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CONTENTS
INTRODUCTION

Khakimov Rahim. Legal education: current situation, challenges and prospects innovative development.....	4
---	----------

12.00.01 - THEORY AND HISTORY OF STATE AND LAW. HISTORY OF LAW DOCTRINES

Nazarov Otabek. Place and role of leadership in legal practice and system of law sciences.....	14
---	-----------

12.00.02-CONSTITUTIONAL LAW. ADMINISTRATIVE LAW. FINANCE AND CUSTOMS LAW

Kosimov Botirjon. Threats to judicial independence: reflections on the US experience.....	20
--	-----------

Khayrulina Asal. Legal aspects of the protection of women's rights within UN system.....	30
---	-----------

Umarova Iroda. Transparency is an important principle of the electronic government operations in the republic of Uzbekistan.....	38
---	-----------

Bobokulov Azizbek. Gender equality in Uzbekistan: problems and solutions...	43
--	-----------

Olimova Zarina. Evolving role of local government in supporting tourism development in Uzbekistan.....	49
---	-----------

Ubaydullaev Saydullo. The development of gender equality in Uzbekistan and the gender equality reforms of last years.....	57
--	-----------

12.00. 03-CIVIL LAW. EMPLOYING LAW. FAMILY RIGHT. INTERNATIONAL PRIVATE LAW

Abduvaliev Maksudjon. Invalidity of agreements in civil law - an analysis of the experience of Uzbekistan and Japan.....	65
---	-----------

Eshchanova Dauletbike. Actual problems of legislation of the development of internet insurance in Uzbekistan.....	69
--	-----------

12.00.05-LABOUR LAW. LAW OF SOCIAL MAINTENANCE

Khojabekov Muftulla. Employment rights and privileges of persons with disabilities.....	73
--	-----------

12.00.08-CRIMINAL LAW, OFFENCE PREVENTION. CRIMINOLOGY. CRIMINAL-EXECUTIVE LAW

Kurbanov Marufjon. Criminal-legal aspects of regulation of business activity: the example of Uzbekistan.....	80
---	-----------

Uralov Sarbon. Some issues of qualification of the rape crime.....	92
---	-----------

Rakhimova Ulzana. Cybercrime subject and limits of proof.....	100
--	------------

Topildieva Dilrabo. Circumstances to be determined when investigating intentional killing.....	111
---	------------

Boymuratov Khasan. Legal regulation of the use of electronic documents in criminal proceedings.....	116
--	------------

12.00.10-INTERNATIONAL LAW

Miruktamova Feruza. Restorative model of juvenile justice as an alternative to criminal penalties: international standards and national legislation.....	122
---	------------

Khamdamova Firuza. The impact of digital technologies on human rights.....	134
---	------------

Rasulov Jurabek. The concept of "forced labor": analysis of national legislation and international legal standards.....	146
--	------------

12.00.12 – CORRUPTION ISSUES

Arslonov Doniyor. Corruption – the core of main problems.....	153
--	------------

12.00.03 – Civil law. Employing law. Family right. International private law



INVALIDITY OF AGREEMENTS IN CIVIL LAW - AN ANALYSIS OF THE EXPERIENCE OF UZBEKISTAN AND JAPAN

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ABSTRACT

Keywords:
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The article focuses on the grounds for concluding agreements between the parties on the basis of civil law and their invalidation. Attempts were made to clarify the notion of invalidation of agreements in Uzbekistan, the grounds for it and the analysis of the current situation, as well as the contentious aspects of the issue. At the same time, the Japanese legal system was studied, the grounds for invalidating of the agreements were studied and made relevant recommendations.

In recent years, in Uzbekistan where based on a market economy have been concluding various agreements between the parties and it go up day by day. Unfortunately, the unilateral cancellation of the contract by the parties and it have been leading many legal problems in

practice. Of course, this creates a number of difficulties for the parties of the contract, hindering their further activities. For example, the most common legal problem is the invalidation of agreements. Because, as the consequence of agreements considered invalid and it had no legal

force from the moment when it drafted. As a result, the parties are unable to find an optimal solution to the problem and its damage that has arisen. This research aims to study the concept of agreements and the circumstances that make them invalidity.

For beginning, we study the legislation of the Republic of Uzbekistan. According to Article 101 of the Civil Code of Uzbekistan, the agreement refers to the actions of citizens and legal entities aimed to the establishment, modification or abolition of civil rights and duties [1].

The reason for concluding agreements between the parties has a significant role in the process of clearly defining their rights, obligations and resolving disputes. Furthermore, agreements mainly made in orally or in writing forms, depending on the wills of the parties in the process of concluding. Whether the investor or other entity spends money as a party, it enters into contract to protect its rights and to get back the money it has invested in the event of future risk. Not all agreements are concluded base of the legal provisions. If contract declared invalid in Uzbekistan, the person's ability to defend his rights and get his money back is very low. As a result, people are losing trust in the laws and the business at risk.

Of course, the law system should clearly define the invalidity circumstances of agreements. According to the Civil Code of Uzbekistan, agreements are invalid in the following situations:

- 1) Not to draft in accordance of the legislation;
- 2) Minors under 14 years;
- 3) Minors from 14 to 18 years;
- 4) A citizen who declared incapacitated;
- 5) A citizen with limited capacity;
- 6) A citizen who does not understand the importance of their actions or cannot control them;
- 7) An agreement made under the influence of error;
- 8) Deception, violence, intimidation, malicious collusion of one party representative with the other party,
- 9) Designed for counterfeiting and fraud;
- 10) An agreement that goes beyond the legal capacity of a legal entity [2].

Notwithstanding, in recent years, the number of cases of invalidation of agreements have increased and causing damage to the parties in the Republic of Uzbekistan. In accordance with the requirements of the legislation, each of the parties must return to the other party everything received under the agreement and it is not possible to

return the received thing in its original form - to pay its value in cash. However, it is not possible to get back what was given or money in all cases of invalid agreements. As a result, the party faces economic hardship without being able to cover its losses.

The following example is one of the widespread in Uzbekistan.

The Republic of Uzbekistan is an agro-industrial state and agricultural land is vital for economic performance. During 2018-2019, in more than 23,000 cases, 3,900 hectares of agricultural land, on the base of the local governments decisions were started built real estates by the population. Later all real estates demolished by the state [3].

Because, the decisions taken by the local governments which accepted several years ago were found to be illegal. Thereafter, citizens or investors whose took unknowingly and second or third party real estate holders suffered from it. In such proceedings, the ignorance of the parties or the rights of a third party did not take into account. All proprietors equally damaged in this case. Because the authorities did not cover to anyone the caused damage.

Studies in this field have been shed light on by a limited number of

researchers, which requires an urgent and comprehensive research. According to Sh. Rahmonkulov and B. Topildiyev, after the agreement was declared invalid, all actions should be reversed, the given things should be returned. Unfortunately, in practice, the chances of a full refund of the goods and funds given in the illegal agreements with a non-party are very low [4].

The fact that the parties are unaware of the invalidity of agreement or do not take into account the protection of the rights of the third or subsequent parties in legal acts of Uzbekistan, this process shows us that our scientific work is very relevant. The legal system of Japan, which has been developing for many years, pays special attention to the invalidation of agreements and the protection of the interests of parties. We believe that Japanese experience is also very essential in resolving legal issues arising invalidity of agreements in Uzbekistan. Civil law has a special place in invalidating transactions in Japan.

Japanese law draws attention to the invalidity (無効) of the agreements (契約) and the balance between the internal (意思) will and external (表示) expressions of parties [5]. The

imbalance between internal will and external expressions have been called an error (瑕疵). In Japanese Civil law, an agreement that is contrary to the established rules of morality in society (公序良俗), humor (心理留保), misrepresentation (虚偽表示), scam (詐欺), compulsion (強迫) are the basis situations for invalidation [6].

In Japanese law, the most considerable feature is that the parties internal will and external expressions take into account when declaring agreements invalid. Knowing one of the parties in advance that the agreement is not valid, which can help to protect the rights of the opposite side. It also stipulates that unknowingly entering into an agreement with third parties remain objects on that side. In this process, we can see that the participation of the second and third parties protected in the process of invalidating of transaction.

In Civil law system of Uzbekistan, it does not matter whether the parties know or not in advance that the agreement is not valid, or whether they have entered into agreements with third and fourth parties when all subjects are similarly harming. The victim can be an investor, an entrepreneur or simply a citizen.

In conclusion, we believe that reforming the process of invalidity of agreements in Uzbekistan will effect to increase the confidence of investors, entrepreneurs or citizens in Uzbekistan. Our topic and experience of Japan law system can lead to the correct conclusion of contracts, the payment of damages and the reliable protection of the rights of third parties. It should be paid special attention to the protection of the rights of both second and third parties in the process of invalidating the agreements in Uzbekistan and it is necessary an amendment of the legislation.

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