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BOOK REVIEW

## **PROTECTION OF INSURANCE SERVICE CONSUMERS**

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In her monograph, the author notably points out the fact that the consumer law is becoming a new legal field aimed at protecting the persons who, in the course of concluding the contracts with professionals, might be considered insufficiently versed. The consumer law is based on the fact that consumers, by their nature, are a weaker party to the contract and thus require protection.

The author highlights the weaknesses of the existing legislation on the consumer protection in insurance industry and points out that it requires improvements. According to her, the judicial protection system has not proven sufficient. Therefore, she gives advantage to the out-of-court settlements which serve two important purposes: consumer protection through the possibility to settle a dispute out of court and to take the workload off judicial system. The author thinks that arbitration should be introduced to consumer disputes, which does not preclude judicial protection.

The monograph is divided into several parts. The general part is divided into five chapters. The author paid special attention to the insurance service consumers and provided the information of the solutions offered by the comparative law. She argues that the definition of the term *consumer* should be broadened to include the policyholder, insured, and insurance beneficiaries, except for those entities which are protected against major risks. In this area, our positive law remains ambiguous. The

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insurance against “major risks” will create problems. The term *insurance consumers* should not be connected to major risks, regardless of the fact that a certain number of European countries has accepted that classification. Quoting major risks does not represent a solution because the gaps may still be present (*lacuna*). Defining the term *consumer* solely based on the subjective elements such as whether there is a weaker contracting party and whether someone is not legally knowledgeable is not sufficient. For example, if one person possesses a larger motor boat used for recreational purposes and river fishing, such boat is included in the definition of the term *insurance consumer*. However, if such person carries on tourist activities, it will not have the capacity of an insurance consumer. The very fact that such person carries on a particular business activity differentiates such person from the insurance service consumer. The obligations of such person to the insurer are greater. According to the law, the consumers enjoy higher protection. However, the term *insurance consumer* should leave very little room for various interpretations.

A separate section and separate chapters provide an overview of the obligation to provide the insurance information, obligation to provide advisory services, legal regulations regarding the content of the insurance consumer contract, construction of vague insurance contract provisions, general insurance terms and conditions to the benefit of the insured, unfair clauses in the insurance contract, unfair clauses in Serbian law, and out-of-court settlement of insurance consumer disputes. In this part, the author paid strong attention to the unfair clauses appearing in the insurance contracts which have an adverse effect on the consumers. She informs us about the prevailing point of view in the EU, particularly in the Directive 93/13, as well as about the manner in which unfair terms can be determined. Particular contribution of the author is the classification of terms relating to the insurance cover and those relating to the exclusions. In addition, she provides a useful overview of the position of the European Court of Justice regarding unfair terms. As pointed out by the author, the court practice plays an important role when determining unfair clauses.

The author concludes that the protection provided by consumer law is not sufficient. Such protection has dual limitations. She feels that the Civil Code of Serbia needs to include the provisions ensuring the rights of insurance service consumers. Finding the legal concept which will ensure the protection of all covered persons against unfair clauses remains a task at hand.

The monograph is based on a comprehensive professional, domestic and international legal and economic literature.

*Translated from Serbian by: Zorica Simović*