Final Conference of the DELICROMAR Project: THE NEW LEGAL REGIME FOR MARINAS

A COMPARISON OF CROATIAN AND ENGLISH LAW AND BUSINESS PRACTICE RELATING TO MARINA OPERATOR LIABILITY INSURANCE

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IN GENERAL

- English insurance market; London insurance market
- Marine insurance; transport insurance
- MARINA OPERATOR LIABILITY INSURANCE

smaller segment of insurance portfolio
Marina should be aware of exposure to various risks in the performance of their business activities.

- High risks of liability
- Number and value of vessels in Croatian marinas:
  - Number of people: > average value of vessels in marinas: 165,000 €
- Not compulsory insurance

Croatian marinas - do not have the practice of securing their liability on English marine insurance market
On the English market there are different insurance groups:

- Lloyd’s (Lloyd’s Act, 1971, 1982)
- independent insurance companies
- organizations for mutual insurance

Brokers

Brokers: Croatian law - Insurance Act (art. 411 - brokers)

50% - policy - marina liability insurance
Croatian insurance market
Standard terms and conditions of marina operator liability insurance

English insurance market
Standard terms and conditions
- in which there are unified conditions for all risks
- marina operator liability insurance

- main features of marina operator liability insurance in the context of Croatian and English law and practice
  - the relevant legal framework
  - focuses on the business practice and
  - standard terms and conditions of marina operator insurance.
MARINA OPERATOR LIABILITY

- The term marina operator liability means liability from marina business commercial activities.

Subject of marina operator liability insurance - liability for damage arising from the business activities of the marina.

Third party liability - liability to third parties for damage to their property, for damage caused by death, injury or damage to third party health and environmental pollution.

Contract liability – liability towards the users of services provided by the marina:

- liability for damages on the vessels that are on the berth.
- damage to the car and personal belongings of the users of the berth located in the parking or other areas in the marina.
- liability for bodily injury, death or disruption of user health.
MARINA OPERATOR LIABILITY INSURANCE

Legal sources related to marina operator liability insurance

- Croatian law:
  - there are no legal sources that specifically regulate marina operator liability insurance
  - Maritime Code

- marina operator liability insurance is largely regulated by the Obligation Act; special provisions – Insurance Contract, art. 921-965, Liability Insurance, art. 964-965.

It is common that damages to yachts and boats are primarily covered by marine hull and machinery insurer.

SUBROGATION insurer may require a compensation for the damages from the liability of the marina or directly through the marina operator liability insurer.

- “a special relationship” with some maritime insurance – ship repairer liability insurance

 coverage of marina liability for damage to vessels received for repair and service=marine insurance

Marina – owner: P&I insurance

MC + OA if the coverage of this type of liability is "incorporated" into a single insurance contract
Legal sources related to marina operator liability insurance

- **English law:**
  - There are no legal sources that specifically regulate marina operator liability insurance
  - **Marine Insurance Act, 1906**
  - Marina operator liability insurance is largely regulated by the **UK Insurance Act-a, 2015** - applies to all commercial contracts of insurance

**Common law**
Legal sources related to marina operator liability insurance

The right of the European Union on insurance

autonomous legal sources

standard terms and conditions of marina operator liability insurance.
MARINA OPERATOR LIABILITY INSURANCE

Business practice related to marina operator liability insurance

- quite a different “picture” of Croatian and English business practices in the matter of marine liability insurance
- English business practice:

  The English marine insurance market commonly offers a package of liability insurance coverage that is tailor-made according to the needs of a particular client (the insured marina operator).
Liability arising from core business (providing a safe berth)

Ship repairer’s liability

Package of liability insurance coverage

Employee coverage

CGL - Commercial General Liability (bodily injury, property damage)

Combined third party liability (loss of or damage to third party property/death or bodily injury)

many insurers combine liability from the coverage list from the coverage package into a single insurance policy

English marine insurance market
Business practice related to marina operator liability insurance

Croatian business practice:

- One policy → **general liability** - that includes CORE BUSINESS COVER
- Another policy → third party legal liability
  + damage caused by environmental pollution
  + employee coverage
Marina operator liability - CORE BUSINESS COVER

damage to the boats

No cover is provided for damage to the radio, TV, camera...
- environment significant for assessing the risk of marina liability Insurance
- damages excluded from insurance
- provisions on the notification and compensation for damage
- third parties rights against insurers
CONCLUSION

- **Legal sources/ the relevant legal framework**

- **Business practice**
  - quite a different “picture” of Croatian and English business practices in the matter of marine liability insurance
  - **English business practice:**
    - One policy → **general liability** that includes **CORE BUSINESS COVER**
  - **Croatian business practice:**
    - Another policy → third party legal liability + damage caused by environmental pollution + employee coverage
Thank you for your attention