ІНСТИТУТ СТРАХУВАННЯ ВІЙСКОВИХ РИЗIKІВ: ІМПЛЕМЕНТАЦІЯ НОРМ МІЖНАРОДНОГО ЗАКОНОДАВСТВА

Актуальність. Майже в усі історичні епохи робилися спроби зменшити страждання, спричинені збройними конфліктами. Збройна агресія Російської Федерації проти України, яка почалася з окупації Криму в лютому-березні 2014 року, гібридна війна на Донбасі з квітня 2014 року та відкрите повномасштабне збройне вторгнення 24 лютого 2022 року, не є винятком. Ця агресія супроводжується безпрецедентним знищенням мирного українського населення, в тому числі дітей, знищення українських міст, культурних і духовних цінностей змушує керівництво країни та простих людей, у пошуках міжнародного захисту, справедливості та покарання агресора, апелювати до норм міжнародного права, щодо пошуку механізмів відшкодування збитків, завданних з використанням можливостей інституту страхування.

Ознайомлення із зарубіжним досвідом ведення міжнародного страхового бізнесу дозволить сформувати передумови реалізації стратегічного курсу України на інтеграцію у світовий економічний простір. Адже функціонування страхового ринку України в умовах посилення глобалізаційних та інтеграційних процесів, тенденцій концентрації капіталу у фінансовому секторі економіки визначає необхідність удосконалення методичного забезпечення функціонування системи ризик-менеджменту в страхових компаніях з урахуванням світового досвіду та військової акції з боку Російської Федерації.

Мета та завдання. Метою статті є сприяння формуванню фундаментальних знань щодо особливостей ведення міжнародного страхового бізнесу та функціонування інституту страхування військових ризиків його проблем і сучасних тенденцій, організаційно-правових та фінансово-економічних основ діяльності та особливостей реалізації міжнародних видів страхування і перестрахування для фінансування військових ризиків, міжнародного досвіду використання фінансових інструментів, форм взаємодії страхового ринку та ринку капіталу, основ діяльності банківсько-страхових груп як інститутів міжнародного страхового ринку.

Результати. Імплементація норм міжнародного права охоплює різні сфери діяльності, починаючи від прийняття законодавчих актів та завершуючи практичними питаннями, наприклад, впровадження певних методів і засобів відшкодування завданих збитків.

Інститут страхування від військових ризиків бере свій початок із законодавства часів Першої світової війни, коли було створено агентство для доповнення неадекватного страхування від воєнних ризиків, яке тоді було доступне на ринку комерційного страхування. Це агентство – Бюро страхування військових ризиків – мало повноваження страхувати американські судна, фрахт, вантаж і екіпаж від збитків або збитків, спричинених ризиками війни. Згодом це агентство було скасовано, і його функції щодо торгівельного судноплавства почала виконувати Морська адміністрація, Департамент торгівлі.

Ризик – це поняття, універсальне в повсякденному вживанні. Це просто вираження потенціалу певної дії призвести до певної втрати. Ризик – це поєднання ймовірності події та її наслідків. Усвідомлення наслідків різних дій чи подій є яким необхідним для прийняття обґрунтованих рішень щодо громадянської безпеки. Якщо відбувається розплачування активної зони ядерного реактора, відбувається масовий викид радіоактивності. Навіть якби це було стримано на атомній станції, громадська реакція спричинила б тиск на закриття атомної промисловості, як це сталося в Японії. Ця ключова парадигма, яка висвітлювалася в літературі про ризики понад півстоліття, показує, що усвідомлення ймовірності негативної події також має бути важливим для тих, хто приймає рішення.

Страхування військових ризиків – це страховий поліс, який забезпечує фінансовий захист страхувальника від збитків внаслідок таких подій, як вторгнення, повстання, заворушення, революції, військові перевороти та тероризм.

Можливості страхових компаній також обмежені в контексті відшкодування збитків від бойових дій. Уряду України слід працювати над цим комплексним питанням. Здійснювати роботу щодо оцінки штраф, які вже завдані чи можуть бути завдані в майбутньому, щоб мати підстави для притягнення агресора до відповідальності. Російська Федерация має заплатити. Також механізм потребує залучення міжнародної...
INSTITUTE OF MILITARY RISKS INSURANCE: IMPLEMENTATION OF NORMS OF INTERNATIONAL LEGISLATION

**Topicality.** In almost all historical eras there have been attempts to reduce the misery caused by armed conflicts. The armed aggression of the Russian Federation against Ukraine, which began with the occupation of Crimea in February-March 2014, the hybrid war in Donbas since April 2014, and the open full-scale armed invasion on February 24, 2022, is not an exception, and is accompanied by an unprecedented destruction of the Ukrainian civilian population, including children, the destruction of Ukrainian cities, cultural and spiritual values forces the leadership of the country and ordinary people, in search of international protection, justice and punishment of the aggressor, to appeal to the norms of international law, regarding the search for compensation mechanisms for damages caused by using the possibilities of the insurance institute.

**Aim and tasks.** The purpose of the article is to contribute to the formation of fundamental knowledge regarding the peculiarities of conducting international insurance business and the functioning of the military risk insurance institute, its problems and modern trends, organizational-legal and financial-economic bases of activity and peculiarities of the implementation of international types of insurance and reinsurance for financing military risks, international experience of using financial instruments, forms of interaction between the insurance market and the capital market, the foundations of banking and insurance groups as institutions of the international insurance market.

**Research results.** The implementation of the norms of international law covers various spheres of activity, starting from the adoption of legislative measures and ending with practical issues, for example, the implementation of certain methods and means of compensation for damages.

The War Insurance Institute traces its origins to World War I legislation that created the agency to supplement the inadequate war insurance then available in the commercial insurance market. This agency, the Bureau of War Risk Insurance, had the authority to insure American vessels, freight, cargo, and crew against loss or damage caused by the risks of war. This agency was later abolished and its merchant shipping functions were taken over by the Maritime Administration, Department of Commerce.

Risk is a concept that is universal in everyday use. It is simply an expression of the potential of a certain action to result in a certain loss. Risk is a combination of the probability of an event and its consequences, awareness of the consequences of various actions or events is clearly necessary to make informed decisions about public safety. If the core of a nuclear reactor melts down, there will be a massive release of radioactivity. Even if it were contained to a nuclear plant, the public trauma would cause pressure to shut down the nuclear industry, as happened in Japan. This key paradigm, which has been highlighted in the risk literature for more than half a century, shows that awareness of the probability of an adverse event should also be important to decision makers.

War risk insurance is an insurance policy that provides financial protection to the policyholder against losses due to events such as invasions, insurrections, riots, strikes, revolutions, military coups and terrorism.

**Conclusion.** The possibilities of insurance companies are also limited in the context of compensation for losses due to hostilities. The Government of Ukraine should work on this complex issue. Carry out work on the assessment of losses that have...
already been caused or may be caused in the future in order to have grounds for bringing the aggressor to justice. The Russian Federation must pay. Also, the mechanism needs to attract international assistance to create a Fund from which compensation will be paid. The creation of such a Fund guarantees the coverage of losses of vehicles - wagons, planes, barges, etc.

The Institute of Military Risk Insurance needs to focus on the following conclusions: military risk insurance is the coverage of losses arising from such events as war, invasion, insurrection, riots, strikes and terrorism; military risk insurance is offered as a separate policy, as it is excluded from standard insurance policies due to high risks; companies operating in high-risk countries are good candidates for military risk insurance; military risk insurance is often excluded from standard policies due to the inability of insurance companies to accurately predict losses and, therefore, charge appropriate premiums.

**Keywords:** aggression, occupation, the hybrid war, the insurance institute, military risk insurance, insurance market.

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**Problem statement and its connection with important scientific and practical tasks.** In almost all historical eras there have been attempts to reduce the misery caused by armed conflicts. The armed aggression of the Russian Federation against Ukraine, which began with the occupation of Crimea in February-March 2014, the hybrid war in Donbas since April 2014, and the open full-scale armed invasion on February 24, 2022, is not an exception, and is accompanied by an unprecedented destruction of the Ukrainian civilian population, including children, the destruction of Ukrainian cities, cultural and spiritual values forces the leadership of the country and ordinary people, in search of international protection, justice and punishment of the aggressor, to appeal to the norms of international law, regarding the search for compensation mechanisms for damages caused by using the possibilities of the insurance institute.

This definitely requires an increase in the effectiveness of the practical application of the norms that form its basis. In other words, proper implementation of European legislation into the national legal system should be ensured. Mainly, the implementation of the norms of international law is the prerogative of sovereign states, which use the internal organizational and legal mechanism for this. At the same time, the field of international legal regulation often covers issues that cannot be resolved by national measures. The presence of these two components forms the mechanism of implementation of norms of international law.

**Analysis of recent publications on the problem.** Scientific works by M. Aleksandrova, V. Bazilevich, O. Zaruby, S. Osadets, V. Plysi, B.V. Burkynskyi, O.V. Nikishyna (1; 10, P.58, 11, P.75), R.A. Kalyuzhny and others are devoted to the study of the main aspects of determining the essence of security, in particular, in terms of the financial stability of insurance organizations and relevant threats. However, the study of the institute of military risk insurance acquires special relevance, since the negative consequences of the economic crisis in Ukraine led to destruction in the social sphere.

**Allocation of previously unsolved parts of the general problem.** Acquaintance with the foreign experience of conducting international insurance business will allow to form the prerequisites for the implementation of Ukraine's strategic course for integration into the global economic space. After all, the functioning of the insurance market of Ukraine in conditions of strengthening globalization and integration processes, trends of capital concentration in the financial sector of the economy determines the need to improve the methodical support of the functioning of the risk management system in insurance companies, taking into account world experience and military aggression from the Russian Federation.

**Formulation of research objectives (problem statement).** The purpose of the article is to contribute to the formation of fundamental knowledge regarding the peculiarities of conducting international insurance business and the functioning of the military risk insurance institute, its problems and modern trends, organizational-legal and financial-economic bases of activity and peculiarities of the implementation of international types of insurance and reinsurance for financing military risks, international experience of using financial instruments, forms of interaction between the insurance market and the capital market, the foundations of banking and insurance groups as institutions of the international insurance market.

**An outline of the main results and their justification.** The implementation of the norms of international law covers various spheres of activity, starting from the adoption of legislative measures and ending with practical issues, for example, the implementation of certain methods and means of compensation for damages. It should be noted that the mechanism of implementation of norms of international law has a number of features that are determined by factors such as legal (the legal nature of obligations arising from the specifics of the subject of legal regulation of international law, as well as its differences from the point of view of the material scope of application in time and in
relation to the circle persons), and of an economic nature, which significantly affect the effectiveness of legal regulation, and therefore the protection of the rights and freedoms of a person during an armed conflict [2, P. 62].

That is why, from the moment of its emergence, international law has been looking for mechanisms that would make it possible to ensure the maximum effectiveness of the implementation of its norms into national legislation. In part, it borrowed implementation mechanisms characteristic of international law in general. Thus, at the basis of the existing mechanism of implementation of the norms of international law is the principle "pacta sunt servanda" – (from the Latin "agreements must be observed") - the principle allows to ensure predictability, which, in the end, is beneficial to the participants of the agreement, as it allows clearly planning actions and spending a minimum of effort for insurance. In international law, the principle was enshrined in the UN Charter [5], the Vienna Convention on the Law of International Treaties [6; 7] and is known as the Principle of conscientious fulfillment of obligations under international law.

The events of February 24, 2022 raised awareness of the vulnerability of modern society to attacks from sources previously unanticipated. Now more than ever, trade is the lifeblood of the global economy. Goods produced in Europe are presented on store shelves throughout Ukraine. Medicines produced in Europe are available in pharmacies in every region of Ukraine. As recent price fluctuations have shown, diesel and gasoline prices are based on the cost of imported oil. If war or the threat of war prevails, international trade still continues, albeit at a somewhat reduced rate, and shippers need some form of protection for their goods in transit.

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Because of the heavy losses suffered by American marine insurers in the early stages of World War II, the US Federal Government established the War Risk Indemnity Program in 1942 to prevent the disruption of waterborne commerce by providing protection to ship owners and preventing unwarranted increases in insurance rates. This indemnity program ended after World War II hostilities ceased, and commercial insurers returned to the field of war risks [3].

Prior to the September 11, 2001 attacks on the World Trade Center and the Pentagon, terrorism coverage was typically included in general insurance policies at no additional cost to policyholders. After the terrorist attacks, lighting became prohibitively expensive, if offered at all. In response, the US Congress passed the Terrorism Risk Insurance Act (TRIA) in 2002. TRIA was originally created as a temporary three-year federal program that allows the federal government to share monetary losses with insurers for commercial property/casualty (P/C) losses resulting from a terrorist attack. Since then, it has been extended four times: in 2005, 2007, 2015 and 2019. The current reauthorization expires on December 31, 2027. TRIA requires insurers to provide terrorism insurance to commercial policyholders, but does not require policyholders to purchase it.

Risk is a concept that is universal in everyday use. It is simply an expression of the potential of a certain action to result in a certain loss. But risk also has a specific and precise technical definition among professional risk analysts. Risk is a combination of the probability of an event and its consequences. Awareness of the consequences of various actions or events is clearly necessary to make informed decisions about public safety. If the core of a nuclear reactor melts down, there will be a massive release of radioactivity. Even if it were contained to a nuclear plant, the public trauma would cause pressure to shut down the nuclear industry, as happened in Japan. This key paradigm, which has been highlighted in the risk literature for more than half a century, shows that awareness of the probability of an adverse event should also be important to decision makers (9).

War risk insurance is an insurance policy that provides financial protection to the policyholder against losses due to events such as invasions, insurrections, riots, strikes, revolutions, military coups and terrorism.

Those organizations exposed to the risk of possible sudden and violent political upheavals are good clients for military risk insurance. For example, companies operating in politically unstable parts of the world are exposed to an increased risk of losses as a result of military operations. Military risk insurance can cover such perils as kidnapping and ransom, sabotage,
emergency evacuation, worker injuries, long-term disability, and loss or damage to property and cargo [8,12]. Auto, homeowners, renters, commercial real estate, fire, and life insurance policies often have war exclusions. With these exceptions, the policy will not cover losses from war-related events. As a standard insurance policy may exclude military risk, it is sometimes possible to purchase a separate insurance policy.

In addition, some policies may cover cancellations due to war. There are war insurance policies that include acts of terrorism, but others treat terrorism and war as two separate perils. Some countries may require airlines to insure themselves against military risks before they can operate in their airspace or use airports.

Aviation and marine industries may have more specific military insurance options tailored to their specific needs. For example, military risk insurance can compensate a ship owner for the full value of the ship in cases where the government seizes the ship. If military action causes a vessel to be temporarily delayed, war risk insurance can cover this loss of time.

The difficulty with military risk insurance lies in the inability of the insurance company to accurately assess the possible outcome of losses and, therefore, calculate the appropriate insurance premiums. In addition, damage from war or related activities can be so enormous and
unpredictable that even high premiums may not be enough to cover the damage for which insurance companies are responsible. This makes military insurance an unknown quantity for insurance companies with a high risk that a military insurance policy could lead to insolvency.

Fig. 2 The scheme of risk management

Risks identified in relation to war include direct underwriting losses, rapid price increases, slowing economic growth, financial market volatility and the potential for asset shocks. But these results are similar to the effects of other recent crises, such as the COVID-19 pandemic and the financial crisis, from which the international reinsurance market emerged "relatively unscathed."

Looking primarily at direct risks, underwriting and investment risks related to the war in Ukraine are currently contained and appear manageable. Even for global property and liability insurers operating in Ukraine, local asset and liability risk assessments are less than 2% of total adjusted capital, and less than 1% for reinsurers. Insurance benefits will be limited mainly to the specialist market, with open lines including political violence, political risk, cyber risk, military risk cover, aviation and marine/cargo industries, energy and trade credit, most of which are largely concentrated in the Lloyd's market (13).

Another area of concern is inflation, which is expected to rise due to high energy prices, meaning rising costs could exacerbate heavy losses and reduce profits in already affected areas of the market.

However, the insurance market has traditionally performed better during times of high inflation driven by higher prices and returns on investments. And despite a very volatile macroeconomic situation, the insurance sector will continue to benefit from rising premiums.

Despite the loss of premium income at the local or individual business level, this trend will continue in 2022, even if economic growth is on hold.

The possibilities of insurance companies are also limited in the context of compensation for losses from hostilities. The Government of Ukraine should work on this complex issue. Carry out work on the assessment of losses that have already been caused or may be caused in the future in order to have grounds for bringing the aggressor to justice. The Russian Federation must
pay. Also, the mechanism needs to attract international aid to create a Fund from which compensation will be paid. The creation of such a Fund guarantees the coverage of losses of vehicles - wagons, planes, barges, etc.

On the need for government investment insurance programs that would cover military risks and their importance for business. The creation of a trust fund with the involvement of international organizations can be such a program and mechanism for compensation of losses. As for compensation for damages already caused by military aggression, there is currently no single method that would be effective for every case of inflicting such damage. However, some mechanisms should be used already, in particular, we are talking about an appeal to the European Court of Human Rights. The ECHR has a limited deadline for submitting an appeal, so citizens should already prepare the necessary package of documents if they intend to use this mechanism.

Conclusions and perspectives of further research So, summing up the results of the research of the Institute of Military Risk Insurance, it is necessary to focus on the following conclusions:

- military risk insurance is the coverage of losses arising from such events as war, invasion, insurrection, riots, strikes and terrorism;
- military risk insurance is offered as a separate policy, as it is excluded from standard insurance policies due to high risks;
- companies operating in high-risk countries are good candidates for military risk insurance;
- military risk insurance is often excluded from standard policies due to the inability of insurance companies to accurately predict losses and, therefore, charge appropriate premiums.

Summing up, it should be noted that international law has developed a special mechanism for implementing the norms of this field. At the same time, this mechanism covers both national and international levels, and includes regulatory and institutional components.

REFERENCES:

