

JURISDICTION IN CIVIL PROCEDURAL LAW, SOME PROBLEMS IN PRACTICE AND FOREIGN ANALYSIS

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ABSTRACT--*The reforms carried out in the context of modernization and reform of the country in the judicial and legal sphere are aimed primarily at the comprehensive protection of human rights, freedoms and legitimate interests. Over the past period, large-scale organizational and legal measures aimed at gradually strengthening the judiciary, ensuring the independence of the court, reliable protection of human and civil rights and freedoms have been implemented. Currently, the courts also have problems related to jurisdiction. In this article the analysis of judicial jurisdiction in civil procedural law, some problems in practice and foreign countries is carried out. Today, this problem in practice causes problems for both judges and citizens. This article is devoted to these issues.*

Keywords--*civil procedure, jurisdiction, administrative court, judicial jurisdiction, enterprise, institution.*

I. INTRODUCTION

During the years of independence, a number of measures have been implemented in the country to build a legal democratic state, strong civil society, create conditions for peaceful and prosperous life of the people, and take Uzbekistan's place in the international arena. Judicial reforms are being carried out in our country in order to protect the rights and freedoms of the people living in the country. After all, in every democracy, the judiciary is the basis of a mechanism for protecting human rights. Decree of the President of the Republic of Uzbekistan dated October 21, 2016 N UP-4850 "On measures for further reforming the judicial system, strengthening guarantees of reliable protection of citizens' rights and freedoms" [1]. The Decree of the President of the Republic of Uzbekistan dated February 7, 2017 № P-4947 "On the Strategy of Action for the Development of the Republic of Uzbekistan" [2] and other normative documents are implementing a new phase of judicial and legal reform in the country.

Research on the topic and analysis of published works. It should be noted that many issues related to affiliation have been studied in the literature and scholarly articles of Uzbek and foreign legal scholars. Sh.Shorahmetov, E.Egamberdiev, O.Okulov, M.Mamasiddikov, S.Inoyatova, H.Azizov, G.Abdumajidov, N.Imomov, B.Sh. Toshev, Z. Ubaydullaev, I. It has been studied to some extent by Nasriev, Safoeva, D. Khabibullayev and other legal scholars. Russian scientists T.E.Abova, G.O.Abolonin, E.G.Fanasiev, A.T.Bonner, V.V.Blazheev, V.V.itryansky, N.A.Gromoshina, V.A.Gubanov, D.I. Dedov, P.F. Eliseikin, G.A. Zhilin, D.V. Lomakin, R.F. Kallistratova, T.V. Kashanina, M.I. Kleandrov and others. They also touched upon the theoretical implications of dissertations by foreign authors such as U.Bernam, R.David, J.Landers, H.Shack and others.

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The purpose of the article.

The thesis is to study theoretical issues of citizenship and to formulate proposals to improve procedural legislation.

Description of the main material.

The adoption of the Law of the Republic of Uzbekistan “On approval of the Code of Civil Procedure of the Republic of Uzbekistan” on January 22, 2018, No. 3 of ZRU-460, has marked several new changes. Affiliation and conviction is one of the most important elements in the system of access to justice because it determines the right of a person to appeal to a competent court. Therefore, it is important to study these institutions in relation to certain situations in civil conflict. However, although a new procedural code has been adopted, issues of relevance still exist today. For example:

The student was dismissed by the order of the rector of the Institute № 333 of March 22, 2017. The student applied to the rector of the institute and asked him to restore it to the student. However, his appeal was rejected by the rector of the institute. In this connection, the Citizen submitted a request to the Administrative Court to recognize the actions of the rector of the institute in denial of reinstatement to the student, to cancel the order # 333 of March 22, 2017 and to restore the student. According to the decision of the first instance court, the actions of the rector of the institute in denial of reinstatement were illegal. The decision of the appellate court was overturned and the decision of the first instance court was overturned. Although the institute is a public educational institution, it is not an organization carrying out administrative and legal activity. Therefore, the jury concluded that since public relations between the institution and students are not public legal relations, the student's application does not apply to administrative litigation.

According to Standard classification of standard classification Article 108 (1) states that the court shall terminate proceedings if the case does not refer to the administrative court. By the decision of the jury the decisions of the courts of first and appellate instance were annulled and proceedings on the case were terminated.

We can give another example. Citizen R.K. asked the state-owned enterprise to review the documents that served as the basis for the allocation of housing to workers. The official of the State Enterprise reported that he had no opportunity to provide housing, and the appeal was not granted. Therefore, R.K. filed a petition to the administrative court and found that the infringement of RK's right to information was illegal because of the failure of a State Employee to furnish documents to the employees for housing. The decision of the first instance court denied the application. The decision of the court of cassation instance was left unchanged. The Court concluded that the state enterprise was not an administrative organization and that the social relationship between the enterprise and its employee was not a public legal relationship and that it was not subject to administrative proceedings. However, according to Paragraph 3 of Part 15 of the Resolution of the Plenum of the Supreme Court "On Some Issues of Application of Procedural Law by the Court of First Instance" dated May 19, 2018, the application is invalid finding or declaring the action (inaction) of its official person illegal or application (complaint) filed with administrative authority, but the action being appealed is labor-related. Accordingly, such claims do not apply to administrative court proceedings. Paragraph 1 of Article 108 of the Code of Administrative Procedure states that if the case does not relate to the administrative court, the court terminates proceedings.

Therefore, the jury overturned the decisions of the courts of first instance and of the cassation instance and terminated the legal proceedings.

As the above examples show, the issue of jurisdiction in the courts presents a number of difficulties, and I think it is expedient to analyze this issue.

In accordance with the legislation of the Republic of Uzbekistan, the jurisdiction of various agencies is to resolve legal cases and legal disputes. These agencies are primarily state bodies that exercise judicial power: courts of general jurisdiction in civil cases, economic courts and administrative courts, and in some cases prescribed by law.

RESULT

We can see that the Civil Procedure Code of the Republic of Uzbekistan, the Economic Procedure Code, and the Administrative Proceedings do not list specific cases relating only to the courts. We can see the concept of relevance in the comments of proceduralist scientists. SE According to Shorakhmetov, it is understood that the jurisdiction for the consideration and settlement of civil cases is entrusted by law to a particular government agency or public organization. [4] According to JT Kholuminov, A.Dusmanov, TN Tillyaev, the relation refers to the authority (right) to establish and restrict civil proceedings between civil and judicial courts. [5] Ms Trushnikova provides the definition of affiliation, arbitration, notaries, authority for the resolution and settlement of labor disputes, other state bodies and organizations authorized to handle and resolve specific legal issues [6]. JK Asipov's affiliation can be seen as a legislative institution that implements a mechanism for the distribution of legal cases between the judiciary and various jurisdictions. [7]

According to K.A. Chudinovskih, the possibilities for citizens and legal entities to apply to one or more bodies of state jurisdiction to protect their rights. [8] described the Some literature provides that the law does not specify a strict range of categories of civil litigation cases, and that a citizen can apply to the court for any matter of his rights or interests that may be violated or disputed (subject to certain limitations provided by law). In our view, the jurisdiction is the scope of cases that are considered and resolved by the laws that deal with this jurisdiction (civil courts, notaries, prosecutors, civil registry offices, etc.).

Today, Article 26 of the Code of Civil Procedure can be heard in civil cases:

The civil cases are the following::

1) cases involving disputes arising from citizenship, family, labor, housing, land and other relations, unless at least one of the parties is a citizen, except where the law entails the resolution of such disputes to other courts or other bodies;

2) individual cases listed in Article 293 of the Code of Civil Procedure;

3) cases specified in Chapter 18 of the Code of Civil Procedure and which are resolved in an orderly manner;

4) the dispute on arbitration decisions and the issuance of an enforcement order for the enforcement of arbitration decisions;

5) Recognition and enforcement of decisions of foreign courts and arbitration courts of foreign states.

6) decisions of enterprises, institutions, organizations, public associations that do not arise from administrative and other mass legal relations, and the cases of disputes concerning such actions (inaction) of their officials.

Article 27 of the Code of Administrative Procedure also states:

- 1) Conflict over departmental regulations;
- 2) the rights and interests of citizens or legal entities, which do not comply with the law and are protected by the law by the bodies of public administration, other bodies authorized to carry out administrative and legal activities (hereinafter referred to as administrative bodies). on the conflict of decisions, actions (inaction) that violate;
- 3) Conflict over the actions (decisions) of election commissions;
- 4) on notarial action, refusal of registration of civil status recordings, or disagreement over actions (inaction) of a notary or an official of a civil status record body;
- 5) resolve the cases on refusal of state registration or appeal against denial of state registration in due time. is shown.

In view of the above, it is appropriate to analyze the issue of affiliation abroad. The jurisdiction is found in the Code of Civil Procedure of the Commonwealth of Independent States.

We can see that Article 32 of the Code of Civil Procedure of Turkmenistan lists civil cases. According to him,

- 1) work on settlement of disputes arising from civil, family, labor, housing, land and other legal relations, if at least one of the parties to the conflict is a citizen;
- 2) cases arising from the administrative legal relations enumerated in Article 272 of the Civil Procedure Code;
- 3) special cases specified in Articles 295 and 301 of the Code of Civil Procedure;
- 4) other matters referred to the law by the courts. [10]

Article 25 of the Code of Civil Procedure of the Kyrgyz Republic states: "All civil cases are handled by civil courts. Except for constitutional and administrative cases"[11]. It is marked as

Article 22 of the Civil Procedure Code of the Russian Federation establishes the jurisdiction of civil cases as follows:

The courts will review:

- 1) claims of citizens, organizations, public authorities and local authorities for protection of disputes or freedoms and legitimate interests arising from civil, family, labor, housing, land management, environment and other legal relations;
- 2) the requirements of Article 122 of the Code of Civil Procedure, that is, the orderly work;
- 3) cases considered in accordance with Article 262 of the Code of Civil Procedure;
- 4) Issues of issuance of executive documents to enforce arbitration decisions and arbitration decisions;
- 5) Recognition and enforcement of judgments of foreign state and arbitration courts of foreign states;
- 6) the issues of assisting arbitration in cases provided by federal law.

Article 37 of the Code of Civil Procedure of the Republic of Belarus classifies cases relating to civil courts, namely:

Courts:

- 1) Civil, family, labor, housing, land relations, use of natural resources, as well as environmental disputes, if at least one of the parties to the conflict is a citizen, the resolution of such disputes, except as provided by law; The jurisdiction or jurisdiction of other state bodies as well as other organizations;
- 2) disputes of legal entities in cases provided by the Civil Procedure Code and other legislative acts;

3) cases arising from the administrative legal relations enumerated in Article 335 of the Code of Civil Procedure;

4) individual cases specified in Article 361 of the Code of Civil Procedure;

5) Disciplinary proceedings as set out in Article 394 of the Code of Civil Procedure [13].

From the aforementioned analysis we can see that the issue of compliance with the Code of Civil Procedure of the CIS countries is almost identical.

In Western countries, however, relevance is traditionally defined by the following criteria:

According to the private-legal nature of civil matters, cases arising from civil, labor, marriage and family law are under the jurisdiction of the court. Public affairs (disputes between state bodies, local authorities, citizens or legal entities arising from administrative, financial and tax relations) are within the jurisdiction of administrative bodies.

Law disputes are civil cases (referred to as complexity) that seek to resolve legal conflicts between private law entities [14].

Suggestions and Recommendations, Constitution of the Republic of Uzbekistan

Article 44 "Everyone shall be entitled to judicial protection of their rights and freedoms, and the right to appeal any unlawful action of state bodies, officials and public associations." marked as. This implies that we need to create a system of citizen involvement in a particular court. First, there is no clear definition of relevance, so a clear definition of relevance must be made. In this definition, the rules governing the institution of direct affiliation should include very specific information about a court or other body that protects the rights and legitimate interests of various legal relationship participants. Secondly, even the judges are mistaken about the problems in practice above.

II. CONCLUSION

Such issues can cause citizens to be distrustful of the court, so it is advisable to make a decision on the Plenum of the Supreme Court of the Republic of Uzbekistan. It is also important to improve the legality of civil cases, to give preference to the judiciary, to empower citizens to choose what body to apply for protection of their violated rights and legitimate interests, civil society institutions, public organizations and some government agencies to resolve civil disputes. study of the legislation of developed countries in this area Implementation of legal norms and principles into national legislation is a requirement of the time.

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