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SCIENTIFIC-THEORETICAL IMPORTANCE OF JURISDICTION IN CONDUCTING CIVIL COURT CASES

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Abstract:

In this article, the contents of the reforms carried out in the field of judicial law in the new Uzbekistan are highlighted, and the normative legal documents adopted in this field are analyzed. Also, the article analyzes the concept of civil cases belonging to the court and its importance, as a result of its improvement, it is possible to increase the confidence of the population in the judicial bodies of the country, and to achieve the transformation of the court into a bastion of justice in the true sense. At the same time, in the article, the opinions of national and foreign scientists, researchers and specialists who have conducted research on this subject are analyzed from a scientific and theoretical point of view. Scientifically based suggestions and opinions have been developed for the further improvement and development of this field.

Keywords: court, jurisdiction, "applicability" and "relevance", judicial authority, legality, civil cases

INTRODUCTION

Since the second half of 2016, political and legal reforms have been established in new Uzbekistan. As a new stage in the path of social, legal, democratic and secular statehood, reforms that serve for the benefit of human dignity, in the same process have become a priority. This, in turn, ensured that our country became a subject of international relations in the current extremely difficult conditions, and had a modern mechanism for protecting its territorial integrity and sovereignty. Reforms in the judicial and legal sphere are becoming the agenda of political and legal policy on the basis of absolute modern criteria, including openness in justice, use of public mechanism, manifestation of the principle of humanitarianism in the adoption of court verdicts, and are becoming more and more regular.

It is known that every person has the right to demand an independent and impartial court. This right is defined in **article 10** of the **Universal Declaration of Human Rights** and other international legal documents to which the Republic of Uzbekistan has joined. Only an independent court can instill confidence that every citizen can protect the rights acquired through an impartial and transparent trial.

In this regard, the reforms carried out on the basis of the **Strategy of Actions** and the **Strategy of Development** adopted as its continuation created the basis for democratization and liberalization of the judiciary, ensuring the true independence of the judiciary, and protecting the rights and legal interests of citizens.

As stated in the next Address of the President of the Republic of Uzbekistan to the Oliy Majlis on **December 29, 2020,** bold steps were taken to reform the judiciary in 2016-2020[1]. More than **40 laws, decrees** and **decisions** have been adopted regarding priority issues in this direction. An important strategic step was taken to ensure the rule of law and further reform the judicial system.

Legal protection as a component of human rights has a special and special place in the countries of the world. In this regard, in the context of the reforms being implemented in the new Uzbekistan, the basis for the implementation of the right to legal protection, the determination of the different aspects of jurisdiction and applicability are considered to be urgent issues.

This is evidenced by the fact that one of the **11** indicators evaluated in the World Bank's "**Doing business – 2020**" report is precisely "ensuring the execution of contracts", and as an important component of this indicator, the "quality of judicial proceedings" is established[2].

For information: in the Doing Business 2020 annual report of the World Bank, ***Uzbekistan*** *rose to the* ***69th*** *place and was among* ***the top 20 countries*** *that have achieved the greatest success in improving the business environment.*

This means taking a number of measures, such as legal and fair consideration of legal proceedings,

[1] https://president.uz/uz/lists/view/4057

[2] https://www.doingbusiness.org/en/reports/global-reports/doing-business-2020

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creation of clear legal mechanisms for protection of the violated rights and legal interests of the person, and prevention of various bureaucratic obstacles.

Many reforms are being implemented in our country in order to ensure the true independence of the judiciary, to fully achieve its open, transparent activities.

In particular, the **"single window" principle** is being introduced in the judicial system.

If the received petition does not apply to them, the courts transfer the petition to another court authorized to consider it without returning it. At the same time, it is no longer allowed to combine several claims related to civil and administrative courts.

On **April 26, 2023,** the President of the Republic of Uzbekistan signed the Law No. URL-833 "**On amendments and additions to certain legal documents of the Republic of Uzbekistan in connection with taking additional measures to ensure the effective protection of the rights of citizens and business entities in relations with state bodies**"[3].

The document introduces the principle of "single window" in the court system. For example, in the event of a violation of the rules of applicability of a claim submitted to a civil court, the said claim will be sent by the court to an economic or administrative court. In this case, the judge of the court that received the claim from another court, in the case of finding deficiencies in the claim, informs the plaintiff about eliminating the deficiencies within **10 days**.

Also, from now on, it is not allowed to combine several related claims, some of which refer to the civil court and some to the administrative court.

ANALYSIS OF SCIENTIFIC LITERATURE

In the science of procedural law, many debates continue about the ratio of the concepts of "applicability" and "relevance" to the trial. Although there are separate legal studies on this subject, it is sometimes misinterpreted and misunderstood.

On January **22, 2018,** the new version of the **Civil Procedure Code** of the Republic of Uzbekistan (*hereinafter referred to as the **CPC***) led to changes in "applicability to litigation", "relevance to litigation", "powers of the court" and other important procedural institutions. **Chapter 5** of the CPC is called "**Judiciary and jurisdiction**". In this case, the legislator combines "applicability" and "relevance" in exactly one chapter. First, in **article 26** of the Code, it determines the jurisdiction of the cases, and then in the following articles, it determines the norms of jurisdiction[4].

Chapter 5 of the CPC clarifies the question of prior relevance. This means that once it is determined which court is authorized to review this or that civil dispute, that is, the question of relevance is resolved, the norms for belonging to the jurisdiction are established. Therefore, when the question of relevance is resolved, there will certainly be a need to decide which court to appeal in cases where civil rights and legal interests are considered violated. It is this case that assumes the resolution of the issue of belonging to the judiciary.

Usually, appeals are made not only to the court for the correct solution of the issue of belonging, but also, although not authorized to solve this issue, sometimes to other state bodies and organizations, both by individuals and legal entities, in order to protect their rights. Does failure to comply with the rule of belonging to the court in such cases bring a certain consequence to the face? It is natural to have a reasonable question.

In accordance with a**rticle 195** of the CPC, if the case does not belong to the jurisdiction of this court, the judge shall return the application and the documents attached to it. It follows that the return of the application does not prevent repeated application to the court in the general procedure after the omissions have been eliminated. However, in non-judicial matters, there are usually cases of direct appeal to the higher court, the General Prosecutor's office of the Republic of Uzbekistan, or other state authorities. In such cases, it is generally advisable to recommend compliance with the rule of jurisdiction.

According to **article 192** of the CPC, the judge shall decide individually the issue of acceptance, rejection or return of the application not later than ten days from the date of receipt of the application to the court. A decision is made to *accept, reject or return* the application for processing. A copy of the decision to reject or return the application for processing, together with the application and the documents attached to it, will be sent to the applicant no later than the day after the decision is issued.

In our view, retrial is not always possible when cases are remanded. According to **article 30** of the CPC, the Supreme Court of the Republic of Uzbekistan considers the cases included in its competence by law, and also, taking into account special circumstances, may take any case from any court of the Republic of Uzbekistan and accept it as a court of first instance for its proceedings or transfer the case from one court to another relevant court. has the right to transfer. Therefore, this article means that any dispute will be

[3] National database of legislative information, 27.04.2023 y., 03/23/833/0236

[4] National database of legislative information, 14.03.2022 y., 03/22/759/0213; 04.08.2022 y., 03/22/786/0705; 27.04.2023 y., 03/23/833/0236

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heard in a higher court as an exception to the rule of jurisdiction.

Jurisdiction is a complex legal institution that has unique implications for both the judiciary and civil procedural law. At the same time, the law does not provide the concept of jurisdiction, and in the civil procedural law, there are different approaches to the definition of this civil procedural legal institution, we highlight several main points of view in the legal literature.

The first group of russian scientists, including V.Taranenko, A.Dobrovolsky considers jurisdiction as "*distribution of all cases related to judicial authorities between different courts of this judicial system*"[5].

In our opinion, this definition does not reveal the legal nature of jurisdiction by dividing cases involving judicial bodies.

Russian scholar K.Osipov[6], in his monograph defined jurisdiction as "*the authority of a particular court to hear cases involving judicial bodies at first instance*". In contrast to the determination of judicial belonging from the point of view of authority, objected to another russian scientist, T.Erokhina[7], who, in the opinion of unig, is *an inter-sectoral institution of authority, it is not correct to use this category in relation to a particular court*. According to professor G.Shershenevich[8], jurisdiction is the *scope of cases involving the proceedings of a particular court that are equal in their functions but differ in organizational terms*.

In our opinion, the short and clear definition of the russian classicist E.Vaskovsky is more vivid. Jurisdiction, according to E.Vaskovsky, is a *rule that determines the territorial jurisdiction of certain types of courts to consider a specific dispute*[9].

This view is more consistent with other European legal doctrines. The German scientist S.Schmidt (Schmitt, Stephan) connects *jurisdiction to the court only with the geographical location and, while denying its connection with the concept of jurisdiction, explains that jurisdiction means the area in which the court considers the dispute, hears the arguments of the parties, and evaluates the evidence*[10].

CONCLUSION

The above definitions and explanations correctly explain the general meaning of jurisdiction, but the exact definition is not one, because a short and precise explanation cannot be given to a complex institution.

At this point, it is possible to consider the concepts of "judicial authority", "applicability" and "relevance" together, and the essence of judicial jurisdiction can be extracted from the relationship between them.

First of all, in our opinion, these concepts are interrelated, mutually demanding and complementary, but different in essence and function.

Jurisdiction is the legal ability of the court to consider and resolve different legal disputes based on general rules. This gives the court the power to exercise judicial power over justice, to issue binding decisions for all. Judiciary refers to the limits of the court's powers in relation to other bodies[11].

That is, it determines the authority of courts and the limits of legal disputes that they resolve. Jurisdiction determines the procedure for substantive consideration and resolution of these relevant cases in a specific court. For example, it would be illegal to consider and decide an unrelated case.

Taking into account the above points, as a conclusion, the concept of jurisdiction can be explained as follows:

In our opinion, applicability is a mechanism that determines the authority (jurisdiction) of a court, and it is a rule that determines which court is competent to consider and resolve a specific dispute between courts of the same type. In this regard, legal literature rightly states that the institution of jurisdiction should be used to distinguish cases between different courts, rather than jurisdiction.

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