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Risk management in the sphere of state economic security provision using professional liability insurance

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ABSTRACT

This study contains a comprehensive scientific analysis of modern problems of risk management in the sphere of state economic security provision using professional liability insurance. The elements of the mechanism for provision the economic security are defined, namely: subjects, objects and instruments of influence. It is stipulated that insurance is the means to provide the state economic security. Here are types of insurance that are important for the state and its economic security and we have focused on one of these types, namely: professional liability insurance. It is shown that this type insurance helps to manage the risks in different business activities. The concept of this type of insurance has been researched. It is identified its charachteristics. The classification of this type of insurance has been performed. It is proved the effectiveness of insurance as a method to provide the protection of the economic interests of all entities by transferring part of the risks to professional participants of the insurance market.

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INTRODUCTION

The study of risk management in the sphere of the state economic security provision using professional liability insurance is determined by scientific and practical considerations since society needs orderliness and predictability of relations in various spheres of life. This type of insurance is developing dynamically in a lot of countries. In Ukraine, only in recent years, interest in it has arisen from both potential insurers and insurers. According to the requirements of the Insurance Act of Ukraine, (1996), professional liability insurance of persons whose activities may cause harm to third parties shall be performed in a mandatory form according to the list adopted by the Government of Ukraine (Insurance Act of Ukraine, 1996). Since 1996, the list of such persons has not been developed and has not been enacted, which indicates the need to improve the legal regulation of this type of insurance, which will solve many issues that arise in practice in its performance. The study of problems and prospects for the development of this type of insurance is important to provide the state economic security, the insurance business, lawmaking and law enforcement activities.

MATHERIALS AND METHODS

The methodological basis of the study is a set of scientific techniques and methods of scientific knowledge, including dialectical, historical-legal, logical-legal, system-structural, method of forecasting and comparative jurisprudence. Dialectical method has provided opportunities to analyze scientific positions regarding the content and development of professional liability insurance. Historical-legal method helps to study the genesis of the development of insurance in specific historical and legal situations, the development of theoretical scientific thought and legislation. The method of comparative law is used to study the legislative and regulatory acts of Ukraine and other countries in the world as well as to clarify the advantages and disadvantages of the mechanism of legal regulation the insurance of professional liabitity in various countries in the world. Systemic and structural methods have helped to clarify the content of the contracts connected with this kind of insurance. Formal-logical method has allowed to analyze the provisions of the legislation of Ukraine in the sphere of this type of insurance. The forecasting method has been useful to define the insurance as one of the risk management methods while providing the state economic security. The empirical base of this study consists of judicial practice materials, data from the National Commission, which regulates the financial markets in Ukraine and the practice of individual insurance companies that perform insurance of professional liability (JCRECU, 2009, JPDCKC, 2010).

RESULTS AND DISCUSSION

According to the Article 1 of the Fundamentals of National Security Act of Ukraine No 964-IV dated on June 19, 2003, national security is the security of the vital interests of a person and a citizen, a society and a state, which ensures the sustainable development of society, the timely detection, prevention and liquidation of threats real or potential to national interests in the areas of law enforcement, the fight against corruption, border activities and defense, migration policy, health care, child protection, education and science, scientific and technical and innovation policies, cultural development of the population, ensuring freedom of speech and information security, social policy and pensions, housing and communal services, financial services market, protection of property rights, stock markets and securities turnover, fiscal and customs politics, trade and business, banking services, investment policy, audit, monetary and exchange rate policies, information security, licensing, industry and agriculture, transport and communications, information technology, energy and energy conservation, the functioning of natural monopolies, the use of subsoil, land and water resources, minerals, the protection of ecology and the environment and other areas of public administration in case the negative trends towards the creation of potential or real threats to national interests have come (FNSAU, (2003). Thus, it has been concluded that the economic security is an integral part of its national security of the state. The elements of the mechanism to provide the economic security are the subjects, objects and instruments of influence. The subject of the mechanism is a person who acts on certain processes and phenomena, which are objects of influence, with the help of a certain set of tools in order to achieve the security of the economic system in the state. At

the same time, all subjects of the economy can be subjects of influence, namely: governing bodies on behalf of the state, business entities and natural persons. It shall be noted that national economic security is achieved only if all the levels of the economy are protected. Currently, there is a huge amount of tools to achieve the state economic security, among which are the following: financial, investment, tax, social, foreign economic (Dykan and Posohov, 2014). The state economic security is such a condition of the economy and government institutions that ensures guaranteed protection of national interests, harmonious, socially oriented development of the country, sufficient economic and defense potential with the most unfavorable development options for internal and external processes (Dziubyk and Ryvak, 2014). Thus, this is a condition of the economy where the economic interests of a person, society, state, region or enterprise are reliably protected from all the threats. Consideration of insurance as the means to provide the state economic security at the national and international levels is not traditional for science; however, there is an increasing need for a critical study of the current practice of applying the insurance system to provide primarily the state economic security (Bovsunovska, 2017). One of the important indicators of the condition of the economy of any state is the development of the insurance industry that provides reliable guarantees for the restoration of property rights breached and interests if losses have been caused by different circumstances. The Constitution of Ukraine adopted on June 28, 1996, specifiws general rules for the legal regulation of financial policy, one of the components of which is to ensure the development of the insurance industry (Constitution of Ukraine, 1996). Social production is risky in nature. The environment and social environment constantly influence it and this influence can be both positive and negative. Spontaneous phenomena that can comprehend a separate economy can completely destroy it. Without support, such an economy is not able to cover the damage caused by its own forces. In this regard, the existence of compensation mechanisms for losses that may arise as a result of unforeseen events becomes a prerequisite for the operation of any business entities. This compensation is possible if there is an appropriate fund due to which it will be performed. So, there is a need to have special mechanisms for redistributing risks (losses) and the formation of the necessary funds. Mechanisms for creating such funds provide for the reservation and redistribution of resources for unforeseen events and the existence of an appropriate risk redistribution system. Such a mechanism allows to accumulate the savings of individuals and business entities in order to prevent the negative impact of certain unforeseen events. This mechanism is an insurance (Boivin, 2004; Voronkova and Pozdniakova, 2017). According to the Article 1 of the Insurance Act of Ukraine, (1996), insurance is a type of civil relations to protect property interests of natural persons and

Table 1: Analysis of insurance premiums under various types of insurance during 2016-2018 in Ukraine

Type of insurance	Insurance premiums (%)		
	2016	2017	2018
Voluntary insurance:	78,71%	80,23%	77,86%
Accident insurance	3,20%	3,66%	4,56%
Medical insurance (continuous health insurance)	10,04%	9,76%	11,12%
Health insurance in case of illness	1,28%	1,44%	1,62%
Vehicle insurance	18,96%	18,65%	20,74%
Cargo and baggage insurance	5,57%	3,65%	5,07%
Fire and natural hazards insurance	7,85%	5,75%	6,57%
Property insurance	11,59%	9,41%	11,05%
Third party liability insurance, including professional liability insurance	6,30%	5,89%	5,69%
Credit risks insurance	2,23%	1,22%	1,98%
Financial risk insurance	8,74%	6,68%	5,70%
Medical expenses insurance	2,96%	3,04%	3,77%
Obligatory insurance:	21,29%	19,77%	22,14%
Insurance of civil liability of vehicles owners	19,14%	17,32%	19,44%
Civil aviation insurance	2,13%	2,42%	2,67%
Professional liability insurance of notaries	0,03%	0,03%	0,03%

business entities in case some certain events defined by the insurance contract or valid legislation have become, at the expense of cash funds formed from insurance payments made by natural persons and business entities and income from the placement of funds of these funds (Insurance Act of Ukraine, 1996). Thus, insurance is a method of transferring risk by concluding the insurance contract and more closely meets to the ideal conditions to transfer any risks. In connection with the global economic crisis, the role of financial instruments to provide the state economic security of the state is growing. The most effective tools include insurance (Furman and Zachosova, 2015; Horbach and Kaun, 2010; Stemkovska, 2009). The effectiveness of this financial instrument is confirmed by an analysis of insurance premiums under various types of insurance in the insurance services market Ukraine (CRDIU, 2016; CRDIU, 2017; CRDIU, 2018).

The analysis of insurance premiums during 2016-2018 in Ukraine shows that the most demanded types of insurance are: Vehicle insurance, Medical

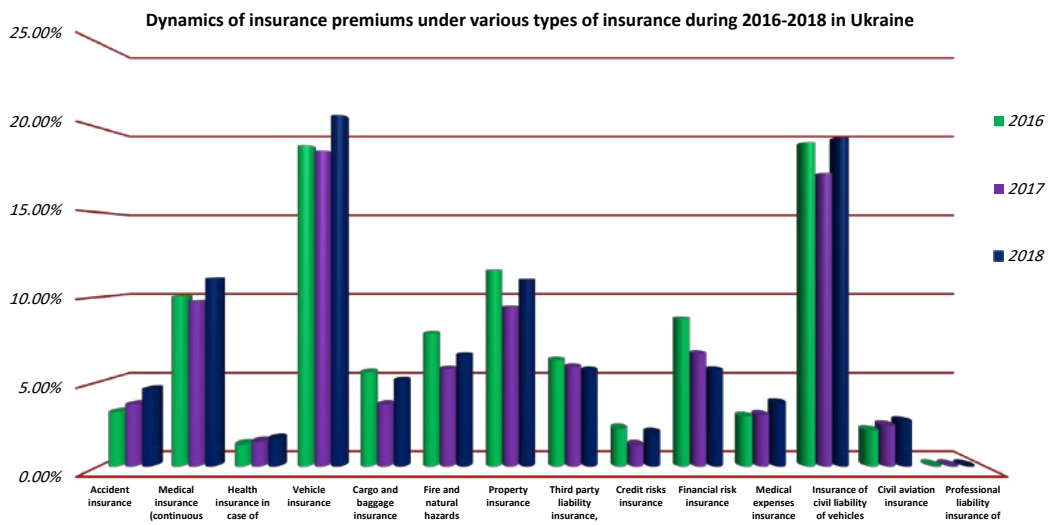


Fig. 1: Dynamics of insurance premiums under various types of insurance during 2016-2018 in Ukraine

Table 2: Analysis of insurance reimbursement under various types of insurance during 2016-2018 in Ukraine

Type of insurance	Insurance reimbursement (%)		
	2016	2017	2018
Voluntary insurance:	78,59%	76,61%	78,02%
Accident insurance	1,69%	1,64%	1,62%
Medical insurance (continuous health insurance)	16,69%	17,58%	18,14%
Health insurance in case of illness	0,30%	0,34%	0,29%
Vehicle insurance	25,08%	27,14%	26,97%
Cargo and baggage insurance	4,89%	0,67%	1,03%
Fire and natural hazards insurance	1,01%	1,74%	2,16%
Property insurance	1,86%	2,74%	12,23%
Third party liability insurance, including professional liability insurance	0,41%	0,29%	0,14%
Credit risks insurance	13,72%	2,75%	0,68%
Financial risk insurance	10,25%	18,97%	12,06%
Medical expenses insurance	2,69%	2,75%	2,70%
Obligatory insurance:	21,41%	23,39%	21,98%
Insurance of civil liability of vehicles owners	21,08%	23,38%	21,73%
Civil aviation insurance	0,32%	0,01%	0,25%
Professional liability insurance of notaries	0,00%	0,00%	0,00%

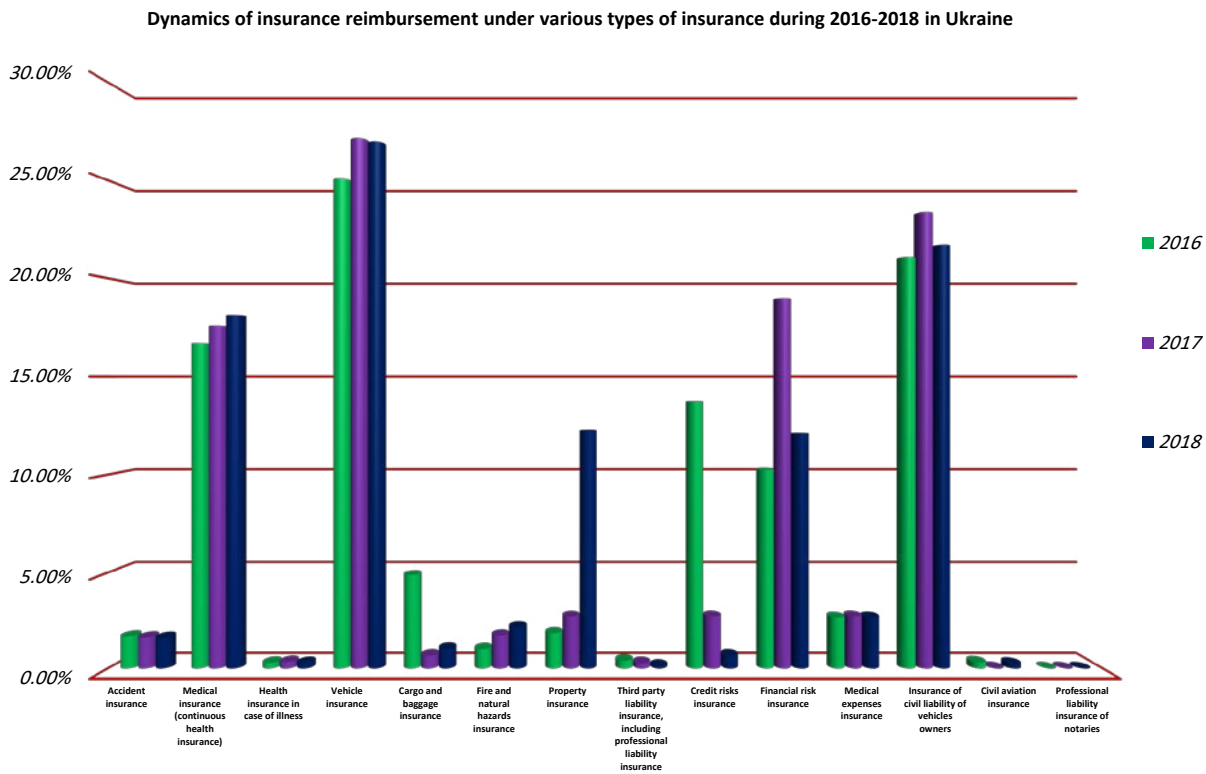


Fig. 2: Dynamics of insurance reimbursement under various types of insurance during 2016-2018 in Ukraine

insurance (continuous health insurance) and Property insurance.

The purpose of developing the insurance market, in addition to creating an attractive and affordable insurance market, protecting the interests of both insureds and insurers, shall be the implementation in Ukraine of world-proven forms and types of insurance, that is, making insurance an effective component of protecting the interests of natural persons and business entities (Mashyna, 2006; Vnukova, 2006).

In addition, this conclusion is proven by the analysis of the insurance reimbursement to natural persons and business entities if the insurance event occurs (CRDIU, 2016; CRDIU, 2017; CRDIU, 2018).

Let us try to define the types of insurance that are very important for the state and its economic security, depending on the subject of insurance, namely:

- Property interests that do not contradict the law and are related to life, health, working capacity and pension coverage: medical insurance; accident insurance; life insurance, *etc.* (Shelpiakova, 2015);

- Property interests that do not contradict the law and are related to the possession, use and disposal of property: insurance of property of business entities and natural persons; financial risk insurance; insurance of construction risks, *etc.*;

- Property interests that do not contradict the law and are related to the reimbursement by the insured of the harm caused to the person or their property as well as harm caused to the business entity (liability insurance): insurance of cyber-risks (cyber-responsibility); professional liability insurance; product liability insurance, *etc.* (Basin, 2008; Bazylevych, 2008; Bratiuk, 2015; Kinash and Terekhova, 2013; Verhovets, 2010).

This study proposes to focus on the professional liability insurance.

The Article 7 of Insurance Act of Ukraine determines that the liability insurance of persons whose activities may cause harm to others is performed in a mandatory form according to the list adopted by the Government of Ukraine (Insurance Act of Ukraine, 1996). However, the legislator, having established the obligation for persons engaged in professional activities that may

cause harm to others, insure professional liability, has not defined the procedure for implementing this type of insurance. Therefore, this type of insurance is performed by concluding an insurance contract between the insurer and the insured (the person who performs a certain type of professional activity) in a voluntary form based on the requirements of the Article 6 of the Insurance Act of Ukraine for third-party liability insurance (Insurance Act of Ukraine, 1996). Considering the provisions of the Article 979 of the Civil Code of Ukraine and the Article 16 of the Insurance Act of Ukraine, we can define a contract in this sphere of insurance (Civil Code of Ukraine, 2003; Insurance Act of Ukraine, 1996). Under this contract one party (the insurer) undertakes if a certain event (insured event) occurs to make an insurance payment to a beneficiary for whose benefit an insurance contract has been concluded (to the insured's client and/or a third party) and the insured (a person engaged in professional activities) undertakes to pay insurance payments and comply with other provisions of the contract (Faiier, 2009; Maidanyk, 2010). In assessing risks and drawing up the provisions of this contract, the type of professional activity and its purpose shall be considered. When concluding such contract, in order to assess the risk, the insurer shall find out information about the previous name of the potential insured, whether the enterprise (business entity) merged with other companies; if this subject is a member of associations uniting companies that perform a certain type of professional activity; data about founders and partners; information on the qualifications of the head and employees of a potential insured – a person engaged in professional activities (higher education diplomas, employment records, *etc.*); data on branches and representative offices in Ukraine and abroad; reporting income and expenses for previous years; information about previous insurers, insurance conditions, the amount of insurance claims. Also, to determine possible insurance risks and exclude the possibility of providing potential insurers with false information, the insurer is entitled to conduct checks on the availability and validity of licenses, certificates and other documents that provide natural persons and business entities with the right to perform the declared type of professional activity; provide prospective insureds with questionnaires to fill out with the definition of issues of professional activities of a person; to involve experts in cases of acceptance for insurance of property interests related to the professional activities of doctors, pharmacists, architects and other *persons* (Hodgin, 2014). Analysis of the valid legislation of Ukraine in this area suggests that the rules governing the conditions and procedure of professional liability insurance are in special legislative and regulatory acts. For example, the Article 30 Valuation of property, property rights and professional appraisal activities in Ukraine Act of Ukraine determins that the subjects of appraisal activities have the right to insure their liability to third parties related to appraisal activities (Valuation of property, 2001). However, today there are many gaps in the valid legislation of Ukraine in this sphere of insurance. It shall be concluded that standarts have not had a systemic nature, uniform approaches to determining areas and professionals whose responsibility shall be insured, do not define the procedure and conditions for this type of insurance, have not contained requirements for concluding an insurance contracts in this sphere, list of insured events and terms of payment of insurance compensation if an insured event has been occured. To develop and submit proposals for the further elimination of these shortcomings, first of all, it shall be found out what is the essence of professional liability insurance, which are its characteristic features and types. As it has already been noted, professional liability insurance is a type of liability insurance. In the scientific literature, this is due to its inherent features about the conditions of insurance, risk assessment and underwriting (Faiier, 2010; Horislavska and Tkachuk, 2017). Thus, according to Shynkarenko, (2006), this type of insurance has the following features: a significant period of time between the assumption of a professional error by the insured, the fact of damage, the time of its actual detection and the determination of the amount of damage, since during this time inflation can reduce the liability limit insured or the insurer that issued the contract may disappear from the market for various reasons (bankruptcy, withdrawal from the market and others); issuance of policies based on claimed damages; the predominantly pre-trial method of settling claims in connection with the insured's desire to prevent disclosure of the circumstances of the case and minimize the decline of his business reputation, which often contradicts the interests of the insurance company which prefers claims to litigation and a

reduction in the amount of the claim; the excess of demand for this type of insurance over supply (that is, the limited insurance market) due to its large loss ratio. It is proven that professional liability insurance is a type of liability insurance and its aim is to protect the property interests of natural persons and business entities from failure to perform professional obligations specified in the insurance contract or valid legislation at the expense of monetary funds formed by insurance payments made by persons engaged in professional activities and revenues from the placement these funds. Moreover, after this definition some features of this type of insurance can be defined:

1) Relations where the insurer is involved, which has a license to perform professional liability insurance and the insured is a person engaged in professional activities and there is always a third party in whose favor this type of insurance is implemented, namely: the beneficiary is the person who is the insured's client and/or a person, whose life, health and/or property have been damaged as a result of failure to permorm professional obligations;

2) These relations always arise about the relationship to protect the property interests of natural persons and business entities from failure to permorm professional obligations by persons engaged in professional activities (insurance claims);

3) Insurance claims shall be determined under the insurance contract or valid legislation;

4) The insurance compensation is performed at the expense of monetary funds formed from the insurance premiums paid by persons engaged in professional activities (insurers) and income from the placement of these funds.

Professional liability insurance combines types of insurance of property interests of various categories of persons who can cause damage to third parties when performing their professional activity (Faiier, 2009; Kozmenko, Boiko, 2009).

The classification of this type of insurance is based on various criteria.

1) According to the insurance form:

- compulsory insurance, which is stipulated in the valid legislation, namely: in the paragraph 27 of the Article 7 of the Insurance Act of Ukraine, which stipulates that professional liability insurance of persons whose activities may cause damage to others, according to the listadopted by the Government of Ukraine, is performed in a mandatory form (Insurance Act of Ukraine, 1996);
- voluntary insurance, which arises by the will of the parties, both the insured and the insurer, in accordance with the paragraph 15 of the Article 6 of the Insurance Act of Ukraine where the insurer has a license to perform liability insurance to third parties in a voluntary form (Insurance Act of Ukraine, 1996).

2) According to importance for economic security of the state it shall be professional liability insurance of follows:

- Doctors and other medical employees;
- Notaries;
- Auditors;
- Professionals in the sphere of cyber risks;
- Professionals in IT activities;
- Others.

3) According to the insurance risk groups:

- Professional liability insurance for risks related to the possibility to damage the life and health of a person who is the insured's client and/or a person who has suffered as a result of failure to perform professional obligations by the insured;
- Professional liability insurance for risks related to the possibility to damage the property of a person who is the insured's client and/or a person who has suffered as a result of failure to perform professional obligations by the insured.

4) According to the types of professional activity it shall be professional liability insurance of follows:

- Doctors and other medical employees;
- Lawyers;
- Notaries;
- Auditors;
- Architects and designers;
- Appraisers;
- Real estate agents (realtors), *etc.*

The research has revealed that in Ukraine during 2016-2018 the interest to insure the professional liability grew and Ukranian professionals are concluding the insurance professional liability contracrs to protect their interests (CRDIU, 2016; CRDIU, 2017; CRDIU, 2018).

Thus, during 2016-2018 there was a tendency to increase the amount of insurance premiums under professional liability insurance in Ukraine and in this way to protect the economic interests of both insureds and third parties.

Table 3: Analysis of insurance premiums under professional liability insurance during 2016-2018 in Ukraine

Type of insurance	Insurance premiums (mln. UAH)		
	2016	2017	2018
Professional liability insurance:	12,2	13,8	16,5
Professional liability insurance of notaries	6	7,6	7,8
Professional liability insurance of auditors	2	2,4	2,8
Professional liability insurance of doctors and other medical employees	1,1	0,8	1,6
Professional liability insurance of real estate agents	1,2	0,6	1,6
Professional liability insurance of architects and designers	0,4	0,6	0,6
Professional liability insurance of lawyers	1,5	1,8	2,1

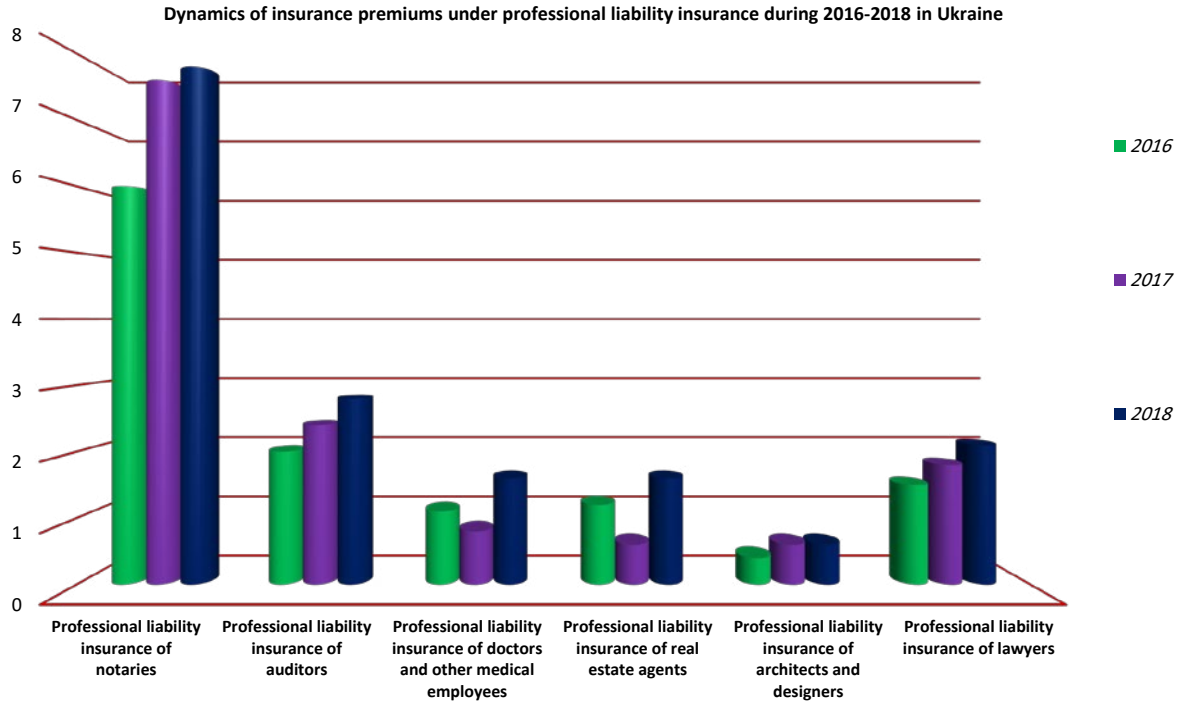


Fig. 3: Dynamics of insurance premiums under professional liability insurance during 2016-2018 in Ukraine

CONCLUSION

When the characteristics of professional liability insurance have been studied, it has been concluded that this type of insurance has the main purpose to protect the interests of consumers of professional services if they are harmed by professionals who perform the professional activities due to their failure to perform professional obligations, that is, the admission of professional errors. However, secondly, this type of insurance protects the property interests of the insured – the person who performs the professional activities due to the need to compensate for damage caused to others as a result failure to perform professional obligations. The range of types of this insurance by type of professional activity is wide and covers many professions and persons engaged in professional activities. Considering the experience of the countries developed and judicial practice, we predict certain types of persons engaged in professional activities whose professional liability shall be insured in an obligatory form, namely: professional liability insurance of medical professionals, auditors and notaries since their professional activities and their

professional liability insurance are important for the state economic security. Considering insurance as the means to provide the state economic security at the national and international levels using the professional liability insurance, we conclude that it shall protect the economic interests of all subjects and the efficiency of transferring some of the risks to professional participants of the insurance market has been proven not only by the practice of foreign countries. Therefore, the definition of the functions of insurance protection in provision the state economic security and the assessment of the potential possibilities of insurance practice cause the need to study the theoretical and practical development deeper.

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CONFLICT OF INTEREST

The author declares that there is no conflict of interests regarding the publication of this manuscript. In addition, the ethical issues, including plagiarism, informed consent, misconduct, data fabrication and/or falsification, double publication and/or submission, and redundancy have been completely observed by the authors.

ABBREVIATIONS

%	Percentage
Fig.	Figure
mln.	Million
UAH	Ukrainian hryvnia

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