



THE LEGAL NATURE OF A CONSTRUCTION CONTRACT AND ITS PLACE IN THE SYSTEM OF CIVIL CONTRACTS

Maksumova Nargiza Alisherovna

OOO “GOLDEN HOUSR PROPERTY GROUP”

Head of Legal Department

E-mail: nmaksumova278@gmail.com

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ABSTRACT

The article examines the main doctrinal and practical criteria for distinguishing a construction contract from related contractual arrangements in civil law. It The thesis examines the legal nature of the construction contract as an independent civil-law contractual arrangement characterized by specific features and a special legal regime. Its key characteristics are analyzed, including the subject matter of the obligation, the focus on achieving a tangible material result in the form of a real estate object, the allocation of risks, the procedure for acceptance of completed works, and the contractor's liability for the quality of the result. Particular attention is paid to determining the place of the construction contract within the system of civil-law contracts and its correlation with related contractual models such as supply contracts, contracts of sale, paid service agreements, and design contracts. The author substantiates the conclusion that the construction contract occupies a special position in the system of obligations law, as it combines both property-related and organizational elements, requires compliance with technical standards, and presupposes enhanced control by the customer. The findings are aimed at ensuring the proper legal qualification of construction relations and improving legal certainty in civil turnover.

The question of contract qualification and the nature of the obligation has significant legal importance not only for science but also for law enforcement practice as a whole. Construction forms an essential material foundation in the life of modern society. The objects created in the process are inextricably linked to the land, are individualized, designed for long-term use, pose increased risks to others, and require active involvement of the client as well as coordination of documentation with competent authorities. [1]. Construction contracts are characterized by their complexity, both organizationally and legally, involving significant financial resources, long execution periods, and heightened risks for the parties. Unlike supply contracts or service agreements, the primary goal of a construction contract is the creation or

reconstruction of a tangible, material result—usually a real estate object or its functional part. This distinction determines the legal regime, including risk allocation, acceptance procedures, and contractor liability [2].

A construction contract often requires the involvement of subcontractors, coordination with technical standards, and strict adherence to project documentation. The contractor acts independently in organizing the work, bearing responsibility for the result, while the client exercises control over the process and approves milestones. Such features differentiate construction contracts from service contracts, where results are usually intangible, and from labor contracts, which establish subordinate employment relationships [3]. Therefore, establishing clear doctrinal criteria for distinguishing construction contracts from related contractual models—such as supply contracts, service agreements, design contracts, and mixed agreements—is essential for ensuring legal certainty, correct application of civil law norms, and effective protection of the rights of the parties involved [4].

The study identifies a set of doctrinal criteria that allow for the clear differentiation of construction contracts from related contractual models widely used in civil circulation. The primary distinguishing factor is the legal nature of the obligation: a construction contract is aimed not at transferring goods or providing intangible services, but at producing a tangible material result in the form of real estate or a functionally independent part of it. This criterion separates construction contracts from supply agreements, sale contracts, and service contracts, where the contractor is not obliged to ensure the creation of a construction result.

The principal criteria for distinguishing construction contracts from related contractual models can be identified as follows:

1. Subject of the obligation: the obligation under a construction contract is directed toward the creation or modification of a real estate object, in contrast to the mere delivery of goods or provision of services under other contractual arrangements.

2. Material result: the outcome of the construction obligation must be tangible, possess independent value, and be subject to formal acceptance by the client, thereby differentiating it from services that do not produce a material result. [6, 7].

3. Risk allocation: in accordance with civil law, the contractor bears the risk of accidental loss or damage to the work prior to its acceptance, in contrast to supply contracts, where the risk typically transfers upon delivery of the goods.

4. Acceptance procedures: construction contracts require structured, staged acceptance processes, including the preparation of acts of completed works and supervision of concealed or intermediate tasks, which is generally absent in service agreements. [8]

5. Client participation: active involvement of the client is essential, encompassing technical supervision, quality control, and approval of project documentation, reflecting the collaborative nature of construction obligations.

6. Contractor responsibility: the contractor is subject to strict liability for the quality of works, adherence to deadlines, and compliance with applicable construction norms and standards.

1. Project documentation: the existence of approved design and estimate documentation, technical specifications, and mandatory compliance with construction standards constitutes a core criterion distinguishing construction contracts from other contractual forms. [9]

2. Engagement of subcontractors: the use of subcontractors is a common feature in construction contracts, reflecting the scale and complexity of works, whereas service agreements generally presuppose direct performance by the contractor.

3. Guarantees and warranties: formalized obligations regarding defects, corrective measures, and post-completion guarantees further characterize the construction contract as a legally distinct form. [10]

The comprehensive application of these interrelated criteria ensures the accurate legal qualification of construction contracts, facilitates consistent judicial practice, and strengthens the legal certainty of civil transactions within the construction sector.

In practice, construction contracts often merge with other contractual models, creating mixed agreements such as “supply with installation,” “repair services,” or EPC/EPCM contracts. Such hybridization complicates the legal classification, risk allocation, and application of civil law norms. Correct qualification should focus on the dominant obligation: if the main purpose is the creation of a tangible construction result subject to client acceptance, the agreement should be treated as a construction contract, even if it includes elements of supply or services.

Project documentation plays a central role in differentiating contracts. While classical doctrine emphasizes the material result as the key criterion, modern practice shows that advisory, engineering, or organizational activities may also be included. However, the decisive factor remains the legal and economic purpose—the creation or modification of a real estate object that is complete, usable, and meets technical requirements. [11]

The research confirms that construction contracts occupy a distinct position within the system of civil-law agreements, combining property-related and organizational elements, requiring compliance with technical standards, and involving active client supervision. Doctrinal differentiation of construction contracts from related agreements is essential for

legal certainty, proper risk management, and protection of the parties' rights. A systematic approach—analyzing the contract's subject, result, risk allocation, acceptance procedures, and project documentation—ensures the correct legal qualification and supports the development of a stable civil turnover in the construction sector.

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