FRAUD – A DANGEROUS TEMPTATION IN INSURANCE INDUSTRY

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Abstract *The insurance activity, transformed today in a real industry, is an important form of the tertiary financial domain of economy. We are dealing with the psychological aspect of this activity, because by human nature, when it comes to money, people are tempted to avoid the rules, the regulations, all this, for the advantage and gain of the consumer (revenues > costs). The fraud is considered a form of economic criminality, because the act itself leads to losses in the market, both for the provider of the service and for the beneficiary of the damages produced. Worse, the negative impact falls upon the financial field and, finally, upon the economy. We think that the amplitude of this phenomenon firmly imposes decisions in order to reduce this natural temptation for some people to fraud and to obtain undue advantages*. [8]

Keywords: fraud, insurance domain, avoidance rules

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1. The general frame for fraud in insurance

In the insurance market runs the hypothesis that there is room for everyone, so in Romania and not only, there are many people working in this industry, but unfortunately, a lot of them are not well prepared, counting on the fact that they will learn from experience, therefore a lot of mistakes are made, from drawing up insurance policies to compensating in case of damages.

Returning to the core of this article, which has the purpose of covering the criminological aspects, we will try to explain why there is this temptation to commit fraud in this area.

The insurance system has its origins in ancient times, before the Christian era, in Orient, and afterwards was taken by the Greeks and Romans. First known forms of insurance are the maritime ones, area in which were also recorded the first forms of fraud. The historian Titus Livius reports an interesting event: during the fight against Carthaginian General Hannibal, the Public Treasury of the Roman Empire undertook to pay the weapon suppliers any losses that may have occurred as a result of the sea journey, but one of the suppliers, Postumius, took advantage of this facility, taking more sinking old ships loaded with commodities without value.

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In the last few decades, the concern about the increasing losses has emphasized, and the problem of fraud in insurance industry was placed at the European Committee of Insurers in the early 1980s, thereby initiating the first safety measures: creating a group to start storing information and establishing committees to analyze the data risks. According to the statistics of ECI, the vast majority of those who commit insurance fraud do it occasionally, yet in the last years there was an increase of the number of "professionals" [9].

To detect these kinds of acts, we must analyze the causes that can lead to them, which are: the evolution of the mentality towards the increasing consumption and looking for easy ways to get those sources; the economic crisis and the rising unemployment; the confusion started from the ignorance of those who consider insurance as a benefit or distribution system and a kind of fiscal management with unlimited financial possibilities ; the mentality that most of those who commit such fraud have that they do nothing wrong because "everyone would do the same"; the intuition of the insured that the insurer, in a situation such as facing a possible scandal of fraud, is willing to resign; the tendency of the insured to unjustifiably maximize the amount of compensation by exaggerating the damages [4,5].

Thus, insurance fraud actually means the deliberate deception or cheating with the purpose of having an unfair and unlawful advantage and causing financial loss to the insurer and it is committed against or by an insurer, a producer or a consumer to get a financial win.

Insurance fraud includes all offenses committed within a determined period in the insurance system, on the national territory. By committing a crime or an offense means to commit any of the acts that the law punishes as a crime or an attempt, as well as participating in their making, as an author, accomplice or investigator.

Within the concept of insurance fraud, included in the notion of economic and financial criminality, are contained all human behaviors prohibited by criminal law, namely all the facts that the law qualifies as offenses, which undermine the insurance system.

Criminality in general, as well as the insurance fraud is: real, apparent and legal. Real fraud means the totality of criminal offenses committed in a particular territory, during a period of time. Apparent fraud includes all offenses from the insurance system reported to the criminal justice system as such, while legal fraud is for all criminal offenses that have definitive sentences.

The difference between real and apparent fraud is called "dark figure of fraud" and represents anti-social acts which, for various reasons, remain unknown to the criminal justice system.

Fraud can also be classified as:

- direct fraud: the activity which aims illegally obtaining wrongful rights based on the insurance policy by forging the real facts before or after the insurance contract was signed,
- indirect fraud: the criminal activity redirected towards the rightful insurance holders (policy holders). The latter refers to the loss / theft caused to the insured with no intent to steal or deficit insurance companies (e.g. car theft).

Another classification of fraud that is necessary to be pointed out is the one that is divided into the following categories depending on the people involved:

1) Individual - made by only one insured or a third person;

2) Organized - made by a group of people who take advantage of their contracts, and organize a current insurance fraud.

3) Criminal organizations – committed by organizations or gangs of organized crime that among other illegal activities, also deal with cheating the insurance companies even by using threats, violence and intimidation.

4) Internal - committed by the insurance agents, insurance inspectors, experts, damage inspectors, sellers, in reality, acts committed by any employee or collaborator which aims to facilitate the fraud.

In a brief exposure, insurance fraud include acts like: voluntary production of insured risks; staging events such as fire, theft, traffic accidents; submitting false documents; criminal forms: fraud, forgery, abuse of office, including attempts, and the range is unlimited thanks to the ingenuity of those committing the crimes.

Insurance fraud depends on several indicators, so it may consist of:

- Notifications for non-existent damages, meaning events that actually never have occurred and are classified by "beneficiaries" as damages;
- Multiple notifications by admitting there was damage, but to several companies for the same event;
- False confession about the circumstances and facts, such as false presentation of an event, also using false documents and/or false statements of witnesses.

The features of any type of fraud include: pressure, opportunity and reasoning.

- Pressure is the financial factor. The desire to get a wrongful win is a factor of pressure on the author.
- Reasoning refers to the ability of each offender to realize that such behavior is acceptable.

- Opportunity is a system that allows the committing of fraudulent act.

After these needed explanations, we are trying to point out the investigators' complex of deception and crime in the area [7].

Deception and crime are important factors that can destabilize the entire system; so there is a vehement fight against them, and in spite of all that, the phenomenon keeps amplifying, intensifies in various ways over the years so that in some countries it is already considered like a national sport.

We ask ourselves why individuals keep relying on this kind of deception and why there are already histories in these types of crimes?

The answers are not complicated; primarily because this type of scam is not perceived as an unlawful and criminal act; secondarily because more and more people think that insurers, those who work in luxurious offices have a lot of money anyway, so they are wealthy enough and because in insurance deceit there is no direct relation between perpetrator and victim. Plus, we must highlight the frustrations of many people, the insured, who believe that after so many years of insurance payments, in case of damage they receive less than what they want or consider they should receive, then after a long period of insurance payments, without having any damages, they make a personal balance sheet and think : "So I have been paying for so many years for this insurance, without having damages and I'm not rewarded in any kind by the insurer, so why don't I think of a solution to recover at least a part of what I paid?". And thus violates the principle of solidarity that exist in insurance area "one for all and all for one".

Another defining element of insurance deceit, in the people's consciousness, is the sum of money, so researchers like Hoffner and Vauhahn have estimated that insurance deception turns into a criminal act only when exceeds 5000 Euros. G. Schwarz, another specialized author has listed the most common responses to the question: Why is there deception in insurance? And the answers from his point of view would be:

- Because I'm not hurting anyone in particular;
- Because I keep paying and I want to finally get something in return;
- Because one damage was not compensated;
- Because it works quite easily;
- Because I have financial difficulties;
- Because it was proposed to me;
- Because I want revenge;
- Because I want to prove I can do it too;
- Because I want to help my friends;
- Because everyone is doing it anyway;

- Because I wasn't treated by the insurer as I wanted;
- Because insurance is like a gamble;
- Because, through advertising, the insurer promised me much more than I received [6, 7].

2. Insurance fraud in Romania

In Romania, the main problem is that we do not have sufficient experience or statistics in the field of insurance deception; and the good part, if we can say so, is that in Romania, the criminality in insurance occurs at lower levels, basically most of the cases are reported in the automotive branch (the most frequent fraud cases registered and documented are in the automotive department because MTPL and Casco represent over 70% of the insurance market in Romania. Experts say that the "professionals" prefer to work with Casco instead of the arson of other insured goods); however as time passes we will have more cases of criminality in other branches of insurance (for example, two years ago, Allianz–Tiriac, considering it a fraud case, has dismissed a claim file on a policy of insurance of goods, where the owner of a warehouse required the amount of 1.3 million euro for the robbery of some construction materials, representing the insured goods. This case represents the largest expense, at value, that Allianz–Tiriac rejected so far), more expensive and more dangerous, and here we refer to the insurance targeting diseases, people, accidents, life, pensions, etc. We have actual examples, particularly in the United States, but not only, that some people end up faking their own death to collect the compensation in various ways. When it comes to these forms of fraud, the damage inspectors attributed to each area have to take notice and act responsibly, because people are very resourceful when it comes to fooling and harming the insurance companies to provide higher compensation for unjustified events. Of course, where there is the power of example and experience of cases, most of them are solved, but as we already mentioned, the ingenuity of criminals keeps growing and there are still considerable payments for inaccurate situations. Although insurers are trying to fight fraud, they are overwhelmed by the ingenuity of the "professionals", the biggest deceptions being made by the people inside. The phenomenon is not decreasing, unfortunately. Those who commit fraud are becoming more specialized faster than the insurance companies specialize against fraud [10].

Bogdan Andriescu, the President of UNSICAR states in 'Capital' magazine: "There are very few examples of fraud eradication. The discovered frauds are not disclosed. When they discover them, the insurers settle when whoever tried to defraud withdraws their application. The most frequent fraud cases are in the automobiles department, but in the property branch are higher values. Every line of insurance has its own fraud professionals. Lately, the frauds regarding injured

persons are increasing. Supervisors can't get involved a lot. This is a job for the Justice Department."

How are the cases of fraud currently solved? Proven fraud cases are solved amicably or in court. Many of the culprits give up the compensation in writing, when they are faced with indisputable evidence. There are other insured people who complain the evidences to the Insurance Supervisory Commission (ISC), and these cases are usually settled in court.

Every insurance company has developed its own politics regarding the fraud phenomenon. Generally, the success in fighting this phenomenon stays in developing the anti - fraud departments, but the insurers that do not adopt safety measures can turn into targets for fraudsters [12].

For a complete analysis, as a consequence of this temptation of defrauding the insurance system, we have to briefly mention that fraud increases the cost of damages.

Practically, both nationally and internationally, insurance fraud, a widespread phenomenon, negatively impacts the profit of all insurance companies, but also overall fraud is influenced by the legislation, social and economic environments and insurance organization [1].

And so, the most affected will be the client, the insured, who will suffer because he will be forced to pay higher premiums to compensate for the losses.

Returning to the United States of America, because they have a vast experience with this kind of criminality, it must be stated that they use the guide and instructions of NICB (National Insurance Crime Bureau). We can also use those, of course not before adapting all the indicators, because Romania, as any other country, has its own patterns and financial structures.

All these measures must have in view developing flawlessly structured procedures and processes; must indicate how the damage inspectors, lawyers, experts, investigators, etc. should work, must teach the workers about gathering the evidence, resistance to various pressures, selection of tactics and techniques in securing the evidence and in identifying legal problems without existing any calumny. So, ideally would be to have collaboration, made through protocols with the police, the rewarded informants and the press.

The whole activity, not at all simple and extremely complex, leads to conceiving a report submitted to the Anti-fraud departments, where their specialized people will apply specific procedures [11].

It is worth mentioning that in the new Penal Code, entered into force in Romania on February 1st 2014, and clearly stipulates insurance fraud as a crime in its own

right, being included in the crimes against patrimony by disregarding trust. Thus, Article 245 CP reiterates that:

Deception in Insurance

(1) The destruction, degradation, bringing in an unusable state, concealment or estrangement of an insured property against destruction, degradation, wear, loss or theft, in order to gain, for himself or another, the insured amount, shall be punished by imprisonment from one to five years.

(2) Any person who, for the purposes stated in paragraph (1), simulates causes or aggravates damages or injuries caused by an insured risk is punishable by imprisonment from 6 months to 3 years or a fine.

(3) Reconciliation removes criminal liability.

So the punishments vary between 1 and 5 years, therefore for an act committed in the most serious form, the maximum sentence can reach to 5 years, which creates a "state of discomfort" [3].

Conclusions

To try to eradicate the temptation of fraud in this system of insurance, we have to put at the helm of competent departments of the insurance companies, forensic experts who know exactly what to do and how to manage, because they can rely on their degrees from specialized schools where they thoroughly studied everything that comes to theft, fire, accident or just simulations. They are the only ones capable to lead an internal investigation to determine whether the occurred situation is or is not disguised. Damage inspectors, without trying to offend them in any way, rely solely on experience and similarity of cases, just like psychologists do, but the amplitude of these events requires inserting technique, tactics and methodology. This idea will probably be countered primarily because it would raise domestic costs, but the problem must be viewed in its entirety, as an investment of this nature would decrease the damages over time and how everything unfolds like a food chain, the finality would be the conservation of the clients, maintaining or decreasing insurance premiums and trying to instill fear among those tempted to commit such crimes that they will be caught. Therefore, to reduce the exposure to fraud and to extirpate at least a part of the criminal networks, there should be developed a managerial strategy to: have a sufficient number of members to only deal with insurance fraud, that is to be specialized experts in discovering various types of fraud, to be a good collaboration between insurance companies and a common database through which they can rapidly exchange information and transmit in a concise and radical way a message to the community over the seriousness of the company and of the insiders and to impose

the same seriousness to the customer. So fraud causes imbalance for the insurers on the marketing and financial market because they accede: increasing costs, indemnities, applications and operating and maintenance costs; the efficiency and effectiveness are reduced by distracting the attention from the economic resources to daily activities; creates technical problems in management and increases premiums of insurance; it undoubtedly affects the relationship with current and potential customers because it deteriorates the image and reputation of the insurance company; clear rules of risk selection are required, so the sale will be damaged; lack of the damage inspectors' involvement, who will no longer believe the anti - fraud department, because they already observed substantial losses.[2]

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