

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI
ILMIY DARAJALAR BERUVCHI DSc.07/30.12.2019.Yu.22.01
RAQAMLI ILMIY KENGASH**

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

KARABAYEV MAXSETBAY DJOLDASBAYEVICH

**QURILISH SOHASIDA TADBIRKORLIK FAOLIYATINI
SHARTNOMAVIY TARTIBGA SOLISH**

12.00.03 – Fuqarolik huquqi. Tadbirkorlik huquqi.
Oila huquqi. Xalqaro xususiy huquq

**yuridik fanlar bo'yicha falsafa doktori (Doctor of Philosophy) dissertatsiyasi
AVTOREFERATI**

Toshkent – 2025

Falsafa doktori (PhD) dissertatsiyasi avtoreferati mundarijasi
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Falsafa doktori (Doctor of Philosophy) dissertatsiyasi mavzusi O'zbekiston Respublikasi Oliy ta'lim, fan va innovatsiyalar vazirligi huzuridagi Oliy attestatsiya komissiyasida B2024.4.PhD/Yu 1621 raqam bilan ro'yxatga olingan.

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Ilmiy rahbar: **Imomov Nurillo Fayzullayevich**
yuridik fanlari doktori, professor

Rasmiy opponentlar: **Yakubov Axtam Nusratilloevich**
yuridik fanlari doktori, dotsent
Kalandarova Malikaxon Pirnazarovna
yuridik fanlari nomzodi, dotsent

Yetakchi tashkilot: **O'zbekiston Respublikasi Jamoat xavfsizligi universiteti**

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Dissertatsiya bilan Toshkent davlat yuridik universiteti Axborot-resurs markazida tanishish mumkin (1434-raqam bilan ro'yxatga olingan). (Manzil: 100047, Toshkent shahar, A.Temur ko'chasi 13. Tel.: (998971) 233-66-36).

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U. Rustambekov

I.R. Rustambekov
Ilmiy darajalar beruvchi Ilmiy kengash raisi, yuridik fanlar doktori, professor

D.Y. Xabibullayev
Ilmiy darajalar beruvchi Ilmiy kengash kotibi, yuridik fanlar doktori, professor

B.K. Xodjayev
Ilmiy darajalar beruvchi Ilmiy kengash qoshidagi Ilmiy seminar raisi, yuridik fanlar doktori, professor

KIRISH (falsafa doktori (PhD) dissertatsiyasi annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyodagi aholi soni oʻsishi kuzatilayotgan davlatlar, oʻz aholisining bino va inshootlar, infrastrukturaviy obyektlarga degan ehtiyojini qondirish masalasini davlat siyosati darajasiga chiqargan. Har bir davlat iqtisodiy, ijtimoiy, madaniy va geografik joylashuvidan kelib chiqqan holda qurilish industriyasini rivojlantirish qurilish sohasidagi tadbirkorlarni har xil dasturlar, imtiyozlar, qonunchilik sohasini liberallashtirish orqali qoʻllab-quvvatlamoda. Oʻtgan yillarda Xitoy 1237.7 mlrd.doll., AQSh 1090.1 mlrd.doll., Hindiston 257.9 mlrd.doll., Yaponiya 235.0 mlrd.doll., Germaniya 211.5 mlrd.doll., Rossiya 163.1 mlrd.doll., qoʻshnilarimiz Qozogʻiston 11.9 mlrd.doll., Turkmaniston 4.8 mlrd.doll., Qirgʻiziston 0.81 mlrd.doll. va davlatimiz tomonidan 5.0 mlrd.dollar qurilish ishlariga safarbar qilingan.

Jahonda qurilish sohasidagi huquqiy muammolarni bartaraf etish uchun uy-joy qurilish sohasida toʻlovlarni amalga oshirish mexanizmiga shartli deponentlash (*escrow*) tizimi XX asrning yetmishinchi yillarning oʻrtalaridan amalga kiritila boshlagan. Xalqaro miqyosda koʻzga koʻringan FIDIK (*FIDIC*)¹, *EPC (Engineering, Procurement and Construction)*² va Buyuk Britaniyaning milliy qonunchilik doirasida qabul qilingan *JCT (Joint Contracts Tribunal)*³, *NEC (New Engineering Contract)*⁴, *RIBA (Royal Institute of British Architects)*⁵ proformalarning ishlab chiqilishi tadbirkorlik faoliyati shartnomaviy munosabatlarini tartibga solishning yangi bosqichiga olib chiqdi. Albatta, XXI-asrdagi texnologiya rivojlanishining taʼsiri qurilish sohasini ham raqamlashtirishga olib keldi. Natijada qurilish loyihalarini va ushbu sohadagi shartnomaviy munosabatlarni tartibga soluvchi mijozlar bilan munosabatlarni boshqarish tizimi *CRM (Customer Relationship Management)* mijozlar haqidagi maʼlumotlarni toʻplash, tahlil qilish va ular bilan samarali muloqot qilishga yordam beradi. Qurilish sohasida bu tizim mijozlarning talablarini aniqlash, loyihalashtirish jarayonida ular bilan yaqin hamkorlik qilish va loyiha tugallanganidan keyin ham munosabatlarni davom ettirish uchun muhimdir. Korxonalar resurslarini rejalashtirish tizimi *ERP (Enterprise Resource Planning)* korxonaning barcha asosiy jarayonlarini birlashtiruvchi yagona platformadir. Qurilish sohasida ERP tizimi loyihalashtirish, xarid qilish, ishlab chiqarish, buxgalteriya hisobi va boshqa koʻplab jarayonlarni avtomatik tarzda boshqarish imkonini beradi.

Mamlakatimizda esa birgina 2023 – yilni olib qaraydigan boʻlsak, sudlarda pudrat shartnomalari yuzasidan 1778 ish, investitsion nizolar yuzasidan 119 ish, ulushdorlarning nizolari yuzasidan 2022 yili 76 shi sudga chiqqan boʻlsa, 2023 yili esa 93 ish koʻrilgan. Nizoli qurilish ishlarining yildan yilga oʻsish tendensiyasi

¹ FIDIC (FIDIK– muhandis-maslahatchilarning Xalqaro Federatsiyasi nomining frantsuz tilidagi qisqartmasi: Fédération Internationale des Ingénieurs-Conseils).

² EPC(Engineering, Procurement and Construction): Muhandislik, taʼminot va qurilish

³ JCT (Joint Contracts Tribunal): Birlashgan shartnomalar tribunali

⁴ NEC (New Engineering Contract): Yangi muhandislik shartnomasi.

⁵ RIBA (Royal Institute of British Architects): Buyuk Britaniya arxitektura instituti.

kuzatilmoqda. Shuning uchun uzoq vaqt davomida qurilish sohasidagi tadbirkorlik faoliyatining shartnomaviy munosabatlarini tartibga solish mexanizmlarini amalda qoʻllayotgan rivojlangan mamlakatlarning tajribasini Oʻzbekiston Respublikasida joriy etish va rivojlantirish katta ahamiyatga ega. Shuning uchun, qurilish sohasidagi tadbirkorlik faoliyatining shartnomaviy munosabatlarini tartibga solishdagi "munosib darajada" doktrinasi (*Quantum Meruit Doctrine*), Speri doktrinasi (*The Spearin Doctrine*), *lex constructionis* doktrinasi va doiraviy ittifoq shartnomasi (*Framework Alliance Contract, FAC-1*), qurilishning axborot modeli (*Building Information Modeling, BIM*) kabi texnologik yechimlarning bugungi kunga qadar yaxlit tadqiqot sifatida oʻrganilmagan. Ularning ayrimlarini Oʻzbekiston sharoitida qoʻllash masalalari tahlil qilinmagan. Shunga koʻra mamlakatimizda qurilish sohasidagi tadbirkorlik faoliyatining shartnomaviy munosabatlarini yanada liberallashtirish va himoya qilish bilan bogʻliq qonunchilik hamda huquqni qoʻllash amaliyotini takomillashtirish va istiqbollari belgilash zaruriyati vujudga kelmoqda, deyish mumkin.

Bugungi kunda qurilish sohasida tadbirkorlik faoliyati shartnomaviy munosabatlarini tartibga soluvchi Oʻzbekiston Respublikasining Fuqarolik kodeksi, Oʻzbekiston Respublikasining Shaharsozlik kodeksi, Oʻzbekiston Respublikasining Iqtisodiy prosessual kodeksi, «Xoʻjalik yurituvchi subyektlar faoliyatining shartnomaviy-huquqiy bazasi toʻgʻrisida»gi Oʻzbekiston Respublikasining Qonuni, shuningdek, Vazirlar Mahkamasining 2000 yil 5 avgustdagi "Kapital qurilishda iqtisodiy islohotlarni chuqurlashtirishga doir qoʻshimcha chora-tadbirlar toʻgʻrisida" 305-son qaror, Vazirlar Mahkamasining 2017 yil 5 iyuldagi "Aholi punktlarini qurishda shaharsozlik va er toʻgʻrisidagi qonun hujjatlariga qatʻiy rioya etilishini taʼminlashga, shuningdek tadbirkorlik maqsadlari uchun er ajratish tartibini yanada takomillashtirishga doir qoʻshimcha chora-tadbirlar toʻgʻrisida" 467-son qarori, Oʻzbekiston Respublikasi Prezidentining 2018 yil 20 fevraldagi "Loyihaoldi, loyiha, tender hujjatlari va kontraktlarni ekspertizadan oʻtkazish tartibini takomillashtirish chora-tadbirlari toʻgʻrisida" PQ 3550-son qarori, Oʻzbekiston Respublikasi Prezidentining 2020 yil 27 maydagi "Koʻp kvartirali uylarni ulush kiritish asosida qurish jarayonini tartibga solish chora-tadbirlari haqida" PQ-4732-son qarorlari va mavzuga oid boshqa qonun hujjatlarda keltirilgan vazifalarni amalga oshirishda mazkur dissertatsiya tadqiqoti muayyan darajada xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yoʻnalishlariga bogʻliqligi. Mazkur dissertatsiya respublika fan va texnologiyalari rivojlanishining I. "Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, maʼnaviy-maʼrifiy rivojlantirishda innovatsion gʻoyalar tizimini shakllantirish va ularni amalga oshirish yoʻllari" ustuvor yoʻnalishiga muvofiq bajarilgan.

Muammoning oʻrganilganlik darajasi. Mazkur mavzuni oʻrganishda qurilish sohasida tadbirkorlik faoliyatining shartnomalari bilan bogʻliq munosabatlarini tartibga solishga qaratilgan xorijiy davlatlar qonunchilik hujjatlari, huquqni qoʻllash amaliyoti hamda yuridik fanda mavjud boʻlgan konseptual yondashuvlar, ilmiy-nazariy qarashlar bayon etilgan adabiyotlardan foydalanildi.

Umumiy olib qaraganda mamlakatimiz olimlari tomonidan qurilish shartnomasining umumiy masalalari, shuningdek, muayyan turlari tadqiq etilgan. Jumladan, X.Rahmonqulov, K.Rashidov, O.Oqyulov, S.S.Gulyamov, Sh.N. Ruzinazarov, B.B.Samarxodjayev, N.F.Imomov, I.R.Rustambekov, M.Baratov va boshqalar.

Qurilish bo'yicha shartnoma munosabatlarining alohida masalalari bo'yicha uzoq xorijlik olimlar Siril Chern, Xyuz U., Champion R., Merdok Dj. Rodjer ter Xaar, Beyley Dj., Teo M.M., Luzmor M., Xyudjes U.P., Braun A.D., Pua F.T.T. va Elliot P. kabi olimlarning ishlarida va boshqada olimlar tomonidan o'rganilgan.

MDH davlatlarida Boguslavskiy, M.I. Braginskiy, V.V. Vitryanskiy, E.E. Shevchenko, V.V. Nikitin, O.V. Makarov, S.N.Mokrov, S.V.Kovedyaev, E.L.Abramsova, T.N.Gromova, I.V.Beklenishcheva, V.P.Bugorskiy asarlarida batafsil va keng tushuntirishlar berilgan.

Garchi tadqiqot mavzusi doirasida muayyan ilmiy ishlanmalar mavjud bo'lsa-da, bugungi kunda O'zbekistonning rivojlanish sharoitida fuqarolik qonunchiligi, huquqni qo'llash amaliyoti yuzasidan qurilish sohasidagi tadbirkorlik faoliyatining shartnomaviy munosabatlarini tartibga solish masalalari ilmiy-nazariy va amaliy jihatdan alohida tadqiqot obyekti sifatida o'rganilmagan.

Dissertatsiya tadqiqotining dissertatsiya bajarilgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog'liqligi. Dissertatsiya mavzusi Toshkent davlat yuridik universitetining ilmiy-tadqiqot ishlari rejasining "Rivojlangan davlatlar qonunchilik amaliyoti va fuqarolik huquqi yutuqlarini nazariy tadqiq etish asosida olingan natijalarni milliy qonunchilikka implementatsiya qilish masalalari" mavzusidagi fundamental loyihasi (2021-2023 yillar) doirasida amalga oshirilgan.

Tadqiqotning maqsadi. O'zbekistonda qurilish sohasidagi tadbirkorlik faoliyati shartnomaviy tartibga solish bilan bog'liq ilmiy-nazariy va amaliy muammolarni aniqlash hamda qonunchilikni takomillashtirish va uni qo'llash amaliyoti samaradorligini oshirishga qaratilgan taklif va tavsiyalarni ishlab chiqishdan iborat.

Tadqiqotining vazifalari:

qurilish sohasida tuziladigan fuqarolik-huquqiy shartnomalar turlarini o'rganish;

qurilish sohasida yuzaga keladigan investitsion-shartnomaviy munosabatlarni tahlil qilish;

qurilish pudrati shartnomasining huquqiy xususiyatlarini aniqlash;

qurilish pudrati shartnomasi bo'yicha tomonlarning majburiyatlarni bajarish mexanizmlarini tahlil qilish;

qurilish pudrati shartnomasi bo'yicha tomonlarning fuqarolik-huquqiy javobgarlik masalalarini o'rganish;

qurilish sohasida tadbirkorlik faoliyatini fuqarolik-huquqiy tartibga solishdagi muammolar va xorij amaliyotini o'rganib chiqib, bu boradagi qonunchilikni takomillashtirishga qaratilgan taklif va tavsiyalar ishlab chiqish.

Tadqiqotning obyekti qurilish sohasida tadbirkorlik faoliyatini amalga oshirish chogʻida yuzaga keladigan shartnomaviy munosabatlarni tartibga solishning nazariy va amaliy muammolariga doir munosabatlar tizimi hisoblanadi.

Tadqiqotning predmeti qurilish sohasida shartnomaviy munosabatlarni tartibga solishga qaratilgan normativ-huquqiy hujjatlar, huquqni qoʻllash amaliyoti, ayrim xorijiy mamlakatlar qonunchiligi, amaliyoti hamda yuridik fanda mavjud boʻlgan konseptual yondashuvlar, ilmiy-nazariy qarashlar, gʻoyalar va huquqiy takliflardan iborat.

Tadqiqotning usullari. Tadqiqot olib borishda tarixiy, tizimli-tuzilmaviy, qiyosiy huquqiy, mantiqiy (tahlil, sintez, induksiya va deduksiya), statistik kabi usullar qoʻllanilgan.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

binolar va inshootlarni qurish, rekonstruksiya qilish hamda taʼmirlash, muhandislik infratuzilmasi obyektlarini qurish, rekonstruksiya qilish, taʼmirlash va foydalanishga topshirishda, servitutlar binolar va inshootlar mulkdorlarining manfaatlarini oʻzga shaxsning yer uchastkasidan foydalanish huquqini cheklamasdan taʼminlash mumkin boʻlmagan hollarda belgilanishi asoslab berilgan;

ajratilgan mablagʻlar maqsadli hamda samarali sarflanishini taʼminlash uchun moliyalashtirish hajmlarini qurilish-montaj ishlarining kalendar jadvallari bilan uzviy bogʻliqlikda aniqlashtirgan holda, yildan yilga oʻtuvchi qurilish obyektlarini belgilash asoslantirilgan;

2024-yilda yangidan boshlanadigan loyihalar (obyektlar) boʻyicha tasdiqlangan loyihaoldi va (yoki) loyiha hujjatlari asosida belgilangan tartibda xarid qilish tartib-taomillarini yakunlash va tanlov (tender) gʻoliblari bilan pudrat shartnomalarini tuzish choralari asoslab berilgan;

elektron tender jarayonlarini oʻtkazish va tender gʻolibi bilan shartnoma tuzishda axborot-kommunikatsiya texnologiyalaridan foydalanish zarurligi asoslantirildi.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

qurilish shartnomalarining turli xillari, jumladan, pudrat shartnomasi, investitsiya shartnomalari va ulush asosida ishtirok etish shartnomalari yordamida munosabatlar yaxshilanadi. Bu, oʻz navbatida, shartnoma taraflarining huquq va majburiyatlarini aniq belgilab, ularni oʻz vaqtida va sifatli bajarish imkoniyat berishi asoslab berildi;

taraflar oʻrtasidagi javobgarlikni belgilash orqali shartnoma buzilishi yoki belgilangan muddatlar buzilganida kelib chiqadigan oqibatlarni aniqlash imkoniyati yaratiladi. Bu qurilish loyihalarini oʻz vaqtida bajarish va xarajatlarni nazorat qilishga yordam berishi asoslantirildi;

shartnomalarda sifat standartlari va ularga muvofiq nazorat qilish mexanizmi belgilab qoʻyilgan holda, ishlarning belgilangan sifat darajasiga erishish taʼminlanadi. Bu ham davlat, ham xususiy sektor loyihalari uchun muhim omil ekanligi asoslab berildi;

qurilish shartnomalari tuzilishida moliyaviy hisob-kitoblar va byudjet masalalari toʻgʻri tashkil etilgan holda, ishlarni samarali amalga oshirish va iloji

boricha xarajatlarni kamaytirish imkoniyati yaratiladi. Shuningdek, moliyalashtirish, kafolatlar va to'lov tartiblari belgilanib, shartnoma natijasida sarmoyachilar va tadbirkorlar o'rtasida ishonchli hamkorlik rivojlanadi;

qurilish faoliyatida yuzaga kelishi mumkin bo'lgan nizolarni sud tizimi yoki shartnomaviy himoya vositalarini qo'llab hal qilish mexanizmi rivojlanadi. Bunda sud tizimi va muqobil usullar orqali shartnomaviy nizolarni hal qilish tartiblari takomillashtiriladi.

qurilish sohasida shartnomaviy munosabatlarning aniq va huquqiy tartibga solinishi natijasida sarmoyalarni jalb qilish, yangi qurilish loyihalarini amalga oshirish va tadbirkorlik faoliyatini rivojlantirish imkoniyati kengayadi. Shu bilan birga, davlat va xususiy sektor o'rtasidagi hamkorlik kuchayadi.

Tadqiqot natijalarining ishonchliligi. Tadqiqot natijalari xalqaro xususiy huquq va milliy qonunchilik normalari, rivojlangan davlatlar tajribasi, huquqni qo'llash amaliyotining tahlili asosida olingan natijalar qurilish sohasidagi vakolatli davlat organlari tomonidan tasdiqlangan va amaliyotga joriy etilgan. Xulosa, taklif va tavsiyalar aprotatsiyadan o'tkazilib, ularning natijalari yetakchi milliy va xorijiy nashrlarda e'lon qilingan.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqot natijalarining ilmiy ahamiyati undagi ilmiy-nazariy xulosalar, taklif va tavsiyalardan kelgusi ilmiy faoliyatda, qonun ijodkorligida, huquqni qo'llash amaliyotida, fuqarolik qonun hujjatlarining tegishli normalarini sharhlashda, milliy qonunchilikni takomillashtirish hamda fuqarolik huquqi, shartnoma huquqi fanlarini ilmiy-nazariy jihatdan boyitishga xizmat qiladi. Tadqiqot natijalaridan yangi ilmiy-tadqiqotlar olib borishda foydalanish mumkin.

Tadqiqot natijalarining amaliy ahamiyati qonun ijodkorligi faoliyatida, xususan, normativ-huquqiy hujjatlar tayyorlash hamda ularga o'zgartish va qo'shimchalar kiritish jarayonida, huquqni qo'llash amaliyotini takomillashtirishda hamda oliy yuridik ta'lim muassasalarida xususiy huquq sohasidagi fanlarni o'qitishda xizmat qiladi.

Tadqiqot natijalarining joriy qilinishi. Tadqiqot ishi bo'yicha olingan ilmiy natijalardan quyidagilarda foydalanilgan:

binolar va inshootlarni qurish, rekonstruksiya qilish hamda ta'mirlash, muhandislik infratuzilmasi obyektlarini qurish, rekonstruksiya qilish, ta'mirlash va foydalanishga topshirishda, servitutlar binolar va inshootlar mulkdorlarining manfaatlarini o'zga shaxsning yer uchastkasidan foydalanish huquqini cheklamasdan ta'minlash mumkin bo'lmagan hollarda belgilanishga doir takliflarni O'zbekiston Respublikasi Shaharsozlik kodeksining 81-modda birinchi qismini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Senatining sud-huquq masalalari va korrupsiyaga qarshi kurashish qo'mitasining 2024-yil 23-oktyabrdagi № 18-son dalolatnomasi). Ushbu taklif shaharsozlik faoliyatida ishtirok etuvchi subyektlarning to'sqinliksiz qurilish ishlarini bajarish imkonini berishga xizmat qilgan;

ajratilgan mablag'lar maqsadli hamda samarali sarflanishini ta'minlash uchun moliyalashtirish hajmlarini qurilish-montaj ishlarining kalendar jadvallari bilan uzviy bog'liqlikda aniqlashtirgan holda, yildan yilga o'tuvchi qurilish obyektlarini

belgilashga oid taklifni (ro'yxat raqami 04-09/7-10/811, 2024 yil 11 oktyabr) ishlab chiqishda foydalanilgan (Qoraqalpog'iston Respublikasi Vazirlar Kengashining 2024-yil 17-yanvardagi 29-13-0-Q/24-son qarori). Ushbu taklif qurilish shartnomalaridagi ishni bajarish muddatlari bilan bog'liq nizolarni hal qilishda odil sudlovni amalga oshirilishiga imkon bergan;

2024-yilda yangidan boshlanadigan loyihalar (obyektlar) bo'yicha tasdiqlangan loyihaoldi va (yoki) loyiha hujjatlari asosida belgilangan tartibda xarid qilish tartib-taomillarini yakunlash va tanlov (tender) g'oliblari bilan pudrat shartnomalarini tuzish choralariga oid taklifni (ro'yxat raqami 04-09/7-10/811, 2024 yil 11 oktabr) ishlab chiqishda foydalanilgan (Qoraqalpog'iston Respublikasi Vazirlar Kengashining 2024-yil 17-yanvardagi 29-13-0-Q/24-son qarori). Mazkur taklif qurilish sohasidagi tadbirkorlik subyektlarining halol raqobat asosida tenderlarga qatnashish va shartnomaviy munasabatlarga kirishishga xizmat qilgan.

elektron tender jarayonlarini o'tkazish va tender g'olibi bilan shartnoma tuzishga oid taklifni (ro'yxat raqami 04-09/7-10/811, 2024 yil 11 oktyabr) ishlab chiqishda foydalanilgan (Qoraqalpog'iston Respublikasi Vazirlar Kengashining 2023-yil 24-fevraldagi 72-13-0-Q/23-son qarori). Ushbu taklif davlat xaridlarida tender o'yinlarini o'tkazishda shaffoflikni yanada oshirish va tadbirkorlik subyektlari bilan qurilish pudrati shartnomalarini tuzish imkoniyatini ta'minlagan.

Tadqiqot natijalarining aprobatsiyasi. Tadqiqot natijalari 3 ta xalqaro va 3 ta Respublika miqyosida o'tkazilgan ilmiy-amaliy konferensiyalarda muhokamadan o'tgan.

Tadqiqot natijalarining e'lon qilinganligi. Tadqiqot mavzusi va undagi xulosa, taklif va tavsiyalar bo'yicha jami 12 ta, OAKning dissertatsiya asosiy ilmiy natijalarini chop etishga tavsiya etilgan nashrlarda 6 ta (2 tasi xorijiy nashrlarda) chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya tarkibi kirish, uchta bob, xulosa, foydalanilgan adabiyotlar ro'yxatidan iborat. Dissertatsiyaning hajmi 143 betni (foydalanilgan adabiyotlardan tashqari) tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirish** qismida tadqiqot mavzusining dolzarbligi va zarurati, uning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yo'nalishlariga bog'liqligi, mavzu bo'yicha xorijiy ilmiy tadqiqotlar sharhi, muammoning o'rganilganlik darajasi, mavzuning dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari bilan aloqasi, uning maqsad va vazifalari, obyekti va predmeti, usullari, ilmiy yangiligi va amaliy natijasi, tadqiqot natijalarining ishonchliligi, ilmiy va amaliy ahamiyati, joriy qilinishi, aprobatsiyasi, natijalarning e'lon qilinganligi, dissertatsiyaning hajmi va tuzilishi haqida ma'lumotlar keltirilgan.

Dissertatsiyaning *“Shartnomaviy huquqiy tartibga solish obyekti sifatida qurilish sohasidagi tadbirkorlik faoliyatining umumiy tavsifi”* deb nomlangan birinchi bobida tadqiqotning keyingi boblarda muhokama qilingan muammolarni ishlab chiqish uchun nazariy asosning tahlili yoritilgan. Ushbu bobda tadbirkorlik

sifatida qurilish sohasining tushunchasi, xususiyatlari, tadbirkorlik faoliyatining qurilish sohasidagi tizimi, turlari va ularni tasniflash, va yana qurilish sohasidagi tadbirkorlikning huquqiy asoslari tahlil qilingan.

Ushbu bobda qurilish huquqiga oid huquqiy nazariyalar (doktrinlar), ularning tadbirkorlik faoliyati bilan bog'liq jihatlari, qurilish sohasidagi tadbirkorlik faoliyatining fuqarolik-huquqiy belgilari va huquqiy modellariga tahlil qilingan. Zamonaviy qurilish huquqida amal qilayotgan mohiyatan bajarish doktrinasini (*Legal Doctrine of Substantial Performance*), asossiz bo'lik orttirish doktrinasini (*Doctrine of Restitution*), shartnoma tuzish erkingligi doktrinasini (*Contract Doctrine*), frustratsiya doktrinasini (*Doctrine of Frustration*), subrogatsiya doktrinasini (*Doctrine of Subrogation*), shartnoma ishtirokchilari doktrinasini (*Doctrine of Privity of Contract*), adolatlilik doktrinasini (*Doctrine of Equitable*), xaridorning ehtiyot bo'lish kerakligi doktrinasini (*Legal Doctrine Of Caveat Emptor*) va zamonaviy qurilish konsorsiumi nazariyasi (*Construction Consortia Theory*) kabi nazariya va doktrinalarning mazmun-mohiyati tahlil qilingan. Ushbu doktrinalarning milliy qonunchilikdagi ifodasi va qurilish sohasida tadbirkorlik faoliyatini yuritishda ularning ta'siri yuzasidan fikrlar bildirilgan.

Qurilish sohasidagi tadbirkorlik faoliyatini huquqiy tartibga solishda, Buyuk Britaniya va Rossiya tajribasi, ayniqsa, qurilish shartnomalaridagi huquqiy qarorlar va pudratchilik faoliyatiga doir normativlar misolida o'rganilgan. Shu bilan birga, O'zbekiston sharoitida qurilish faoliyatini tartibga solishdagi innovatsion yondashuvlar va qonuniy chora-tadbirlar, masalan, Shaharsozlik kodeksi va boshqa normativ hujjatlar orqali amalga oshirilayotgan ijtimoiy-iqtisodiy jarayonlarni takomillashtirish zarurati bayon qilingan.

Qurilish nizolarni hal etishda odil sudlovni amalga oshirish sud tizimining asosiy maqsadlaridan biri hisoblanadi. Sperin doktrinasiga (*Spearin Doctrine*) ko'ra, quruvchi yoki pudratchi, agar loyiha dizayni yoki chizmalarida xatoliklar bo'lsa, bu xatoliklar uchun mas'ul bo'lmaydi. Bu doktrina loyiha boshqaruvchilari yoki loyiha egalari uchun mas'uliyatini ta'minlashga yordam beradi, chunki ular noto'g'ri yoki noaniq loyihalarni taqdim qilgan bo'lsa, bu loyiha bajarish jarayonida yuzaga keladigan muammolarni quruvchiga qiyinlashtirmasdan o'z zimmasiga olishi xususida so'z yuritilgan.

Shuningdek, amaliyotda, shartnoma imzolanmagan yoki to'liq bajarilmagan holatlarda, amalga oshirilgan ish uchun adolatli to'lovni ta'minlash uchun qanchaga loyiq doktrinasini (*Quantum Meruit Doctrine*) ko'rib chiqiladi. Agar quruvchi yoki pudratchi amalga oshirilgan ish uchun hech qanday belgilangan to'lovni olmasa, ular o'z mehnatlari yoki xizmatlari uchun "adolatli" kompensatsiyani olish huquqiga egaligi va shartnoma yoki kelishuvda aniq narx belgilangan bo'lmasa ham, ishning amalga oshirilgan qismi uchun haq to'lanishini ta'minlashga imkon berishi tahlil qilingan.

Tadqiqotchi qurilish sohasidagi tadbirkorlik faoliyatining tushunchasi va uning fuqarolik-huquqiy belgilari haqida ham ushbu bobda to'xtalib o'tganligini ko'rish mumkin. Qurilish sohasidagi tadbirkorlik faoliyatining tushunchasini tahlil qilishda u ko'plab huquqshunos (U. Xyujes, R. Chempion, J. Murdoch, Siril Chern, L. V. Salnikov., I.L. Braude, D.M. Seledchik, A.S. Kojevnikov, E.A.

Onishina, M. Yu. Kotina, E.S. Boltayeva, O. A. Jarova) olimlarning fikr va qarashlaridan foydalanib, ular bilan munozaraga kirishgan.

. Shuningdek, dissertant qurilish sohasidagi tadbirkorlik faoliyati subyektlari tomonidan qurilish ishlariga jalb qilinuvchi mutaxassislarning malakaviy talablari haqida tahlil qiladi. Ushbu talablarning chet el huquqiy normalaridagi mavjud talablar bilan o'zimizning huquqiy normalar taqqoslanib, qurilish obyektlarining xavf-xatar toifasi bo'yicha murakkablik darajasining uchinchi toifa obyektlarini qurishda mutaxassislarga muayyan talablarning ishlab chiqish ahamiyatini ochib bergan.

Qurilish sohasidagi tadbirkorlik faoliyatining fuqarolik-huquqiy belgilarini ochib berishda qonunchilik va olimlarning ilmiy-nazariy qarashlari bilan cheklanilmasdan, axborot kommunikatsiya texnologiyalarining (masalan, ***Building Information Modeling, BIM***) zamonaviy qurilish sohasidagi tadbirkorlik faoliyati boshqaruvining takomillashuv istiqbollari asoslantirilgan.

Dissertatsiyaning ikkinchi bobi "***Qurilish sohasi bo'yicha fuqarolik-huquqiy shartnomalarning tavsifi***" deb nomlanib, ushbu bobda qurilish shartnomalari tizimining asosini tashkil etuvchi loyiha va qidiruv ishlari pudrati shartnomasi, qurilish pudrat shartnomasi, ulush kiritish asosida qurilish shartnomalarining huquqiy tabiatini belgilash kabi masalalar tahlil qilingan.

Tadqiqotchi qurilish sohasida tadbirkorlik subyektlari tomonidan ko'p tuziladigan qurilish pudrat shartnomalaridan kelib chiqadigan nizolarning kelib chiqish sabablarini o'rgangan. Ushbu nizolar, ko'pincha, shartnomalar tuzishdagi noaniqliklar, pudratchilarning mehnat sharoitlarini ta'minlashdagi nuqsonlar, ish vaqtining uzayishi, narxlar o'zgarishi va boshqa iqtisodiy, huquqiy va ijtimoiy omillar bilan bog'liqligi ko'rsatilgan. Rossiya davlatining qurilish sohasidagi nizolarni hal etish va oldini olishga qaratilgan huquqiy mexanizmlarining tahlili, ayniqsa, sohada yuzaga keladigan nizolarni samarali tartibga solish va ular bo'yicha huquqiy qarorlar chiqarishni yengillashtirishga qaratilgan metodlarni ko'rib chiqadi.

Bunda dissertant bir qator olimlar (M.I. Braginskiy, V.V. Vitryanskiy, E.A. Suxanov, N.D. Egorov, R.O. Xalfina, Z.I. Shkudin, S.F. Kecheryan, V.P. Gribanov, M.Y. Chernyak, A.P. Sergeev)ning fikr va qarashlaridan foydalangan.

Shuningdek, tadqiqotchi rivojlangan davlatlarda keng qo'llaniladigan "***Design and Build***" usulini, qurilishda loyiha va qurilish ishlari bitta pudratchi tomonidan amalga oshiriladigan yondashuvga e'tiborni qaratadi. Bu usulda, loyiha boshqaruvchi tashkilot loyiha ishlab chiqishdan boshlanib, qurilish ishlarini yakunlashgacha barcha jarayonlarni o'z zimmalariga olishligini ko'rsatib o'tadi. Bu jarayonda, ishlar bir nechta mustaqil subyektlar o'rtasida bo'linib ketmaydi, balki bitta pudratchi tomonidan amalga oshirilishini va bu yondashuv qurilish shartnomalarining samarali bajarilishini ta'minlash uchun bir qancha huquqiy asoslar va me'yorga asoslanishni, ushbu usulda pudratchi shartnoma bo'yicha ikkilamchi mas'uliyatlarni bajarishi kerakligi, ya'ni loyiha dizaynini yaratishdan to qurilish ishlarini tugatishgacha bo'lgan jarayonlar uchun mas'ulligi ko'rsatiladi. Bu shartnoma tuzishda tizimli va tartibli yondashuvni ta'minlash uchun bir nechta

huquqiy mexanizmlar, jumladan, mehnat huquqi, qurilish xavfsizligi, atrof-muhitni himoya qilish, va loyiha bajarilishida to'lovlar tizimini yoritib bergan.

Xalqaro moliya institutlari tomonidan infrastruktura obyektlarini moliyalashda **EPC (Engineering, Procurement and Construction)** namunaviy shartnomalarining tartibga solish munosabatlari tahlil qilingan. Bu yondashuvda pudratchi loyihaning barcha bosqichlarini o'z zimmalariga olishi, loyihaning injiniringi (texnik loyihalash), zaruriy materiallar va jihozlarni sotib olishi va qurilish ishlarini amalga oshirilishi batafsil yoritilgan. EPC yondashuvi, asosan, sanoat obyektlari va infratuzilma loyihalarida qo'llanilishi tahlil qilingan.

Dissertant EPC shartnomasi O'zbekiston qonunchiligida alohida shartnoma turi sifatida mavjud emasligini, ushbu shartnoma turi aralash shartnoma bo'lib, unda qurilish pudratchilik shartnomasi, loyihalash va izlanish ishlari bo'yicha pudratchilik shartnomasi, xizmat ko'rsatish shartnomasi va yetkazib berish shartnomasidagi kelishuv shartlarini o'z ichiga olishini ta'kidlaydi: Shu sababli, EPC shartnomasini tuzishda tomonlar yuqorida keltirilgan har bir shartnoma turi uchun muhim shartlar va majburiy talablarni hisobga olishlari kerakligini asoslantiriladi.

Tadqiqotchi iqtisodiy munosabatlarning zamonaviy bosqichidagi davlat-xususiy sherikchilikning (**Public Private Partnership, PPP**) qurilish sohasidagi shartnomaviy munosabatlarning o'ziga xos taraflarini o'rganishda, ushbu yondashuvning iqtisodiy, huquqiy va boshqaruv jihatlariga e'tibor qaratadi. Davlat-xususiy sherikchilik shartnomasining asosiy jihati — davlat va xususiy sektor o'rtasida resurslar va risklar taqsimoti ekanligi va shartnoma tuzish jarayonida davlat tomonidan amalga oshiriladigan qurilish loyihalarga xususiy sektorning sarmoyalari va texnik xizmatlari jalb qilinishi, ko'pincha katta miqdordagi infratuzilma loyihalari, uy-joy qurilishi va boshqa davlat ehtiyojlarini qondirishga yo'naltirilishi tahlil qilingan.

Shuningdek, raqamlashtirish texnologiyalaridan foydalangan holda qurilish loyihalarini va ushbu sohadagi shartnomaviy munosabatlarni tartibga soluvchi mijozlar bilan munosabatlarni boshqarish tizimi hisoblangan **CRM (Customer Relationship Management)** mijozlar haqidagi ma'lumotlarni to'plash, tahlil qilish va ular bilan samarali muloqot qilish va qurilish sohasida bu tizim mijozlarning talablarini aniqlash, loyihalashtirish jarayonida ular bilan yaqin hamkorlik qilish va loyiha tugallanganidan keyin ham munosabatlarni davom ettirish uchun muhimligi ta'kidlangan. Korxonalar resurslarini rejalashtirish tizimi **ERP (Enterprise Resource Planning)** korxonaning barcha asosiy jarayonlarini birlashtiruvchi yagona platforma ekanligi va qurilish sohasida ERP tizimi loyihalashtirish, xarid qilish, ishlab chiqarish, buxgalteriya hisobi va boshqa ko'plab jarayonlarni avtomatik tarzda boshqarish bugungi kunning muhim texnologik yechim degan xulosaga kelgan.

Dissertatsiyaning uchinchi bobida **“Qurilish sohasida tadbirkorlik subyektlarining javobgarligi asoslari va ularni ta'minlash muammolari”** haqida so'z yuritilgan bo'lib, unda tadbirkorlik subyektlarining qurilish pudrati shartnomasi bo'yicha fuqarolik-huquqiy javobgarlik asoslari va ularni takomillashtirish muammolari, tadbirkorlik faoliyati subyektlari ishtirokidagi

tuziladigan qurilish bo'yicha investitsiya shartnomasini takomillashtirish masalalari bo'yicha tahlili amalga oshirilgan.

Dissertantning empirik tadqiqot olib borish natijalari bo'yicha pudrat shartnomalarining predmeti bo'lgan qurilish ishlariga asosan ikki yillik sifat kafolati berilishi aniqlangan. Lekin bino va inshootga ikki yillik sifat kafilligi tushunchasiga aniqlik kiritish maqsadida tadqiqotchi tomonidan qonunchilikka ushbu munosabatlarni tartibga soluvini yanada takomillashuviga asos bo'ladigan quyidagi yangi huquqiy atamalarni taklif etadi:

“birlamchi konstruktsiya” - bu bino (poydevor, devor, rigelъ, qoplama va tomni mahkamlash tizimlari) va inshootning (hajmiy, yassi yoki chiziq tarzidagi konstruktsiyalardan iborat obyektning oddiy faoliyat yuritishidagi zarur elementlar) mustahkamligini belgilovchi yagona tuzilma.

“ikkilamchi konstruktsiya” - bu birlamchi konstruktsiyaga kirmagan boshqa konstruktsiyalar.

Tadqiqotchining atamalarni qonunchilikka kiritishning maqsadi sifatida amaliyotda bino va inshootlarning sifat kafolatlari bilan bog'liq nizolarni hal etishda odil sudlov tamoyilini amalga oshirishdan iboratligini asoslab beradi.

Shuningdek, dissertant tomonidan qonunchilikdagi ulush kiritish asosidagi qurilish va qurilishi yakunlanmagan obyektning huquqiy maqomiga e'tiborni qaratadi. Ulush kiritish asosidagi qurilish shartnomalarining huquqiy tabiatini aniqlashda sud amaliyotda chalkashliklarga sabab bo'layotganligi va qurilishi yakunlanmagan obyektlarning fuqarolik muomalasiga kiritish munosabatlarini huquqiy tartibga solishga qaratilgan bir qancha takliflarni ilgari so'radi.

Xususan, Fuqarolik Kodeksining 666 va 679 moddalariga bir qator o'zgartirishlar va qo'shimchalar kiritish taklifi taqdim etiladi:

FKning 666-moddasi ikkinchi qismining quyidagicha tahriri: “...Qurilish pudrati shartnomasi to'g'risidagi qoidalar, agar shartnomada boshqacha tartib nazarda tutilgan bo'lmasa, bino va inshootlarni kapital ta'mirlash ishlari va ulush kiritish asosidagi qurilish shartnomalariga ham qo'llaniladi,”.

to'rtinchi qismning quyidagicha tahriri: “Fuqarolarning uy-joy qurilishida ulush kiritish asosida ishtirokini belgilovchi shartnomalar davlat mulk huquqlarini ro'yxatga olish va ularga tegishli bitimlar bo'yicha qonunchilikka muvofiq tuziladi”.

679-moddaning nomi va mazmunidagi o'zgartirishlar va qo'shimchalar tahrirlari:

679-moddadagi “Qurilish konservatsiya qilinganda buyurtmachining majburiyatlari” nomini quyidagi tarzda o'zgartirish: “Qurilish konservatsiya qilinganda buyurtmachining majburiyatlari yoki qurilish obyektining yakunlanmasligi oqibatlarini”.

679-moddaga quyidagi tarzda ikkinchi qismining qo'shilish tahriri:

“Qurilish yakunlanmagan holatlarda, ushbu obyektlar, agar shartnomasida boshqacha tartib nazarda tutilgan bo'lmasa, ularga bitimlar amalga oshirilishi mumkin”.

XULOSA

Qurilish sohasidagi tadbirkorlik faoliyatini shartnomaviy tartibga solishga oid tadqiqot ishi natijasida quyidagi ilmiy-nazariy hamda qonunchilikka oid taklif va xulosalar ishlab chiqildi:

I. Ilmiy-nazariy xulosalar:

1. *Quantum Meruit doktrinasini* O‘zbekistonda qurilish sohasiga tatbiq etish, mehnatning adolatli baholanishini va ishchilar huquqlarining himoya qilinishini ta‘minlaydi. Bu tizimni qo‘llashda, mavjud qonunchilikka asoslanib, samarali tartibga solish mexanizmlari va shartnoma huquqini yanada mustahkamlash zarur. Quantum Meruit — qurilish sohasida ishlovchilarni va pudratchilarni himoya qilish, shartnoma bo‘yicha muammolarni hal qilishda muhim huquqiy vosita bo‘lishi mumkinligi asoslantirilgan.

2. *Spearin doktrinasini* loyiha boshqaruvi va shartnoma munosabatlarini yanada samarali tashkil etishga yordam beradi. Bu doktrina, qurilish tashkilotlari va pudratchilar o‘rtasida huquqiy noaniqliklarni kamaytiradi, loyihalarning sifatini oshiradi va qurilish jarayonlarini optimallashtirilishi asoslantirilgan.

3. Qurilish munosabatlari subyektlari o‘rtasida shartnoma mavjud bo‘lmagan yoki mavjud bo‘lgan lekin to‘liq bajarilmagan holatlarda, amalga oshirilgan ish uchun adolatli to‘lovni ta‘minlash uchun qanchaga loyiq doktrinasini (*Quantum Meruit Doctrine*) ko‘rib chiqiladi. Agar quruvchi yoki pudratchi amalga oshirilgan ish uchun hech qanday belgilangan to‘lovni olmasa, ular o‘z mehnatlari yoki xizmatlari uchun "adolatli" kompensatsiyani olish huquqiga egaligi va shartnoma yoki kelishuvda aniq narx belgilangan bo‘lmasa ham, ishning amalga oshirilgan qismi uchun haq to‘lanishini ta‘minlashga imkon berishi tahlil qilingan.

4. Qurilish sohasida tadbirkorlik faoliyatining huquqiy tartibga solinish tarmoqlararo xususiyatga ega. Bunda, qurilish sohasida tadbirkorlik faoliyatining fuqarolik-huquqiy tartibga solinishi fuqarolik muomalasida ishtirok etuvchilarning huquqiy maqomini, shartnomalarni tuzish, o‘zgartirish, bekor qilish tartibini, qurilish muddatlarini belgilash va boshqa masalalarni aniqlashda ifodalanganligi asoslangan.

5. Qurilish sohasida tadbirkorlik faoliyatida yuzaga keladigan tarmoqlararo munosabatlarga kelsak, ular huquqiy tartibga solish predmetiga qarab turli xil normativ-huquqiy hujjatlar doirasiga tushadi: mehnat huquqi (masalan, xodimlarni qabul qilish, ishdan bo‘shatish va h.k.); ma‘muriy huquq (masalan, quruvchi tomonidan ma‘muriy huquq normalarini buzish); soliq huquqi (masalan, tadbirkorlik faoliyatini amalga oshirayotgan shaxs tomonidan soliqlarni to‘lash va boshqalar); shaharsozlik huquqi (masalan, shaharsozlik rejalashtirishni amalga oshirish); er huquqi (masalan, qurilish olib borish uchun er uchastkasi olish); ekologik huquq (masalan, qurilish ishlarini olib borishda ekologik normalarga rioya qilish va boshqalar).

6. Qurilish sohasida tadbirkorlik faoliyatida shartnomaviy munosabatlarning subyekti sifatida ishtirok etuvchi ulushdorning huquq va qonuniy manfaatlarini himoya qilish maqsadida eskrou huquqiy institutini joriy etish orqali fuqarolik-huquqiy munosabatlarning shaffofligini ta‘minlash, moliyaviy xatarlarni

kamaytirish va shartnoma majburiyatlarining samarali bajarilishini kafolatlash taklif etilgan. Ushbu mexanizm ulushdorlar bilan developerlar o'rtasidagi kelishuvlarni amalga oshirishda yuqori darajada ishonchni ta'minlash hamda huquqiy himoyaning qonuniy asoslarini mustahkamlash vositasi sifatida xizmat qiladi.

7. Qurilish sohasida tadbirkorlik faoliyatida shartnomaviy munosabatlar tizimida loyihalash va qurilish ishlarini bitta subyekt tomonidan bajariladigan "***Design and Build***" huquqiy institutini joriy etish O'zbekiston Respublikasida qurilish jarayonlarini optimallashtirishga xizmat qiladi, chunki bu institut loyiha ishlab chiqish va qurilishni bir subyekt zimmasiga yuklash orqali majburiyatlarni yagona muvofiqlashtirishni ta'minlaydi. Rivojlangan davlatlarda keng qo'llaniladigan ushbu model majburiyatlar va mas'uliyatning taqsimlanishidagi moslashmovchilik, hujjatlarning ortiqcha byurokratiyasi va kelishmovchiliklar ehtimolini kamaytirishga imkon yaratadi. O'zbekistonda qurilish faoliyatining ayrim holatlarda bir nechta shartnomalar orqali tartibga solinishi loyihaning o'z vaqtida va sifatli amalga oshirishini qiyinlashtirishi mumkin. Shu sababli, loyihalash va qurilish ishlarini bitta subyekt tomonidan bajariladigan "***Design and Build***" institutini joriy etish iqtisodiy samaradorlikni oshirish, xatarlarni kamaytirish va shartnoma munosabatlarining mukammal huquqiy asoslarini yaratish uchun maqsadga muvofiqligi taklif etilgan.

8. Qurilish sohasida tadbirkorlik faoliyati shartnomaviy munosabatlarga oid bir qator atamalar ilmiy va nazariy tahlil qilingan holda quyidagi atamalarga mualliflik ta'riflari berildi:

“transport vositalarning vaqtinchalik turish joyi (parking)” - maxsus belgilangan va zaruriyatga ko'ra jihozlangan va uskunalar bilan ta'minlangan joy bo'lib, bu joy avtomobil yo'lining bir qismi yoki yo'l qismiga, trotuarga, yo'l yoqasiga, ko'prikk yoki ko'prikk osti bo'shliqlari, estakadalar, maydonlar va boshqa ko'cha-yo'l tarmog'ining obyektlariga tutashgan yoki ularning bir qismi;

“transport vositalarning qo'yish uchun joy - transport vositasini joylashtirish uchun maxsus mo'ljallangan, individual tarzda aniqlangan binolar yoki inshootlarning bir qismi;

“birlamchi konstruktsiya” - bu bino (poydevor, devor, rigel, qoplama va tomni mahkamlash tizimlari) va inshootning (hajmiy, yassi yoki chiziq tarzidagi konstruktsiyalardan iborat obyektning oddiy faoliyat yuritishidagi zarur elementlar) mustahkamligini belgilovchi yagona tuzilma.

“ikkilamchi konstruktsiya” - bu birlamchi konstruktsiyaga kirmagan boshqa konstruktsiyalar.

9. Shartli deponentlash (***Escrow***) tizimi qurilish sohasidagi shartnomaviy munosabatlarning rivojlanishi va iqtisodiy xavf-xatarlarni minimallashtirishga bog'liq. Qurilishda mavjud bo'lgan noaniqliklar va rasmiyatchiliklar, ayniqsa, iqtisodiy holatdagi o'zgarishlar va qurilish muddatlarining uzayishi kabi omillar, eskrou tizimi orqali bartaraf etiladi. Ilmiy jihatdan, eskrou tizimi iqtisodiy tizimlarning barqarorligini ta'minlash, shuningdek, qurilish sohasida korrupsiya va suiiste'molliklarni kamaytirishga yordam berishi asoslantirilgan.

II. Qonunchilik hujjatlarini takomillashtirish bo'yicha taklif va tavsiyalar:

1. O'zbekiston Respublikasining Fuqarolik kodeksi Ikkinchi qismining 45-bobiga qo'shimcha beshinchi paragrafni quyidagicha qo'shish kerak:

5-§. ESKROU BO'YICHA HISOB-KITOBLAR

821-modda. Eskrou bo'yicha hisob-kitoblar haqida umumiy qoidalar

Eskrou hisobvarag'i shartnomasiga ko'ra bank (eskrou-agent) hisob egasidan (deponentdan) olgan pul mablag'larini qayd etish va bloklash uchun maxsus eskrou hisobvarag'ini ochadi, ushbu mablag'lar eskrou shartnomasida nazarda tutilgan asoslar yuzaga kelganida boshqa shaxsga (benefitsiarga) topshiriladi. Eskrou hisobvarag'dagi pul mablag'lari huquqi deponentga tegishli bo'lib, benefitsiarga o'tkazish asoslari yuzaga kelgan sanagacha uniki hisoblanadi va ushbu sana o'tganidan keyin benefitsiarning mulki bo'ladi. Eskrou hisobvarag'idagi pul mablag'laridan foydalanish ushbu paragrafda belgilangan tartibda amalga oshiriladi.

Eskrou hisobvarag'i shartnomasidan kelib chiqadigan majburiyatlar, bank eskrou-agent sifatida ishtirok etgan boshqa shartnoma bilan ham tasdiqlanishi mumkin.

Bankning eskrou-agent sifatidagi mukofoti eskrou hisobvarag'idagi pul mablag'laridan undirilmaydi, agar shartnomada boshqacha hol belgilanmagan bo'lsa.

Tomonlar o'rtasidagi munosabatlarga nisbatan bank hisobvarag'i va eskrou shartnomasi to'g'risidagi umumiy qoidalar qo'llaniladi.

822-modda. Pul mablag'laridan foydalanish va eskrou hisobvaraqdan foydalanishda cheklovlar

Agar shartnomada boshqacha holat nazarda tutilmagan bo'lsa, deponent ham, benefitsiar ham eskrou hisobvarag'idagi pul mablag'laridan foydalanish huquqiga ega emas, mazkur moddada ko'rsatilgan holatlar bundan mustasno.

Eskrou hisobvarag'iga, shartnomada ko'rsatilgan deponirlangan summa bundan mustasno, boshqa deponent mablag'larini qo'shishga yo'l qo'yilmaydi.

Eskrou shartnomasida nazarda tutilgan asoslar yuzaga kelganida bank ushbu shartnomada belgilangan muddatda, agar muddat ko'rsatilmagan bo'lsa, o'n kun ichida deponirlangan summani benefitsiarga berishi yoki uni ko'rsatilgan hisobvarag'iga o'tkazishi shart.

Eskrou hisobvarag'idagi operatsiyalarni to'xtatish, deponentning uchinchi shaxslar oldidagi majburiyatlari bo'yicha eskrou hisobvarag'idagi pul mablag'larini musodara qilish yoki ro'yxatdan chiqarish mumkin emas.

823-modda. Eskrou hisobvarag'i shartnomasi bo'yicha bank sirini tashkil etuvchi ma'lumotlarni taqdim etish

Bank sirini tashkil etuvchi ma'lumotlarni talab qilish huquqiga ham deponent, ham benefitsiar ega.

824-modda. Eskrou hisobvaraqli yopish

Eskrou shartnomasida boshqacha nazarda tutilmagan bo'lsa, eskrou hisobvarag'i shartnoma amal qilish muddati o'tishi yoki boshqa asoslarga ko'ra tugatilganda bank tomonidan yopiladi.

Agar deponent va benefitsiar kelishuvida boshqacha holat nazarda tutilmagan bo'lsa, eskrou shartnomasining bekor qilinishida hisobdagi qolgan mablag' deponentga o'tkaziladi yoki beriladi, yoki benefitsiarga mablag'larni berish asoslari yuzaga kelgan taqdirda, mablag' unga o'tkaziladi yoki beriladi deb ko'rsatib o'tilishi kerak.

2. «Fuqarolarning uy-joy qurilishi va xaridi uchun pul mablag'larini kiritgan huquqlarini himoya qilish to'g'risida» qonun qabul qilish zarur. Ushbu qonun ko'chmas mulk bozorida barcha ishtirokchilar uchun uy-joy loyihalarini amalga oshirish qoidalarini belgilashi lozim. Unda fuqarolarning quruvchi tadbirkorning faoliyati to'g'risidagi ma'lumotlarga nisbatan huquqlari hamda davlat tomonidan qurilish tashkilotlarining faoliyati ustidan samarali nazorat mexanizmlari ta'minlanishi kerak. Uy-joy loyihalari ishtirokchilarini qurilish tashkilotlarining moliyaviy va xo'jalik faoliyatiga ta'sir etuvchi ma'lumotlar va voqealar haqida o'rta va yakuniy hisobotlar orqali xabardor qilish zarur.

3. O'zbekiston Respublikasining Fuqarolik kodeksi Ikkinchi qismiga alohida «Investitsion shartnoma» bobini qo'shish kerak. Qurilish sohasidagi investitsion shartnoma fuqarolik-huquqiy shartnoma bo'lib, unga muvofiq bir taraf (investor) o'z mablag'lari yoki jalb qilingan mablag'lar hisobidan qurilish obyektiga xarajatlar amalga oshirish majburiyatini oladi, ikkinchi taraf (buyurtmachi) esa, investor tomonidan berilgan vakolatlarga muvofiq investitsiya loyihasini amalga oshirish bo'yicha tadbirlarni bajarish, shu jumladan qurilish obyektini foydalanishga topshirish majburiyatini oladi. Ushbu bobda O'zbekiston Respublikasining Fuqarolik kodeksida investitsion shartnoma (kontrakt)ning huquqiy ta'rifi, uning muhim shartlari, taraflarning huquq va majburiyatlari hamda ularning fuqarolik-huquqiy javobgarligini aks ettirish zarur.

4. Qurilish pudrati shartnomasining predmeti ikki qismdan iborat: pudratchining ishi natijasi sifatida qurilish obyekti va bevosita qurilish ishlari. Qurilish pudrati shartnomasi doirasida tomonlar har doim qurilish jarayonining o'ziga emas, balki uning moddiy natijasiga erishishni maqsad qilib qo'yganligi tufayli, O'zbekiston Respublikasi Fuqarolik kodeksining 666-moddasi 1-qismidan pudratchiga qurilish ishlarini bajarish majburiyatini qo'yish shart emas. Shu munosabat bilan, 666-moddaning 1-qismini quyidagi tahrirda bayon etish zarur:

“Qurilish pudrati shartnomasiga ko'ra, pudratchi shartnomada belgilangan muddatda buyurtmachi topshirig'iga binoan qurilish obyektini barpo qilish va tayyor qurilish obyektini buyurtmachiga topshirish yoki boshqa qurilish ishlarini bajarish majburiyatini oladi, buyurtmachi esa pudratchiga ishlarni to'g'ri bajarishi uchun zarur shart-sharoitlarni yaratish, ularning natijasini qabul qilish va to'lovni amalga oshirish majburiyatini oladi”.

5. O'zbekiston Respublikasi Fuqarolik kodeksining 666-moddasi:

ikkinchi qismini shu tarzda tahrir qilish lozim: “...Qurilish pudrati shartnomasi to'g'risidagi qoidalar, agar shartnomada boshqacha tartib nazarda

tutilgan bo'lmasa, bino va inshootlarni kapital ta'mirlash ishlari va ulush kiritish asosidagi qurilish shartnomalariga ham qo'llaniladi".

to'rtinchi qismini shu tarzda tahrir qilish kerak: "Fuqarolarning uy-joy qurilishida ulush kiritish asosida ishtirokini belgilovchi shartnomalar davlat mulk huquqlarini ro'yxatga olish va ularga tegishli bitimlar bo'yicha qonunchilikka muvofiq tuziladi".

beshinch qismini quyidagi tahrir qilish lozim:

"Qurilish pudrati shartnomasi yozma shaklda yoki tegishli platforma orqali elektron shaklda tuzilishi kerak. Ushbu shakllarga rioya qilinmasligi qurilish pudrati shartnomasining haqiqiy emasligiga olib keladi".

6. Amaliyotda qurilish pudrati shartnomasida tomonlar qurilish ishlari narxini smeta tuzmasdan qurilish maydonida yoki kelishilgan narx bo'yicha belgilashlari holatlari mavjud,. Shu bois, O'zbekiston Respublikasi Fuqarolik kodeksining 670-moddasi 1-qismini quyidagi tahrirda bayon etilishi lozim:

"Pudratchi qurilish va unga bog'liq ishlarini texnik hujjatlarga muvofiq amalga oshirishi shart, ular ish hajmi, mazmuni va ishga qo'yiladigan boshqa talablarni belgilaydi, agar tomonlar ish narxini belgilaydigan smetani kelishib olgan bo'lsa, ishlar ham smetaga muvofiq bajariladi".

7. Fuqarolik Kodeksining 679-moddaning nomi va mazmuniga o'zgartirishlar va qo'shimchalar:

679-moddadagi "Qurilish konservatsiya qilinganda buyurtmachining majburiyatlari" nomini quyidagi tarzda o'zgartirish: "Qurilish konservatsiya qilinganda buyurtmachining majburiyatlari yoki qurilish obyektining yakunlanmasligi oqibatlar".

679-moddaga quyidagi tarzda ikkinchi qismni qo'shish lozim:

"Qurilish yakunlanmagan holatlarda, ushbu obyektlar, agar shartnomasida boshqacha tartib nazarda tutilgan bo'lmasa, ularga bitimlar amalga oshirilishi mumkin".

III. Huquqni qo'llash amaliyotini takomillashtirish bo'yicha taklif va tavsiyalar:

1. O'zbekiston Respublikasi Oliy xo'jalik sudi Plenumining "Iqtisodiy sudlar tomonidan qurilish pudrati shartnomasidan kelib chiqadigan nizolarni hal etishda qonun hujjatlarini qo'llashning ayrim masalalari to'g'risida" 23.12.2016 yildagi 306-son qaroriga quyidagi tahrirda 22 bandni kiritish taklif etiladi:

"22. FK 635-moddasining birinchi qismiga ko'ra, pudrat shartnomasida ishni bajarishning boshlang'ich va oxirgi muddatlari ko'rsatiladi. Taraflar o'rtasidagi kelishuvga muvofiq, shartnomada ishning ayrim bosqichlarini tugallash muddatlari (oraliq muddatlar) ham nazarda tutilishi mumkin.

Sudlar e'tiborga olishlari kerakki, pudratchining o'ziga bog'liq bo'lmagan hollarda qurilish obyektidagi injener tarmoqlari yoki shartnomada ko'rsatilmagan obyektlarini bartaraf etishga ketadigan vaqtlarini, shartnoma muddatiga daxldor emasligi inobotga olinsin. Ushbu injener tarmoqlari yoki shartnomada ko'rsatilmagan obyektlarini bartaraf etishga ketadigan xarajatlari shartnomada ko'rsatilmagan bo'lsa, pudratchi buyurtmachidan ushbu obyekt yoki obyektlarni

bartaraf etishga sarf qilingan xarajatlarini talab qilishga haqli va sudlar bunday da'volarni qabul qilishlari kerak.”

2. Qurilish sohasida shartnomaviy munosabatlar murakkablashgan, yangi turdagi shartnomalar va loyihalar mavjud. Shuningdek, zamonaviy qurilish texnologiyalarining joriy etilishi va yuqori sifatli xizmatlarning taqdim etilishi talab etilmoqda. Shu nuqtai nazardan, mijozlar bilan munosabatlarni boshqarish tizimi CRM (Customer Relationship Management) tatbiq etish ilmiy va amaliy jihatdan muhim ahamiyatga ega. Tizim, qurilish tashkilotlarining mijozlarga yaxshiroq xizmat ko'rsatish, samarali resurslarni boshqarish va raqobatbardoshlikni oshirish imkoniyatlarini yaratadi.

3. Qurilish sohasida korxonalar resurslarini rejalashtirish tizimi ERP (Enterprise Resource Planning) qurilish tashkilotlarining barcha ishlarini, jumladan, qurilish-montaj ishlarini, moliyaviy operatsiyalarni, materiallarni sotib olish va taqsimlashni, ishchi kuchini boshqarishni va boshqa resurslarni optimallashtirishga yordam beradi. ERP tizimi qurilish tashkilotlariga ish jarayonlarini optimallashtirish, samarali boshqarish va raqobatbardoshlikni oshirish imkonini beradi. Shu bilan birga, huquqiy va iqtisodiy asoslar ERP tizimining muvaffaqiyatli joriy etilishi uchun zarur bo'lgan shart-sharoitlarni yaratadi.

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TASHKENT STATE LAW UNIVERSITY

KARABAYEV MAKHSETBAY DJOLDASBAEVICH

**CONTRACTUAL REGULATION OF BUSINESS ACTIVITY IN THE
CONSTRUCTION FIELD**

12.00.03 – Civil rights. Entrepreneurship right.
Family law. International private law

ABSTRACT
of doctoral (Doctor of Philosophy) dissertation on legal sciences

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Scientific Supervisor:

Imomov Nurillo Fayzullaevich
Doctor of Science in Law, Professor

Official opponents:

Yakubov Akhtam Nusratilloevich Doctor
of Science in Law, Associate
Professor
Kalandarova Malikakhon Pirnazarovna
Candidate of Legal Sciences. Associate
Professor

The leading organization:

**University of Public Safety of the
Republic of Uzbekistan**

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The doctoral dissertation is available at the Information Resource Center of Tashkent State University of Law (registered under No.1434), (Address 100047, Amir Temur street, 35. Tashkent city. Phone: (99871) 233-66-36).

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Rustambekov

I.R. Rustambekov

Chairman of the Scientific Council for
awarding scientific degrees, Doctor of
Science in Law, Professor

D.Yu. Khabibullaev

Secretary of the Scientific Council for
awarding scientific degrees, Doctor of
Science in Law, Professor

B.K. Khodjaev

Chairman of the Scientific Seminar
under the Scientific Council for
awarding scientific degrees, Doctor of
Science in Law, Professor

Khodjaev

INTRODUCTION (Abstract of PhD thesis)

The relevance and necessity of the dissertation topic. Countries with a growing population in the world have raised the issue of meeting the needs of their population for buildings and structures, infrastructure facilities to the level of state policy. Each country, based on its economic, social, cultural and geographical location, supports the development of the construction industry by supporting entrepreneurs in the construction sector through various programs, incentives, and liberalization of the legislative sphere. In recent years, China has mobilized 1237.7 billion dollars, the USA 1090.1 billion dollars, India 257.9 billion dollars, Japan 235.0 billion dollars, Germany 211.5 billion dollars, Russia 163.1 billion dollars, our neighbors Kazakhstan 11.9 billion dollars, Turkmenistan 4.8 billion dollars, Kyrgyzstan 0.81 billion dollars, and our state has mobilized 5.0 billion dollars for construction work.

In order to eliminate legal problems in the construction industry worldwide, the escrow system began to be implemented in the housing construction sector as a payment mechanism in the mid-seventies of the 20th century. The development of internationally prominent FIDIC, EPC (Engineering, Procurement and Construction) and the JCT (Joint Contracts Tribunal), NEC (New Engineering Contract), RIBA (Royal Institute of British Architects) proformas adopted within the framework of the national legislation of the United Kingdom led to a new stage in the regulation of contractual relations in business activities. Of course, the impact of technological developments in the 21st century has also led to the digitization of the construction sector. As a result, the CRM (Customer Relationship Management) system, which regulates construction projects and contractual relations in this sector, helps to collect, analyze and effectively communicate with customers. In the construction sector, this system is important for identifying customer requirements, working closely with them during the design process, and maintaining relationships after the project is completed. Enterprise Resource Planning (ERP) is a single platform that integrates all the main processes of an enterprise. In the construction sector, the ERP system allows you to automatically manage design, procurement, production, accounting and many other processes.

In our country, if we consider only 2023, 1778 cases were heard in courts on contract agreements, 119 cases on investment disputes, and 76 cases on shareholder disputes in 2022, while in 2023, 93 cases were heard. There is a tendency for the number of disputed construction cases to increase from year to year. Therefore, it is of great importance to introduce and develop the experience of developed countries that have been implementing mechanisms for regulating contractual relations in the construction sector for a long time in the Republic of Uzbekistan. Therefore, technological solutions such as the Quantum Meruit Doctrine, the Spearin Doctrine, the lex constructionis doctrines and the Framework Alliance Contract (FAC-1), Building Information Modeling (BIM) in regulating contractual relations in the construction industry have not been studied as a comprehensive study to date. The issues of applying some of them in the

conditions of Uzbekistan have not been analyzed. Accordingly, it can be said that there is a need to improve the legislation and law enforcement practice related to the further liberalization and protection of contractual relations in the construction industry in our country and to determine its prospects.

Today, the Civil Code of the Republic of Uzbekistan, the Urban Planning Code of the Republic of Uzbekistan, the Economic Procedural Code of the Republic of Uzbekistan, the Law of the Republic of Uzbekistan "On the contractual and legal framework of the activities of economic entities", as well as the Resolution of the Cabinet of Ministers of August 5, 2000 No. 305 "On additional measures to deepen economic reforms in capital construction", the Resolution of the Cabinet of Ministers of July 5, 2017 No. 467 "On additional measures to ensure strict compliance with urban planning and land legislation in the construction of settlements, as well as further improving the procedure for allocating land for entrepreneurial purposes", the Decree of the President of the Republic of Uzbekistan of February 20, 2018 "On pre-project, project, tender documentation and This dissertation research will serve to a certain extent in implementing the tasks set forth in Resolution PQ No. 3550 "On measures to improve the procedure for examining contracts", Resolution PQ-4732 of the President of the Republic of Uzbekistan dated May 27, 2020 "On measures to regulate the process of constructing multi-apartment houses on a share basis" and other legal documents on the topic.

Dependence of the research on the main priorities of the development of science and technology of the republic. This dissertation is carried out following the priority direction of the republican science and technology development I. "Formation of a system of innovative ideas and ways of their implementation in the social, legal, economic, cultural, spiritual and educational development of the information society and the democratic state."

The level of other research studied of problem. In the study of this topic, literature was used, which describes the legal documents of foreign countries aimed at regulating the relations of business activity in the field of construction, the practice of applying the law, and the conceptual approaches, scientific-theoretical views available in legal science.

In general, scientists of our country have researched the general issues of the construction contract, as well as specific types. Among them, Kh.Rahmonkulov, K.Rashidov, O.Okyulov, S.S.Gulyamov, Sh.N.Ruzinazarov, B.B. Samarkhodjaev, N.F.Imomov, I.R.Rustambekov, M.Baratov and others.

Foreign scientists Cyril Chern, Hughes U., Champion R., Murdoch Dj. Roger ter Haar, Bailey DJ, Theo MM, Loosemore M, Hughes U.P., Brown A.D., Pua F.T.T. and studied by scholars such as Elliott P. and others.

In the CIS countries Boguslavsky, M.I. Braginsky, V.V. Vitryansky, E.E. Shevchenko, V.V. Nikitin, O.V. Detailed and extensive explanations are given in the works of Makarov, S.N. Mokrov, S.V. Kovedyaev, E.L. Abramsova, T.N. Gromova, I.V. Beklenishcheva, V.P. Bugorsky.

Although there are certain scientific developments within the scope of the research topic, today, in the context of the development of Uzbekistan, the issues

of regulating the contractual relations of business activities in the field of construction in the context of the civil legislation, the practice of law enforcement have not been studied as a separate object of research from a scientific-theoretical and practical point of view.

Relation of the dissertation's theme to the scientific-research work of higher education institution where it was implemented. The theme of the dissertation is included in the plan of research plan of Tashkent State University of Law within the basis of the fundamental project (2021-2023) on the theme of "Issues of implementation of the results obtained on the basis of the theoretical research of the legislative practice and civil law achievements of developed countries into national legislation".

The aim of the research is to determine the scientific-theoretical and practical problems related to the contractual regulation of entrepreneurial activity in the field of construction in Uzbekistan, and to develop proposals and recommendations aimed at improving the legislation and increasing the effectiveness of its application.

The tasks of the research are to:

study the types of civil-legal contracts concluded in the field of construction;

analysis of investment-contractual relations arising in the field of construction;

determining the legal features of the construction contract;

analysis of the mechanisms for the fulfillment of the obligations of the parties under the construction contract;

study the issues of civil liability of the parties under the construction contract;

study the problems of civil-legal regulation of business activity in the field of construction and foreign practice, developing proposals and recommendations aimed at improving the legislation in this regard.

The object of the research is the system of relations regarding the theoretical and practical problems of the regulation of contracts that arise during the implementation of business activities in the construction sector.

The subject of the research consists of regulatory legal documents aimed at regulating contractual relations in the field of construction, the practice of applying the law, the legislation and practice of some foreign countries, as well as conceptual approaches, scientific and theoretical views and ideas that exist in legal science.

Research methods. Historical, systematic-structural, comparative legal, logical (analysis, synthesis, induction and deduction) and statistical methods were used in the research.

The scientific novelty of the research is as follows:

The establishment of easements in cases where it is impossible to ensure the interests of the owners of buildings and structures without restricting the right of another person to use the land plot during the construction, reconstruction, repair and commissioning of buildings and structures, is justified;

In order to ensure the targeted and effective use of the allocated funds, the determination of construction objects that are transferred from year to year, with the volume of financing determined in close connection with the calendar schedules of construction and installation works, is justified;

Measures are justified to complete the procurement procedures in accordance with the established procedure and conclude contract agreements with the winners of the competition (tender) based on the approved pre-project and (or) design documentation for projects (objects) that will be launched in 2024;

The need to use information and communication technologies in conducting electronic tender processes and concluding contracts with the winner of the tender is justified.

The practical results of the research are as follows:

relationships are enhanced through the use of various types of construction contracts, including contract contracts, investment contracts, and equity participation contracts. This, in turn, clearly defines the rights and obligations of the parties to the contract, and provides an opportunity to perform them in a timely and qualitative manner;

by determining the responsibility between the parties, it is possible to determine the consequences of the violation of the contract or the violation of the specified terms. It was argued that this would help control the timeliness and cost of construction projects;

quality standards and a control mechanism in accordance with them are defined in the contracts, ensuring the achievement of the specified quality level of work. It was argued that this is an important factor for both public and private sector projects;

with proper organization of financial calculations and budget issues in the construction contracts, it is possible to carry out work efficiently and reduce costs as much as possible. Also, financing, guarantees and payment procedures are defined, and as a result of the contract, reliable cooperation between investors and entrepreneurs develops;

a mechanism for resolving disputes that may arise in construction activities using the court system or contractual remedies will be developed. In doing so, procedures for resolving contractual disputes through the judicial system and alternative methods will be improved.

as a result of clear and legal regulation of contractual relations in the construction sector, the opportunity to attract investments, implement new construction projects and develop business activities will expand. At the same time, cooperation between the public and private sectors will increase.

Reliability of research results. The results of the research were summarized by the international private law and national legal norms, the experience of developed countries, the practice of applying the law, statistical data on the conducted social surveys, and the obtained results were approved by the competent state authorities and put into practice. Conclusions, proposals and recommendations were approved, and their results were published in leading national and foreign publications.

Scientific and practical significance of research results. The scientific significance of the results of the research, from the scientific-theoretical conclusions, suggestions and recommendations in it, serves in the future scientific activity, in law-making, in the practice of law enforcement, in the interpretation of the relevant norms of civil legislation, in the improvement of national legislation, and in the scientific-theoretical enrichment of the sciences of civil law and contract law. The results of the research can be used in conducting new scientific researches.

The practical significance of the research results serves in the activity of law-making, in particular, in the process of preparing normative legal documents and in the process of making changes and additions to them, in improving the practice of applying the law, and in teaching subjects in the field of private law in higher legal educational institutions.

Implementation of research results. The scientific results of the research work were used in the following:

Proposals on the establishment of easements in cases where it is impossible to ensure the interests of owners of buildings and structures without restricting the right of another person to use a land plot during the construction, reconstruction and repair of buildings and structures, construction, reconstruction, repair and commissioning of engineering infrastructure facilities were used in the development of Part 1 of Article 81 of the Urban Planning Code of the Republic of Uzbekistan (Act of the Committee on Judicial and Legal Issues and Combating Corruption of the Senate of the Oliy Majlis of the Republic of Uzbekistan dated October 23, 2024 No. 18). This proposal served to allow entities participating in urban planning activities to carry out construction work without hindrance;

In order to ensure targeted and effective use of allocated funds, a proposal was developed (registration number 04-09/7-10/811, October 11, 2024) on the determination of construction objects that are transferred from year to year, determining the volume of financing in close connection with the calendar schedules of construction and installation works (Resolution of the Council of Ministers of the Republic of Karakalpakstan No. 29-13-0-Q/24 dated January 17, 2024). This proposal allowed for the implementation of justice in resolving disputes related to the terms of performance of work in construction contracts;

It was used to develop a proposal (registration number 04-09/7-10/811, October 11, 2024) on measures to complete the procurement procedures in accordance with the established procedure and conclude contract agreements with the winners of the competition (tender) based on the approved pre-project and (or) design documentation for projects (objects) that will be launched in 2024 (Resolution of the Council of Ministers of the Republic of Karakalpakstan No. 29-13-0-Q/24 dated January 17, 2024). This proposal served to facilitate the participation of business entities in the construction sector in tenders and the entry into contractual relations on the basis of fair competition.

used to develop a proposal for conducting electronic tender processes and concluding a contract with the winner of the tender (registration number 04-09/7-10/811, October 11, 2024) (Resolution of the Council of Ministers of the Republic

of Karakalpakstan dated February 24, 2023 No. 72-13-0-Q/23). This proposal provided for further increasing transparency in conducting tender games in public procurement and the possibility of concluding construction contract agreements with business entities.

Approbation of research results. The results of the research were presented at 6 scientific conferences, including 3 international and 3 republican scientific-practical conferences, roundtable discussions, and seminars.

Publication of research results. Results of the research have been published in the form of 12 research papers and articles including 6 articles (2 in foreign publications) and 6 conference articles.

The structure and volume of the dissertation. The composition of the dissertation consists of an introduction, three chapters, a conclusion, and a list of used literature. The volume of the dissertation is 143 pages (excluding the used literature).

THE MAIN CONTENT OF THE DISSERTATION

In the **introductory** part of the dissertation, the relevance and necessity of the research topic, its dependence on the main priority directions of the development of science and technology of the republic, a review of foreign scientific research on the topic, the level of research of the problem, the connection of the topic with the scientific and research work of the higher education institution where the dissertation is being carried out, its goals and objectives, object and subject, methods, scientific information about novelty and practical result, reliability of research results, scientific and practical significance, implementation, approbation, publication of results, size and structure of the dissertation.

The first chapter of the dissertation entitled "**General description of business activity in the field of construction as an object of contractual legal regulation**" contains an analysis of the theoretical basis for the development of the problems discussed in the following chapters of the research. In this chapter, the concept of the construction industry as entrepreneurship, its characteristics, the system of entrepreneurial activity in the construction industry, types and their classification, and the legal basis of entrepreneurship in the construction industry are analyzed.

The legal and contractual basis of business activity in the field of construction was widely discussed. It was noted that the construction industry is not only related to the construction of buildings and structures, but also a complex process that includes economic, legal and social aspects. Various legal systems related to the construction industry, including the Anglo-Saxon legal system, the continental legal system, and the Sharia legal system, were reviewed and the following were analyzed:

- Importance and legal basis of the construction industry: the Republic of Uzbekistan is based on the laws and codes regulating business activities for the development of the construction industry based on the principles of the market

economy. This area is an important part of the economy and is related to the construction, design, financing and implementation of other construction works.

- The role of legal systems in the construction industry:

Anglo-Saxon legal system: In this system, parties have freedom of contract in construction contracts. Courts rely mainly on the terms of the contract to resolve disputes. There are few imperative laws, and contracts are freely regulated;

Continental legal system: Imperative and dispositive rules apply to construction contracts. Laws and codes are the main regulatory documents, and state authorities monitor the compliance of construction contracts with the law;

Sharia law system: Construction contracts based on the rules of Islam are governed by Sharia law. This legal system is mainly used in family and inheritance cases.

- Importance of standards and regulations in construction: Strict adherence to standards and regulations is necessary for effective implementation of construction works. This ensures the protection of citizens' rights. In every construction project, it is important to follow the requirements of established laws and codes.

- Reciprocity of freedom of contract and state control: In the regulation of construction relations, even in cases where the parties can freely agree on the terms of the contract, there are imperative rules related to state control, such as safety and quality. A balance must be maintained between freedom of contract and protection of state interests.

- Mixed legal systems: In some countries, including Pakistan and Egypt, Anglo-Saxon and Continental legal systems are mixed with Sharia law. It covers different approaches to legal regulation in construction relations.

Also, extensive information was provided about the system, types and classification of business activities in the field of construction in Uzbekistan. The construction industry is one of the important branches of business activity, and its systematic regulation is of great importance. Below is an explanation of these issues:

1. The system of construction entrepreneurship: Entrepreneurship in the field of construction is very complex and involves individual entrepreneurs, legal entities and state-regulated organizations participating in this field. These include business entities and relations between them that arise during the implementation of construction works.

2. Types and classification of construction works: Construction works include construction, renovation and demolition of various objects. These works are divided into stages such as geological research, design, construction of structures. Depending on the technologies and materials used in construction, its types may be different. In the construction process, highly qualified specialists and special knowledge are required.

3. Regulation by the state: Entrepreneurial activity in the field of construction is regulated by the Ministry of Construction of the Republic of Uzbekistan. The state monitors compliance with technical regulations and

standards in this area, performs licensing, and ensures compliance with urban planning legislation. High-quality and safe construction is important.

4. Contracts in the field of construction: Contracts are important in the construction business. Each project is implemented on a contractual basis, and contracts regulate the relationship between project participants. Construction contracts are drawn up on the basis of project characteristics, the tasks of the participants and the relationship between them. Contractual relations ensure clear definition of responsibilities between participants and efficient execution of construction works.

5. Complexity and organization of the construction process: Construction projects are highly organized and require the joint work of many specialists. Functions such as general contractor concept, design and construction management serve to effectively organize construction projects. In the construction process, mutual coordination of participants, correct use of technologies and achievement of the overall goal of the project are of great importance.

6. Protecting the interests of clients and users: In construction projects, the interests of clients and users always come first. Construction works should be carried out taking into account the interests of the public. Meeting user expectations increases the efficiency of the construction process and ensures commercial success.

Various aspects of legal regulation of business activities in the construction sector in Uzbekistan were widely covered. There is a system of relevant legal frameworks, laws, decisions and decrees for the implementation of entrepreneurial activities in the field of construction, and the importance of the legislative framework aimed at developing entrepreneurship in this field and increasing its effectiveness was emphasized. Below are the main findings on these issues:

Legal basis and legislative framework: Entrepreneurship in the field of construction in Uzbekistan is regulated by important laws such as the Constitution of the Republic of Uzbekistan, the Civil Code, the Land Code, the Urban Development Code, as well as presidential decrees and decisions of the Cabinet of Ministers. Aims to protect the legal basis of construction contracts, design, licensing, compliance with urban planning rules and state control;

State management in the field of construction: In the field of construction, tasks such as state licensing, compliance with technical regulations, control of requirements of urban planning legislation, design and management of construction objects are supervised by the Ministry of Construction of the Republic of Uzbekistan. State bodies implement measures aimed at ensuring safety in construction, compliance with environmental standards, and increasing the efficiency of construction works;

Transparency and Digitization: Digitization of the construction sector is an important part of public policy. Implementation of information technologies, control of construction processes, launch of the National Information System "Transparent Construction", effective use of information resources in project management and monitoring ensures transparency and accuracy in construction;

Construction contracts and their legal aspects: Construction contracts are the main element of business activity. Contracts define the rights and obligations of the parties, the content of the contract, project management and control mechanisms are important to ensure the success of construction projects. Requirements and regulations specific to each project are regulated through contractual relationships;

Digital technologies and information modeling (BIM): BIM (Building Information Modeling) technologies play an important role in the process of digitalization of the construction industry. Information modeling technologies make it possible to increase efficiency in public constructions and manage construction works in an accurate and systematic way. Wide use of information technologies in the world experience serves to automate all stages of the construction industry;

Improvement of legislation and innovations: In order to further develop and modernize the construction industry, the government of Uzbekistan continues to adopt new laws, decrees and decisions. In particular, a number of measures are being taken regarding the wide introduction of information and communication technologies, the creation of digital information systems, and the effective control of the construction process.

In the second chapter of the dissertation entitled "Description of civil-legal contracts in the field of construction", the parties to construction contracts and their legal capacity, the system and characteristics of construction contracts, the parties to construction contracts and their legal capacity, conflicts in the regulation of international construction projects and issues of their elimination considered.

The importance of various civil-legal contracts and their structure in the field of construction in the Republic of Uzbekistan was explained in detail. Below is an analysis of the main positions of contracts in the construction industry and their importance:

1. Types of contracts: In the field of construction, a number of different civil-legal contracts are concluded. They include sales, lease, contract, investment, participation in the construction of multi-storey buildings and other contracts. Each contract is used to fulfill different tasks and objectives, and these contracts serve to ensure the successful implementation of the construction process.

2. Construction contract: One of the most important contracts in the construction industry is the construction contract. This contract is concluded between the contractor and the customer for construction, reconstruction and construction works. The contract must clearly specify the contractor's obligations, the period of work to be performed, and the result of the work.

3. Investment contract: Investment and investment contracts are also very important in construction. Investors finance construction by investing in construction projects and expect a return on their investment.

4. Construction on the basis of contribution: Construction on the basis of contribution is a type of contract that requires several persons to contribute funds for the construction of a real estate object, and these citizens or legal entities

receive the right to own the real estate after the completion of construction. This contract is an effective mechanism widely used in the construction process.

5. Contractual obligations and rights: Every contract should clearly state the rights and obligations of the parties. Failure to meet these obligations in a timely manner may result in a breach of contract. Also, the relationship between the contractor and the customer must be strengthened on the right terms.

6. Deadlines in contracts: In contracts in the field of construction, the duration of work is of great importance. A contract without a fixed term is considered not to have been concluded, because the term is one of the main conditions for ensuring the timely and correct execution of the construction.

7. Essential, Customary and Incidental Terms of Contracts: Every contract may contain essential, customary and incidental terms. If the essential terms are not agreed, the contract is not concluded, the usual terms are based on the law, and the incidental terms are included in the contract according to the agreement of the parties.

8. Legal nature of contracts: Contracts are legal instruments that determine obligations and legally strengthen relations between two or more persons. Contracts in the field of construction serve to ensure timely, high-quality and safe construction of the object.

Detailed information on the system of construction contracts and their features in the Republic of Uzbekistan. Types of construction contracts, their legal bases, special license requirements, rights and obligations of the contractor and the customer were explained. The most important contract in the system of construction contracts is the design and exploration contract. It includes the preparation of project-estimate documents and the implementation of prospecting works. Before the start of construction work, first of all, it is required to carry out design and exploration work. Project-estimate documents serve as the basis of construction.

Construction contracts, in turn, have complex structures that clearly regulate the relationship between the contractor and the customer. The contracts specify the type of work, terms, financial conditions, quality control and responsibility. Since each construction object has its own requirements and characteristics, the subject of the contract also changes.

A construction contract involves the construction, renovation, or reconstruction of a specific facility by the contractor. These contracts regulate specific legal and financial agreements between the parties in order to ensure the efficient and successful execution of construction works.

In a construction contract, the customer gives a work assignment, and the contractor undertakes to fulfill it. The contractor may perform his duties personally or engage subcontractors, but their responsibilities and obligations under the contract are clearly defined. Both parties are liable for breach of contract.

The third chapter of the dissertation talks about "**The bases of liability of business entities in the field of construction and the problems of ensuring them**", in which the bases of civil-legal liability of business entities under the construction contract and the problems of their improvement, arising from the

unilateral cancellation of construction contracts with the participation of business entities, are discussed. legal consequences and issues of their resolution, improvement of the construction investment contract with the participation of business entities analysis of the issues was carried out.

Fundamentals of civil-legal liability of business entities under construction contracts and problems of their improvement were analyzed. The main focus is on general rules of civil liability and problems in contractual relations in the field of construction. They are as follows:

1. The need to improve civil-legal liability: The issues of liability under construction contracts are not sufficiently clarified in the laws and are left to the discretion of the parties. This creates obstacles in the fulfillment of the obligations of the parties and fails to provide adequate measures against the violators.

2. Compensatory nature of liability: The amount of civil liability should be commensurate with the damage caused, but it is unreasonable to demand excessive compensation. Civil law is aimed at restoring the property interests of the injured party.

3. Liability and sanctions in construction contracts: Deviation from the technical requirements of construction contracts creates liability for the contractor. However, some complex aspects are not sufficiently disclosed in the legislation, for example, the legal meaning of technical terms such as robustness, stability and reliability is not clearly defined.

4. Liability for violation of technical instructions: If the contractor does not follow the construction standards and technical instructions, he is responsible for the loss of strength, reliability and stability of the buildings or structures. Failure to comply with these specifications may render the facility unusable.

5. Suggestions for improving laws: It is necessary to clarify the responsibility of contractors and to introduce additional legal norms for violating the terms of the construction contract. At the same time, it is recommended to ensure compliance with the contract and technical norms, to further clarify responsibility and sanctions.

The legal consequences related to the unilateral cancellation of construction contracts with the participation of business entities are analyzed. The following highlights are highlighted:

1. Non-fulfillment of obligations by the customer: If the customer fails to fulfill the obligations under the construction contract, for example, is late in the delivery of construction materials or in the submission of project documents, the contractor has the right to stop work or unilaterally cancel the contract. As a result of this, the customer must compensate for the damage.

2. Contractor's delay: In cases where the contractor does not fulfill his obligations on time, the customer has the right to withdraw from the contract. For example, if the contractor does not complete the construction within the specified time or performs the work slowly, the customer may demand compensation for damages.

3. Right to cancel the contract: If it is clear in advance that the contract will not be fulfilled within the specified time (due to delay or other reasons), the

customer can cancel the contract before the deadline. In this case, situations where the delay of work is obvious are included.

4. Liability and damages: If the work is not completed on time or if the contractor does not fulfill the contractual obligations properly, the customer has the right to damages in addition to the cancellation of the contract.

5. Serious delay: Serious delay or slow performance is grounds for unilateral withdrawal from the contract. Also, the duration of the delay and its consequences affect the relationship between the parties to the contract.

6. Mutual delay: If both parties to the contract are late, apportioning responsibility and defining consequences becomes important. Any delay by either party may affect their obligations, including for damages.

CONCLUSION

The following scientific-theoretical and legislative proposals and conclusions were developed as a result of the research work on the contractual regulation of business activities in the field of construction:

I. Scientific and theoretical conclusions:

1. *Applying the doctrine of quantum meruit* to the construction industry in Uzbekistan ensures the fair evaluation of labor and the protection of workers' rights. In applying this system, it is necessary to further strengthen effective regulatory mechanisms and contract law based on existing legislation. It has been argued that Quantum Merit can be an important legal tool to protect workers and contractors in the construction industry and resolve contractual issues.

2. *Spearin's doctrine* helps to organize project management and contractual relations more effectively. This doctrine reduces legal uncertainties between construction organizations and contractors, increases the quality of projects and optimizes construction processes.

3. In the Republic of Uzbekistan, mainly the Civil Code determines contractual relations in the field of construction. *The doctrine of lex constructionis* is the main tool in the regulation of contract law. The contract stipulates the implementation of construction works, ensuring full compliance with regulatory documents and legislation.

4. Legal regulation of business activity in the field of construction has an interdisciplinary nature. It is based on the fact that the civil-legal regulation of business activity in the field of construction is expressed in the determination of the legal status of participants in civil transactions, the procedure for concluding, changing, canceling contracts, determining construction deadlines and other issues.

5. As for the inter-sectoral relations that arise in the business activity in the construction sector, they fall under the scope of various regulatory legal documents depending on the subject of legal regulation: labor law (for example, hiring employees, dismissal, etc.); administrative law (for example, violation of administrative law norms by the builder); tax law (for example, payment of taxes by a person carrying out business activities, etc.); urban planning law (for example, implementation of urban planning); land rights (for example, obtaining a plot of

land for construction); environmental law (for example, compliance with environmental norms during construction work, etc.).

6. In order to protect the rights and legal interests of the shareholder participating as a subject of contractual relations in the construction industry, it is proposed to ensure the transparency of civil-legal relations, reduce financial risks and guarantee the effective fulfillment of contractual obligations by introducing the legal institution of escrow. This mechanism serves as a tool to ensure a high level of confidence in the implementation of agreements between stakeholders and developers and to strengthen the legal basis of legal protection.

7. The introduction of the "*Design and Build*" legal institute, in which design and construction work is performed by a single subject in the construction business, serves to optimize the construction processes in the Republic of Uzbekistan, because this institute ensures uniform coordination of obligations by assigning project development and construction to one subject. provides. This model, which is widely used in developed countries, makes it possible to reduce the possibility of inconsistencies in the distribution of duties and responsibilities, excessive bureaucracy of documents and disagreements. In some cases, the regulation of construction activities in Uzbekistan through several contracts can make it difficult to implement the project on time and with high quality. For this reason, it is suggested that the introduction of the "*Design and Build*" institution, where design and construction works are performed by one entity, is appropriate to increase economic efficiency, reduce risks and create a perfect legal basis for contractual relations.

8. A number of terms related to contractual relations in the construction industry were scientifically and theoretically analyzed, and the following terms were given author's definitions:

"temporary vehicle parking (parking)" is a specially designated and equipped and equipped place, which is a part of a highway or a road section, a sidewalk, a road shoulder, a bridge or under-bridge spaces, flyovers, fields and other adjacent to objects of the street-road network or part of them;

"parking place for vehicles - a part of individually defined buildings or structures specially designed for parking a vehicle;

"primary structure" is a single structure that determines the strength of a building (foundation, wall, rafter, cladding and roof fastening systems) and structure (necessary elements for the normal operation of the object consisting of volumetric, flat or linear structures).

"secondary construction" means other constructions that are not part of the primary construction.

9. *Escrow* system depends on the development of contractual relations in the field of construction and minimization of economic risks. Uncertainties and formalities in construction, especially factors such as changes in the economic situation and extension of construction periods, are eliminated through the escrow system. Scientifically, it is justified that the escrow system helps to ensure the stability of economic systems, as well as to reduce corruption and abuses in the construction industry.

II. Proposals and recommendations for improvement of legislative documents:

1. An additional fifth paragraph should be added to Chapter 45 of Part Two of the Civil Code of the Republic of Uzbekistan as follows:

§ 5. ESCROW ACCOUNTS

Article 821. General rules on escrow settlements

According to the escrow account agreement, the bank (escrow agent) opens a special escrow account for recording and blocking funds received from the account owner (depositor), these funds are transferred to another person (to the beneficiary). The right to the funds in the escrow account belongs to the depositor until the date when the grounds for transfer to the beneficiary occur, and after this date it becomes the property of the beneficiary. The use of funds in the escrow account is carried out in accordance with the procedure specified in this paragraph.

Obligations arising from the escrow account agreement may be confirmed by another agreement in which the bank participates as an escrow agent.

The bank's fee as an escrow agent is not charged from funds in the escrow account, unless otherwise specified in the contract.

The general rules of the bank account and escrow agreement apply to the relationship between the parties.

Article 822. Restrictions on use of funds and use of escrow account

Unless otherwise stipulated in the contract, neither the depositor nor the beneficiary has the right to use the funds in the escrow account, except for the cases specified in this article.

It is not allowed to add any other depositor's funds to the escrow account, except for the deposited amount specified in the contract.

When the grounds provided for in the escrow agreement occur, the bank must give the deposited amount to the beneficiary or transfer it to the specified account within the period specified in this agreement, if the period is not specified, within ten days.

It is not possible to stop operations in the escrow account, confiscate or deregister funds in the escrow account due to the depositor's obligations to third parties.

Article 823. Provision of bank secret information under the escrow account agreement

Both the depositor and the beneficiary have the right to request information constituting bank secrecy.

Article 824. Close the escrow account

Unless otherwise provided in the escrow agreement, the escrow account is closed by the bank upon expiration of the agreement or termination for other reasons.

Unless otherwise stipulated in the agreement between the depositor and the beneficiary, upon termination of the escrow agreement, the remaining funds in the account shall be transferred or given to the depositor, or if there are grounds for

giving the funds to the beneficiary, the funds shall be transferred or given to him. should be shown.

2. It is necessary to adopt the law "On protection of the rights of citizens who invested money for the construction and purchase of housing". This law should determine the rules for the implementation of housing projects for all participants in the real estate market. It should ensure the rights of citizens to information about the activities of the construction entrepreneur, as well as the effective control mechanisms of the state over the activities of construction organizations. It is necessary to inform the participants of housing projects about the information and events affecting the financial and economic activity of construction organizations through intermediate and final reports.

3. A separate chapter "Investment agreement" should be added to the second part of the Civil Code of the Republic of Uzbekistan. An investment contract in the field of construction is a civil-legal contract, according to which one party (the investor) undertakes to spend on the construction object at the expense of its own funds or the funds involved, and the other party (the customer) undertakes measures to implement the investment project in accordance with the powers granted by the investor. undertakes to perform, including putting the construction object into use. In this chapter, it is necessary to reflect the legal definition of the investment agreement (contract), its important terms, the rights and obligations of the parties, and their civil-legal liability in the Civil Code of the Republic of Uzbekistan.

4. The subject of the construction contract consists of two parts: the construction object as a result of the contractor's work and direct construction works. Due to the fact that the parties always aim to achieve the material result of the construction contract, not the construction process itself, part 1 of Article 666 of the Civil Code of the Republic of Uzbekistan does not obligate the contractor to perform construction works. In this regard, it is necessary to state part 1 of Article 666 in the following version:

"According to the construction contract, the contractor undertakes to construct the construction object and hand over the finished construction object to the customer or perform other construction works in accordance with the order of the customer within the period specified in the contract, and the customer is obliged to create the necessary conditions for the contractor to perform the work correctly, accept their results and pay. undertakes to implement".

5. Article 666 of the Civil Code of the Republic of Uzbekistan should be supplemented with the fifth part in the following version:

"Construction contract must be concluded in writing or electronically through the appropriate platform. Failure to comply with these forms will result in the invalidity of the construction contract."

6. In practice, in the construction contract, there are cases where the parties determine the price of construction works on the construction site or according to the agreed price without making an estimate. Therefore, part 1 of Article 670 of the Civil Code of the Republic of Uzbekistan should be stated in the following version:

"The contractor must carry out construction and related works in accordance with the technical documents, which determine the volume, content and other requirements for the work. If the parties have agreed on an estimate that determines the price of the work, the work will be performed in accordance with the estimate."

7. It is necessary to provide for legal termination under the construction contract. Taking into account its importance, Article 680 of the Civil Code of the Republic of Uzbekistan should be supplemented with the eighth part in the following version:

"For violation of the deadline for the delivery of work results specified in the contract, the contractor shall pay a penalty to the customer in the amount of three hundredths of the contract price according to the refinancing rate of the Central Bank of the Republic of Uzbekistan effective on the day of the performance of the obligation, unless otherwise provided by law."

III. Proposals and recommendations for improving law enforcement practice:

1. In the decision No. 306 dated 23.12.2016 of the Plenum of the Supreme Economic Court of the Republic of Uzbekistan "On some issues of the application of legal documents by economic courts in the resolution of disputes arising from construction contracts" in the following version, to include paragraph 22 offered:

"22. According to the first part of Article 635 of the FC, the initial and final terms of work performance are specified in the contract. In accordance with the agreement between the parties, the contract may also provide for completion periods (interim periods) of certain stages of the work.

Courts should take into account that the time taken by the contractor to eliminate engineering networks or objects not specified in the contract, in cases beyond his control, should be taken into account that he is not bound by the contract period. If the costs of eliminating these engineering networks or objects not specified in the contract are not specified in the contract, the contractor has the right to recover from the customer the costs spent on eliminating these objects or objects, and the courts must accept such claims.

2. Contractual relations in the field of construction are complicated, there are new types of contracts and projects. Also, the introduction of modern construction technologies and the provision of high-quality services are required. From this point of view, the implementation of customer relationship management system CRM (Customer Relationship Management) is of scientific and practical importance. The system enables construction organizations to provide better customer service, effective resource management, and increased competitiveness.

11. Enterprise resource planning system ERP (Enterprise Resource Planning) in the field of construction helps to optimize all activities of construction organizations, including construction and installation work, financial operations, purchase and distribution of materials, labor management and other resources. The ERP system allows construction organizations to optimize work processes, effectively manage and increase competitiveness. At the same time, the legal and economic framework creates the necessary conditions for the successful implementation of the ERP system.

**НАУЧНЫЙ СОВЕТ DSc.07/30.12.2019.Yu.22.01 ПО ПРИСУЖДЕНИЮ
УЧЕНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ
ГОСУДАРСТВЕННОМ ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ**

**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ
УНИВЕРСИТЕТ**

КАРАБАЕВ МАХСЕТБАЙ ДЖОЛДАСБАЕВИЧ

**ДОГОВОРНОЕ РЕГУЛИРОВАНИЕ ПРЕДПРИНИМАТЕЛЬСКОЙ
ДЕЯТЕЛЬНОСТИ В СФЕРЕ СТРОИТЕЛЬСТВЕ**

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АВТОРЕФЕРАТ
диссертации доктора философии (PhD) по юридическим наукам

Тема диссертации доктора наук (Doctor of Philosophy) зарегистрирована в Высшей аттестационной комиссии при Кабинете Министров Республики Узбекистан за B2024.4.PhD/Yu1621.

Диссертация выполнена в Ташкентском государственном юридическом университете. Автореферат диссертации размещен на трех языках (узбекском, английском и русском (резюме)) на веб-странице Научного совета (www.tsul.uz) и Информационно-образовательном портале «ZiyoNET» (www.ziyo.net).

Научный руководитель:

Имомов Нурилло Файзуллаевич
доктор юридических наук,

Официальные оппоненты:

Якубов Ахтам Нусратиллоевич
доктор юридических наук, доцент
Каландарова Маликахон Пирназаровна
кандидат юридических наук, доцент

Ведущая организация:

Университет общественной безопасности
Республики Узбекистан

Защита диссертации состоится 17 ноября 2025 г. в 12:00 часов на заседании Научного совета DSc.07/30.12.2019.Yu.22.01 при Ташкентском государственном юридическом университете. (Адрес: 100047, г. Ташкент, ул. Сайилгох, 35.). Тел.: (99871) 233-66-36; факс: (998971) 233-37-48; e-mail: info@tsul.uz.

С докторской диссертацией можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрирована под № 1434), (Адрес: 100047, г. Ташкент, ул. А.Темура, 13. Тел.: (99871) 233-66-36).

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И.Р. Рустамбеков

Председатель Научного совета по присуждению ученых степеней, доктор юридических наук, профессор

Д.Ю. Хабибуллаев

Научный секретарь Научного совета по присуждению ученых степеней, доктор юридических наук, профессор

Б.К. Ходжаев

Председатель Научного семинара при Научном совете по присуждению ученых степеней, доктор юридических наук, профессор.

ВВЕДЕНИЕ (аннотация диссертации доктора философии (PhD))

Цель исследования. Предпринимательская деятельность в сфере строительства в Узбекистане заключается в выявлении научно-теоретических и практических проблем, связанных с договорным регулированием и разработке предложений и рекомендаций, направленных на совершенствование законодательства и повышение эффективности его применения.

Объектом исследования является система отношений по теоретическим и практическим проблемам регулирования договорных отношений возникающих при осуществлении предпринимательской деятельности в строительной сфере.

Предметом исследования являются нормативно-правовые акты и практика их применения, направленные на регулирование договорных отношений в сфере строительства, опыт законодательства и практики некоторых зарубежных стран, а также международные стандарты, научно-теоретические взгляды, концептуальные подходы и идеи, относящиеся к исследуемой теме.

Научная новизна исследования заключается в следующем:

установление сервитутов обосновано в случаях, когда невозможно обеспечить интересы собственников зданий и сооружений без ограничения права другого лица на пользование земельным участком при строительстве, реконструкции и ремонте зданий и сооружений, строительстве, реконструкции, ремонте и вводе в эксплуатацию объектов инженерной инфраструктуры;

для обеспечения целевого и эффективного использования выделенных средств обосновано определение объемов финансирования в тесной увязке с календарными графиками строительно-монтажных работ, а также определение объектов строительства, переносимых из года в год;

обоснованы меры по завершению в установленном порядке процедур закупок и заключению договоров подряда с победителями конкурса (тендера) на основании утвержденной предпроектной и (или) проектной документации по проектам (объектам), ввод в эксплуатацию которых запланирован на 2024 год;

обоснована необходимость использования информационно-коммуникационных технологий при проведении электронных торгов и заключении договоров с победителем торгов.

Внедрение результатов исследований. Научные результаты научно-исследовательской работы были использованы в следующем:

Предложение о строительстве, реконструкция и ремонт зданий и сооружений; на строительство, реконструкцию, ремонт и ввод в эксплуатацию объектов инженерной инфраструктуры, было использовано при редакции первой части 81 статьи Градостроительного Кодекса Республики Узбекистан (акт комитета Сената по судебным вопросам

и противодействию коррупции № 18 от 23 октября 2024 года) (согласно Закону Республики Узбекистан от 23 октября 2023 года № ORQ-871). Это предложение служило защите прав и законных интересов каждого собственника, участвующего в градостроительной деятельности;

Было использовано при разработке предложения (перечень № 04-09/7-10/811 от 11 октября 2024 года) о проведении электронных тендерных процессов и заключении договора с победителем тендера (Распоряжение Совета Министров Республики Беларусь). Республики Каракалпакстан от 24 февраля 2023 г. 72-13-0-В) /Постановление № 23). Данное предложение предоставило возможность дальнейшего повышения прозрачности государственных закупок (продажи, поставки товаров, подрядов на строительство, оказания услуг и т.д.) и заключения договоров с субъектами предпринимательства;

Использовано при разработке предложения (список № 04-09/7-10/811 от 11 октября 2024 года) по годовым объектам строительства, определяемым в неразрывной связи с календарными таблицами строительства и монтажа работ (Постановление Совета Министров Республики Каракалпакстан от 17.2024) № 29-13-0-Q/24 января решение). Данное предложение позволило осуществить справедливость при разрешении споров, связанных со сроками завершения работ по договорам строительного подряда;

Предложение о мерах по завершению закупочных процедур и заключению договоров с победителями конкурса (тендера) в соответствии с утвержденной предпроектной и (или) проектной документацией по новым проектам (объектам) начиная с 2024 года (номер перечня 04-09/ 7-10/811, 11 октября 2024 г.) использовано при разработке (Совета Министров Республики Каракалпакстан Решение № 29-13-0-Q/24 от 17 января 2024 г.). Данное предложение позволило субъектам строительного сектора участвовать в тендерах и заключать договоры на основе добросовестной конкуренции.

Структура и объем диссертации. Состав диссертации состоит из введения, трех глав, заключения и списка использованной литературы. Объем диссертации составляет 143 страниц (без учета использованной литературы).

E'LON QILINGAN ISHLAR RO'YXATI
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II bo'lim (II part; II часть)

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