



RIGHT TO APPLY TO COURT

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ABSTRACT

This article provides theoretical insights into the principles, procedures and forms of appeals to civil courts. At the same time, an opinion was expressed about the scope of subjects, their procedural rights and obligations when applying to the court.

Judicial bodies play a leading role in protecting the rights and interests of citizens. After all, applying to the court is a procedural guarantee of the rights of persons (physical and legal) to be protected by the court.

Article 44 of the Constitution of the Republic of Uzbekistan states that "Every person is guaranteed the right to protect his rights and freedoms through the courts, to appeal to the courts against the illegal actions of state bodies, officials, and public associations."

The Law of the Republic of Uzbekistan "On Appeals of Individuals and Legal Entities" stipulates that individuals and legal entities have the right to apply to state bodies, and depending on the form of appeals, they can be oral, written or electronic.

In this regard, according to the Civil Procedure Code of the Republic of Uzbekistan, any interested person has the right to appeal to the court of civil cases in accordance with the procedure established by the legal documents on the conduct of civil court proceedings in order to protect his violated or disputed right or interest protected by law¹.

The waiver of the right to appeal to the court is not valid, and no one can be deprived of such right.

Form of appeal to the court:

- On cases conducted in the procedure of claim - in the form of a claim (cases arising from civil, labor, family, housing and other legal relations);
- In the cases conducted in order, separately, as well as in other cases defined by the procedural law (cases related to the decision of the arbitration court, cases on the recognition and enforcement of the decision of a foreign court or arbitration court (arbitration), as well as

¹ Esanova Z. Priority aspects application of the institute of mediation in resolution of disputes: national and foreign experience //International Journal of Advanced Science and Technology. – 2020. – T. 29. – №. 5. – C. 1785-1793.



in re-examination of legally effective court documents in newly opened cases - in the form of an application;

- When reviewing court decisions in the appeal, cassation procedure - in the form of a complaint (protest).

The procedure for submitting an application to the court:

- ☐ By receiving citizens in courts;
- ☐ Through the postal service;
- ☐ In electronic form (E-XSUD, E-SUD) through the information system;

Actions to be taken when applying to court:

- ☐ Determining whether the request (appeal) belongs to the jurisdiction of the court and other bodies;
- ☐ Preparation of application (lawsuit);
- ☐ Preparation of application documents;
- ☐ Determining and paying the amount of state duty;
- ☐ Submission of application (lawsuit).

In the implementation of these actions, the claimant (infringed person) has the right to personally or a representative (legal, contractual) and is considered authorized to perform material and procedural actions through him.

Procedural (material) requirements to be considered when applying to court²:

- ☐ Existence of a dispute (non-dispute) related to the court;
- ☐ The authority of the person applying to the court (plaintiff) to apply with an application (lawsuit);
- ☐ Authority of the person applying to the court (original claimant, procedural claimant, representative) to conduct proceedings;
- ☐ There is (not) a possibility to resolve the claim (dispute) before the court;
- ☐ That the claim period has not expired regarding the claim (dispute) being addressed to the court;
- ☐ In relation to the demand (dispute) addressed to the court, the principles of conciliation (agreement, mediation) have been followed or there is a possibility of doing so;
- ☐ There is a need to ensure the claim (enforcement), provide evidence regarding the demand (dispute) being addressed to the court.

Courts competent to hear and supervise the case:

o Supreme Court of the Republic of Uzbekistan;

- Court of Civil Affairs of the Republic of Karakalpakstan; regional and Tashkent city courts for civil cases;
- interdistrict, district (city) courts for civil cases.

According to the norms of the Code of Civil Procedure (Article 17), the civil case is considered individually and by a panel.

Individually:

- ☐ Civil cases are heard individually by a judge in a court of first instance.

In panel order:

² Esenbekova P. et al. Decision of the court of first instance on civil affairs and its content //International journal of professional science. – 2021. – №. 9. – C. 5-12.



☐ Hearing of the case in the courts of appeal and cassation is carried out by a panel consisting of three judges;

☐ Consideration of the case in the Presidium of the Supreme Court of the Republic of Uzbekistan is carried out in a panel with the participation of the majority of the members of the Presidium.

The following rules are followed in the process of viewing work:

- When a judge hears and decides a case individually, he acts on behalf of the court.
- One of the judges presides over the court session when the case is being heard by a jury.
- All judges will have equal rights in hearing and deciding the case³.
- The judge has the right to express his opinion in writing. The persons participating in the case will not be introduced to the judge's separate opinion. The superior court has the right to get acquainted with the separate opinion of the judge.
- The repeated participation of the judge in the consideration of the case is not allowed;
- A case started to be considered by one judge or court composition must be considered by this judge or court composition.
- self-refusal or judge-refusal is submitted and satisfied in accordance with the procedure established by this Code; if it is not possible to hear the case on time due to the absence of a judge, the judge or one of the judges may be replaced.

The status of the participants in the procedural legal relationship in the conduct of civil court cases has a specific character, because according to the types of proceedings and according to the grounds established by law, they are described as follows:

- ☐ Claimant and defendant in cases conducted in a claim procedure;
- ☐ In cases conducted in the order of order - debt collector and debtor;
- ☐ In cases conducted separately - applicant and interested person;
- ☐ conducting cases related to the decision of the arbitration court - the applicant and interested parties (one of the parties to the arbitration)
- ☐ cases related to the recognition and enforcement of decisions of foreign courts and foreign arbitration courts (arbitrations) - debt collector and debtor

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³ Эсанова З. The role of some procedural institutions in conducting court cases: on the example of civil cases //Юридик фанлар ахборотномаси. – 2018. – №. 2. – С. 24-28.

⁴ Esanova Z. N. Possibilities of using information and communication tools in civil proceedings: the experience of Uzbekistan //Models and methods in modern science. – 2022. – T. 1. – №. 8. – С. 135-140.



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