

## Is your association properly insured?

We speak to expert **Günter Raissig**, Director at **Gianella Jenni & Partner**

Interview Christa Camponovo, vitamin B

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Günter Raissig, who is also very well acquainted with the world of associations in his private life, talks about how association executive committees can ensure that they have sufficient insurance coverage adapted to all potentialities and what they should bear in mind when considering their insurance needs.

**A local association organises a celebration in a multi-purpose hall. During the celebration, one of the original hall decorations, which was clearly not attached properly, falls down from the ceiling and hits an attendee on the shoulder. This causes a serious and prolonged shoulder injury. Would this fall under third-party liability?**

"Any person who unlawfully causes damage to another, whether wilfully or negligently, is obliged to provide compensation." This article from the Swiss Code of Obligations (Article 41) serves, alongside other articles, as the basis for third-party liability. However, the question of whether someone is liable or not is not always straightforward. There are often various factors that need to be taken into account.

This in itself is a strong argument for taking out third-party liability insurance, however. Such insurance not only covers justified claims for damages, but also protects against unjustified claims. A third-party liability insurer therefore also helps to defend against claims. If an association does not have any experienced legal experts in its ranks who can take on this task free of charge, these costs may weigh down heavily, in a way that cannot be quantified, on the association's finances.

The possibility that, as in this case, an injured person may claim damages from the organiser of a celebration or from an association is not an unlikely one, however. Furthermore, it's not possible to anticipate the amount of the damages in advance, though these can be very high. Even if the association's articles of association contain a passage stating that the association is excluded from any liability, this will not protect it if any claims are made against it.

Special events insurance can be taken out for one-off events that do not fall within the normal limits of the association's activities.

**What happens with liability if the association owns its own club premises? What about liability at the association's own events? Or liability if the association leases its premises out?**

If an association has its own club premises, the facility or land owner is also liable. This liability will be stricter if damages are justified by a work defect.

**What is the situation with furnishings and the like: computer systems, furniture, music company instruments, etc.?**

Property insurance for these kinds of items is usually what first comes to mind when we think about insurance. In such cases, it's also easier to anticipate the potential damages involved, because you know how much everything cost. Each association has different requirements when it comes to furniture and furnishings, etc. For example, there may not necessarily be a need to take out specific insurance for a computer. On the other hand, it is worth considering how any association data are kept secure or should be insured if necessary. Third-party property should also be included in property insurance, such as property belonging to an associated association found on the premises. For music company instruments, for example, there are special forms of insurance providing more extensive coverage.

**A basketball club has finally fulfilled its dream of getting its own vehicle. What does the club need to take into account before using it to drive team members to tournaments?**

It is imperative that third-party liability insurance is taken out. Insurers today find it very important to know who will be driving the vehicle. The association needs to clarify the potential drivers to make sure that not just anyone can drive the bus. It may also be important to take out fully comprehensive or third-party, fire and theft insurance, as well as accident insurance for the vehicle occupants. Do the team members otherwise have sufficient insurance protection?

**Many associations are also employees: An association may hire volunteers or people on a part-time basis for lunches, while a nursery association may have over ten employees. Do these associations need to take out accident insurance?**

By law, every person based in Switzerland must be covered by accident and illness insurance. For those who are not in gainful employment, accident risk is covered under their health insurance. Outpatient and inpatient costs are insured to the extent covered under the chosen health insurance.

For those in gainful employment, insurance coverage is provided under the mandatory accident insurance taken out by their employer. All employees in Switzerland have to be covered by accident insurance. An employee is someone who performs work in accordance with and on the basis of an employment contract and receives compensation in exchange. The amount to be insured depends on the amount of "working time".

**A nursery association has been successfully established, the members have been registered and a suitable premises and the necessary finances have been found. Now the association is setting about hiring staff. How can executive committee members quickly find the right information to make sure they go about everything properly? And how and where do they register their staff?**

For matters of social security, we recommend turning to the OASI compensation offices as the first point of contact. See the box for some websites where you can find some useful information in advance.

In terms of obligatory insurance (accident insurance, possibly occupational pension plans) that has to be taken out at private companies, we recommend contacting a neutral insurance broker or insurance company.

**Alongside full-time and part-time employees primarily employed at the association, associations also pay compensation to people working just a few hours or on a contractual basis. Which limits apply here?**

If the job for the association is "only" classified as secondary employment, the persons concerned will be insured through the insurance for their main employment. In any case, contributions will have to be paid on the wages of people employed in a private household (cleaning, household, care) or in an arts and culture role. It's important to bear in mind OASI leaflets 2.04 and 2.06.

Those hired on a contractual basis are responsible for their own insurance. Please note: Self-employed persons must provide proof that they are paying OASI contributions. The social security insurer determines who is deemed self-employed.

**Then lastly, I'd like to touch on one last hot topic: The media has recently reported cases in which executive committee members have been held personally liable for large sums because they have been shown to have acted disloyally or mismanaged activities. D&O liability came into play here. Understandably, this information has come as a shock to many volunteers. Can an executive committee or individual members thereof take out third-party liability insurance? Under which terms and conditions?**

There isn't a huge number of insurers for D&O liability and/or fidelity insurance. For associations entered in the commercial register (mostly a basic criterion), there is an option to take out such insurance. Insurers will want to assess each case on an individual basis, however. The terms and conditions will be laid down for each individual case.

## vitamin B recommends...

- **Civil liability insurance:** for all associations that also organise events.
- **Property insurance:** for all associations that have their own association premises and own devices or other material assets.
- **Social security insurance:** check for all people employed by associations for consideration.

This recommendation is not an exhaustive list, but points out the most important types of insurance.

## Who can you turn to with any insurance questions?

Experienced, independent insurance providers work with a variety of insurance companies and can offer you services and prices tailored to your situation. Ask for references from people you know personally or through the association. Not all brokers are interested in small associations.

Initial contact with a broker is usually free; this also applies to insurance companies. Gather and compare a range of quotations and check the price/performance ratio.

There are also umbrella organisations that conclude flat-rate contracts with insurers, allowing their member associations or departments to benefit from discounts. It may therefore be worth joining such an organisation.

Social security insurance is a complex and constantly changing area. When hiring staff, whether on a main or secondary employment basis, make sure that you adhere to statutory requirements. See also the work aid on labour law and social insurance law, [www.vitaminb.ch/tools/work-aids/](http://www.vitaminb.ch/tools/work-aids/). You can find lots of useful information and leaflets on all types of social security insurance at [www.ahv.ch](http://www.ahv.ch), [www.bsv.admin.ch](http://www.bsv.admin.ch) (Federal Social Insurance Office) or [www.svazurich.ch](http://www.svazurich.ch).