



Subordination of Civil Cases: Theoretical Rules and Practical Problems

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Abstract: This article is devoted to the topic of subordination, which is one of the oldest and most relevant institutions of civil procedural law, the content of this topic includes which body is competent to consider disputes (cases), its criteria and conditions, as well as the limits of the competence of the court and other bodies in this area. The task of subordination in a broad sense determines the forms of protection (judicial or extrajudicial resolution) of the rights and interests of individuals (individuals and legal entities). In a narrow sense, it is understood to belong to a number of state bodies and organizations empowered to protect violated and disputed subjective rights of individuals and legal entities and their legally protected interests. The subordination of cases plays a key role in delineating their powers from each other. The article also includes aspects of subordination, which is a broad concept in relation to jurisdiction, similarities and differences with this procedural institution. At the same time, the article provides detailed information and analysis of several types of subordination in civil procedural law, including alternative, contractual, imperative and exceptional types. At the end of the article, problems related to the topic of subordination, suggestions and recommendations for their solution, and the author's conclusions are presented.

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legal advocacy measures to prevent conflicts, to use mechanisms for resolving conflicts before the court (arbitration courts, mediation agreement procedures, local citizens' meetings, trade unions). and other structures that help to regulate labor relations, various agencies and offices, government departments, etc.), can be an important factor in solving problems and putting an end to conflicts at the right time and in the right place (Z. Esanova, 2020a).

The value of research. It is appropriate to explain the relevance of the chosen topic with four aspects:

First, as the number of appeals to the courts increases, there is a great need to know the terms and criteria of the institution of relevance and to promote it widely;

Secondly, in connection with the wide introduction of alternative methods of dispute resolution, in practice, there is a need to further expand the procedural privileges of procedures before the court, and to further strengthen the existing procedural rules;

Thirdly, it is important to separate the powers of courts (especially civil, economic, and administrative courts), taking into account the presence of interrelated (interrelated) requirements, to reduce the number of decisions on refusing to accept applications, to return applications, and to analyze their root causes;

Fourthly, the topic of relevance of civil cases is considered one of the most ancient and relevant institutions of civil procedural law, there is insufficient research and scientific development on the topic in national jurisprudence.

The exact content of the article and justification of the problem that needs to be solved.

Through this research, the purpose of this study is to explain the theoretical rules of the institution of affiliation in civil procedural law and civil judicial activity, to explain the basis of its determination, to analyze the types of affiliation, and to explain it with the help of examples.

"Chapter 5" of the Civil Procedure Code on the subject of affiliation. Are there different theoretical and practical aspects in the chapter "Belonging to the Court and Belonging to the Judiciary"? Or are there norms that need scientific research? Basically, this chapter specifies the conditions of court jurisdiction, but issues regarding the authority of bodies, organizations (non-governmental organizations) authorized to resolve disputes before the court (out of court, as well as other courts) are not directly and in detail specified in the charters and regulations, guidelines. Therefore, it is important to identify the problems within this issue and provide them with material-legal and procedural-legal solutions.

How other authors approached solving the problem posed in the article, what methods they used, etc. (literature analysis).

In a number of educational literature and scientific developments (in particular, national proceduralist scientists Mamasiddikov M, Khabibullaev D, Salimova I, etc.) it is stated that "Applicability is the limitation of the authority to consider and resolve arising disputes by courts and other bodies." (Z. Esanova, 2022a; of authors, 2020; under the general editorship of M.M. Mamasiddikov, 2022; Yodgorov & others, 2016) These definitions express the concept of belonging in a narrow sense and help to facilitate its application in practice.

Jurisdiction is a broad concept in relation to the judiciary, in which not only the court, but also all state authorities and management bodies, enterprises, organizations, institutions, non-governmental non-profit organizations, associations, citizens' self-government bodies participate in resolving disputes according to their authority. **In the judiciary**, it is established that disputes belong to the judicial authorities and between the branches of the judicial system, the type of dispute, the status (composition) of the subjects, the address and location of the individuals and legal entities participating as parties, and the place where the subject of the dispute is (located) are referred to the court (Z. Esanova,

2022b). These two institutions (topics) are interrelated and complement each other, but have separate norms, special concepts and a specific procedural order

Research Methods

In the process of writing the article, theoretical and legal analysis, practical explanation, logical and procedural analysis, comparative analysis, interpretation methods were used.

Main Content.

"Chapter 5" of the Code of Civil Procedure. These two concepts represent two independent procedural institutions.

Eligibility determines the forms of protection of the rights and interests of persons (individuals and legal entities) (judicial or non-judicial resolution). Because today there are a number of state bodies and organizations that have the authority to protect the violated and conflicting subjective rights of individuals and legal entities and their interests protected by law. Relevance of cases plays a key role in distinguishing their powers from each other.

If the relevance of the case is determined on the basis of non-conflict, this is called the general criteria of relevance, and such requirements are mainly resolved by the bodies authorized to resolve the case before the court (hokimality, registry office, MFY, notary, public education and other bodies).

If applicability is determined by the existence of a dispute between the parties, these are called special criteria of applicability, and such claims are resolved through the courts. For example, the fact that the demand for divorce at the request of one of the husband or wife is disputed, or there is no application of one party to establish paternity, indicates that such requests apply to the court. Therefore, the general and special criteria of belonging serve to determine the forms of protection of the violated right (Chen, 2020). But there are such civil cases in disputes related to family law, the resolution of which applies only to the court. Examples of such cases include annulment of marriage, deprivation of parental rights, removal of a child without deprivation of parental rights, and restoration of parental rights.

The following types of ownership are established in civil procedural law:

- a. An alternative;
- b. Contract;
- c. Imperative;
- d. Exclusively (Z. Esanova, 2019).

The alternative is chosen based on the claimant's choice. The plaintiff chooses where to turn to the court, if he wants, to another body to resolve the dispute (problem). The dispute that arose can be resolved not only by the court, but also by other bodies, for example, the governor's office, registry office, notary, arbitration courts, mediator, etc.

For example, a divorced mother applied to a notary, not a court, to collect alimony for her child, and notarized an agreement on the payment of alimony, or a bank applied to an arbitration court, not a court, to collect a loan debt from a client.

Contractual - is chosen based on the agreement of the subjects (parties) of the contract.

For example, in the event of a dispute, the parties to the contract mutually agree in advance on which authority to contact in the terms of the contract, or to resolve the dispute in court or relevant bodies (possibility of pre-trial settlement).

Imperative (conditional) - legal documents indicate the obligation to comply with the procedure for resolving the dispute before the court, otherwise, according to Article 122 of the Criminal Code, 10) the plaintiff did not comply with the procedure for resolving the dispute with the defendant before the court, provided that this is provided for in the law or the contract, the court leaves the application unseen.

For example, settlement of individual labor disputes, collection of arrears for utility bills, collection of debt for goods purchased on credit, subscription fee for citizens' use of telecommunication networks, local, long-distance and international telecommunication services, and payment of penalty for non-payment of subscription fee on time debt recovery or debt recovery based on notary enforcement letters.

Exceptionally - it is not required to follow the pre-trial procedure of dispute resolution, only the court can solve this problem. The resolution of the dispute does not come under the competence of any body other than the court, and it is not possible.

For example, deprivation of parental rights; annulment of marriage, objection to paternity, reinstatement, annulment of sales contract; Declaring a citizen incompetent and others strictly belong only to the jurisdiction of the court.

Research Results

Jurisprudence is a procedural institution, which regulates the limitation of the authority to resolve disputes between different bodies.

There are eligibility criteria, including:

- a. Networks are considered as a legal institution;
- b. State bodies have a mechanism for the distribution of authority;
- c. It clearly indicates the direction of appeal to the court or other authority;
- d. The dispute is related to the subject;
- e. Disputed or non-disputed situation is investigated;
- f. The nature of the work (sources of creation) is taken into account;
- g. Importance is given to the composition of subjects;
- h. The possibility of settling the case before the court is studied;
- i. It is taken into account that the law or contract provides for the resolution of the dispute (Z. Esanova, 2019).

It is appropriate to cite the following as the grounds for determining eligibility:

- a. Law
- b. Agreement
- c. Plaintiff selection
- d. Compulsory procedure of pre-trial settlement (Z. Esanova, 2020b; Miranda-Quintana, 2020).

These principles make it easier for the subject of the dispute (legal entity, applicant) to choose which body to apply to, or to strictly follow the procedure specified in the contract before the court.

Forms of protecting the rights and legal interests of individuals and legal entities before the court (out of court) play an important role in explaining the subject of ownership (Altena, 2020). For example, alternative methods of resolving conflicts (disagreements) (agreement, mediation agreement, arbitration, etc.) are expanding in the world. The main purpose of this is to widely promote reconciliation procedures (agreement, mediation), recognizing that it is an institution that has justified itself in the operations of foreign countries, and to widely introduce the use of alternative methods of conflict resolution, as well as to harmonize the burdens of courts and other bodies (simplification, reduction) consists of.

Research Results Analysis

Within the realm of academic exploration and discourse, an emphasis has been placed on understanding various methodologies for addressing legal disputes, with a particular spotlight on arbitration courts and mediation mechanisms. Such methods not only streamline the judicial process but also offer parties alternative avenues to resolve conflicts outside the conventional courtroom setting (Erbil, 2020). The intricate examination of these methodologies reveals their potential in fostering efficient, cost-effective, and mutually beneficial resolutions, thereby reducing the burden on traditional judicial systems.

As judicial systems globally undergo transformational reforms, the procedural frameworks governing dispute resolution continually evolve to meet contemporary demands (Majidi, 2019). Such reforms often reflect a broader societal shift towards seeking more expedient, flexible, and adaptive mechanisms for resolving disputes. In this context, the enactment of the Law of the Republic of Uzbekistan "On Arbitration Courts" stands as a pivotal milestone. This legislation underscores Uzbekistan's commitment to modernizing its legal infrastructure and aligning with international best practices in dispute resolution. The introduction of this law signals a strategic approach by the Uzbek government to facilitate both permanent and temporary arbitration courts within its jurisdiction (Shen, 2020). By doing so, Uzbekistan aims to create a conducive environment for businesses, investors, and individuals alike, ensuring that they have access to a robust and efficient mechanism to address disputes (Maffei, 2020). Such a proactive stance not only bolsters investor confidence but also positions Uzbekistan as a progressive legal hub in the Central Asian region.

Incorporating arbitration and mediation into the national legal framework demonstrates a nuanced understanding of contemporary legal challenges. These alternative dispute resolution mechanisms offer advantages such as confidentiality, expertise in specific industries, and the flexibility to craft solutions tailored to the unique circumstances of each case (Hassan, 2021; Teh, 2020). Consequently, as Uzbekistan continues to refine its legal landscape, the integration of arbitration courts and mediation procedures will likely play an instrumental role in enhancing the nation's judicial efficacy and international standing.

The need to establish arbitration courts in Uzbekistan is expressed in the following (Tursunov & Ergashev, 2022).

First, the experience of foreign countries that read themselves;

Secondly, there is a need for conflict resolution (pre-court and out-of-court) in national operations;

Thirdly, the large number of burdens in the practice of competent courts (economic court or civil court) and the fact that this situation has led to a number of problems;

Fourthly, solving a certain part of the arising disputes (especially related to civil legal relations, as well as economic disputes) without the participation of state courts, quickly and at low cost;

Fifth, the shortness of the dispute review period, the simplicity of procedural processes, the stability of the principle of reconciliation (reconciliation and compromise) between the parties;

Sixth, according to the results of the parties' work, it is provided that the right to appeal to the authorized state courts is available (unlimited).

According to the Law of the Republic of Uzbekistan "On Arbitration Courts", the arbitration court (permanent arbitration court or temporary arbitration court) is a non-governmental body that resolves disputes arising from civil legal relations, including economic disputes arising between business entities (Nakata, 2018);

Arbitration courts do not resolve disputes arising from administrative, family and labor legal relations, as well as other disputes provided for by law.

An arbitrator is a citizen of the Republic of Uzbekistan elected by the parties to the arbitration agreement or appointed in the prescribed manner to resolve the dispute in the arbitration court.

Mediation. In recent years (in the last 20 years) in the world, the role and importance of the institution of mediation in resolving and eliminating disputes and the scope of legal regulation are becoming more and more important (Shongwe, 2019). As a proof of this, it is possible to cite the fact that almost all countries (developed and developing), including the CIS member states, are adopting special laws regulating the field of mediation (especially other legal documents) and many scientific studies that contribute to the development of the field.

At the moment, the purpose of reconciling the parties in the courts, introducing the institution of mediation into the process of mandatory execution, resolving cases by peaceful procedural means is actually aimed at the practical application of the principles of peace, impartiality, speed, efficiency and reconciliation (Qi, 2018). Currently, the main trend of the activity of civil and other courts also aims at the above goals.

In the majority of legal literature, the results of conciliation (reconciliation) of the parties in solving the conflicting issues (problems) are seen in procedural actions such as settlement agreement, mediation agreement, the plaintiff's withdrawal from the claim, the defendant's recognition of the claim. Such a solution of the issue (problem) does not create any difficulty in ensuring the execution of the court decision (judgment), and there is no need to use measures to ensure enforcement (Zhang, 2022).

According to the changes and additions to the Civil Procedure Code, the current Chapter 17. Called the Conciliation Procedures, it outlined the basis and procedure for concluding a settlement agreement or mediated agreement.

In scientific studies, it is emphasized that mediation is a method of mutually beneficial resolution (arriving at a mutually acceptable decision) of disputes between conflicting parties by independent, impartial third parties (mediators) (Z. N. Esanova, 2022; Ismailova, 2020; Rustambekov, 2019; Salimova, 2020).

As stated in Article 4 of the law, mediation is a method of resolving the dispute with the help of a mediator based on their voluntary consent in order to reach a mutually acceptable solution.

The following types of mediation are shown in scientific works and the Law, especially out-of-court, before-court, in-court and post-court mediation (Wang, 2019).

Mediation cannot be applied by itself, there are conditions for its application in the law, according to which,

First, mediation is used based on the wishes of the parties;

Secondly, mediation can be used in an out-of-court procedure, in the process of considering a dispute in a court procedure, until the court enters a separate room (consulting room) to receive a court document, as well as in the process of executing court documents and documents of other bodies.

Thirdly, mediation can be used during the arbitration process before the arbitral decision is made.

Fourthly, if mediation is used in the process of execution of court documents and documents of other bodies, the participation of a mediator who performs his activities on a professional basis is required.

Mediation is a method of resolving the dispute with the help of a mediator based on their voluntary consent in order to reach a mutually acceptable solution.

Mediation terms of use:

- a. Mediation is used based on the wishes of the parties.
- b. Mediation can be used in an out-of-court procedure, in the process of considering a dispute in a court procedure, until the court enters a separate room (consulting room) to receive a court document, as well as in the process of executing court documents and documents of other bodies.
- c. Mediation can be used in the process of considering the dispute in the arbitration court before the decision of the arbitration court is adopted.
- d. If mediation is used in the execution of court documents and documents of other bodies, the participation of a mediator who performs his activities on a professional basis is required.
- e. The fact of participation in mediation cannot serve as evidence of guilt.

Problem Analysis

The problems on the topic can be seen below

Addressing the complexities of housing and land disputes within court proceedings requires a meticulous examination of both legal frameworks and practical implications. One of the primary challenges encountered is the intricate nature of property rights, which can often blur the lines between civil and administrative jurisdictions (Ruiz-Morales, 2022).

The blurred boundaries between civil and administrative courts further complicate matters. For instance, when disputes involve entities like land resources departments, state cadastral offices, civil status registration entities, and tax authorities, the jurisdictional nuances become increasingly convoluted. Such complexities often result in misconceptions among citizens and organizations about where and how to initiate legal proceedings.

Moreover, the misinterpretation of these jurisdictional boundaries can inadvertently lead to procedural errors (Kouaissah, 2020). Citizens and organizations may inadvertently file cases in inappropriate courts or fail to adhere to specific legal protocols, further delaying justice and exacerbating the challenges associated with resolving housing and land disputes (Varlamov, 2020).

To mitigate these issues, there is a pressing need for clearer legal guidelines and public awareness campaigns. Ensuring that citizens and organizations have a comprehensive understanding of the respective roles and jurisdictions of civil and administrative courts can streamline the dispute resolution process. Furthermore, enhancing collaboration and communication between relevant departments can facilitate more efficient and effective outcomes for all parties involved.

Two solutions are offered to solve the problems:

The exploration and implementation of alternative dispute resolution methods have emerged as pivotal strategies in contemporary legal systems, primarily due to their efficiency and ability to decongest overburdened judicial circuits. While the utilization of these alternative methods, such as arbitration and mediation, offers promising solutions, the efficacy largely hinges on the meticulous adherence to established rules, procedures, and legislative frameworks. The laws "On Arbitration Courts" and "On Mediation" serve as foundational pillars, delineating the foundational principles, criteria, and modalities for their application.

To ensure a standardized and effective application of these alternative methods, it becomes imperative to furnish comprehensive guidelines. One pragmatic approach to achieving this would be the formulation of a distinct Instruction that offers a detailed roadmap, elucidating the intricacies of implementing arbitration and mediation. Furthermore, to bolster the credibility and uniformity of these methods across various judicial scenarios, a specialized Plenum decision by the Supreme Court could be instrumental. Such a decision would serve as a beacon, offering clarity and direction to practitioners, thereby mitigating ambiguities and potential disparities in application.

Shifting the focus to the operational dynamics of civil courts reveals an escalating caseload that strains the existing infrastructure and resources. A discerning analysis of the case spectrum underscores the presence of straightforward and non-contentious demands that could be expediently addressed through administrative channels. By reallocating such cases to specialized departments, including hokims, tax offices, finance departments,

cadastral units, and notary offices, an opportunity arises to streamline processes and expedite resolutions.

Empowering these specialized departments with the requisite jurisdiction and resources paves the way for swift and efficient resolutions, circumventing the prolonged and often cumbersome judicial pathways. Such a strategic realignment not only optimizes resource allocation but also fosters public trust by ensuring that disputes are addressed promptly and judiciously.

Conclusions

The following conclusions were reached in the process of studying the issues concerning the jurisdiction of the court and other bodies:

First, in order to further clarify the applicability of civil cases, especially the applicability of disputes related to insurance, credit, pension, intellectual property, fraudulently obtained property recovery, which have been seen in courts in recent years, and to ensure convenient implementation in practice, the Supreme Court Plenum "Civil Cases Court and Other It is appropriate to adopt the Decision "On the basis and procedure for determining the authority of the bodies".

Second, it is appropriate to issue the third paragraph of Article 26 of the Civil Procedure Code in the following wording: "3) cases to be decided by order specified in Chapter 18 of this Code." Because Chapter 18 of the Criminal Procedure Code does not specify other types of court proceedings, only the cases that are considered in order of order, there is no need for the conjunction "and" in this text. This third part refers only to cases that are considered in order of order.

Third, it is proposed to supplement Article 26 of the Civil Procedure Code with the following third part: "When resolving disputes, the parties must strictly comply with the procedure for resolving disputes before the court established by law or contract, with the exception of the rules of alternative application." Because most of the applications (lawsuits) submitted to the courts in recent times are sent back to the claimant (representative) through rulings on the refusal to accept the application or the return of the application, making errors specified in the material and procedural law. In such cases, if disputes arise in the process of concluding a contract, the parties, based on the selection of alternative ways to resolve them, include mediation and the stages of initial consideration of cases in arbitration courts as a condition. they ignore.

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