

V. Kholod
Candidate of Law Science,
Deputy Head of the Department of Judicial Statistics,
Generalization of Judicial Practice, Informational Support,
Codification and Reference Work,
Court of Odessa Oblast

SOME ASPECTS OF JUDICIAL PRACTICE OF DISPUTE RESOLUTION ON CONCLUSION, CHANGE AND DISSOLUTION OF BANK DEPOSIT AND BANK ACCOUNT AGREEMENTS

The article researches the features of judicial practice of dispute resolution on conclusion, change and dissolution of bank deposit and bank account agreements through the examples of judicial practice.

The author analyzes legislative requirements to the conclusion of bank deposit and bank account agreement, with regard to basis formed in science doctrine of civil law conception about legal nature of bank deposit agreement, the agreement, which has signs of both loan and storage contract. The article provides examples of the judicial practice on challenging of fact of conclusion of the bank deposit agreement.

The author draws conclusion that proofs of conclusion of the bank deposit contract can be: saving book, deposit certificate or any other document that complies with requirements of the law and confirms the fact of depositing monetary resources (for example, receipt).

That is why, fact of absence of registration of the bank deposit agreement, and, as a result, not account of the monetary resources attracted from physical and legal persons on the basis of entrance into a contract, makes it impossible to consider a failure to observe writing form of the bank deposit agreement.

On the basis of analysis of statutory acts, the author came to such conclusion: the change of agreement envisages the change of its terms, therefore, in case of change of the bank deposit agreement, obligations change as well. It requires will of both parties of agreement and must be recorded in the same form as bank deposit agreement.

Failure to observe these terms deprives the second party to agreement of a right to accept the change terms and is characterized by a court as unilateral abandonment from fulfilling commitment.

Ambiguousness of decisions in the judicial practice on possibility of avoiding contract, in connection with expiration of term of its action enabled the author to draw conclusion that it is necessary to search resolution of this question in a doctrine and in legislation.

On the basis of the conducted analysis the author came to the conclusion that in case of nonperformance by the bank of the obligations on the return of sum of deposit together with the bank deposit interest in the term set by an agreement, obligations under the agreement are not terminated, that is why the term of expiration of a contract in investigation does not influence termination of obligations.