

Essential Elements of a Contract

Aysel Sharifova

Master degree student of Commercial Law,
Law Faculty, Baku State University

Key words: main elements, lawful consideration, agreement between parties, offer, acceptance, competent parties, meaning of the contract, legal relationship, legal formalities

Contract law differs from other fields of law. It contains rather a number of limiting principles, subject to which the parties can create rights and duties for themselves.

Contract is an agreement between two or more parties. The creation of the contract starts with agreement, which is one of essential elements of the it. An agreement between parties consist of two main elements which are offer and acceptance. An agreement is reached when the offeror makes an offer and the offeree accepts that offer. For the valid offer the offeror should make offer with a view to obtain acceptance and with the intention of to create legal relationship. The terms of the offer should be certain. The offer can be accepted by words or conduct. And the agreement is concluded at the time when the acceptance is received by the offeror. Under this element we can see that there are essentially to be two parties to an agreement.

Other essential thing in this agreement between the parties that they both have to think of the same thing in the same sense.

The parties competent to contract is one of the main elements. It means that the parties have to be competent to enter into a contract. If the age of one of the parties does not let him/her to sign contract this party is not competent to sign it.

Under common law consideration one of es-

sential elements of the contract. The main issue here that consideration should be lawful. The main point in consideration is that each party to the contract have to give or promise something and receive something or a promise in return. The value of the consideration does not need to be adequate compensation for the promise, but it must be sufficient. Consideration is the price, but it does not need be in terms of money. It can be a right, interest, profit or benefit. Under civil law countries consideration is not important.

The meaning of the contract has to be certain, because if the meaning is not certain or the vital terms are incomplete the contract cannot enforceable under law. For example, when we sign contract the object should be described detailed.

When the parties agree about the terms and conditions of the contract they should take into consideration that this terms can be capable of performance. The parties may agree about some terms which should not enforceable.

The parties should have intention to creat a legal relationship otherwise without it there cannot be legal relationship. The object of the agreement has to be lawful otherwise the contract can be invalid. For example, in the purchase agreement the parties cannot agree about the object which turnover was banned by law.

Under Civil law and laws of other countries we can see that there are some requirements for the particular type of the contracts. Under Civil law we can see that the purchase agreement of the immoveable property should be sign in written form and registrated. So without this formalities such contracts cannot enforceable at law.

REFERENCES:

1. 'Civil Code' of the Republic of Azerbaijan , 1 September, 2000
2. http://www.legiscompare.fr/web/IMG/pdf/9._CH_1_Contrat.pdf
3. <http://www.constructionlawmadeeasy.com/chapter1>
4. Gregory E. Maggs, Comparative Contract Law American and European , section 4
5. Business Law including company law , chapter 1, p 2

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Xülasə

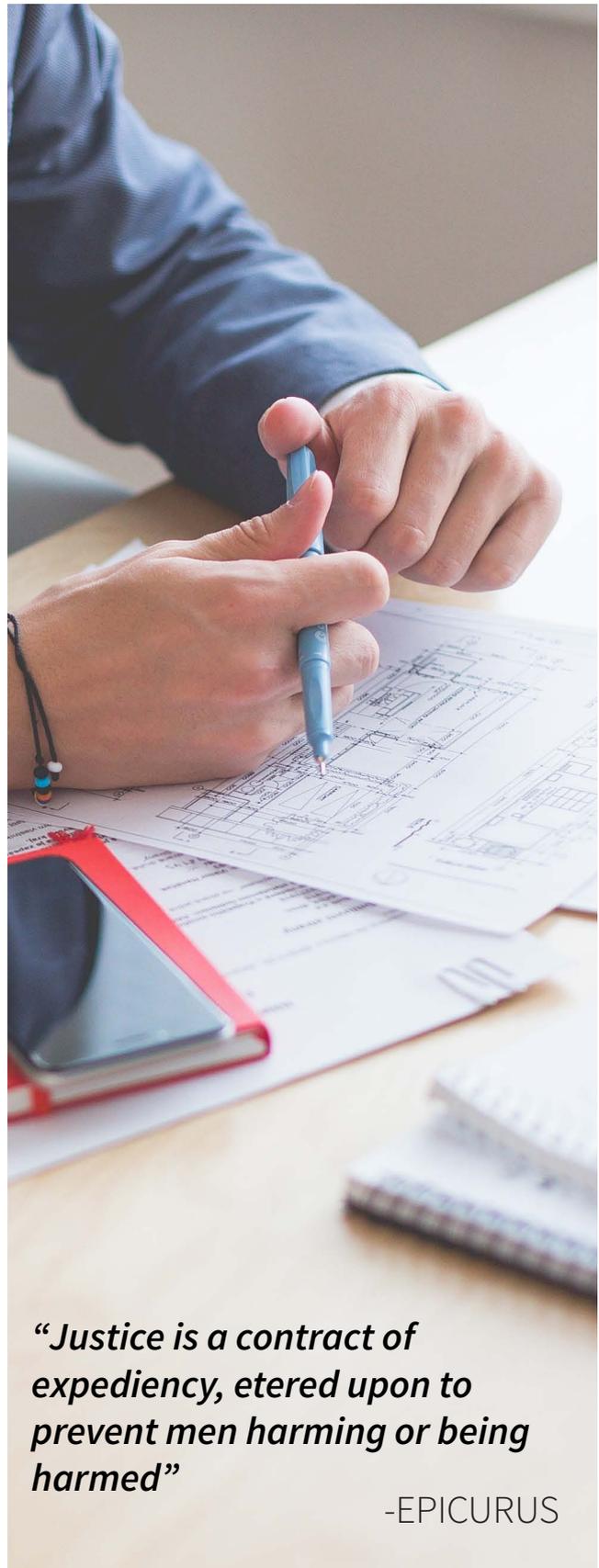
Açar sözlər: əsas elementlər, tərəflər arasında razılıq, oferta, aksept, hüquqi münasibətlər, qanunun tələb etdiyi forma

Məqalədə əsasən müqavilə hüququ, müqavilənin anlayışı, müqavilənin bağlanması və etibarlı hesab edilməsi üçün mühüm şərtlər təhlil olunmuşdur. Hər bir şərt ayrı-ayrılıqda təhlil edilərək izah olunmuşdur.

Резюме

Ключевые слова: контрактное право, основные элементы, предложение, принятие предложение, правовые отношения, в форме предусмотренной законом

В данной статье был проведен анализ понятия контрактного право контракта, основные условия для заключение и учитывание действительным контрактов. Каждое условия проанализируется и объясняется отдельно.



“Justice is a contract of expediency, entered upon to prevent men harming or being harmed”

-EPICURUS