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Risk as The Main Condition of Insurance in Investment Activities

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ABSTRACT
Objective: *This study aims to analyze the legal concept of "risk" within the framework of civil law theory, with a specific focus on its application to investment insurance. The research explores both the objective and subjective dimensions of risk by reviewing key perspectives from civil law scholars and examining their implications in practical contexts.* ***Methods:*** *A comprehensive review of civil law theories and scholarly literature was conducted to define and evaluate the characteristics and features of risk. The study focuses on identifying the dual nature of risk – objective and subjective – and assessing its relevance in the domain of investment insurance. Comparative analysis of theoretical foundations and practical applications was employed to establish a cohesive understanding.* ***Results:*** *The research identifies key features of risk as outlined by civil law scholars, emphasizing their significance in investment activities. The study reveals how the theoretical foundations of risk provide a structured framework for understanding its implications in the management of investment insurance. The dual nature of risk – comprising both measurable (objective) and perceptive (subjective) elements – was found to be integral to its legal characterization and practical application.* ***Novelty:*** *This study bridges the gap between theoretical legal analysis and practical implementation of risk management in investment insurance. By offering a detailed exploration of the dual nature of risk, the research provides a deeper understanding of its role within civil law and investment activities. This perspective enriches the existing literature and offers valuable insights for legal scholars and practitioners in the field of investment insurance.*

INTRODUCTION

Risk is an important topic of study in the legal field, especially in the context of civil law. This is due to the fact that in some cases, risky activities may result in losses for persons not interested in them, which in turn entails legal consequences for the entities carrying out such activities. In other words, risky activities fall within the scope of law when they result in material losses or other negative consequences for the entities. On the contrary, a risk that does not materialize is not considered within the framework of civil law.

Risk is an integral part of developed civil turnover and private law relations [1]. The main goal of civil law regulation of risk is a clear legislative distribution of civil law risks and the creation of appropriate mechanisms to minimize negative consequences. Effective use of the potential of existing legal institutions should be aimed not only at eliminating the negative consequences of risk factors, but also at minimizing legal risks and their consequences. Understanding and managing risks is becoming fundamental to ensuring the protection of investor interests and the stability of financial transactions.

RESEARCH METHOD

Risk acquires legal significance only when negative consequences occur. Any successful risky activity does not require legal assessment. A person attracts the attention of jurisdictional bodies only in the event of harm caused as a result of the relevant activity. In addition, the harmful consequences that occur must be among those predicted by the subject. If a person feared the occurrence of some unfavorable consequences, but others occurred, then such a situation cannot be classified as a risk.

V.A. Eugenzikht conducted an in-depth analysis of the concept of risk. He believes that risk is a subjective category, different from guilt, and represents an individual's internal attitude to possible outcomes of actions that may be objectively random or unlikely. This attitude is expressed in the conscious acceptance of potential negative property consequences [2].

However, this view raises a number of questions and requires critical consideration. First, Eugensicht's subjective approach to risk implies that risk is associated exclusively with the subject's internal perceptions and expectations. This approach can be limiting, as it ignores the objective aspects of risk that may exist independently of subjective feelings and assessments.

RESULTS AND DISCUSSION

For example, in situations where risk arises from external factors such as natural disasters or economic crises, the subjective perception of risk may not fully reflect its true nature and consequences. Thus, limiting risk analysis to subjective categories only may lead to insufficient risk assessment and management.

Secondly, Eugensicht argues that risk is different from guilt because it is a conscious assumption of negative consequences. However, if the subject is aware of the danger of his actions and accepts the possibility of negative consequences, this may indicate guilt to a certain degree. In this context, the line between risk and guilt becomes blurred, making it difficult to clearly distinguish between them.

Risk as a legal phenomenon characterizes the activity carried out within the legal field. Hence, behavior carried out to achieve illegal goals or using illegal means should not be characterized using the category "risk". Thus, the risk subject must pursue only legitimate (legal) goals. In the event of a violation of the rules of law by a person, we will already be talking about liability.

Separation of risks by source of occurrence allows for more effective management and development of appropriate minimization strategies. Some authors emphasize the importance of distinguishing between external and internal risks, which is of key importance for insuring investment activities [3].

Existing laws and regulations set out risk management requirements for insurance companies, including mandatory insurance of certain activities and regular reporting. However, practical implementation of these requirements often faces difficulties related to legal interpretation.

External risks include natural disasters, economic crises, and political instability. These risks are characterized by their unpredictability and potential for widespread impact. Natural disasters such as earthquakes, floods, hurricanes, and tsunamis can cause significant damage to infrastructure and the economy. These events often occur without warning and require extensive response and recovery measures. An example is the 2011 earthquake in Japan, which caused a tsunami and led to the Fukushima nuclear disaster. These events highlighted the importance of natural disaster insurance to protect investments and minimize financial losses.

Natural disasters such as earthquakes, floods, hurricanes and tsunamis pose significant risks to investors. From a legal perspective, natural disaster insurance is regulated both nationally and internationally. For example, in the European Union, natural disaster insurance is included in the mandatory insurance types, as enshrined in various EU directives. In the United States, the Federal Emergency Management Agency (FEMA) plays a key role in managing natural disaster risks and provides insurance policies through the National Flood Insurance Program [4].

Today, Uzbekistan is facing new economic challenges associated with the global COVID-19 pandemic and the consequences of foreign economic sanctions affecting regional stability.

Economic crises pose serious challenges for Uzbekistan, but with the help of proper legal regulation and effective anti-crisis measures, their negative consequences can be mitigated and sustainable development of the country can be ensured. It is important to continue working on improving the legal framework for investment insurance, improving the institutional structure and increasing the effectiveness of law enforcement.

Political instability, including revolutions, civil wars and changes in political regimes, can have a significant impact on investments. An example is the crisis in Venezuela, where political and economic instability led to significant losses for investors. Political risk insurance is becoming an important tool to protect against unpredictable political changes.

Political instability, including revolutions, civil wars, and changes in political regimes, has a significant impact on investment activity. The legal regulation of political risk insurance includes the use of international agreements and treaties. For example, bilateral investment treaties (BITs) often contain provisions to protect investors from political risks. Organizations such as the Multilateral Investment Guarantee Agency (MIGA) provide political risk insurance policies, which helps investors protect their investments in unstable regions [5].

Internal risks are associated with management errors, operational failures and corporate fraud. These risks can be controlled and minimized through effective management and internal controls.

Management errors, such as poor strategic decisions, inefficient use of resources, or lack of planning, can lead to significant financial losses. An example is the bankruptcy of Enron in 2001, which was caused by massive management errors and corporate fraud.

Management risk insurance can include policies that cover errors and omissions by managers.

Operational disruptions include production interruptions, process errors, and supply chain disruptions. An example is the global supply chain crisis caused by the COVID-19 pandemic, which has led to delays and increased costs. Operational risk insurance helps offset losses associated with such disruptions.

From a legal perspective, companies are required to comply with quality and safety standards set by national and international regulations. For example, ISO standards include requirements for quality management and product safety, which helps companies minimize operational risks. If these standards are violated, companies may face legal consequences, including fines and civil lawsuits [6].

Corporate frauds, such as financial fraud and malpractice, can cause significant damage to a company and its investors. An example is the Madoff Investment Securities scandal of 2008, in which a major fraud resulted in investors losing billions of dollars. Fraud insurance helps protect companies from losses associated with fraudulent activities. However, Bernie Madoff, the founder of Bernard L. Madoff Investment Securities LLC, was arrested in December 2008 for running the largest financial scam in history, known as the "Ponzi scheme." The scam lasted at least 17 years and caused investors more than $65 billion in losses [7].

The scheme was uncovered in late 2008, when the financial crisis led to an increase in withdrawal requests that Madoff was unable to meet. In December 2008, he admitted to his sons that his business was a scam. The sons immediately reported it to the authorities, leading to Madoff's arrest the following day. In 2009, Bernie Madoff was sentenced to 150 years in prison and ordered to pay $170 billion in restitution [8].

The Madoff scandal exposed serious shortcomings in regulators such as the U.S. Securities and Exchange Commission (SEC). In response to the scandal, the SEC took a number of steps to prevent similar incidents in the future, including improving fraud detection mechanisms, increasing employee training, and introducing a whistleblower incentive program. The Madoff scandal served as a lesson for the entire financial industry, highlighting the importance of careful scrutiny of investment strategies and internal controls. It also showed how important transparency and accountability in financial transactions are to protect investors' interests and maintain confidence in the market.

Effective management of internal risks requires a comprehensive approach, including the implementation of internal control systems, personnel training, the use of technological solutions and strategic planning. Compliance with legal norms and standards also plays a key role in minimizing internal risks and protecting the interests of the company and its investors.

Regulatory risks arise from changes in legislation and regulations that may affect the activities of insurance companies and investors. In Uzbekistan, such risks may be associated with frequent changes in the legal system and insufficient predictability of regulatory policy.

The main problems in the risk management system in investment insurance in Uzbekistan include an insufficient legal framework, weak institutional infrastructure and low level of law enforcement.

Legal and regulatory gaps include the lack of clear rules and regulations on the management of certain types of risks, insufficient coordination between different regulatory bodies, and low awareness of existing requirements among market participants. These gaps can lead to low investor confidence, increased financial losses, and reduced effectiveness of investment insurance.

Thus, risk classification and management in investment insurance are important aspects for ensuring financial stability and protecting investors' interests. In Uzbekistan, there are certain problems and gaps in the legal framework and law enforcement that need to be addressed to improve the situation.

It is necessary to develop a number of new regulations that will improve coordination between regulatory authorities and raise awareness among market participants. It is also important to introduce international standards and best practices into the risk management system.

CONCLUSION

Fundamental Finding : This study emphasizes the central role of risk management in civil law, particularly in influencing financial stability and safeguarding investors. It identifies key risk categories—external (e.g., natural disasters, political instability), internal (e.g., operational failures, corporate fraud), and regulatory—that require clear legal frameworks and targeted management strategies. **Implication :** The findings highlight the necessity for robust legal frameworks, effective regulatory enforcement, and international cooperation to mitigate risks. In the context of Uzbekistan, addressing legal gaps, aligning with international standards, and enhancing coordination among authorities can significantly improve investment insurance systems and foster investor confidence. **Limitation :** The study focuses primarily on Uzbekistan's legal and regulatory environment, which may limit the applicability of its findings to other jurisdictions. Additionally, the research relies heavily on theoretical analysis, with limited empirical data to validate practical applications. **Future Research :** Further studies should explore empirical assessments of risk management practices in investment insurance across different regions. Comparative analyses of international legal frameworks and their applicability to Uzbekistan can provide deeper insights into improving risk management systems and enhancing economic resilience.

REFERENCES

[1] A. Özmerdivanlı, "Bernie Madoff Ponzi Şeması," in *Vaka İncelemeleriyle Finansal Manipülasyonlar*, Özgür Yayınları, 2024. doi: 10.58830/ozgur.pub483.c1985.
[2] T. Cipra, "Insurance Classification," in *Financial and Insurance Formulas*, Physica-Verlag HD, 2010, pp. 143–148. doi: 10.1007/978-3-7908-2593-0_16.
[3] P. Bekker and A. Ogawa, "The Impact of Bilateral Investment Treaty (BIT) Proliferation on Demand for Investment Insurance: Reassessing Political Risk

Insurance After the 'BIT Bang,'" *ICSID Review*, vol. 28, no. 2, pp. 314–350, Sep. 2013, doi: 10.1093/icsidreview/sit028.

[4] L. I. Aburto Barrera and J. Wagner, "A systematic literature review on sustainability issues along the value chain in insurance companies and pension funds," *Eur Actuar J*, vol. 13, no. 2, pp. 653–701, May 2023, doi: 10.1007/s13385-023-00349-1.

[5] D. Porrini, "Risk Classification Efficiency and the Insurance Market Regulation," *Risks*, vol. 3, no. 4, pp. 445–454, Sep. 2015, doi: 10.3390/risks3040445.

[6] N. V. Lutovinova*, M. M. Turkin, A. L. Shilovskaya, and R. R. Lenkovskaya, "Mechanisms and Technologies of Distribution of Risks of Participants in Civil Legal Relations," *International Journal of Recent Technology and Engineering (IJRTE)*, vol. 8, no. 3, pp. 7584–7587, Sep. 2019, doi: 10.35940/ijrte.c6161.098319.

[7] J. C. Smith, "Civil law concepts in the criminal law," *Camb Law J*, vol. 31, no. 1, pp. 197–224, Apr. 1972, doi: 10.1017/s0008197300134026.

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