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Construction Insurances in France : outlandish systems in trouble

The French construction insurance field, introducing the compulsory “Dommages Ouvrage” insurance for project owners and the “Decennial Liability” insurance for construction companies (designers and builders), represents a tricky issue for every enterprise who wants to establish and work in France.

An adequate insurance solution can be hard to find and only with sizable premiums. Sometimes, it seems like an exploit to find an insurance solution, considering the fact that traditional insurers are withdrawing from specific risks they don't want to insure anymore (newly created enterprises, general contractors, swimming pool builders...).

It is in this context that, in the last years, some foreign insurers establish themselves on the French insurance market and were able, thanks to the European “Freedom of Service” directive, to offer insurance solutions for construction enterprises with knock-down prices up to 30% lower than the traditional tariffs.

We could therefore see the emergence of insurance companies headquartered outside France, like GABLE in Lichtenstein, ALPHA and QUDOS in Denmark, ELITE in Gibraltar or CBL in Ireland, countries known for their liberal legislation regarding corporate laws. Thanks to wholesaler broker like SFS, EISL or UBI, these insurance companies have covered, according to the French Insurance Federation (“Fédération Française de l'Assurance”), up to 10% of the national market.

Besides the fact that they had neither knowledges, nor experience of the construction insurance market in France, these insurance companies were not even concerned by the regulations of the French Insurance Laws. Moreover, they were not obliged to contribute to the Mandatory Insurances Guarantee Fund (“Fonds de Garantie des Assurances Obligatoires”). As they were non-compliant with the prudential regulations imposed by the Authority of Control, Supervision and Resolution (“Autorité de Contrôle Prudentiel et de Résolution”, monitoring the activities of banks and insurance companies in France) and the rules defined by Bercy, imposing French insurers to book specific reserves for claims, some of them were in a situation of bankruptcy whereas others were subject to compulsory liquidation proceedings in their country.

Because of these bankruptcies, some insured enterprises (about 200 000 clients) were not covered, whilst they purchased an insurance policy meant to cover them for 10 years after reception of the construction works. After that, it has been very tough to redeem these guarantees by traditional insurers of the market.

In case of loss, the insured had to face an uphill battle to obtain a compensation, and those who became successful are rare. They were alone with their damages or third-party claims.

Some of the intermediaries who proposed these guarantees, often unaware and acting in good faith, had to handle third-party claims because they have not warned their clients that there was a risk of bankruptcy.

This situation led to the willingness in France to better regulate the “Freedom of Service” system of these purely French guarantees, especially thanks to the convergence of the control authorities from the different countries of the European Union and the extension of the guarantees managed by the Mandatory Insurances Guarantee Fund (FGAO), under specific conditions, to foreign insurers in the wake of a decision taken by the European Commission.

Nowadays, we can note the recent emergence of new comparable systems, that are also worrying, on the construction insurance market.

New unclear systems are set up, using smaller regional mutual companies (for example: AMIG, VAL DE SAÔNE BEAUJOLAIS, BRESSE BUGÉY...) that apparently bear the risk, but in fact subcontract the insurance policy and claims management to external entities (like the Leader Insurance Group) reassured either by companies headquartered outside France or by a clustering of small national mutual insurances.

From the beginning, the brokerage world has been doubtful about the sustainability of these systems in the long run and the French Brokers Syndicate has quickly inform the Authority of Control, Supervision and Resolution (ACPR) of his opinion.

The ACPR finally prohibited to one of these mutual insurances (AMIG) to subscribe new policies because of non-compliance with the imposed solvability rules.

Once again, the French insurance market has to face troubles.

Therefore, it is crucial for your clients, regardless of their activity or construction project, to be supported by specialists in order to choose the best and the most sustainable insurance solution, when they carry out an activity submitted to this regulation in France.

The ROEDERER Group stands with and supports its insured, broker partners and prospects. Do not hesitate to contact us.