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TIME BAR OF CLAIMS ARISING FROM INSURANCE LEGAL RELATION AS A MATTER OF LEGAL REGULATION

SUMMARY

Time bar from the insurance legal relation represent object of legal regulation that, beside general rules on time bar, contains specila rules for different types of claims. Law on Obligations and Tort in Serbian law regulates time bar issues for claims arising from insurance contracts (claims from life insurance contracts and claims from other insurance contracts), as well as claims deriving from other legal grounds, such as: direct action in liability insurance and subrogation claim for an insurer taking over rights of an insured against third party who made a damage. Hence, in some of these cases law fixes time bar and beginning of such period, whereas in others only deadline or beginning of these periods are fixed. Author draws attention to a necessity that length and beginning of the time bars are fixed for all claims in question, taking into account features of a certain claims and interests of the persons who are materializing them.

In that sense, author considers that the time bar for insurers' claims from insurance contracts should commence from the day when creditor acquired right to claim fulfillment of the other party's obligation; time bar of a direct action in liability insurance should commence from the moment when the damaged party become aware of a loss and wrongdoer (alternatively: from the day when the damaged party learnt name of the insurer with whom insured has been insured); effects of the general rules on termination and suspension of the time bar and claims of the damaged person against the insured and insurer should be extended; beside rules on time bar of subrogation claim, rules on recourse claims of an insurer against insured or other person for a settled claim to a third party should be adopted.