

SYSTEM OF STATE INSURANCE PRINCIPLES: CHARACTERISTICS OF THE CONTENT AND ELEMENTAL COMPOSITION

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Abstract. The article analyses the system of principles of state insurance as a system of initial normative and guiding ideas on the basis of which state social insurance is implemented.

It is established that the principles of social insurance delineate social standards, establish clear guidelines, and chart paths for the development of normative legal regulation of socio-economic relations arising in connection with the social protection of the population from the consequences of social risks. The system of principles of state insurance characterized as an organized set of principles that guarantee the financial security of citizens in the event of an insured event, as well as the provision of social services funded by the budget of the social insurance fund. It is established that the system of principles of state insurance includes the following elements: legality of social insurance; state guarantee of social insurance; ensuring a decent level of socio-economic conditions for the insured person; compulsory social insurance; equality of social insurance – all insured individuals contribute funds and subsequently receive rights and guarantees of uniform provision of social assistance and social protection against specific insurance risks; social partnership in social insurance; solidarity of social insurance.

It is emphasized that the system of principles of state insurance forms a system of guiding ideas and guiding principles. These principles carry significant cognitive weight, allowing for the comprehension of various processes in social security. From a practical standpoint, they serve as a kind of general norms, which, when used correctly, become a sufficient precondition for constructing a state policy strategy in the field of state insurance.

Key words: system of principles of state insurance, social insurance, legality of insurance, compulsory insurance, equality of insurance, social partnership, solidarity of insurance.

СИСТЕМА ПРИНЦИПІВ ДЕРЖАВНОГО СТРАХУВАННЯ: ХАРАКТЕРИСТИКА ЗМІСТУ ТА ЕЛЕМЕНТНОГО СКЛАДУ

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Анотація. У статті проведено аналіз системи принципів державного страхування як системи вихідних нормативно-керівних ідей, на основі яких здійснюється державне соціальне страхування. Встановлено, що принципи соціального страхування окреслюють соціальні стандарти, установлюють чіткі орієнтири, шляхи розвитку нормативно-правового регулювання соціально-економічних відносин, які з'являться у зв'язку із соціальним захистом населення від наслідків соціального ризику. Систему принципів державного страхування охарактеризовано як організовану сукупність принципів, яка гарантує матеріальне забезпечення громадян у разі настання страхового випадку, а також надання соціальних послуг за рахунок бюджету фонду соціального страхування.

Встановлено, що система принципів державного страхування включає такі елементи: законності соціального страхування; державної гарантованості соціального страхування; забезпечення гідного

рівня соціально-побутових умов для життя застрахованої особи; обов'язковості соціального страхування; рівноправності соціального страхування – усі застраховані особи виділяють кошти, а згодом одержують права і гарантії надання їм рівномірно цьому соціальної допомоги та забезпечення соціального захисту за настання конкретних страхових ризиків; соціального партнерства у соціальному страхуванні; солідарності соціального страхування.

Наголошено, що система принципів державного страхування формує систему відправних ідей та керівних засад, в якій такі принципи несуть у собі важливе пізнавальне навантаження, дають змогу осягти низку процесів соціального забезпечення. З практичного ж боку вони мають значення своєрідних загальних норм, які, будучи правильно використаними, стають достатньою передумовою побудови стратегії політики держави у сфері державного страхування.

Ключові слова: система принципів державного страхування, соціальне страхування, законність страхування, обов'язковість страхування, рівноправність страхування, соціальне партнерство, солідарність страхування.

The effective changes of a state require a comprehensive and coordinated social policy aimed at ensuring a decent standard of living, social protection and support for its citizens. For this purpose, a social insurance system was formed, which promotes effective state regulation of insurance relations in the event of social risks. At the same time, changes in the economic standards and orientations of societal development and the increase in social instability demand immediate improvement of the domestic system of compulsory state social insurance to enhance the material well-being of those individuals entitled to it. This enhancement should be carried out taking into account the fundamental principles of state insurance.

Given the above, comprehensive development of theoretical and practical issues of compulsory state social insurance, as well as the development and implementation of ways to ensure its strategic development, should be conducted today with regard to the system of basic normative and guiding ideas of state social insurance. The analysis of the latter constitutes the main goal of the conducted research.

Scientific research indicates that significant attention is paid to the issue of state insurance both by domestic scholars and foreign ones. Among the domestic scholars who have studied this issue, it is appropriate to mention: O. Agarkov, V. Bazylevych, O. Hamankov, I. Dotsenko, I. Vozovyk, O. Zhuk, O. Kyrylenko, Yu. Kovalenko, L. Morozova, N. Tkachenko, V. Oparin, T. Rotova, L. Seliverstova, N. Suprun, O. Filonyuk, and others. However, important aspects of the content of the system of principles of state insurance as the basis for the development of modern domestic policy require further comprehensive scientific research.

The principles of state insurance are an important source of state social insurance – they are the fundamental normative and guiding principles, managerial ideas reflecting the essence of social insurance norms and the main directions of the state's policy regarding the legal regulation of social relations in the field of social insurance, organization, and functioning of the system of mandatory state and voluntary social insurance. Until recently, domestic legal doctrine, recognizing the important role of the principles of state insurance, did not acknowledge them as a source of law in the literal sense of the word. This was hindered by the tradition of legal positivism, which argued that legal principles in general, and consequently the principles of state insurance in particular, do not have their own form of expression but are endowed with the form of the act, a constituent part of the content of which they are. Therefore, it was problematic to demand compliance with a provision that is not clearly prescribed but derived from some abstract & quot; higher idea & quot;. Such a position is now considered subjective.

The development of modern legal understanding redefines the essence of the principles of state insurance, their role, and place in the system of legal sources. By their nature, general principles are a system of directive provisions to which all subsequent procedures are subordinate. Understanding their content allows for grasping individual, specific phenomena collectively marked by these principles.

Based on the principles of state insurance, the level and effectiveness of the functioning of the social protection system against the consequences of social risk are assessed [11]. They contribute to the consolidation of all forms of social security law, fulfill the regulatory function, and are considered as the highest assessment of ensuring social protection against the consequences of social risk. The independence of the principles of state insurance as a source of social security law does not exclude the fact that they acquire external formalization, receiving a written shell through other forms of law, which, by perceiving these principles, specify their provisions, giving them the character of specific rules of conduct.

The role of principles of state insurance also proves significant in cases where legal gaps need to be addressed. Complex legislative regulation, despite its sophistication, cannot anticipate every situation, whereas the principles of state insurance can encompass a wide range of new and unforeseen circumstances [12]. As regulators of social relations, legal principles have a general purpose: they largely determine the prospects for the development of the legal obligations imposed on the state in the field of providing social assistance to individuals facing social risks. In other words, being the basis of regulatory norms, the principles of state insurance serve as a certain tuning fork for all subsequent legislative activities in social security. They ensure continuity and consistency in the legislative process, provide coherence between law and legislation, and adapt the relevant legislative framework of the state to social stability and social protection.

In modern conditions, understanding broad legal phenomena deserves support through the development and application of a systemic approach. If we specify and consider the significance of the systemic approach in studying the system of principles of state insurance as a complex legal formation, such an approach is capable of revealing profound connections between its elements and providing important recommendations for improving this system in general. The system of principles of state insurance is not just an organized set of components; its essence lies in the interrelationships among its elements. By examining the nature and essence of these relationships, one can discern the characteristics that endow the system with integrity. The system of principles of state insurance is a system in which all elements are united by a common goal – to guarantee the material security of citizens in the event of an insured event and to provide social services funded by the social insurance fund's budget.

The system of principles of state insurance is characterized by dynamism, which is associated with the constant need for enriching the means of legal regulation, ensuring their correspondence to the needs of social and legal practice. In a dynamic system, there is always movement that requires constant supplementation of the system with new elements. This feature is particularly evident today, in the implementation of a comprehensive mechanism to support insurance business, providing certain guarantees for insurers; investment activities.

The system of principles of state insurance plays a consolidating role in the rule of law, serving as one of the main quot; centers of gravity quot;. Analyzing the nature and content of the system of principles of state insurance allows us to draw conclusions about the content of active measures to shape the insurance services market and the effective, yet balanced, intervention of the state in the process of insurance activity reform.

The system of principles of state insurance contributes to the formation of the foundation for a comprehensive understanding of legislative provisions on social insurance, enabling the realization of the importance of social insurance in action and its role in increasing the level of social protection for the population.

Reviewing the professional literature, it can be observed that scholars propose different sets of components when characterizing the elemental composition of the system of principles of state insurance. This variation is related to the inevitable subjectivity, where the perception of one or another principle of state insurance is more or less conditioned by the understanding of a particular type of social activity.

However, the traditionally included components in the general list of the system of principles of state insurance are: firstly, legality of social insurance; secondly, state guarantees of social insurance; thirdly, ensuring a decent standard of living conditions for the insured person; fourthly, mandatory social insurance; fifthly, equality of social insurance – all insured persons contribute funds and subsequently receive rights and guarantees of receiving social assistance and social protection in the event of specific insurance risks; sixthly, social partnership in social insurance; seventhly, solidarity of social insurance; eighthly, organizational self-government.

In today's environment, social security must be guaranteed, in particular, through such a principle as the legitimacy of social insurance. The principle of legitimacy of social insurance implies compliance with the legislation in the field of compulsory state social insurance at all levels of implementation and in respect of all categories of insured persons, in accordance with which it is carried out.

When studying the principle of legality, one should first of all be guided by the criterion of legal certainty, i.e., clarity, comprehensibility, unambiguity of legal norms, their predictability, and predictability to ensure a stable legal status of a person. The general legal criteria that affect the quality of a law include: the procedure for drafting and adopting quality laws; the existence of executive and jurisdictional structures that ensure the application of legislation; the state of legality in society, which is an assessment of the level of efficiency in general.

Legislation must be perfect in both form and content, characterized by scientific validity, democratic and humanistic orientation, and the absence of vague and ambiguous interpretations. The existence of laws that are not legal in nature, outdated norms and norms that violate or restrict the rights and freedoms of citizens, consolidate the arbitrariness of the state.

The principle of state guarantee of social insurance ensures the actual fulfillment of social and legal obligations imposed on the state in the field of social assistance to persons at social risk.

Article 3 of the Constitution states that a person, his or her life and health are recognized in Ukraine as the highest social value. The same article also states that the establishment and maintenance of human rights and freedoms is the main duty of the state. The very idea of social rights is linked to the idea of a welfare state. The right to social security depends on the state, and a state governed by the rule of law is obliged to ensure them by implementing them in legislation. Social rights should not only be exercised depending on the economic situation of the country, but should also be consistent with it. These rights should be guaranteed to a person at the most economically feasible level [1, p. 195].

The principle of ensuring a decent level of social and living conditions for the insured person means that the state should provide a minimum subsistence level of life through social insurance.

In a normal social system, each individual should be guaranteed the right to a decent existence, which is the basis for a number of legal requirements of the individual. The requirements of the principle of human dignity oblige a state that proclaims itself a social state to be guided by them in its activities. The priority tasks of the welfare state are to guarantee citizens an adequate standard of living, social security and social protection, civil peace and harmony.

The main purpose of the welfare state is to eliminate or at least mitigate possible social tensions in society, to equalize the social status of citizens, and to develop healthcare, education, and culture. This clearly reflects the goal of the state – to provide a person with a decent existence, free personal development, family protection, social justice and social security [5, p. 67–68].

The principle of compulsory social insurance signifies that social insurance is mandatory for all individuals engaged in labor activities. The compulsory nature of insurance applies to individuals working under a labor contract (contract) and other grounds stipulated by labor legislation, as well as to those who provide for themselves independently (members of creative unions, creative workers who are not members of creative unions), and citizens engaged in entrepreneurial activities. This principle is realized through legislative enactment mandating the payment of insurance contributions for mandatory state social insurance regardless of the will and desire of employers and employees. The principle of compulsion enables the implementation of the principle of comprehensive coverage of the population by social insurance [6, p. 11].

The principle of equality of social insurance means that all insured persons allocate funds and subsequently receive rights and guarantees of equal social assistance and social protection in case of occurrence of specific insurance risks.

Analyzing the issue of ensuring equality of rights and opportunities in the system of principles of social security law, K. Hnatenko states that the acute problems of social security law are ensuring equal opportunities for people with special needs, balancing the rights of men and women in their material support and streamlining social benefits and social privileges granted to different categories of citizens.

In the realm of social protection, the principle of equality of social insurance fosters the equalization of the material status of individuals who have experienced social risks. Its essence lies in the following aspects: the ability to exercise one's right to social security; the ability to defend one's rights, freedoms, and interests in case of their violation or threat of infringement, which includes equal opportunities to choose and apply forms and methods of rights protection; extending these opportunities to everyone without exception, regardless of their individual characteristics; equality of these opportunities, meaning the identical scope for all; the presence of real conditions and guarantees provided by the state to ensure the aforementioned aspects both separately and in their interrelation.

The principle of social partnership in social insurance entails the direct participation of social partnership entities in the creation of social insurance funds through the payment of insurance contributions, while simultaneously advocating for their own interests.

Social partnership is a system with a clearly defined social orientation, serving as a means of integrating the interests of various subjects of social relations. It is a tangible phenomenon in contemporary societal life

and is considered an innovative direction in the state's social policy, aiming primarily at humanizing social relations [2, p. 82]. Relations within social partnership are viewed as interactions among social, economic, and political activities, with the goal being a pivotal aspect. Social partnership represents a system of relationships between workers, employers, as well as government authorities and local self-government bodies concerning the reconciliation of interests in the social sphere.

The principle of solidarity of social insurance – according to this principle, funds are redistributed from the able-bodied to the disabled, from healthy people to people with diseases, from people who are employed to the unemployed.

The possibility of exercising the right of a person to demand from the state provision in case of social risk exists thanks to the so-called welfare transfer mechanism, which is the embodiment of the idea of solidarity. Solidarity is the sustainability of interests, actions and responsibilities. Each person, as a member of society, is responsible for the existence of others in it, and this responsibility is mutual. The principle of solidarity in social insurance is the redistribution of funds from the able-bodied to the disabled, from the healthy to the sick, and from the employed to the unemployed. Employed people contribute a part of their earnings to support the unemployed under the obligation of the state, which guarantees them that in case of unemployment other citizens will make contributions to support them or their families [9].

Thus, analyzing all of the above, we can state the following:

Firstly, the principles of social insurance delineate social standards, establish clear guidelines, and chart paths for the development of normative legal regulation of socio-economic relations arising in connection with the social protection of the population from the consequences of social risks.

Secondly, the system of principles of state insurance constitutes an organized set of principles that guarantee the financial security of citizens in the event of an insured event, as well as the provision of social services funded by the budget of the social insurance fund.

Thirdly, the system of principles of state insurance includes the following elements: legality of social insurance; state guarantee of social insurance; ensuring a decent level of socio-economic conditions for the insured person; compulsory social insurance; equality of social insurance – all insured individuals contribute funds and subsequently receive rights and guarantees of uniform provision of social assistance and social protection against specific insurance risks; social partnership in social insurance; solidarity of social insurance.

Fourthly, the system of principles of state insurance forms a system of guiding ideas and guiding principles. These principles carry significant cognitive weight, allowing for the comprehension of various processes in social security. From a practical standpoint, they serve as a kind of general norms, which, when used correctly, become a sufficient precondition for constructing a state policy strategy in the field of state insurance.

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