

CONTRACT OF MANDATE IN VARIOUS BRANCHES OF LAW

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Abstract

Among the contracts that are most often used include the mandate for sure. Though the warrant paramount raised many questions to be cleared before the parties to conclude such an agreement. Important in the case of the mandate, whether commercial or civil, is that parties to know the exact extent of the rights and obligations, so as not to damage each other, and not to harm any third parties with which contracting.

Key words principal, agent, third, empowerment, civil contract, commercial contract

INTRODUCTION

Material contracts covers regulatory legal instruments through which the movement of goods is done, use and their preservation or creation of value. Legal regime is an important part, both theoretical and practical law in general, that the law of civil and commercial rights to international trade law. For the correct understanding and application of these regulations is necessary to make certain clarifications, namely: one related to the scope and the correlation between the regulation of civil contracts on the one hand, and commercial on the other side and one on the relationship between special legal regime of civil contracts and the general theory of civil obligations. In connection with the first indication that we must consider special rules governing contracts and commercial contracts civilesun applicable, in the extent to which laws do not stipulate a different regulatory trade according to art. 1 Commercial Code - *"The law applies to trade. Where he has not applied the Civil Code. "*

This means that if the contracts or acts of nature because of their trade objectives under Article 3. Commercial Code in respect of contracts or acts which are subjective facts are concluded by trade because merchants in the exercise of trade, according to art. 4 Commercial Code - *"We consider that to trade other contracts and liabilities of a trader, if not civil or if not otherwise result from the act itself"*, even if only one side has mov a trader and if the opposite is not apparent the contract ended, or if it is not the essence of civil laws are aplibabile trade, but the alternative to the extent that commercial law has not, apply to the civilian.

RESULTS AND DISCUSSION

In civil law the contract of mandate is viewed as an act whereby a person called the trustee is obliged to conclude one or more legal acts on behalf of other staff appointed principal who gives a power of attorney and the trustee representing the principal. In commercial law situation is a little different in this branch of law because the warrant has a special function, namely to medium-sized commercial business. This function requires the existence of specific rules which mandate specific business activity. According to art. 374 *commercial mandate contract is the contract term by which a person - trustee - are obliged to conclude on behalf and on behalf of another person - the principal - who gave him a mandate, for principal certain legal acts are acts of commerce.*

Commercial mandate has some features compared to the civilian, namely:

- ♣ in terms of the contract, the mandate is to end civil legal acts of civil, commercial mandate is to end the legal provisions under the Commercial Code are the principal facts of commerce. To determine the nature of the mandate should be considered the legal nature of acts which ends with the third party trustee. Commercial mandate will be legal only if these acts are commercial. Legislation is required by these legal acts to be acts of commerce for the principal, the name and on behalf of those acts which ends. Thus, the mandate will not be shopping if these acts are acts of legal agreements with third parties only for the third trading.

- ♣ commercial mandate is a contract for free, as commercial businesses are not free, as are is prevaut and art. 374 Commercial Code - "The mandate of the commercial is supposed to be free, so even if the parties have not stipulated in the contract a sum by way of remuneration, the contract can not be free. If the parties have not provided any remuneration in the contract, it will be determined by the court. This mandate is presumed to be civilian as free trade mandate is deemed to be consideration

- ♣ regarding civil mandate, it usually involves reprezetarea, that third party agent to sign legal documents on behalf numlele and principal, but you only the representation of nature's core mandate and not so consequential mandate without representation there situation in which the trustee ends the legal acts in its own name but on behalf of the principal. Because civil mandate is to represent, the mandate can be both commercial as well as the representation without representation, because the Commercial Code

regulates both commercial mandate is a mandate of representation as well as a free contract is a typical form of the mandate without representation.

♣ regarding the powers of the trustee, there are some differences here, namely when shopping madatului, empowerment can be a special meaning for some of the principal business, and a general power of attorney is the date when all principal business, providing Trustee May 1 greater freedom of action and independence. If civil madatului empowerment must provide a more rigorous mandatrului powers.

In order to harmonize and coordinate the private law of States and the development of uniform rules, the UNIDROIT Principles in the 2004 version included the mandate of representation and regulation. The provisions of the UNIDROIT Principles to establish the possibility of a trustee to enter into legal effect on the relationship between the principal and a third party. The possibility trustee has a general meaning, comprising any act necessary to conclude a contract, including third party notification or receipt of a notice on his part. UNIDROIT driving forces govern the relationships between the principal and agent only on the one hand, and third on the other side. In the absence of other awards the fact that the agent acting on its own behalf or on behalf of principal is irrelevant. Relations between principal and agent is voluntary. Object of regulation does not deal with cases where the trustee is the power conferred by law or by appointment by a public authority or entity.

CONCLUSIONS

Term contract has its origin in Roman right. Perceived by the Roman law rules of his mandate and have found application in commercial law. Commercial mandate agreement is governed by art. 374-391 Commercial Code, rules that are filled with art prevedrerile. 1532-1559 Civil Code. The two institutions, civil and commercial structure is like and are distinguished by function performed. Qualification of a mandate is given to the nature of the object, such object has a commercial mandate specific treatment consists of commercial business on behalf of the principal, acts which must be for both commercial and for the third principal.

Contract term is used in commercial brokerage activity commercial agents, aind quality merchants, in its intermediation activities independently and professionally. To the extent that the special rules otherwise stated mandate rules apply as common law representation, and in the absence of the mandate, in cases specifically provided by law. If the mandate given to a person in his profession and within the nature of the contract is implied consideration, gratuity urmad be presumed not expressly mentioned and even if the mandate is silent. And the mandate concluded between legal persons, hiar if not a commercial mandate, a business having no commercial

purpose, for consideration is basically governed by the rules stipulated in the Civil Code.

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