LEGAL REGULATION OF CERTAIN TYPES OF UNNAMED CONTRACTS

REGLEMENTAREA LEGALĂ A UNOR TIPURI DE CONTRACTE NENUMITE

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Summary: *To date, the topic dedicated to the institution of an unnamed contract in the civil law of the Republic of Moldova is relevant, however, due to little study, it remains open for comprehensive legal research. Whenever a question arises regarding the criteria for non-named contracts, the application of imperative and dispositive norms to them, the definition of the boundaries of freedom to conclude such contracts, the legislator faces difficulties, both at the level of doctrine and at the level of practice. The regulation of civil relations is possible not only through their consolidation in the normative order, but also through the individual consolidation of the contract between certain subjects, in a certain order and on certain conditions, since the subjects of civil circulation, guided by the principle of freedom of contract, They are free to conclude both stipulated and non-statutory contracts. Such contracts are called nameless, atypical, unnamed, unnamed contracts. The conclusion of independent unnamed contracts is due to the fact that the subjects of civil legal relations have new needs associated with the growth of scientific and technological progress, the improvement of information networks in a competitive environment. The reason for all this was the evolution of the economic life of the Republic of Moldova and its transition from administrative methods of managing the economy to the principles of a market economy, which entailed the entire civil turnover and, subsequently, the modern contractual forms that arose.*

Key words: *subjects of a civil contract, unnamed contracts, principle of freedom of contract, institutions of law*

Rezumat: *Până în prezent, tema dedicată instituirii unui contract nenumit în dreptul civil al Republicii Moldova este relevantă, totuşi, din cauza puţinului studiu, rămâne deschisă cercetării juridice cuprinzătoare. Ori de câte ori apare o întrebare privind criteriile pentru contractele nenumite, aplicarea normelor imperative şi dispozitive acestora, definirea limitelor libertăţii de a încheia astfel de contracte, legiuitorul se confruntă cu dificultăţi, atât la nivel de doctrină, cât şi la nivel. de practică. Reglementarea raporturilor civile este posibilă nu numai prin consolidarea lor în ordinea normativă, ci şi prin consolidarea individuală a contractului dintre anumiţi subiecţi, într-o anumită ordine şi în anumite condiţii, întrucât subiecţii circulaţiei civile, ghidaţi de principiul de libertate contractuala, Sunt liberi sa incheie atat contracte stipulate cat si contracte nestatutare. Astfel de contracte se numesc contracte fără nume, atipice, fără nume, fără nume. Încheierea de contracte independente fără nume se datorează faptului că subiecţii*

raporturilor juridice civile au noi nevoi asociate cu creşterea progresului ştiinţific şi tehnologic, îmbunătăţirea reţelelor informaţionale într-un mediu concurenţial. Motivul pentru toate acestea a fost evoluţia vieţii economice a Republicii Moldova şi trecerea acesteia de la metodele administrative de conducere a economiei la principiile unei economii de piaţă, care a presupus întreaga cifră de afaceri civilă şi, ulterior, formele contractuale moderne care apărea.

Cuvinte-cheie: *subiecţii unui contract civil, contracte nenumite, principiul libertăţii contractuale, instituţii de drept*

Introduction: With the entry into force from March 1, 2019 of the modernized Civil Code of the Republic of Moldova in a new edition, the general picture of the development and regulation of public relations has changed. Introduced new art. 994 of the Civil Code of the Republic of Moldova "Contract named and unnamed in the law" in essence explains the presence in the general system of contracts such as: named and unnamed, when the old edition of the Civil Code of the Republic of Moldova only mentioned such contractual structures, but did not explain their essence. In the monograph, we describe in detail the history of the emergence of unnamed contracts, disclose the principle of freedom of contract as the main principle, which is the basis for the emergence of certain types of unnamed contracts, disclose the content of these contractual structures, subject, purpose, direction.

Part (1) of Art. 994 of the Civil Code of the Republic of Moldova, the legislator stipulates that the contract named in the law is the contract that is specially regulated by the law, and the rest of the contracts are contracts not named in the law. The legislator does not fully disclose the essence, subject, purpose, direction of unnamed contracts. Therefore, using the example of certain types of unnamed contracts, we will conduct a detailed analysis of such unnamed contractual structures in this work, which will allow us to come to certain scientific conclusions and recommendations that will form the basis for the interpretation of unnamed contracts and will be included as additions to the articles regulating the named and contracts not named in the law.

Part (2) of Art. 994 of the Civil Code of the Republic of Moldova states that the following applies to unnamed contracts:

a) Agreement of the parties, that is, the parties have reached agreement on the conclusion of the contract;

c) Legal provisions applicable to contracts and contractual obligations in general, that is, the contract itself is not something new, but a kind of union, where the legal provisions already applied in law both to contracts and to obligations arising from contracts;

c) The practice and customs prevailing between the parties in this area, if any, that is, it is impossible not to take into account the existing practice and customs in this area, if they exist;

d) Legal provisions applicable to similar named contracts, insofar as they are compatible with the nature and purpose of the contract not named in the law, that is, the already established rules of law applicable to similar named contracts that are related to the nature and purpose of the contract not named in the law.

Next, we will consider certain types of unnamed contracts in the following areas: information law and service provision; transport law; in the educational field; animal husbandry.

a) Unnamed contracts in the field of information law and the provision of services

Information activity is carried out by providing information by various media sources. Information law is a branch of law, representing a combination of legal norms coordinating public relations in this area, coordinated with the circulation of information, information resources, information systems in order to securely improve the information needs of citizens and the whole society [8, p. 217-221]. Information law involves a set of methods of influencing such legal relations, including dispositive regulation and mandatory regulation [6, p. 27].

Information is knowledge that is processed, stored and transmitted [20, p. 2]. Day by day, society is becoming more and more dependent on new information and advertising technologies [31, p. 32].

The production and circulation of advertising activities has a great impact on the improvement of economic relations associated with various kinds of goods. In order to present your product among many other products, as well as in order to lure and not miss your buyer, what tricks manufacturers do not go to, while spending a lot of money on advertising their product, because the advertised product attracts buyers much more efficiently. All activities related to advertising show us a real picture of the economic condition of a particular region, the country as a whole.

Agreements in the field of information law and provision of services: agreement on advertising placement; an agreement on the placement of programs and commercials; sponsorship agreement; contract for the production of a presentation film; an agreement for the placement of advertisements in a periodical; a contract for the placement of advertising on a trolleybus; contract for the receipt and processing of postal items; courier service agreement; an agreement on the provision of services to legal entities; contract for the distribution of invoices; an agreement on the provision, distribution and distribution of simple postal items with a paid answer; an agreement on the distribution of material assistance; agreement on the placement of information and advertising materials; contract for water supply and waste water intake, etc.

The importance and significance of advertising policy, its impact on consumers, the growth of competitive relations, have led to the establishment by the state of its own methods of protection, expressed in the form of the

introduction of mandatory legal norms that must be observed in order to eliminate consumer fraud and protect against it.

After examining the legal framework governing the implementation of this activity in the Republic of Moldova, let us dwell on some points [25, p. 81-86]. The Law of the Republic of Moldova “On Advertising” in Part (1) Art. 18 stipulates: “Advertising on vehicles intended for the carriage of passengers, delivery of goods and provision of services shall be carried out without the permission of local public authorities on the basis of an agreement with the owner of the vehicles” [15]. Based on the content of the article, it is clear that the legislator provides for the possibility of concluding a contract, but does not indicate which contract is in question. Part (8) of Art. 993 of the Civil Code of the Republic of Moldova stipulates: “The parties may conclude named, not named in the law, as well as mixed agreements”. In our opinion, we are talking about an unnamed contract, such as a contract for the placement of advertising on a trolleybus.

Let's pay attention to the placement of advertisements on radio and television. On the one hand, regulation of advertising on radio and television protects the viewer from its unlimited quantities, on the other hand, it contributes to the enrichment of the TV company, since the income from it is an indispensable condition for the successful operation of the TV company. According to the Code of Television and Radio of the Republic of Moldova No. 260-XVI of 27.07.2006, namely part (7) of Art. 19: Advertising and TV trade are placed in accordance with the Law "On Advertising" [30]. And in Art. 13 of the Law of the Republic of Moldova "On Advertising" stipulates the broadcasting time of advertisements, the placement of advertisements, the duration of advertisements, but nothing is said about the document on the basis of which document the broadcasting, placement of advertisements on television is carried out. In practice, such agreements exist, but they are not enshrined at the legislative level. There is an unnamed contract (a contract for the placement of advertisements on television).

In judicial practice, there is also such a type of contract, which is qualified by the court as a contract for the provision of advertising services. So in the Definition of the GSP of the Republic of Moldova No. 2rac-522/13 dated 10.10.2013 [3] it was stated that an advertising contract had been entered into between UBSA and the TGWWSRL. Under the terms of this agreement, TGWWSRL has undertaken to provide advertising services for UBSA on the Internet. When considering this case, the court was guided by the norms of civil legislation on contracts for the provision of services. We believe that the court incorrectly qualified this type of contract, since the Civil Code does not provide for the legal regulation of an advertising contract. It is a mistake to qualify an advertising contract as a service contract, since the subject of an advertising contract is not services, but the production of advertising by the advertiser, then its placement. In this case, we consider that the advertising contract belongs to

the number of unnamed contracts. The court must determine the qualification of the contract, while analyzing the direction of the contract, its subject matter, object, and if it concerns the recognition of the contract as unnamed, it is necessary to eliminate its consideration as named.

Having studied the Law of ATU Gagauzia "On Television and Radio Broadcasting", namely part (3) and part (4) of Art. 17, where it is said: "Program distributors can place advertisements of which they are the authors, while intended for advertising, and provided on airtime to third parties in accordance with an agreement concluded with the broadcasting organization. When distributing advertisements by program distributors, in accordance with an agreement concluded with an entity entitled to airtime, the display of the commercial must be accompanied by clearly visible identification marks of the retransmitting television and radio organization"[11]. As we can see, it is mentioned about the conclusion of the contract, and what kind of contract is in question, we can only guess. This is an unnamed treaty. For example, an agreement on the placement of programs and commercials.

Having analyzed in detail the Law of ATU Gagauzia "On Television and Radio Broadcasting", namely Art. 27 "Functions of the Public Broadcasting Company GRT", which describes in detail the functions carried out by this TV and radio company, as well as, having studied the legal framework governing the practical activities of this company, revealed a number of functions that are carried out by the public broadcasting Company "Gagauziya Radio Televizionu", and on contractual basis, but for some reason not specified in this law. We believe that we are talking about unnamed contracts. For example, an agreement on the placement of advertisements, an agreement on the placement of programs and commercials, an agreement on the production of a presentation film, an agreement on the provision of sponsorship.

Now let's pay some attention to the placement of advertisements in periodicals. Thus, according to the Law of the Republic of Moldova No. 243 of 26.10.1994 "On the press", namely in Art. 1 states: "In the Republic of Moldova, freedom of the press acts as a fundamental right, reflected in the Constitution. The state acts as the guarantor of the right to free expression of personal opinion and views, the right to acquire reliable information about all events through various periodicals and press agencies that carry out activities within the framework of political pluralism, while observing the legislation on copyright"[16].

The process of placing advertisements in print media is reflected in the Law of the Republic of Moldova "On Advertising", namely in Art. 14, where it is stated: "In print media receiving subsidies from the state budget, not intended for messages and materials of an advertising nature, advertising should be more than 30 percent of the volume of one issue". These conditions do not apply to printed publications registered and specialized in messages and materials of an advertising nature, containing such information.

Note that the legislator does not indicate how the distribution of advertising is carried out and by what means. In practice, there is a valid contract for the placement of advertising in a periodical, containing the subject of the contract, the basic rights and obligations of the subjects of the contract, the cost and procedure for settlements and the liability of the subjects under the contract, the procedure for resolving disputes, the duration of the contract and the terms of termination of the contract. Based on the above, I would like to note that we are dealing with an unnamed treaty. Determining the direction of the contract, its content, the court must compare it with other contractual models in order to adjust this contract to the structural model established by law. If the specified agreement does not fall under any of the legally established named models, we believe that this agreement is unnamed and will be subject to the provisions of the law of obligations. Such contracts must be enshrined in the Civil Code of the Republic of Moldova, along with design services disclosed in part (4) of Chapter XI, information and consulting services disclosed in part (5) of Chapter XI, medical services disclosed in part (6) Chapters XI.

We can find unnamed contractual structures everywhere. For example, such agreements are concluded at the post offices of the Republic of Moldova. Studying the legal framework, we identified some points where I would like to dwell in more detail. In the Law of the Republic of Moldova No. 36 of March 17, 2016 “On Postal Service”, in Part (1) of Art. 1 established: “This law provides for the basic norms and conditions of activity in the field of postal communications, the legal basis for the implementation of postal services and the provision of access to the universal postal service, the relationship between postal service providers and those who use postal services, the rights and obligations of the state as individuals and legal entities”[17]. I would like to draw your attention to the fact that the provision of postal services is carried out on a contractual basis, but the legislator only mentions this in passing in Art. 14 and Art. 25 of this law. Although in reality, many agreements are concluded in this area. For example, a courier service agreement.

b) Unnamed contracts in the field of transport law

Such relations continue to grow in the Republic of Moldova, and within the framework of these relations, the transport agreement takes an increasingly important place [19, p. 22]. The object of transport law is the relationship between transport enterprises and the clientele arising from the provision of services for the operation of vehicles for the implementation of the transportation process [5, p. 12]. Transport law covers a whole range of obligations that formalize the transfer of material goods from one person to another and constitute the lion's share of property relations [21, p. 14]. Quite often, the management of the enterprise (employer) negotiates with the employee the issue of using his personal car in the process of carrying out his work (for example, for transportation by a hired driver of certain employees of the enterprise in his own

minibus), and for this the employee will be paid a certain monetary compensation (in addition to the accrued his salary) [28, p. 79-85].

Practice shows that this kind of legal contractual relationship is not always documented and correctly formalized, although they generally correspond by their nature to many signs of a civil law contract, since sometimes there is / circulates an erroneous opinion, according to which these legal relations follow narrowly from the content of the concluded individual labor contract (ITD), or such relations follow from the contract of property lease, contract of carriage. In this regard, there is an objective need for a detailed study of the legal aspects of this multifaceted issue.

Let us focus on the nature of the employee's exploitation of his vehicles in the interests of the enterprise and providing him with cash payments for such consumption. For example, when a taxi company hires an employee (taxi driver) with its own transport to work on ITD. In Art. 192 of the Labor Code of the Republic of Moldova (hereinafter referred to as the Labor Code of the Republic of Moldova) states that: "A person who uses his property with the permission or with the knowledge of the employer and in his interests is allocated cash payments for the use of maintenance and wear and tear of own vehicles, tools, equipment and other materials, and technical means and reimbursement of the costs associated with their use. The amount of monetary payments is determined by a written agreement between the subjects of an individual labor contract"[7]. These conditions are true in principle, but at the same time let us note that the operation of a personal car by an employee in the interests of the enterprise and the payment of compensation to him are all relations of a property nature, which are built on equality of parties, on property independence, on freedom of expression, i.e. they fall under civil law relations, but not labor relations. The payment of a certain remuneration (compensation) to an employee for the fact that he uses his own car in the interests of the enterprise falls under the principles of civil law.

So, in particular, according to part (2) of Art. 9 of the Civil Code of the Republic of Moldova established that: "Civil rights and obligations arise:

a) from transactions and contracts;

b) from the acts of public authorities provided for by law;

c) from a court decision that approved the rights and obligations;

d) on the basis of the formation and acquisition of property on grounds not prohibited by law;

e) on the basis of the formation of objects of intellectual activity;

f) as a result of harm to another person;

g) as a result of unjustified enrichment;

h) as a result of other acts of individuals and legal entities and events, with which the legislation unites the onset of civil law consequences".

A careful analysis of the above legal provisions reveals that the provisions of paragraph a) part (2) of Art. 9 of the Civil Code of the Republic of Moldova,

according to which civil rights and obligations arise from contracts and other transactions. It is necessary to substantiate the judgment presented above in the following form, that is, labor law provides for the employer's obligation to create normal conditions for the employee to perform his duties. If a person is hired as a driver, it is assumed that the company has a vehicle and the employer has an obligation to provide the employee with a technically sound vehicle in order to fulfill his job duties. According to labor law, the employee has no obligation to independently provide himself with a proper transport vehicle. In practice, there are cases when an enterprise needs transport services, since it does not have its own vehicles, and then the activity of the employee - the owner of the vehicle, provides for the execution of an individual labor contract, and in turn, the operation of an employee of his own car provides for the conclusion of a civil contract. In this context, there is a strong belief that the company is obliged to pay monetary compensation to the employee for using his own car in the interests of the company and at the same time the employee's right to receive such compensation arises through their mutual agreement.

It is important to consider what the tax legislation provides in this regard. Thus, in accordance with clause a) of article 19 of the Tax Code of the Republic of Moldova (hereinafter the Tax Code of the Republic of Moldova), it is provided that taxable benefits provided by the employer also include payments made by the employer in order to compensate the employee's own expenses, as well as reimbursement of payments in favor of the employee. carried out by another person; this one way or another emphasizes the property nature of this kind of specific relations arising from the income of the latter [29].

Considering that the owner of the car, used with the consent or with the knowledge of the employer in the interests of the enterprise, is an employee, then undoubtedly he owns, uses, disposes of his car as part of his labor activity in accordance with the ITD.

It may be assumed that the use of his own car by an employee in the interests of the enterprise is feasible on the basis of a property lease. In this regard, the provisions of Art. 1251 of the Civil Code of the Republic of Moldova prescribes that: “Under a property lease agreement, one entity (lessor) undertakes to provide another entity (lessee) with an individually defined thing for temporary use or for temporary use and possession, and the employer undertakes to provide payment for this”. In other words, in this case we are talking about the granting of the right to use and possession for a short period of time, whereas in the situation we have described, there is no question at all about the temporary provision by the employee of his own car to this enterprise, and the employee continues to independently own, use and dispose the given vehicle for the benefit of the enterprise.

At the same time, the use by an employee of his own car in the interests of the enterprise can in no way be recognized as the consumption of this vehicle according to the contract of carriage, since, according to Art. 1411 of the Civil

Code of the Republic of Moldova: “Under the contract of carriage, one party (carrier) undertakes to the other party (passenger or freight forwarder) to transport the passenger, his luggage or thing to the designated point for a set fee, in respect of which the other party undertakes”.

The content of the cited provision assumes that the purpose of the contract of carriage is the transportation of the passenger's baggage /belongings to the destination in exchange for the fee set by the parties. In our case, it is not the carriage /transportation of the passenger's baggage /belongings that takes place, but the achievement of a different goal, namely: the use of a personal car by the employee in the process of carrying out his work duties.

Thus, the aforementioned legal provisions from the Civil Code of the Republic of Moldova, on the one hand, and the conclusions and/or consequences arising from them, on the other hand, allow us to state that the employee's use of his own car in the interests of the enterprise is not carried out on the basis of a property lease agreement or a contract of carriage. In other words, when an employee uses his car in the interests of the enterprise, the legal prerequisites for the execution of these three types of civil contracts or other similar /similar transactions are excluded.

At the same time, the employee's operation of his personal transport in the interests of the enterprise (within the framework of his work duties) with the subsequent provision of compensation for such consumption of his own vehicle - it cannot be legally recognized that such operation and such compensation are made exclusively in accordance with the individual labor contract (further ITD), as well as based on:

1) The provisions of the Road Transport Code No. 150/2014 (hereinafter referred to as CAT), regulating the basic legal relations in the field of road transport, do not in any way regulate the procedure for using a personal car by an employee in the interests of the enterprise, from which it logically follows that the parties to the ITD have the right to freely conclude an anonymous transaction (contract) in order to properly formalize autonomous contractual civil relations (to ensure proper protection of the economic interests of both parties) between the owner of the car (he is an employee) and the enterprise (he is also an employer), since we are talking about the provision of certain (specific /peculiar) transport / side services as such within the framework of labor activity on the basis of ITD [22].

2) The use by an employee of his personal car in the interests of the enterprise means that such a vehicle is a source of increased danger, which inevitably requires a clear definition by the parties of their civil rights and obligations arising from this autonomous agreement (contracts), including taking into account the requirements provided for legislation, as well as regulating the conditions for bringing the guilty person to justice in the event that the harm was caused by a source of increased danger; such a range of civil obligations in relation to subjects by its content leads, one way or another, to civil law relations,

and as a consequence, to the need to formalize an unnamed contract (agreements) in this sense;

3) The norm of h. (2) Art. 192 of the Labor Code of the Republic of Moldova stipulates that the amount and procedure for payment of compensation are determined by a written agreement of the parties to the ITD. Otherwise, the legislator allows the subjects of ITD to draw up a special separate agreement, but does not determine the legal nature of such a bilateral agreement, which implies that the subjects have the right to independently and freely conclude a civil contract (for example, in the case of an employee using his own car, taking into account acceptable principles and provisions of CAT and CC RM).

The legal theses and arguments formulated above provide a full basis for the fact that the use of his personal car by an employee in the interests of the enterprise is legally carried out on the basis of an unnamed contract.

At the same time, from the content of the stated theses and arguments, it follows that at present there is an objective need for the legislator to implement a number of specific additions to the current legislation regarding a clear, complete and reasoned regulation of the employee's operation of his personal car in the interests of the enterprise.

In order to properly regulate the operation by an employee of his personal vehicle in the interests of the enterprise, it is proposed to make additional changes to the following legislative acts:

- in Art. 192 of the Labor Code of the Republic of Moldova as follows: “An employee who uses his own property at the will of the employer and in his interests, in accordance with the concluded agreement on the use by the employee of his own property (personal car, tools, equipment, technical means and other materials) in the interests of the enterprise provides monetary compensation for the use and wear and tear, as well as reimburses the costs associated with their use”.

To supplement the Civil Code of the Republic of Moldova with an article entitled: “Agreement on the use by an employee of his own property (personal car, tools, equipment, technical means and other materials) in the interests of the enterprise”.

c) Unnamed contracts in the sphere of education

The educational sphere presupposes the presence of new contractual structures that allow improving the education system in the Republic of Moldova.

Today, unnamed contracts concluded in this area can be encountered, both in the field of vocational, secondary specialized and higher education. Practice is a component of the entire educational and basic professional program, thereby enabling students to apply the acquired knowledge and experience in one or another activity related to their future work. As you know, both students and teachers (organizers, leaders of practice) can be considered as subjects of a particular type of practice. Often during the internship, it is necessary to have contracts confirming the consent of both parties to the internship. As a rule,

contracts of this type are concluded in practice, but their legal regulation remains outside the law, since depending on the type and direction, the types of contracts concluded also change. Here are examples of the existence and conclusion of such agreements:

- Agreement on internship on the basis of educational institutions;
- Agreement on the organization and conduct of practical internships for students of the 1st cycle - licensure and 2nd cycle - master's degree;
- Cooperation agreement;
- Consortium Agreement;
- Agreement on accreditation [26, p. 45-50].

According to part (4) of Art. 100 of the Education Code of the Republic of Moldova of July 17, 2014 No. 152 provides:

- Internship is carried out on a contract basis, between a higher educational institution and / or students with structures providing places for internship [1].

We are dealing with unnamed contracts, such as: a contract for internship on the basis of educational institutions; an agreement on practical internships for students of the 1st cycle (licentiate) and 2nd cycle (master's degree) and others having their own individual object, their own focus.

Further, Art. 8 of the Education Code of the Republic of Moldova provides that:

1) In this area, social dialogue is stimulated, joint activities, both between research organizations and educational organizations. I would like to draw your attention to the fact that the legislator only mentions the concluded contract, which gives reason to assume that such a contract is devoid of legal regulation.

2) The Ministry of Education, Culture and Research of the Republic of Moldova forms and implements in practice national programs for the improvement of education on the basis of consultations and explanations carried out with central and local public administration authorities, together with other social partners. In the same place, the Education Code of the Republic contains the concept of a consortium, which implies the reunification of organizations, as well as educational institutions that carry out educational, competitive, research, creative, scientific, activities by signing a partnership contract that does not contradict the legislation of the Republic of Moldova.

Part (2) of Art. 84 of the Education Code of the Republic of Moldova stipulates that: “Higher educational institutions are granted the right to unite in consortia and innovative or artistic and creative organizations on the basis of a partnership agreement”. The legislator only mentions this type of contract, which once again proves that this contract is also devoid of legal regulation.

In the Education Code of the Republic of Moldova, in part (1) Art. 94 stated: “Strategies for post-university education are implemented in doctoral schools and are subsidized through various methods. Doctoral schools are formed in higher educational institutions, as well as within concluded consortia

or partnerships, with the participation of organizations in the scientific and innovation spheres".

A consortium is an expressed consent to unite certain entities together with the ultimate goal - the implementation of various kinds of projects and programs in different areas. The purpose of creating a consortium is usually the implementation of an investment project. For this, all members of the consortium must jointly direct all their efforts for its implementation.

Appendix No. 1 to the Decree of the Government of the Republic of Moldova No. 616 of May 18, 2016 The methodology for assessing the quality and accreditation in the field of education of institutions of higher, vocational, and continuing education suggests: "The strategies of various consortia in the field of higher education formed by their branches of higher education institutions are subject to analysis"[2].

An example of such an agreement is the agreement on a consortium of universities from the Republic of Moldova, Romania, Ukraine. In the Law of the Republic of Moldova "On Public Associations" No. 837 of 17.05.1996, namely in paragraph i of Art. 24 it is prescribed: "Such associations enter into various kinds of agreements with any entities: material, economic, production". Part (3) of Art. 33 of the Law of the Republic of Moldova "On Public Associations" states that: "The local authorities are in solidarity with public associations, empowered to carry out socially useful activities by signing cooperation contracts"[14].

According to the Law of the Republic of Moldova No. 436 of 28.12.2006 "On Local Public Administration", namely part (1) of clause of art. 29, where it is stipulated that: "The local public administration authorities are assigned: in part (1) of art. 4 of the Law on Administrative Decentralization, the mayor carries out the following obligations in the territory under his jurisdiction: maintains cooperation relations with localities of other countries, promotes the expansion of cooperation and direct ties with them"[13]. Again, the legislator mentions the existence and possibility of concluding such agreements (contracts) on cooperation, however, this is limited, although in reality they exist, moreover, concluded both at the national and international levels. For example, the signed Agreement on the Association for Cooperation and Integrated Management of Household Waste and the Implementation of Other Development Projects in the Comrat Cluster (m. Comrat, v. Avdarma, v. Bashkaliya, v. Budzhak, v. Verkhniy Kongazchik, v. Dezginzha, v. Kirsovo , Ferapontievka village, Chok-Maidan village).

According to the Code "On Education" of the Republic of Moldova, namely part (2) of Art. 148 stipulates that: "The Ministry of Education has the right to establish relations and conclude agreements on cooperation and cooperation, to be involved in international projects and events in educational and scientific research". Again, the legislator mentions this kind of contracts. We have found various kinds of agreements. The Code of Gagauzia (Gagauz Yeri) of May 14, 1998, which is the basic basis that applies to the whole of Gagauzia and part (2)

of Article 51, indicates that: “The functional duties of the People's Assembly of Gagauzia should include the recognition of local laws in this area”, h. (5) Art. 51 indicates that: “The functional responsibilities of the People's Assembly of Gagauzia include the practical implementation of the needs of Gagauzia in matters of foreign and domestic policy of the Republic of Moldova”[24], in addition, the Law “On the Special Legal Status of Gagauzia (Gagauz Yeri) No. 344-XIII of 23.12.1994, where in Part (3) of Art. 12 established that: “The functional responsibilities of the People's Assembly are assigned a role in resolving issues of a political nature expressing the urgent problems of Gagauzia”[9], as well as being guided by the Local Law on the Executive Committee of Gagauzia No. 31-XXXII / I of 09.07.1998, namely, clause 7 of Art. 9 where it says: “promotes the implementation of domestic and foreign policy in matters that represent the needs of Gagauzia”[18]. As well as being guided by the Law of ATU Gagauzia “On Agreements on the Implementation of ATU Gagauzia of International and Foreign Economic Relations”, namely Art. 5 where it says: “Such agreements are carried out by ATU Gagauzia, the Executive Committee of Gagauzia, the People's Assembly of Gagauzia”[10].

For example, the Agreement on cooperation in the educational sphere between the St. Petersburg state institution "Nevsky College named after Nebolsin A.G." and the Agrarian College, Svetlovsky College, the Agreement of the Administration of the Pskov Region and Gagauzia on mutual cooperation, etc. Such contracts are unnamed contracts, which are concluded on the basis of the principle of freedom of contract, provided for in Art. 993 of the Civil Code of the Republic of Moldova.

Let's pay attention to the study of the grant agreement. According to the Law of the Republic of Moldova “On Public Associations”, namely paragraph h of Art. 24 found that:

"The public association participates in all competitions with the subsequent acquisition of orders and subsidies from the state, grants and scholarships, both national and foreign, various foundations and organizations, individuals".

Also in the Code “On Education” of the Republic of Moldova, namely in part (6) of clause with art. 143 established: "Educational institutions can also use other sources of funding: grants, sponsorship grants and donations". Those. the legislator does not exclude the receipt of assistance through grants or sponsorship, but at the same time regulates and does not enshrine this kind of agreement, although such agreements as a partnership agreement, cooperation agreement, grant agreement, for example, grant agreement No. GGr / 2018 / 02-06, concluded between ATU Gagauzia and the Research Center of the Foreign Policy Association of Slovakia. We believe that they are necessary and necessary unnamed contracts and will be considered as such until the legislator establishes their place in the general system of contracts in force in the Republic of Moldova.

Let's analyze the accreditation agreement. The accreditation is executable in accordance with the Education Code of the Republic of Moldova, namely, part (3) of Art. 114 where it is stated: "All institutions and programs of higher educational nature are subject to accreditation". In the Education Code of the Republic of Moldova, part (2) points *d* and *e* of Art. 115 states: *"The assessment of higher education institutions is carried out by signing an agreement;*

e) carries out on a contractual basis, at the request of the Ministry of Education, an analysis of the quality of programs and institutions that provide educational programs at all levels of education". The question arises, what kind of contract are we talking about? We also studied in detail the Resolution No. 616 of May 18, 2016 On Approval of the Methodology for External Quality Assessment and the Regulation on the Calculation of Tariffs for Services and Appendix No. 1 to the Government Resolution No. 616 of May 18, 2016, which describes in detail the principles, standards , the accreditation procedure, but nothing is specified in relation to the contract on the basis of which the entire accreditation process is carried out. Having studied Appendix No. 2 to the Government Decree No. 616 of May 18, 2016, the Regulation on the calculation of tariffs for services, where the payment for quality assessment services is detailed, it was revealed that nothing was said about the contract itself. As we can see, this is an unnamed contract, which is applied in practice and needs regulation and consolidation at the legislative level.

The customer undertakes to pay for the services rendered for assessing the quality of educational programs of educational institutions of all levels, and also undertakes to strictly comply with the conditions for the provision of services provided for by the Code "On Education", the methodology, and at the same time undertakes to provide access to all the necessary information requested by the National Agency. The agreement can be changed and supplemented at the request of the parties. If one of the parties wishes, the contract can be terminated unilaterally. In the event of *force majeure*, the parties are released from their obligations. Any kind of dispute is resolved by reaching an amicable agreement between the parties. The agreement can be changed or supplemented only with the consent of the parties. As we can see, this is an unnamed contract. The ratio and differentiation of this kind of contractual structures suggests that they have their own, object, individuality, which shows their peculiarity, since they are complex, independent, contractual structures that have been studied and researched since ancient times and today are of increased interest for scientists who closely monitor the stages of development of such treaties and try to give a scientific explanation and interpretation, which will subsequently affect the branch of Civil law, as well as their study and research will help fill the existing gaps in national legislation. It is necessary to establish whether the qualifying features of the new contractual structure are regulated by the norms of the civil legislation of the Republic of Moldova? If yes, and they do not contradict the general qualifying characteristics of the named contracts and have the same

object, then the named contract is available, if some inconsistent features to the established qualifications of the named treaties are revealed in the contract, it is necessary to establish the nature of the contradictory norms and recognize them as unnamed treaties.

d) An unnamed contract on the pasture use

Keeping animals on pastures is an already formed system of managing public livestock in different pasture areas. This type of pasture arrangement and keeping of animals involves the transfer of these animals from one pasture to another. The formed system makes it possible to save money associated with the construction of special premises for keeping and servicing animals, which is important for increasing productivity in the field of animal husbandry [27, p. 51-55].

In accordance with the Law of the Republic of Moldova "On Livestock" Nr. 412-XIV of May 27, 1999 and paragraph g of Art. 8, which stipulates that: “use public pastures for grazing animals on the basis of agreements concluded with local public administration authorities”[12]. And also in accordance with the Decree No. 667 of 23.07.2010 “On Approval of the Regulations on Grazing and Haymaking”, in accordance with clause 13, which says that: “According to the Law No. 412-XIV of 27 May 1999 “On Animal Husbandry” the authorities local public administrations develop agreements on the use of pastures and work plans for the maintenance, improvement and rational exploitation of public pastures”[23]. The legislator mentions the need to conclude an agreement on the use of pastures and no longer spells out this type of agreement and does not even equate it with a land lease agreement. We believe that such an agreement is unnamed, due to the presence of signs, object, direction.

In this regard, we consider it necessary to supplement the Law of the Republic of Moldova “On Livestock Breeding”, namely point g of Art. 8 with the following content: „to use public pastures for grazing animals on the basis of contracts concluded on the one hand by the owner (local public administration authorities), on the other hand, by the user of pastures on the use of land plots (pastures) for a certain period and at an agreed price paid by the user to the settlement account of the City Hall. All the terms of the contract, the scope of the rights and obligations of the parties, as well as their liability under the contract are established in accordance with the general rules and principles of civil law”. Regardless of what type of contract is in question (named, unnamed, mixed), the contract as such should be a purposeful desired volitional action that does not contradict the law, law and order, good morals, expressing the desire of the subjects of this contract to satisfy their needs and at the same time contribute to development and the prosperity of the market economy of the Republic of Moldova and its administrative-territorial units.

Consider examples from the judicial practice of the Republic of Moldova, where unnamed contracts are ambiguously qualified and the norms of civil law are applied in different ways when resolving civil cases related to the

consideration of disputes arising from unnamed contracts. In confirmation of the above, we will consider the decisions of the courts in relation to some independent unnamed contracts, such as:

Exchange agreement. There is a Definition of the GSP of the RM No. 2rc-863/15 of 09.12.2015 [4], which gives the qualification of the exchange agreement. According to the terms of this agreement, one party (trade exchange) undertakes to organize exchange trading for the sale of cereals (sunflower seeds, wheat, etc.) to the other party (participant), and the participant, in turn, undertakes to pay the cost of organized exchange trading, in the manner and terms provided by the exchange agreement. The subject of this agreement is the organization of auctions for the purpose of selling goods, that is, creating conditions for the sale of a particular product. This agreement is qualified as unnamed and has applied general rules on obligations to it, since this agreement is not provided for by civil law. This agreement was qualified as unnamed, since the civil legislation of the Republic of Moldova does not provide for the regulation of this agreement.

Cooperation agreement. The definition of the GSP of the RM established that VT entered into a cooperation agreement with AXSRL, under the terms of which VT undertook to transfer to AXSRL ownership of two land plots for the construction of two residential buildings, and AXSRL, in turn, undertook to build two residential buildings of 9 floors and provide VT with 5 apartments (2 - with 2 rooms, 3 - with 3 rooms) in ownership. The court determined this agreement as unnamed, since the agreement has a subject that is not characteristic of agreements that have received regulation in the civil code. In this case, the court made a decision on the basis of general norms (contractual and law of obligations) of the Civil Code and the terms of a cooperation agreement. We believe that the court correctly identified the legal nature of this agreement and qualified it as unnamed. We have established that this agreement has a special subject that is not characteristic of the other named agreements, for example, a simple partnership agreement, therefore we believe that this agreement should also be included in the civil law and have legal regulation.

Conclusions:

1. Any legal structure, whether named or unnamed, is a model consisting of various conditions and features that reflect the interests of both society and the entire state.

2. The peculiarity of the new unnamed contract is contained in the presence of a definition of the subject of the legal relationship, the subject, significant and distinctive conditions of this construction, the rights and obligations of the parties, the procedure for concluding, changing, terminating the contract and liability under the contract.

3. The contract is recognized as concluded only when the subjects have stipulated all the terms of the contract, without going beyond the well-known legal procedure.

4. An unnamed contract is a new contract that is not described in the law, containing a subject, orientation, individuality that is characteristic only of it, which makes it possible to separate it from other contractual structures.

5. An agreement is a legal document based on the consent and trust of the parties, concluded in accordance with the requirements of the law, not contradicting the general principles of civil law, law and order and public morals, fixing the will and desire of the parties, as well as containing obligations providing for the voluntary mutual consent of the parties regarding the rights and obligations of the parties under the contract.

6. Regardless of what type of contract we are talking about (named, unnamed, mixed), the contract as such should be a purposeful desired volitional action that does not contradict the law, the rule of law, good morals, expressing the desire of the subjects of this contract to satisfy their needs, and in at the same time contribute to the development and prosperity of the market economy of the Republic of Moldova and its administrative-territorial units.

7. The correlation and delimitation of this kind of contractual structures suggests that they have their own subject, individuality, which shows their peculiarity, since they are complex, independent, contractual structures that have been studied and researched since ancient times and to this day days are of great interest to scientists who closely monitor the stages of development of such contracts and try to give a scientific explanation and interpretation, which will subsequently affect the field of Civil Law, as well as their study and research will fill the existing gaps in national legislation.

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