



RIGHTS AND OBLIGATIONS OF THE PARTIES UNDER THE SECURITY AGREEMENT

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ABSTRACT

*This article details the rights and obligations of the parties
under a protection agreement, depending on its types.*

In the field of civil law (civilistics), the study of the institution of contract is traditionally approached from three main points of view. This is the analysis of a contract: as a legal fact, as a legal relationship, and as a legal form (document). This approach was first scientifically substantiated by the Soviet lawyer O.S. Ioffe, who wrote: "For a comprehensive understanding of the essence of a contract, it must be studied as a legal fact, as a legal relationship, and as a form used in its conclusion."¹.

From this perspective, if the contract as a legal fact and document was analyzed in the previous paragraphs, its content as a legal relationship also requires separate study. In this case, the contract expresses not only the agreement of the parties, but also the totality of the rights and obligations arising between them, that is, the content of the legal relationship.

As O.S. Ioffe notes, "a contract in the legal system has a dual nature: on the one hand, it acts as a fact (legal fact) that gives rise to legal relations, and on the other hand, as such relations themselves. This approach was later developed by N.G.Aleksandrov, Yu.K.Tolstoy, and E.A.Sukhanov, leading to the definition of the legal nature of a contract as "legally established willpower" defined as².

Therefore, a contract is not only a legal act that gives rise to law, but also a dynamic institution that constitutes the content of these legal relations. Therefore, to fully understand the contract, it is necessary to consider all three aspects of it - fact, relation, and form - in a holistic system.

¹ Каранг: Иоффе О. С. Общее учение об обязательствах. – М.: «Юридическая литература», 1975. - С. 75.; Иоффе О.С. Обязательственное право. - М.: Госюриздат, 1975. - С. 23-24.

² Каранг: Толстой Ю.К. Договор в гражданском праве России. - СПб., 2003. - С. 17-19.; Суханов Е.А. Гражданское право. Том II. - М.: БЕК, 2001. - С. 112.

Analysis of the content of civil law relations requires determining the rights and obligations of its participants - parties. Because in civil law, the subjective right and the resulting legal obligation together constitute the internal content of this relationship³.

In the previous paragraphs, some aspects of the content of the security obligation - that is, the issues of differentiating the security agreement from other types of contracts and analyzing its terms - were highlighted. At the same time, it is necessary to separately study the rights and obligations of the parties under this agreement. Because it is through the definition of these rights and obligations that the legal regulatory significance of the contract manifests itself. In other words, the main purpose of the parties entering into contractual relations is to create mutual rights and obligations.

The specific rights and obligations of the parties to the contract depend, first of all, on the type of contract being concluded and, most importantly, on its subject matter, that is, on the content of the specific security service that must be carried out on the basis of the security contract. In this regard, a proportional legal relationship is formed between the tasks that must be performed by the executor (the security organization) and the services that may be required by the customer. The main obligation of the executor under the protection agreement can be defined as ensuring the safety of the property accepted for general protection, that is, the obligation to protect it from unlawful encroachments by third parties. Depending on the specifics of the object and the method and measures for implementing the protection, the executor's duties may be different. For example, if it is necessary to apply a system of constant observation and signaling for stationary facilities, physical protection measures can be prioritized at existing facilities or in designated locations.

Based on the concluded contract for the protection of real estate objects, the main duties of the executor (protection and service organization) are:

1. Placement of a coordinated number of security personnel. The contractor is obliged to place a constant or rotational number of guards at the service at a certain facility in the quantity determined by the contract.
2. Protection of the customer's inventory and funds. Protection of the property accepted for safekeeping from robbery, theft, or other illegal actions, as well as the prevention of unauthorized entry of unauthorized persons into the territory of the object.
3. Organization of the regime of conduct and control. Security personnel carry out the system of passage and control at the facility in the prescribed manner, that is, they ensure control through documents of the established form (cards, etc.) when importing or exporting goods and material assets to the territory.
4. Providing information at the end of the working day. At the end of each working day, the contractor must inform the customer about persons who have temporarily entered the

³ Қапанг: Shartnoma huquqi. Darslik / R.J.Ro'ziyev, M.Sh.Choriyev, A.A.Muxammadiyev va boshqalar. -Toshkent, O'zbekiston Respublikasi Jamoat xavfsizligi universiteti, 2022. 10-11 betlar.; Fuqarolik va oila huquqi. Darslik / R.J.Ro'ziyev, V.R.Topildiyev, M.Sh.Choriyev. -Toshkent, O'zbekiston Respublikasi Jamoat xavfsizligi universiteti, 2022. 349-350 betlar.; Иоффе О.С. Правоотношение по советскому гражданскому праву // Иоффе О. С. Избранные труды по гражданскому праву: Из истории цивилистической мысли. Гражданское правоотношение. Критика теории «хозяйственного права». М.: «Статут», 2000. - С. 569-570.; Толстой Ю.К. К теории правоотношения. Л.: Изд-во ЛГУ, 1959. С. 32-35; Чеговадзе Л.А. Структура и состояние гражданского правоотношения. М. «Статут», 2004. С. 71

facility (entering on the basis of a one-time permit) and confirm that all of them have left the territory.

5. Receiving seals and stamps. In cases stipulated in the contract, the contractor is also obligated to temporarily accept seals and stamps from the customer and ensure their safekeeping.

6. Establishing additional posts in exceptional cases. If the customer carries out work related to the construction, repair, or demolition of fences at the facility, the contractor may, by agreement of the parties, place additional security posts at the facility.

If the subject of the contract is the protection of the apartment or apartment, then the main duties of the executor (provider of security services) are:

1. Acceptance of an apartment or apartment for safekeeping. Taking measures to take the apartment or house under security at the request of the customer in the prescribed manner (this process is carried out in the manner prescribed by the contract and internal regulatory documents).

2. Taking prompt measures when the alarm is triggered. If a signal is activated at the facility, the executor is obligated to immediately send a group of employees on duty to the apartment, find out the reason, and, if necessary, take measures to detain the persons who entered the apartment illegally.

3. Ensuring the security of key copies. The Contractor is obliged to safely store (from falling into the hands of others) the keys to the doors of the apartment, entrance, or apartment, accepted from the customer on the basis of a signature, and not to allow them to be lost.

4. Return of keys upon expiration of the contract. Upon termination or expiration of the safekeeping agreement, the contractor is obligated to return the keys to the customer against signature.

5. Removing unclaimed keys. If the keys are not requested by the customer within the established timeframe, the contractor is obligated to destroy them in the prescribed manner.

The contract for the protection of special cargo transported by transport is distinguished by some special obligations of the executor. On the basis of such a contract, the main duties of the executor are determined:

1. Provision of guards with appropriate special means and weapons. For the protection of special cargo transported by transport moving in the specified direction, the executor must allocate a sufficient number of duly armed and equipped guards.

2. Ensuring the safety of property. The primary duty of the executor is to prevent the loss, embezzlement, damage, or destruction of the property during transportation and to ensure its safety. These activities will be carried out according to the route agreed upon with the customer.

3. Preventing illegal actions. The Contractor is obliged to prevent and suppress any unlawful actions that may be committed by third parties during the protection process.

Also, security guards monitor the integrity of wagons in vehicles, the safety of locks and seals. However, they are not responsible for the condition of the cargo inside the sealed wagon, as security in this case is limited to external control. It is in this case that the "external

protective character" of the protective activity, that is, its external protective appearance, manifests itself⁴.

The obligations of the executor under the public order protection agreement during mass events also have their own specifics. The main obligations of the security service provider within the framework of such a contract are expressed in the following:

1. Providing access systems. The Contractor shall carry out and control the procedure for admitting persons to the event territory only on the basis of an invitation or special permit.

2. Preventing the import of prohibited items and substances. Takes measures to prevent the import into the territory of the event of objects or substances that may lead to a violation of public order.

3. Prevention and suppression of offenses. Takes measures to timely detect and suppress any illegal actions that may be committed with the aim of disturbing public order.

4. Ensuring compliance with the rules of procedure by the participants and spectators of the event. The performer ensures control over the strict observance by the participants of the mass event and the spectators of the established rules of conduct.

The issue of defining the contractor's obligations under the contract for the protection of the life and health of individuals from encroachment is quite complex. Because in practice, such contracts are very rare, and their implementation requires great legal and technical responsibility. At the same time, measures aimed at protecting the life and health of individuals from encroachments can be carried out in two directions:

1. Preventive measures - early detection of the risk and prevention of possible encroachments;

2. Direct protective measures - the actions of a security guard aimed at eliminating an unlawful encroachment on a citizen or reducing its consequences⁵.

Based on this, the main obligations of the executor under the contract for the protection of the life and health of individuals from encroachment may be:

1. Ensuring the safety of life and health of individuals. The Contractor is obliged to ensure security at the customer's place of permanent or temporary residence, as well as along the routes of their movement (journeys, business trips, trips to the workplace, etc.).

2. Risk forecasting and identification. Conducting a set of measures for the early detection, analysis, and elimination of circumstances that may pose a threat to the life and health of individuals.

3. Prevention and suppression of unlawful encroachments. The Contractor is obliged to timely detect, prevent, and, if necessary, directly eliminate any unlawful actions directed against the life and health of individuals.

4. Prevention of offenses and crimes. A natural person takes measures to prevent and expose the commission of crimes or other offenses in the places of their permanent or temporary stay, as well as in the directions of their movement.

In addition, one of the important obligations of the executor under the contract for continuous or subscription security, regardless of the nature of the protected object, is to notify the customer in writing of changes in the tariffs for services. Warning about this must

⁴ Мильков А.В. Договор охраны по российскому гражданскому праву. дисс... к. ю. н. Москва, 2007. -С. 101.

⁵ Шаронов С. А. Договор на оказание услуг частной охранной деятельности. Автореф. дисс... к. ю. н. Волгоград, 2006. -С. 65.

be sent within the period specified in the contract, as a rule, one month in advance. Also, in legal literature, attention is drawn to the necessity of assuming the contractor's liability insurance under the contract, which is quite appropriate and deserves attention. The authors assess this idea as legally acceptable and practically expedient, as the insurance mechanism allows for the compensation of damages that may be caused to the customer as a result of possible errors or shortcomings of the contractor.

Thus, the executor's duties under each protection agreement have their own specific characteristics, the content of which is determined by a number of factors.

Firstly, these features are related to the nature and state of the protected object. For example, the executor's duties differ when guarding moving cargo, real estate, or personal security objects.

Secondly, the type of methods and means used also influences the content of obligations. Various means, such as the use of technical means, physical protection measures, or video surveillance, determine the legal and practical direction of protection.

Thirdly, the rights and obligations of the executor are also influenced by the specific direction and purpose of the service defined in each contract, that is, to which specific type of security service it belongs (protecting property, ensuring personal safety, or maintaining order at mass events).

The customer's obligations are also determined by the nature of the type of security service provided on a contractual basis. In particular, under the contract for the protection of immovable property (object), the customer may have the following obligations:

1. Provision of the lighting system. At night, it is necessary to illuminate the production workshops, warehouses, bases, construction sites and adjacent territories, as well as the areas located along the perimeter of the enterprise, thereby ensuring the possibility of observation by security personnel.

2. Proper placement of raw materials and supplies. Raw materials and supplies in the protected area must be located at a distance stipulated in the contract, i.e., at a certain distance from the fences.

3. Ensuring the prevention of unauthorized persons staying at the facility. Before transferring the object to security, the customer is obliged to check the absence of unauthorized persons in the premises after the end of working hours.

4. Closing and sealing of buildings. After the end of working hours, the doors of warehouses, workshops, shops, and other service premises must be tightly closed and sealed (or sealed). If there are two doors in a building, the inner door must also be sealed. Reserve exits must also be blocked from the outside and sealed.

5. Provision of telephone and other means of communication. At facilities where there is an internal telephone network, the telephone must be installed at posts where security personnel are present. At the end of the work, one of the city telephone networks must remain open for security.

6. Turn on the signaling system. After the end of the workday, it is necessary to turn on the security alarm. If a malfunction is detected in the system, the customer must immediately notify the contractor and not leave the building until the malfunction is rectified or the object is handed over in the prescribed manner.

7. Notification of changes in the object. Within the timeframes stipulated in the contract, the customer is obligated to notify the contractor in writing of the work being carried out on the overhaul or re-equipment of buildings, changes to the work schedule, or the placement of new valuables.

8. Taking safety and labor protection measures. The customer is obliged to familiarize the contractor's employees with the safety regulations at the facility and take the necessary measures to protect their labor.

9. Free material and technical support. Service premises, equipment, communication facilities, heating, lighting, water supply, and sanitation services must be provided to security personnel free of charge.

10. Creating conditions for guard dogs. If the use of service dogs is provided for in security activities, the customer is obliged to equip special places and posts for them, ensure their cleanliness and proper condition.

The customer's obligations under the technical means of protection agreement also have their own specifics. This feature is explained, first of all, by the method of carrying out security, i.e., security with the help of technical means (signal systems, etc.). In such cases, the customer's responsibilities are not limited to providing material assistance, but also include ensuring the uninterrupted and reliable operation of the signaling system, creating necessary conditions for its proper operation, and timely notification of the contractor about any malfunctions or failures in the system.

Thus, at facilities where security alarms are installed, the customer is responsible not only as the owner but also as a participant in ensuring the effective operation of the technical protection system. This circumstance further strengthens the technical and legal significance of protection agreements.

Under the contract for the protection of an apartment or apartment, the customer is obliged to perform the following main duties:

1. Reliable maintenance of technical security equipment. Before surrendering the apartment or house to security, the customer must securely lock the doors, windows, and shutters with installed signaling, prevent them from opening by themselves, and constantly monitor their technical condition.

2. Timely notification of the executor. If the apartment or apartment is placed under guard for a day or more, the customer is obligated to notify the contractor in advance.

3. Notification of removal from protection. In the event of the removal of an apartment or house from custody, the customer is obliged to immediately notify the contractor by phone, indicating their last name and the conditional apartment number. If the protection is carried out through an automated system, then it is required to enter the code established on the individual terminal.

4. Checking the signaling system. If the apartment or apartments are not put under guard for two or more days or are transferred to a prolonged guarding regime, the customer is obliged to check the signal's operability in the test guarding regime.

5. Report a change in the lock, key, or code. If the locks or codes in the apartment or apartment have been changed or the keys have been lost, the customer must immediately notify the contractor and take measures to modernize duplicate keys.

6. Rapid notification of violations. If damage or cracks are found on the walls, doors, or other parts of the apartment or house, the customer is obligated to immediately notify the contractor.

7. Observance of the confidentiality of the rules for using the signaling system. The Customer shall not disclose to third parties information about the means of signaling, including codes, methods of starting or turning off.

Thus, under a contract for the protection of an apartment or house, the customer is responsible not only for transferring the object to security, but also for ensuring the effectiveness of the contractor's activities by strictly monitoring its technical condition, the signaling system, and the safety regime.

In addition to the above-mentioned duties, the customer, when concluding a contract for the protection of immovable property, is assigned another important obligation to ensure proper technical fortification of the object and its equipping with technical means of protection. In most cases, as specifically stipulated in such agreements, the display windows in stores, ateliers, and pavilions must be closed from the inside by the customer and sealed (or sealed). In this case, an inventory list (inventory) is compiled for the goods and other material values placed in the display window, indicating the article and price of each item. This list is signed by the materially responsible person and certified by the customer's seal. One copy of the inventory is kept inside the display case, and the second copy is kept by the customer's materially responsible person.

Thus, the analysis of the rights and obligations of the parties under the security agreement shows that the main obligation of the executor under this agreement is to provide security services, in accordance with which the customer has the right to demand its performance. At the same time, the customer's main obligation is to pay for the services rendered, which is combined with the contractor's right to demand payment. At the same time, the specific rights and obligations of the parties to the contract are determined depending on the type of security agreement, more precisely, its subject matter - that is, the content of the specific security service that must be provided by the executor and which the customer has the right to claim.