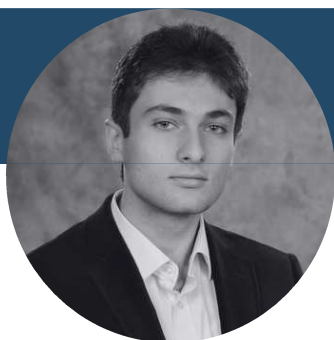


PRE-CONTRACTUAL NEGOTIATIONS IN CIVIL LAW AS AN INDEPENDENT LEGAL INSTITUTION

LAS NEGOCIACIONES PRECONTRACTUALES EN EL DERECHO CIVIL

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Abstract

This scientific article is devoted to negotiations on the conclusion of contracts in the civil law of the Republic of Armenia as an independent legal institution. The author identifies the principal issues arising from contractual legal relations and proposes original solutions to these problems. The study examines key normative legal acts, including the Constitution and the Civil Code of the Republic of Armenia, as well as a number of scholarly works by foreign researchers.

At present, there is no unanimous opinion among either legal scholars or legislators of different countries regarding the legal nature of pre-contractual liability. It has been classified as tort liability, contractual liability, quasi-tort liability, quasi-contractual liability, or even as an independent form of liability. An analysis of domestic legal provisions governing liability for bad-faith negotiations leads to the conclusion that such liability possesses a unique legal nature. Its classification depends on the manner in which negotiations are conducted. Where the negotiation process is regulated by an agreement between the parties, the rules of contractual liability apply. Conversely, where negotiations are conducted orally or through ordinary correspondence, liability acquires an independent legal character.

Keywords

Negotiations; contract formation; pre-contractual liability; good faith; culpa in contrahendo; due diligence; civil law of Armenia; indemnity; organizational legal relations.

Resumen

El presente artículo científico aborda las negociaciones para la celebración de contratos en el derecho civil de la República de Armenia, considerándolas como una institución jurídica autónoma. El autor identifica las principales cuestiones derivadas de las relaciones jurídicas contractuales y propone soluciones originales a dichos problemas. El estudio analiza los actos normativos clave, incluidas la Constitución y el Código Civil de la República de Armenia, así como diversas obras de investigadores extranjeros.

En la actualidad, no existe un consenso entre los juristas ni entre los legisladores de distintos países sobre la naturaleza jurídica de la responsabilidad precontractual. Esta ha sido clasificada como responsabilidad extracontractual, responsabilidad contractual, responsabilidad cuasi-extracontractual, responsabilidad cuasi-contractual o, incluso, como una forma de responsabilidad independiente. El análisis de las disposiciones jurídicas internas que regulan la responsabilidad por negociaciones de mala fe conduce a la conclusión de que dicha responsabilidad posee una naturaleza jurídica singular. Su clasificación depende de la modalidad en que se desarrollen las negociaciones: cuando el proceso de negociación está regulado por un acuerdo entre las partes, se aplican las normas de la responsabilidad contractual; por el contrario, cuando las negociaciones se llevan a cabo de forma verbal o mediante correspondencia ordinaria, la responsabilidad adquiere un carácter jurídico independiente.

Palabras clave

Negociaciones; formación del contrato; responsabilidad precontractual; buena fe; culpa in contrahendo; diligencia debida; Derecho civil de Armenia; indemnización; Relaciones jurídicas organizativas.

Summary

I. RELEVANCE OF THE RESEARCH TOPIC. - II. PURPOSE OF THE RESEARCH. - III. INTRODUCTION. - IV. THE LEGAL NATURE AND STAGES OF CONTRACT NEGOTIATIONS. - V. LEGISLATIVE PROPOSALS FOR THE IMPROVEMENT OF CIVIL LEGISLATION ON CONTRACT NEGOTIATIONS. - VI. CONCLUSION. - VII. REFERENCES.

I. Relevance of the research topic

The contract, as a legal instrument, plays a fundamental role in the functioning and development of civil circulation. Through contractual arrangements, subjects of civil law satisfy their economic and personal interests. The significance of contracts has been recognized since Ancient Rome, where Roman jurists divided the legal system into three categories: natural law (*jus naturale*); law of nations (*jus gentium*); civil Law (*jus civile*).

At the same time, the conclusion of any contract, particularly in the field of entrepreneurial activity, is generally preceded by a stage of negotiations aimed at coordinating the terms of future legal relations between the parties. Until recently, many scholars did not consider this stage an essential component of the contract formation process and paid little attention to it in their research. However, under modern market conditions, the traditional legislative model of contract formation through

offer and acceptance is often insufficient, as contemporary contractual arrangements frequently involve a complex and multi-stage negotiation process in which it may be difficult to identify the party that initially made the offer.

Following the adoption of the new Constitution of the Republic of Armenia, corresponding amendments were introduced into the Civil Code. As a result, negotiations began to be regarded as actions possessing independent legal significance, necessitating a reassessment of this important element of pre-contractual relations.

Nevertheless, civil law scholarship continues to focus primarily on issues of pre-contractual liability, while the negotiation process itself receives only limited attention and is often considered optional. The absence of a legislative and doctrinal definition of negotiations creates practical difficulties in determining the moment at which negotiations commence and

in establishing the existence of negotiation relations. Consequently, the application of civil liability to a party acting in bad faith becomes problematic. These difficulties are particularly evident when parties conduct negotiations through various online platforms.

The separate examination of the legal consequences of bad-faith conduct and the negotiation process itself does not contribute to a comprehensive understanding of this legal institution. Therefore, there is a pressing need for a doctrinal assessment and the development of a coherent scientific concept of negotiations concerning the conclusion of contracts.

The foregoing considerations demonstrate the relevance of the research topic for the science of civil law and confirm its considerable theoretical and practical significance.

II. Purpose of the research

The purpose of this study is to develop a comprehensive scientific concept of negotiations on the conclusion of contracts, including the determination of their legal nature and definition, the identification of their stages and structure, the establishment of the moment of their commencement, and the examination of the liability of participants in negotiation-related legal relations.

To achieve this objective, the following tasks are addressed: to identify the legal nature of contract formation in civil law as an independent legal institution; to examine pre-contractual legal relations as the foundation for contract formation; to determine the legal nature of liability for conducting negotiations in bad faith; and to formulate proposals aimed at improving existing legislation.

The methodological framework of the study is based on general scientific methods of cognition, including the dialectical method, analysis, synthesis, and the systems approach, as well as special legal research methods, such as the formal-legal method, comparative legal analysis, and other research techniques.

The regulatory basis of the study consists of Armenian and foreign legal acts governing civil-law relations and contract negotiations.

III. Introduction

The institution of contractual relations occupies a central position within modern private law systems, serving as one of the principal legal mechanisms through which individuals and legal entities realize their economic interests and exercise their autonomy of will. In contemporary market economies, the effectiveness of contractual regulation largely depends not

only on the legal validity of concluded agreements but also on the proper organization of the pre-contractual stage, during which the parties negotiate the terms and conditions of their future legal relationship. Consequently, the study of negotiations as an independent legal institution acquires particular significance within the framework of civil law doctrine.

The constitutional foundations of contractual freedom in the Republic of Armenia are derived from the principle of economic liberty enshrined in the Constitution. Article 11 of the Constitution establishes that the economic order of the Republic of Armenia is based upon a social market economy founded on private property, freedom of economic activity, and free economic competition, aimed at ensuring general economic welfare and social justice through state policy[1].

An analysis of this constitutional provision demonstrates that every legal subject is guaranteed the right to engage freely in entrepreneurial and other economic activities in accordance with the law, as well as the right to enter into contractual relations with other participants in civil circulation. Thus, constitutional guarantees of economic freedom constitute the primary legal basis for the development of contractual relations and, consequently, for the emergence of negotiations preceding the conclusion of contracts.

The realization of these constitutional principles is further ensured through the provisions of Armenian civil legislation. The Civil Code of the Republic of Armenia is founded upon the fundamental principles of equality of participants in civil relations, autonomy of will, property independence, inviolability of property rights, freedom of contract, non-interference in private affairs, unrestricted exercise of civil rights, restoration of violated rights, and judicial protection thereof[2].

In accordance with these principles, individuals and legal entities acquire and exercise civil rights freely and in pursuit of their legitimate interests. They are entitled to determine their rights and obligations through contractual arrangements and to establish contractual terms at their discretion, provided that such terms do not contradict mandatory provisions of law. The principle of freedom of contract therefore extends beyond the moment of contract formation itself and encompasses the entire negotiation process, during which parties independently evaluate potential cooperation, exchange information, formulate contractual terms, and determine whether a contractual relationship should ultimately be established.

From this perspective, negotiations concerning the conclusion of a contract should not be regarded merely as a factual stage preceding contract formation. Rather, they constitute a legally significant process that directly influences the subsequent contractual relationship and may generate specific rights,

obligations, and legal consequences for the negotiating parties. This understanding is particularly relevant in the context of digital communications and electronic commerce, where negotiations are increasingly conducted through online platforms, electronic correspondence, and other modern means of communication, thereby creating new challenges concerning the determination of the commencement, content, and legal consequences of pre-contractual relations.

At the same time, the principle of private autonomy is not absolute. Pursuant to Article 3 of the Civil Code of the Republic of Armenia, civil rights may be restricted only by law and solely to the extent necessary for the protection of state and public security, public order, public health and morality, as well as the rights, freedoms, honor, and reputation of other persons[3]. This provision reflects the balance that modern civil law seeks to maintain between individual freedom and the protection of legitimate public and private interests.

Within the framework of pre-contractual relations, this balance acquires particular significance. While parties enjoy broad discretion in deciding whether to enter into contractual relations and in determining the content of future agreements, such freedom must be exercised in accordance with the principles of good faith, reasonableness, and due diligence.

One of the principal propositions advanced in this study is that the civil-law standard of due diligence should extend beyond existing contractual obligations and apply equally to negotiations preceding the conclusion of a contract. Negotiations constitute a legally significant stage of civil circulation and therefore require the parties to demonstrate an appropriate degree of care and prudence in their conduct.

In this context, the standard of due diligence encompasses, inter alia, the obligation to verify the legal status of a prospective contracting party, assess its business reputation and financial solvency, evaluate potential risks of non-performance, determine the availability of necessary resources, and undertake other reasonable measures aimed at establishing the reliability of the future contractual partner.

Accordingly, pre-contractual liability should arise only where the injured party has itself exercised a sufficient level of diligence during the negotiation process. Such an approach addresses one of the fundamental shortcomings of existing legislative regulation, which is largely based upon a simplistic distinction between a «good-faith negotiating party» and a «bad-faith negotiating party». In practice, however, a party claiming to have suffered losses may itself have failed to meet the required standard of diligence and subjective good faith, yet still seek legal protection. Therefore, the assessment of pre-contractual liability should encompass not only the conduct of the allegedly bad-faith party but also the behavior of the party asserting the claim.

articular attention should also be given to the legal significance of preliminary arrangements reached during negotiations. Pursuant to Paragraph 7 of Article 445 of the Civil Code of the Republic of Armenia, a letter of intent, memorandum of understanding, protocol of intentions, or similar document does not produce civil-law consequences unless the parties have expressly manifested their intention to grant it the legal force of a preliminary contract[4].

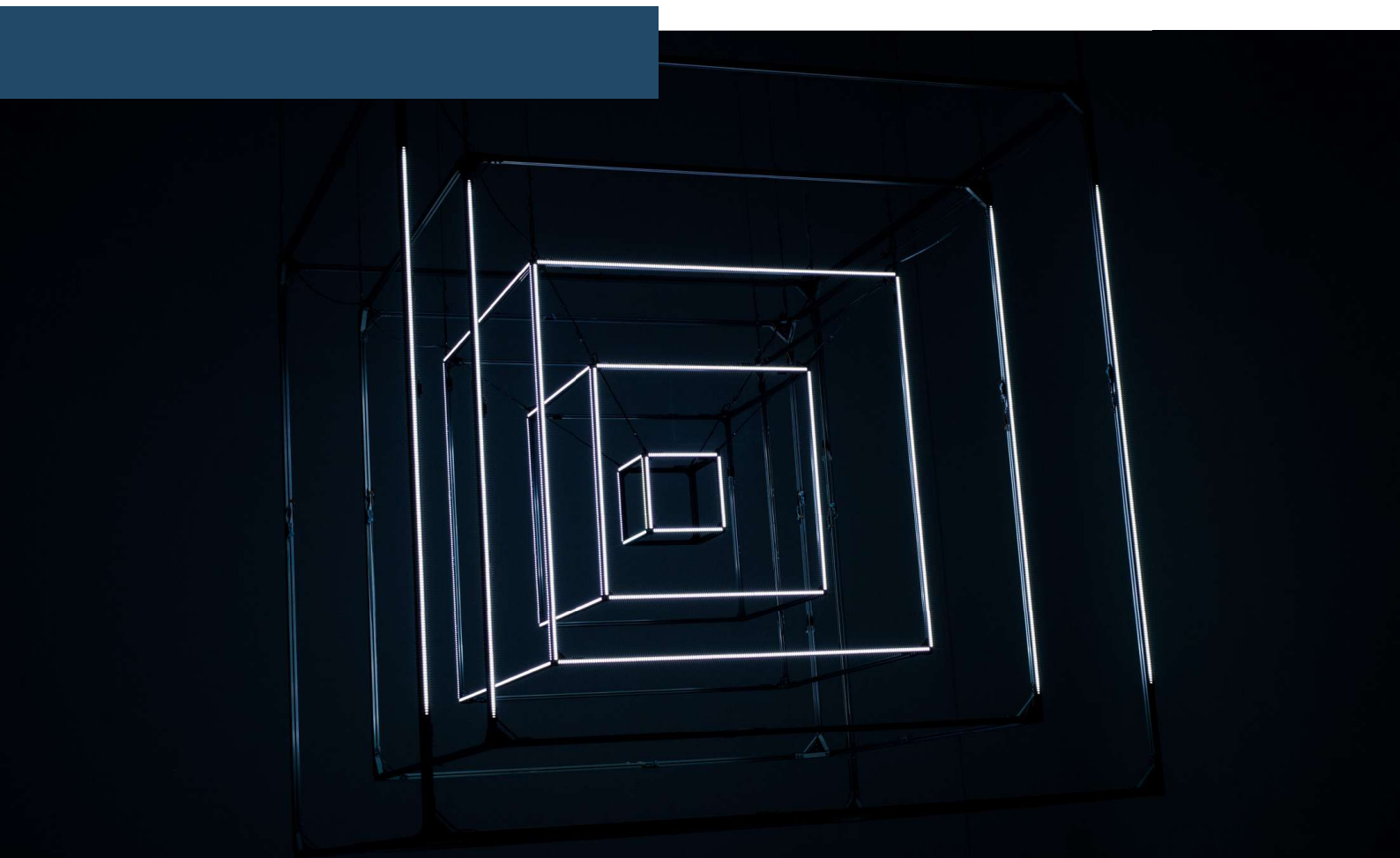
Although this provision regulates situations in which the parties contemplate the future conclusion of a contract, it addresses only a limited aspect of pre-contractual relations. Such regulation does not provide a comprehensive legal framework for negotiations as an independent legal institution. In particular, it fails to resolve questions concerning the legal status of negotiations conducted without a formal letter of intent, the moment at which negotiation relations arise, the scope of duties owed by negotiating parties, and the criteria for determining bad-faith conduct during the negotiation process.

Consequently, the current legislative approach demonstrates the necessity of developing a more comprehensive doctrinal and normative framework capable of reflecting the practical realities of modern commercial negotiations and ensuring greater legal certainty in pre-contractual relations.

A significant contribution to the development of the doctrine of pre-contractual relations has been made by A. G. KARAPETOV, who emphasizes that in modern commercial practice (particularly in the context of major investment, corporate, construction, and other complex transactions) the parties frequently agree in advance on the allocation of risks associated with potential losses arising in connection with the conclusion, performance, or termination of a contract[5].

According to KARAPETOV, such losses do not necessarily result from a breach of contractual obligations by either party. Rather, they constitute economic losses connected with the contractual relationship itself. Under the general principles of civil law, these losses are borne by the party that incurred them and are not ordinarily shifted to the counterparty. Nevertheless, the possibility of incurring significant losses may discourage a party from entering into a proposed transaction. In such circumstances, the willingness of the other party to assume the relevant risk often serves as an important factor facilitating the conclusion of the contract.

From a legal perspective, these arrangements represent a contractual mechanism for the redistribution of risks between the parties and are conceptually comparable to contractual provisions governing the allocation of the risk of accidental loss or destruction of property. Within international commercial practice, such clauses are commonly referred to by the English legal term *indemnity*.



The practical significance of indemnity clauses stems from the fact that one party is frequently better positioned to assume a particular risk. Such a party may possess superior information regarding the probability of the risk materializing, a greater ability to prevent adverse consequences, or enhanced opportunities to mitigate potential losses through insurance or other risk-management mechanisms. Consequently, the contractual allocation of risks contributes to increased legal certainty and promotes the efficient functioning of commercial transactions.

The doctrinal significance of this approach extends beyond the sphere of contractual risk allocation. It demonstrates that contemporary private law increasingly recognizes the legitimacy of assigning legal consequences and economic risks on the basis of the parties' informed consent, even in situations where no breach of contractual obligations has occurred. This tendency is particularly relevant to the study of pre-contractual negotiations, as it confirms that legal rights and obligations may arise prior to the formal conclusion of a contract and that the negotiation process itself may generate legally significant consequences for the parties involved.

Therefore, the development of mechanisms aimed at regulating pre-contractual risks and protecting the legitimate expectations of negotiating parties should be regarded as an essential element in the evolution of modern civil law and

commercial practice.

Another important conclusion of the present study concerns the legal nature of negotiations on contract formation. In order to determine their place within the system of civil-law relations, a theoretical classification of organizational legal relationships has been undertaken, distinguishing between organizational relations connected with property rights, corporate relations, and non-property relations.

The analysis demonstrates that negotiations on the conclusion of a contract should be classified as organizational legal relations connected with property relations. Although negotiations do not themselves possess a direct proprietary content, their primary purpose is to facilitate the establishment, modification, and development of future property-based legal relationships between the parties. In this respect, negotiations constitute an indispensable intermediary stage in the formation of contractual obligations.

Furthermore, the rights and obligations arising during negotiations are reciprocal in nature and correlate with one another. The parties exchange information, coordinate future contractual terms, evaluate potential risks, and establish legal and economic connections that may ultimately result in the conclusion of a contract. Consequently, the organizational character of negotiations does not diminish their legal

ignificance; rather, it confirms their independent role within the broader framework of civil-law regulation.ignificance; rather, it confirms their independent role within the broader framework of civil-law regulation.

A related issue concerns liability for the breach of obligations arising during the negotiation process. A. N. KUCHER argues that liability should be imposed upon the party that violates a pre-contractual agreement. This position is generally consistent with the principle of good faith and the need to protect legitimate expectations formed during negotiations[6].

However, the present research suggests that this approach does not fully resolve a fundamental practical problem. While the imposition of liability for the breach of pre-contractual obligations appears justified in principle, the doctrine provides insufficient guidance regarding the evidentiary standards required to establish such a breach. In particular, the question remains as to how a negotiating party can demonstrate that the counterparty actually violated a pre-contractual undertaking, especially in situations where negotiations were conducted through informal correspondence, electronic communications, online platforms, or oral discussions[7].

From the perspective of legal certainty, the effectiveness of pre-contractual liability depends not only upon the recognition of the relevant obligation but also upon the existence of clear mechanisms for proving its breach. Therefore, in addition to defining the legal consequences of bad-faith conduct, legislators and legal scholars should develop objective criteria for assessing negotiating behavior, identifying the moment at which negotiation obligations arise, and determining the evidentiary value of communications exchanged during the negotiation process.

Such an approach would contribute to greater predictability in civil circulation and strengthen the practical effectiveness of the institution of negotiations as an independent element of modern contract law.

The issue of liability arising from the termination of negotiations has also attracted considerable attention in legal doctrine. A.V. DEMKINA argues that the concepts of the «sudden and unjustified termination» of negotiations and the «inability of the other party to reasonably anticipate such termination» should be assessed in light of the particular stage of negotiations at which the parties find themselves. In other words, the extent of legal protection afforded to a negotiating party may depend on the degree of development of the pre-contractual relationship and the legitimate expectations created during the negotiation process.

In support of this position, reference may be made to the approach developed by Dutch judicial practice. As noted by D. E. BOGDANOV, a significant example is the decision in *Plas v.*

Valburg (1982), in which the Dutch courts recognized that the legal consequences of terminating negotiations vary depending upon the stage reached by the parties and the expectations reasonably generated during the course of negotiations. This approach reflects a more flexible understanding of pre-contractual liability, focusing not only on the fact of termination itself but also on the conduct of the parties throughout the negotiation process.

DEMKINA further observes that the approach adopted by Russian legislators, which is generally consistent with the traditions of Romano-Germanic (civil law) legal systems, differs substantially from the model prevailing in common law jurisdictions. Civil law systems tend to place greater emphasis on the principles of good faith, fairness, and the protection of legitimate expectations during negotiations. Consequently, a party may incur liability not only for providing false information but also for conduct that violates the duty of good faith in the pre-contractual stage[8].

By contrast, common law jurisdictions traditionally adhere to the principle commonly expressed as *caveat emptor* («let the buyer beware»). Under this approach, the mere failure to disclose relevant information is generally not regarded as unlawful, even where such information is material to the transaction. Liability usually arises only where a party engages in active misconduct, such as fraudulent misrepresentation, intentional deception, or the provision of false statements and warranties.

The comparison between these legal traditions demonstrates that the regulation of pre-contractual relations remains one of the most debated areas of contemporary contract law. While civil law systems increasingly recognize negotiations as a legally significant stage capable of generating specific duties and liabilities, common law systems continue to place greater emphasis on the autonomy and self-responsibility of negotiating parties. This divergence highlights the necessity of developing a balanced legal framework capable of protecting legitimate expectations without unduly restricting contractual freedom.

From the perspective of Armenian civil law, the experience of both legal traditions may prove valuable in the further development of legislative provisions governing negotiations on contract formation. In particular, greater attention should be paid to the criteria for determining when the termination of negotiations becomes unreasonable and when the expectations of a negotiating party deserve legal protection.

IV. The legal nature and stages of contract negotiations

A central proposition advanced in this study is that negotiations concerning the conclusion of a contract should be classified as obligatory legal relationships characterized by a

predominantly negative content. Such characterization implies that the parties involved in negotiations are subject not only to positive duties but also to a number of obligations requiring restraint from certain forms of conduct.

In particular, negotiating parties must refrain from entering into negotiations without a genuine intention to reach an agreement, from unjustifiably terminating negotiations at an advanced stage, from disclosing confidential information obtained during the negotiation process, and from engaging in other forms of conduct contrary to the principles of good faith and fair dealing. These duties arise independently of whether a final contract is ultimately concluded and serve to ensure the integrity and reliability of pre-contractual relations.

From a legal perspective, negotiations on contract formation constitute a continuing legal relationship based upon purposeful and coordinated acts of will performed by two or more participants. Such acts may be expressed orally, in writing, or through electronic means of communication and are directed toward achieving an agreement concerning the creation, modification, or termination of a contractual relationship.

The proposed definition possesses not only theoretical but also methodological significance. It enables a clear distinction to be drawn between legally relevant negotiations and other forms of communication that lack legal consequences, such as ordinary business conversations, preliminary discussions, or informal exchanges of views. Furthermore, it allows negotiations on contract formation to be differentiated from negotiations of a fundamentally different legal nature, including diplomatic or political negotiations. Such differentiation is essential for establishing a coherent system of rights, obligations, and liability applicable to participants in negotiation-related legal relations.

Equally important is the recognition that the negotiation process is not a uniform phenomenon but rather consists of several distinct stages, each characterized by a different degree of legal significance and a different level of protection of the parties' legitimate expectations.

The first stage involves the exchange of information relating to a potential transaction without reaching agreement on the essential terms of the future contract. During this phase, the parties assess the feasibility of cooperation, exchange preliminary information, and evaluate the possibility of entering into contractual relations.

The second stage is characterized by the negotiation and coordination of the essential terms of the future agreement. At this stage, the parties move beyond preliminary discussions and begin formulating concrete contractual conditions, including the exchange of offers and counteroffers. The

expectations of the parties become more definite, and the legal significance of their conduct correspondingly increases.

The final stage arises when the parties have reached agreement on all terms that they consider material to the future contractual relationship. This stage culminates either in the conclusion of the contract or in the termination of negotiations. At this point, the parties' legitimate expectations are at their highest level, and unjustified withdrawal from negotiations may give rise to significant legal consequences.

The identification of these stages is not merely of theoretical interest. It serves a practical function by providing a framework for differentiating the scope of liability and the amount of recoverable damages according to the stage of negotiations at which the wrongful conduct occurred. The closer the parties are to reaching a final agreement, the stronger the protection that should be afforded to the injured party and the greater the potential liability for bad-faith conduct. Such an approach contributes to legal certainty and ensures a more balanced application of pre-contractual liability within modern civil law systems.

In the author's opinion, the stage-based approach to negotiations should be expressly reflected in the Civil Code of the Republic of Armenia, since the degree of protection afforded to negotiating parties and the scope of recoverable damages should directly depend upon the stage at which negotiations were terminated or conducted in bad faith.

E. V. IZMAILOVA proposes that parties engaging in contract negotiations should conclude comprehensive agreements governing the negotiation process itself. Such agreements may regulate the allocation of responsibilities between the contracting parties with respect to the preparation of contractual documentation, the formulation of future contractual terms, and the distribution of negotiation-related expenses. This approach reflects an increasing tendency in modern civil law doctrine to formalize the pre-contractual stage in order to enhance legal certainty and reduce the risk of disputes arising during negotiations^[9]. Particular attention is also paid to the requirement of good faith in the context of terminating negotiations. The problem of ensuring compliance with the principle of good faith becomes especially relevant in cases where one party unilaterally refuses to continue negotiations without sufficient justification. In addition, IZMAILOVA addresses issues arising in competitive procedures such as tenders for advertising campaigns, where the negotiation process acquires a structured and procedural character. It is emphasized that recent amendments to the Civil Code significantly strengthen the protection of the rights and legitimate interests of parties involved in pre-contractual relations.

The doctrinal foundations of pre-contractual liability can be

traced back to German legal theory, where the concept of *culpa in contrahendo* first emerged. Its development is traditionally associated with the German jurist RUDOLF VON JHERING, who in his 1861 work «*Culpa in contrahendo, oder Schadensersatz bei nichtigen oder nicht zur Perfektion gelangten Verträgen*» analyzed situations of manifest contractual injustice that could not be adequately addressed within the framework of classical Pandect law[10].

JHERING'S work not only provided a detailed description of such legally problematic situations but also offered an early theoretical foundation for imposing liability during the pre-contractual stage. His doctrine laid the groundwork for the modern understanding of pre-contractual fault and has significantly influenced both continental European civil law systems and contemporary comparative contract law.

Thus, the historical development of the doctrine demonstrates that concerns regarding unfair conduct during negotiations are not a modern phenomenon but have long been recognized in legal scholarship. The evolution of this concept reflects a gradual shift toward acknowledging negotiations as a legally significant stage capable of generating independent duties and liabilities for the parties involved.

V. Legislative proposals for the improvement of civil legislation contract negotiations

In light of the conducted research, the author formulates several proposals aimed at improving the current civil legislation governing negotiations on the conclusion of contracts.

First, it is proposed to establish a general legal duty applicable at all stages of negotiations namely, upon entering into negotiations, during their conduct, and upon their termination. The parties should be obliged to exercise an appropriate degree of care and diligence in selecting negotiating counterparts and to act in good faith. In particular, they must refrain from initiating or continuing negotiations in the absence of a genuine intention to reach an agreement with the other party.

Second, it is proposed to introduce express liability for the breach of the duty to exercise due care and diligence in the selection of negotiating partners. Such liability would strengthen the preventive function of civil law and enhance trust and stability in pre-contractual relations.

Third, the author suggests a differentiated approach to the recovery of losses incurred during negotiations. Expenses incurred by one party in connection with the negotiation process should, as a general rule, be recoverable from the party acting in bad faith at all stages of negotiations. However, damages in the form of loss of opportunity, including the loss

of a chance to conclude an agreement with a third party, as well as lost profits, should be recoverable only after the parties have agreed on the essential terms of the future contract, i.e., from the second stage of negotiations onward, when the level of legal certainty and reliance is significantly higher.

Such an approach would ensure a balanced regulation of pre-contractual liability, combining the protection of legitimate expectations with the preservation of contractual freedom and economic efficiency in civil circulation.

VI. Conclusion

The comprehensive analysis of negotiations on the conclusion of contracts as an independent legal institution within civil law demonstrates that pre-contractual relations can no longer be regarded as a purely factual or auxiliary stage preceding the formation of a contract. Modern doctrinal developments and comparative legal experience confirm that negotiations constitute a legally significant, structured, and normatively relevant process capable of generating independent rights, obligations, and legal consequences for the parties involved.

The study reveals that negotiations in civil law should be classified as organizational legal relations with a property-related orientation, aimed at the future emergence of contractual obligations. Although they do not, in themselves, give rise to proprietary effects, they serve as an essential intermediary mechanism through which parties coordinate their economic interests, assess risks, and shape the content of future contractual relationships. This approach is consistent with contemporary European civil law doctrine, which increasingly recognizes the importance of pre-contractual good faith as a binding normative standard.

Comparative legal analysis shows that European legal systems, particularly those influenced by the German doctrine of *culpa in contrahendo* and its subsequent codification in the Principles of European Contract Law (PECL) and the UNIDROIT Principles of International Commercial Contracts, have developed a more structured approach to pre-contractual liability. These instruments emphasize that parties are obliged to negotiate in good faith, to disclose relevant information where necessary, and to refrain from conduct that may unjustifiably frustrate legitimate expectations created during negotiations. Spanish legal practice, in particular, reflects a strong tendency toward protecting *confianza legítima* (legitimate reliance), especially in complex commercial transactions where negotiations are prolonged and multi-stage in nature.

Within this comparative framework, the research confirms that the Armenian civil law model may benefit from a more explicit institutionalization of negotiations as a distinct legal category. In particular, the absence of a clear legislative definition of negotiations and their legal boundaries creates uncertainty in determining the moment of commencement of pre-contractual

relations and complicates the application of liability for bad-faith conduct.

On the basis of the conducted analysis, the following principal conclusions and recommendations are proposed:

First, negotiations should be expressly recognized in civil legislation as a legally significant pre-contractual institution, governed by the principles of good faith, reasonableness, and cooperation, in line with modern European legal standards.

Second, the duty of due diligence should be explicitly extended to the entire negotiation process, including the selection of negotiating partners, verification of their reliability, and assessment of contractual risks. This approach corresponds to established European practice, where pre-contractual diligence is considered an integral element of responsible commercial behavior.

Third, liability for pre-contractual conduct should be structured in a differentiated manner depending on the stage of negotiations, consistent with the models observed in Dutch case law (e.g., *Plas v. Valburg*) and reflected in broader European doctrinal approaches. The closer the parties are to reaching a final agreement, the stronger the protection of reliance interests and the broader the scope of recoverable damages.

Fourth, drawing on Spanish legal experience regarding legitimate expectations in commercial negotiations, it is advisable to strengthen the protection of reliance interests in cases where one party has created a justified expectation of contract formation and subsequently withdraws without objective justification.

Finally, the introduction of express legislative provisions regulating negotiation agreements (agreements on the conduct of negotiations) and indemnity-like arrangements concerning pre-contractual losses would significantly enhance legal certainty, reduce transactional risks, and align Armenian civil law more closely with contemporary European private law standards.

Overall, the development of a coherent doctrinal and legislative framework for negotiations on contract formation is not only a theoretical necessity but also a practical requirement of modern economic circulation. Such reform would ensure a balanced interaction between contractual freedom and the protection of legitimate expectations, thereby strengthening the efficiency and predictability of civil turnover.

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