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Development Of The Institution Of The Option Contract In Uzbekistan: The Experience Of Germany And England

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Abstract: This article analyzes the development and legal regulation of option contracts in Uzbekistan. Based on the comparative analysis of the German and English legal experiences, recommendations for improving national legislation are provided. The study highlights the significance of option contracts in corporate and investment relations, offering mechanisms to enhance legal certainty, protect investor interests, and harmonize domestic law with international standards.

Introduction: Option contract, civil law, corporate relations, investment, comparative law, Germany, England, Uzbekistan.

Introduction

The market economy opens up more and more opportunities for economic entities, allowing them to freely form their business development strategies. In response, states seek to strengthen legal certainty by guaranteeing the protection of the rights and legitimate interests of entrepreneurs. Civil law, as a basic branch of law, plays a key role in ensuring the stability and predictability of economic turnover, offering a set of legal instruments for regulating contractual relations. One such instrument is an option contract, which allows the parties to agree in advance on the terms of a future obligation and grant one of the parties the right to unilaterally execute the transaction within a specified period.

An option contract is a relatively new institution in Uzbek civil law. Its emergence in civil transactions is linked to the need to harmonise national legislation with international standards and the practical significance of developed legal systems. The relevance of researching this topic is due to several factors. Firstly, in the Republic

of Uzbekistan, the formation of the institution of option contracts is in its early stages, and there are virtually no court precedents, which may cause difficulties for law enforcement officials and participants in civil transactions. Secondly, the provisions of current legislation offer general regulation rather than specific regulation similar to the regulation of the assignment of monetary obligations, and therefore questions remain about how to protect rights in the event of a breach of option obligations. Thirdly, there is an urgent need for a comparative legal analysis to identify the strengths and weaknesses of national regulation and make recommendations on how to expand it.

An option contract is a type of civil law contract under which the option holder (party to the contract) has the right, within a specified period of time, to demand that the other party fulfil its obligations or to refuse to fulfil its obligations, for which it pays an option premium [1, p. 67]. The characteristics of such a contract can be confused with assignment agreements, factoring agreements, agreements in favour of a third party, preliminary agreements, and adhesion agreements, which are provided for in the special part of the Civil Code of the Republic of Uzbekistan. An option agreement strengthens the autonomy of the parties' will, as it is an agreement that has already been concluded, under which the authorised party obtains the right to demand the performance of the obligation provided for in the agreement within a specified period. This structure meets the practical needs of modern trade, allowing one party to secure the opportunity to exercise contractual rights in the future, and the other to ensure the stability and predictability of the contractual relationship. This mechanism provides not only flexibility but also legal certainty, protecting the beneficiary's interests from arbitrary or untimely revocation by the promissor [2, p. 281]. According to I. I. Likhachev, the key features of an option contract are that the performance of the obligation depends on the discretion of the other party, that it is remunerative and bilateral in nature, that there is a significant time lag between conclusion and performance, and that the moment of performance is determined by a deadline or conditions specified in the contract [6, p. 535].

The concept of an option can be found in paragraph 23, part 1, article 3 of the Law of the Republic of Uzbekistan ‘On the Securities Market’ dated 3 June 2015, under No. ZRU-387, according to which an option is an issue-grade security certifying the right to purchase a certain number of securities of its issuer at a fixed price within the period specified therein. Despite this, it should be noted that this definition is highly specialised and limited to the financial market. The Civil Code of the Republic of Uzbekistan does not contain separate regulations on option contracts as a universal civil law construct, which leads to a number of difficulties in law enforcement. For example, when concluding corporate agreements using option mechanisms, the parties are forced to resort to analogies with the rules on preliminary agreements or the rules on purchase and sale, which do not always reflect the essence of an option. In addition, the lack of comprehensive legal regulation creates uncertainty in matters of taxation of option premiums, the procedure for state registration of real estate transactions carried out under an option, as well as judicial enforcement of obligations under such agreements. An analysis of the practice of commercial courts in the Republic of Uzbekistan shows that in most cases, courts tend to classify options as a type of preliminary agreement, which significantly limits their functionality in investment and corporate transactions [7].

In countries with rapidly developing market economies, option contracts have long proven themselves to be an effective mechanism for regulating corporate and investment relations. It is not surprising that the nature of this algorithm's harmonisation was observed in 17th-century Holland, where tulips became a luxury item and caused a real ‘tulip boom’. The prices of bulbs rose to astronomical levels, and trading in them gradually took on a ‘virtual’ character: bulbs were resold many times without being dug out of the ground. In fact, people were trading in future goods, i.e. the right to buy or sell a bulb in the future. This is how the first futures market in history came into being - the prototype of modern futures and options contracts. These agreements gave the right (but not the obligation) to buy or sell a commodity at a predetermined price. It was on the basis of tulip mania that the understanding arose that an options contract could serve as a tool for protecting against price risks (hedging) [8]. However, Yunusova A.N. believes that option contracts date back to ancient times, to the era of Greek civilisation. In the ancient Roman Empire, Aristotle mentions the use of option agreements in his Politics, which describes the reflections of the ancient Greek philosopher Thales of Miletus, founder of the world's first philosophical school. In Book I, Chapter 11, Sections 5 - ‘The Story of Thales of Miletus’, where history tells us that, based on his knowledge of meteorology, he foresaw the likelihood of a significant olive harvest and, having a small amount of money, he rented all the olive presses in Miletus and Chios at the beginning of the year; and, due to the lack of high demand for them, acquired them at a low price. But when the demand for olive presses skyrocketed, Thales of Miletus began to sublet his

presses. [3, p. 247]

Historical experience shows that option regulators in one form or another have accompanied the development of market relations for many centuries, from antiquity to the first financial crises of early capitalism. However, it was in the 19th and 20th centuries, during the formation of modern civil law systems, that options gained doctrinal significance and came to be regarded as an independent instrument of contract law. In this context, the experience of Germany is of particular interest, where option contracts are integrated into the system of contract law and are widely used in various areas of the economy. German civil law does not directly define the term 'option contract' in the Civil Code (Bürgerliches Gesetzbuch, BGB). However, legal doctrine and judicial practice have established that an option is a special type of unilateral obligation of the promisor and a right of the beneficiary, which creates for the beneficiary einseitiges Gestaltungsrecht - the right to cause the main obligation to arise by means of a unilateral declaration of intent [9]. At the same time, the party granting the option remains bound by its obligation for the agreed term, while the beneficiary has the right, but not the obligation, to exercise its claim. German practice shows widespread use of options in corporate and labour relations, in particular in regulating transactions with shares in companies and granting employees stock options. An important feature is the strict control by the courts over the fairness of the terms of such agreements. Thus, provisions according to which already vested options are automatically forfeited upon termination of the employment contract are considered inadmissible, as confirmed by the decision of the German Federal Labour Court of 13 May 2025 [10]. In England, on the contrary, unlike the continental model, the principle of consideration—the existence of a reciprocal provision—is of primary importance. An option is recognised as valid and subject to legal protection only if at least a symbolic fee, such as £1, has been paid for the right granted. This is why English lawyers traditionally include the phrase 'nominal consideration' in contract texts [4, p. 135-140]. In the classic case of Mountford v Scott [1975] Ch 258 [11] the court stated that even £1 paid in exchange for the right to enter into a contract of sale is sufficient consideration to make the option binding. This approach demonstrates that the value of the provision is not assessed from an economic point of view; only the existence of reciprocal satisfaction is important. Another well-known case is Pagnan SpA v Feed Products Ltd [1987] 2 Lloyd's Rep 601 [12], where the court confirmed the enforceability of the option subject to certainty of terms. Thus, it can be concluded that for an option to be enforceable in England, two conditions must be met: the existence of consideration and sufficient certainty of the terms of the main contract.

According to the author, a comparison of these two German and English models of regulating option contracts reveals a number of features that are of interest to Uzbekistan. In Germany, legal regulation is based on the provisions of the Civil Code (BGB), where the principle of freedom of contract is combined with clear restrictions on abuse. German doctrine considers an option to be a preliminary obligation secured by the right of unilateral execution, which gives the contract a high degree of predictability and legal certainty. Procedurally, this is expressed in strict written form, the indication of all essential conditions and the clear fixing of the premium, which minimises the risks of unfair behaviour by the parties.

The English model, on the contrary, is based on case law and the principle of consideration. An option agreement is recognised as valid only if there is a reciprocal provision, even a symbolic one (peppercorn), which reflects the general logic of common law. Court practice shows that the enforceability of an option depends not only on its formal content, but also on the bona fide behaviour of the parties. As a result, the author suggests that the English approach is more flexible but at the same time less predictable than the German one. The procedure for formalising an option agreement in England allows for more variability: it is sufficient to fix the key elements of the transaction, while the detailed terms and conditions can be regulated by court practice in the event of a dispute.

According to the author's analysis, it would be advisable for Uzbekistan to develop a combined model. The German system could be used as a basis for a clear written form, the recording of essential conditions and the mandatory option premium as a guarantee of serious intentions. The idea of minimum reciprocal provision should be adopted from English practice, as this will make transactions more flexible and adaptable to market conditions. Thus, national regulation should combine the procedural rigour of Germany with the flexibility of English law. This will create a balance between legal certainty and the possibility of widespread use of option contracts in investment and business practice [13].

In conclusion, in order to introduce option contracts into the legal framework of Uzbekistan, the following procedures must be specified. First, the agreement must be in writing, clearly indicating the parties, the subject of the option, the term of validity and the amount of the premium. Secondly, it is necessary to

establish the procedure for exercising the right: when the beneficiary can exercise the option and how the promisor is obliged to fulfil the obligation. Thirdly, it is important to establish the consequences of a breach of the terms and conditions: penalties, the possibility of recovering the premium, and the legal procedure for protecting rights.

Particular attention should be paid to the corporate sphere. Options on shares or stakes in companies can regulate the exit of investors, the distribution of profits and participation in management. Procedurally, this involves amending corporate agreements, obtaining shareholder approval and mandatory notification of government authorities in the event of ownership changes.

The financial market should not be forgotten either, where option contracts can be used to hedge price risks and increase liquidity. This requires standardised contract forms, a register of transactions and regulatory oversight to minimise abuse and strengthen investor confidence.

Thus, based on the above analysis, it can be concluded that the introduction of option contracts in Uzbekistan may require a combination of German systematicity and English flexibility, adapted to the specific national legal and economic conditions. This could create a predictable and stable legal environment that would increase the country's investment attractiveness and integrate national civil law into international standards.

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