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Legal Mechanisms in the Case of Inheritances from Life Insurance Contracts

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Abstract: For an insurance contract to become a legal act, the person who wants to cede an insurance risk to an insurer, has the obligation to pay an insurance premium to the insurer who takes over the insured risk. The latter undertakes that, upon the occurrence of an insured risk, it will pay to the insured or the third person designated in the insurance contract, an indemnity limited to the insured amount. In this sense, regardless of the nature of the insurance contracts, we can say that, by signing an insurance contract, a legally binding agreement arises, whereby a party called the insurer undertakes to pay to the other party called the insured or to the beneficiary designated in the contract, an amount of money defined in the insurance contract, the insured amount, and the other party, called the insured/contractor, undertakes to pay the insurance premium established in the contract, under the established terms and conditions. And in the case of life insurance contracts, the internal content becomes a legally binding agreement, considering that the contractual conditions as well as the additional terms and provisions are described. In conclusion, from the perspective of the protection of human and material patrimony, we can say that the insurance contract is not used to the extent of the needs of both individuals and legal entities, although the costs of insurance contracts in relation to the insurance risks assumed by the insurers are quite low; however, in the event an insured risk occurs, the benefits of the insured are of the nature of covering the damage suffered.

Keywords: contract; life, insured; beneficiary; benefit insurance; inheritance

1. Introduction

The life insurance contract is part of the category of life insurance products provided in art. 3, para. (1) point 23 of Law 236/2018 whereby, according to these provisions, “distributors are required to comply with the legal provisions upon information request and distribution of insurance products, in accordance with the Delegated Regulation (EU) 2017/2359”.

The provisions of art. 2199, paragraph 2, Civil Code, stipulate that, “the insurance contractor or the insured undertakes to pay a premium to the insurer, and the latter undertakes that, in the case of an insured risk, to pay an allowance to the insured, to the insurance beneficiary or to the injured party, as the case maybe”.

By signing the life insurance contract, a legally binding agreement is established, whereby the insurer takes over the insured risk and undertakes to pay to the beneficiaries mentioned in the contract an established amount of money and the insurer or contractor undertakes to pay to the insurer the insurance premium established in the insurance contract.

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The content of the life insurance contract is a mandatory legal agreement that describes all additional terms and provisions and from the point of view of legal character, it is “a personal, consensual, syntagmatic, unique, onerous contract, with successive execution, random and adhesion”.

In the case of the life insurance contract, the interest of the insurance is not as important as in the case of non-life insurance, as the insurance allowance is a right arising from the contract as a result of the person’s insurance. Being a “free contract”, the insurer has the obligation to pay the insured amount to the insured or to the beneficiary, excluding any relationship between the insured amount and the damage suffered as a result of the insured risk.

As in the case of non-life insurance contracts, life insurance contracts have the same operating mechanisms and the same “principle of mutuality”, by contributing to the Life Insurance Fund.

Up to the issuance of the life insurance contract, it is necessary to go through the preliminary stages of obtaining the personalized offer. In order to obtain a personalized offer, it is necessary to address an insurer, going through the following stages:

- ✓ completing a Requirement and Need Analysis Form (needs) called FAN;
- ✓ completion of the request / medical questionnaire;
- ✓ based on the identified needs, the insurer will prepare the insurance offer;
- ✓ the insurance offer will be customized based on the analysis of the analysis / medical questionnaire;
- ✓ informing on all the provisions stipulated in the contractual conditions, an integral part of the life insurance contract.

As main contractual obligations under the sanction of nullity, the insured has the obligation to answer in writing all the questions contained in the insurance application, formulated by the insurer, essential for the risk assessment.

The issuance of the life insurance contract is based on the legal relations arising from the consent of the parties, concluded in written and personalized form, with the identification of the following elements:

- ✓ the name of the insurer;
- ✓ the insured, the contractor, the beneficiary;
- ✓ validity of the contract / duration of the contract;
- ✓ the object of the insurance contract and its characteristics;
- ✓ basic and additional risks;
- ✓ insured amounts;
- ✓ insurance premium;
- ✓ methods and payment terms;
- ✓ contractual obligations;
- ✓ indication of the redemption value;
- ✓ the modalities of execution, suspension or termination of the contract;
- ✓ the law applicable to the insurance contract;
- ✓ insurance exclusions.

From the point of view of financial protection, provided that an unpredictable event such as a serious illness, an accident, a permanent or partial disability or death occurs, concluding a life insurance contract can provide both emotional and financial peace and at the same time the necessary security at an unforeseen time.

The most common hedges that can be identified in a life insurance contract are:

- ✓ Death by accident or for any reason - main risk;
- ✓ Permanent disability due to an accident;
- ✓ Permanent invalidity for any reason;
- ✓ Serious diseases (tumors, neurological disorders, organ transplantation, etc.);
- ✓ Medical expenses for treatments performed in the country or abroad;
- ✓ Temporary incapacity for work due to accident or illness;
- ✓ Surgery;
- ✓ Burns;
- ✓ Hospitalization, due to an accident or illness;
- ✓ The right to a second medical opinion, in case of a serious diagnosis;
- ✓ Survival.

According to legal regulations, “depending on the source of the succession vocation of those who acquire the deceased person’s patrimony, the inheritance can be legal or testamentary”.

At each life insurance contract, the insured will designate the beneficiary of the insurance contract, nominating the person / persons both at death and at expiration / survival. In other words, the beneficiary of the contract, having an insurable interest, will be entitled to collect the insurance indemnity in case the death of the insured person will occur.

In this sense, the designation of the life insurance contract’s beneficiary is made at the conclusion of the contract or during its execution. Provided that the insured will not wish to appoint a beneficiary in the life insurance contract on the date of its issue, the insured may appoint as beneficiaries the legal heirs, or will appoint the beneficiary of the policy by a will. During the performance of the insurance contract, at any time, the insured is the only one who can decide to replace or revoke the beneficiary, without the insurer or the intermediary adviser being able to have any right to impose in this regard.

Given that the insured wishes to designate a beneficiary in the insurance contract that does not fall into the class of legal heirs, the succession procedure will no longer take effect. Normally, within the meaning of the law, we can say that “testamentary inheritance removes the legal one only if there are no reserving heirs and the testator has instituted one or more universal legatees or two times more universal legatees which, together (cumulatively), have a vocation to the entire inheritance”. However, the situation is different in the case of the life insurance contract because the beneficiary designated in the contract is the only person entitled to collect the compensation rights set out in the contract, when the death of the insured occurs.

In relation to the rights due under the conditions where the beneficiary of the contract dies before collecting the rights from the life insurance contract in which it is appointed, they will be collected by the legal beneficiaries of the beneficiary mentioned in the contract.

When we have a situation whereby the beneficiaries have been designated in the contract with equal shares, the insurance allowance can be divided equally and in the case of legal heirs not mentioned in the contract, the distribution of the indemnity is made according to “the legal or testamentary succession”. From the category of beneficiaries designated in the life insurance contract, any person who has or does not have a vocation to inherit, may be a part.

From the point of view of the unitary character of the inheritance and the fact that the insurance allowance is not part of the patrimonial of the insured, but comes from “outside the patrimony of the deceased”, we can say that creditors may not pursue allowances received from life insurance contracts only if they are mentioned as beneficiaries in the insurance contract.

If the life insurance contract is the subject of an assignment for a bank credit agreement, the creditor institution will be designated as a beneficiary of the insurance policy up to the amount remaining to be reimbursed, at the date of the insured event. However, provided that the amount insured under the insurance contract does not fully cover the loan as the liability of the insured, “the legal heirs and the universal or universal legatees are responsible for the debts and tasks of the inheritance only with the assets from the succession patrimony, proportional to the share of each.

As stages of travel, when death occurs in the case of the insured during the life insurance contract, the beneficiary must communicate the event produced to the insurer within the term established in the contract for the preparation of the damage file.

According to the provisions of art.9 of Law 136/1995, provided that the insured risk occurs, the insurer “undertakes to pay to the insured, when producing the insured risk, to the beneficiary of the insurance or to the damaged third party, the compensation or the amount insured, hereinafter referred to as the indemnity, resulting from the insurance contract concluded under the conditions of this law, within the limits and the agreed deadlines.”

To this end, the designated beneficiary or legal heirs must submit to the insurer a set of documents in order to be able to collect the insured amount established in the insurance contract. The documents necessary for the assessment of the damage file are: insurance policy, notification of damages, claim for compensation, identity documents of the beneficiary, copy of the death certificate and the death document issued by the Forensic Body.

Conclusions

The transmission of the estate of a deceased person to the designated or legal beneficiaries coincides with the moment when the insured, part of the life insurance contract, dies.

The designation of the beneficiaries by the insured as heirs within the life insurance contract, determines the insurer to grant the insurance indemnity mentioned in the contract without intervening the estate.

From a legal point of view, when the death of the insured occurs and the legal heirs are mentioned as beneficiaries, the granting of the indemnity will be subject to the estate.

In order to be able to fulfill the form of the inheritance, it is necessary for the person who will receive the allowance to have a succession capacity and to have a succession vocation.

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