

THE CONCEPT AND ESSENCE OF MEETING DECISIONS

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The grounds for the creation, change and cancellation of civil rights and duties are usually determined at the legislative level. What these actions consist of as a rule is systematized and cited in Article 8 of the Civil Code. According to the first part of this article, civil rights and duties arise from the foundations of legislation and the actions of individuals. Only these actions should create rights and duties "according to the general principles and content of the legislation".

This norm expresses the scope of grounds for the emergence of civil rights and duties and their list is not limited, as well as the general conditions for evaluating this or that action as a basis for the emergence of civil rights and duties. For this reason, although it is not stipulated in the legislation, the requirement to comply with the "general principles (principles) and content of the civil legislation" within the framework of the action that creates civil rights and duties is defined in this norm.

According to experts, this norm was introduced to cover rare grounds and actions in civil law ¹. Such grounds and actions may not always have legal consequences and may not affect rights and obligations. However, the provisions of the first part of Article 8 of the FC are applicable to the situation of their legal consequences, and when the rights and obligations are affected, there is a basis for legal regulation.

The grounds and actions that affect civil rights and duties, i.e., that lead to their creation, change and annulment, are diverse, and the tradition of systematizing them or defining the most "famous" ones at the level of FC plays an important role in the regulation of legal relations. Therefore, the determination of the most important as the foundations and actions for the creation of civil rights also comes from the level of importance of certain social relations.

In the doctrine of civil law, any actions of citizens and legal entities aimed at creating and influencing civil rights and obligations are recognized as transactions, and this, in turn, is defined at the level of FC (Article 100 of FC). In general, the definition of any actions of citizens and legal entities that create rights and obligations or lead to

¹ shcherbinina I.V. K voprosu ob inyx deystviyax kak osnovaniyax vozniknovenia grajdanskix prav i obyazannostey // Pravo i gosudarstvo: teoriya i praktika. 2018. – No. 2(158). - S. 67.



their change and annulment as transactions is completely justified, and today it causes many ambiguities and misunderstandings. For example, experts have not decided on whether a decision of a state body or another type of document can be recognized as a transaction.²

In this regard, it is necessary to define new legal facts corresponding to such actions, departing from the tradition of defining all the actions of citizens and legal entities that create, change or lead to the cancellation of civil rights and obligations as transactions. One of such new legal facts³ is recognized as "decisions of meeting" in civil doctrine.

According to the explanatory dictionary of the Uzbek language, "meeting is a gathering of relevant persons on an issue; " gathering, assembly" .⁴ In fact, the words "gather", "gather", "meeting" in the Uzbek language mean gathering, gathering and discussion of a common issue between two or more people. For this reason, words such as "meeting", "counseling", "meeting", "discussion" or "convention" are generally close to each other and mean that several people agree or discuss common issues.

Some comments on the legal meaning of "meeting" have been expressed in the legal literature. In particular, according to S.S. Krivusheva, "the concept of "meeting" is used in the legal doctrine and legislation in a very broad sense and can be interpreted as a meeting to discuss a common issue on the agenda with the participation of the majority⁵ . " According to A.A. Teleshinin, "a civil-legal community can form a meeting, if such a gathering is named in the legislation as a meeting (for example, a meeting of participants of a corporation, co-owners or creditors in case of bankruptcy)"⁶ .

² Ogorodnikov M.S. Pravovaya priroda akta gosudarstvennoy registratsii prav na nedvizhimoe imushchestvo i sdelok s nim: analiz kontseptsii issledovatelye // Imushchestvennye otnosheniya v RF. 2018. – no. 5 (200). - S. 69-80.

³ Gerner-Beuerle C., Schilling M. Comparative company law . Oxford University Press, 2019; Saidov M.N. Issues of implementation and protection of the rights of participants of a limited liability company: jurisprudence. science. fake doc (PhD). dis. ... autoref. - Tashkent: 2023. - 24 b; Filippova S.Yu. Juridicheskie deystviya kak juridicheskie fakty v rossiyskom grajdanskom prave: diss. dr. walk science - M.: 2021. - 235 s; Imomov N.F., Mehmonov Q.M. Prospects for improvement of civil legislation (Part I, Part I of the Civil Code of the Republic of Uzbekistan (Articles 1-163)) (information-analytical material). - Tashkent: TDUU, 2019. - 70 p.

⁴ An explanatory dictionary of the Uzbek language. The letter "Y" // edited by A. Madvaliev. – 272 p / https://n.ziyouz.com/books/uzbek_tiling_izohli_lugati/Uzbek%20tiling%20izohli%20lug'ati%20-%20Y.pdf

⁵ Krivusheva S.S. Reshenia sobraniy kak juridicheskie fakty v rossiyskom grajdanskom prave: avtoref. dis. ... candy. walk science – Yekaterinburg: 2018. – 6 p.

⁶ Teleshinin A.A. Reshenie obshchego sobraniya uchastnikov khozyaystvennyx obshchestv v rossiyskom prave: dis. ... candy. walk science - M.: 2023. - 9 p.



In our opinion, not every meeting creates civil rights and obligations. In some places, there may also be meetings to resolve various household issues or take decisions on family matters. For example, family members, close relatives and friends gathered together and consulted on how to hold a wedding or maraka ceremony, and in this meeting some of them were assigned an obligation. But the person who was entrusted with the obligation did not fulfill it. In this case, the issue of legal consequences and liability of the obligee is not discussed here, and this meeting and its decision do not create civil rights and obligations.

In contrast, a community decision recognized as a meeting at the legislative level has its own legal consequences. For example, if Chapter 2 of the Law No. O'RQ-763 "On Insolvency" dated April 12, 2022 ⁷(hereinafter - Law No. O'RQ-763) provides provisions on the "meeting of creditors", then "Management of multi-apartment buildings" Chapter 5 of the Law on "general meeting of owners of premises in multi-apartment houses" is regulated .⁸

The fact that a single approach to determining the legal nature of the meeting's decisions has not been formed in civil studies, and that the system of the foundations of the formation of civil rights and duties has not been clearly defined, shows the need for a detailed analysis of the essence of this issue. In particular, many authors ⁹suggest to interpret the decisions of the meeting as a type of transactions. Another group of authors ¹⁰try to describe the decisions of the general meeting as a multilateral agreement, implying that the meeting is a collective structure, while the third group of specialists ¹¹try to recognize the decisions of the meeting as a multilateral corporate agreement.

A.I.Bibikov stated that "comparing meeting decisions to agreements violates the views formed in the doctrine of civil law regarding agreements , and creates new problems in the field of invalidating meeting decisions and related legal consequences" ¹².

⁷<https://lex.uz/docs/5957612?ONDATE=13.04.2022%2000#5958013>

⁸<https://lex.uz/docs/4586282>

⁹ Andreev V.K. Reshenia Sobrani // Civilist. 2013. – No. 3. – S. 23; Degtyareva A. Popravki v GK RF: analysis is changed. Novelly o resheniyax sobraniy // Administrativnoe pravo. 2014. – No. 2. – S. 14; Egorov A.V. Zakon i praktika: ot borby k edinstvu // EJ-Yurist. 2004. – No. 3. – S. 32.

¹⁰ Krashennnikov E.A., Baigusheva Yu.V. Odnostoronnii i mnogostoronnii sdelki // Vestnik VAS RF. 2012. – No. 7. SPS KonsultantPlus; Trukhanov K.I. Reshenia sobraniy – novaya category v Grajdanskom kodekse RF // Zakon. 2013. – No. 10. – S. 26.

¹¹ Klyachin A.A. Reshenie sobraniya kak yuridicheskiy fakt v korporativnom prave // Vestnik permskogo universiteta. 2015. Vypusk 4(30). - S. 60-67.

¹² Bibikov A.I. Reshenia sobraniy kak hrajdansko – legal act // Evraziyskaya advokatura. 2015. – No. 5 (18). - S. 31-32.

In our opinion, the decisions of the meeting are a type of the foundations of civil rights and obligations, distinguished by their own and special features, and according to their legal nature, they are considered an independent basis, and as a result of them, the conclusion of an agreement, factual or legal consequences may arise. In this case, the decision of the meeting should be formalized, documented and adopted in accordance with the appropriate procedure, decisions should be made by a large majority (2/3) or majority (50+1) voting, and there are other aspects that are not typical for transactions. . In addition, the meeting's decision-making is not decided by consensus or agreement, as in a deal, but on the basis of such factors as the ratio of minority and majority votes. Therefore, the decision of the meeting comes from the general principle that "the minority should obey the decision of the majority". In this respect, assembly decisions can be compared to processes in administrative law and electoral law, and in some respects they are very close. For example, at the meeting of the dissertation defense councils, the decision is made by a large majority vote, and the decision of this public structure is considered the basis for making a relevant decision by the competent body.

In determining the legal nature of meeting decisions, some authors rely on aspects specific to various legal facts and consider the meeting decision as a document of collective will that differs from an agreement ¹³; as ¹⁴an order document (normative or non-normative) of a body of a legal entity ; sui generis legal fact - as a corporate document of a corporate structure with the status of a legal entity ¹⁵; they interpret it not as an action, but as a result of the activity of organizing the implementation of the subjective right of the meeting participant to vote .¹⁶

In fact, meeting decisions can be distinguished from transactions according to the following characteristics:

1) the creation, change or cancellation of civil rights and duties is not a general action of unanimous and like-minded individuals, but the will of a community that agrees to accept the majority vote, even if it is against each other. Despite the fact that those

¹³ Kharitonova Yu.S. Nedeystvitelnost resheniy sobraniy i sdelok: tochki peresecheniya // Zakony Rossii: opyt, analiz, praktika. 2014. – No. 5. – S. 24.

¹⁴ Ganijev A.Ya. Pravovaya priroda i vidy resheniy obshchego sobraniya khozyaystvennogo obshchestva // Jurnal rossiyskogo prava. 2012. – No. 8. – S. 42; Lomakin D.V. Essay on theory of action law and practical application of action law. - M. : 2005. – 135 p.

¹⁵ Grajdanskoe pravo: v 4 t. t. 1. Obshchaya chast: uchebnik / otv. ed. prof. E.A. Sukhanov. - M. : 2004. – 215 p.

¹⁶ Rodionova O.M. O pravovoy prirode resheniy sobraniy i ix nedeystvitelnosti v germanskom i rossiyskom grajdanskom prave // Vestnik grajdanskogo prava. 2012. – No. 5. – S. 25.



who voted against the adoption of a decision have the means and opportunities to protect their rights, the decision of the majority creates, changes or nullifies civil rights and duties for this minority as well. At the same time, the basis of the decision of the meeting on the concept of collective will ¹⁷also corresponds to the collective theory of the nature of legal entities. Because, regardless of whether the collective will is acceptable or not acceptable to some of the members of the community, "like" or "dislike", everyone accepts it and has to fulfill its obligations;

2) the scope and content of the decisions of the meeting are more extensive and diverse than the deal. This is due to the fact that many different issues are discussed at the meetings. Whether it is a meeting of creditors or a general meeting of joint-stock companies (hereinafter referred to as joint-stock companies), each meeting can resolve various issues related to the subject or activity. For example, according to the fifth part of Article 12 of the Law O'RQ-763, the meeting of creditors makes the following decisions: "Decision on conclusion of settlement agreement; on electing members of the creditors' committee, determining the quantitative composition of the committee and premature termination of the powers of the members; about applying to the court with a request for the introduction of judicial rehabilitation or external management procedures and their term extension or early termination; to apply to the court with a request to start the procedure for declaring the debtor bankrupt and liquidating or to start the procedure for declaring the debtor bankrupt and liquidating without suspending the debtor's activities; on approving the court rehabilitation plan and approving the debt repayment schedule; on approval of external management plan" ¹⁸;

3) there is no indication that the resolutions of the meeting are recognized as a legal document directly regulating corporate relations or as an internal local document of the corporate structure. Within the framework of various meetings (general meeting, supervisory board meeting, meeting of minority shareholders, etc.) held within the framework of corporate relations, the solution of the issues determining the activity of the corporate structure or solving the issues important for it is determined. Decisions of this meeting, unlike multilateral agreements, may also affect the rights and obligations of persons who did not participate in it. For example, 10 shareholders did not participate in the general meeting, which in turn does not mean that the

¹⁷ Rahmankulov H.R. Subjects of civil law. - Tashkent: TDYuI, 2008. - B. 60-62; Imomov N.F. Civil-legal interpretation of the essence of a legal entity (theoretical issues). - T.: TDUU, 2017. - B. 18-20.

¹⁸<https://lex.uz/docs/5957612>



decision of the general meeting excludes their rights and obligations. On the contrary, this decision of the general meeting applies to all shareholders in JSC and creates rights or obligations for them;

4) as noted above, the nature of the transaction as an action can be interpreted differently in the decisions of the meeting. Participants do not act when making decisions at the meeting, but exercise their subjective rights within the meeting - the right to vote. Their vote may not produce the result they expected. However, what is important is not this, but whether the participant has exercised or refrained from exercising the subjective right. Abstaining from the transaction does not lead to the creation of rights and obligations, and therefore the transaction is considered only as an action.

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