ROMANIA
UNIVERSITY "TITU MAIORESCU" BUCURESTI
DOCTORAL SCHOOL OF LAW
SPECIALIZATION: CRIMINALISTICS

DOCTORAL THESIS:

"FORENSIC INVESTIGATION OF INSURANCE CRIME"

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ABSTRACT ROMANIAN

1. Justification for the choice of the topic

The insurance industry has been an extremely attractive field for me, since my undergraduate studies, when I interacted directly with this field, actually working in this industry.

My interest in the area of insurance grew with the completion of my university studies when I became aware of the concepts of risk, protection, economics and most importantly the need for every individual to feel protected. The insurance industry is an essential economic sector against risks and the unpredictable, so the desire to explore this phenomenon in detail emerged as a direct consequence of my profession as a lawyer, through which I tried and still try to alleviate the legal problems of my fellow men.

As I am also a technology enthusiast, the choice of this topic was a direct consequence of the fact that it is a complex and challenging subject at the intersection of law, economics and technology.

In the same way, thanks to my profession as a lawyer specialized in criminal law, with more than 20 years of experience, I have been contemporaneous with the transition period between the Criminal Code and the Code of Criminal Procedure from 1969 to the New Criminal Code and the New Code of Criminal Procedure which entered into force on 01.02.2014. With the entry into force of these codes[1] , the field of insurance benefited from a specific regulation under the Criminal Code, being for the first time penalized insurance fraud[2] , an offense provided for and punishable under the provisions of Article 245 of the Criminal Code.

"Forensic Investigation of Insurance Crime" is based on the increased relevance of this topic in the current context, where insurance fraud has a significant impact on the economy and public confidence in the insurance system (*also in light of the most recent insurance market bankruptcies in Romania, which have had a major impact on insured persons*).

[1] http://www.inm-lex.ro/fisiere/d_1219/Institutii%20Si%20Infractiuni%20In%20Noul%20Cod%20Penal.pdf
[2] Art. 245 Penal Code - Insurance fraud:
(1) The destruction, degradation, rendering unusable, concealment, or disposal of property insured against destruction, degradation, wear and tear, loss, or theft, for the purpose of obtaining, for oneself or for another, the insured amount, shall be punished by imprisonment of one to five years.
(2) The act of a person who, for the purpose set out in paragraph (1), simulates, causes or aggravates bodily injury or harm caused by an insured risk shall be punished by imprisonment of 6 months to 3 years or a fine. (3) Reconciliation removes criminal liability.
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2. Problem under research

The issue of insurance fraud research is complex and relevant, with economic, legal and social implications. In such a situation, the research aims to explore:

a) **Definition and types of fraud**: The fundamental question is what constitutes insurance fraud and what are the most common forms (e.g. fabricated accident, exaggeration of claims, etc.).
b) **Financial impact**: Analyze the economic costs associated with insurance fraud, both for insurance companies and consumers, who may incur higher premiums due to insurance fraud.
c) **Detection and prevention mechanisms**: Assessment of techniques and technologies used by insurance companies to identify and combat fraud, including the use of data analytics and artificial intelligence.
d) **Legal aspects**: Study of existing legislation on insurance fraud, including sanctioning measures and legal protections for victims.
e) **The psychology of fraudsters**: Investigating the psychological and social motivations that drive individuals to commit fraud and profiling the types of people involved.
f) **Cultural and ethical framework**: Examining how organizational culture and ethical values influence insurance behavior and fraud proneness.
g) **Case studies**: Analyzing notable insurance fraud cases to identify patterns and draw lessons learned.
h) **Technology Involvement**: The impact of new technologies, such as blockchain or big data, in monitoring and preventing fraudulent activities.
i) **Collaboration between institutions**: Study how different entities (insurance companies, regulators, consumers) work together to reduce fraud.

Research on these issues can help develop more effective strategies to prevent and combat insurance fraud, with a positive impact on the sector as a whole.

3. Type of research: Multi-disciplinary, applied scientific research of national and international relevance, geared towards identifying problems and providing practical solutions.

4. Research style: Mixed (quantitative for structured techniques such as experiment, observation and qualitative for unstructured techniques).

5. Research aims:

- **Identifying and understanding types of fraud**: Investigating different forms of insurance fraud (e.g. fictitious accident fraud, exaggerated claims, and false policies) to develop a clear and detailed categorization of fraud.
- **Economic impact assessment**: Analyze the economic costs generated by fraud, both for insurance companies and consumers, to highlight the impact on insurance premiums and industry stability.
- **Develop effective detection and prevention methods**: Develop or improve fraud detection tools and techniques, including the use of data analytics, artificial intelligence and internal audit practices.
- **Examination of legal and regulatory issues**: Study of national and international legislation on insurance fraud, including sanctioning measures and legal protections for victims, in order to propose legislative improvements.
- **Investigating motivations of offenders**: Analysis of the psychological, social and economic factors that drive individuals to commit insurance fraud, contributing to a better understanding of human behavior in this context.
- **Promoting ethics and integrity**: Exploring how insurance companies can promote an organizational culture based on ethics and integrity to reduce the risk of fraud.
- **Stakeholder collaboration**: Investigating how all parties (insurers, regulators, consumers) can work together more effectively to prevent and combat crime.
- **Case studies and concrete examples**: The importance of analyzing case studies to learn from successful and unsuccessful practices in fraud management.

6. Overall objectives:

a) **To identify and analyze types of fraud**: To investigate the various forms of insurance fraud, such as accident fraud, exaggerated claims or false policies, in order to develop a clear class of crimes.

b) **Collection and preservation of evidence**: Establish rigorous procedures for the collection, preservation and analysis of evidence relevant to insurance crime, ensuring that it is admissible in court.

c) **Assessing the impact of legal regulations**: Analyze the effectiveness of existing legislation in combating insurance fraud and identify any gaps or gaps in the legal framework.

d) **Collaboration with relevant institutions**: Maintain close collaboration with regulatory agencies, insurance companies and law enforcement authorities to facilitate the sharing of information and resources in fraud investigation.

e) **Development of a fraud database** : Creation and maintenance of a database on insurance fraud cases to enable analysis of trends and fraudulent methods used .

f) **Application of behavioral analysis techniques** : Use of psychological and profiling techniques to understand fraudsters' behaviors and anticipate possible future actions.

g) **Informing and educating the public**: Promoting awareness of insurance fraud through educational campaigns and seminars to help prevent it.

h) **Evaluation of the effectiveness of prevention methods**: Analysis of fraud prevention strategies implemented by insurance companies and evaluation of their effectiveness in reducing fraud incidents.

7. Specific Objectives:

a) **Identification of offenders**: To establish a process to gather information and evidence that may lead to the identification of persons involved in fraudulent activities.

b) **Reconstitution of events**: Analysis of the circumstances and details of accidents or incidents leading to claims to determine whether they are legitimate or fraudulent.

c) **Document analysis**: Check documents such as claims statements, medical reports and insurance policies for falsified or inconsistent information.

d) **Use of digital technologies**: Applying modern investigative techniques, such as data analytics and specialized software, to detect fraud patterns and analyze recorded information.

e) **Collection of physical evidence**: Identifying and gathering physical evidence that may support allegations of fraud, including testimonies, video recordings or other technical data.
f) **Conducting interviews**: Conducting interviews with witnesses, victims and suspects to obtain relevant information and insights into the case under investigation.
g) **Collaboration with experts**: Involvement of experts in various fields (e.g. in claims assessment or psychology) to support fraud analysis and interpretation of evidence.
h) **Developing prevention strategies**: Generating initiatives based on the evidence gathered to help prevent future insurance fraud.
i) **Drafting investigation reports**: Creating detailed reports summarizing the findings, methodologies used, evidence gathered and conclusions for use in legal proceedings.
j) **Assessing the impact of society on fraud**: examining how certain social, economic or cultural conditions contribute to the growth of insurance fraud.

8. Timeliness and relevance:

Timeliness and relevance is essential to ensuring the integrity of the insurance system, protecting consumers, reducing economic losses and adapting to a changing environment.

In this respect, timeliness and relevance stem from:

- **Increase in insurance fraud**: Over the last decades, with the development of the insurance industry, there has been an increase in fraud offenses. Investigating these crimes becomes crucial to protect both insurance companies and consumers;
- **Economic impact**: Insurance fraud generates significant losses for insurance companies, ultimately affecting insurance premiums and consumer confidence in the sector. Effective investigation can help reduce these losses and maintain economic stability**;**
- **Consumer protection**: Investigating insurance crime helps not only companies, but also consumers by ensuring that resources are used correctly and that all claims are legitimate. This helps to maintain consistent and fair premiums;
- **Technological developments**: With the advent of new technologies and digitization, fraud methods are becoming increasingly sophisticated. Forensic investigation must constantly adapt to these changes, using modern techniques and tools to detect and prevent fraud.

- **Inter-institutional collaboration**: Effective investigation of insurance crime requires close collaboration between insurance companies, regulators, law enforcement and the judiciary. This cooperation is essential to respond quickly and effectively to emerging fraud.
- **Deterring crime**: Rigorous investigation of fraud cases and appropriate penalties imposed on offenders help deter other potential fraudsters by promoting a climate of insurance compliance.
- **The importance of education and awareness**: Knowledge of fraud methods and how they work needs to be communicated effectively with both consumers and industry professionals. Crime investigation can also include educational aspects to help prevent fraud through risk awareness.

9. The **research methodology** consists of a mix of methods, techniques and tools used in forensic and other sciences, thus emphasizing multidisciplinarity, which contributes to building bridges, connections that highlight the specificities of forensic sciences, interactions that are impossible to highlight disciplinarily.

10. Research methods and techniques

a) **The comparative method**, which is fundamental in the process of identification of persons and objects, is the methodological basis of forensic expertise.
b) **Observation,** which is a method of perceptual knowledge, organized with the aim of discovering and formulating scientific facts without altering the physical state of reality. In the present approach, several forms of scientific observation are highlighted, but the most important are: quantitative and qualitative observation. Quantitative observation aims to record the changes occurring in the quantitative characteristics of the research, while the latter refers to qualitative changes.[3]

[3]The results of observation are fixaed by description, iar empirical description represents the fixarea of knowledge about the objects given in observation.

c) **Experiment**, which is an important empirical method and has wide application in biology, chemistry, physiology, medicine.[4] A variant of the experiment is also a **mental exercise**, where everything takes place at the level of thought, imagination.

d) **Analysis**, which is a method of research that divides the whole into its component parts and highlights their sides, features, relationships and **synthesis, the** reverse of analysis, which unites the parts of the object, previously dismembered, into a whole.[5]

e) **Induction,** which is a research method and style of thinking in which the final conclusion is justified on the basis of particular premises.

f) **Deduction**, which is a method of judgment, when from general premises necessarily follows the conclusion of particular character. [6]

g) **Historical method.**

h) **Modeling** which is the study of the original object by creating a copy and researching the model (copy of the object). [7]

i) **Documenting interview** which is a technique of obtaining information through questions and answers using verbal means. [8]

13. Phases of research.

The research comprised 3 phases:

- **The conceptual phase**, which consisted in compiling a corpus of texts from domestic and international literature on the issues under discussion. The texts considered for the

[4] The results of observation are recorded in a description, and empirical description represents the recording of knowledge about the objects under observation.

[5]The experiment, applied for research purposes, is aimed at discovering/studying new properties of the object, unknown co-influences that have a beneficial or destructive effect on the functioning of the system/subsystem. In contemporary science, control experiments are of major importance. The object of control may be a hypothesis, which can be confirmed or refuted after analyzing the results of the experiment.

[6] Induction is based on experience, observation, in the process of which the data necessary for the investigation is accumulated, while in the process of deduction, on the basis of knowledge, particular conclusions are formulated

[7]Modeling involves constructing a model (reproducing the structural, behavioral, and other properties of the original) and subsequent experimental or rational research. Modeling is applied in technical sciences, natural sciences, and social sciences. Modeling is dictated by the need to investigate those aspects of objects that cannot be directly accessed or studied in any other way. In contemporary society, computer modeling is applied using a special program capable of modeling various real processes.

[8] Interviews are particularly useful when studying phenomena and processes that are difficult to observe. First used in psychotherapy and psychotechnics, interviews are one of the most frequently used research methods, applied both in the social sciences and the social sciences and humanities, with a view to establishing relationships between variables, verifying and testing hypotheses.

corpus were works published in Romanian, English, Italian, French, Spanish, Portuguese, Italian, French, Portuguese, Italian, Spanish and English.

This first phase consisted in collecting data obtained from primary and secondary sources in order to carry out a critical analysis of the state of knowledge, with a view to conceptualization, but also to the formulation of working hypotheses.

- **The methodological phase** included the establishment of the verification strategy and information collection tools, description of the data collection and the data collection, presentation of the plan for analyzing the collected data. Then, a careful verification and analysis of the collected information was carried out in order to build the basis for the next phase.
- The **empirical phase** was devoted to exploratory study, verification of the authenticity of the obtained results, interpretation, comparison, proposals and conclusions.

14. Funding:

The research has not received funding from the state budget, grants or funds from any non-profit or for-profit organization or any other source, being carried out exclusively from own financial resources, acquired from the work carried out since 2006, namely that of lawyer.

15. Declaration of interests:

The scientific supervisor of the paper, Mr. Professor Gheorghe Popa, holds the position of President of the Romanian Association of Criminologists, and my occupation is a lawyer.

THESIS CONTENT

Our research begins with a brief introduction to the history of the insurance system in Romania, what insurance is, the technical elements of insurance, how insurance is classified and which are the bodies in charge of controlling the prevention and sanctioning of insurance fraud.

In this respect, in the first chapter we have described in detail the evolution of the insurance market in Romania, starting from the first insurance company, the Casa de incendiu, which was established in 1744 in Brasov, and later, after the signing of the Treaty of Adrianople in 1829, Romanian merchants obtained the right to conduct business on the Danube, which created significant opportunities for private insurance companies, especially in the field of transportation policies

In 1942, the Regia Autonomă a Asigurărilor de Stat, the first state institution specializing in insurance regulation, was established, practicing all types of insurance and holding a monopoly on state property. After 1948, all insurance companies were nationalized and became part of Sovrom-Insurance. In 1952, the State Insurance Administration (ADAS) was established, which was the only insurance company until 1990, and in 1995 the OMNIASIG insurance company was established. For a better understanding of the present topic, we have chosen to present also the technical elements of insurance, among which we list **the subjects of insurance**, the **objects of insurance, the sum insured**, the **insurance premium**, the **premium rate**, **the damage**, the **period of common damage, the compensation, the excess** and last but not least **the period of insurance.**

Also in this first chapter, we have also intended to present a classification of insurance, as well as the bodies responsible for controlling in the prevention and sanctioning of insurance fraud. Last but not least, by referring to the title of this paper, we have also made a description of the types of insurance fraud.

In chapter II of the paper, entitled Comparative study on the legal regime of insurance in the European area, we aimed to carry out a comparative analysis of the ways in which the insurance system is regulated at the level of the European Community.

When the Treaty of Rome was drafted, the free movement of persons was not conceived as a right of citizens of the Member States to move anywhere in the Community for any purpose. Initially freedom of movement was linked to the concept of workers, to what the German doctrine called "Markburger" when describing the status of persons in Community law, i.e. a person exercising cross-border economic activities. The principle of free movement of persons has evolved in the context of the creation of the Internal Market alongside the other freedoms. This evolution is due both to the case-law of the Court and to the legislative activities of the other Community institutions. Both in the Treaties and in secondary legislation and specialized literature, the free movement of workers is treated together with the free movement of services, which are closely linked by their very nature. The freedom to provide services may be defined as the right to provide services on the basis of an establishment within the Community.[9] All these transformations that States have undergone over time, although relatively brief in the context of history, have led to the identification of "protection" solutions. In an unstable economy, both natural and legal persons need protection. This need gave rise to the concept of insurance[10] . Life insurance is a way of providing financial support to individuals in the event of accident, illness, disability or death. With the formation of the European Union, the aim was to create a single insurance market, which required a set of regulations to govern the activities of insurers across Europe. One of the first steps was the signing of the Treaty of Rome on January 1, 1958. Until then, insurance markets in each country operated according to national legal and administrative rules. This led to significant discrepancies between countries, largely influenced by the concepts prevailing at the time the regulations were adopted.

In this chapter, we also set out to develop the area of supervision of financial markets, including the insurance market, and we have therefore detailed the role of the Community institutions in macro-prudential supervision.

In the third chapter, we intended to address the role and importance of forensic investigation in relation to insurance fraud, by presenting **the types of insurance fraud , the factors that determine insurance fraud, whether economic or legal.**

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[9] www.studiijuridice.ro

[10] https://graduo.net/referate/asigurari/directivele-europene-in-domeniul-asigurarilor-de-viata-389883

At the same time, in the same chapter, we have made an extensive description of the research on insurance fraud , with the aim of creating an extremely broad picture of the extent of the phenomenon of insurance fraud.

Chapter IV of the paper was devoted to the presentation of forensic investigation and its role in combating insurance fraud.

In this regard, the general presentation of the crime of insurance fraud was considered, with all the constitutive elements of this crime as well as its connection with other criminal acts.

At the same time, this chapter has been reserved for the development of the methodological particularities of the forensic investigation of the crime of insurance fraud and the main issues to be clarified in the investigation of the crime of insurance fraud. In order to describe the importance of forensic subject matter in insurance crime, in this chapter a detailed description of concrete ways of committing the crime has been made, as well as establishing the perpetrators - *their criminological profile* , the causes, the conditions and circumstances that led to and facilitated the commission of the crime , the damage caused and how it was recovered , and last but not least, *the main evidence-gathering activities related to the nature of the crime of insurance fraud and the issues to be clarified*

An extremely important role in this chapter has been given to the actual investigation carried out by the prosecution authorities in the case of insurance offenses as well as to the means available to the prosecution authorities during the criminal prosecution, namely the finding and the expert's report in the case of insurance fraud

CHAPTER V of the paper analyzes the criminological aspects of insurance crime , by describing insurance crime. Given the technological evolution, artificial intelligence and its impact in the forensic investigation of insurance crime could not be missing from this landscape.

Through Chapter VI of this paper, we aimed to take a foray into the frauds that have been extensively investigated in the insurance sector, in particular in the health and art sectors.

Next, Chapter VII discusses how our research findings can be integrated into the regulatory framework and literature, addressing the issue of Crime Scene Reconstruction from several perspectives.

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