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Statistical Bulletin

Healthcare liability risks in Italy 2010-2016

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RESEARCH AND DATA MANAGEMENT DIRECTORATE - RESEARCH AND STATISTICS DIVISION

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1. FOREWORD

Healthcare liability is of considerable interest, because of the large amount of spending on healthcare in Italy (8.9% of the GDP in 2016)[1] and because the protection against such risk contributes indirectly to the safety of healthcare and health treatments, an important part of the right to health protection, recognised as fundamental by Article 32 of our Constitution[2].

The main objective of this Bulletin is to give initial quantitative evidence on the healthcare liability risks (hereinafter referred to for brevity as healthcare liability), with particular reference to its insurance cover.

This is the first time that official statistical data are made available on this phenomenon, that in 2016, for the portion managed by the insurance undertakings, reached about 14% of the insurance premiums of the general liability branch of which it is part.

The document presents, in particular, the main quantitative indicators relating to two types of cover modes:

1. those acquired through *insurance policies* for healthcare risks, offered by insurance undertakings through payment of a premium,
2. those that the public health facilities constituted through *self-retention of the risk*.

For the first type of covers, the statistical source is a specific survey conducted by IVASS at the insurance undertakings, while the data relating to the second type of covers are made available by the Ministry of Health which collects the data of the budgets of the public healthcare facilities in Italy.

In this regard, one can observe that the collected data are updated to 2016 and therefore do not take account of the regulatory evolution of the sector implemented with the entry into force of Law no. 24 of 8 March 2017 "Provisions concerning healthcare safety and patient safety, as well as professional liability of healthcare professionals" (the so-called Gelli law).

[1] Source: OECD

[2] These arguments have been examined in depth in the reports on the activities carried out by IVASS in the years 2014, 2015 and 2016 (https://www.ivass.it/pubblicazioni-e-statistiche/pubblicazioni/relazione-annuale/index.html).

2. METHODOLOGICAL NOTE

The insurance policies for healthcare liability risks

The statistical information is based on the notifications made by insurance undertakings on the basis of the Letter to the market no. 0038322/17 of 23 February 2017.

The scope of the survey

The survey is carried out on an annual basis and it is mandatory. Response is mandatory for all the undertakings in Italy authorised to pursue general liability insurance (including healthcare insurance), including those with the head office in a foreign State. The survey covers in detail:

1) the premiums collected in 2016 for risks situated in Italy relating to healthcare liability,
2) the prospects and obstacles in the sector from the point of view of the undertakings[3],
3) the main characteristics of the insurance covers placed in 2016,
4) the situation of the claims reported in the years from 2010 to 2016[4].

105 undertakings participated in the survey, of which only 40 have claimed to operate in the sector, collecting premiums in the course of 2016 (tab. 1).

Tab. 1 – Survey on healthcare liability (2016)
Undertakings surveyed and undertakings operating in the sector

	Italian undertakings		Foreign undertakings[(a)]		Total	
	Surveyed	Operating in healthcare liability	Surveyed	Operating in healthcare liability	Surveyed	Operating in healthcare liability
	70	29	35	11	105	40
Of which operating at:						
Public healthcare facilities		10		8		18
Private healthcare facilities		16		7		23
Healthcare professionals		29		7		36

Annexes "STATISTICAL TABLES"

The annex "statistical tables" contains the folder in Excel format:

"RC_SANITARIA.XLSB", showing the main results of the Survey.

Other notes

The amounts shown in the tables are indicated in euro.

[3] These qualitative data are discussed in the 2016 Report by IVASS (page 138).
[4] In a limited number of cases the data relating to the provisions and payments for claims have been reconstructed.

The self-retention of the healthcare liability risk in public healthcare facilities

For the years 1997-2015, the Health Ministry makes the budgets of public healthcare facilities available. Two items relating to the constitution of the self-retention risk funds have been taken into consideration: one item in the profit and loss account with the provision for these funds and another from the balance sheet, with the amount of the funds at the end of the year (respectively indicated with the abbreviations BA2740 and PBA050), available from 2012[5].

[5] We thank the Ministry of Health for having made the most recent data available to IVASS, earlier than the official publication times. The complete data are available on the website of the Ministry of Health, at the address: http://www.salute.gov.it/portale/temi/p2_6.jsp?lingua=italiano&id=1314&area=programmazioneSanitariaLea&menu=dati.

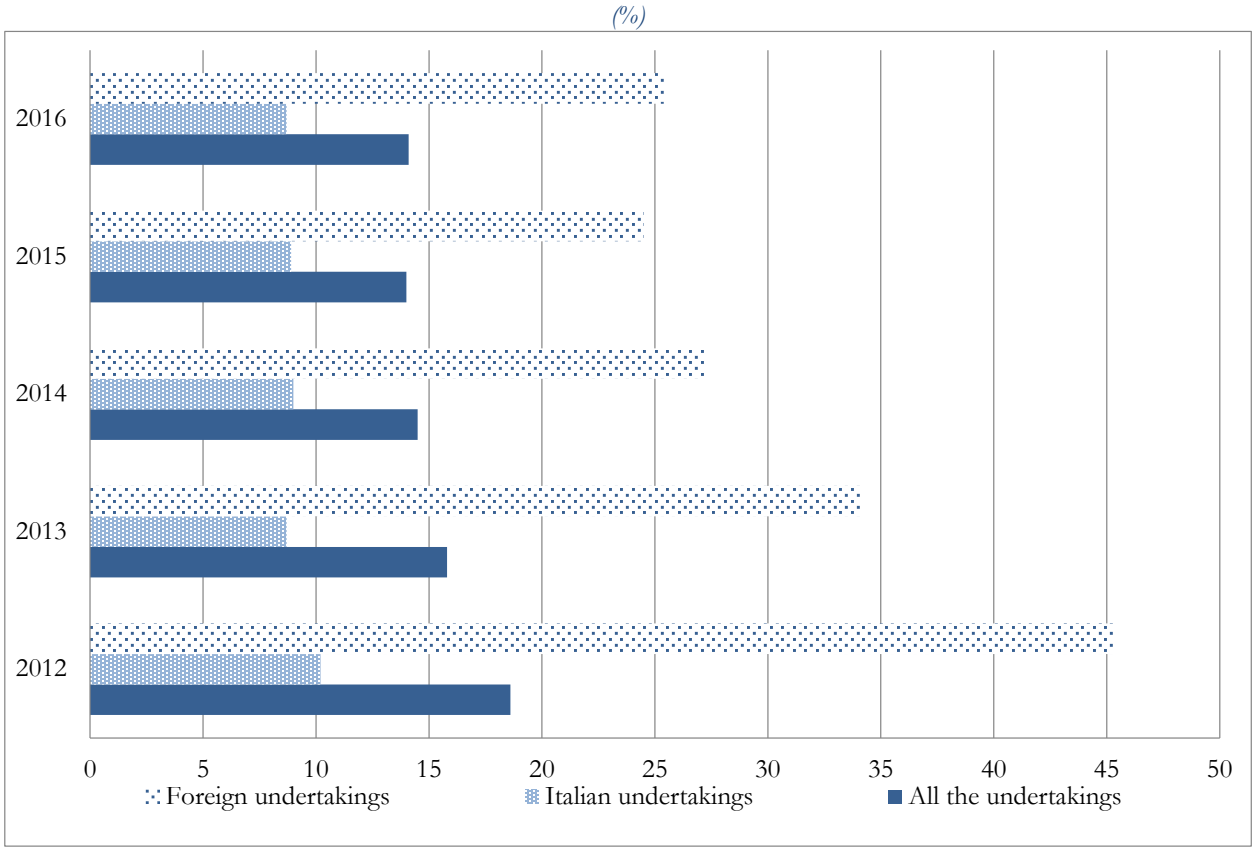
3. THE MAIN RESULTS - YEAR 2016

- The premiums collected in 2016 amounted to 592 million euro, substantially stable compared to 2015.
- 721 public healthcare facilities, 4,195 private ones and over 300,000 healthcare professionals are insured. There is a decrease in the insured facilities compared to 2015.
- The average premium paid by a physician amounts to 906 euro, compared to 189 euro paid by healthcare professionals that are not physicians.
- The collection of premiums is highly concentrated: 96% of the premiums of the public facilities are collected from the top 5 operators (the percentage drops to 67% for the premiums of healthcare professionals).
- Italian undertakings tend to operate mainly in offering insurance covers for healthcare professionals, while they have very little presence in the market of insurance covers for healthcare facilities, in which prevalently foreign undertakings operate.
- In 2016 undertakings received approximately 15,000 claims, in steady decline since 2010 (when they amounted to approximately 30,000).
- A very small proportion of compensation is paid in the same year in which the claim has been received (0.6% for public facilities, about 3% for private facilities and for healthcare professionals).
- In the 2010-2016 period the insurance undertakings collected 4.6 billion euro of premiums and paid compensation for 1.6 billion. At the end of 2016, there were provisions of 3.2 billion euro for future compensation for claims received in the period.
- The claims/premiums ratio shows that the cost for the claims as a whole is greater than the value of the premiums collected, with the exception of the risks of healthcare professionals.

4. THE ACTIVITIES OF INSURANCE UNDERTAKINGS IN THE HEALTHCARE LIABILITY SECTOR IN ITALY

Healthcare liability in the context of the general liability - In 2016 premiums of 592 million, collected in healthcare liability (tab. A.1), were 14.1% of the total premiums for the general liability class of which this risk is part[6]. The share falls to 8.7% for Italian undertakings, while it amounts to 25.4% for foreign undertakings[7]. In the 2012-2016 period, the gap between the two shares was always very high (fig. 1), indicating a greater propensity of foreign undertakings to operate in the sector[8].

Fig. 1 – Share of general liability premiums collected in healthcare liability (2012-2016)



Healthcare liability is characterised by a higher market concentration compared to that of the relevant class: in 2016: the premiums collected by the first 5 and the first 10 undertakings amounted respectively to 71.3% and 89.7% of the total (the two shares fall to 48.5% and 69.3% for general liability, fig. 2).

The characteristics of the healthcare liability contracts - The totality of the contracts signed in

[6] In 2016, the premiums for healthcare liability were instead only 3% of the non-life premiums other than motor liability premiums collected in Italy by undertakings operating with a permanent establishment.

[7] Throughout the text foreign undertakings include both those of the EEA operating in Italy under the right of establishment and the branches of undertakings with head office located in countries outside of the European Economic Area subject to the prudential supervision of IVASS.

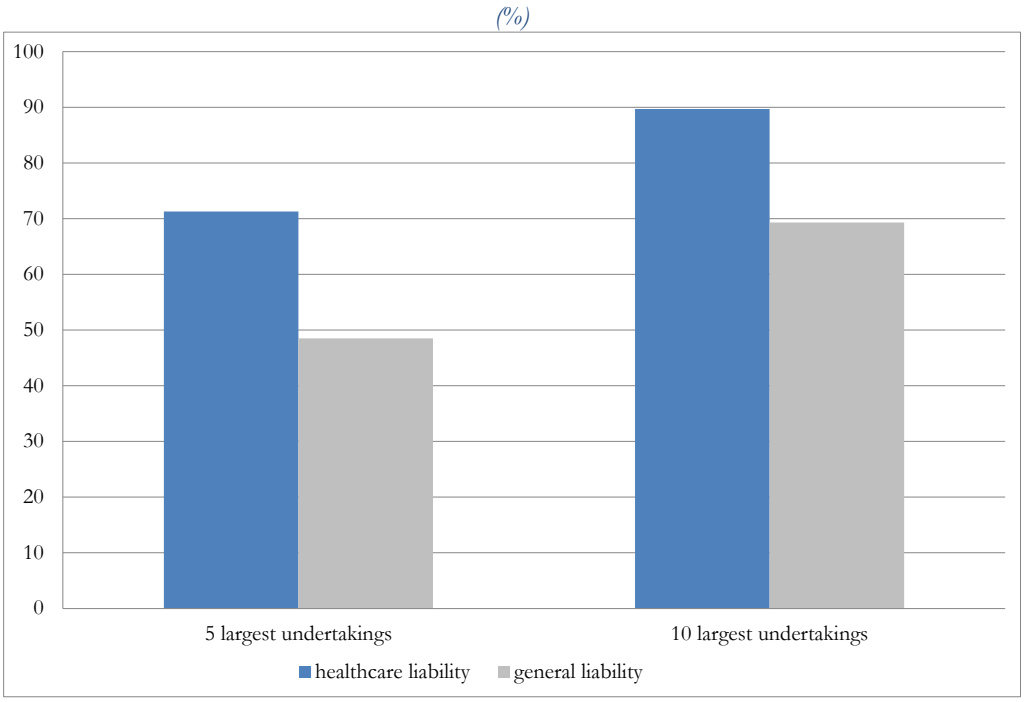
[8] The data of the non-life premiums presented for comparative purposes are derived from the IVASS Statistical Bulletin no. 5 of 2016 (gross premiums written and new life policies in the second quarter of 2016).

the course of 2016 contain the *claims made*[9] clause. There are almost always clauses which allow the undertaking to cancel the contract in the event of a claim and the limitation of the period of retroactivity. The posthumous guarantee clause[10] is made available almost exclusively for healthcare professionals.

Premiums and insured units - The premiums collected in 2016 were substantially stable compared to 2015 (collection for that year amounted to 592 million) and they are divided (fig. 3) between public healthcare facilities (284 million euro), private facilities (93 million) and healthcare professionals (215 million).

In the 2010-2016 period 4,555 million euro in premiums were collected.

Fig. 2 – Share of the premiums collected by the major undertakings: comparison between healthcare liability and general liability (2016)



Overall, 4,916 facilities are insured (of which 721 are public) and 302,965 healthcare professionals (of which 73% are physicians). Compared to 2010, the number of public facilities insured has halved, while the decline in the number of private facilities is less marked (–23.8%). In the same period there has instead been an increase in the number of insured healthcare professionals (+76.3%).

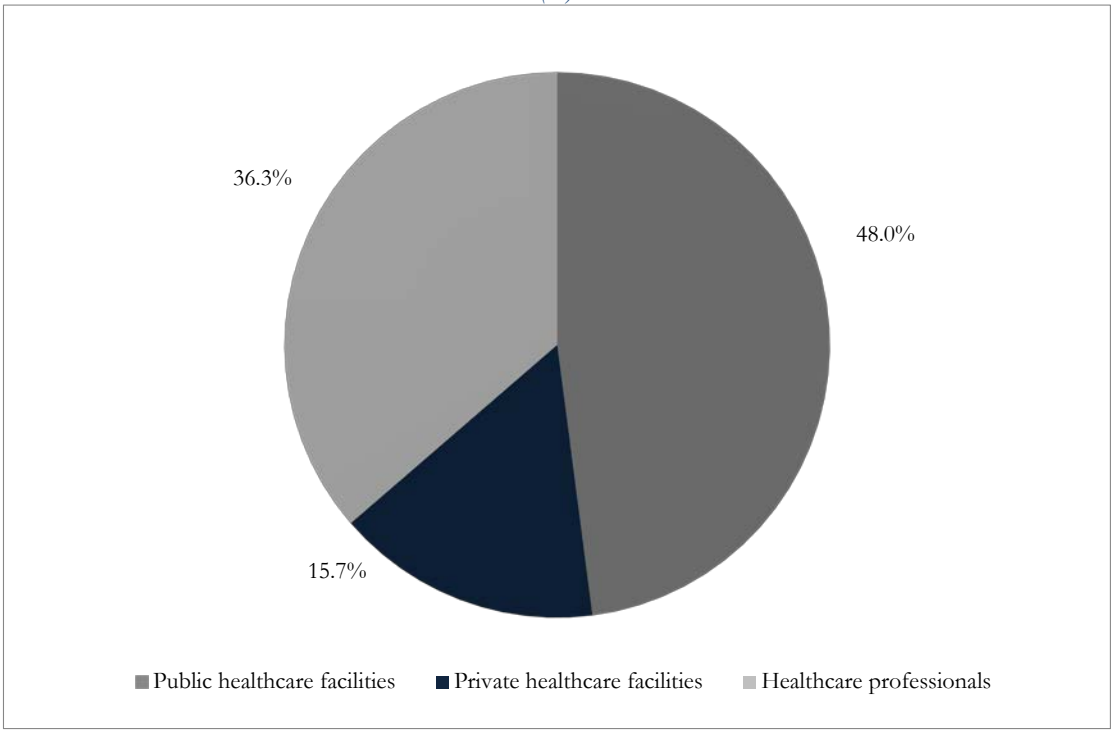
In 2016 a public healthcare facility paid an average premium of 393,813 euro, compared to 22,204 of a private facility (tab. A.1); both values are higher compared to those of 2010 (respectively by 7.5 and 53.7%). In the same period, the average premium paid by healthcare professionals has decreased by –13.1% (710 euro in 2016, compared to 817 euro in 2010).

9 Clause which admits the compensation of only the claims reported during the period of validity of the policy with reference to claims which occurred within the same period, even if the event that caused the claim occurred previously, up to a maximum of 10 years before the start of the validity of the cover (period of retroactivity).

10 Clause which admits the compensation for claims caused by events occurring during the period of validity of the policy, even if claimed later (for example, within the 3 years following the date of expiry of the contract).

Fig. 3 – Breakdown of healthcare liability premiums according to type of insured (2016)

(%)



The average premium paid by medical personnel (906 euro, tab. 2) is almost 5 times greater than that paid by healthcare professionals who are not physicians (189 euro). Compared to the national average, the premiums are higher in the North West, lower in the islands.

Tab. 2 – Average premiums for healthcare liability of healthcare professionals (2016)

Geographic area of residence	Type of personnel		
	Physicians	Healthcare professionals who are not physicians	**Total**
North West	959	167	**760**
North East	884	209	**715**
Centre	942	205	**759**
South	871	205	**773**
Islands	761	139	**659**
Total	**906**	**189**	**710**

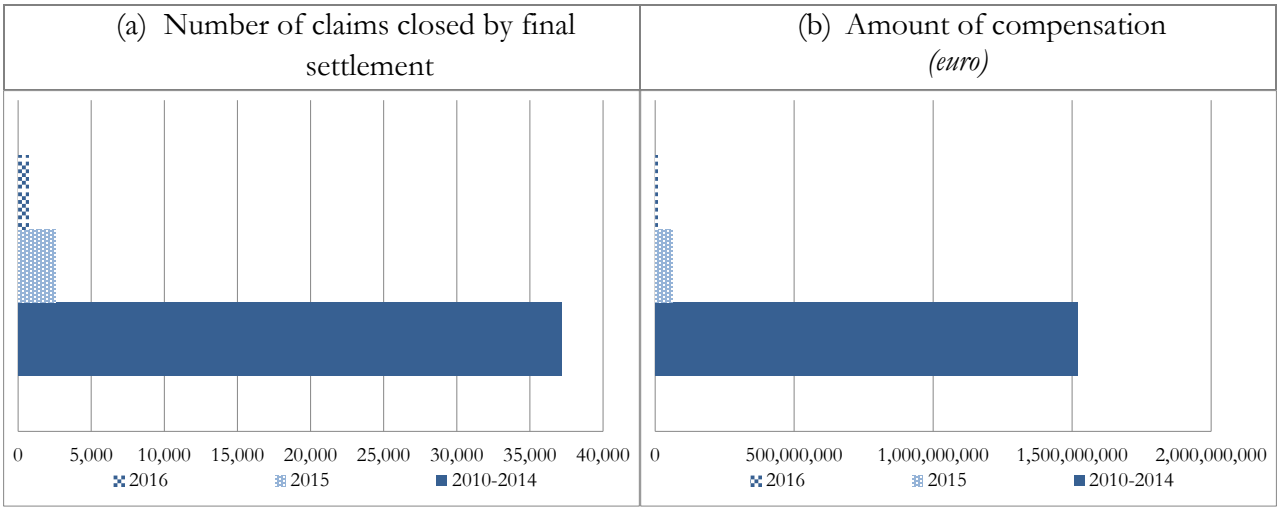
The evolution of claims and compensation – In 2016 the undertakings have received half of the claims received in 2010 (15,360 compared to 29,991) (tab. A.4). The decrease has involved especially the public facilities (3,793 claims compared to 16,664 of six years before). The decrease in the claims submitted by private healthcare facilities was less accentuated (5.242 claims in 2016, compared to 3,075 of six years before). In addition to the decrease in the number of insured facilities, the decline in the number of claims between 2010 and 2016 is also due to the decrease of the rate of claims per facility (–56% for public facilities, –23% for private ones).

The claims submitted by healthcare professionals have instead increased slightly (8,492 claims in 2016, compared to 8,085 in 2010). In percentage terms this increase is +5%, much lower than that of the insured in the same period, as an effect of the decrease in the rate of claims for individual healthcare professionals (–40%).

Up to 2016, 40,444 claims reported between 2010 and 2016 received final settlement (tab. A.6), 92% of which were related to claims received before 2015 (fig. 4.a).

The corresponding compensation amounted to 1,590 million euro (96% of which for claims reported before 2015, Fig. 4.b).

Fig. 4 – Compensation paid up to 2016 by generation of claims (2010-2016)



The claims settlement time - Only 3.5% of the claims closed with payment reported in 2016, concerning public healthcare facilities, have been settled and compensated in the same year. The percentage increases to 12.5% for the private facilities and 5.2% for healthcare professionals (tab. A.7). The percentages are lower as regards the amounts (tab. A.8): for the claims reported in 2016 concerning the public facilities, only 0.6% of the compensation provided was liquidated in the same year (compared to 3.2% for the private facilities and 2.7% for healthcare professionals).

As regards the 2010 generation of claims (the oldest available), two thirds of the amounts provided were paid to public and private healthcare facilities, but the share drops to 44.6% for the claims of healthcare professionals.

The average cost of claims - Using the information available at the end of 2016[11], the average cost of compensations is higher for the older claims, compared to those received more recently. In fact, for the claims submitted in 2010, the average compensation amounts to 54,348 euro for the public healthcare facilities (compared to 16,069 euro for the claims reported in 2016, tab. A.9). For the private facilities, the average compensation for the claims reported in 2010 amounted to 49,244 euro (7,115 for the claims of 2016). For the healthcare professionals the two values amounted respectively to 20,203 and 9,806 euro.

[11] For the individual generations of claims, the amounts vary as the share of claims settled increases in the course of time. Other determining factors are the complexity of the assessment of the physical impairment, which leads to underestimating the extent of the damage in the initial phase, as well as to the frequent lack of information available immediately after the occurrence of the claim, as well as the uncertainty caused by the developments in the case law concerning compensation.

The provisions for claims outstanding - In 2016 the insurance undertakings set aside provisions for claims outstanding amounting to 3,219 million euro, in relation to the claims reported in the 2010 - 2016 period (tab. A.2). 57.6% of the amount is related to the claims of the public healthcare facilities, 17.4% to those of the private facilities, the remaining 25% concerns the claims of the healthcare professionals. The bulk of the provisions concerns the claims of the oldest generation, given that only 34.6% of the provisions are set aside for the claims reported after 2014.

As regards the evolution of the overall amount of the provisions and the number of claims reserved for the individual years when the claims were filed, it can be observed that both are always decreasing over time (tab. A.2 and A.3). There is however a trend toward an increase of the average value of the provisions (tab. A.10): for example, for the claims of 2010 concerning public healthcare facilities, this value increased from 38,143 euro in 2010 to 85,175 euro in 2016. This trend has at the base the lengthy settlement times for the most costly claims, that remain in the provision for more time and consequently contribute to increasing their average value.

In the period of time considered, the provisions set aside in the same year of the claim for healthcare facilities (public and private) has become more prudent. In fact, the average provision for claims reported in the same financial year has passed from 38,193 euro (for 2010) to 89,662 (for 2016) for public healthcare facilities (for private facilities the same indicator has risen from 25,377 to 45,350 euro). For healthcare providers, the average provision concerning the year of claim has varied during the same period between 19,481 and 24,866 euro, without highlighting a trend of growth or decline.

Claims/premiums ratio - The profitability index used in this bulletin is the usual claims/premiums ratio (loss-ratio) that, also taking account of the particularities of the healthcare liability risk, is a homogeneous indicator for evaluating the technical results of the risk.

Looking to the sector as a whole, the ratio, updated at the end of 2016, is comprised between 100% and 120% for all the years when the claims were filed with the exception of 2016, for which 90.2% applies (tab. A.12). This is indicative of the fact that the overall cost of the claims is greater than the value of the premiums received, highlighting that the healthcare liability risk entails a technical loss for the undertakings. In detail, for the public healthcare facilities, the indicator has reached its peak of 150.2% in 2015. The indicator is always greater than 100% for private healthcare facilities, with the exception of the most recent claims of 2016. For the healthcare professionals, the indicator is less than 100% for all the years when the claims were filed, with the exception of 2013, year for which it amounts to 102.1%.

The distribution channels for healthcare liability contracts - Brokers are very active in the mediation of the contracts for public healthcare facilities (they are the preferred channel of the undertakings that realise more than 80% of the premiums, tab. A.13) and, to a lesser extent, they also operate for private facilities. Almost all the contracts for healthcare professionals are placed by agencies with a limited use of direct sale (used mainly by the undertakings which produce only 9% of the premiums).

5. SELF-RETENTION OF THE RISK FOR HEALTHCARE LIABILITY IN PUBLIC HEALTHCARE FACILITIES

The healthcare facilities have the faculty to internally manage, in whole or in part, the healthcare liability risk[12]. If they choose this option, funds are constituted that are specifically intended to compensate the patients who have undergone healthcare errors, fed by annual provisions. The Health Ministry makes these data available to the public healthcare facilities (tab. 3).

Tab. 3 – Self-retention of the healthcare liability risk in the public healthcare facilities Provisions and funds (2012-2015)

(million euro)

	2012	2013	2014	2015
	Provisions			
Geographical area				
North	54,881	143,202	191,739	198,958
Centre	63,546	55,032	81,541	111,433
South - Islands	52,775	58,889	133,725	157,246
Type of facility				
Regional administration	25,573	31,954	31,864	57,019
Healthcare facility	145,629	225,169	375,141	410,618
Italy total	**171,202**	**257,123**	**407,005**	**467,637**
	Funds			
Geographical area				
North	200,760	328,485	490,426	540,165
Centre	59,509	148,426	202,355	282,687
South - Islands	58,529	265,048	240,939	362,494
Type of facility				
Regional administration	71,024	129,559	174,656	193,790
Healthcare facility	247,774	612,400	759,064	991,556
Italy total	**318,798**	**741,959**	**933,720**	**1,185,346**

Both the annual provisions and the funds derived from them, constituted for the self-retention of

[12] Article 27, paragraph 1 bis of the Decree-law no. 90 of 24 June 2014, converted with amendments into Law no. 114 of 11 August 2014, introduced the obligation for the public or private healthcare facilities to "*take out an insurance cover or have other similar measures in place for third parties liability*". Law no. 24 of 8 March 2017 reiterates a similar obligation (art. 10, paragraph 1).

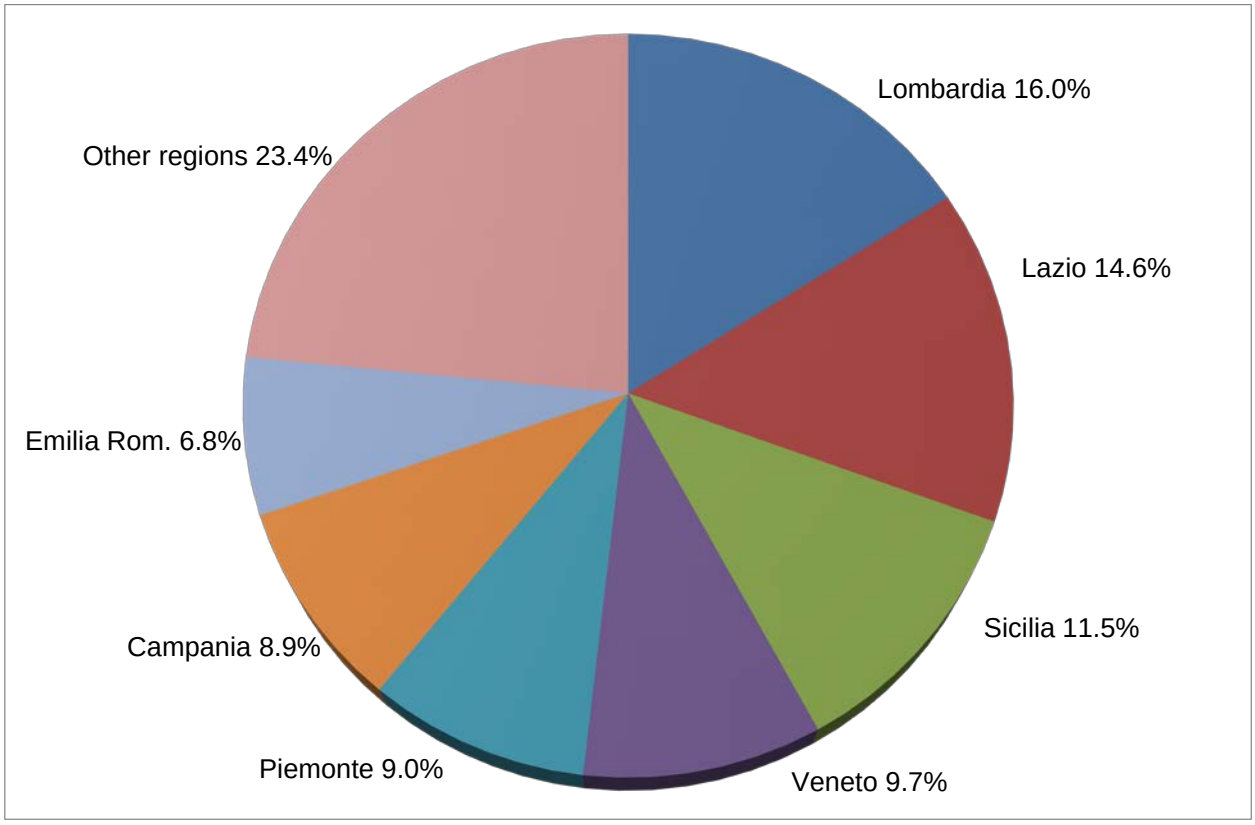
the risk, are in constant growth in the 2012-2015 four year period in all three macro-geographical areas considered (North, Centre and South-Islands). There is a greater increase of resources of the healthcare facilities compared to those of the regional healthcare administrations. The latter represent 12.2% of the provisions and 17.1% of the funds of 2015.

In 2015 the total provisions amounted to 468 million euro (more than twice the 170 million of 2012), while the total amount of the funds amounted to 1,185 million euro (more than three times the 319 million of 2012).

The decentralised management of public healthcare makes it useful to analyse data at a regional level. 76.6% of the fund in 2015 was constituted by 7 regions (fig. 5). The three regions with the highest shares were Lombardy (16%), Lazio (14.6%) and Sicily (11.5%). The funds set aside were negligible or non-existent for Friuli Venezia-Giulia, Trentino-Alto Adige, Molise and Valle d'Aosta.

Fig. 5 – Healthcare liability risk in the public healthcare facilities
Regional breakdown of the funds for self-insurance retention (2016)

(%)



The provisions and the premiums paid to the insurance undertakings for healthcare liability risks of public facilities are financial indicators that are to some extent comparable, being resources allocated annually against the same risk, managed internally (with the provisions) or through recourse to the market (with the premiums). In 2014 and 2015 the provisions were greater than the insurance premiums (respectively 36% and 47.7%, fig. 6).

Fig. 6 – Healthcare liability risk in the public healthcare facilities
Comparison of the provisions for self-retention of risk and insurance premiums (2012-2015)
(million euro)