

FEATURES OF CIVIL LAW REGULATION OF INSURANCE INVESTMENT ACTIVITIES

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ABSTRACT

This article, based on an analysis of civil legislation governing relations in the field of investment insurance, describes the features of civil regulation of investment insurance. The role of the state in the process of legal regulation of investment activities in the Republic of Uzbekistan, attention is paid to the peculiarities of the legal status of foreign investments. The article provides definitions of basic concepts in the field of insurance of investment activities. A comparative analysis of the civil legislation of the Republic of Uzbekistan in force in the field of regulation of insurance of foreign investments and the investment legislation of the Russian Federation was carried out. Also, the views of legal scholars on the problems of legal regulation in the field of investment activity are presented.

Key words: *investments, investment activities, insurance, investment insurance, insurance market, insurance classification.*

INVESTITSYAVIY FAOLIYATNI SUG`URTALASHNI FUQAROLIK- HUQUQIY TARTIBGA SOLISHNING XUSUSIYATLARI

ANNOTATSIYA

Ushbu maqolada investitsiyalarni sug'urtalash sohasidagi munosabatlarni tartibga soluvchi fuqarolik qonunchiligi tahlili asosida investitsiyalarni sug'urtalashni fuqarolik jihatdan tartibga solishning xususiyatlari yoritilgan. O'zbekiston Respublikasida investitsiyaviy faoliyatini huquqiy tartibga solish jarayonida davlatning o'rni, xorijiy investitsiyalarning huquqiy holatining o'ziga xos xususiyatlariga e'tibor qaratilgan. Maqolada investitsiyaviy faoliyatni sug'urtalash sohasidagi asosiy tushunchalarning ta'riflari keltirilgan. Xorijiy investitsiyalarni sug'urtalashni tartibga solish sohasidagi O'zbekiston Respublikasining amaldagi fuqarolik qonunchiligi va Rossiya Federatsiyasining investitsiya qonunchiligining qiyosiy tahlili o'tkazildi. Shuningdek, investitsiyaviy faoliyat sohasidagi huquqiy tartibga solish muammolari yuzasidan huquqshunos olimlarning fikrlari bayon etilgan.

Kalit so'zlar: *investitsiyalar, investitsiyaviy faoliyat, sug'urta, investitsiya sug'urtasi, sug'urta bozori, sug'urta tasnifi.*

Global experience of legal regulation in this area indicates that, as a rule, the state assumes guarantees to the investor. Investment legislation of the Republic of Uzbekistan is also formed on the basis of generally recognized legal standards. In particular, civil legal regulation of investment relations is carried out through such legislative acts as the Civil Code of the Republic of Uzbekistan and the Law of the Republic of Uzbekistan “On Investments and Investment Activities” and other regulations, the legal norms of which provide appropriate guarantees to investors. At the same time, legal scholars are of the opinion that despite the legislative enshrinement of guarantees, the recipient state in practice cannot always ensure their exact and strict compliance due to the political instability inherent in developing countries and countries of the so-called transition economy [1]. That is why insurance of investment activities against various risks is a necessary element of the legal protection of investments.

Traditionally, civil scientists include insurance of investment activities in the property insurance system. They define investment insurance as one of the types of property insurance [2]. At the same time, according to some experts in the field of insurance law, there is a need to modernize investment insurance as combined insurance - a combination of personal and property insurance to protect the interests of individuals and legal entities when carrying out investment activities [3].

In our opinion, it is impossible to agree with this point of view, because legal relations in the field of insurance of investment activities are of a property nature. From the point of view of specialists, property insurance is relevant in property relations. Property relations should be understood as relations that, in content and objects, express material goods, values, which, in accordance with this, can have a monetary value [4].

The property nature of relations in this area is also reflected in the current investment legislation of our country. Thus, in accordance with Article 3 of the Law of the Republic of Uzbekistan “On Investments and Investment Activities,” investments are tangible and intangible benefits and rights to them, including rights to intellectual property. According to the provisions of this law, investments may include: cash, movable and immovable property, intellectual property rights, as well as other valuables not prohibited by the legislation of the Republic of Uzbekistan. Consequently, from the legally established definition it follows that investments include objects of a property nature and monetary value. Investment activity itself is defined by domestic legislation as a set of actions of subjects of investment activity related to the implementation of investments (Article 2 of the Law of the Republic of

Uzbekistan “On Investments and Investment Activities”), from which it follows that this activity is also aimed at the implementation of property relations.

The analysis of the provisions of national legislation allows us to conclude that investment activity insurance is one of the types of property insurance.

To determine the prospects for the development of investment insurance in the insurance market of Uzbekistan, the experience of selling insurance products in the markets of the CIS countries is certainly interesting. This is due to the fact that it is in the CIS countries that economic transformations are actively being carried out, requiring the attraction of additional investments. In this aspect, in the scientific works of modern Russian scientists, investment insurance is characterized as a young direction operating in the insurance market. They emphasize that in the Russian insurance market there are certain stand-alone insurance products that can provide protection for investments from the possible influence of risks, but their coverage is limited and, as a rule, affects any specific aspect of the investment. Such products include insurance of construction and installation risks, insurance of unfinished construction, insurance of financial or business risks. But there are no products on the market that can provide complete insurance protection at all stages of the investment project [5].

In the matter of correct definition of an insurance product, the classification of insurance, its types and forms plays an important role. In the educational literature on civil law, in the sections relating to insurance, its types are traditionally considered and various classifications are proposed. However, a detailed study of the mechanism of legal regulation in this area allows us to identify some controversial issues, which, it seems, will find their justification in the future, both in scientific research and within the framework of lawmaking in the field of insurance activities. In particular, it should be mentioned that, according to the norms of the current civil legislation of the Republic of Uzbekistan, in accordance with the general characteristics of insurance risks or their groups and associated obligations, the insurance industry is divided into types (classes) of insurance. Types (classes) of insurance are determined by the Cabinet of Ministers of the Republic of Uzbekistan (Article 4 of the Law of the Republic of Uzbekistan “On Insurance Activities”). At the same time, a comprehensive analysis of the civil legislation of the Republic of Uzbekistan showed that currently the investment and insurance legislation of our country does not contain a list of investment risks, and also does not define specific forms and types of insurance for investment activities.

At the same time, in the legal literature devoted to the problems of insurance of investment activities, researchers often pay attention to controversial issues of

classification of various types of investment insurance. Thus, some experts in the field of international private law divide investment insurance according to the nature of the insurance risks into insurance against commercial and non-commercial (political) risks. Insurance contracts against political risks are concluded when making investments in foreign countries. They draw attention to the fact that the peculiarity of foreign investment insurance is the likelihood of insured events and extremely high levels of damage. They believe that the onset of such a political risk as a change in the political regime or the regime for converting domestic currency and exporting profits will have an impact on all production investments and, from the point of view of the insurer, will be catastrophic. In most cases, an entrepreneur is unable to predict political risks, much less prevent them [6].

For the purposes of investment insurance, political risks are understood as the risks of damage to the insured investments as a result of events of a political nature, nationalization, war, etc., which are usually qualified as force majeure circumstances that relieve the insurer from liability, and only insurers specializing in these risks consider them as insurance risks [7]. Of course, an important legal guarantee for attracting foreign investment is that in the process of improving national legislation regulating relations in the field of investment activity, measures were enshrined in it to protect investment activity from political risks. Today, the current investment legislation of the Republic of Uzbekistan provides for specific measures to protect investments from political risks. In particular, the state guarantees the protection of investments in accordance with the legislation and international treaties of the Republic of Uzbekistan. The legislation establishes that investments and other assets of investors are not subject to nationalization. In addition, investments and other assets of investors are not subject to requisition (expropriation), except in cases of natural disasters, accidents, epidemics, epizootics and other circumstances of an emergency nature (Article 21 of the Law of the Republic of Uzbekistan “On Investments and Investment Activities”).

As for commercial risks, depending on the risk associated with the implementation of the investment project, one or another type of insurance is used. In particular, credit insurance is used to protect against the risk of direct financial losses and to overcome the policyholder's vulnerability to failure to fulfill counter obligations under commercial transactions. To protect against insurance risks, especially in the production phase of the project, they resort to insurance against interruptions in production due to breakdowns of machinery and equipment, insurance against environmental risks, insurance against production interruption due to fire, etc.

In the process of insuring investment activities against commercial risks, it is also important to take into account that the use of a certain type of insurance for the purpose of comprehensive protection depends not only on the specifics of the investment project, but also on the phase of its implementation: investment, production or final.

Insurance at the investment phase of the project includes, first of all, credit insurance, as well as professional liability insurance for developers of design and estimate documentation, cargo insurance and construction and installation risks [9].

In the early stages of an investment project, an investor can resort to credit insurance, for example, when purchasing equipment from a foreign partner. In this case, the object of insurance is a commercial loan, which, when exporting, can be considered the supply of goods, performing work and providing services on a deferred payment basis (the risk of non-payment is insured), and when importing - an advance payment (the risk of non-return of payment in case of non-delivery of goods is insured).

In order to protect property during transportation, investors insure vehicles and cargo. In the specialized literature, the following definition of vehicle and cargo insurance is presented - this is a set of types of insurance against dangers arising on various types of transport. Cargo insurance aims to protect cargo from various types of risks during their transportation from the shipper to the consignee.

If an investment project is related to construction, investors, as a rule, choose this type of insurance as construction and installation risks insurance. Experts in the field of insurance activities characterize this type of insurance as comprehensive, providing protection for construction participants from the risks of accidental death or damage to construction projects, construction equipment, materials, other property, as well as civil liability for causing harm to third parties. They also draw attention to the fact that currently two types of insurance for construction and construction-related objects are widely used in international practice: insurance of the construction entrepreneur against all risks and insurance of all installation risks [10].

As a promising type of insurance for investment activities, attention should be paid to such type of insurance as professional liability insurance for developers of design and estimate documentation. This type of insurance is still extremely rare in international practice, but its development would make it possible to more actively resolve property disputes that arise between organizations developing design estimates for an investment project and the investor himself. In this case, the insured is not the investor, but the developer of the design and estimate documentation, who protects his liability in case of damage to the property, life or health of third parties,

or the property interests of the organization's client as a result of negligence, error or omission of the company's employees.

Thus, based on a scientific analysis of the civil legislation of the Republic of Uzbekistan and scientific works in the field under study, it can be concluded that in recent years, in the process of legal reform in the country, a block of investment legislation has been formed that corresponds to generally recognized legal standards and sufficiently guarantees the rights of domestic and foreign investors.

However, there are still some issues in this area that require timely resolution. In particular, the author's analysis of the civil legislation regulating legal relations in the field of investment activity insurance showed that in this segment of national legislation there are no legal provisions establishing investment activity insurance as a separate type of property insurance, as well as regulating the classification of investment activity insurance [11-16].

Therefore, we believe it is advisable to supplement the Law of the Republic of Uzbekistan "On Investments and Investment Activities" with relevant articles establishing investment activity insurance as a separate type of property insurance and as an additional guarantee of the rights of investors, as well as containing a classification of types of investment activity insurance.

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