



## Section 1. Civil law

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### CHARACTERISTIC CONTRACT MADE FOR THE FAVOR OF A THIRD PARTY IN CIVIL LAW

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#### Abstract

In public life, the contract, which is one of the oldest legal instruments, is widely used to regulate relations related to the satisfaction of certain needs of participants in civil law relations. Property relations that develop at the stage of sale of manufactured goods, performance of work, provision of services are based on the construction of the contract. Property interest is secured by an agreement. A contract is an agreement between two or more persons on the emergence, change or termination of their civil rights and obligations. It can be seen from the definition that the interested parties in the contract are counterparties directly participating in it. Civil law relations arising under this agreement apply only to both of them and create relative legal relations. According to the principle of relativity, the contract, as a rule, obliges the parties that have concluded it does not affect third parties. Contracts concluded for the benefit of third parties are one of the very important exceptions to this principle. This article discusses the features of the contract concluded in favour of a third party as a subject of research.

**Keywords:** *contract, obligation, contract in favour of third parties, counterparty, bank deposit, insurance, transportation, beneficiary, right of claim, debtor and creditor*

#### Introduction

In social life, the contract, which is one of the oldest legal instruments, is widely used to regulate relations related to the satisfaction of certain needs of the participants of civil transactions. Property relations formed at the stage of realization of manufactured goods, performance of works and provision of services are based on the construction of the contract. The ownership interest is pro-

vided by the contract. Therefore, in market conditions, both the product supplier and the consumer must fully fulfil their contractual obligations. Otherwise, we will not get out of the problem by sitting in one place (Mirziyoyev Sh. M., 2018).

According to Article 353 of the Civil Code, a contract is an agreement between two or more persons to create, change or cancel civil rights and obligations (Civil Code of the

Republic of Uzbekistan 2020). It is clear from the definition that the parties interested in the contract are the counterparties directly participating in it. For example, in accordance with the retail sales contract, the seller engaged in business activities undertakes to transfer to the buyer the goods used for personal purposes, household or other purposes not related to business activities (Article 425 of the Civil Code). This relationship between the seller and the buyer (consumer) under this contract applies only to both of them and creates a relative legal relationship. According to the principle of relativity, the contract, as a rule, binds the parties who concluded it does not affect third parties. Contracts concluded in favour of third parties are one of the very important exceptions to this principle (Obligation Law Lecture Notes Ekonomihukuk.com 5.2.2017).

### **Material and methods**

This article examines the specific features of a contract concluded in favour of a third party as a subject of research. Theoretical methods of analysis and synthesis and methods of scientific knowledge are used in the research. In this article, the scientific concepts related to the field, the views, conclusions and opinions of civil scientists of our country and abroad on this issue were studied, and normative legal documents were analysed.

### **Analysis of research results**

In civil legislation, there is also such a view of the contracts that the interested party does not directly participate in the contract, but the agreement is concluded for his benefit and he is interested in the concluded contract. Agreements of this type are considered contracts concluded in favour of third parties. A number of opinions have been expressed in the legal literature regarding this contract. In particular, based on the nature of the actions of the parties participating in the conclusion of the contract, it evaluates the agreement concluded in favour of third parties as a type of separate contract (Ioffe O. S.). According to civil scientist A. G. Karapetov, an agreement concluded in favour of a third party is not a type of contract but a special construction of a contract, through which any named or unnamed contract leading to

the emergence of a civil obligation can be formalized in theory. According to this model, insurance contracts, bank deposits, shipping, rent, etc. can be concluded (Dogovornoe i obyzatelstvennoe pravo (obshchaya chast): 2017). It is necessary to indicate that the person indicated as a third party has the right to demand the fulfilment of the obligation in his favour, and it should be a necessary sign of the contract. A contract concluded in favour of a third party differs from a contract waived in favour of a third party, in which the parties do not foresee that the third party will independently make demands on the debtor (Rahmonkulov H. R. and others, 2010).

According to Article 362 of the Civil Code, a contract in which the parties stipulate that the debtor is obliged to perform the performance not to the creditor but to a third party, specified or not specified in the contract, who has the right to demand the debtor to perform the obligation in his or her favour, is called a contract concluded in favour of a person. In this definition, a third party is recognized as a person who does not directly participate in the conclusion of the contract from the debtor, as well as the person whose name is indicated or not indicated in the contract but who demands the proper performance of the obligation in his or her favour. For example, according to Article 768 of the FC on the bank deposit agreement, the deposit can be placed in the bank in favour of a certain third party. However, it is necessary to pay attention to the fact that the name of the third person-citizen or the name of the legal entity in whose name the deposit is made must be indicated in the contract. Therefore, if their name is not indicated, the contract is not concluded. Indicating their name is an important condition of the relevant contract on bank deposits. Unless otherwise stipulated in this contract, the third party (citizen, legal entity) in whose name the deposit is made acquires the rights of the depositor from the moment the money is received in his account. The right to demand the proper performance of the obligation from the debtor is transferred directly to the third party. A bank deposit agreement concluded in favour of third parties, saving money for the betterment of the child's education and life until he reaches the age of 18; presenting a deposit as

a gift may be established for the benefit of insolvent persons and for other purposes.

Incompetent minors also have the right to use a contract drawn up in favour of a third party since they do not participate and do not express their will when drawing up a contract. He will only have the rights arising from the contract. Additionally, it is not important whether the third party has the ability to conclude a transaction (Tutulani-Semini M., 2006). As long as the third party declares the right to benefit, the creditor under the contract has the right to cancel the contract or make any changes that limit or reduce the right of the third party (Malvin Kacaj, 2018). From the moment when the third party informs the debtor (bank) of its intention to exercise its right under the bank deposit agreement, the parties will not be able to cancel or change the agreement concluded by themselves without the consent of the third party. However, in cases where the third party in whose name the deposit was placed refuses it, the person who signed the bank deposit agreement on behalf of the third party has the right to demand the return of the deposit or transfer it to his name.

According to Article 915 of the Civil Code, in accordance with the property insurance contract, one party (the insurer) pays the other party (the insured) in exchange for the fee (insurance premium) specified in the contract in the event of an event (insurance event) provided for in the contract. to the insured) or the person in whose favour the contract was concluded, to that person (beneficiary) the damage caused to the insured property as a result of this event or the damage related to other property interests of the insured in the amount specified in the contract (insurance money) undertakes to pay (pay insurance compensation). In this case, the third party is considered the beneficiary under the insurance contract.

Additionally, in accordance with Article 6, Part 2 of the Law "On Compulsory Civil Liability Insurance of the Carrier", under the contract of compulsory civil liability insurance of the carrier, the insured event in the event of an accident, the victim or the beneficiary or the carrier will be compensated for the damage caused to the life, health and (or) property of the passengers in exchange for the fee (in-

surance premium) stipulated in this contract. Undertakes to cover within (Collection of legal documents of the Republic of Uzbekistan, 2015). In this case, the contract of compulsory civil liability insurance of the carrier is concluded between the carrier and the insurer. However, in the event of an insurance event, the users of the contract can be the passenger, the victim and the beneficiary in addition to the carrier. These are also considered third parties in relation to the contract.

According to Article 711 of the FC, the freight forwarder delivers the cargo entrusted to him by the consignor under the contract of carriage to the specified destination and hands it over to the person authorized to receive it (the consignee), and the consignor delivers the cargo undertakes to pay the specified fee. According to this contract, the receiver of the goods (a third party) cannot notify the carrier who has not entered into a contract with him directly for claims arising from the loss, damage or delay of delivery of the goods. The main condition of this contract is that the shipper and receiver are not the same person (Braginsky M.I., Vitryansky V.V. 2015).

Alternatively, in obligations related to the purchase of an apartment in favour of a third party, the buyer pays the contract money, but he is not considered the owner of the apartment. Registers the apartment in the name of a third party. In this case, the written consent of a third party is required since the apartment is real estate. For example, parents can conclude such contracts with the aim of their children having a house.

### Conclusions

It should be noted that the third party, not the contracting party, has the right to demand that the debtor fulfil the obligation arising from the contract concluded in favour of a third party. Additionally, the heirs of the third party can use this right. For example, according to Article 129, Part 2 of the Turkish Obligation Law, a third party or his successors may demand the fulfilment of an obligation if it does not contradict the purpose of the parties to the contract or the rules of custom (TURKISH OBLIGATION CODE). According to the second part of Article 921 of the Civil Code, the person for whose benefit the personal insurance contract was concluded

has the right to receive insurance money. A third party may also be the beneficiary here. Therefore, as an addition to this article, we think it is appropriate to include the norm that “if the person named as the beneficiary in the personal insurance contract dies, the beneficiaries are his heirs”.

According to Article 15 of the Law “On Compulsory Civil Liability Insurance of the Employer”, insurance in case of death of the insuring employee under the annuity contract in connection with the performance of his work duties undertakes to pay insurance compensation for a period of more than one year in the form of current payments to the beneficiary who has the right to receive insurance compensation (Collection of legal documents of the Republic of Uzbekistan, 2009). The third-party beneficiary of the contract is usually the heirs of the deceased employee.

The following can be noted as a conclusion regarding the specific features of a contract concluded in favour of a third party:

First, the third party does not directly participate in this contract but has an interest in the contract because this contract is concluded for his benefit;

Second, the name of the third party may be specified in this contract (bank deposit contract), or it may not be specified (insurance relationship);

Third, in this agreement, the third party has the right to claim, which belongs only to the creditor. This contract does not provide for the obligation for third parties.

Fourth, this contract, which can be created through actions (contract), can also be created through events (insurance event).

Fifth, the person interested in the contract concluded in favour of the third party may be the successor of the third party as well.

Sixth, the contract concluded in favour of a third party cannot be changed or cancelled by its parties without the consent of the third party.

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