

FORCE MAJEURE AS A GROUND FOR EXEMPTION FROM CIVIL LIABILITY FOR BREACH OF OBLIGATIONS

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Introduction

In the current modern socio-economic relations, there is a high probability of various obstacles arising in all areas of obligation fulfillment, including extraordinary and unforeseeable circumstances – force majeure events.

The significance of force majeure in exempting from liability for breach of obligations is substantial, as this concept plays an important role in legally justifying reasons for avoidance or delay in fulfilling obligations. At the same time, identifying force majeure events, establishing their confirmation procedures, and determining their consequences are necessary for the just and effective regulation of civil-law relations.

Currently, the civil legislation of the Republic of Uzbekistan contains provisions related to force majeure. However, their implementation and application in judicial practice, as well as their integration with international experience, require further research and improvement.

I. The Concept of Force Majeure and Its Legal Essence

The French term “force majeure” – derived from the Latin term “vis major,” meaning “great force” or “superior force” – is an extraordinary circumstance or event that is beyond human control and unforeseeable in advance which prevents the performance of an obligation.

Characteristics of force majeure include:

- The impossibility of foreseeing its occurrence in advance;
- Occurrence under the influence of external, independent forces;
- Negative impact on social and economic activities;

- The fulfillment of obligations stays temporarily or permanently impossible.

In international contracts, including the UNIDROIT¹ Principles of International Commercial Contracts, force majeure is defined as reasons beyond control that could not have been foreseen in advance.

The Civil Legislation of the Republic of Uzbekistan special attention is given to force majeure, which is recognized as a valid ground for delaying or failing to fulfill contractual obligations.

Force majeure differs from ordinary obstacles in that the nature of the obstacle is extraordinary and unforeseeable; the legal impossibility or breach of obligations caused by force majeure is recognized by law, whereas ordinary obstacles may be only technical or economic difficulties that do not reach the level of force majeure.

Under force majeure conditions, the characteristics of liability are as follows:

- The breach or delay of the obligation for which liability arises is not dependent on the will of the person or entity;
- Upon confirmation of force majeure reasons, liability is fully or partially exempted;
- Courts or other authorities investigate and confirm the reasons for breach of obligations;
- Force majeure situations may serve as grounds for extending deadlines for performance or terminating the contract.

II. Legal Regulation of Force Majeure as Grounds for Exemption from Liability

As a general rule, in cases where non-performance of obligations occurs due to unavoidable circumstances (force majeure), the debtor is not required to prove the absence of fault. However, exceptions to this general rule of liability based on fault apply depending on the nature of specific types of obligations, as established by law and contract.

For example, according to Part 3 of Article 333 of the Civil Code of the Republic of Uzbekistan, in entrepreneurial activities, an entrepreneur's liability arises

¹ Principles of International Commercial Contracts, abbreviated as UNIDROIT (French: UNIDROIT); Source – <https://www.unidroit.org/wp-content/uploads/2021/06/Unidroit-Principles-2016-English-bl.pdf>

even without fault. The entrepreneur can be exempted from liability only if they prove that non-performance or inadequate performance of obligations occurred due to unavoidable circumstances (force majeure). Failure of the debtor's customers to fulfill their obligations, absence of goods on markets, lack of sufficient financial resources, and similar situations are not considered unavoidable circumstances.

The term "force majeure" is used only in Article 333 of the Civil Code, which states that a person who has failed or inadequately fulfilled an obligation shall not be held liable if they can prove the impossibility of performance due to "extraordinary and specific circumstances beyond control."

The Civil Code of the Republic of Uzbekistan contains provisions related to the non-fulfillment of obligations or the infliction of damage due to irresistible force, as stipulated in Articles 156, 289, 719, 720, 859, 889, 899, and 1020². The concept of "irresistible force" (such as material and technical causes, natural disasters, and similar events) closely aligns with the notion of force majeure.

Force majeure is typically confirmed by authorized bodies. For example, relevant government agencies provide information regarding natural disasters or sanitary-epidemiological situations.

Contracts often specify special procedures for confirming force majeure, which include:

- A list of force majeure reasons and procedures for confirmation;
- An obligation to notify in writing within a specified period upon occurrence of any force majeure event;
- Automatic extension of the deadline for performance or termination of the contract upon confirmation of force majeure.

Force majeure is recognized as a circumstance that makes performance impossible. If the breach of obligations established by contract or law occurs due to reasons beyond the liable party's control, liability is exempted. Upon confirmation of force majeure, the obligation to compensate damages may be waived or limited. Deadlines for performance may be extended, or contracts mandatorily revised.

² <https://lex.uz/ru/docs/111189>; <https://lex.uz/ru/docs/180552>

In international practice (for example, Russia, the USA, the European Union), force majeure is given considerable legal weight, and courts accept it as grounds for limiting or exempting liability.

III. Practical Application and Challenges of Force Majeure

In modern business activities, force majeure clauses have become an integral part of contracts. Contracting parties define their rights and obligations in advance by specifying extraordinary circumstances that may arise during the performance of obligations.

Contracts must specify the reasons for force majeure, procedures for their confirmation, mechanisms for extending deadlines for performance, or terminating the contract.

Force majeure situations play a significant role in supply contracts, as natural disasters or other emergencies can make it impossible to deliver products on time.

Business entities have legal grounds to avoid liability in such cases; at the same time, maintaining mutual understanding and cooperation between clients and suppliers is important.

IV. Force Majeure in International Contracts

In international law, force majeure is primarily recognized as grounds for suspending or terminating obligations due to reasons that could not have been foreseen in advance and are beyond control.

Force majeure is considered a valid reason for changing delivery deadlines or terminating contracts, as indicated in internationally used trade terms such as Incoterms³.

In the Civil Code of the Russian Federation, force majeure is defined as “circumstances beyond control and unforeseeable” and serves as a ground for exemption from liability.

In the United States, force majeure is specifically stipulated in contracts, and courts rigorously assess its impact when evaluating contractual liability.

³ Incoterms (International Commercial Terms) are a set of international trade terms that define the rules for delivery of goods, allocation of risks, and distribution of costs in international sales contracts.

European countries' legislation accepts force majeure as grounds for temporary suspension or termination of obligations.

The legal basis for force majeure in Uzbekistan's legislation aligns with international standards, but practical application reveals some shortcomings and ambiguities, such as:

- The need to establish clear and comprehensive legal grounds for force majeure;
- Improvement of judicial practice;
- Optimization of confirmation and documentation systems;
- Updating national legislation based on international experience.

In addition to *force majeure*, other circumstances that may cause breaches of obligations, for example:

- Failure by one party to provide orders on time;
- Legal obstacles or local regulatory acts;
- Financial crises or sanctions;
- Technical failures or human errors.

These may sometimes justify limiting or exempting liability but usually do not reach the level of force majeure.

In practice, difficulties in identifying force majeure include:

- Conflicts between courts and other authorities in confirming force majeure;
- Insufficient or unclear contractual provisions;
- Violations of notification and documentation procedures;
- Ambiguities and problems in the clarity and execution of obligations affected by force majeure.

Conclusion

In general, the concept of force majeure serves as one of the principal legal mechanisms for exempting parties from civil liability for the non-performance of obligations.

This mechanism legally regulates situations arising from extraordinary circumstances beyond the control of the parties during the performance of obligations, allowing for a fair and reasonable limitation of liability.

The legislation of the Republic of Uzbekistan contains provisions regarding force majeure, which need to be harmonized with international experience and judicial practice. Some practical shortcomings should be addressed through legislative improvements and unification of judicial practice.

Moreover, it is necessary to introduce clear and comprehensive rules concerning force majeure situations in contracts, as well as to improve mechanisms for their formalization and monitoring.

As a result, the correct application of force majeure in liability for breach of obligations contributes to legal stability, trust, and justice.

Recommendations for the Effective Application of Force Majeure

- Clearly, precisely, and comprehensively define force majeure in legislation;
- Specify mechanisms for confirmation and notification of force majeure situations in contracts;
- Promptly notify reasons for delay or non-performance of obligations;
- Integrate force majeure provisions into the laws and normative legal acts of the Republic of Uzbekistan;
- Improve judicial practices regarding the assessment of force majeure as grounds for exemption from liability.

In addition, there are proposals aimed at improving specific normative provisions in legislation.

In particular, K. Sindorov, who conducted an in-depth study of contracts in the agricultural sector, identified several directions for improving property liability within contractual relations in this field⁴. In agreement with these views, it is, in our opinion, appropriate to apply forms of liability with special consideration for the interests of agricultural producers when enforcing measures for breach of contractual discipline. Analysis shows that in practice, agricultural producers are often held liable regardless of whether they are at fault. To address this issue, it is advisable to supplement Article 466 of the Civil Code with a third paragraph as follows: *“An agricultural producer shall be liable for non-performance or improper performance*

⁴ Синдоров К. Қишлоқ хўжалиги соҳасидаги шартномалар. –Тошкент: Янги аср авлоди, 2003. –Б. 156-157

of obligations under an economic contract only if such non-performance or improper performance is due to their fault.”

Accordingly, it is proposed to supplement Clause 86 of the Regulation on the procedure for concluding, registering, performing, and monitoring contracts between agricultural producers and procurement or service organizations, approved by the Resolution of the Cabinet of Ministers dated September 4, 2003, with the following fifth and sixth parts:

“Cases of irresistible force (force majeure) may also be confirmed by Government commissions established by the President of the Republic of Uzbekistan or the Cabinet of Ministers.

In such cases, the issue of exempting farms from liability due to non-fulfillment of contractual obligations caused by irresistible force (force majeure) or the fault of the preparer should be clearly defined based on the conclusion of the Government commission”.