DESIGNING OF LEGAL MODEL OF LEGAL RELATIONS CESSATIONS

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Abstract: *Civil relations at its core contain regulations for the transfer or circulation of certain material assets, which are determined by belonging to a person and an owner. Each such legal relation is established within the limits of implementation of the legal act. The authors of the article consider the possibility of forming such a fact on the basis of the current model of civil legal relations. It should also be said that the formation of an innovative model of legal relations and their cessation in civil law allows increasing the overall social stability in society. The novelty of the study is determined by the fact that for the first time the aspects of the implementation of a legal fact in connection with the methods of stabilisation of civil legal relations through the system of forming an equilibrium model of the contract are shown. Each of the participants in the legal relationship is shown in this model as a participant in the civil turnover and termination of the legal relationship forms the possibility of developing a separate legal field. The authors of the article show that this is primarily facilitated by a system of contractual relations and it can stabilise the occurrence of any negative consequences after the cessation of relations between subjects of law. Practical application of the research is possible in draft concepts of reforming and innovative modelling of civil legal relationships and development strategies.*

Keywords: civil law, legal facts, contractual relations, contract, rights and obligations.

In civil relations, the creation of a contract has become one of the most striking achievements of the world legal culture. The contract is a unique legal structure in the mechanism of legal regulation of public relations. The treaty as an instrument of legal regulation, along with the traditional application in the field of private law, is used in modern conditions in the field of public law, constitutional, administrative, environmental[1][2], financial law, etc. (state-legal contracts). The unique, phenomenal role belongs to the contract in the field of private, in particular civil law. Under the influence of the strengthening of universal

[1] D. Ushakov, L. Kharchenko, "Environmental factors of national competitiveness in modern MNCs' development", in *International Journal of Ecological Economics and Statistics*, 2017, vol. 38, no. 2, p. 141-149.
[2] O.Y. Voronkova, L.A. Iakimova, I.I. Frolova, C.I. Shafranskaya, S.G. Kamolov, N.A. Prodanova, "Sustainable development of territories based on the integrated use of industry, resource and environmental potential", in *International Journal of Economics and Business Administration*, 2019, vol. 7, no. 2, p. 151-163.

humanistic ideals and principles, the idea of human rights and the value of an individual in the modern society[3], the civil-law treaty acquires a new, previously not peculiar to it significance, in particular the importance of the element of the common European legal culture[4].

The treaty penetrates all spheres of economic and spiritual life of society[5,6,7,8]. The role of a contract as a unique and most reasonable legal form of mediation of market relations is especially increasing in the current context[9]. The transition to a market economy and the functioning of the market mechanism are possible only on condition that the bulk of producers (enterprises and citizens) has the freedom of economic activity

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[4] D. Ushakov, E. Rubinskaya, "*Reforming of the state immigration policy in the context of globalization: On the example of Russia*", in: *Immigration and the Current Social, Political, and Economic Climate: Breakthroughs in Research and Practice*, IGI Global, Pennsylvania, 2018.

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[9] M. Hirst, „Termination of victim participation", in K. Tibori-Szabó, M. Hirst (eds.), *Victim Participation in International Criminal Justice: Practitioners' Guide*, T.M.C. Asser Press, Hague, 2017, pp. 413-431.

and entrepreneurship[10,11,12,13,14,15]. The results of these activities are implemented in the commodity market on contractual terms[16,17]. Planned administrative influence of the state on property relations is limited with the transition to the market, thus, the freedom to choose partners for economic relations and to determine the content of contractual obligations is expanded at the discretion of the parties to the contract[18,19]. First of all, it concerns contracts aimed at meeting the needs of legal and natural persons in material, energy[20,21], food resources (purchase and sale,

[10] M. Bihler, „Distribution agreements", in B. Tremml, B. Buecker (eds.), *Key Aspects of German Business Law: A Manual for Practical Orientation,* Springer Berlin Heidelberg, Berlin, 1999, pp. 93-105.

[11] R.H. Bekmansurov, K.E. Kovalenko, K.M. Utkina, Y.A. Novikova, E.I. Zatsarinnaya, A.I. Rozentsvaig, "State support for persons with disabilities in the field of entrepreneurship", in *Journal of Entrepreneurship Education*, 2019, vol. 22, no. 2, 1528-2651-22-S2-437.

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[16] A. Stasi, „Specific contracts", in *General Principles of Thai Private Law*, Springer Singapore, Singapore, 2016, pp. 131-182.

[17] E.I. Zatsarinnyi, N.I. Malykh, Y.N. Severina, A.L. Gendon, A.Y. Minnullina, K.A. Malyshenko, "Current trends in the financial market development", in *Journal of Advanced Research in Law and Economics*, 2017, vol. 8, no. 8, p. 2629-2635.

[18] D.S. Ushakov, "The problems of country's innovative capacity and investment attractiveness growth synchronization", in *Research Journal of Business Management*, 2011, vol. 5, no. 4, p. 159-169.

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[20] Onyusheva, D. Ushakov, R. Santhanakrishnan, Impedimental policies impacting shrinking world solar industry eco-economic development, in *International Journal of Energy Economics and Policy*, 2018, vol. 8, no. 4, p. 21-27.

[21] I.A. Kapitonov, V.I. Voloshin, V.G. Korolev, "Eastern vector of Russian state policy development for ensuring energy security", in *International Journal of Energy Economics and Policy*, 2018, vol. 8, no. 5, p. 335-341.

delivery, contracting[22,23], energy supply, etc.). The importance of leasing contracts (leasing, leasing, letting), employment contracts (contracting, construction, design contract), contracts of various types of services rendered to individuals and legal entities (agency contract, commission, consignment, loan agreement[24], etc.) does not decrease[25,26].

The material and spiritual needs of a wide range of consumers (citizens) in goods and services are ensured through contracts concluded in the fields of retail trade, transportation by public transport[27], communications, medical, hotel, banking, etc.[28,29,30] The spiritual interests of citizens in the field of intellectual property, creativity are realised, in particular, by concluding and executing contracts on the alienation of property rights to intellectual property objects (license agreement, commercial concession, etc.) or contracts for research, design and

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[22] N.S. Plaskova, N.A. Prodanova, E.I. Zatsarinnaya, L.N. Korshunova, N.V. Chumakova, "Methodological support of organizations implementing innovative activities investment attractiveness estimation", in *Journal of Advanced Research in Law and Economics*, 2017, vol. 8, no. 8, p. 2533-2539.

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[24] V.I. Mishchenko, S.V. Naumenkova, O.A. Shapoval, "Consumer loans securitization", in *Actual Problems of Economics*, 2016, vol. 186, no. 12, p. 311-321.

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[26] D. Ushakov, I. Elokhova, I. Kharchenko, "Tax instruments in public regulation of population employment: The factors of today's efficiency", in *International Journal of Ecological Economics and Statistics*, 2017, vol. 38, no. 2, p. 161-168.

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[28] H.R. Hashem, „Rights and obligations of the parties", in *Arab Contract of Employment,* Dordrecht, Springer Netherlands, 1964, pp. 108-159.

[29] V.I. Mishchenko, S.V. Mishchenko, "Enhancing the effect of transmission channels in monetary policy of Ukraine under the transition to inflation targeting", in *Actual Problems of Economics*, 2015, vol. 163, no. 1, p. 421-428.

[30] S.V. Mishchenko, V.I. Mishchenko, "Combining the functions of strategic development and crisis management in central banking", in *Actual Problems of Economics*, 2016, vol. 176, no. 2, p. 266-272.

construction, technological works, etc.[31,32] The contractual form can also be used in other types of civil legal relationships, in particular in the exercise of personal intangible rights between subjects of delicate obligations[33,34].

Literature review

The increasing role of the contract in society is also due to external factors, primarily the processes of legal and economic integration taking place in Western Europe[35,36]. In particular, the formation of a single economic space is impossible without the development of legal forms and institutions that are adequate to nature of the relations arising from this, among which the key role is played by the contractual shell, which takes into account the primacy of liberal values in European consciousness. In this regard, the need arose to create a general agreement for various legal systems. This term would satisfy both the national legal doctrines of European states and the tasks set[37]. Achieving the goals defined by the participants in these relations is ensured by the characteristic features of

[31] J. de Dios Crespo Pérez, G. Monteneri, W. van Megen, P.A. Limbert, „Contractual stability: breach of contract", in A. Wild (ed.), *CAS and Football: Landmark Cases*, T.M.C. Asser Press, Hague, 2012, pp. 37-105.

[32] O.V. Takhumova, M.A. Kadyrov, E.V. Titova, D.S. Ushakov, M.I. Ermilova, "Capital structure optimization in Russian companies: Problems and solutions", in *Journal of Applied Economic Sciences*, 2018, vol. 13, no. 7, p. 1939-1944.

[33] N. Andrews, „Arbitration agreements: validity and interpretation", in *Arbitration and Contract Law: Common Law Perspectives*, Springer International Publishing, Cham, 2016, pp. 17-49.

[34] N. Fedorchenko, I. Kalaur, "Legal regulation of obligations on service delivery in the context of the development of Ukraine's economy", in *Transition Studies Review*, 2017, vol. 24, no. 1, p. 71-85.

[35] A. Arkhipov, D. Ushakov, "*Functional effectiveness and modern mechanisms for national urban systems globalization: The case of Russia*", in: *E-Planning and Collaboration: Concepts, Methodologies, Tools, and Applications*, IGI Global, Pennsylvania, 2018.

[36] D. Ushakov, S. Chich-Jen, "*Global economy urbanization and urban economy globalization: Forms, factors, results*", in: *E-Planning and Collaboration: Concepts, Methodologies, Tools, and Applications*, IGI Global, Pennsylvania, 2018.

[37] P. Mäntysaari, „Financial contracts", in *EU Electricity Trade Law: the Legal Tools of Electricity Producers in the Internal Electricity Market,* Springer International Publishing, Cham, 2015, pp. 571-603.

the contract as a universal legal means of regulating property and to some extent personal non-property (civil) relations[38,39].

A contract is a fixed agreement of two or more parties aimed at the establishment, amendment or termination of civil rights and obligations. It follows that a contract refers to legal acts of an individual nature – legal acts, in particular, of transactions[40]. A transaction is an action of a person aimed at acquiring, amending or terminating civil rights and obligations. Depending on the number of wills of parties, transactions can be bilateral or multilateral (agreements)[41]. A bilateral or multilateral transaction is the coordinated action of two or more parties[42]. Such features are characteristic of a civil contract as a legal fact[43]: 1) the will of not one person (party), but two or more persons (parties) is manifested in the agreement, and the will of participants must coincide and correspond to each other; 2) an agreement is such a joint action of persons that is aimed at achieving certain civil legal consequences: the establishment, amendment or termination of civil rights and obligations. It is this feature of the civil law contract that differs from contract forms that are used in other branches of law (labour, environmental, etc.) obtaining some specific features there. However, the role of the contract is not limited only to the fact that it affects the dynamics of civil legal relations (generates, changes and terminates them), but in accordance with the requirements of legislation, business practice, the requirements of reasonableness, integrity and fairness, determines the content of specific rights and obligations of parties to a contractual obligation. In this sense, the contract is a means of behaviour of the parties in civil law relations.

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38 M. Bihler, „Distribution agreements", in M.C.J.B. Tremml, B. Buecker (eds.), *Key Aspects of German Business Law: a Practical Manual,* Springer Berlin Heidelberg, Berlin, 2002, pp. 89-102.

39 D. Ushakov, E. Rubinskaya, "*Reforming of the state immigration policy in the context of globalization: On the example of Russia*", in: *Immigration and the Current Social, Political, and Economic Climate: Breakthroughs in Research and Practice*, IGI Global, Pennsylvania, 2018.

40 W. Kolvenbach, „Statutes and agreements in European countries", in *Employee Councils in European Companies*, Springer US, Boston, 1978, pp. 57-299.

41 T. Centel, „Duration and termination of collective labour agreement", in *Introduction to Turkish Labour Law,* Springer International Publishing, Cham, 2017, pp. 303-319.

42 A.-V. Jaeger, G.-S. Hök, „Termination", in *FIDIC – a Guide for Practitioners,* Springer Berlin Heidelberg, Berlin, 2010, pp. 317-324.

43 M. Badovskis, J. Briede, E. Danovskis, K. Dupate, A. Karklicna, K. Ketners, K. Strada-Rozenberga, „Public law", in T. Kerikmäe, K. Joamets, J. Pleps, A. Rodicna, T. Berkmanas, E. Gruodyte (eds.), *The Law of the Baltic States*, Springer International Publishing, Cham, 2017, pp. 191-275.

Materials and methods

Mostly the study used the method of strategic planning. Strategic planning for partnerships between companies or partnerships between employers and employees, all of them require careful design and ongoing work in order to succeed[44]. When establishing new partnerships in foreign companies, several factors are taken into account, as well as a number of practical measures to maintain the partnership at the proper level and ensure its effectiveness for each participating party[45]. Ignoring these factors can not only endanger the future partnership, but also destroy the created value. The contract is a multidimensional category. Elements of contractual relationships can be found in many areas of life, and depending on these areas, contracts are regulated by different branches of law[46]. So, sales contracts, leases, refit contracts are regulated by civil law; marriage contracts and alimony agreements – by family law; amicable agreements – by procedural branches of law; tax deferral agreements – by tax law. Even in a branch of law unrelated to "agreements" such as criminal procedure law, it is acceptable to conclude cooperation agreements with the investigation[47].

However, exactly for civil law a contract is a typical category due to the fact that this branch of law regulates relations between independent from each other persons who enter into relations of their own free will, primarily by agreement with each other, i.e., concluding a contract. The possibility of concluding contracts in civil relations determines the specifics of civil law regulation as a regulation based on equality, autonomy of will, general permissiveness and dispositiveeness. In this regard, it is civil law that most fully and comprehensively regulates the contract. The rich history of civil law contributes to this. It can be argued that other branches of law perceive elements of the legal construction of a contract

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[44] C.G. Stănescu, „Self-help and contract law", in *Self-Help, Private Debt Collection and the Concomitant Risks: A Comparative Law Analysis,* Springer International Publishing, Cham, 2015, pp. 51-97.

[45] I.A. Kapitonov, "Peculiarities of applying the theory of international business by Russian oil and gas companies", in *Space and Culture, India*, 2018, vol. 6, no. 4, p. 5-14.

[46] M. Bihler, „Distribution agreements", in M. Wendler, B. Tremml, B. Buecker (eds.), *Key Aspects of German Business Law: a Practical Manual,* Springer Berlin Heidelberg, Berlin, 2008, pp. 163-176.

[47] W.T. Major, „Consumer credit", in *Basic English Law*, Macmillan Education UK, London, 1990, pp. 224-237.

from civil law[48]. The contract is the main legal fact for the emergence of civil relations, as well as their changes and termination. In addition, civil law allows the contractual terms developed by the parties to be a regulator of their relations along with the rules of law emanating from the state. Thus, a contract is one of the main categories of civil law; the study of civil law contracts is a necessary element of training in civil law.

Civil law consists of a general part containing general rules for all civil law relations, and a special part, which includes special rules governing certain types of relations. The norms of the special part are grouped by sub-branches of civil law: property law, law of obligations, inheritance law, intellectual property law. Contractual relations are regulated by the law of obligations – the most extensive in the volume and variety of regulated relations sub-branch of civil law. Any civil contract generates obligations, that is, legal relations between a debtor and a creditor, in which a debtor is obliged, as a rule, to perform a certain action in favour of a creditor, and a creditor has the right to demand its execution. In addition to contracts, obligations can arise from other grounds, in particular harm and unjust enrichment, however, it is contractual obligations that are the most widespread and varied.

The law of obligations in relation to the regulation of contracts contains both general provisions on contracts (the concept of a contract, the procedure for concluding, amending and terminating it), as well as rules relating to individual contract types and kinds. The types of contracts are recognised, for example, purchase and sale, lease, contract, paid services, transportation, loan, storage, commission, insurance and other contracts, which, as a rule, correspond to an independent chapter of a law or a draft. Many types of contracts are divided into types for the regulation of which special rules have been developed. As an example, we can cite some types of sales contract (retail purchase and sale, supply), lease (rental of buildings and structures, rental vehicles, leasing), contracts (household contract, construction contract[49]). In the framework of the legislative approach, a contract is a concerted action (expression of will) aimed at achieving a certain legal result, that is, it is a bilateral or multilateral transaction, one of the most common and typical legal facts for civil law.

[48] D.J. Lockton, „Termination at common law", in *Employment Law*, Macmillan Education UK, London, 1999, pp. 151-166.

[49] M.I. Ermilova, D. Ushakov, S.V. Laptev, "Financing the Russian housing market: Problems and the role of the state", in *Opcion*, 2018, vol. 34, no. 17, p. 1074-1087.

However, often in the educational and scientific literature[50,51,52], and to some extent in regulatory legal acts, a contract is understood as a slightly different phenomenon, which allows talking about the ambiguity of the legal structure under consideration: contract as a transaction, legal fact; contract as an obligation, legal relationship; contract as a document, written form.

So, a contract is a legal fact. In addition, it is customary to understand a contract as those legal relations that arise as a result of its conclusion. We attach such importance to a contract when we use the design "there is a contract between the parties" or we see in the law the wording "amendment or termination of the contract". In these cases, it is about the contractual legal relations of parties. It must also be borne in mind that the law calls the legal relationship of parties arising from conclusion of a contract obligatory. Thus, the second understanding of the contract is its understanding at the level of doctrine as a contract – legal relationship, as a contract – obligation[53].

The word "contract" is used mainly in everyday practice, although it is sometimes found in normative legal acts. This refers to the contract as a document in which its terms are written. If the law is interpreted literally, then a document called "contract" should be called a written contract. Understanding a contract as a document is also a simplification of the situation and is dictated by convenience: instead of the phrase "written form of the contract", we use the word "contract"[54]. It should be borne in mind that transactions can be made both orally and in writing, therefore we cannot deny the existence of an agreement concluded orally. Using the term "contract" as a synonym for the term "document" can lead

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[50] B.M. Aitbayeva, A.M. Maulenova, Z.B. Akhmetzhanova, Z.A. Kenzhebekova, B.O. Rakhimbayeva, "Sustainable development of educational institutions in the context of the introduction of elements of distance education in the learning process", in *Periodico Tche Quimica*, 2019, vol. 16, no. 33, p. 404-422.

[51] A. Afanasev, R. Mukhametshina, D. Tolbayeva, K. Nurgali, "Leo Tolstoy's sphere of concepts in the development of women's education", in *Opcion*, 2019, vol. 35, no. 22, p. 906-920.

[52] T.V. Portnova, "Principles and opportunities of the study of pictorial heritage in the practice of choreographic education", in *Journal of Siberian Federal University – Humanities and Social Sciences*, 2018, vol. 11, no. 12, p. 2043-2055.

[53] F. de Weger, „Training compensation", in *The Jurisprudence of the FIFA Dispute Resolution Chamber*, T.M.C. Asser Press, Hague, 2016, pp. 331-446.

[54] T. Cook, C. Doyle, D. Jabbari, „Agreements for developing technology", in *Pharmaceuticals, Biotechnology and the Law,* Palgrave Macmillan UK, London, 1991, pp. 138-164.

to confusion and denial of a contract concluded orally[55]. This is sometimes fraught with recognition by the essential terms of a contract of all those conditions that the law requires to be included in the contract (implying its written form). As a result, it becomes possible to recognise a contract as null and void when it does not contain all the required details of the contract as a document, which should be evaluated as an incorrect approach.

Results and discussion

The free expression of the will of the subject in the contract is one of the manifestations of the freedom of a contract as one of the principles of civil law: parties are free to conclude a contract, choose a contractor and determine the terms of a contract, taking into account the requirements of business practice, the requirements of reasonableness and good faith[56]. However, the content of the contractual freedom of the parties is much broader. In addition to the possibility of choosing a contractor and determining the content of the contract, freedom of contract also includes:

– free expression of the will of a person to enter into a contractual relationship;

– freedom of choice by the parties of a form of a contract, except as provided by law;

– the right of the parties to conclude contracts stipulated by law (certain contracts), as well as contracts not stipulated by law, but not contradicting it (undefined contracts);

– the ability of the parties to change, terminate or extend the validity of a contract concluded by them;

– the right to establish forms (measures) of liability for breach of contract, etc.

But the freedom of a contract is not unlimited, since the parties must take into account the requirements of other acts of civil law, business practices, the requirements of reasonableness and good faith in concluding and executing contracts. The literature indicates some limitations on the strength of the principle of freedom of contract. Thus, the will of the

[55] B. Richrath, H.-G. Bovelett, „Lease agreements", in M. Mütze, T. Senff, J.C. Möller (eds.), *Real Estate Investments in Germany: Transactions and Development,* Springer Berlin Heidelberg, Berlin, 2007, pp. 181-213.

[56] A.V. Kostruba, "The notion and attributes of right – terminating legal facts", in *Journal of Advanced Research in Law and Economics*, 2019, vol. 10, no. 1, p. 254-262.

parties to a contract should be formed freely, without any pressure from a contractor or other persons, and the will of each participant in its meaning should coincide and correspond to each other. Agreement is reached on the conclusion and content of a contract due to their actions (offer and acceptance), which together give rise to such a thing as a contract. The USSR Civil Code did not have a detailed definition of the term "contract". It was disclosed through the term "contract" as the action of a citizen or organisation aimed at the establishment, amendment or termination of civil rights and obligations. A treaty is a bilateral or multilateral agreement. The meaning of the contract in civil law is an agreement, as the agreed will of two or more parties, aimed at the establishment, amendment or termination of civil rights and obligations. Figuratively speaking, we can say that the agreement (consent) is the "only" agreement, the "body" of which is formed by the conditions agreed in it that form the content of the agreement. That is why the term "agreement" should ultimately be replaced by the term "Agreement", which reflects the meaning of the agreement as a legal phenomenon.

If the meaning of a contract is the agreement of the parties, then questions arise: agreement about what, what is the subject of the agreement, with what conditions is it concluded, what rights and obligations are established, changed or terminated from the agreement? Thus, he considers the content of a contract as an agreement of the parties. According to the definitions that are presented in philosophical sources, content is a combination of elements, processes, relationships that form an object or phenomenon. The content of the contract is formed by conditions (clauses), determined at the discretion of the parties and agreed by them, which are mandatory in accordance with the act of civil law. In other words, the contents of a contract are those conditions on which a contract is concluded. If a contract is legalised in writing in the form of one document signed by the parties, either by changing the letters or in another form, then the relevant conditions are fixed in the clauses of the contract, which may contain references to the norms of the current legislation in this area. Regarding the relationship between the conditions in the contract, which are determined at the discretion of the parties (the so-called "initiative" conditions), and the conditions that are mandatory in accordance with acts of civil law, it is necessary to refer to the general provisions on the relationship between acts of civil law and the contract.

The contract is one of the defining elements of the mechanism of legal regulation of property and to a certain extent personal non-property

civil relations[57]. Regarding the definition and structure of the mechanism of legal regulation of public relations in civil law literature, there are opinions differing in content. So, in particular, with regard to the scope of contractual relations. The term "mechanism of legal regulation of relations" means the totality of legal means, methods and forms by which the narrowing relations are streamlined, their ideal form materialises, which is enshrined in the rule of law[58] and the provisions of the contract, which are associated with the establishment of the rights and obligations of specific parties to the contractual relationship. The mechanism of legal regulation of contractual civil law relations should be considered in a slightly different way. It should be considered as a sequential chain of changes in a specific legal phenomenon: the rule of law governing civil relations, the legal fact, the rights and obligations existing in civil law relations arising on its basis, the exercise of civil rights and fulfilment of obligations, and, if necessary, protecting a violated right or interest.

This understanding of the mechanism of legal regulation of contractual relations is a reflection of the generally accepted understanding of legal regulation in the general theory of law as a continuous process, during which the influence of the right on public relations is carried out, and which has three links (stages): legal norms; legal relations and, in particular, subjective rights and legal obligations of their participants; acts of the exercise of rights and obligations. However, the identification of the individual stages of the process of legal regulation is very arbitrary, since in legal reality, clear boundaries of the course of this process are not always traced at its individual stages. For example, the stages of the emergence and realisation of subjective rights and obligations of the parties under an agreement may coincide under a one-time contract of sale of goods, which is executed upon its conclusion. Many authors should agree with the idea. They relate to a much wider range of legal means: moral standards, customs, acts of law enforcement, legal positions, definitions, fictitious, presumptions, scientific doctrines, etc. in the mechanism of legal regulation.

The phenomenal role of the contract is that its regulatory impact on other elements of this mechanism is reflected throughout the entire process of legal regulation of civil contractual relations. Therefore, the idea

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[57] N.Y. Iakymchuk, O. Vaitsekhovska, L.M. Kasianenko, A.O. Monaienko, A.K. Ilyashenko, "Legal frameworks and basic models of local guarantees: A comparative legal analysis", in *Asia Life Sciences*, 2019, vol. 21, no. 1, p. 509-526.

[58] A.V. Kostruba, "The rule of law and its impact on socio-economic, environmental, gender and cultural issues", in *Space and Culture, India*, 2019, vol. 7, no. 2, p. 1-2.

that legal facts are limited by each stage of legal regulation should be considered correct. First of all, the legal model of future contractual relations of individuals is enshrined in the norms of law and other social regulators (morality, customs, business practices, religious norms, etc.). Some conditions (prerequisites), compliance with which is necessary for a contract to fulfill its role as a regulator of specific relations between the parties. It is, in particular, about general requirements, the observance of which is necessary in order for the contract (transaction) to be valid (valid). These conditions are:

– the content of a contract may not contradict a current legislation of a country in which a contract is concluded, other acts of civil law, interests of a state, society, as well as moral principles of society;

– a person concluding a contract must have a necessary degree of legal capacity;

– a will of a party to a contract must be free and consistent with his internal will;

– a contract must be concluded in the form prescribed by law;

– a contract should be aimed at a real legal onset of consequences;

–an agreement concluded by parents (adoptive parents) may not contradict rights and interests of their young, minors and legally incompetent children.

In civil law, the presumption of the legality of a transaction (contract): a transaction is legal if its invalidity is not expressly established by law or if it is not recognised by the court as invalid. A contract is an individual legal act, in which the absolute model of relations of persons is traced in general terms, filled with concrete content, and acquires its own "flesh and blood". In this sense, a contract acts as a legal fact, which is one of the grounds for the emergence of subjective civil rights and obligations (legal relations, in particular, obligations). Obligations arise from contracts and other transactions prescribed by law, but do not contradict it. An obligation is a legal relationship in which one party (debtor) is obliged to perform a certain action (transfer property, perform work, provide a service, pay money, etc.) in favour of the other party (creditor) or refrain from a certain action, and a creditor has the right to require a debtor to fulfil his obligation.[59] But the nature of the actions that one party to the obligation must perform in favour of the other (in the framework of bilateral agreements, such as the contract of sale, rental, construction, etc.

[59] Cf. Elmira Failovna Gumerova, Natalya Anatolyevna Yushchenko, Dinara Anvarovna Musabirova , „Legal regulation of commercial concessions (franchising) in accordance with Russian and foreign law," in *Astra Salvensis,* V (2017), no. 10, p. 29.

each party is both a creditor and a debtor), is determined primarily by the conditions (provisions) agreement, defined and agreed by the parties, as well as conditions that are mandatory in accordance with acts of civil law. Thus, the specific rights and obligations of the parties that make up the content of contractual obligations as a result of concluding a contract as a legal fact depend on its content. By virtue of the fact of conclusion of a contract, other conditions binding on the parties in accordance with acts of civil law come into force.

In modern contractual practice, there are frequent cases when the conclusion of a contract is not the result of an absolute expression of will, moreover, such behaviour is mandatory for a party. The function is purely procedural in nature, because its provisions almost completely regulate the procedure for the parties to conclude a contract without fail. It should be noted that this is a direct departure from the principle of freedom of contract, which prevails in civil law. However, situations where this regulates relations between the parties are enshrined in law. Thus, this rule is consistent with the principle of freedom of contract, which, as you know, may be limited by the code or other laws. In practice, this situation is not a rare occurrence, in particular it is about public contracts, and this rule also appears in the laws governing procurement for state and municipal needs. This legal norm contains universal provisions on the procedure for concluding similar types of contracts and applies if other rules are not established by special legislation.[60]

In general, the design is based on the standard two-stage procedure for concluding a contract for civil law: an offer and its acceptance. In fact, a legislator regulates two situations that arise: obligation of a party to which an offer is sent, to accept it, or vice versa. A legislator provides for the possibility of sending a protocol of disagreement within thirty days. The obligation generated by a contract is valid for the duration of a contract, with the exception of cases of termination of obligation as a result of its early performance or termination of a contract or as a result of its transformation into another type of obligation, for example, a liability for damages. So, if, as a result of the delay of a debtor, a creditor has lost interest in fulfilling the obligation, he may refuse to accept the execution and the claim for damages. A special procedure for concluding a contract is applicable in situations where, in accordance with the law, one of the

[60] Alexander Vasilyevich Malko, Nikolai Vasilyevich Isakov, Andrey Petrovich Mazurenko, Dmitry Anatolyevich Smirnov, Igor Nikolaevich Isakov, „ LEGAL POLICY AS A MEANS TO IMPROVE LAWMAKING PROCESS," in *Astra Salvensis,* VI (2018), no. 11, p. 833.

parties is obliged to conclude a contract because, for example, it is public or because a party has a dominant position in the market. If it is mandatory for the addressee of the offer, he must respond to the offer within thirty days (accept it, refuse, send a protocol of disagreement). The other party that has received this protocol may unilaterally submit the disagreements to the court; the term for applying to the court is thirty days.

If the conclusion of the contract is mandatory for a offere and the protocol of disagreements has been sent to him (within thirty days), he is obliged to respond to the acceptance or rejection of the protocol at the same time. In the latter case, as well as if no notification of the results of the consideration of the protocol has been received, the party that sent it has the right to appeal to the court with pre-agreement disagreements. Evasion of the conclusion of an agreement by a person obligated to conclude it gives the right to another person to force him to conclude an agreement and to pay losses through the court. There is a direct relationship between the contract as a legal fact and other elements of the mechanism of legal regulation of civil relations – acts of the implementation of subjective rights and obligations and how to protect them, in particular with liability for violation of contractual obligations. Acts of the exercise of rights and obligations by the parties to a contractual obligation are their performance of actions or restriction on them arising from the content of the obligation, for example, the delivery of goods in individual batches within the time stipulated by the contract, payment of money for work performed or services rendered, etc. And here the terms of the contract act as criteria for the compliance of acts of the realisation of rights with the established requirements in relation to subjects, subject, place, terms, methods of fulfilment of an obligation, etc. Obligation should be performed properly in accordance with the terms of a contract, applicable laws of a country, other acts of civil law, and in the absence of such conditions and requirements – in accordance with the customs of trade or other generally recognised requirements.

The need to protect civil rights and obligations arises in case of violation of a civil contractual obligation. Often a violation of an obligation is failure to fulfil it or its performance in violation of the provisions defined by the content of the obligation (improper performance). Significant defects can be recognised that are either irreparable, or eliminated with a disproportionate cost of funds or time, or are detected repeatedly, or arise after elimination again, etc. Of great importance are the rules for determining the time during which the buyer has the right to present to the seller requirements related to the transfer of

low-quality goods, as well as the rules for the distribution of the burden of proof between the seller and the buyer in such situations. It is these rules that reflect the importance of installing a warranty period on a product (the significance of having a contractual guarantee). In the event of a breach of the obligation, the legal consequences determined by the contract or the law come into force, in particular:

– termination of an obligation as a result of a unilateral cancellation of an obligation, if this is provided for by an agreement or law, or termination of an agreement;

– a change in the terms of the obligation;

– payment of a penalty;

– compensation for losses and non-pecuniary damage.

Among the legal consequences of violation of obligations, which are simultaneously a means of protecting civil rights and interests, it is possible to single out compensation for losses and moral damage as a means of civil liability. The provision on liability for offences is based on the fact that the basis for the offence is the composition of the tort, which should contain such elements (conditions): 1) the presence of unlawful behaviour (action or inaction) of a person; 2) the harmful result of such behaviour (damage); 3) a causal relationship between unlawful behaviour and damage; 4) an inflictor of harm. A contract may provide for sanctions (in particular, forfeits, fines or penalties) for violation of its specific conditions, if they are not provided for by law. By agreement of the parties, a departure from the guilty principle as a basis for civil liability is possible. A person who violated the obligation shall be liable subject to the obviousness of guilt (intent or negligence), unless otherwise provided by a contract or law. This means that liability can be provided for in the contract regardless of a fault (without fault) of a person who violated the obligation; or there may be an exemption from liability if there is guilt in the form of recklessness in the behaviour of a person.

Termination or limitation of liability for intentional violation of an obligation is void. Before exploring the possibility of amendment and termination of contracts, it is necessary to determine what each of these terms means. A change to a contract is a change to any of the previously agreed terms of a contract. Most often, this is a condition about the proper way to fulfil an obligation, terms of a contract, and so on. Termination of a contract is the termination of all currently unfulfilled contractual obligations. It should be noted that a change or termination of an already fulfilled contractual obligation is possible, since proper performance in itself is the basis for termination of the contractual relationship. Analysing

the provision of civil law, it can be concluded that the legislator establishes three main ways to amend or terminate a contractual obligation: agreement of the parties; at the initiative of one of the parties; through the court's decision. According to the general rules formulated in civil law, the termination or amendment of a contract is possible by agreement of the parties. Based on this, it can be concluded that only a valid contract can be changed or terminated. The specified norm is of a dispositive nature, in fact, this wording allows establishing the procedure for amending and terminating the contract in a form convenient for the parties, in the case when this is not expressly prohibited by law. In addition, the law does not prohibit the use of the judicial termination procedure when one of the parties to the contractual relationship is granted the right to unilaterally terminate the contract. Legislative regulation of the termination and amendment of the contract is extremely important for contractual practice, since this legal category is the most problematic in everyday life. When examining the issue of termination and amendment of the terms of a contract, it is necessary to pay attention to a norm, which concerns agreements where the number of participants is more than two; in such situations, the legislator allows the parties to agree on the procedure for amending and terminating the agreement by the majority of participants. Different in nature actions and often contradictory trends are allowed in the development of the institution of the contract, respectively, of contract law in modern conditions. Thus, on the one hand, in the regulation of property relations, freedom of expression is expanded when determining the rights and obligations of the parties[61].

Conclusion

Stressing the expansion of the freedom of the parties when concluding contracts in some areas of economic relations, in particular, which were formed in the conditions of the command and administrative system on the basis of planned requirements, the opposite tendency inherent in modern treaty law of foreign states cannot be allowed. The fact is that a number of restrictions on the principle of freedom of contract are established with the aim of protecting the interests of the weak side of the contract and ensuring a balanced development of property turnover.

[61] D. Pylypenko, "Editorial", *Astra Salvensis*, 2019, vol. 7, p. 9-10. Cf. Alexander Vasilyevich Malko, Nikolai Vasilyevich Isakov, Andrey Petrovich Mazurenko, Dmitry Anatolyevich Smirnov, Igor Nikolaevich Isakov, „ LEGAL POLICY AS A MEANS TO IMPROVE LAWMAKING PROCESS," in *Astra Salvensis,* VI (2018), no. 11, p. 835.

These restrictions are manifested, in particular, in the intensive development of competition legislation, legislation on the protection of consumer rights, state regulation of pricing, regulation of the quality of goods, works and services, etc. The important tendency in the development of civil, in particular, contract law is the rapprochement and interpenetration of elements of property, obligation and other legal relations. This primarily manifests itself in contracts aimed at transferring ownership of a property from an alienator to a recipient of a property (purchase and sale, supply, exchange, gift, life-long maintenance, rent, etc.). An example of a contractual design that combines proprietary and mandatory elements is a property management contract.

The expansion and complication of economic relations in domestic and foreign circulation leads to the transformation of the contract system, the emergence of new contractual forms, in particular in the areas of services, information collection, international scientific and technical cooperation. Contractual relations are increasingly becoming complex and long-term (leases of enterprises as integral property complexes, rental housing with the condition of sale or rental of construction in progress, leasing, factoring, etc.). An important direction in the development of contract law of any post-Soviet country is its adaptation to the standards of world contract law. At the present stage, intensive work is underway in Europe to prepare a single European Civil Code, which could be the culmination of the unification of one of the most important branches of legislation.