



FEATURES OF THE EXECUTION OF CONTRACTS IN THE CONTEXT OF COVID-19: THE MAIN RISKS AND LEGAL MECHANISMS TO OVERCOME THEM

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ABSTRACT

The article examines the impact of the outbreak of coronavirus (COVID-2019) and the introduction of a self-isolation regime on the economic activities of subjects of civil turnover. The issue of the fulfillment of contractual obligations in conditions of the impossibility of the normal functioning of the system of civil law turnover, which is violated by a number of circumstances that prevent the parties from fulfilling their contractual obligations, is considered. The institution of exemption from liability due to force majeure (force majeure) is considered. The conditions are analyzed that release a person from liability for non-fulfillment of contractual obligations due to force majeure, as well as are the basis for changing or terminating the contract. The main risks and legal mechanisms for overcoming them in the Republic of Uzbekistan in the context of the COVID-19 pandemic have been identified.

The World Health Organization on March 11, 2020 recognized the outbreak of coronavirus (COVID-2019) of the pandemic. Coronavirus became a serious challenge absolutely for all countries around the world.

Introduction of universal self-insulation, prohibitions or restrictions on the activities in the restaurant, travel, hotel business, in the field of beauty, air-rail and other transportation, transition of employees for a remote format of work, a sharp and substantial change in market conditions, closing boundaries - with these problems collided almost all business entities. And the role of the right in the current situation is especially great, and a wide range of problems that require

weighted solutions arises to the legislator and law enforcement sphere.

So, one of these aspects is the fulfillment of contractual obligations, since the normal functioning of the civil-law system is violated by a number of circumstances that prevent the parties to carry out responsibilities assigned to them.

The connection with this is naturally increasing the interest in the institute of liberation from responsibility due to the action of force majeure. This year, there is a sharp increase in scientific publications on this issue, since he touched upon a very wide range of civil legal relations.

Problems of pandemic recognition as circumstances of force majeure (force majeure) are submitted, first of all, in the



fact that in the Republic of Uzbekistan there is no less enshrined concept of force majeure, despite the fact that these circumstances have references in the norms of various laws.

So, art. 333 Civil Code of the Republic of Uzbekistan dated December 21, 1995 No. 163-1 as amended. From 24.05.2019 No. 03/19/542/317 / only envisages, unless otherwise provided by law or contract, that the debtor is responsible for non-fulfillment or improper fulfillment of the obligation in the presence of guilt, unless otherwise provided by law or contract. The debtor is recognized as innocent if he proves that he made all the measures-dependent measures for proper fulfillment of the obligation. However, it is specifically not disclosed to the content of this legal category, it is not denoted a clear list of such circumstances, the criteria for their establishment.

The definition of force majeure is contained in the Regulation on the procedure for confirming the circumstances of force majeure (force majeure), approved by the Decree of the Cabinet of Ministers of the Republic of Uzbekistan of February 15, 2005 No. 63 Meeting of the Legislation of the Republic of Uzbekistan, 2005, No. 7, Art. 56, No. 34-36, Art. 264; 2017, No. 29, Art. 693. In accordance with this provision, natural disasters (earthquakes, landslides, hurricanes, droughts, etc.) or socio-economic circumstances (state of war, siege, ban on imports and exports in the interests of the state, etc.), which occurred in the republic Uzbekistan, are not related to the will and activities of the parties, emergency, inevitable and unforeseen circumstances that do not allow the parties to fulfill their obligations under foreign trade agreements (agreements) and

international agreements in the current circumstances.

Analysis of the norms of civil law and materials of judicial practice shows that the Institute of Income Power is fully referred to the effects of the COVID-2019 pandemic and may influence the fulfillment of contractual obligations, but do not stop them. Therefore, in our opinion, the erroneous is the position that the person is exempt from the fulfillment of obligations due to the recognition of a pandemic as an insurmountable force. Force majeure only temporarily suspends the action of the contract and relieves the side of the responsibility for violation of the obligation, but does not stop its action.

Unfortunately, it is also worth noting that in practice, the parties often do not pay due attention to such items and do not determine the mechanism for the development of their relations in the event of certain unforeseen circumstances. If the counterparties agreed on their will on these issues, their position becomes more predictable [1].

If the parties are not agreed by the conditions for the circumstances of the force majeure or directly not prescribed the opportunity to refer to the pandemic, it does not deprive the counterparties of the right to refer to the construction of force majeure in the court proceedings.

Therefore, it is necessary to correctly qualify those conditions that free from responsibility for non-fulfillment of contractual obligations due to the action of force majeure [2]. In this key, it is especially significant, we believe is the presence of a causal relationship between the circumstances of the force majeure and the inability or the delay in the fulfillment of obligations.



It cannot be assumed that all debtors who did not fulfill the obligations during the crown epidemic are automatically exempt from liability due to this fact.

We are convinced that the cases are all individual and the court of a pandemic effect on failure to fulfill obligations in each situation should be appreciated independently with a specific permission of the case, taking into account all existing factors in the actions of the person.

We believe that the qualifications of the effects of a pandemic as a force majeure court depends on the scope of the specific entity of civil turnover, on how much the imposed prohibitions and restrictions affected its activities. In each case, such circumstances should be established by the courts, taking into account all the existing factors and evidence in the case [3].

In addition to force majeure circumstances, a significant change in the situation becomes of particular importance, in which the coronavirus pandemic can be perceived as a cause of a serious change in the situation. If the situation has changed since the conclusion of the previous contract, the law allows the parties to terminate the contract or change it, as they suggest that it is beneficial to them when concluding the contract, but not in the event of an emergency. The consequences of the inability to foresee the situation are provided for in the Civil Code of the Republic of Uzbekistan. So, according to Article 383 of the Civil Code, a significant change in the situation that served as the basis for the parties at the conclusion of the contract is the basis for the change or termination of the contract, unless otherwise provided by the contract or its essence. Changing the situation to such an extent that the parties in general may not

conclude an agreement if they knew in advance, they could conclude it in completely different conditions, it seems to be a serious change [4]. Consequently, the coronavirus pandemic can be viewed as a change in the situation that parties cannot prevent.

It should be noted that the coronavirus pandemic has various legal consequences. The fact that this is an emergency that it has not been provided and cannot be eliminated will certainly have to influence the property status of the parties. This, in turn, can lead to exemption from responsibility, as well as to change and terminate the contract. That is, the situation should be considered as a radical change.

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Of particular importance is the impossibility of fulfilling the obligation in connection with the pandemic. According to Article 349 of the Civil Code of the Republic of Uzbekistan, if the fulfillment of the obligation becomes impossible due to the situation in which none of the parties are responsible, it is considered invalid [5]. Article 350 of the Civil Code of the Republic of Uzbekistan, if, as a result of the issuance of a document, the state body is impossible to fully or partially fulfill the obligation, the obligation stops completely or partially. As a result, the victims have the right to



demand compensation in accordance with Articles 12 and 15 of the Civil Code.

When recognizing the document of the state body, which is the basis for termination of the obligation, invalid in the prescribed manner, the obligation is restored if the parties have not agreed on other or if the nature of the obligation and the fulfillment of the obligation did not lose their value for the lender.

As part of the implementation of the Decree of the President of the Republic of Uzbekistan dated March 19, 2020, No. No. 03.03.2020, No. 06/20/5969/0341, 22.10.2020, No. 06/20/40.2020, No. 06/20/40 / 6091/1399 Commercial banks are provided for a period of October 1, 2020 for the total amount of 5 trillion sums, deferred to pay debt on loans (without accrual of penalties) issued to tourist operators, entities of the hotel business, transport and logistics companies and other enterprises of the tourist industry, as well as Economic entities faced with financial difficulties due to the introduction of restrictions on foreign trade operations.

However, the "delay" and "non-payment" are completely different concepts of content, which does not mean that the debtor will not return a loan due to force majeure circumstances. Credit debt and interest should be paid to the bank and debtor's debt under the contract will not be canceled due to the coronavirus pandemic. But at the same time, the Bank may be interested in returning the missed benefit. However, according to the decree of the President of the Republic of Uzbekistan dated April 3, 2020 No. PF-5978 "On additional measures for supporting the population, sectors of the economy and entities of entrepreneurship during a

coronavirus pandemic period" National Database of Legislation, 20.03.2020, No. 06/20/5969 / 0341, 10/20/2020, No. 06/20/6091/1399 There are a number of measures to not apply the penalties and measures for mortgage to be overdue loans for borrowers whose activities have negatively affected by the introduced quarantine regime.

In this case, it is necessary to distinguish between interest and banknotes on the loan. The main activity of the Bank is directly related to lending and interest on it. It is because of the Pandemic of Coronavirus, the debtor is not freed from paying interest on the loan. Delay or installment payment depends on the agreement of the parties or the legal norm established by law.

In this case, the need for reference to the norms on the consequences of compulsory law is dictated. If one side has made an advance, while an alternative obligation cannot be fulfilled due to a pandemic situation, the other party has the right to refuse to fulfill the obligation and as a result the contract is terminated. In this case, the fact that the money was paid, the treaty was terminated, and as a result, the party received money falls into the status of unjust enrichment. Article 1023 of the Civil Code of the Republic of Uzbekistan determines the consequences of unjust enrichment, according to which the person (the acquirer), which acquired or retained the property at the expense of another person (victim) without the grounds specified in legislation or contract (the basis was the contract, but terminated) must return the victim acquired or saved property (unfairly surprised property).

In fact, this rule is applied regardless of whether unjust enrichment was the result



of the buyer's behavior, the victim itself, third parties or against their will.

Without a doubt, law enforcement practice has yet to work out its point of view, the legal position on this phenomenon of our

life. And it is from the detailed wording of the specified phenomenon at the legislative level depends on the adequacy of the permission of possible disputes in this area.

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