

Research on the Revocation of Invalid Legal Acts

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Abstract: Non effective legal acts have been widely recognized as an independent type of effectiveness, and discussions on whether non effective legal acts can be revoked have followed. As an independent state of validity, an ineffective legal act has a logical basis for revocation, and it should be clear that it is revocable when the conditions for exercising the revocation right are met. Revocable not only requires that the meaning of the legal act be untrue, but also requires that the revoked legal act be valid. The uniqueness of the non effective state compared to other effective states lies in its special situation of being "effective" but not "effective". In this context, the distinction between effective and effective should be strictly distinguished; A legal act that has not yet been "effective" but is "effective" means that the legal act that has not yet been effective meets the requirement of revocable validity. In addition to complying with syllogistic reasoning, the revocation of an ineffective act also meets the legislative purpose of revoking it; The revocation of an ineffective act shall also comply with the exercise period of the revocation right.

Keywords: Legal acts; Not effective; Right of revocation

1. Introduction

The issue of whether an ineffective legal act can be revoked is not fully discussed in the academic community. This article argues through syllogism that ineffective legal acts are revocable. The legal act can be revoked, and in addition to the time limit, two conditions should be met: firstly, the intention of the legal act is not true, and secondly, the legal act is valid. The ineffective legal act meets the requirements of validity and there is a possibility of an untrue expression of intention, therefore it is concluded that the ineffective legal act is revocable within the exercise period of the revocation right.

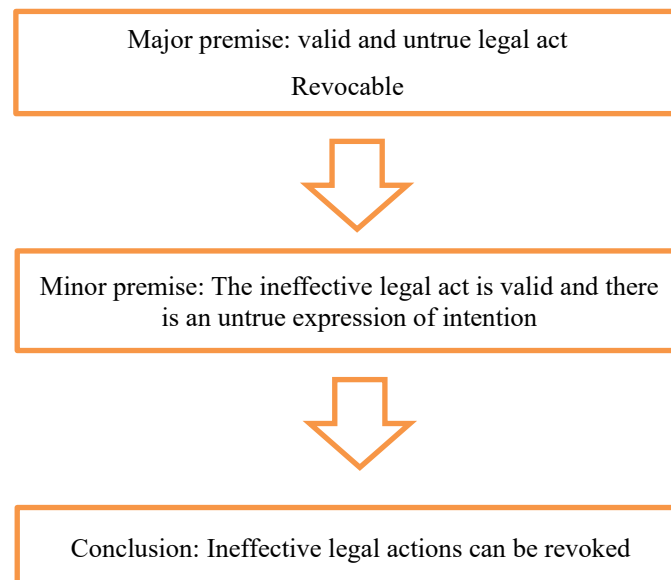


Figure 1 Argumentation logic

2. Nature of ineffective legal acts

To explain the nature of ineffective legal acts, one must first explain the state of ineffective legal acts. As a special state of effectiveness, non effectiveness has long existed in China's legal practice. The

Contract Law promulgated in 1999 stipulates the situation where a contract is established but not yet effective. Non effectiveness legal acts are the evaluation of the behavior in that situation, but this evaluation is different from effectiveness evaluation.

An ineffective contract refers to a contract that has already been established and requires the completion of relevant legal facts before it can become legally effective. The effectiveness of an ineffective contract depends on whether the missing effective elements are complete. If the missing effective elements are completed, the contract becomes effective and becomes fully effective. If the relevant effective conditions are lacking, there are two possibilities for the contract: firstly, if there is a situation that makes the act invalid, the contract will be invalid, and the contract will not have legal effect from the beginning; Secondly, if the contract does not meet the conditions for its effectiveness at that time, it will not be enforceable against both parties. So some scholars believe that non effectiveness is not the final state of a contract, but rather an intermediate and transitional form.^[1]

Scholars have been trying to attribute ineffective acts to the effectiveness evaluation system. Due to the characteristics of their undetermined effectiveness that are similar to those of undetermined effectiveness, some scholars believe that ineffective acts belong to undetermined effectiveness in effectiveness evaluation. However, the conditions for their effectiveness are clearly different from the recognition and determination of undetermined effectiveness. It is generally believed that legal acts become effective upon their establishment, but there are exceptions. For certain special reasons, some acts do not immediately become effective upon their establishment, but only become effective when certain conditions are met. Therefore, there is a time interval between the establishment and effectiveness of legal acts, and an ineffective act exists as a description of this time interval.

As a special state of effectiveness, the particularity of non effectiveness is reflected in its violation of the universal principle of being effective upon establishment. The reasons for non effectiveness can be roughly divided into two categories: firstly, the act of obtaining effectiveness upon approval or registration; The second is a legal action with conditions or a starting period, or dividing the reasons into statutory conditions and agreed conditions.

The absence of effectiveness status is different from the effectiveness evaluation system. As a state of a civil legal act during a certain period of time, an ineffective act should be the evaluation object of the effectiveness evaluation system, rather than one of the contents of the effectiveness evaluation system. Although its appearance that has not yet produced effectiveness is similar to that of the undecided effect, careful study reveals a significant difference between the undecided effect and the undecided effect.

The main constraint of pending effectiveness is the unauthorized disposal. After the implementation of the pending effectiveness act, it has already become effective and is determined to be effective due to the recognition of the right holder. However, the failure to generate effectiveness does not result from the awareness of the right holder. The reason for the ineffective action to become effective is through approval, registration, or meeting the conditions agreed upon by the parties. The effectiveness generated through approval and registration at the same time also reflects the intervention of China's administrative functional departments in the autonomy of the parties' consciousness, which also conflicts with the autonomy of consciousness in the behavior of undetermined effectiveness.

Taking a contract as an example, there are many differences between ineffective and undetermined actions. Firstly, the requirements for the qualification of contracting parties are different. Contracting parties who have not yet generated a valid contract require full civil capacity and civil capacity, while the subject capacity of a contract with undetermined validity is lacking, such as limited capacity, defective agency power, or no right to dispose. Secondly, the specific effectiveness is different. Although an ineffective contract has no effectiveness or performance requirements, it still has a certain legal effect on the parties. Neither party may unilaterally modify or terminate the contract. If a contract is approved to become effective, one party has the obligation to submit for approval.

There are essentially similarities between ineffective contracts and contracts with undetermined effectiveness. The effectiveness of an ineffective contract is still uncertain. If the missing effective elements are completed, the contract becomes effective and becomes a fully effective contract. Therefore, some people believe that ineffective contracts should be included in the type of contract with undetermined effectiveness for adjustment. Some scholars have also argued for the approval of effective contracts, pointing out that for approved effective contracts, if only the validity status before approval is defined as "not yet effective", it cannot clearly distinguish its significant characteristics from other types of contracts. Instead, it has been argued that approved effective contracts should be included in the category of "pending contracts" because pending contracts are also "not yet effective" before other facts or actions determine their validity.^[2]

There is not much disagreement among scholars regarding the definition of the connotation of ineffective acts. As Han Shiyuan believes, the validity of a contract is uncertain, or unresolved and does not generate validity, referring to the fact that it did not initially generate validity because his legal act itself lacks a certain element of validity.^[3] Once this element is later met, it can be effective. Tang Wenping believes that undetermined effectiveness refers to the first invalidity of a legal act that has not yet been completed, and the act is retroactively valid due to the completion of the missing elements of effectiveness. These viewpoints collectively point out the characteristics of ineffective acts that have not yet become effective due to the lack of certain effective elements, and when the elements are supplemented, ineffective acts immediately become effective. However, the above viewpoints all confuse effectiveness and effectiveness.

Scholars believe that ineffective contracts can be interpreted as a type of conditional contract. For example, for contracts that require approval to take effect, approval can be used as a condition for the contract to take effect. Therefore, ineffective contracts should not be treated as an independent type of contract. There is some truth to this view. The problem is that this viewpoint confuses the essential differences between the conditions in ineffective contracts and those in conditional contracts. Firstly, in contracts that require approval to take effect, those with the obligation to apply for approval need to actively promote the achievement of the conditions. If this is not the case, they need to bear the responsibility for breach of contract.

In a conditional contract, because the achievement of a condition is a natural process, if the actor actively promotes the achievement of the condition, it is legally considered that the condition has not been achieved. Secondly, in ineffective contracts that require approval, the completion of the application for approval requires the counterpart to fulfill corresponding assistance obligations, which can be legal obligations based on the principle of good faith or contractual obligations based on contractual agreements. Therefore, if the other party violates this obligation, they need to bear corresponding responsibilities.^[4] In conditional contracts, the counterpart does not have this obligation, let alone the responsibility for violating this obligation. Finally, in ineffective contracts that require approval to take effect, the conditions are proactive and the results are predictable. As long as it complies with corresponding policies and relevant laws, this behavior can achieve the expected purpose of the parties involved. But in contracts with effective conditions, the conditions have passivity, and the possibility of the conditions occurring has a certain degree of contingency. It is precisely for the above reasons that conditional contracts can only be considered as a type of ineffective contract and cannot be interpreted as conditional contracts.

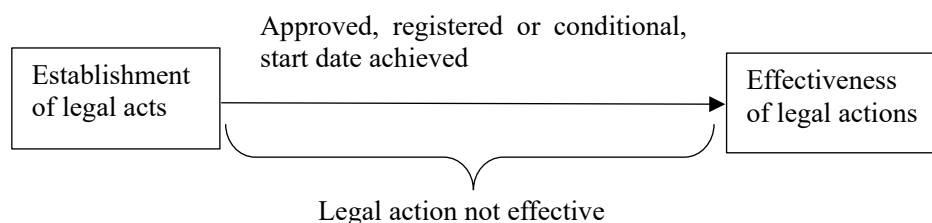


Figure 2 Stage effect of legal act

3. Conditions for revocable legal acts

After the establishment of a civil legal act, due to defects in its content, the parties may request the court or arbitration institution to revoke it in accordance with legal provisions. Such defects usually require an untrue expression of intention and validity before revocation. The exercise of this right is not actively intervened by the state, and the court adopts the principle of no action, and the law does not naturally revoke such behavior, which is clearly different from invalid legal acts. Failure to sue or ignore means that such legal actions may continue to be valid and ultimately effective. If the parties fail to exercise them within the exclusion period, it will be deemed as a waiver of the right to revoke them.

3.1. The difference between establishment, effectiveness, and effectiveness

Before discussing the revocability of ineffective acts, it is necessary to distinguish the legal connotations of establishment, effectiveness, and effectiveness. It is generally believed that a civil legal act is established as soon as it is made. Taking a contract as an example, the contract is established when

the parties sign the contract, and most contracts become effective when they are established. However, there is also a time interval between the establishment and effectiveness of contracts, such as contracts that require approval to become effective, contracts with conditions and obligations, and unilateral legal acts such as wills outside the contract also have a time interval between the establishment and effectiveness.

Of course, there are also contracts that are not approved, meet conditions, or fulfill obligations after the contract is established, and cannot be effective. However, without approval, the failure to meet conditions, or fulfill obligations does not affect the formation of the contract. That is to say, the establishment and effectiveness of a contract are not related. After the contract is made, the contract is established. As for whether it can meet the legal or agreed effectiveness requirements of the contract in the future, the establishment of the contract cannot be denied.

As for effectiveness, it is an evaluation of the effectiveness of legal acts. There are four types of effectiveness evaluations for civil legal acts: validity, invalidity, revocability, and undetermined effectiveness. A valid contract should satisfy the actor's corresponding civil legal capacity; Authentic expression of intention; Not violating the mandatory provisions of laws and administrative regulations, and not violating public order and good customs. There may be a time gap between the establishment and effectiveness, and the connection between effectiveness and time is not closely related. It is entirely a consideration of the content of the contract. However, the prerequisite for the validity of a contract must be the establishment of the contract. If the contract is not signed, it is not established, and there is no discussion on whether the contract is valid. After the contract is established, it may also be invalid due to its violation of mandatory provisions of laws and regulations.

The legal theory circle in China has long confused the concept of effective contracts, such as Wan Xiang's belief that there is no possibility of correction in invalid contracts, and that contracts that have not been effective are effective once approved. However, there is no direct connection between the validity of a contract and its approval. The effectiveness evaluation system is applicable from the date of its establishment, which means that the contract does not violate laws, regulations, mandatory provisions, or public order and good customs, and the expression of intention is true. If the parties have the corresponding civil capacity, then the contract is valid. Approval or not affects whether the contract has effectiveness rather than whether it is valid. If the contract violates mandatory legal provisions, even if approved, it is still invalid.^[5]

From the overall perspective of legal acts, the establishment and effectiveness are the various stages of the overall act. Validity refers to the overall evaluation of the content of a legal act. A legal act may go through stages such as establishment, effectiveness, performance, termination of rights and obligations, and breach of contract liability, and be revoked or declared invalid. Unrecognized legal acts are considered invalid from the time of establishment, and retroactively invalid. The establishment and effectiveness of a legal act are common processes for positive evaluation, and effectiveness is also the most appropriate evaluation of a positive evaluation of the legal act. The establishment of a legal act is a prerequisite for evaluating the effectiveness of a legal act, but an evaluation of an invalid, undetermined, or revocable legal act can exist at all stages of the legal act.

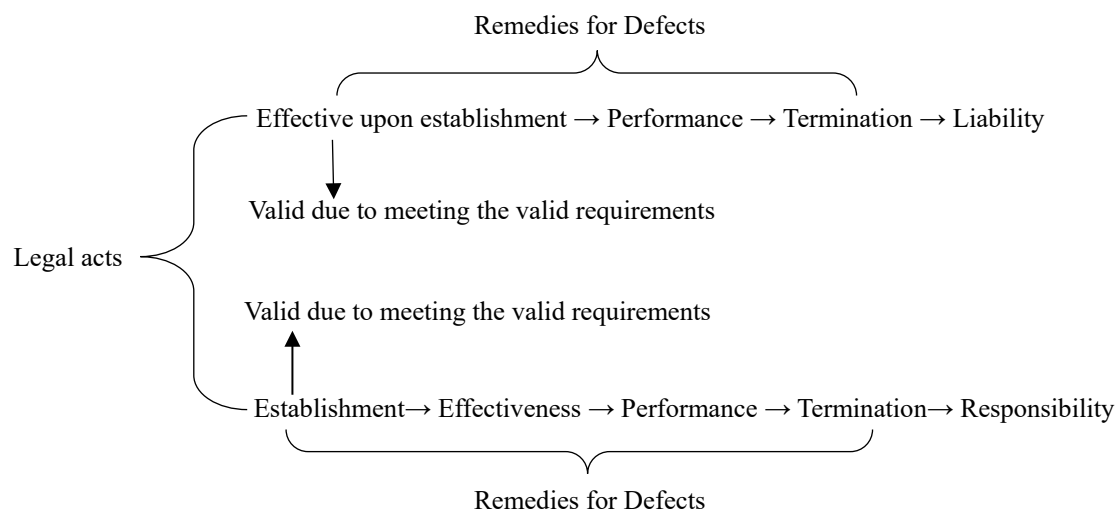


Figure 3 The difference between establishment and effectiveness

3.2. Unreal expression of intention

The Civil Code of the People's Republic of China (hereinafter referred to as the Civil Code) stipulates four basic types of revocable legal acts, which also constitute several basic types of revocable legal acts, namely major misunderstanding, fraud, coercion, and obvious unfairness. The common feature of these four situations is that there are situations where the meaning expression is not true. The revocability referred to here does not refer to the validity status of a legal act, but rather to a procedure or mechanism that can ultimately determine the validity or invalidity of the legal act.

The actor has the right to revoke the untrue expression of intention within a certain period of time, as it has a legal effect that damages their own interests due to the untrue expression of intention. The holders of this right include: those who have suffered significant losses to their personal interests due to significant misunderstandings during the process of making legal acts; The actor is in a very disadvantaged position due to a serious imbalance of interests between the actor and the other party due to reasons that are not based on their true intentions; A person who is coerced or deceived.^[6]

It can be seen that having an untrue expression of intention is one of the prerequisites for a legal act to be revoked. The expression of intention is true and accurate, the legal act is determined to be valid, and based on the trust interest, the parties should be bound by the legal act, without the right to exercise revocation. In the case where the expression of intention is determined to be true, the legal action taken by the actor will create the desired legal effect, and there is no need to exercise the right of revocation in this case. The untrue expression of intention, regardless of the reason, may have a legal effect that goes against the true will of the perpetrator and harm the interests of the perpetrator. At this point, granting the actor the right to revoke is to provide the actor with the right to choose whether to revoke or not to revoke the original untrue expression of intention.

For example, in the case of a dispute over a sales contract between Guo and a certain company, a certain company promoted its building real estate project as two parts above ground and underground, clearly stating that the underground third floor is a commercial center used for commercial activities. Guo signed a "pre-sale contract for commercial housing" with a certain company, which stipulated that Guo purchased a house on the third floor of the building (advertised as a commercial store by the merchant) and had already paid the house price. The fire department of a certain city pointed out that the use of the underground three floors of the building is a duplex parking garage. Guo filed a lawsuit to revoke the pre-sale contract involved in the case. The focus of the dispute between the plaintiff and defendant in this case is whether the legal actions taken by the plaintiff and defendant can be revoked, that is, whether the "pre-sale contract for commercial housing" signed by both parties can be revoked due to Guo's fraud. The court ultimately ruled that a certain company's behavior constituted fraud, and Guo's contract behavior due to fraud could be revoked. In this case, Guo, as the perpetrator, committed an untrue legal act due to fraud, and applicable revocable legal rules, Guo has the right to revoke the legal act in accordance with the law.

As a legal mechanism that can ultimately render effective legal acts invalid, the uniqueness of the system of revocable legal acts is that whether a legal act is deemed invalid depends on the independent will of the party enjoying the right to revoke it. The legal policy considerations for making such provisions in the law are that the defect in the expression of intention is a private matter between the parties or only involves the private interests of the parties, and does not involve public order issues; A legal act established based on a defect in the expression of intention can be tentatively effective, and it is most advisable to leave it to the defective of the defect in the expression of intention to decide whether it is ultimately determined to be valid or invalid.

Deep analysis shows that this legal and policy consideration is actually based on the reality that the flaw in the expression of intention is mainly a problem in the formation process of the expression of intention, that is, the expression of intention cannot be freely or in accordance with the true intention, and whether the content of the legal act is essentially fair and reasonable is not to be questioned. From a purely transactional perspective, the payment and treatment of certain legal acts may be proportionate and meet substantive fairness standards. However, for the defective with a defective expression of intention, if there is no error or fraud or coercion, they may not have engaged in such legal acts with the other party at all.

3.3. Effective until the legal act is revoked

In terms of the state of validity, the validity of a revocable legal act occurs from the moment it is

established. Even in a legal act that has not yet fully generated its validity, it has already generated binding force between the parties, and only gives the parties the right to revoke due to its flaws. It is determined to be valid before the parties exercise the right to revoke, so its basis is validity. When understanding, it is entirely possible to consider revocable legal acts as valid oriented legal acts.^[7] Shi Shangkuan believes that revocable legal acts should be temporarily designated as valid, and retroactively considered invalid from the beginning because the perpetrator is revocable.^[8] Chen Ziqiang also believes that revocable legal acts are valid before the perpetrator exercises the right to revoke them.^[9]

The distinction between effective and effectiveness should be made here. Generally speaking, legal acts generate effectiveness upon establishment. The significance of distinguishing between effectiveness and effectiveness is not significant. Therefore, in long-term practice, Chinese scholars have been in a mixed state of effectiveness and effectiveness, but there is a clear difference between effectiveness and effectiveness. Validity is a legal judgment, and the Civil Code stipulates several general conditions for the validity of legal acts. Legal acts that meet the conditions can be called valid, but valid legal acts may not be effective due to the lack of statutory or agreed conditions.

Validity is a prerequisite for generating effectiveness. Taking the act of a contract as an example, although the validity of the contract has not yet generated effectiveness, it has already bound the parties. The parties should fulfill their obligations such as registration and application according to the contract. However, due to the failure to meet legal or agreed conditions, the contract has not generated effectiveness, and the act of the contract has not yet caused any changes in the legal relationship. In summary, effectiveness is a legal judgment, and the basis for determining whether a legal act is effective is legal provisions. Effective legal acts are protected by law. Effectiveness is a factual judgment that is based on validity. Generally, the time when a contract is established is also the time when it becomes effective. However, if there are legal or agreed conditions and the legal or agreed conditions are not met, the legal act must wait for the conditions to be met before It can fully become effective

Unlike invalidity or invalidity, the revocability of a legal act does not refer to a form of validity, but rather to a procedure or mechanism that can ultimately determine the validity or invalidity of the legal act. If the party enjoying the right of revocation exercises the right of revocation within the prescribed period, the legal act that has already become effective shall be deemed invalid from the beginning (determined to be invalid retroactively); If the person with the right to revoke fails to exercise or waives the right to revoke within the specified period, the legal action shall be ultimately and effectively effective. As far as the form of validity is concerned, revocable legal acts essentially belong to a pending and undecided effective legal act (the undecided giving effect).

Revocable legal acts are valid before revocation and invalid after revocation. If not carefully studied, there may be a contradiction in understanding. Revocable legal acts require flaws in the expression of intention, but revocable legal acts require validity before revocation. Therefore, revocable acts have contradictions in the requirement of expression of intention. However, in reality, the exercise of the right of revocation arises precisely to correct the flaws in the expression of will, and on the timeline, when the revocable legal act is established, the actor is not aware of the flaws in the expression of will, or the coerced actor is aware of the flaws in the expression of will. However, on the surface of autonomy of will, the civil legal act performed is still valid in the eyes of a third party. And if the actor does not prove that his expression of intention is flawed, the civil legal action taken by the actor can bind both parties.

That is to say, before exercising the revocation right, the act has already become effective (valid), but the validity is not certain and final. If the revocation right holder exercises the revocation right in accordance with the law, it may even be retroactively invalid. The fundamental reason why it is called a revocable legal act is that the exercise of the right of revocation is a key element in typifying such legal acts, and it is the basic symbol that distinguishes such legal acts from those that are initially determined to be invalid and effective.

The basic requirement for a legal be revocable is its validity rather than its effectiveness. Effectiveness, as the basis for generating effectiveness, occurs simultaneously with or before the generation of effectiveness. After a legal act is made, it can be divided into two situations: the generation of effectiveness upon making it and the generation of effectiveness after being effective. In the case of immediate effectiveness, both effectiveness and effectiveness occur simultaneously, without the need for discussion; In the case of effectiveness before effectiveness, there is a time difference between effectiveness and effectiveness. If, after the effective but ineffective legal act is taken, the actor discovers that there is an untrue expression of intention in the legal act, they must first meet the requirements for the effectiveness of the legal act before exercising the right to revoke it, which clearly does not comply with the principle of convenience.

If a contract that can only become effective after approval is signed, and the actor discovers that the other party to the contract has engaged in fraudulent behavior during the contract signing process, causing their own intention to be untrue, and wants to exercise the right to revoke the contract, they must first fulfill the approval obligation to make the contract effective before it can be revoked. This obviously increases the cost of revocation for the actor, violates the principle of convenience, and is not conducive to protecting the interests of the actor.

Although the exercise of the right of revocation ultimately renders the effective legal act invalid, the exercise of this right depends on the independent will of the party enjoying the right of revocation, and the law does not give the court the authority to automatically exercise this right. The underlying logic behind the design of legal provisions is that the flaw in the expression of intention only involves the private interests of the parties involved and does not affect public order or public interests.

4. Ineffective legal act meets the revocable conditions

An ineffective civil legal act refers to an act that is established but has not yet become effective due to the lack of certain conditions. This condition may be an agreed upon condition or a statutory condition. But once a civil legal act is made, it means that the party has made a declaration of intention, which may have flaws. However, as long as the actor has the corresponding civil legal act and the declaration of intention does not violate the mandatory provisions of laws and administrative regulations or public good customs, the act is effective, even if the civil legal act may be revoked due to the exercise of the party's revocation right.

4.1. Unreal expression of intention in ineffective legal acts

An ineffective legal act refers to a legal act that, although established, has not yet become effective due to the lack of legal or agreed conditions for its effectiveness. Specifically, it includes legal acts that require approval and registration to generate effectiveness, legal acts that require conditions to generate effectiveness, and legal acts that require the initial period of effectiveness to generate effectiveness. The expression of intention, as the core element of legal acts, is directly related to the effectiveness of legal acts. The untrue expression of intention by the actor is the basis for the right to revoke. The basic premise for revoking a legal act is that the expression of intention that constitutes the legal act is untrue due to significant misunderstanding, obvious unfairness, or fraud or coercion at the time of making it.

As one of the types of legal acts, the making of ineffective legal acts is also centered around the expression of intention, and there are naturally situations where the expression of intention is not true. If both Party A and Party B sign a contract that can only become effective after approval, and after the contract is signed but before approval, Party A discovers that Party B has engaged in fraudulent behavior during the contract signing process, and due to Party B's fraudulent behavior, Party A has made an untrue expression of intention. In the case of ineffective behavior, B's fraudulent behavior caused A to make an incorrect expression of intention, indicating that ineffective behavior is one of the types of legal acts, and the untrue expression of intention is a common example.

The expression of intention is the core of legal acts, and non effective acts cannot be excluded. What may raise doubts is whether the expression of intention may be untrue in a state where the ineffective act is effective but not effective. From a purely logical perspective, the general requirement for effective behavior is that the expression of intention is true, so effective and untrue cannot coexist. However, this logical thinking abandons the timeline in practice.

At the time of making the expression of intention, the actor is not yet aware of the authenticity of the expression, and generally, the actor will not make an untrue expression of intention even though they are aware of significant misunderstandings, fraud, or coercion in their expression of intention. Only after the expression of intention is made can the actor discover that their expression of intention is untrue. The paradox of validity and untrue expression of intention only exists in theoretical logic. In practice, there is a time difference between validity and expression of intention, because the actor cannot determine the untrue situation of the expression of intention when making a certain legal act due to various factors. Validity and the actor's discovery of untrue expression of intention do not exist at the same time. Therefore, there is no conflict between validity and untrue expression of intention.

4.2. Effective until the revocation of an ineffective legal act

In terms of the state of effectiveness, non effectiveness is the intermediate state between the effectiveness of a legal act and the effectiveness of a legal act. This legal act has the possibility of generating effectiveness, and the final state is also effective. It does not generate effectiveness only because the legal or agreed conditions for generating effectiveness have not been met. Although it does not generate effectiveness, it does not affect its "effectiveness". As mentioned earlier, validity is a legal judgment, and the generation of validity is a factual judgment. The criteria for determining the validity of a legal act are prescribed by law, such as the Civil Code, which stipulates the general requirements for the generation of validity of a legal act. According to this, a act is valid only if it meets the following conditions: firstly, the perpetrator performs the act within the corresponding scope of capacity; secondly, the expression of Intention Is true; thirdly, It does not violate laws and regulations or public order and good customs.

As a type of legal act that does not generate effectiveness, it conforms to the above logic. The legal act that the actor does not violate laws, regulations, public order, good customs, and the true expression of intention within the scope of their capacity belongs to the state of no effectiveness due to the failure to meet legal or agreed conditions. Although the legal act does not generate effectiveness in this state, it does not affect its effectiveness and has already been bound between the actors. As stipulated in the Civil Code, if approval and other procedures are required by laws and administrative regulations in a contract, failure to do so will affect the effectiveness of the contract, but will not affect the validity of the obligation clauses related to approval in the contract. Although the contract has not yet become effective, it has already become binding between the parties to the contract, that is, if the parties to the contract fail to fulfill their obligations such as applying for approval in accordance with the contract, the other party has the right to request that they assume responsibility for violating the obligation.

There have been different discussions in the academic community regarding whether non effectiveness should be treated as an independent state of effectiveness, with supporting views that non effectiveness is an independent type of effectiveness. Non effective and invalid, revocable, and undetermined legal acts are different, which are already legal acts with certain effectiveness. Non effective behavior is a type of legal action that has not yet fully effective. Although it has not fully effective, it is in a state of partially effective or partially ineffective. Even if the administrative authority does not approve it, it should be considered that the contract is not invalid, but rather in a state that differs from invalidity and is not fully effective. Regardless of whether it is considered that the non effectiveness has already had a certain effectiveness, or whether it is in a partially effective or partially ineffective state, or a determined non effectiveness state that is distinct from invalidity.^[10]

Scholars have already expressed in their discussions that ineffective behavior is effective. From the perspective of denying that ineffective behavior is an independent type of effectiveness. Some scholars believe that conditions such as approval and registration are only a special state or stage between the establishment and effectiveness of the action, and cannot be directly included in the effectiveness evaluation system, nor do they belong to an independent and new type of effectiveness evaluation.^[11] Some scholars also attribute the failure to produce effect before approval to the category of pending effect, because, like unauthorized agency, it is an act that requires the consent of a third party to produce effect.^[12]

5. Ineffective legal act revocable

A revocable legal act requires two elements: a valid legal act and an untrue expression of intention. A non effective legal act is "valid" and there is a situation where the expression of intention is untrue. As discussed earlier, it is not difficult to draw the conclusion that an ineffective act can be revoked. The conclusion that an ineffective act can be revoked is not only applicable to the logic of syllogism, but also in line with the legislative purpose of revocation rights. In addition, revocable actions that have not yet generated effectiveness should also comply with the deadline for revocable actions.

5.1. Ineffective legal acts are in line with revocable legislative purposes

The law grants the right to revoke the untrue expression of intention to the perpetrator, and its legislative purpose is to maintain autonomy of intention. The law grants the actor the right to revoke an untrue or incorrect expression of intention due to significant misunderstanding, obvious unfairness, or being deceived or coerced during the process of making a certain legal act. This provision on the right to

revoke is manifested in the legal effect of the actor's legal act that contains an untrue expression of intention, whether it is invalid or not is directly determined by the autonomy of the actor who has the right to revoke it.

The legislator's consideration for making such a provision is that the untrue expression of intention is a personal interest between the parties or only involves personal interests between the parties, and does not involve public interest issues; A legal act with an untrue expression of intention may temporarily have effect, and it is most advisable to leave it to the actor to decide whether it is ultimately determined to be valid or deemed invalid.

The core of an ineffective legal act is still the expression of the actor's will. The exercise of the revocation right by the actor who has not produced an effective act must not conflict with the legislative purpose of the revocation right, but rather be more conducive to the protection of the actor's autonomy of will. Opponents argue that an ineffective legal act, as the name suggests, does not have an effective effect on the property of the parties, meaning that the obligations and relationships of both parties have not changed, and whether the conditions for effectiveness can be achieved in the future are uncertain. Therefore, there is no need for revocation. If revocation is necessary, it can also be done after it has become effective. This view reflects the negative protectionism of the law.

Although an ineffective act has not yet become effective, it has already created obligations such as performance and approval between the parties. When the agreement or legal conditions are met, the ineffective act will fully become effective. At that time, the legal act will cause changes in the legal relationship, and based on the autonomy of the parties, a rights and obligations relationship will arise between the parties. Granting the actor the right to revoke an untrue expression of intent in its effective but ineffective state is beneficial for promptly correcting the actor's untrue expression of intent, thereby maintaining the autonomy of the parties involved. The essence of the right of revocation is to grant the actor a relief right after the untrue expression of intention is made. In a state of effectiveness but not effectiveness, the relationship between rights and obligations has already emerged. The actor who bears the obligation due to the untrue expression of intention should have the right of revocation relief.

5.2. Ineffective legal acts can be revoked within a certain period of time

The Civil Code stipulates several situations in which the right to revoke is extinguished. Except for the situation where the perpetrator clearly waives the right to revoke after knowing the reason for revocation, all other situations involve time limits. The limitation on the exercise of the right of revocation not only considers the timeliness of evidence collection from the perspective of judicial practice, but also includes the protection of the reasonable trust of the relative party. Specifically, when the actor exercises the right of revocation on the grounds of incorrect expression of intention, consideration should be given to protecting the trust interests of the other party; When coercion or fraud is caused by the actions of a third party, it is more important to protect the reasonable trust of the other party. Therefore, the revocation right enjoyed by the actor should be made within a reasonable period of time, which is stipulated by law. Of course, some countries or regions' laws also clearly stipulate that the private interest subject has no right to exercise the revocation right, and the revocation right must be exercised by the court.

The revocation of an ineffective act also involves the trust interests of the other party. It is reasonable for the actor of the ineffective act to comply with the general provisions of the revocation right when exercising the revocation right. Due to the special nature of its effectiveness but not its effectiveness, it is worth discussing when the revocation right should be calculated, especially when the parties should exercise the revocation right within five years from the date of the legal act, and if they have not exercised the revocation right within five years. In the provisions on the elimination of revocation rights, "occurrence" should be calculated from when in the context of ineffective actions. Considering the special nature of the ineffective state, the term 'occurrence' should be clearly defined as the legal act that has not yet been effective.

The reasons are as follows: firstly, when a legal act is not effective, it becomes binding between the parties, and the rights and obligations of the actor will be determined even if they are not effective. When the actor discovers a revocable cause, they should exercise the right to revoke it even if they are aware of it; The second is that when the ineffective act is effective, the parties are aware that they have committed a certain legal act, and should assume the obligation of trust protection of the other party; The third is to calculate from the moment of effectiveness. If the state of non effectiveness persists for too long, it will have a negative impact on the protection of trust interests. Therefore, when the actor who

has not produced an effective act exercises the revocation right, they should comply with the relevant provisions on the duration of the revocation right, which can be regarded as a reasonable restriction on the revocation right. The revocation of an ineffective act should also be subject to this restriction.

5.3. An ineffective legal act that has become effective can still be revoked

As one of the time states of a civil legal act that has not yet become effective, it shall terminate upon the fulfillment of the conditions for its effectiveness. A civil legal act that has not yet become effective shall become effective once the conditions for its effectiveness are met, and the effectiveness state at this time is no different from a civil legal act that becomes effective upon its establishment. If there is a defect in the expression of consciousness in a legal act that has not produced effectiveness, but the revocation right is not exercised before the achievement of the effective conditions, the revocation right can still be exercised after the achievement of the effective conditions. The exercise of the revocation right is still subject to a time limit, which is calculated from the date of the civil legal act.

From this, it can be seen that the exercise of the right of revocation is not constrained by the time state. This time state refers to a civil legal act that is established but not yet effective, with the establishment and effectiveness as the time nodes. In a contract that is established and becomes effective, the establishment and effectiveness overlap at the time nodes, and there is no need to discuss the time state relationship between the right of revocation and the legal act.

Without considering the ineffective state, there is no doubt that a legal act that has become effective can be revoked due to a flaw in the expression of intention. The difference between an ineffective legal act and an ineffective legal act is only that there is a time difference between its establishment and effectiveness, and there are conditions for its effectiveness. However, when the conditions for its effectiveness are met and the ineffective state ends, there is no difference between the two in the effectiveness evaluation system. The condition for measuring whether a legal act can be revoked is still the exercise of the revocation right itself.

6. Conclusion

The right of revocation is a remedy for the untrue expression of intention by the actor. By exercising this right, the actor can revoke the untrue expression of intention to avoid losses to their private rights. The non effective legal act meets the revocation requirements of the revocation right regarding the validity of the revoked legal act and the untrue expression of intention. Although the non effective legal act does not produce effect, it meets the general requirements of the validity of the legal act. The non effective legal act centered on the expression of intention also inevitably results in the untrue expression of intention. In addition, the non effective legal act can be revoked in accordance with the legislative purpose of the revocation right. Of course, if the actor revokes an ineffective legal act, they should comply with the exercise period of the revocation right. The revocability of non effective legal acts is one of the contents that should be clarified after becoming an independent legal type. The revocability of non effective legal acts is a requirement for protecting the autonomy of the actor and expanding the scope of protection of revocation rights.

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