

Multiple insurances¹

Austria	<p>Several detailed rules in §§ 49 – 68a VersVG concerning all indemnity insurances: damages paid in money; insured sum = limit of all payments; over-, underinsurance, causation of loss, duty to mitigate loss; right to subrogation</p> <p>General rules on claims handling</p> <ul style="list-style-type: none"> - §§ 33, 34: duty to notify and give information on insured event - When insurance money falls due (§ 11) <p>Limitation period (3 years but absolute maximum of 10 years - § 12 para 1; short period of 1 year if notified by the insurer in accordance with § 12 para. 3)</p>
Bulgaria	<p>No general rules on multiple insurance, only a couple of specific rules.</p> <p>With regard to property insurance and payment of insurance indemnity (Art.208 (4) Code for the Insurance): The policyholder is obliged to inform of the existence of other insurance contracts, indicating the other insures and the insurance amounts in accordance with the contracts concluded with them.</p> <p>In case two or more insurance contracts have been concluded for the same property right under equal insurance risk covers, and the total of separate insurance amounts exceeds the actual value of the property insured, each insurer shall be liable at the proportion of the insurance amount it agreed on to the total insurance amount of all insurances.</p> <p>With regard to the insurance amount in life and accident insurance (Art.238 (2)): The insurance amount shall also be paid where the policyholder has received payment under another insurance contract.</p>
Croatia	<p>Pursuant to Article 958 of the Civil Obligations Act where a property is insured against the same risk with two or more insurers, for the same interest, for the same period and for the same insured person, so that the aggregate amount of insurance does not exceed the insurable value of that property (multiple insurance), every insurer shall be fully liable for meeting the obligations arising from the contract that he himself has entered into.</p> <p>Where the aggregate amount of insurance exceeds the insurable value of property (double insurance), and the policyholder has acted with due care, all these insurances shall be valid and every insurer shall have a right to the agreed premium for the current period of insurance, while the insured person shall be entitled to request from every individual insurer a compensation in accordance with the contract concluded with him, which shall not exceed the amount of damage.</p> <p>Upon the occurrence of the insured event, the policyholder shall notify thereof</p>

¹ The information in this table is provided by insurance experts or insurance organisations from respective country. It does not contain a thorough review of all Member States' insurance contract laws and does not reflect the official opinion of the Commission.

	<p>every insurer against the same risk, and communicate to him the names and addresses of other insurers and the amounts of insurance of individual contracts concluded with them.</p> <p>After the payment of compensation to the insured, every insurer shall account for a portion of the compensation proportionate to the ratio between the amounts of insurance to which he has agreed to the aggregate amount of insurance. The insurer who has paid a larger amount shall be entitled to request a compensation for the excessive payment from the other insurers.</p> <p>If a contract is entered into without an indication of the amount of insurance or if the cover is unlimited, such a contract shall be deemed as a contract concluded with the largest amount of insurance.</p> <p>If a policyholder has concluded an insurance contract whereby a double insurance has occurred and he has not been aware of the previously concluded insurance contract, he may, regardless of the fact whether he himself or another party has concluded the previous contract, request the corresponding reduction in the amount of insurance and the premium referring to the subsequent insurance contract, within one month from the date when he has become aware of the previous insurance, however, the insurer shall retain the premiums received and he shall be entitled to the premium for the current period.</p> <p>If the double insurance is a result of a reduction in the value of the insured property during the period of insurance, the policyholder shall have a right to a corresponding reduction in the amount of insurance and the premium, starting from the date when he has communicated his request for reduction to the insurer.</p> <p>Where, on the occurrence of the double insurance, the policyholder has failed to act with due care, any insurer may request the cancellation of the contract.</p>
<p>Estonia</p>	<p>§ 483 LOA: A policyholder shall notify the insurer immediately if the same insured risk is insured by another insurer, including cases where loss of income is insured by one insurer and other damage by another insurer. The name of the other insurer and the sum insured shall be indicated in the notice.</p> <p>§ 486. Multiple insurance</p> <p>(1) If a policyholder insures the same insured risk with several insurers and the total amount of indemnities payable by the insurers would exceed the extent of the damage or the total of the sums insured would exceed the insurable value (multiple insurance), the <u>insurers shall be liable as solidary obligors</u>.</p> <p>(2) In the case specified in subsection (1) of this section, each insurer shall be liable to the policyholder to the extent of the sum insured to be paid by the insurer pursuant to the contract, but the policyholder shall not claim more in total than the extent of damage.</p> <p>(3) In the case specified in subsection (1) of this section, insurers shall be liable between themselves in proportion to the amount each of them has to pay the policyholder pursuant to the insurance contract.</p> <p>(4) Contracts entered into by a <u>policyholder who takes out multiple insurance with the intention of acquiring an unlawful patrimonial advantage</u> shall be void. If the insurer was unaware of the invalidity of the contract at the time of entry into the contract, the insurer shall be entitled to insurance premiums until the end of the period of insurance during which the insurer became or should have become</p>

	<p>aware of the invalidity of the contract. (5) Any agreement which derogates from the provisions of subsections (1)–(4) of this section is void.</p> <p>§ 487. Elimination of multiple insurance (1) If a policyholder unknowingly entered into a contract resulting in multiple insurance or if multiple insurance occurred later due to a decrease in insurable value, the policyholder may cancel the contract which was entered into later or reduce the sum insured to the amount not covered by earlier insurance. Together with a reduction of the sum insured, the policyholder may also reduce the insurance premium. (2) In the case specified in subsection (1) of this section, the policyholder may only cancel the contract or reduce the sum insured immediately after becoming aware of multiple insurance. (3) A contract shall be deemed to have been cancelled under the circumstances specified in subsection (1) of this section or the sum insured and the insurance premium shall be deemed to have been reduced by the end of the period of insurance during which the policyholder cancelled the contract or notified the insurer of the reduction of the sum insured and the insurance premium.</p>
<p>Finland</p>	<p>If several insurers has granted the award of benefit for the same insured occur to the same insurance policy, each of the insurers are liable for the compensation as would be granted under the exclusive insurance policy. If the total cumulative benefit of insurance is over-insured, the insured is not entitled to compensation under various insurance policies totaling more than the actual amount of the damage unless otherwise stipulated by law.</p>
<p>France</p>	<p><u>Article L121-4 Insurance Code:</u> Modifié par Loi n°82-600 du 13 juillet 1982 - art. 8 JORF 14 juillet 1982</p> <p>If the insured subscribe different insurances for the same risk, he shall give notice to all the concerned insurers.</p> <p>The insured shall notify the name of the insurer with whom another contract has been signed and shall state the amount of the coverage. If it is the case of multiple insurances signed for fraudulent purposes the sanctions foreseen by Article L 121-3 are applicable.</p> <p>If there is no fraudulent intent, each insurance produce its effects within the limits fixed by the contract and by Article L 121-1 irrespective of the date the contract was signed. <u>(FULL LIABILITY PRINCIPLE)</u> Within these limits the insured may obtain compensation addressing his claim to the insurer(s) he prefers.</p> <p>The contribution of each insurer is determined in relation to the ratio between the indemnity the insurer should have had to pay if he was alone and the total amount of the indemnities that each insurer would have had to pay if he was alone.</p> <p><u>Article L121-3 Insurance Code:</u></p> <p><u>(INDEMNITY PRINCIPLE)</u> If one or more insurance contracts result in over-</p>

	<p>insurance, if there is willingness or fraud, the other party may claim the nullity of the contract and ask for the damages reparation and the interests.</p> <p>If neither there are nor willingness nor fraud, the contract is valid, but only till the real value of insured objects and the insurer has no right to the exceeding premiums.</p>
<p>Germany</p>	<p>§ 77 VVG: Anyone who insures the same interest against the same risk with several insurers has to inform each insurer about the other insurances without undue delay naming the other insurers and the sum insured.</p> <p>This applies also if he has insured the lost profit with one insurer but other damages with another insurer.</p> <p>§ 78 VVG:</p> <p>(1) If the sums insured exceed the insurable value or the sum of damages which would have to be paid by the insurer if the other insurance did not exist exceeds the total loss (multiple insurance), the insurers are liable as joint and several debtors in such a manner that each insurer must pay the sum in accordance with his contract, but the policyholder cannot demand more than the total amount of the loss.</p> <p>(3) If the policyholder has concluded multiple insurance with the intention of thereby gaining an illegal pecuniary benefit, each contract made with that intention shall be void; the insurer shall be entitled to the insurance premium up until such time as he learned of the circumstances establishing the nullity.</p> <p>§ 79 VVG: If the policyholder has concluded the contract on account of which the multiple insurance arose without knowing this, he may demand that the contract made at a later date be rescinded or the sum insured be reduced, also reducing the insurance premium proportionally to that share not covered by the earlier insurance</p> <p>This applies also if the multiple insurance arose on account of the fact that the insurable value decreased after the conclusion of several contracts of insurance. If in such cases several contracts of insurance were made at the same time or with the consent of the insurers, the policyholder may only demand the proportional reduction of the sums insured and of the premiums.</p>
<p>Greece</p>	<p><u>Art 15 of law 2496/1997 in regard to insurance contract :</u></p> <p>In the event that the insured property has been covered against the same risk by several insurers (“multiple insurance”) the policyholder, or the insured, should notify without undue delay each insurer of the conclusion of the further contract and of the insured sum.</p> <p>Multiple insurance contracts are valid up to the total value of the insured loss. In the absence of agreement to the contrary, the insurers shall bear joint and several liability up to the insured sum stipulated in their contracts. It may be agreed that if the existence of other insurance contracts is not notified to the insurer upon the conclusion of the contract, the insurance money shall be limited to the sums exceeding the insured sums under any previous insurance policy. Should the policyholder or the insured intentionally fail to make the said notifications, the</p>

	<p>insurer shall be entitled to terminate the contract within one (1) month from the date when the insurer acquired knowledge of the non – compliance.</p> <p>In the event that the insurance contracts were concluded by joint agreement, with or without a common insurance co-ordinator (leader), each of the insurers concerned shall be proportionally liable for the insured amount (“co-insurance”).</p>
Hungary	<p>In case of multiple insurance the claim paid is divided among the insurance companies affected by the multiple cover (in proportion to the terms of supplied insurance cover).</p> <p style="text-align: center;">Ptk. 6:441</p> <p>(1) In the event where the insurance risk is covered - in a predetermined percentage - jointly by more than one insurance company, and the insurance services are performed collectively, the contract to that effect shall indicate the name of all insurance companies participating in the co-insurance, including their share in risk coverage. In connection with co-insurance, the service obligations of insurance companies shall be limited by their commitment in the sharing of risks.</p> <p>(2) A co-insurance contract that fails to specify the share of participating insurance companies in risk coverage shall be null and void.</p> <p>(3) The insurance companies shall be represented in respect of the contracting party by the leading insurer. If the leading insurer has not been named in the contract, the contracting party shall have the option to lawfully perform and to make legal statements - at his discretion - to either of the insurance companies.</p> <p style="text-align: center;">(Ptk. 6:476)²</p> <p>Multiple insurance is not prohibited for insurances where contract is providing payment of a pre-fixed sum of money. These are typically the life insurance contracts.</p>
Italy	<p><u>Art. 1910 Civil Code:</u></p> <p>The insurer must give immediate notice to each insurer, no matter if over-insurance is involved. In case of the insured event to happen, the insured must give immediate notice to all the insurers. If the insured fails to provide the information, the insurer can deny payment.</p> <p>The insured has the right to be paid by each single insurer according to the specific insurance contract till the total amount of the suffered damages is reached (indemnity principle).</p> <p>Principles of full liability for each insurer; but the insurers are entitled to contribution from the other insurers. Each insurer is liable in proportion to the amounts stated in the various insurance policies.</p>

² The text below refers to the following Hungarian laws

▪ **Ptk.** – Hungarian Civil Code; Act of V of 2013.

▪ **Bit.** – Act on Insurance Institutions and Insurance Business; Act of LX of 2003.

Portugal

1. Article 133 of the Legal Regime states in general:

Article 133

More than one contract of insurance

1. When the same risk relating to the same interest and for an identical period is covered by more than one insurer, the policyholder or the insured must inform all the insurers of this situation as soon as they become aware of the fact and when reporting any loss.
2. Any intentional omission in provision of the information referred to in the preceding paragraph shall discharge the insurers from their respective obligations.
3. A loss occurring within the scope of the contracts referred to in para.1 shall be indemnified by any of the insurers, as selected by the insured, within the limits of the respective obligation.
4. Save as otherwise agreed, the insurers involved in compensating the damage covered by the contracts referred to in para. 1 shall be liable amongst themselves in the proportion of the amount which each one would have to pay if there existed only one contract of insurance.
5. In the event of the insolvency of any of the insurers, the others shall be liable for the share of that insolvent insurer pursuant to the provisions of the preceding paragraph.
6. The provisions of this article shall apply to the right of the injured party to demand payment of the indemnity direct from the insurer in public liability insurance, with the exception of the provisions of para.2 that may not be relied upon against the injured party.

2. Article 180 states for personal insurance in general

Article 180

More than one contract of insurance

1. Save as otherwise agreed, pre-determined payments are cumulative with others of the same nature or with payments of a compensatory nature, even where they are dependent on the occurrence of the same event.
2. Insofar as it guarantees compensatory payments in relation to the same risk, the ordinary rules of damage insurance set out in art.133 shall also apply to personal insurance.
3. The policyholder or the insured must inform the insurer of the existence of or of having taken out insurance in relation to the same risk, even where only payments of a predetermined value are covered.

	<p>3. Article 215/b states for health insurance</p> <p style="text-align: center;">Article 215</p> <p style="text-align: center;"><i>Applicable regime</i></p> <p>The following shall not be applicable to sickness insurance:</p> <p>(a) The rules relating to increased risk set forth in arts 93 and 94 in relation to changes in the condition of health of the insured person.</p> <p>(b) The obligation to disclose the existence of more than one policy as set forth in art. 180(2) and (3).</p>
Romania	<p>Article 2219 of Civil Code states that in property insurance the insured shall declare the existence of all insurance on the same property, the obligation being awarded to both the conclusion of insurance contracts, and during their execution.</p> <p>When there are several insurance contracts covering the same property, each insurer is liable to pay in proportion to the sum insured and up to it without the insured may receive compensation greater than the actual loss as a direct consequence of the risk.</p>
Slovakia	<p>§ 807 of CC</p> <p>If one and the same thing is insured against the same event at several insurers and if the aggregate of the amount exceeds the insurance value of the thing each insurers shall be obliged to provide only proportion of the sum which should be paid.</p>
Spain	<p>In multiple insurance the policyholder or the insured, unless otherwise agreed, must declare the claim to each insurer, indicating the name of the other insurers (Art. 32 LCS).</p> <p>In the event of coinsurance, a simple notification to the leading insurer or the delegated insurer suffices. (Art. 33),</p> <p>If in bad faith this communication is omitted and if it happens to be over-insurance, insurers are not required to pay compensation.</p> <p>Insurers should contribute to the payment of compensation in proportion to the sum insured, without exceeding the amount of the damage. Within this limit the insured can ask each insurer the compensation due, according to the respective contract. If one of the insurers paid an amount higher than the corresponding proportion he may sue the other insurers.</p> <p>If the total of the sums insured significantly exceeds the value of the interest, shall apply the provisions of Article 31.</p>

Sweden	<p><i>Chapter 6, Article 4, the Insurance Contract Act (2005:104)</i></p> <p>Where the same interest has been insured against the same risk with several insurance companies, each insurance company is liable to the insured as if that company alone had issued insurance. However, the insured is not entitled to a total indemnity from the insurers exceeding the actual loss/damage. In case the total sum of the liability amounts exceeds the actual loss/damage, the liability shall be allocated between the insurance companies in relation to the respective liability amount.</p>
United Kingdom	<p>We did not find it possible to summarise in short form this section of English insurance contract law. A detailed analysis is available at Chapter 24 of MacGillivray on Insurance Law relating to all risks other than marine, Twelfth Edition. (This is available on Westlaw or at the Law Societies Brussels Office.)</p>