

New rules for fleet insurance in the Czech Republic

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On 5 June 2024, the Czech government introduced a proposal to the Czech Parliament that brings fundamental changes to fleet insurance in the Czech Republic. This proposal provides additional obligations on fleet policyholders. Please see the details below.

Types of fleet insurance under Czech law

Fleet insurance (i.e. a specific type of insurance where the policyholder offers their clients the possibility to secure coverage under an insurance agreement concluded between the policyholder and their insurance company) is governed by Act No. 170/2018 Coll., on the distribution of insurance and reinsurance (the "**Insurance Distribution Act**").

Fleet insurance can be very diverse and may include motor insurance, credit insurance, extended warranty insurance or professional indemnity insurance. The scope of fleet insurance also tends to be very narrow, given that it is usually linked to provided goods and services, typical examples are:

- when a retailer offers an extended warranty insurance against breakage, destruction or theft of its goods;
- when a car dealership offers motor insurance for the vehicles it sells;
- when a leasing company offers credit insurance in relation to the loans it provides.

What is new in fleet insurance?

For a long time, there has been a debate on whether adhering to/becoming part of a concluded insurance agreement (i.e. made possible through the fleet policyholder) should be regarded as insurance distribution. In the Czech Republic, current practice means that becoming insured under the concluded insurance agreement is not regarded as insurance distribution if the conditions stipulated under the Insurance Distribution Act are met. On the other hand, it has also been argued that this activity is materially the same as insurance distribution, and thus, should be subject to the same regulatory requirements and standards as insurance distribution.

This debate was resolved by the Court of Justice of the European Union which decided on 29 September 2022¹ that the activity of a fleet policyholder consisting of offering to participate in insurance for remuneration is regarded

¹ Case C-633/20 TC Medical Air Ambulance Agency

as insurance mediation (distribution) activity within the meaning of IDD². This decision by the ECJ has fundamentally changed the legal view on fleet insurance and made clear that offering (becoming part of) fleet insurance is essentially insurance distribution.

As a result of this decision by the ECJ, the Czech legislator proposed a new amendment to the Insurance Distribution Act, which should adopt the Czech legal system to the latest ECJ decision.

Which main changes does the proposal bring to the Insurance Distribution Act?

One of the biggest changes is that, in order to carry out fleet insurance, a fleet policyholder will now be required to obtain a regulatory authorisation from the Czech financial regulator (CNB) in basically the same extent and scope as current insurance intermediaries³.

As part of licensing proceedings, fleet policyholders will need to prove sufficient credibility and trustworthiness along with professional competence and ensure that adequate professional insurance is maintained and in place. Fleet policyholders will also need to have a registered office (in case if the applicant is a natural person who is not entered in the public register, the place where it has its principal place of business or where it resides) in the Czech Republic.

Once the licensing process is finished, fleet policyholders will be registered in a register maintained by the CNB, which will also monitor whether fleet policyholders comply with applicable regulations. Pursuant to the proposal, fleet policyholders will also be required to establish internal rules and procedures, meet professional competence requirements, comply with rules on conduct and meet stipulated information obligations towards their clients.

Fleet policyholders and their staff will also have to undergo training from an accredited individual in the field of insurance intermediation/distribution, as part of the newly proposed professional requirements.

In the event that the fleet policyholder would breach its obligations when arranging the insurance, it would be responsible for this breach. However, even if it would use other auxiliary persons, it would also be liable for these persons. The insurer will bear the consequences of the infringement only if it has not carefully selected or supervised the fleet policyholder.

New obligations towards clients

The proposal also provides for various new obligations towards the customers (clients) of fleet policyholders. For example, a fleet policyholder will need to inform its customers about its status as a fleet policyholder, how it is remunerated (i.e. whether the customer pays the insurance intermediation fee or whether the fleet policy holder is remunerated by the insurer company) and provide its customers with an insurance certificate containing stipulated information.

New sanctions

In the event that a fleet policyholder should commit an offence by breaching any of the duties under the Insurance Distribution Act (such as not having the necessary authorisation), it could be subject to a fine of up to CZK 10,000,000 (approximately EUR 400,000). In the worst case scenario, CNB would even be entitled to revoke the fleet policyholder's license.

² Insurance Distribution Directive – Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on the distribution of insurance

³ I.e. either as (i) an independent intermediary, (ii) tied agent or (iii) supplementary insurance intermediary

Transitional period for existing fleet policyholders

The proposal provides for a transitional period to enable current fleet policyholders to adapt to the new rules within a period of 24 months following its entry into force. This period is intended to allow existing fleet policyholders to become aligned with the new rules and to adapt their systems and mechanisms to the new amended requirements.

It is expected that the new requirements will come into force during the third quarter of 2024 and that the changes will become effective 6 months later. This means that current fleet policyholders will need to ensure that they comply with these new regulations by the beginning of 2027.

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