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THE IMPORTANCE OF CONTRACTS IN BUSINESS RELATIONSHIP

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***Abstract.** Sometimes the administrative side of a business can seem slightly monotonous. In reality, however, it is fundamental to the success and growth of a business. In addition to the legal entity and tax and accounting matters, contracts and their provisions are equally important. Issuing legally correct contracts ensures results as expected, performed obligations and helps in unforeseen situations.*

***The purpose of this research** is to carry out a multifaceted analysis of the subject under investigation, a contract is a legal act consisting of a will agreement concluded between two or more persons in order to create, modify or extinguish legal relationships.*

***Research methods.** The basic method used to find the sources needed for the study, as well as for the interpretation and systematization of the latest concepts and ideas was the bibliographic method. At the same time, analysis and synthesis, induction and deduction, generalization were used in the research, which created objective, true visions about the principles of legal responsibility and its functional structure. At the same time, analysis and synthesis, induction and deduction, generalization etc. used in the research created objective, true visions about the principles of legal responsibility and its functional structure.*

***Research results.** Following the research of the proposed objectives we have managed to analyze the importance of contracts in business relationship in several aspects: definition of the norm, formation, scoring of distinctive features, advantages and disadvantages.*

Key words: contract, business law.

JEL Classification: K2

***Introduction.** In the context of economic affairs, both domestically and internationally, contracting is the most important stage in decision-making. Depending on the specifics of the business, contracts can be for sale-purchase, execution of works, brokering and commercial representation, international transport and shipping, insurance and reinsurance of goods and services, transfer of technology, capital, etc.*

Contracting is one of the most important aspects of business because it means making a decision. It is the most important stage because it involves the of market research, promotion, and negotiation, and its proper fulfillment depends further on the performance (delivery of goods and payment of them) as well as the post-contractual operations (guarantees, service, payment of credits).

The contract is one of the most important sources of obligations. It ensures the legal form and efficiency of the most diverse links between people, from the most simple to the most complex. It could be said that the whole life and activity of people, it could not be conceived outside this institution.

The contract is one of the most important institutions of civil law, a branch of law that has been said to be the expression of the conditions of a society based on the production of commodities, a company in which the products are intended both consumption and exchange.

The signing of a contract is not a mere formality and therefore account must be taken of the observance of essential conditions when concluding it, precisely in order not to be invalidated subsequently for non-compliance with these elements.

The contract can be defined in terms of Art. 992 of the Civil Code of the Republic of Moldova. It defines the concept of contract - the contract is the agreement of will made between two or more persons through which legal relations are established, modified or extinguished. The rules on the legal act shall apply to the contract.

The commercial contract is the main legal instrument with which domestic and international trade is carried out. At first glance, the commercial contract appears to be some kind of contract, similar to those covered by the Civil Code. A closer analysis of the specifics of this contract shows that it presents itself as a legal institution different in its characteristics from the civil contract. It benefits from its own rules and bears the impact of the rules of the Civil Code to the extent that trade law is insufficient to fully clarify the aspects of the EP which the reality of life highlights them in connection with these contracts.

A *commercial contract* is an agreement of will between the parties to a commercial relationship, whereby a commercial legal relationship is created, modified or extinguished.

The characteristics of the commercial contract are:

- valuable consideration: each of the parties seeks to obtain a patrimonial advantage, which can be valued in money.

- commutative contract. Both the rights and scope of the obligations arising from the commercial contract are certain from the outset.

- synallagmatic contract. It generates mutual rights and obligations, interdependent between the parties.

- consensual contract. For its completion, the agreement of the will of the parties is sufficient.

In order to invoke the existence of a valid contract concluded, the provisions of the Civil Code of the Republic of Moldova, namely the conditions of validity of the commercial contract, must be respected.

- Consent.* The Civil Code of the Republic of Moldova in Art. 312 regulates consent as an externalized manifestation of the will of the person to conclude a legal act.

Consent is valid if it comes from a person with discernment, is expressed with the intention to produce legal effects and is not vitiated. The intention to produce legal effects shall be determined from the statement or behavior of the person, as he or she has been reasonably understood by the other party to the legal acts, or, in the case of unilateral legal acts, by the person to whom the act is intended. The manifestation of the will to be received by the other party produces effects at the moment it comes to it, regardless of whether or not it has become aware of its content.

- Object of the contract* (Art. 315 of the Civil Code of the Republic of Moldova). The object of the contract is the benefits to which the contracting parties have been bound. The subject matter

of the contract must be lawful, be in civil circuit and be determined or determinable at least in its species. It may be the subject of the contract and future goods. (Popescu, D., 1996. Contractul de societate. Bucharest: Lumina Lex, pp.124)

-*Form of the contract* (Art. 316 of the Civil Code of the Republic of Moldova). The commercial contract may be concluded verbally, electronically, in writing or in authentic form. The form is a condition of validity of the contract only in cases expressly provided by law. The contract that can be concluded verbally is also considered concluded if the person's behavior clearly shows the will to conclude it. Silence is considered an expression of the will to conclude the legal act in the cases provided for by the law or by the agreement of the parties. Any modification to a contract must take the form established for that contract.

- *Verbal form of the contract*. The contract for which the law or the agreement of the parties does not establish a written or authentic form may be concluded verbally. The contract that is executed at its conclusion can be concluded verbally. Exceptions are contracts for which an authentic form is required or contracts for which the written form is required for validity.

- *Electronic form of the contract* (Art. 317 of the Civil Code of the Republic of Moldova). The contract is in electronic form if it is contained in an electronic document that meets the requirements of the law. The types of electronic signatures that can be applied to an electronic document, the degree of protection of each type and its legal value are determined by law. The contract in electronic form is equivalent to the contract in written form if it bears the electronic signature of any kind provided by law of the person concluding the contract if the agreement of the parties does not provide for the requirement to use a concrete type of electronic signature, as well as in other cases provided for by law.

- *Written form of the commercial contract* (Art. 318 of the Civil Code of the Republic of Moldova). Contracts between legal entities, between legal entities and natural persons and between natural persons must be concluded in writing if the value of the object of the legal act exceeds 1000 lei, and in the cases provided for by law, regardless of the value of the object.

If, due to a physical deficiency, illness or other causes, the person cannot sign the legal act with his own hand, then, based on his authority, the contract can be signed by another person. The signature of the third party must be legalized by the notary or by another person authorized by law showing the cause in whose virtue the one who concluded the legal act could not sign with his own hand.

Effects of non-compliance with the written form of the legal act. Failure to comply with the written form of the legal act causes the parties to decline the right to request, in case of dispute, evidence with witnesses to prove the contract. Failure to comply with the written form of the legal act shall result in its nullity only if this effect is expressly provided for by law or by the agreement of the parties.

The *authentic form of the legal act* (Art. 322 of the Civil Code of the Republic of Moldova). The authentic form of the legal act is mandatory.

- a) if the contract has as its object the disposal of immovable property or their encumbrance with limited rights in rem, except in cases expressly provided by law;

- b) in the cases provided for by the agreement of the parties, even if the law does not require an authentic form;

- c) in other cases established by law.

Effects of non-compliance with the authentic form. Failure to comply with the authentic form shall result in the nullity of the contract. If one of the parties has executed in whole or in part the contract for which authentic form is required, and the other party eludes from his notarial authentication, the court has the right, at the request of the party who executed the contract in whole or in part, to declare it valid if it does not contain elements that contravene the law. In this case, no further notarial authentication of the legal act is required.

The conclusion of contracts is one of the key elements in establishing the legal link between contractors. The conclusion of the contract implies the agreement of the parties to the will in order to establish the contractual relations.

The contract is considered concluded if the parties have reached an agreement on all its essential clauses (Art. 1027 of the Civil Code of the Republic of Moldova).

Offer to contract. The Art. 1029 of the Civil Code of the Republic of Moldova defines the offer to contract as the proposal, addressed to one or more persons, containing all the essential clauses of the future contract and reflecting the willingness of the tenderer to be bound by accepting the offer. (Macovei, L., 2002. *International trade law*. Chisinau: S.E.C.A. Cartea, pp.165-166). The offer shall only take effect if it has reached the recipient before it is revoked. A proposal addressed to an indeterminate circle of persons (public offering) is a call to offer if this proposal does not contain any express manifestation of the will to be bound by acceptance. (Mazilu, D., 2007. *International trade law*. Bucharest: Lumina, pp.498).

*The offer must be firm, unequivocal, serious and complete.

Revocation of the offer (Art. 1031 of the Civil Code of the Republic of Moldova). An offer may be revoked unless it includes a time limit for acceptance or if it is irrevocable on other grounds. The offer, even irrevocable, can be revoked if the revocation reaches the recipient of the offer at the latest at the same time as the offer. The offer received by the recipient may not be revoked within the time limit of acceptance set out in the offer or, if this time limit is not set or is unreasonably small, within the time required for the recipient to be able express acceptance and that the answer reaches the tenderer according to the circumstances of the case, the practice established between the parties and the customs. If under the law the consumer has the right to revoke a certain type of contract, the offer made by the consumer for the conclusion of such a contract is always revocable. Any clause contrary to the provisions of this paragraph to the detriment of the consumer shall be subject to absolute nullity. (Ciobanu, N., 2013. *Business law*. Chisinau, pp.308). The offer becomes *obsolete* if it has not been accepted within the time limit or if it is rejected.

The acceptance (Art. 1035 of the Civil Code of the Republic of Moldova). Constitutes acceptance - the statement of the recipient of the offer or other action attesting the consent of the offer. Acceptance shall take effect from the moment it is received by the tenderer.

Acceptance of the offer without a deadline. An offer made to a person present can only be accepted on the spot. This rule also applies if the offer is made from man to man by means of instant communication. An offer made to an absent person may be accepted only until the tenderer can expect, under normal circumstances, having regard to the means of communication used by the tenderer, the response to be received.

Acceptance of the offer with a deadline, if the tenderer has set a deadline for accepting the offer, acceptance may be made only within the time limit. (Ciobanu, N., 2013. *Business law*. Chisinau, pp.311).

Time and place of conclusion of the contract. The contract shall be deemed to have been concluded at the time of receipt of the acceptance by the tenderer. If the place of the conclusion is not indicated in the contract, it shall be deemed to have been concluded at the domicile or premises of the tenderer. (Sitaru, D.A., 2007. *The franchise agreement in national and international law*. Bucharest: Universul Juridic, pp.264).

Therefore, a valid commercial contract concluded in accordance with the legal rules has the force of law, that is, a binding legal force for the contractors.

A commercial contract is an act by which several people bind each other to give, to do, or not to do. This pact generates rights and obligations toward the parties and covers commercial acts. The continued adaptation of the legal framework to economic reality is a principle that should govern trade relations. The frequent reproach that is brought to the legal framework is that it does not keep up with the reality it should be norming. Legislative solutions, especially if they need to be identified and implemented in a hurry, can be imperfect. Some of them, however, have the chance to correct anachronistic systems - and then temporarily adjusting to an exceptional situation can pave the way for a permanent positive change. (Grău-Panțureac, M., 2022. *Business law*. Chisinau: Print Caro, pp.187-188).

Regardless of the form and purpose of the contracts, these shall involve agreements of the will of the Contracting Parties. There are, of course, also elements of diversity between contracts that relate to the qualifications to which they may be subject.

Conclusion. When talking about types of commercial contracts, it is good to involve an experienced lawyer. While the internet is full of contract models, simply copying them from the internet or from an older model will not be enough to fully cover the clauses valid in the current situation you are facing. The contract was drafted and used in another situation, which only apparently resembles your situation. At this point, the intervention of a qualified person is essential. Drafting and contextual analysis of the need for which the contract is drawn up are stages that you should not skip. Any contract, as mentioned above, is an agreement between two or more parties. Once signed, you will either enjoy the resulting clauses or you may suffer from the incorrectness.

In the business world, commercial contracts have one main purpose – to make profits. Thus, in this area, you will not find almost any free contracts (such as a contract of convenience), but only contracts from which the participants aim to gain advantages. So, business contracts provide the necessary legal protections you need in any operation. Contracts not only minimize risk but protect both you and your company by helping you understand your rights and obligations under each agreement. The contract is an indispensable tool for the economic exchange of goods and services.

Contract management is important for business, as it is the procedure to supervise the implementation of contracts and the normal execution of contractual obligations. Proper contract management helps track suppliers, assess their performance on the basis of the criteria mentioned

in the contracts, and assess supplier risk. Moreover, it also acts as a mechanism for building long-term collaborative relationships with suppliers and other business partners.

*„At the end of the day, everyone is responsible for their own contracts.
Nobody forced us to sign them” - Mats Hummels*

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