurance company and the subsidiary of foreign insurance company about persons, whose licence was canceled, to exercise their activity of damages evaluators in insurances.
28. The insurance company and the subsidiary of the foreign insurance company are obliged to resolve the contract with damages evaluators in cases their licence was canceled.
29. The Financial Supervision Authority is charged with implementation of this decision.

This decision shall enter in force immediately and is published in the Official Journal.

**PRIME MINISTER
SALI BERISHA**

MINISTER OF FINANCE

RIDVAN BODE