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# Legal basis for the formation and development of health insurance in Uzbekistan

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**Annotation:** The article discusses the role and place of health insurance in protecting the rights and legitimate interests of citizens. The author also touched upon the civil legal status of the insurance contract. The legal and theoretical aspects of the formation and development of a health insurance contract are also substantiated by reference to the scientific developments cited by the author and carried out to date in the field. In addition, the author puts forward substantiated proposals to improve the legislation governing the contract of health insurance.

**Keywords:** health insurance, insurance contract, insurance, insurance service, insurance market, civil liability, compulsory insurance.

Today, the role and importance of insurance services in protecting the rights and legitimate interests of citizens are growing. Insurance is widely used in market relations not only as a means of compensating for damage to property and health and thus providing financial assistance to victims but also as a means of assisting financially responsible persons in fulfilling their obligations. For this reason, in civil law, insurance of the risk of civil liability for damage to human life and health, insurance to cover the costs incurred for the restoration of health is widely used. In this case, the practice of voluntary and compulsory life and health insurance is developing.

Health insurance is an important way to invest in the health care system and cover the costs associated with maintaining human health. Through the use of health insurance, assistance is provided to the poor and the costs of treatment and treatment in case of a deterioration of health are covered within the insurance money. Therefore, the creation and operation of the health insurance system depend on the current socio-economic situation in the country and the state of development of the health care system, as well as the formation of the insurance market and mechanisms for the legal regulation of these relations.

It can be said that the social priorities of Uzbekistan's development require the creation of a reliable system of social protection of citizens' interests, a sufficient legal framework to regulate labor relations and ensure social protection of various segments of the population, develop the health care system and reduce its burden. The legislation of the Republic of Uzbekistan provides for the obligation of the employer to ensure the employee for damage to his health due to disability, an occupational disease in connection with the performance of work duties. At the same time, the theoretical concepts of a market economy stem from the fact that insurance should be one of the main methods of guaranteed protection of the property interests of both business entities and individuals.

The employer's costs of compensating the employee (beneficiary) for the injury, illness, or death of the employee in connection with the performance of their duties, especially for minors and other persons in the care of the injured employee, for several years. can be much larger if the need for implementation is taken into account. These types of expenses can have a significant impact on the financial situation of any employer, especially if their financial capabilities are limited.

According to the legal literature, an insurance contract is a contract for a fee, the insured pays the insurance premium, and the insurer pays the insurance money in the event of an insured event.

It is a bilateral agreement in which both parties assume both rights and obligations. If the insurer has the right to claim the insurance premium under the insurance contract, it undertakes to pay the insurance indemnity in the event of an insured event. If the insured undertakes to pay the insurance premium, he has the right to claim insurance compensation in the event of an insured event[1]. Based on this opinion and the general rules established by law on the nature of health insurance, the insurance contract can be considered a deferred transaction.

Part 1 of Article 104 of the Civil Code stipulates that the transaction is considered to be concluded on the condition of deferral if the parties make it impossible to determine the origin of rights and obligations.

The contract of health insurance also stipulates that the obligation of one party, ie the insurer, in the event of an insured event, in other words, "depending on the circumstances of which it is unknown whether it occurs" specified in Part 1 of Article 104 FC. If this event does not occur, the obligation does not arise and the legal relationship, ie the insurance contract, is terminated after the specified period.

If the occurrence of a condition is unfairly facilitated by a party interested in the occurrence of that condition, this condition shall be deemed not to have occurred (FC, Article 104, part 4). For example, if the person who ensures the property deliberately sets fire to the property in order to obtain the sum insured, then the sum insured will not be paid[2].

M.A. Aminjanova also notes that the insurance contract is a conditional agreement, and the insurance contract is a written agreement, according to which the insurance company in the event of the insured event (event) in the amount of damage to the insured or other person entitled to insurance compensation the obligation to pay as insurance indemnity, and the insured undertakes to pay insurance premiums within the prescribed period[3].

According to N.Abdullaeva, the insurance contract is a written agreement, according to which the insurance company undertakes to indemnify the insured or his representative in the event of the intended event (insured event), and the insured undertakes to pay insurance premiums (insurance premiums) in due time[4].

In addition to these considerations, it should be noted that a health insurance contract differs from other types of insurance in that its object is strictly and clearly defined by law. For example, in accordance with the legislation on the compensation of damage to the victim (beneficiary) as a result of the death of an employee in connection with the performance of work duties or his disability or occupational disease, the property interests of the employer related to the occurrence of civil liability are compulsory health insurance is the object. That is, damage to the life and health of an employee is not yet considered an object of this compulsory insurance.To do this, first of all, the employer must be held civilly liable. If the damage to the life and health of the employee was caused at a time other than working hours, or the employee suffered damage as a result of his personal work, not service duties, then the employer is not liable and the object of compulsory insurance does not arise.

The development of insurance services and the implementation of a number of reforms to improve insurance activities and the insurance market in Uzbekistan, as well as the adoption of many new laws as the legal basis for these reforms, have created new directions in the legal regulation of insurance relations. First of all, the Civil Code of the Republic of Uzbekistan (Chapter 52, Articles 46) and the Law "On Insurance Activity" of April 5, 2002, were adopted as the legal basis for the general regulation of insurance relations. In order to perform this function, the legal framework for the special legal regulation of insurance relations has been created. In particular,

the Resolution of the President of the Republic of Uzbekistan dated April 10, 2007 No. PP-618 "On measures to further reform and develop the insurance services market" and the "Program of reform and development of the insurance market of the Republic of Uzbekistan for 2007-2010" approved in accordance with this resolution The adoption of the law not only radically changed the insurance service and the market in practice, but also led to the adoption of new legislation in its legal regulation[5]. In this regard, the Law of the Republic of Uzbekistan "On Compulsory Insurance of Civil Liability of Vehicle Owners" was first adopted, and then on April 16, 2009 the Law "On Compulsory Insurance of Civil Liability of Employers" No. ORQ-210 was adopted.

New legal mechanisms for special regulation of compulsory civil liability insurance arising from a specific type of damage have been created Efforts to create and implement a health insurance system in Uzbekistan have been observed since the beginning of the 21st century. It was during this period that special legislation began to be created to regulate the main directions and aspects of insurance activity. In particular, the Law of the Republic of Uzbekistan “On Insurance Activity” of 5 April 2002 and the Decree of the President of the Republic of Uzbekistan No. PF-3022 of 31 January 2002 “On measures to further liberalize and develop the insurance market” [6] were adopted.

With the adoption of these documents, the types of insurance activities and their directions were determined, the areas and classes of insurance were identified and began to apply. Insurance in Uzbekistan is divided into two sectors: 1. Life insurance network (4 classes); 2. General insurance network (17 classes).

Admittedly, the optimization of the ratio of voluntary and compulsory types of insurance remains a key factor in this area. With the development of market relations, it is inevitable that compulsory insurance will play a significant role in the formation of the insurance market. Typically, compulsory insurance is introduced to protect the social and economic interests of citizens, as well as the interests of enterprises, organizations and the state. The state introduces compulsory insurance in cases where the issue of indemnification is considered at the national level, ie the type of compulsory insurance covers the objects of insurance that are a priority in the interests of society. Under the conditions of market relations, the employer is not always able to fully and timely fulfill its obligations to the employee as a result of insolvency, insolvency, bankruptcy or liquidation[7]. In addition, the current state of technological development, the application of advanced technologies in production is associated with an increase in hazards associated with the work of the employee.

International experience shows that in order to fully protect the interests of the employee, the mechanism of transfer of the employer's liability to the employee to insurance companies is applied, ie the employer insures the costs to be incurred in case of injury to the employee. The introduction of compulsory health insurance reduces the violation of the right of the employee and his dependents to compensation for damages in connection with the disability, occupational disease or death of the employee in connection with the performance of work duties. The employer's costs of compensating the employee (beneficiary) for the injury, illness, or death of the employee in connection with the performance of their duties, especially for minors and other persons in the care of the injured employee, for several years. can be much larger if the need for implementation is taken into account. These types of expenses can have a significant impact on the financial situation of any employer, especially if their financial capabilities are limited.

Article 918 of the Civil Code, which is also reflected in Part 1 of this norm, states that “the risk of liability of the insured himself or another person to whom such liability may be imposed under the contract of insurance of risk of liability for damage to life, health or property of other persons can be insured. This does not mean that the CC needs to be amended with the adoption of the law on health insurance, but rather that the current CC foresaw the adoption of special laws on civil liability insurance for future damages and determined the possibility of such special laws in the future.

In modern science, there are a number of views that describe the legal nature of an insurance contract. According to M. Suvorova, compulsory insurance belongs to the field of private law, and it can be concluded that as long as any legal institution belongs to the field of private law, it can not simultaneously belong to the field of public law. The principle of binding does not affect the nature

of the legal regulation of private insurance relations and does not change their content. The purpose of compulsory insurance is to protect private interests based on the specific political and economic situation[8].

Of course, it is possible to fully agree with the author's opinion that one of the main purposes of compulsory insurance is to protect private interests.

According to B. Puginsky, the legislature is trying to include the insurance contract in the field of civil law, which is especially evident when the contract is a civil law instrument for the protection of private interests in economic transactions[9]. Yu.Fogelson said that even if the conclusion of the contract is mandatory for both parties and the terms of the contract are determined by law, the obligation to pay arises after the conclusion of the insurance contract. The content of this obligation may be determined on the basis of the will of the parties, provided that such determination does not contradict the standard rules[10].

Therefore, as O. Okyulov and N. Egamberdieva admit, the contract of compulsory insurance differs from other contracts by the fact that the insurance money, premiums are made in accordance with special laws, and the number of premiums is fixed and paid only by the insurer. Currently, this type of contract is used, mainly compulsory insurance of citizens' liability to third parties, compulsory insurance of property pledged under the loan, insurance of the unsecured part of the pledged property to repay the loan. The terms of a compulsory insurance contract are set by law and cannot be changed voluntarily [11].

Indeed, the very fact of the binding structure of a contract alone cannot be a basis for recognizing its publicity. At the same time, civil law provides for the mandatory conclusion of contracts (Article 377 of the Civil Code), but this does not preclude the civil status of such contracts. Based on this situation, it should be recognized that the principles applicable to other private-legal contractual constructions can be applied to the compulsory insurance relationship.

The most important of these principles, in our opinion, are the principles of equality, honesty, freedom of contract.

The principle of equivalence is the economic equality between the insurance premium paid for the insured benefit and the insurance premium, in which the amount of compensation for damage to the benefit during the established insurance tariffs and the insurance premium paid by the insurer must be compatible[12]. For example, under the contract of compulsory civil liability insurance of the employer, the insurer pays the employer and (or) the victim or beneficiary in the event of an insured event in connection with the employee's disability, occupational disease, or other damage to health in connection with the performance of their duties. or indemnify the damage to health within the insurance amount in exchange for a conditional fee (insurance premium) under the contract of compulsory civil liability insurance of the employer (Article 6, Part 2 of the Law "On Compulsory Insurance of Civil Liability of the Employer").

The second principle is that the principle of freedom of contract is relatively limited in the relationship of compulsory insurance. However, this principle does not necessarily mean that the employer's civil liability insurance contract is completely denied. Therefore, in accordance with Part 2 of Article 354 of the Civil Code, coercion to enter into a contract is not allowed, except as otherwise provided by this Code, another law or the obligation undertaken.

According to H.R. Rahmonkulov, as an exception to the general rule on freedom of contract, the CC and other legislation provide for the grounds for a mandatory contract. According to Article 358 CC, a commercial organization has no right to refuse to enter into a contract[13].

Reflecting on the principle of freedom of contract and restrictions on it, A.A. Muhammadiev states that, in general, the principle of freedom of contract, like other principles of civil law, serves to guarantee the initiative and freedom of economic relations. It should be noted that there is a need to improve the legislation in this area, emphasizing the need to reduce the legislation restricting the principle of freedom of contract and the norms in them, and to open the way for the principle of freedom of contract[14].

In addition, the legal literature argues that an insurance contract is based on mutual trust and falls into the category of contracts that require a high degree of honesty[15].

The principle of honesty (uberrima fides) is generally seen as an assessment of the actions of the parties applied by the courts. In the practice of law enforcement in foreign countries, for

example, in the UK, this insurance contract is a contract with uberrima fides (with a high degree of confidence) [16]. This principle began to be applied in the practice of this state in the XIX century but was fully formed in the Law of Marine Insurance in 1906, according to which the insurer must inform the insurer of all important facts before concluding the contract and the insurer must have all information about the insurer (Article 18) [17].

The principle of honesty is defined as a complex moral and legal phenomenon in a number of ways: as a feeling that determines the true place of the individual in society; known as an idea; it is often seen as an evaluative concept as a general legal principle.

As a general principle of law, the principle of honesty has equal and distributive properties. The principle of honesty requires agreement between the parties because, on the one hand, it requires equality of citizens before the law and law enforcement agencies, on the other hand, the actions of the subjects of legal relations require the application of appropriate legal requirements in each case[18].

This principle is enshrined in the legislation of our country in Article 931 of the Civil Code. According to it, when concluding an insurance contract, the insurer must inform the insurer of the circumstances that are important to determine the probability of occurrence of the insured event and the expected amount of damage (insurance risk) due to its occurrence.

Some authors note that the courts do not pay much attention to the fulfillment of the obligation of the insurer to inform the insurer about the increased insurance risk[19].

In our opinion, there is a need to develop and adopt a law on compulsory health insurance in Uzbekistan. This law should stipulate the relationship between the objects, subjects, insurance organizations, and medical institutions of compulsory health insurance, the essential terms of the contract of health insurance, health insurance programs, and rules for their implementation.

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