

Art. ^{**} 1	Gov. Regulation 18/2004. (II. 13.) of the Government on the exemption from the prohibition of restriction of competition of certain groups of insurance agreements ^{***}
	<p>The Government, empowered by Article 96 of Act LVII of 1996 on the Prohibition of Unfair and Anticompetitive Market Practices (hereinafter referred to as „PURA”) has adopted this regulation:</p> <p style="text-align: center;"><i>Exemption</i></p> <p style="text-align: center;">Article 1</p> <p>Under this Regulation – with respect to the conditions provided for in Article 17 of the PURA – agreements entered into between two or more undertakings performing activities as insurers (hereinafter „the parties”) shall be exempted from the prohibition of agreements restricting economic competition (Article 11 of the PURA) where they relate to:</p> <ul style="list-style-type: none">a) the joint establishment and distribution of calculations of the average cost of covering a specified risk in the past (hereinafter „calculations”), or in connection with insurance involving an element of capitalisation, mortality tables, or tables showing the frequency of illness, accident and invalidity (hereinafter „tables”);b) the joint carrying-out of studies on the probable impact of general circumstances external to the interested undertakings, either on the frequency or scale of future claims for a given risk or risk category or on the profitability of different types of investment (hereinafter „studies”), and the distribution of the results of such studies;c) the joint establishment and distribution of non-binding standard policy conditions for direct insurance (hereinafter „standard policy conditions”);d) the joint establishment and distribution of non-binding models illustrating the profits to be realised from an insurance policy involving an element of capitalisation (hereinafter „models”);e) the setting-up and operation of groups of insurance undertakings or of insurance undertakings and reinsurance undertakings for the common coverage of a specific category of risks in the form of co-insurance or co-reinsurance; andf) the establishment, recognition and distribution of technical specifications, rules or codes of practice

* The Hungarian competition authority

** Related article of Com. Reg. (EC) No 358/2003

*** Magyar Közlöny 15, 13. 2. 2004, p. 1327

3

fa) concerning those types of security devices for which there do not exist at Community level technical specifications, classification systems, rules, procedures or codes of practice, and procedures for assessing and approving the compliance of security devices with such specifications, rules or codes of practice,

fb) for the installation and maintenance of security devices, and procedures for assessing and approving the compliance of undertakings which install or maintain security devices with such specifications, rules or codes of practice.

Joint calculations, tables and studies

Article 2

(1) The exemption provided for in point a) of Article 1 shall apply on condition that the calculations or tables

a) are based on the assembly of data, spread over more than one risk-year chosen as an observation period, which relate to identical or comparable risks in sufficient number to constitute a base which can be handled statistically and which will yield figures on (*inter alia*):

aa) the number of claims during the said period,

ab) the number of individual risks insured in each risk-year of the chosen observation period,

ac) the total amounts paid or payable in respect of claims arisen during the said period,

ad) the total amount of capital insured for each risk-year during the chosen observation period;

b) include as detailed a breakdown of the available statistics as is actuarially adequate;

c) do not include elements for contingencies, income deriving from reserves, administrative or commercial costs or fiscal or para-fiscal contributions, and take into account neither revenues from investments nor anticipated profits.

(2) The exemptions provided for in points a) and b) of Article 1 shall apply on condition that the calculations, tables or study results

a) do not identify the insurance undertakings concerned or any insured party;

b) when compiled and distributed, include a statement that they are non-binding;

c) are made available on reasonable and non-discriminatory terms, to any insurance undertaking which requests a copy of them, including insurance

4	<p>undertakings which are not active on the geographical or product market to which those calculations, tables or study results refer.</p> <p style="text-align: center;">Article 3</p> <p>The exemption provided for in Article 1 shall not apply where participating undertakings enter into an undertaking or commitment among themselves, or oblige other undertakings, not to use calculations or tables that differ from those established pursuant to point a) of Article 1, or not to depart from the results of the studies referred to in point b) of Article 1.</p>
5	<p style="text-align: center;"><i>Standard policy conditions and models</i></p> <p style="text-align: center;">Article 4</p> <p>(1) The exemption provided for in point c) of Article 1 shall apply on condition that the standard policy conditions</p> <ul style="list-style-type: none"> a) are established and distributed with an explicit statement that they are non-binding and that their use is not in any way recommended; b) expressly mention that participating undertakings are free to offer different policy conditions to their customers; and c) are accessible to any interested person and provided simply upon request. <p>(2) The exemption provided for in point d) of Article 1 shall apply on condition that the non-binding models are established and distributed only by way of guidance.</p>
6	<p style="text-align: center;">Article 5</p> <p>(1) The exemption provided for in point c) of Article 1 shall not apply where the standard policy conditions contain clauses which</p> <ul style="list-style-type: none"> a) contain any indication of the level of commercial premiums; b) indicate the amount of the cover or the part which the policyholder must pay himself (the 'excess'); c) impose comprehensive cover including risks to which a significant number of policyholders are not simultaneously exposed; d) allow the insurer to maintain the policy in the event that he cancels part of the cover, increases the premium without the risk or the scope of the cover being changed (without prejudice to indexation clauses), or otherwise alters the policy conditions without the express consent of the policyholder; e) allow the insurer to modify the term of the policy without the express consent of the policyholder;

f) impose on the policyholder in the non-life assurance sector a contract period of more than three years;

g) impose a renewal period of more than one year where the policy is automatically renewed unless notice is given upon the expiry of a given period;

h) require the policyholder to agree to the reinstatement of a policy which has been suspended on account of the disappearance of the insured risk, if he is once again exposed to a risk of the same nature;

i) require the policyholder to obtain cover from the same insurer for different risks;

j) require the policyholder, in the event of disposal of the object of insurance, to make the acquirer take over the insurance policy;

k) exclude or limit the cover of a risk if the policyholder uses security devices, or installing or maintenance undertakings, which are not approved in accordance with the relevant specifications agreed by associations, social organisations or other similar organisations of insurers (hereinafter „associations of insurers”) or at the European level.

(2) The exemption provided for in point c) of Article 1 shall not benefit insurers or associations of insurers which agree, or agree to oblige other undertakings, not to apply conditions other than standard policy conditions established pursuant to an agreement between the participating undertakings.

(3) Without prejudice to the establishment of specific insurance conditions for particular social or occupational categories of the population, the exemption provided for in point c) of Article 1 shall not apply to agreements decisions and concerted practices which exclude the coverage of certain risk categories because of the characteristics associated with the policyholder.

(4) The exemption provided for in point d) of Article 1 shall not apply where, without prejudice to legally imposed obligations, the non-binding models include only specified interest rates or contain figures indicating administrative costs.

(5) The exemption provided for in point d) of Article 1 shall not benefit insurers or associations of insurers which concert or undertake among themselves, or oblige other undertakings, not to apply models illustrating the benefits of an insurance policy other than those established pursuant to an agreement between the participating undertakings.

Common coverage of certain types of risks

Article 6

7(1)

(1) As concerns co-insurance or co-reinsurance groups which are created after the date of entry into force of the present Regulation in order exclusively to cover new risks, the exemption provided for in point e) Article 1 shall apply for a period of three

	<p>years from the date of the first establishment of the group, regardless of the market share of the group.</p>
7(2)	<p>(2) As concerns co-insurance or co-reinsurance groups which do not fall within the scope of Section (1) (they have been in existence for over three years or have not been created in order to cover a new risk), the exemption provided for in point e) of Article 1 shall apply on condition that the insurance products underwritten within the grouping arrangement by the participating undertakings or on their behalf do not, in any of the markets concerned, represent</p> <ul style="list-style-type: none"> a) in the case of co-insurance groups, more than 20 % of the relevant market, b) in the case of co-reinsurance groups, more than 25 % of the relevant market.
7(3), point a)	<p>(3) For the purposes of applying the market share threshold provided for in Section (2) the following rules shall apply:</p> <ul style="list-style-type: none"> (a) the market share shall be calculated on the basis of the gross premium income; if gross premium income data are not available, estimates based on other reliable market information, including insurance cover provided or insured risk value, may be used to establish the market share of the undertaking concerned;
7(3), point b)	<ul style="list-style-type: none"> b) the market share shall be calculated on the basis of data relating to the preceding calendar year. <p>(4) Where the market share exceeds, after the agreement entered into force, the level determined in point a) or point b) of Section (2), as the case may be, the provisions of Article 1 shall continue to apply to the agreement until 30 June of the subsequent calendar year.</p>
8	<p style="text-align: center;">Article 7</p> <p>The exemption provided for in point e) of Article 1 shall apply on condition that</p> <ul style="list-style-type: none"> a) each participating undertaking has the right to withdraw from the group, subject to a period of notice of not more than one year, without incurring any sanctions; b) the rules of the group do not oblige any member of the group to insure or re-insure through the group, in whole or in part, any risk of the type covered by the group; c) the rules of the group do not restrict the activity of the group or its members to the insurance or reinsurance of risks located in particular geographical areas; d) the agreement does not limit output or sales; e) the agreement does not allocate markets or customers; f) the members of a co-reinsurance group do not agree on the commercial premiums which they charge in direct insurance; and

g) no member of the group, or undertaking which exercises a determining influence on the commercial policy of the group, is also a member of, or exercises a determining influence on the commercial policy of, a different group active on the same market.

Security devices

Article 8

9

The exemption provided for in point f) of Article 1 shall apply on condition that

- a) the technical specifications and compliance assessment procedures are precise, technically justified and in proportion to the performance to be attained by the security device concerned;
- b) the rules for the evaluation of installation undertakings and maintenance undertakings are objective, relate to their technical competence and are applied in a non-discriminatory manner;
- c) such specifications and rules are established and distributed with an accompanying statement that insurance undertakings are free to accept for insurance, on whatever terms and conditions they wish, other security devices or installation and maintenance undertakings which do not comply with these technical specifications or rules;
- d) such specifications and rules are provided simply upon request to any interested person;
- e) any lists of security devices and installation and maintenance undertakings compliant with specifications include a classification based on the level of performance obtained;
- f) a request for an assessment may be submitted at any time by any applicant;
- g) the evaluation of conformity does not impose on the applicant any expenses that are disproportionate to the costs of the approval procedure;
- h) the devices and installation undertakings and maintenance undertakings that meet the assessment criteria are certified to this effect in a non-discriminatory manner within a period of six months of the date of application, except where technical considerations justify a reasonable additional period;
- i) the fact of compliance or approval is certified in writing;
- j) the grounds for a refusal to issue the certificate of compliance are given in writing by attaching a duplicate copy of the records of the tests and controls that have been carried out;

	<p>k) the grounds for a refusal to take into account a request for assessment are provided in writing; and</p> <p>l) the specifications and rules are applied by bodies that meet the norms in the series EN 45 000 and EN ISO/IEC 17025.</p> <p style="text-align: center;"><i>Definitions****</i></p> <p style="text-align: center;">Article 9</p> <p>For the purposes of the present Regulation:</p>
2(4)	a) „standard policy conditions” refers to any clauses contained in model or reference insurance policies prepared jointly by insurers or by bodies or associations of insurers;
2(8)	b) „security devices” means components and equipment designed for loss prevention and reduction, and systems formed from such elements;
2(9)	c) „commercial premium” means the price which is charged to the purchaser of an insurance policy;
2(5)	d) „co-insurance groups” means groups set up by insurance undertakings which <ul style="list-style-type: none"> da) agree to underwrite in the name and for the account of all the participants the insurance of a specified risk category, or db) entrust the underwriting and management of the insurance of a specified risk category in their name and on their behalf to one of the insurance undertakings, to a common broker or to a common body set up for this purpose;
2(6)	e) „co-reinsurance groups” means groups set up by insurance undertakings, possibly with the assistance of one or more re-insurance undertakings: <ul style="list-style-type: none"> ea) in order to reinsure mutually all or part of their liabilities in respect of a specified risk category, eb) incidentally, to accept in the name and on behalf of all the participants the re-insurance of the same category of risks; <p>f) „connected undertakings” means undertakings connected with the parties to the agreement pursuant to Article 26 (3) of the PURA;</p>
2(1)	g) „agreement” means an agreement, a decision of an association of undertakings or a concerted practice [Article 11(1) of the PURA];
2(2)	h) „participating undertakings” means undertakings party to the agreement and their respective connected undertakings;

2(7)	<p>i) „new risks” means risks which did not exist before, and for which insurance cover requires the development of an entirely new insurance product, not involving an extension, improvement or replacement of an existing insurance product.</p> <p style="text-align: center;"><i>Withdrawal of the benefit of the exemption</i></p> <p style="text-align: center;">Article 10</p> <p>In respect of particular agreements which are exempted under this Regulation, the Gazdasági Versenyhivatal may establish pursuant to Article 16/A. of the PURA that the benefit of the group exemption does not apply to such an agreement.</p> <p style="text-align: center;"><i>Closing provisions</i></p> <p style="text-align: center;">Article 11</p> <p>(1) This Regulation shall enter into force on 1 May 2004, its provisions shall be applied to agreements concluded after that date.</p> <p>(2) Agreements concluded before the date of entry into force of this Regulation which are exempted under Regulation 50/1997. (III. 19.) Korm. but which do not satisfy the provisions of this Regulation shall be exempted until 31 October 2004 from the prohibition of agreements restricting economic competition (laid down in Article 11 of the PURA).</p> <p>With the entry into force of this Regulation Regulation 50/1997. (III. 19.) Korm. on the exemption from the prohibition on restriction of competition of certain groups of insurance agreements and Article 1(1) of Regulation 246/2000. (XII. 24.) Korm. on the amendment of certain Government Regulations adopted for the implementation of Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices are repealed.</p>
------	--

**** In alphabetical order of the Hungarian names