Modern American Journal of Business, Economics, and Entrepreneurship
ISSN (E): 3067-7203
Volume 01, Issue 09, December, 2025
Website: usajournals.org

LEGAL NATURE OF THE CONSORTIUM AGREEMENT

N. A. Ashurova
Professor of the Department (DSc) of "Crime Prevention Activities" of the Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan

Abstract
In the conditions of the modern economy, sooner or later any organization faces the issue of joining forces and consolidating in order to achieve its goals. The search for effective forms of association of companies has been going on for at least the last century. Increasing competition is pushing enterprises to look for more effective methods of cooperation. In this regard, many integration structures (associations of enterprises) with various methods of communication and management are emerging. This process has not bypassed our country. Because in Uzbekistan, instead of the period of disintegration, the period of consolidation is coming. The time has come to create large corporations that unite many enterprises and companies.
The concept of a merger, firstly, means the unification of several organizations, enterprises and institutions into a single group. Secondly, a merger can mean the name of an enterprise that includes several enterprises, organizations and institutions. Mergers are divided into vertical and horizontal types. A vertical merger is a merger of firms that carry out the process of extracting raw materials, producing materials, manufacturing semi-finished products and producing final products within the framework of one company or corporation. A horizontal merger is a merger of firms that are technologically similar (have technological commonality) or produce the same product within the framework of one company or corporation.
On February 7, 2025, the Law of the Republic of Uzbekistan No. ZUR-1025 “On Amendments and Addenda to Certain Legislative Acts of the Republic of Uzbekistan in Connection with Further Improvement of the Legal Basis of Corporate Relations” was adopted. This law introduced a new contractual

Modern American Journal of Business, Economics, and Entrepreneurship
ISSN (E): 3067-7203
Volume 01, Issue 09, December, 2025
Website: usajournals.org

structure - "consortium agreement" - into the Civil Code of the Republic of Uzbekistan as Article 962 [1].

A consortium is usually formed primarily for the implementation of large projects, when, for production, financial, technical or other reasons, it is necessary to combine the efforts of several companies (companies or corporations), industry and (or) banks. The classic scheme for creating a consortium is a combination of construction and financial experience of two companies, one of which is directly engaged in construction and contracting work, has the appropriate licenses and personnel, and the other invests funds [1]. MM Boguslavsky stated that another goal of creating the consortium was to cooperate with local business entities that are well aware of the national peculiarities of conducting tenders[2].

The implementation of such a merger is based on an agreement called a consortium agreement, which is a special type of partnership agreement, the specific features of which are determined by the participation of the other party - the customer - in the relationship. A temporary association of participants (partners) formed in accordance with the agreement for the purpose of implementing an industrial project under a contract concluded with a third party (customer) is called a consortium[3]. The consortium is managed by a center that is engaged in finding partners, preparing and concluding contracts, maintaining operational communications, monitoring the fulfillment of obligations assumed, settlements with them, accounting and other external operations. With this approach, the consortium does not need a large territory and its basis is a management system equipped with computer facilities and the Internet[4].

The characteristics of a consortium fully correspond to the characteristics of a simple partnership, that is, a joint activity agreement. The only thing that distinguishes them from each other is the different purposes for which legal relations between the parties arise. If a simple partnership is established to make a profit or achieve another goal that does not contradict the law, then the consortium includes only the implementation of entrepreneurial activities. In this case, according to part two of Article 9621 of the Civil Code, "partners

Modern American Journal of Business, Economics, and Entrepreneurship
ISSN (E): 3067-7203
Volume 01, Issue 09, December, 2025
Website: usajournals.org

(participants) of a consortium agreement may participate in the activities of other consortia, while maintaining their independent economic activities."

It should be noted that this contract is not included in the Civil Codes of foreign countries and there is no special regulatory legal framework for it. And this is the main problem. Among the recommendations and materials on the conclusion of contracts are the Guidelines on the Conclusion of Contracts, developed by the United Nations Economic Commission for Europe in 1973 and 1979[5].

A consortium is an association that does not have the rights of a legal entity , and its formation does not mean the emergence of a new legal entity . Therefore, state registration is not required when creating it. The participants (partners) in a consortium, as a rule, are legal entities and fully retain their "independent economic activity" when concluding a consortium agreement . There are two forms of a consortium : simple and complex . In a simple consortium, the partners and each of them are based on purely obligatory legal relations with the client , the participants separately bear the risk of performing work for the client and receive remuneration from it. In the second case, the consortium is based on the joint bearing of risks and the benefit of the partners as an association in the form of a civil partnership. In international practice, consortia created for temporary relations with foreign partners are divided into two types: closed and open. In the first case, the contract with a foreign customer is signed by a single organization that assumes the responsibility of the manager and is responsible to him for the fulfillment of all obligations stipulated in the contract. In the second case, the contract with foreign customers is signed by all partners in the consortium, and each of them directly bears its share of property liability to the foreign customer [6].

A consortium agreement is a complex agreement that includes conditions for the internal relations of the partners and their external relations. A complex system of contractual relations is created, including two sets of legal relations: one between the members of the consortium themselves, that is, two or more partners acting together as suppliers and (or) contractors, and the second - between the members of the consortium and the customer (client), before whom they act separately or jointly[7].

Modern American Journal of Business, Economics, and Entrepreneurship
ISSN (E): 3067-7203
Volume 01, Issue 09, December, 2025
Website: usajournals.org

The essential elements of the contract include, first of all, the following: a) the distribution of functions or obligations within the consortium between the partners in carrying out economic activities, as well as the procedure for their implementation, i.e. the determination of the role of each participant as a supplier of goods and (or) a performer of work, indicating the conditions for the performance of their duties; b) the determination of the amount of remuneration for each partner for the goods supplied or services rendered. A separate clause of the contract designates one of the partners as the main member or head of the consortium, who is responsible for managing the consortium. The head of the consortium appoints the manager as the manager and representative of the consortium before customers and third parties, although he may also perform these functions himself.

The general rules of the law of obligations and the contracts regulating the relevant relations, primarily contract and purchase and sale agreements, shall apply to the consortium's relations with the customer.

The question of the legal nature of a consortium agreement is resolved as follows. In countries with a Romano-Germanic legal system, it is considered a partnership agreement. In countries with a Anglo-American legal system, courts apply the rules of partnership to the relations between consortium members . Although a consortium is not at all similar to this type of partnership, it is considered a " single commercial partnership " [8].

Based on the provisions of Article 370 of the FC, the consortium agreement is not considered an offer (because, although it includes the intention to conclude contracts in the future, it does not include the important terms of future contracts: time, place of their conclusion, the beginning and end of the period. According to Article 354 of the FC, the consortium agreement is considered to have its own determination and regulatory power.

962 1 of the Civil Code , "relations between partners (participants) of a consortium agreement shall be regulated by a consortium agreement concluded in writing." In this regard, the conclusion of such agreements is required to be carried out strictly in writing. It seems reasonable that the agreement may be concluded in any written form, certified by the signatures and seals of authorized persons.

Modern American Journal of Business, Economics, and Entrepreneurship
ISSN (E): 3067-7203
Volume 01, Issue 09, December, 2025
Website: usajournals.org

Of course, the greatest difficulties in creating a horizontal structure arise from partnerships arising from contractual relations. You cannot give orders to your partner, you can only convince him and interest him in your interests[9].

The risk of losing control due to the refusal of one of the partners to fulfill their obligations is considered high. To prevent this risk, it is necessary to form a well-thought-out management system. Therefore, in our opinion, it is advisable to develop a specialized regulatory and legal framework for the consortium as a subject of legal relations in order to prevent abuse due to the lack of clear rules.

T. O. Moh, while studying consortium issues in the field of education, makes the following observation: "like any innovation, the idea of a consortium came from another field, in this case, from the field of economics" [10].

If we proceed from the general theory of organizations, a consortium is one of the associations created on the basis of a temporary agreement between several organizations or states, which retain their legal independence. A consortium is formed to carry out large financial transactions, strategic research and development work, as well as scientific and capital-intensive projects, including international ones, to develop new technologies and standards, and to increase the competitiveness of its participants[11].

Distinctive features of modern consortia: the formation of a consortium is carried out on the basis of an agreement; usually, no organizational structure is created by the participants within the consortium, except for a small management apparatus; organizations participating in the consortium fully retain their economic and legal independence; in most cases, consortia are commercial organizations; the purpose of organizing consortia is to join forces to implement a specific project; research results and know-how are necessarily distributed among the participants and used by them for independent production.

According to O. Tatar, "a consortium agreement is an organizational cooperative activity carried out in the interests of the consortium entities. The following are characteristic of a consortium: agreement, a single goal, partnership, and mutual benefit. For example, in Anglo-American law, this agreement is subject to the rules of partnership, and in Romano-Germanic law, to the rules of a company (company). In this regard, we believe that it is necessary to establish special legislative norms that would legally strengthen it in order to prevent

Modern American Journal of Business, Economics, and Entrepreneurship
ISSN (E): 3067-7203
Volume 01, Issue 09, December, 2025
Website: usajournals.org

misinterpretation of the consortium agreement and its attribution to other types" [12].

A consortium is a temporary contractual association of partners who are business entities, who, while maintaining their legal independence, unite to implement a specific financial or industrial project on the basis of a contract concluded with a third party. Usually, a consortium is defined as a temporary association of enterprises formed (on a temporary basis) with a limited range of centralized management functions and partial pooling of resources to solve specific economic problems. Based on the general concept, a consortium can be defined as a method of voluntary unification of several commercial organizations (including banks, other investment structures) on a joint venture basis and for a certain period of time to implement a specific business project, large-scale investment, scientific and technical, environmental, social programs. Such programs require significant material and organizational costs.

A consortium, as a business association, does not have the status of a legal entity; there is no special procedure for the creation and registration of associations in the form of a consortium. Companies included in the consortium retain their full economic and legal independence, except for activities related to achieving the goals of the consortium. Companies can be part of several consortia at the same time, since they can participate in several projects at the same time.

The formation of a consortium is carried out by agreement. A consortium can be formed both in the form of a legal entity and in the form of an unincorporated entity. If a consortium is formed in the form of a legal entity, its organizational and legal form may be a joint-stock company or other business entities. Typically, no organizational structure is created by the participants within the consortium, with the exception of a small management apparatus (for example, the consortium board of directors).

Regardless of the fact that the consortium participants do not lose their legal and economic independence, this form of integration has almost all the advantages of a company with legal responsibility. The consortium has the ability to operate effectively in the market environment and attract large investments to implement capital-intensive projects .

Modern American Journal of Business, Economics, and Entrepreneurship
ISSN (E): 3067-7203
Volume 01, Issue 09, December, 2025
Website: usajournals.org

In most cases, consortia are non-profit organizations. The main purpose of creating consortia is to join forces to implement a specific project, usually in their main field of activity, including the implementation of scientific and capital-intensive projects of an international scale or the joint implementation of large financial transactions such as the placement of bonds and shares.

References:

1. Kanashevsky V.A. Dogovory mejdunarodnogo podryada v kommercheskoy practice ("Journal of Russian Law", 2010, No. 7)
2. Boguslavsky M.M. Mejdunarodnoe chastnoe pravo. Textbook. - 6-e izd., pererab. i dop. - M.: Norma, 2009
3. Vasiliev E.A. Civil and commercial law of capitalist states. Publisher: M.: Mejdunarodnye otnoshenia, izdanie 3-e, pererab. i dop., 1993.
4. S.V. Bulyarsky, S.A. Bulyarskaya. Consortium kak kollektivnyi uchastnik innovatsionnoy deyatelnosti. (Magazine "Regionaliya", 2008, No. 4).
5. Vasiliev E.A. Civil and commercial law of capitalist states. Publisher: M.: Mejdunarodnye otnoshenia, izdanie 3-e, pererab. i dop., 1993.
6. Boguslavsky M.M. Mejdunarodnoe chastnoe pravo. Textbook. - 6-e izd., pererab. i dop. - M.: Norma, 2009.
7. Vasiliev E.A. Civil and commercial law of capitalist states. Publisher: M.: Mejdunarodnye otnoshenia, izdanie 3-e, pererab. i dop., 1993.
8. Vasiliev E.A. Civil and commercial law of capitalist states. Publisher: M.: Mejdunarodnye otnoshenia, izdanie 3-e, pererab. i dop., 1993.
9. Tyulyaev G.S., Vitol E.Yu. Aktualnost konstruktsii consortsiumov dlya rossiyskogo prava // 2018. T. 18. – No. 1. – S. 50-85.
10. Mokh T.O. Educational consortium kak novaya forma mejvuzovskoy integratsii // https://elib.bsu.by/bitstream/123456789/164389/1/%D0%9C%D0%BE%D1%85_2_2012-064-068.pdf
11. Milner, B. Z. Organization of theory: course lecture / B. Z. Milner. - M.: INFRA-M, 1998. - 123-124 p.

Modern American Journal of Business, Economics, and Entrepreneurship
ISSN (E): 3067-7203
Volume 01, Issue 09, December, 2025
Website: usajournals.org

12. Tatar O. Ne nazvannye dogovory – sledstvie realizatsii principa svobody dogovora v grajdanskikh pravootnosheniax: avtoref. dis. ... candy. walk science - Chisinau: 2020. - 17 p.