

# YURISPRUDENSIYA

HUQUQIY ILMIY-AMALIY JURNALI

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Парламент фаолияти учун ахборот-таҳлилий маълумотномаларни тайёрлашнинг ўзига хос хусусиятлари

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## DEFINITION AND CLASSIFICATION OF VOIDABLE TRANSACTIONS

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Abstract. The article analyzes the specifics of void and voidable transactions, which are types of invalid transactions. The types of disputable agreements are discussed and specific examples are given. The views of scientists on the classification of voidable transactions are analyzed. The author divides the contested agreements, which are the basis of the disagreement, into the following groups: the illegality of their content; the fact that individuals and legal entities concluding it are not entitled to conclude a deal; inconsistency of will and free expression of will; non-compliance with the form of the contract. The article also discusses the grounds for concluding that transactions made by individuals who do not understand the importance of their actions and cannot control them are invalid. Outlined the existing gaps in the regulatory documents and substantiated proposals for solving problems in practice.

**Keywords:** invalidity of transactions, transactions recognized as void, voidable transactions, transactions concluded due to incapacity.

#### НИЗОЛИ БИТИМЛАРНИНГ ТАЪРИФИ ВА КЛАССИФИКАЦИЯСИ

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Аннотация. Мазкур мақолада ҳақиқий бўлмаган битимларнинг турлари бўлган ўз-ўзидан ҳақиқий ҳисобланмайдиган ва низоли битимларнинг ўзига хос хусусиятлари очиб берилган. Шунингдек, низоли битимларнинг турларига тўхталиб ўтилган ва мисоллар келтирилган. Низоли битимларни таснифлаш борасидаги олимларнинг фикрлари таҳлил қилинган. Муаллиф келишмовчиликларнинг асоси бўлган низоли битимларни қуйидаги гуруҳларга
бўлиб ўрганади: мазмунининг ноқонунийлиги; уни тузувчи жисмоний ва юридик шахсларнинг
битим тузишга ҳақли эмаслиги; эрк-ирода ва эрк-ирода изҳорининг номувофиқлиги; битим
шаклига риоя этилмаганлиги. Мақолада, шунингдек, ўз ҳаракати аҳамиятини тушунмайдиган ва уларни бошқара олмайдиган шахслар томонидан тузилган битимларни ҳақиқий
эмас деб топиш асослари ҳам ёритиб ўтилган. Норматив-ҳуқуқий ҳужжатлардаги мавжуд
бўшлиқлар ва амалиётдаги муаммоларни бартараф этиш юзасидан асосли таклифлар билдирилган.

**Калит сўзлар:** битимларнинг ҳақиқий эмаслиги, ўз-ўзидан ҳақиқий бўлмаган битимлар, низоли битимлар, муомала лаёқатидаги нуқсонлар оқибатида тузилган битимлар.



#### ПОНЯТИЕ И КЛАССИФИКАЦИЯ ОСПОРИМЫХ СДЕЛОК

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Аннотация. В статье анализируются специфика ничтожных и спорных сделок, которые являются типами недействительных сделок. Обсуждаются виды спорных соглашений и приводятся конкретные примеры. Проанализированы взгляды ученых на классификацию спорных сделок. Автор разделяет оспариваемые договоренности, являющиеся основанием разногласий, на следующие группы: незаконность их содержания; тот факт, что физические и юридические лица, заключающие ее, не имеют права заключать сделку; непоследовательность воли и свободного волеизъявления; несоблюдение формы договора. В статье также обсуждаются основания для вывода о том, что транзакции, совершаемые физическими лицами, которые не понимают важности своих действий и не могут их контролировать, являются недействительными. Изложены существующие пробелы в нормативно-правовых документах и обоснованные предложения по решению проблем на практике.

**Ключевые слова:** недействительность сделок, сделки, признанные недействительными, оспариваемые сделки, сделки, заключенные вследствие недееспособности.

#### Introduction

Agreements concluded by persons with disabilities are considered invalid due to the inconsistency of the will and the expression of free will. Defective transactions can be made by citizens along with transactions made by individuals in normal condition. At the same time, citizens do not understand the importance of their actions and cannot control their will. This type of transaction is also a dispute because it is considered problematic to identify and resolve the issue.

Today, in practice, there are enough problems with the invalidity of transactions, so we can analyze this situation on the basis of statistics provided on the official website of the Supreme Court of the Republic of Uzbekistan. The analysis of case materials shows that the proportion of cases related to the invalidity of transactions in civil cases has increased significantly in recent years.

The purpose of the article and the problem to be solved. The purpose of this article is to develop a theoretical basis for overcoming the existing problems in practice in invalidating transactions concluded by persons with disabilities.

- 1. In what cases do the judges find the agreement to be disputed or invalid?
- 2. What are the grounds for determining a dispute agreement?
- 3. What are the peculiarities of a transaction concluded by a person with a defect in legal capacity?

Finding answers to the listed questions is the basis of writing an article.

Uzbek civil scientists such as H.R. Rakhmonkulov, I.B. Zokirov, O. Okyulov, D.M. Karakhodjaeva works were used. In addition, scientists from Russia and other CIS countries (S.P. Grishaeva, E.A. Sukhanov, A.P. Sergeev,

Y.K. Tolstogo, F.M. Rudinskogo, A.G. Kalpina,

A.I. Maslyaeva, L.G. Kuznetsova, Y.N. Shev-chenko) also analyzed the views of G. Dannemann, M. Joseph, J. Kelly, J. Watson and others from the USA and European countries. The article used the methods of comparison-comparison, analysis-synthesis, deduction and induction. Contested are transactions, the invalidity of which can be established only

in court (clause 1 of article 113 of the Civil Code). Until the court makes a decision on the recognition of such a transaction as invalid, it will be considered valid and give rise to civil rights and obligations.

Grounds for the invalidity of contested transactions, as a rule, are associated with some violation of the will of the person who concludes the transaction, or a third party whose will, by virtue of law, is important for the validity of the transaction. Since it is quite difficult to recognize the fact of violation of the internal will of a person, the challenged transaction remains valid until its invalidity is established by the court [1, p. 93].

Obviously, only a person whose will is supposed to be violated can judge the violation of the inner will. Therefore, the law, as a general rule, grants the right to challenge the relevant transactions only to such persons (clause 2, article 113 of the Civil Code of the Republic of Uzbekistan). Due to the fact that the will of a certain person is violated in a contested transaction, if this person approves the transaction, the grounds for invalidity disappear after its completion and the transaction becomes valid. Despite the fact that this rule is not directly expressed in the law, it is widely used in judicial practice.

The grounds for the invalidity of the contestable transactions can be classified on the basis of which of the conditions of validity was violated. This classification seems reasonable, since it provides an answer to the question of why the corresponding legal action is an invalid transaction. The validity of a transaction may directly depend on how valid the elements that form it are. Therefore, all invalid transactions can be combined depending on which of the elements of the transaction was found to be defective. So, invalid transactions can be divided into followings:

transactions with the vices of the subject composition,

deals with vices of will,

transactions with defects of form, - deals with content flaws.

When is a Contract Void?

A void contract is one that cannot be legally enforced. Neither party is bound by a contract declared to be void. Some reasons for a contract to be declared void include:

The good or service in the agreement is illegal or breaks a policy.

The sections of the contract are impossible to complete.

The sections of the contract are too vague. There is no consideration, or exchange of something that has value (e.g. money).

Any fraudulent acts including misrepresentation of facts.

Let's look at an example of a void contract. For example, an employment contract can become void if the employer asks the employee to do something illegal as part of their job. Or that same employment contract can become void if the employee breaks the law while performing their job.

When is a Contract Voidable? Now let's switch to voidable contracts. A voidable contract is only binding for one party. The other party of the agreement can choose to either accept or reject the contract. Some situations when a court could rule a contract to be voidable include:

One party was threatening the other to sign the contract.

One party was under undue influence.

There are problems in the contract that make it impossible for both or one party to carry out their side.

One party breaches the terms of the contract.

The impacted party can choose to release the contract or continue with it [2].

In accordance with paragraph 1 of Art. 121 of the Civil Code, a transaction made by a citizen, although capable, but who was at the time of its commission in such a state when he was not able to understand the meaning of his actions or to direct them, may be recognized

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by the court as invalid at the suit of this citizen or other persons whose rights or interests protected by law are violated as a result of its commission.

Transactions made by persons recognized by the court as incompetent due to a mental disorder are void because such persons do not have the ability to independently, purposefully act and assess its consequences. All transactions made by such citizens, including small household transactions, are void. If at the time of the transaction, a citizen suffering from mental disorders was not recognized by the court as incapable, but could not understand the meaning of actions or manage them, then such a transaction may be invalidated at the suit of his guardian (paragraph 2 of article 121 of the Civil Code).

If the transaction is declared invalid, then each of the parties to such a transaction is obliged to return to the other everything received in kind, and if it is impossible to return in kind, to reimburse its value in money (paragraph 2, paragraph 1 of article 171 of the Civil Code). A capable party is obliged, in addition, to compensate the other party for the actual damage suffered by it, if the capable party knew or should have known about the incapacity of the other party (paragraph 3, clause 1 of article 171 of the Civil Code).

In the literature and in judicial practice, a sufficient number of cases are known when establishing the incapacity of a person (a party to a transaction) is fraught with great difficulties in clarifying the actual circumstances of the case, collecting evidence testifying to a defective state of health (medical, military and many others) [3].

When an Intoxicated Person Enters Into a Contract? When an intoxicated person enters into a contract, the contract can either be enforceable, meaning held to the fullest extent of the law, or voidable by the intoxicated person. The court will look at two criteria that need to be present in order to make the contract voidable:

- 1. The intoxication was severe enough that the person entering into the contract was incapacitated.
- 2. The other party was aware of the intoxication at the time.

A voidable contract, in this instance, is one in which the intoxicated party can end the agreement under certain terms. To expand on the criteria above, in order for the intoxicated person to void the contract, there needs to be adequate proof that one of the following occurred:

- 1. The intoxicated person consumed enough alcohol or drugs to cause impairment in thinking sufficient enough that he could not understand the legal ramifications of entering into the contract.
- 2. The other party to the contract knew of the intoxication.

Alcohol or drugs cannot be provided to a party to a contract to entice or persuade them to enter into a contractual agreement. It should be noted that even if the intoxicated person is able to void the contract, once sober, the contract can be re-entered by the parties. Let's see what happens when a seemingly friendly night of drinking turns to a dispute over contractual capacity [4].

The rule that the person alleging his incapacity should be bound by his contract because intoxication is his voluntary act was at first relaxed by allowing him to show that his condition was brought about by the other party. But a more rational view now prevails. The law now regards the fact of intoxication and not the cause of it, and regards that fact as affording proof of want of mental capacity [5].

In general, we note that the principle of good faith corresponds to the ideas of the modern doctrine of civil law and has long been introduced into the legislation of the overwhelming majority of countries with a developed legal order. This principle allows, even at the pre-trial stage of the process, to widely apply measures of civil legal protection of persons suffering from diseases,

and to protect their rights at all stages of the transaction, suspension, termination of the transaction until the moment of its implementation [6].

In judicial practice, there are many cases when, when considering civil cases on the grounds of Art. 177 of the Civil Code it is difficult to distinguish between cases of sham transactions and transactions bypassing the law.

We believe that the distinction between actions aimed at circumventing the law and sham transactions in contractual legal relations should be made according to the direction of the will of the persons participating in them, especially since actions aimed at circumventing the law may be regarded by the court as an abuse of the right with intent to cause harm not only private but also public interests. [7].

Let's look at an example of a voidable contract. If you agree to buy a house, but then realize 6 months after purchase that there is an undisclosed problem the contract is voidable. Since you are the impacted party, you can either stick with the house (if you think you got a good deal) or void the contract.

The content of the transaction as the basis for the emergence of civil legal relations is a set of conditions constituting the transaction. For the transaction to be valid, it is necessary that the content of the transaction meets the requirements of the law and other legal acts, otherwise there is a flaw in the content of the transaction.

Also, the rules on the invalidity of transactions reflect the legislator's point of view on the ratio of such elements of the transaction as will and expression of will. The legislator will determine what value will (respectively - expression of will) will have in deciding the validity of transactions. For the validity of the transaction, it matters whether the statutory form of the transaction is observed. It is also important to note that this classification is conditional. Some grounds for

invalidity can be attributed to both a vice in the subject and a vice of will.

Together with certain compositions of invalid transactions, the law has formed a general rule according to which an invalid transaction is any transaction that does not meet the requirements of the law or other legal acts (Article 116 of the Civil Code of the Republic of Uzbekistan). The main role of such a general rule is manifested in case where a transaction is made that does not have the defects of its individual constituent elements, but one that may contradict the requirements in content and its direction.

Further, the scholar notes that, following the literal interpretation of Art. 116 of the Civil Code, it should be recognized that this article also covers the "marriage" of the elements that form the transaction. The norm formulated in Art. 116 of the Civil Code of the Republic of Uzbekistan, fixes the general concept of an invalid transaction, however, in the presence of a special rule establishing the invalidity of a transaction, depending on the defectiveness of its individual elements, a special rule is applied [8, p. 137].

However, 116 of the Civil Code of the Republic of Uzbekistan it is about the failure of the parties to the transaction to comply with the requirements of legal acts imposed on its content, and not about any violation. Violations of the form of the transaction, failure to comply with the requirements for the parties to the transaction, inadmissible defects of will and expression of will are considered as independent grounds for the invalidity of transactions. Thus, specified in Art. 116 of the Civil Code of the Republic of Uzbekistan, the basis for the invalidity of transactions suppose precisely the flaw in the content of the transaction.

Article 116 of the Civil Code of the Republic of Uzbekistan indicates a general basis for the invalidity of transactions with a defect in content, and Art. 115 and 124 of the Civil Code of the Republic of Uzbekistan contain



special compositions of invalid transactions with a defect in content. Transactions made with a purpose, obviously contrary to the foundations of law and order and morality, represent a whole qualified composition of the invalidity of the transaction, which does not meet the requirements of the law. Despite all this, a qualifying subjective moment is added to the composition of invalid transactions with content flaws - a goal.

| In 2012, 1,406 or 0.9 % of transactions were invalidated by courts throughout the country  |     |        |                             |
|--|-----|--------|-----------------------------|
| not complying with the requirements of the legislation; agreements entered into by a minor under the age of fourteen and between the ages of fourteen and eighteen |     |        | Articles<br>116-118,<br>CC. |
| transactions concluded by a citizen who has been declared incompetent and has limited legal capacity   | 4   | 0,3 %  | Articles<br>119-120,<br>CC. |
| an agreement made by<br>a citizen who does not<br>understand the significance<br>of his actions or cannot<br>control them  | 35  | 2,5%   | Article<br>121, CC.         |
| deception, coercion, intimidation, agreement of a representative of one party with the other party in bad faith or in the event of serious circumstances           | 676 | 47,9 % | Articles<br>122-123,<br>CC. |
| an agreement entered into<br>for fraudulent or fraudulent<br>purposes and beyond the legal<br>capacity of the legal entity   | 259 | 18,4%  | Articles<br>124-125,<br>CC. |

Consider an illustrative example from judicial practice. A contract which has been entered into by coercion is voidable at the instance of the person whose accent or acceptance of the contract had been obtained by coercion. For example, "A" threatens "B" with dire consequences unless "B" enters into a contract to sell a piece of land to "A" at Rs. 1. In this case, the contract to sell the

land is voidable at the instance of "B" and "B" can choose to either sell the land to "A" at the agreed price or avoid the contract by approaching a Court of law and getting the contract to be declared void.

Similarly, contracts entered into by fraud, misrepresentation or undue influence are also voidable at the instance of the person who was defrauded or to whom a misrepresentation had been made or was under undue influence.

The Civil Code introduced provisions that establish the possibility of compensation for damage caused by lawful actions of public authorities and their officials (Art. 16.1). Such compensation should be carried out only in cases provided for by law, therefore we propose to make appropriate changes to other legislative acts that make it possible to ensure the completeness of judicial protection to persons who are capable, but suffer from diseases that do not allow them to give an account of their actions in everyday life, incl. .h. and make deals.

Summarizing all of the above, we can draw the following conclusion. Contested transactions differ from void ones and their essence is not that voidable ones give rise to legal consequences, and insignificant ones do not. The main difference lies elsewhere. It is referred to as methods of invalidating such transactions. The law distinguishes situations when the transaction itself is declared invalid and cases when it is allowed to be challenged, that is, it distinguishes the invalidity of the transaction depending on the method of recognizing it as invalid. In the first case, the court undertakes to declare that a void transaction is invalid at the request of any natural or legal person, as well as on its own initiative, and in respect of contested transaction, the court cannot do this if the relevant statements of the interested person specified in the law are completely absent.

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