

LIBERALIZATION OF THE INSURANCE SECTOR IN THE DRC: LEGAL CHALLENGES AND STRATEGIES FOR PROTECTING SONAS FROM COMPETITION

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<https://doi.org/10.37602/IJREHC.2026.7330>

ABSTRACT

The promulgation of Law No. 15/005 of March 17, 2015 establishing the Insurance Code in the Democratic Republic of Congo ended the monopoly of the National Insurance Company (SONAS) and opened the sector to national and international competition. This major legal transformation raises the fundamental question of protecting the historical operator in a nascent competitive environment. Through a legal analysis of normative texts and an empirical study of market data, this research examines the legal protection mechanisms for SONAS and evaluates their adequacy in the face of competitive challenges. The results reveal an insufficient legal framework, dysfunctional governance, and a rapid erosion of SONAS's market share, which fell from 100% to 18% in five years. The study recommends a structural reform of SONAS governance, recapitalization, and the adoption of proportionate protection measures compatible with the principles of free competition.

Keywords: SONAS, legal protection, competition, liberalization, insurance, DRC, governance, public enterprise

1.0 INTRODUCTION

The liberalization of strategic sectors is one of the major challenges facing developing economies. In the Democratic Republic of Congo, the promulgation of Law No. 15/005 of 17 March 2015 on the Insurance Code marked a historic turning point by putting an end to the monopoly of the Société Nationale d'Assurances (SONAS), created in 1966 and 100% owned by the Congolese State. This reform, which is part of the broader dynamic of modernizing the national economy, has opened up the insurance market to competition, radically transforming the country's insurance landscape (Marano & Siri, 2017). This transformation nevertheless raised a crucial question: how to protect the incumbent operator, which has a heavy structural heritage and a public service mission, in the face of the arrival of private competitors who are often better capitalised and more experienced? This question goes to the heart of the debate on economic sovereignty and the role of the state in strategic sectors (Han et al., 2010).

The central issue of this research is as follows: to what extent does the current legal and institutional framework allow SONAS to be protected from competition while respecting the principles of liberalization of the insurance market?

This study has three objectives:

- 1) to analyse the legal framework for the protection of SONAS;
- 2) identify the competitive challenges it faces;
- 3) propose protection strategies adapted to the Congolese context, drawing on the work of Boyer (1986) on regulatory theory and the OECD principles (2023) on the governance of public enterprises.

2.0 THEORETICAL AND CONCEPTUAL FRAMEWORK

2.1 The theory of state interventionism

The theory of state interventionism holds that the state can intervene in the economy to correct market failures, protect strategic sectors, and ensure macroeconomic stability. John Maynard Keynes, in his general theory of 1936, demonstrated that the market does not spontaneously guarantee full employment or macroeconomic equilibrium. According to him, the state must intervene through fiscal policy, public investment and financial regulation in order to stabilize the economy (Keynes, 2018).

Transposed to the protection of SONAS, Keynesian theory justifies public support if it aims to avoid systemic destabilization of the insurance sector. However, Keynes did not advocate unconditional protection; The intervention must be rational, targeted and economically justified.

2.2 The theory of pure and perfect competition

This theory, derived from neoclassical economics, postulates that a market is efficient when five conditions are met: atomicity, homogeneity, transparency, factor mobility and free entry. Léon Walras is the main architect of the model of pure and perfect competition. His analysis is based on the idea that markets tend towards a general equilibrium when economic agents act freely within a perfect competitive framework (Walras, 1900).

Applied to SONAS, this theory imposes a rigorous question: do state protections artificially keep the company in an advantageous position incompatible with the competitive balance? If this is the case, they produce economic inefficiency, in line with the analyses of Klapper et al. (Klapper et al., 2006) on the barriers to entrepreneurship created by regulation.

2.3 The theory of economic regulation

The theory of regulation considers that the State must set rules guaranteeing the proper functioning of the market without replacing private actors. Robert Boyer, a central figure in the French school of regulation, argues that capitalism only functions sustainably through a set of stabilizing institutions. The market, left to itself, generates periodic crises; It must therefore be framed by legal, financial and social standards (Boyer, 1986).

In the context of SONAS, regulation justifies the existence of a strict prudential framework applicable to all operators. It can also legitimize public intervention, not to arbitrarily protect

the public company, but to guarantee the solidity of the insurance system as a whole (Marano & Siri, 2017).

3.0 LEGAL FRAMEWORK FOR THE PROTECTION OF SONAS

3.1 Constitutional Basis

The legal framework for State intervention in the DRC is based on constitutional rank. Article 34 of the Constitution of 18 February 2006 guarantees the right to property, while article 35 enshrines the right to private initiative. (Democratic Republic of Congo, 2006).

Article 202, paragraph 36, gives the State exclusive competence to legislate on currency, credit, banking, insurance, foreign exchange and foreign trade, which constitutes the basis for sectoral intervention. These constitutional provisions establish a fundamental balance between the freedom of enterprise and the regulatory power of the State.

3.2 The Insurance Code of 2015

Law No. 15/005 of 17 March 2015 on the Insurance Code is the fundamental text for the liberalization of the sector. It puts an end to SONAS' monopoly and opens the sector to competition, while maintaining a strict legal framework. Article 395 creates the Insurance Regulatory and Supervisory Authority (ARCA), a public technical institution responsible for ensuring the protection of the rights of policyholders and the financial soundness of companies (Law No. 15/005, 2015).

The Code imposes strict conditions for authorisation: minimum capital, solvency requirements, governance rules and transparency standards. These requirements apply to all operators, including SONAS, thus creating a competitive framework where the protection of the incumbent operator can no longer be based on a legal monopoly but must be supported by other mechanisms (Marano & Siri, 2017).

3.3 The Competition Act

Organic Law No. 18/020 of 9 July 2018 on price freedom and competition completes the system. It guarantees the freedom of trade and industry, provides a framework for the freedom of prices and competition, and prohibits anticompetitive practices: cartels, abuse of dominant position, abusive selling at a loss (Law No. 18/6020, 2018).

This law also creates the National Competition Commission (CONAC), an independent administrative authority responsible for investigating anti-competitive practices. For SONAS, this law represents both an opportunity and a challenge: it guarantees a fair competitive environment, but prohibits any discriminatory protection by the State, in accordance with the analyses of Klapper et al. (Klapper et al., 2006) on the regulation of competition.

4.0 ANALYSIS OF SONAS' COMPETITIVE CHALLENGES

4.1 Erosion of market share

Market data reveals a rapid and continuous erosion of SONAS' position since the market opened in 2019. This phenomenon is consistent with the observations of Outreville(Outreville, 2013) in post-liberalisation markets where the incumbent operator generally sees its market share decline in the face of new entrants who are better capitalised.

Table 1: Decline in SONAS' market share (2015-2024)

Year	CA Market (USD)	CA SONAS (USD)	Part	Rank
2015	82 718 517	82 718 517	100%	1er
2019	124 258 399	69 284 474	56%	1er
2020	147 797 802	53 042 981	36%	1er
2021	210 220 874	56 584 056	27%	2nd
2022	275 454 174	64 592 056	23%	2nd
2023	304 317 514	58 510 193	19%	3rd
2024	342 804 960	61 345 775	18%	3rd

Sources: ARCA Annual Reports (2025); Consolidated data

In 2024, SONAS is in third place behind RAWSUR (35% market share) and SFA CONGO (22%). Based on current trends, SONAS is projected to fall to fifth place in 2030, with only 9% of the market share. This alarming forecast confirms Arena's analysis (Arena, 2008) on the risk of marginalisation of incumbent operators in liberalised markets.

4.2 Internal structural weaknesses

SONAS suffers from several structural handicaps that limit its ability to compete with new entrants. Firstly, a heavy financial legacy: debts accumulated during the monopolistic period, insufficient technical provisions and under-exploited real estate assets. Secondly, bureaucratic governance: agents are often appointed on the basis of political criteria rather than their insurance expertise. Thirdly, a low capacity for innovation: the insurance products offered remain poorly diversified (OECD & Organisation for Economic Co-operation and Development, 2023).

4.3 Private Competitor Advantages

The new entrants have significant comparative advantages. They benefit from modern technologies (digital platforms, automated claims management systems), significant capital (often supported by international groups such as SANLAM for RAWSUR), and superior commercial and technical expertise. In addition, they are not subject to the same political constraints and can make strategic decisions more quickly (Beck, 2003).

5.0 SONAS PROTECTION STRATEGIES

5.1 Governance Reform

SONAS' first strategy for the protection of SONAS involves an in-depth reform of its governance. The aim is to professionalise the appointment of managers by selecting profiles with proven expertise in the field of insurance, to establish an independent board of directors with competent members, and to set up management by objectives with clear performance indicators.

This governance reform is inspired by the OECD Guidelines on the Governance of State-Owned Enterprises (2023), which recommend separating the functions of state owner and regulator, ensuring financial transparency, and subjecting state-owned enterprises to the same competition rules as private companies (OECD & Organisation for Economic Co-operation and Development, 2023).

5.2 Recapitalisation and financial consolidation

SONAS requires significant recapitalization to be competitive. The State, as the sole shareholder, should inject fresh capital, review historical debts and optimise real estate assets. This recapitalisation could be accompanied by a partial opening of the capital to strategic private investors, while respecting national sovereignty, as recommended by Han et al. (Han et al., 2010) for state-owned enterprises in developing countries.

5.3 Innovation and market adaptation

SONAS must innovate to regain market share. This involves the development of products adapted to the Congolese context (micro-insurance for rural areas, agricultural insurance, digital products), the modernization of distribution channels (online platform, partnerships with telecoms for mobile insurance), and the improvement of the quality of customer service. These innovations are in line with the recommendations of Marano and Siri (Marano & Siri, 2017) on adapting insurance products to emerging markets.

5.4 Competition-compatible legal safeguards

The protection of SONAS must not be to the detriment of the principles of free competition. Measures compatible with competition law may be envisaged: the reservation of certain public contracts for national public companies (within the limits authorised by international agreements), tax advantages proportionate to the public service mission, and obligations of geographical coverage balanced between profitable and unprofitable areas for all operators (Boyer, 1986; Klapper et al., 2006).

6.0 COMPARATIVE PERSPECTIVES

The experience of other African countries offers valuable lessons. In Côte d'Ivoire, the liberalization of the insurance sector has been accompanied by a recapitalization of the Société Ivoirienne d'Assurances (SIA) and a modernization of its governance, allowing the incumbent operator to maintain a significant market share. In Cameroon, the Société Nationale d'Assurances (SONAR) has benefited from protection measures within the framework of the CIMA zone (Outreville, 2013).

These experiences show that successful liberalisation is based on a delicate balance between opening up to competition and protecting the incumbent. The key to success lies in the ability of the state to simultaneously play its role as an impartial regulator and strategic owner, in line with the OECD Principles on the Governance of State-Owned Enterprises (OECD & Organisation for Economic Co-operation and Development, 2023).

7.0 CONCLUSION

The liberalization of the insurance sector in the DRC, enshrined in the 2015 law, has created a new paradigm for SONAS. The incumbent operator, faced with increasingly fierce competition, is seeing its market share erode rapidly, falling from 100% to 18% in five years. This decline can be explained by a heavy structural legacy, dysfunctional governance and the arrival of better-equipped competitors (Arena, 2008; Beck, 2003).

This study shows that the current legal framework, although structured around the Insurance Code and the Competition Act, does not provide for specific mechanisms to protect SONAS. The regulation by ARCA ensures a fair competitive framework for all operators, but does not take into account the particular vulnerable situation of the public company (Marano & Siri, 2017).

To guarantee the sustainability of SONAS and preserve national interests, it is imperative to implement a comprehensive strategy based on four axes: (1) a deep reform of governance with professionalization of leaders; (2) a substantial recapitalisation by the State shareholder; (3) a product innovation strategy adapted to the Congolese context; (4) proportionate legal protection measures consistent with the DRC's international commitments (Han et al., 2010; OECD & Organisation for Economic Co-operation and Development, 2023).

The protection of SONAS is not an easy option or a return to dirigisme; This is an economic and strategic necessity for a country that must preserve its sovereignty in a key financial sector. The challenge is to find the right balance between protection and competitiveness, between national interest and openness to the market (Boyer, 1986).

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