

FORCE MAJEURE AND CHANGE OF CIRCUMSTANCES IN INTERNATIONAL TRADE – CONDITION FOR EXEMPTION FROM LIABILITY IN CASE OF BREACH OF CONTRACT

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ABSTRACT

The rapid technological development and the development of the global market continually contribute to the development of international trade as well as to the increasing the number of concluded international sales contracts. The conclusion of the sales contract always requires respecting the principle of "*pacta sunt servanda*", namely fulfilling the contract as it is written or as the parties have agreed. Furthermore, the international rules that regulate the sales contracts and the different national laws have incorporated provisions that exempt from liability the contracting parties when a breach of contract occurs as a result of certain circumstances that cannot be foreseen.

The exemption from liability of the contracting party, that has not performed its obligations, can be seen through the institutes of "force majeure" and "change of circumstances". The definition and application of these institutes differ in various national systems, as well as in the international sources that regulate the rights and obligations of the sales contract. Therefore, the paper aims to make a distinction between "force majeure" and "change of circumstances" in international trade.

METHODS

The distinction between "force majeure" and "change of circumstances" in international trade will be made through the analysis of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG), the Principles of European Contract Law (PECL), UNIDROIT Principles of International Commercial Contracts (UNIDROIT Principles), as one of the most significant sources of the sales contract in the international law and in Macedonian Law on Obligations as well.



CONCLUSION

The border of distinction between "force majeure" and "changed circumstances" is very thin. It can be noted that in both cases the occurrence of an impediment is beyond the control of the party who has to perform the obligations. The difference is that in the case of force majeure, such an obstacle, whether it temporarily or permanently, i.e. partially or completely, prevents the party who has to perform the obligation, and in this kind of situation the party is exempt from liability during the duration of the impediment.

While in the case of changed circumstances, such occurrence of an impediment that is beyond of a party's control who has to perform the obligation, just makes the performance difficult, but it is still possible.