

Content of question:

Are the requirements of the Decree fulfilled in the case of the General Insurance Terms and Conditions of type D issued by EGAP, the so-called insurance of a refinancing loan against the risk of non-payment, which state that "the beneficiary does not become responsible for the activity, or inactivity, of the contracting parties to the insurance contract; in case the policyholder (insurant) or the insured fails to notify EGAP of the occurrence of a threat of an insured event immediately after its occurrence, the person who becomes entitled to make this notification is the beneficiary, who has equal rights and obligations stemming from the Insurance Contract Act as the insured in such case and who is, in particular, entitled to provide a true explanation as to the occurrence and scope of the threat of an insured event and submit relevant documents" if the policyholder (insurant), the insured and the beneficiary are different entities?

Answered by: Radka Litošová; Martin Pícha

Approved by: Pavel Vacek

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Piece of law	<b>Decree No. 123/2007 Coll.</b>
Provision:	<b>Annex 15, B, 1, b) 3</b>
Explanation	<p>The requirements set out in Annex 15 to Decree No. 123/2007 Coll. imply that the beneficiary must possess sufficient certainty that it will be entitled to an indemnification payment from EGAP in the event of a default of an export loan obligor (a foreign bank) and this indemnification payment cannot be refused by EGAP for any reason which is beyond the beneficiary's direct control.</p> <p>Whether the requirements of the Decree are fulfilled or not cannot be determined on the basis of one single provision of the General Insurance Terms and Conditions. However, it can be generally stated that the overall content of an insurance contract must enable the beneficiary to successfully requisition an indemnification payment upon the occurrence of an insured event on the assumption that it has taken all the steps to which it was obliged and which were within its capability.</p>