CONTEMPORARY ISSUES RELATED TO LEASING AND THE TYPES OF LEASING UNDER THE CIVIL CODE OF RA

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Introduction. Leasing, which is quite widespread in countries with a developed market economy, is a relatively young institution in the legal system of the Republic of Armenia. The foundations of civil legal regulation of leasing relations in our country were laid in 1998 with the adoption of the Civil Code of RA (hereinafter referred to as the Code) [Civil Code of RA, 1998]. Leasing relations were placed in paragraph 6 of Chapter 35 of the Code under the heading "Financial Leasing," which provided and regulated only one type of leasing - classical (financial) leasing. One of the novelties introduced as a result of legislative changes in the Institute of Leasing in 2020 is the provision of different types of leasing.

According to the justifications of the legislative amendment project, as a result of existing problems, including the lack of provision for other types of leasing besides financial leasing, the loan has become a more attractive financial instrument than leasing from the point of view of both lessors and lessees, which in its turn hinders the development of leasing [2]. According to Article 677, paragraph 5 of the Civil Code, the types of leasing are reverse leasing and secondary leasing, which are further elaborated in Articles 679 and 680 of the Code.

Leasing presents great opportunities for attracting financial resources, improving the business environment, encouraging investments, developing agriculture, and meeting the consumer needs of individuals in our country. It is considered that leasing is also the driving force of modern entrepreneurship, as it affects the acceleration of the production cycle, thereby ensuring the success of production [Mkhitaryan, 2016, 11]. To fully capitalize on the opportunities offered by leasing, it is crucial to provide and utilize effective and flexible types of leasing. It is no coincidence that the issue of legislative provision for different types of leasing has been relevant throughout the existence of leasing in our country.

In general, there are numerous and diverse types of leasing and various criteria for their classification. For example, in the literature, particularly in economic literature, direct leasing (Nonleveraged leasing), indirect or partial leasing (Leveraged leasing),

reverse leasing, and leasing to the supplier are distinguished based on the form of organization and the technique of implementing the operation. Depending on the level of riskiness of the lessor, the leasing transaction can be unsecured, partially secured, or guaranteed. Based on the scope of services, pure leasing, full-package leasing, leasing with incomplete services, and basic leasing are distinguished. Additionally, depending on the subject matter of the transaction, real estate leasing, movable property leasing, etc., are recognized[1]. These examples represent only a fraction of the available leasing types. In fact, there is no prohibition under domestic legislation on concluding the aforementioned transactions as long as they comply with the principles of civil law. However, only the types of leasing provided by the legislation receive special support from the state, with tangible tax and other benefits established to encourage officially recognized leasing activities (state support, partial compensation of interest payments, tax and other benefits, a high degree of guarantee for fulfilling obligations, etc.) [5].

The clear differentiation and regulation of leasing types enable the distinction of leasing contracts from hidden related contracts and help prevent fictitious leasing contracts, which are entered into solely for the purpose of obtaining financial benefits from the state rather than for the development of production. The provision of legal types of leasing can also contribute to a better understanding of leasing structures, identification of problems, and correct application of leasing[2]. The relevance of this article lies in the need to subject the leasing provided by the Code and its variations to a legal analysis based on the aforementioned circumstances.

The methodology of research. In terms of providing and legal regulation of the types of leasing by domestic legislation, we believe it is necessary to assess their effectiveness in the development of leasing relations as a guide. This assessment should take into account the application opportunities provided by the types of leasing. In this section, we will discuss the types of leasing provided by our legislation.

Literature review. Leasing has been relatively more covered by economists in domestic professional literature. Authors such as A. S. Mkhitaryan, A. R. Martirosyan, and others have discussed leasing. S. G. Meghryan analyzed the Institute of Leasing in Jurisprudence in his "Civil Legal Regulation of Leasing" PhD thesis in 2000. G. H. Gharakhanyan, T. K. Barseghyan, and A. M. Haykyants have touched upon separate civil and legal issues of leasing relations. However, these works were based on previous

[1] Ameriabank, one of the leading financial institutions providing leasing services in the banking market of Armenia, for example, offers the following types of leasing: solar leasing, auto leasing, agro-food equipment leasing, express leasing, economical leasing, agricultural equipment leasing, etc. (see link https://ameriabank.am/business/ameria-leasing/).

[2] According to experts, the lack of proper knowledge and awareness about the advantages of leasing also hinders the development of leasing (see link https://boon.am/leasing/).

legislation and did not address the legal institutions of reverse leasing and secondary leasing, which were established in the Code for the first time in 2020 as a result of the legislative reform of the leasing institution. The theoretical basis of the research was formed by the works of foreign authors on financial (classical) leasing and reverse leasing. However, it should be noted that the relevant domestic legal regulations have their own characteristics. Additionally, secondary leasing is specific to our legislation and has not been analyzed by anyone.

Scientific novelty. The scientific novelty of this work lies in the fact that it provides a special and comprehensive analysis of the normative types of leasing, which has not been done before in domestic jurisprudence. The research also includes the development of proposals aimed at improving the legislative regulation of leasing types and legal practice, with a scientific justification.

Analysis. *Classic leasing:* According to Article 677, Part 1 of the Code, a classic leasing contract is defined as the leasing company acquiring the property from the seller designated by the lessee with the right of ownership and transferring it to the lessee under the leasing contract for temporary possession and use.This is the definition of a classic leasing contract. Leasing is the structure, the combination of legal relations that implements leasing contract. Part 2 of Article 677 states that the leasing contract may stipulate that the lessor selects the seller and the property to be acquired.

Upon termination of the lease contract, the leased object is returned to the lessor. However, it is common for leasing to end with the lessee purchasing the leased object. According to Article 677, Part 3 of the Code, the leasing contract may stipulate that the leased property is transferred to the lessee after the end of the leasing period or before the end, provided that the lessee pays the price specified in the contract. This practice is often referred to as "leasing with the right to purchase" in practice and literature.

Leasing with the right to purchase implements the leasing contract, which stipulates that the leased property will become the property of the lessee after the end of the lease term or before its end, on the condition that the latter makes the payments stipulated in the contract. Leasing with the right to purchase is the most common in practice.

According to Article 677 of the Code, the condition of the leasing contract regarding the transfer of the property to the lessee's ownership and voluntary purchase is not a mandatory and voluntary condition of leasing. The absence of these conditions cannot affect the qualification of the signing of the leasing contract. Furthermore, the qualification of the property acquisition term provided by the leasing contract differs in the legal systems of different countries. In some countries, it is considered an indispensable feature and is regarded as a mandatory condition. For example, the laws of Belgium, Italy, and France consider the condition of selling the leasing object at a mutually

agreed-upon price to be mandatory. On the other hand, in Great Britain and the USA, the right to purchase the leasing object is not considered a characteristic feature of the leasing contract [Seleznev M. D. 2007, page 145]. In India, a financial leasing transaction cannot include the option to buy the lease subject. A transaction that provides for such an option is considered a property purchase and sale transaction with installment payments [Deelen, et al, 2003, 6]. Article 19 of the Law of the Russian Federation "On Financial Leasing (Leasing)" contains a discretionary provision regarding the possibility of transferring ownership of the leased object to the lessee before or at the end of the contract[1]. Traditionally, the provision for the possibility of purchasing or acquiring property is considered a mandatory component, particularly in Romano-Germanic legal systems. However, Part 3 of Article 1 of the UNIDRUA Convention on International Financial Leasing, signed in Ottawa in 1998 (hereinafter referred to as the Ottawa Convention), does not consider the existence of a condition regarding the purchase of property by the lessee as mandatory for the application of the convention. Similarly, the UNIDROIT Model Law "On Leasing," adopted on November 13, 2008 (hereinafter referred to as the Model Law), also does not consider the possibility of purchasing property as a mandatory element of leasing (Article 2) [10].

One particular characteristic of leasing with the right to purchase is that the ownership rights transferred from the seller to the lessor over the leased subject are temporarily retained by the lessor as a means to ensure that the lessee fulfills the financing provided by the lessor and the corresponding remuneration (financing fee) stipulated in the agreement, thus fulfilling their obligation to return (reimburse) the financing.

In general, the inclusion of the condition of acquiring the leased object in the leasing contract leads to the complication of legal relations between the parties. These relations expand not only in terms of possession, use, etc., of the leased object but also extend to management. Moreover, the condition of property acquisition in leasing contracts often resembles civil legal structures related to acquisition. Specifically, in professional literature, the contract in question bears some resemblance to the contract of purchase and sale with installment (partial) payment, as provided in Article 502, Part 2 of the Code. The leasing contract stipulates the acquisition of the property by the lessee at the end of the contract, and the leasing payments can be regarded as a transaction for the purchase and sale of the leased property. The price is divided into individual installments. By the way, it should be noted that there is a risk of entering into leasing contracts with the intention of concealing the sales relationship between the lessee and

[1] The Supreme Arbitration Court of the Russian Federation, for reasons of clarification of issues arising in judicial practice and uniform resolution of disputes, referred in detail to the nature of the leasing contract with the right to purchase (выкупной лизинг), the rights and responsibilities of the parties to the contract, and the specifics of liability.

the lessor, in order to take advantage of the privileges granted to the lessee. The contract discussed in the literature has also been analyzed in the context of the preliminary property sale contract [Shabashev, et al., 2005, 115]. However, it should be noted that the subject of a preliminary contract is the obligation to sign the main contract to deliver property, perform works, or provide services in the future. Unlike the main contract, which directly entails property delivery, service provision, and other civil legal relations, the preliminary contract is aimed at the conclusion of the contract that gives rise to such relations [12]. Some theorists have analyzed the leasing contract in the context of mixed contracts. Thus, according to O. N. Zakharova, the leasing contract with the right to purchase property is nothing but a mixed contract, which includes elements of rental and sale contracts [Zakharova, 2012, 134]. On the contrary, A. A. Baturina believes that contracts specifically regulated by the Civil Code of the Russian Federation or other laws cease to be mixed contracts and become unitary contracts with their own legal regulation. The author offers an interesting solution to fill the legal gaps, which exist in the form of contracts that have certain similarities with housing contracts provided by the legislation (the author considers such a contract to be a lease contract with the right to purchase property). He proposes to provide a rule-fiction and, accordingly, in the articles devoted to such contracts, simply define a rule so that the rules of Article 421, Part 3 of the Civil Code of the Russian Federation are applied to the given contract (the rule refers to the right of the parties to conclude mixed contracts), unless otherwise provided for by the agreement of the parties to the essence [Baturina, 2018, 47, 49, 50].

As we know, in order to determine the essence of a contract, including a leasing contract, the cause (purpose) of civil law contracts is taken into consideration as a guide [15]. When signing the leasing contract, the primary contractual goal of lessor and lessee is to establish legal relations based on the structure of leasing. The sale of the leased subject is derived from these main legal relations between the parties. Therefore, the leasing contract with the right to purchase should not be interpreted or considered as a mixed contract or a contract for the purchase and sale of property with installments. It should not be solely based on external some similarities. The focus should be on the underlying leasing relationship as the final purpose or essence of the contract (quinta essentia). Moreover, both the Ottawa Convention and the Model Law do not recognize the condition of sale as a decisive or critical condition. It implies that the leasing relationship is the main or primary element within the internal structure of such contracts.

It should be noted that the condition mentioned in Part 3 of Article 677 of the Code, which stipulates the transfer of ownership rights to the lessee, fundamentally goes beyond the scope of leasing relations. It does not regulate the legal relationship of use or financing of the leased property, which is characteristic of leasing, but rather addresses the ownership of the leased property and the question of changing legal title. The inclu-

sion of property purchase terms in the leasing contract does not imply that the parties, when signing the leasing contract, agree to a mandatory sales contract or main contract. This provision simply establishes the lessee's right to acquire ownership of the leased subject. Once the lessee fulfills all lease payments within the agreed terms, the lessor's material interest in allocating the funds is fully satisfied.

The term of lease duration is determined at the discretion of the parties. According to domestic legislation, no specific term is provided for financial leasing contracts, and the term of the contract is not necessarily correlated with the useful life of the property. Leasing relationships are uniformly regulated regardless of the contract duration. Under previous legislation, leasing was considered a form of long-term financing, and the subject of financial leasing typically involved property with a long period of physical wear and tear. In practice, leasing contract is usually concluded for the entire normative or economic useful life of the equipment. This ensures that the total amount of leasing payments is comparable to the value of the leased object.

In our country, short-term leasing can be effectively used for complex equipment, high-tech objects, or property required for a specific period, such as seasonal agricultural work. Such property, especially high-tech equipment, often becomes technologically outdated quickly, and it is not economically advantageous for lessees to retain it for a longer period. Short-term leasing helps lessee mitigate risks associated with equipment obsolescence, decreased profitability, fluctuating demand for the product, equipment damage, and increased non-production costs due to repairs and downtime. Accordingly, lessees may prefer short-term leasing if the equipment is needed for a brief period or requires special technical maintenance, or if the leased object is new and untested. Leasing can be particularly suitable for the development of small and medium-sized enterprises. While existing enterprises face challenges in renewing their fixed assets and expanding their logistical base, start-up entrepreneurs and small and medium-sized enterprises[1] often encounter financial constraints and limited access to bank loans. Leasing, in comparison, is more affordable. Typically, lessees are not required to provide additional collateral for the contract, and the interest rates associated with loans tend to be high [Mkhitaryan, 2016, 12, Poghosyan, 2018, 135-143]. Financial leasing and opera-

[1] As of January 1, 2021, the share of micro, small and medium-sized businesses (SMEs) in the GDP is distributed as follows: 23.3% for micro-businesses, 18.9% for small businesses, 21.3% for medium-sized businesses. With the aim of supporting the SME sector, the Law "On State Support of Small and Medium-sized Enterprises" is in force in our country, and the Government of RA, 27.08.2020. N 1443-Approved by resolution, within the framework of the 2020-2024 strategy for the development of small and medium-sized enterprises and the program of actions arising from it, special attention is paid to leasing, specifically providing for the implementation of information events about the leasing tool among SMEs, as well as anticipating the leasing activity in the field of small and medium-sized enterprises. portfolio growth by 50%.

tional leasing are recognized as the main types of leasing in global practice. In the case of operational leasing, the property is typically leased for a significantly shorter period than its economic service life. The property undergoes multiple lease cycles, and upon the contract's expiration, it is returned to the lessor, who doesn't receive full compensation for the costs expended. In our legislation, operating leasing is not recognized as a separate category; instead, it can be perceived as short-term leasing. As mentioned earlier, from the perspective of domestic legislation, the term of the lease contract does not have any legal significance regarding whether it coincides with the period of useful operation of the property or not. In general, as the main types of leasing, the distinction between financial leasing and operational leasing is characteristic of the US legal system, while the doctrine and legislation of continental Europe is dominated by the point of view that only financial leasing is considered leasing [Kabanova, 2013, 36].

According to our legislation, depending on the goals of acquiring the property and the status of the lessee, leasing can be divided into entrepreneurial and consumer types. In the case of leasing for business purposes, the lessee is a business entity engaged in commercial activities using the leasing structure. On the other hand, leasing for consumer purposes is a type of leasing that is governed by the Law on "Consumer Lending".

Article 2 of the Law on "Consumer Lending" defines the concept of "credit" as the right to pay an obligation in installments, a loan, a financial lease (leasing)[1], or any other agreement or arrangement aimed at financing the acquisition of goods, services, or works. The same article also defines a "credit agreement" as a transaction through which the creditor provides or promises to provide credit to the consumer. Therefore, a consumer leasing agreement is essentially a credit agreement that is concluded in accordance with the Law on "Consumer Lending," wherein the lessor (lender) provides or promises to provide credit in the form of leasing to the lessee (consumer).

Based on our legislation, a consumer leasing agreement can be concluded in two ways: as a leasing agreement governed by the Civil Code, which is entered into by individuals for personal, family, household, or other non-business purposes, and as a leasing agreement governed by the Law on "Consumer Lending" as a credit agreement. While there is no issue in applying the provisions of the Civil Code to the first case, the same cannot be said for consumer leasing credit agreements. Specifically, if the consumer enters into a leasing contract with the creditor under the "Consumer Lending" Law, the relationship between the parties falls under the scope of the regulation provided by the "Consumer Lending" Law. Essentially, this law only regulates leasing in the context of credit relationships, where leasing is considered as a form of credit provided by the cre-

[1] This Act contiunues to use the term "financial leasing", whilst that term has been replaced by a term "leasing" as a result of legislative amendments in 2020.

ditor to the consumer. It should be noted that there is no provision in the Civil Code or the aforementioned law that allows for the correlation of a credit agreement concluded under the mentioned law with the provisions of the Civil Code that regulate leasing relationships. This might create an impression that we are dealing with a kind of "unique" leasing arrangement. We believe that this situation violates the rule of legislative technique outlined in Article 15, Part 3 of the Law on "Normative Legal Acts". By using the term "leasing" in the Law on "Consumer Lending", it does not specify whether the norms governing leasing relationships, which are regulated by the Civil Code, are generally applicable to credit agreements concluded between creditors and consumers, and to what extent. Based on the above, it necessary to clearly establish that the norms governing leasing relationships are applicable to consumer leasing or credit agreements on the principle of "mutatis mutandis," i.e., to the extent that they do not contradict the essence of consumer credit relationships or are inherently applicable to these relationships.

Reverse leasing. Reverse leasing, also known as sale-leaseback, is a specific type of leasing contract addressed in Article 679 of the Civil Code. It is a bilateral agreement in which the lessor agrees to transfer the property, which was previously acquired from the lessee with full ownership rights, to the lessee for temporary possession and use. Reverse leasing involves a unique structure and combination of legal relationships that are implemented through the leasing contract specified in Article 679. In a reverse leasing arrangement, an organization sells its property to a leasing company and simultaneously leases it back from the same company. This allows the organization to benefit from tax advantages and other incentives while retaining the use and possession of the property. The funds obtained from the sale can be used for production or investment purposes, and the organization continues to make leasing payments as per the terms of the contract. If stipulated in the agreement, the lessee may regain full ownership of the property upon the expiration or renewal of the leasing period by paying the predetermined price specified in the contract (Article 679, Part 2 of the Civil Code).

There are differing opinions regarding reverse leasing in legal theory. Some argue that reverse leasing should not be considered true leasing because it deviates from the traditional structure, wherein the lessor acquires the property from a specific seller based on the lessee's instructions. They assert it allows leasing companies to engage in various financial transactions, leading to multiple financial circulations and potential abuse of accelerated depreciation techniques. In this view, the structure of legal exploitation is established, which is used to justify concealed transactions [Gavrilov, et al., 2021, 149]. However, others maintain that leasing is not solely defined by the involvement of a third-party seller or supplier, but rather by the unique risk distribution and contractual purpose between the lessor and the lessee. [Egorov, 2012, 41]. At first glance, reverse leasing is somehow "alien" to the traditional leasing contract, where the participation of

the seller is an essential feature of the leasing relationship. In this case, it seems that the seller of the movable property is a separate entity. However, the legal basis for reverse leasing is in the RA Civil Code. According to part 2 of Article 677 of the Code, the leasing contract may stipulate that the choice of the seller and the property to be purchased is made by the lessor. Other features of leasing are also available. Normative fixing of this type of leasing is justified by the order to improve the business environment in our country and encourage investments [20]. It is worth noting that reverse leasing is recognized and regulated in the civil codes of many countries, including the Russian Federation [21], the Republic of Kazakhstan [22], and Georgia [23]. Leasing back is also provided for in "On Interstate Leasing" of Moscow, 1998, in paragraph 3.3 of Article 3 of the November 25 Convention [24].

It is appropriate to mention the position expressed by a series of decisions of the Supreme Arbitration Court of the Russian Federation, that reverse leasing, which does not lead to unreasonable tax savings, has reasonable economic motives for both sides of the transaction [25].However, reverse leasing can present certain challenges, particularly when it involves dishonest actions by the parties involved. For instance, in cases where the leasing object is purchased by the lessor from the lessee-seller, but instead of receiving the cash payment for the sale, is made a set-off of obligations with the leasing payments, there may be issues in the realm of tax relations, leading to challenges regarding the legitimacy of the reverse leasing arrangement. It is possible for reverse leasing to be used for illegitimate purposes, such as disguising the sale of the lessee's assets or avoiding expenses related to the maintenance of the leased property. The lessor's sale of the leased item is one element of the plan to lend to the debtor using the leaseback structure. Therefore, the assessment of the genuineness of the sale must be assessed by taking into account the entire combination of relationships, including the given circumstance.

There is a need for significant additions to the normative regulation of reverse leasing. For instance, it may be advisable to prohibit offsetting the sale price (cash) with leasing payments in reverse leasing transactions. This would prevent the creation of favorable conditions for engaging in reverse leasing solely for the purpose of taking advantage of such offsetting. Additionally, it may be appropriate to allow entrepreneurs engaged in business activities to enter into reverse leasing agreements since reverse leasing contracts inherently have an entrepreneurial nature. This would help neutralize the risks associated with consumer credit or loan agreements by utilizing reverse leasing contracts instead. The issue of responsibility of the parties to the reverse leasing contract is also problematic, taking into account that the entities of the lessee and the seller are the same in this case, and, due to the specificity of the subject structure, the rules of liability of the seller and lessor, provided for by Article 678 of the Code obviously cannot be mechanically extended to the reverse leasing. Since in fact the responsibility

provided for the seller by leasing is divided between the two entities engaged in reverse leasing, the lessor and the lessee, we think it is correct to clearly stipulate in the legislation that the obligations related to the quality and completeness of the property with reverse leasing, obligations provided by the law for the seller, bears the lessee, except for cases when the specified defects were caused by the lessee's actions (the defects caused by the latter's fault after transferring the property to lessee). In part 1 of Article 679 of the Code, the word "bilateral" in the phrase "bilateral contract" is mentioned inappropriately. bilateral are also the agreements provided for by Articles 677, 680 of the Code, where there is no special reference to that effect. We tend to think that this is not so much a consequence of the consistency of the legislation, as it is the result of identifying the concepts of "leasing" and "leasing contract", which is assumed from certain norms of Paragraph 6 of the Law. For example, articles 677 and 679 of the Code are titled "leasing", but the content refers entirely to the leasing contract. Meanwhile, leasing is a broader concept than "leasing contract". Leasing is a complex system of legal relations, a combination of contracts with the participation of the lessor, the lessee and the property seller (supplier). Moreover, the parties to the leasing contract can also sign accompanying contracts for raising funds, insurance, collateral, etc., which are also included in the content of the leasing concept[1]. One of the conditions for the formation of legal culture is to use the terms with a certain specific meaning, each term should be used in such a way that it does not cause confusion [Barseghyan, 2009, 281], that it sufficiently complies with the principle of certainty fixed by the Constitution, that it does not give rise to different interpretations, create complications in legal practice. Fixing the legal definitions of the terms "leasing", "leasing contract" allows to avoid uncertainty.

Also, there is no mention of the third party, the seller, in the legal definition of the reverse leasing contract. Therefore, perhaps the following definition would be correct: "Under the leaseback contract, the lessor undertakes to acquire the property from the lessee (seller) with the right of ownership and to hand over the latter's temporary possession in exchange for lease payments." We believe that the proposed definition corresponds to the general concept of the leasing contract provided for in part 1 of Article 677 of the Code, as it includes the elements of the entity of sellor, as well as the elements of acquiring from the seller. It is insufficient to regulate the relations related to reverse

[1] See, for example, Braginskiy, et al., Contract law. Property transfer agreements. M.: Statute, 2002, p. 339. In Article 1 of the Law of Ukraine "On Financial Leasing", financial leasing is defined as "a type of legal relationship by which the lessor undertakes to hand over to the lessee the possession and use of the property, which belongs to the lessee by right of ownership, as an object of financial leasing, in accordance with the leasing contract, at the time and for the payment determined to acquire from the lessee without prior arrangement with the lessee, or to acquire from the lessor separately from the seller (supplier) in accordance with the terms of the specification of the lessee and even one of the features provided for in clauses 1-4 of part 1 of Art. 5. And the leasing contract is defined as a contract "which implements services by means of financial leasing".

leasing with just one article of the Code, and that the above suggestions can contribute to a more targeted and contextual regulation of the relations arising from reverse leasing.

Secondary leasing. Another type of leasing introduced as a result of legislative changes in 2020 is secondary leasing, which is discussed in Article 680 of the Code. Secondary leasing refers to the re-handover of the leased object, which has been returned to the lessor as a result of termination, early termination, or expiration of the secondary leasing contract, for the possession and use of the lessee. In our country, lessors (banks engaged in leasing activities and specialized organizations that have obtained a permit or license in accordance with the law) do not engage in the independent operation and other use of equipment and are faced with the problem of further utilization of the leased property. Within the professional community, even before the aforementioned legislative changes were made, this issue was raised, and various solutions were proposed: first, handing over the property through secondary leasing, and secondly, selling the property. It was noted that the development of the secondary market and the insolvency of lessees hinder the sale of purchased and used leasing objects or finding new customers for these objects [Mkhitaryan, 2018, 115-123]. With the provision of secondary leasing, the domestic legislature has created a legal framework to address this issue. The use of secondary leasing also helps resolve the problem faced by lessees in acquiring the necessary leasing items for their needs. In 2020, the need for reforming the legal regulation of leasing was due to envisage a new type of leasing to solve these problems [28].

The mentioned problem also exists in Russia. Back in 2010, there was a plan to make an addition to Article 91 of the RF Law "On Financial Leasing (Leasing)" to stipulate that if the property acquired for leasing is not legally provided to the person (lessee) for whom it was acquired, seized, or confiscated from another person, or the latter is obliged to voluntarily return it to the obligee due to a violation of the provisions, as well as returned as a result of the change or termination of the contract signed by the lessee, in circumstances that the lessor could not foresee when signing the leasing contract and for which the lessor is responsible, then the property can be leased under a re-signed leasing contract. However, the proposal for second leasing investment did not receive support in that form. The Codification Council noted that such an agreement cannot be considered a leasing contract because "the new 'lessee' lacks the option to choose the object of leasing and the seller". According to Sakharova, with the introduction of secondary leasing, an attempt was made to achieve additional protection of the interests of lessors by abandoning the approaches to legal regulation that express the essence of leasing relations and, in fact, changing those approaches radically. While the goal does not justify the chosen means, taking into account that the lessor's rights are protected by the current legislation [Sakharova, 2011, 51, 55]. The draft of the 2018 RF Law on Amendments to the Civil Code of the RF essentially proposes to abandon the classic leasing

model, in which the property is not returned to the lessor after making all the leasing payments. According to Article 833.3 of the project, the transfer of the right of ownership is considered a mandatory condition of the leasing contract, if the contract does not provide for the demolition of the property after fulfilling all the lessee's obligations [30]. Currently, in Russia, in some post-Soviet countries, only financial and reverse leasing are regulated. Operational leasing, in which property was allocated for a short period, has been removed because the term limitation has disappeared. In our opinion, the approach of domestic legislation to provide for the variety of secondary leasing is correct. Part 2 of Article 677 of the Code, which corresponds to Part 2 of Article 665 of the Civil Code of RF, provides that the lessor may choose the property to be purchased. That is, as already mentioned, banks and specialized leasing organizations are not prohibited from acquiring the object of leasing without prior agreement with the lessee. The structure of secondary leasing corresponds to all the qualifying features of classic leasing: acquiring the object of leasing, which precedes the handing over of possession and use of the property, handing it over for temporary possession and use, handing over with a fee that is paid periodically, for a period decided by the parties, and upon expiration, the property is returned to lessor or purchased by lessee and transferred to their ownership.

It is undeniable that the normative recognition of different types of leasing is driven by practical necessity, specificity, and the potential for resolving the main problems that leasing aims to address. If a particular type of leasing, which aligns with the fundamental characteristics of leasing, can serve the economic interests of the country, there should be no obstacle to its legislative acknowledgment. According to economists, removing legal barriers and formally recognizing reverse leasing and secondary leasing will likely result in a doubling or even tripling of the leasing market's volume. This, in turn, will enhance the appeal of leasing for customers and pique the interest of banks to offer leasing as a financial instrument, alongside traditional loans, considering its significant advantages [31].

Furthermore, the absence of official recognition of a specific type of leasing does not imply that it cannot be implemented in practice. Experience has demonstrated that leasing relationships can thrive even in the absence of a legal framework.

Regarding the definition of secondary leasing in Part 1 of Article 680 of the Code, it appears to be incomplete and primarily of an economic nature.In that context, V.V. Vitryansky justly notices: "Of course, the economic nature of the property relations that are the subject of legal regulation must be taken into account and, moreover, it must predetermine the content of the relevant legal norms, but the legal regulation itself must be built by its own rules, based on general approaches, which are generally developed in the law of property circulation. regarding the whole settlement system" [Braginskiy, et al., 2000, 607]. Thus, we propose the following legal definition of secondary leasing.

"Secondary leasing refers to the lessor's ability to transfer a leased object, returned as a result of termination, early termination, or expiration of the initial leasing contract, to a new lessee for temporary possession and use under a new leasing contract."

Conclusion. The inclusion of leaseback and secondary leasing as types of leasing in the Civil Code of RA was a necessary and appropriate step resulting from legislative changes. Both leaseback and secondary leasing possess the essential characteristics of classical (financial) leasing. There are no inherent legal barriers to regulating leaseback and secondary leasing through legislation. However, the legal regulation of these types of leasing has certain shortcomings and falls short of satisfactory legal standards. The definitions of reverse leasing and secondary leasing are incomplete, the distinction between the concepts of "leasing" and "leasing contract" has been blurred, certain legal relations have been left unregulated, and the allocation of only one article to each type of leasing is insufficient for comprehensive regulation of these relationships. Through the examination of relevant legal provisions in domestic and foreign jurisdictions, as well as international legal instruments, along with insights from established legal practices, appropriate proposals have been presented. These proposals can be valuable in terms of enhancing the legislative regulation of leasing types, promoting the correct application of leasing practices, and advancing the legal institution of leasing as a whole.

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Contemporary issues related to leasing and the types of leasing under civil code of RA

Key words: leasing, leasing contract, lessor, lessee, seller, classical leasing, redemption leasing, business leasing, consumer leasing, reverse leasing, secondary leasing, credit, purchase and sale

The regulatory framework for leasing relations was established in our country in 1998 with the adoption of the Civil Code of RA. Leasing relations have been categorized under the name of "Financial leasing" in paragraph 6 of chapter 35, where only one type of leasing, namely classical (financial) leasing, is provided and regulated. One of the improvements resulting from legislative amendments in the field of leasing in 2020 is the introduction of additional types of leasing: return leasing and secondary leasing.

In order to fully realize the potential of leasing and its application possibilities, the classification of leasing types plays a crucial role. Therefore, the regulation of leasing types holds a prominent place in the system of legal regulation of leasing relations. Clear differentiation and regulation of leasing types contribute to a better understanding of the leasing mechanism, proper application, and promotion of the leasing institution.

This article provides a comprehensive analysis of classical leasing, return leasing, and secondary leasing.