

THE CONCEPT OF REPRESENTATION IN CIVIL LAW

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Abstract: This article describes the concept of representation and its essence, the place of the concept of representation in legal documents, its characteristics, types of representation, the content of this institution in foreign legal documents and other terms.

Key words: Representation, representative, authority, representative, agent, legal representative, contractual representative, commercial representative.

There are times when individuals do not have the opportunity to directly exercise their rights and obligations. In such cases, they are helped by the concepts of the institution of representation in civil law. Both citizens and legal entities will need the services of representatives. Therefore, the task of the representative institution, which is mainly created by a power of attorney, a law, a court decision or a document of a state body, is to directly create, change and cancel the civil rights and obligations of the authority.

According to Article 54 of the Constitution of the Republic of Uzbekistan: "Ensuring human rights and freedoms is the highest goal of the state. The state ensures the rights and freedoms of a person and a citizen, which are enshrined in the Constitution and laws".[1] Because one of the main tasks of legislation is to protect the rights and freedoms of individuals and guarantee their inviolability. Civil legislation is also aimed at protecting the subjective rights and interests of individuals, ensuring their equality in civil-legal relations and free movement without any obstacles in the exercise of their rights.

It is recognized that subjects of civil law have legal capacity regardless of any situation. In addition, if individuals cannot exercise their rights by themselves due to some subjective and objective reasons, they can exercise these rights with the help of other individuals, that is, through their representatives.

Representation means that one person performs legal actions on behalf of another person. An agreement concluded by one person (representative) on behalf of another person (authorizer) with authority based on a power of attorney, law, court decision, or a document of a delegated state body directly creates, changes, and cancels civil rights and obligations in relation to the person giving authority.[2]

The essence of the representation is that the agreements concluded based on it create, change and cancel certain rights and obligations only for the person giving the power of attorney. The representative himself does not have any rights and obligations in connection with the transactions. It is not allowed to conclude transactions related to a person's identity, as well as those provided for by law, through a representative. For example, obligations related to entering into a marriage contract, collecting or paying alimony.[3]

The following specific features of the representation can be pointed out:

- 1) the subjects of representative relations can be any person;
- 2) more than three parties are involved in relations arising from representation;

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- 3) the relations of the representative institution are based on the ideas of humanitarian mutual assistance, equal participation of all in civil relations;
- 4) representation can be performed both for a fee and for free;
- 5) representation includes civil, family, economic, administrative-legal relations;
- 6) the powers that are the basis for the existence of a representative institution are clearly defined by legal documents and contracts;
- 7) the establishment and cancellation of representation depends on various objective and subjective legal facts
- 8) the representative institution is the legal basis of legal assistance to individuals in the implementation of their civil rights and obligations.[4]

Depending on the grounds on which the authority arises, representation is divided into two types: representation under the law and contractual, that is, voluntary representation.

Representation and its powers are defined by a normative act, and such representation is aimed at ensuring the protection of the rights and interests of incompetent persons - young children, mentally ill, mentally retarded. The rules on representation in judicial bodies are determined by relevant laws.

Parents, adoptive parents and guardians are legal representatives.

In contractual, i.e., voluntary representation, the representative and his authority are determined by the will of the representative. In such a representation, the representative and his authority are indicated by the representative. An employee who acts on behalf of an organization based on a power of attorney in accordance with an employment contract, for example, legal advisers of organizations, supply representatives, etc., is considered a representative in contractual representation.[5]

The concept of representation is reflected not only in the laws of our Republic, but also in international and foreign legislation. For example, Chapter 10 of the Civil Code of the Republic of Belarus "Offer. It is called Power of Attorney" and several of its articles contain provisions on representation. The following sentences are reflected in Article 185 of this Code: Commercial representative is a person who permanently and independently represents entrepreneurs on their behalf when concluding contracts in the field of business activity. At the same time, it is allowed to be a commercial representative of different parties of the transaction with the consent of these parties and in other cases provided for by law.

The commercial representative has the right to require the parties to the contract to pay the fee and compensation provided for the performance of the contract in equal shares, unless otherwise stipulated in the agreement between them.

A contract of commercial representation drawn up in writing and containing instructions on the powers of the representative is executed on the basis of a power of attorney even in the absence of such instructions.

A commercial representative is obliged to keep confidential the information about trade transactions known to him even after the execution of the order given to him.

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The characteristics of commercial representation in some areas of business activity are determined by law. [6]

These provisions are included in the institutions of the Civil Code of the Republic of Uzbekistan and are similar to the norms of the Civil Code of the Republic of Belarus.

In conclusion, the institution of representation developed as a result of the complexity of legal relations in the 19th and 20th centuries. Currently, there is a need to pay special attention to the issues of applying the representative institution in practice. It is known that the institution of representation is one of the poorly studied branches of civil law. Therefore, it is necessary to make various reforms in this field, draft, adopt and implement legal documents on the model of international and foreign legal documents.

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