

SUMMARY

Key Words: contract, offer, acceptance, bidding, public contract

Subject matter: Conclusion, amendment and termination of a civil contract: actual problems.

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The relevance of the research topic: The role of the contract in modern society is undoubted: it regulates civil law relations in the sphere of creation, movement and distribution of tangible and intangible benefits, such as the provision of services, the transfer of things, money, etc. The constant use of contracts over many centuries is explained by the fact that a contract is the most flexible legal form in which social relations are reflected. In addition to the usual use of the contract in such a sphere as the exchange of material goods by individuals and legal entities, the contract as an instrument of legal regulation is now often used in other areas of public relations, which are regulated by means of administrative legal methods. Participants in civil turnover are given the opportunity to be active due to the existence of a contract that most reliably ensures legal regulation of emerging public relations. In the process of changing its socio-economic content, due to the development of society, the contract, however, has not lost its design. The main value of the contract lies in the legal regulation of the behavior of participants in public relations, with the delimitation of the limits of their possible and proper behavior, with an indication of the consequences of going beyond these limits. The regulation of contractual relations by the Civil Code of the Russian Federation (hereinafter - the Civil Code of the Russian Federation) is based on the principle of freedom of contract, which is essentially a set of powers. This freedom is expressed in a number of aspects. Firstly, the right to make an independent decision on the entry into or non-entry into the contract and, as a rule, in the absence of the opportunity to force the counterparty to enter into a contract. Secondly, the parties are entitled to a wide discretion in determining its conditions. Thirdly, the participant has the right to freely choose the contractual counterparty. Fourthly, freedom is expressed in the right to conclude both the contracts stipulated by the Civil Code of the Russian Federation and the contracts not named in it. Fifth, the participants have the right to choose the type of contract and enter into a mixed contract (Art. 421 of the Civil Code of the Russian Federation). In addition, the freedom of the contract is expressed in the right of the parties to the contract of choosing its form, their ability at any time with their agreement to amend or terminate the contract; the right to choose the way to enforce the contract, etc. It should be noted that the majority of the above powers are provided by the participants of civil legal relations only at the stage of concluding an agreement. That is why the procedure for concluding an agreement has exceptional value. However, it is not only the principle of freedom of treaties that determines the meaning of the process of concluding a civil contract. A large role belongs to the process of concluding a contract and the moment in the context of the rights and obligations of the parties to the contract, as well as the entire contractual relationship as a whole. The process of concluding a contract involves the modeling by its participants of an ideal image of legal relations that are supposed to be created as a result of the conclusion of a contract. In this regard, the thoroughness of the study, the accuracy of drawing up the terms of the contract depends on the achievement of the legal goal, which the parties to the contract put at its conclusion. The current legislation has retained most of the rules that apply to regulating the conclusion of contracts in the Civil Codes of the RSFSR of 1922 and 1964. At the same time, provisions appeared in the Civil Code of the Russian Federation that had not previously been encountered in domestic legislation. In particular, Section III "The General Part of the Law of Obligations" includes such norms as a public contract (Art. 426), a preliminary contract (Art. 429), conclusion of contracts without fail (Art. 445), conclusion of contracts for tenders (Art. 447-449), etc. This allows us to conclude that, based on the existing practice of

applying a contract as a mechanism of legal regulation, legally securing the significance of a contract, the constant emergence of new legal norms, the question of studying the specifics of concluding a contract is of utmost relevance.

The purpose of the work: identify the features of the conclusion, amendment and termination of a civil contract

Objective: 1. To determine the content and form of a civil contract. 2. To study the general procedure for concluding contracts. 3. To analyze the features of the conclusion of contracts without fail. 4. To identify the features of the conclusion of contracts at the auction. 5. To analyze the grounds and consequences of changes and termination of the contract. 6. Examine the order of change and terminated. 7. To identify the specifics of changes and termination of the contract due to a significant change in circumstances.

The theoretical and practical significance of the research: Research is the synthesis and systematization of knowledge in the field of conclusion, amendment and termination of civil contracts.

Results of the study: The contract as a legal phenomenon serves as the main form of organization and regulation of property relations between equal and independent partners.

In general, the conducted legal analysis of various approaches to the understanding of a civil contract indicates that the contract is a complex concept, which includes understanding the contract as an agreement, contractual obligation, document.

The content of the contract as an agreement forms a series of conditions agreed by its parties, in which the rights and obligations of the counterparties that form the content of the contractual obligation are fixed.

The most important, indispensable component of civil contracts is the condition of the contract. Terms of the contract are divided into random, ordinary, significant.

The parties should agree on the essential parties when entering into a contract.

Legal entities, state entities, individuals, according to the legislation of the Russian Federation, may be parties to the contract.

It is imperative to specify in the contract options for resolving disputes that may arise, as well as the obligations and rights of the parties. This minimizes the risks that one or another party may incur from concluding a contract, therefore it is important to maintain clarity and transparency in designating the subject of the contract, the rights and obligations of the parties.

It is important to indicate the time of entry into force of the contract, since in the absence of information about the terms of the contract, the contract is considered to be concluded on the day of its signing.

The main rule of contract law is the firmness of the contract. It expresses the rule established since the time of Roman law: contracts should be executed.

The conclusion of a contract involves the implementation of the offer and acceptance as its two mandatory stages.

In the course of the study, the specifics of concluding a contract were studied without fail. It was found that this aspect concerns the following cases: conclusion of a public contract, conclusion of a bank deposit agreement, conclusion of a contract by subjects of natural monopolies, enterprises performing a state defense order, conclusion of a state contract with leading suppliers for the supply of goods, leading suppliers in the market.

A special place is occupied by the conclusion of the contract at the auction, which has become quite extensive. The basis of this method of concluding a contract is that the contract is with the one who wins the bidding.

It is recommended to eliminate this gap not due to the introduction of new forms of bidding, but due to the improvement of the provisions on the auction and competition.

In the course of the study, special attention was paid to the issue of amendment and termination of contracts. It was found that the content and legal consequences of termination of the contract differ significantly from the content and legal consequences of changing the contract. This, above all, is reflected in the fact that the termination of the contract entails the termination of all

obligations, while a change in the contract retains them.

The legislator provides for possible ways of termination of contracts, including: the agreement of the parties, the requirement of one of the parties, a court decision, a significant violation of the contract by the other party, as well as other situations stipulated by the Civil Code and other legislative acts or contract.

An analysis of the Civil Code of the Russian Federation allows us to conclude that the Legislator provides for a special “safety” mechanism for legal entities that can be “launched” if they sign agreements with the counterparty due to circumstances beyond their control, they lose all the benefits to which signing a contract. Upon the occurrence of such situations, in accordance with paragraph 1 of Art. 451 of the Civil Code of the Russian Federation, the party whose interests were affected by the changes, may terminate or amend the contract in court.

It should be noted that some companies perceive this provision as an opportunity to review unfavorable terms of agreements or correct errors made when concluding an agreement, and, lodging claims in court, lose the dispute. The fact is that it is necessary to confirm the presence of all the conditions required by law. The list of these conditions is specified in Article 451 of the Civil Code of the Russian Federation and is considered closed.

It is important to note that the conclusion of a contract must precede a significant change in circumstances, and the parties to the contract should not facilitate the change.

Thus, a civil contract is a complex, multidimensional concept that includes many legal aspects. The basic issues of this concept is the conclusion, change and termination, the study of which is necessary in close relationship and unity.

Recommendations:

1. Make changes to paragraph 6 of Art. 448 of the Civil Code of the Russian Federation on the transfer of obligations to the organizer of the auction, acting on its own behalf, to be a party to the contract, and not to fulfill only the obligations of organizing and conducting the auction.
2. Amend the Law No. 44-FZ to the effect that the protocol on the results of tenders must be signed not on the day of the tender or auction, It would be more reasonable to calculate the possibility of signing the final document with the winner not necessarily on the day of summing up the results of the auction, but also in another period that was specified in advance in the notification about the tendering, taking into account the specifics and complexity of the auction.
3. Make changes to paragraph 5 of Art. 488, in which there is an imperative rule on the deposit, as a form of enforcement of obligations to conclude an agreement, and calculated the possibility of applying an objective guarantee.