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PROCEDURAL LAW OF THIRD PARTIES AND OBLIGATIONS AND THEIR IMPLEMENTATION WARRANTIES

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Abstract

This thesis analyzes the procedural and legal status of third parties in civil, economic and administrative court proceedings, their rights and obligations, as well as guarantees for the implementation of these rights. The norms of the Civil Procedure Code, the Economic Procedure Code, and the Code of Administrative Court Proceedings of the Republic of Uzbekistan are compared with each other. The main problems encountered in the practice of courts and justice authorities are highlighted, in particular, the uneven application of criteria for involving a third party in a case, the timely determination of procedural status, ensuring access to judicial documents and the possibility of appealing, and the legal protection of third parties who do not file independent claims. Proposals will also be put forward to improve the legislation of Uzbekistan based on the experience of Germany and Kazakhstan.

Keywords: Third party, procedural status, independent claim, procedural right, procedural obligation, judicial protection, evidence, judicial document, appeal, cassation, legal guarantee.

Introduction

In court, the actual participants in a dispute are not always limited to the plaintiff and the defendant. In certain cases, a judicial act may directly or indirectly affect the rights and obligations of other persons not participating in the case as a party.



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The institution of involving such persons in the proceedings is of great importance in ensuring the legality and validity of the court decision, guaranteeing the right of interested parties to judicial protection, and preventing the subsequent emergence of new disputes.

In the Civil Procedure Code of the Republic of Uzbekistan, third parties are recognized as a separate category of persons participating in the case. Article 39 of the Code defines the parties, third parties, their representatives, and other participants in the proceedings as persons participating in the case, while Articles 48 and 49 regulate the legal status of two types of third parties—those who file independent claims regarding the subject of the dispute and those who do not file independent claims.

The primary objective of this institution is to enable a person who may be affected by the legal consequences of a court decision to express their position, present evidence, raise objections, and, if necessary, appeal a judicial act.

1. Legal status of third parties in the legislation of Uzbekistan

According to civil procedural legislation, a third party filing an independent claim regarding the subject of the dispute may enter the case before the court of first instance renders a decision. It exercises the procedural rights of the plaintiff and assumes their procedural obligations. If such a person enters the proceedings after the commencement of the trial, the consideration of the case shall begin from the beginning. This rule is an important guarantee for the full participation of a third party in the trial and the effective protection of their rights.

A third party who does not file an independent claim may participate on the side of the plaintiff or defendant in cases where the decision rendered in the case under consideration in court may affect their rights or obligations in relation to one of the parties. Such a person enjoys many procedural rights of a party, but does not



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have the right to change the basis or subject of the claim, change the amount of the claim, withdraw the claim, recognize the claim, conclude an agreement or mediation agreement, file a counterclaim.

The logical basis for this restriction is that although the interests of a third party who does not assert an independent claim are linked to the procedural interests of the main party, they are not considered the full owner of this dispute. Therefore, its procedural powers are limited compared to those of the party.

Article 40 of the Civil Procedure Code grants the persons participating in the case the right to familiarize themselves with the case materials, make extracts and copies thereof, present evidence, participate in the examination of evidence, ask questions, file motions, provide oral and written explanations to the court, object to the arguments and motions of other persons, and appeal judicial acts. At the same time, they are obliged to exercise their procedural rights in good faith and fulfill the duties assigned to them.

There is a similar approach in the Economic Procedural Code. Article 47 of the Code regulates third parties who file independent claims, while Article 48 regulates third parties who do not file independent claims. The second category is involved or enters into the proceedings in cases where the court decision may affect the rights or obligations of one of the parties.

Articles 44 and 45 of the Code of Administrative Court Proceedings define two similar types of third parties. This institution is of great practical importance, especially in administrative disputes, as the decision of a state body or an official has a high probability of affecting the rights of a third party.

2. Guarantees for the exercise of the procedural rights of third parties

The legal status of a third party is not ensured solely by establishing a list of rights by law. As a real guarantee of the right, the court is required to identify the person



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in a timely manner, provide them with the opportunity to participate in the proceedings, notify them of the court session, and assess the impact of the adopted judicial act on their rights.

The first important guarantee is that the court will resolve the issue of involving a third party in the process. In civil procedural practice, the involvement of a third party in the case or their entry into the case is a separate procedural issue. In the materials of the Supreme Court, the rulings of the court of first instance on the involvement of third parties in the case are cited as rulings resolving procedural issues.

The second guarantee is the opportunity to be informed of court documents and to appeal them. In the Resolution of the Plenum of the Supreme Court No. 11 dated July 3, 2020, the right of parties, third parties, their representatives, as well as persons whose rights and obligations have been resolved by the court, even if they are not involved in the case, to apply for a review of a judicial act is specifically noted.

The third guarantee is the preservation of procedural rights at the appellate and cassation stages. In Resolution No. 9 of the Plenum of the Supreme Court dated March 25, 2024, the consideration of civil cases in appellate and cassation proceedings was assessed as an important institution guaranteeing the right of process participants to appeal a judicial act. In addition to the plaintiff and the defendant, the case may also be considered in a higher instance upon the complaint of a third party.

3. Main problems in law enforcement practice

An analysis of the legislation shows that the general procedural status of third parties in Uzbekistan is quite clearly defined. However, a number of issues remain relevant in the practical application of the norms.



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Firstly, the criterion for determining whether a person's rights and obligations may be affected by a court decision may be subjectively assessed in some cases. For example, in disputes related to a contract, guarantee, pledge, property rights, inheritance or housing relations, it is important to clearly determine at the stage of preliminary preparation of the case to what extent the court decision affects the legal status of a third party.

Secondly, the untimely involvement of a third party in the case may subsequently lead to the need to vacate the judicial act in a higher instance or to a new hearing of the case. Therefore, at the stage of preparing the case, the court must pay special attention to identifying all participants in the legal relationship.

Thirdly, the procedural capabilities of a third party who does not file an independent claim are significantly narrower than those of the plaintiff. For example, he cannot file an independent claim or file a counterclaim. Although this situation is justified as a general rule, it may limit the ability to fully protect the independent legal interest of a third party in some complex disputes.

Fourthly, even in the public legal explanations of the courts and justice authorities, there is a special need to explain to citizens the rights and obligations of third parties. For example, the justice authorities of the Tashkent region separately explained the rights and obligations of third parties in civil proceedings in 2025. They explain the rights to familiarize oneself with case materials, present evidence, file motions, provide explanations, and appeal court documents.

Fifth, in the context of digitalization, the issue of timely delivery of judicial documents to a third party is becoming increasingly important. The clear definition of the procedural status of a third party in the electronic court system, the automatic provision of access to case materials and access to judicial documents, strengthens the guarantees of the implementation of the right.



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4. Problem-solving mechanisms

To eliminate existing problems, it is advisable, first of all, for the court to use an algorithm for identifying potential third parties at the stage of case preparation. At the same time, the court:

- determine whose rights and obligations the subject of the dispute may affect;
- determine the circle of interested parties under contract, cadastral, state registration, credit, pledge, inheritance, and other documents;
- discuss the issue of involving the necessary persons in the proceedings;
- to explain to a third party their procedural rights and obligations;
- provide him with sufficient opportunity to express his legal position regarding the judicial act.

As a second mechanism, it is advisable to clearly establish that the ruling on the involvement or refusal to involve a third party in the case must justify the presence or absence of a legal interest. This ensures the uniformity of judicial practice.

The third mechanism is the improvement of the system for separately determining the procedural status of a third party in the electronic court system and automatically sending them electronic notifications regarding the date of the court hearing, court documents, and procedural deadlines.

The fourth mechanism is the development of practical methodological recommendations and a set of case studies on the procedural status of third parties for judges, lawyers, and justice officials.

5. Experience of foreign countries

In Germany, the participation of third parties in the proceedings is regulated in relative detail. Paragraphs 64–75 of the German Civil Procedure Code (ZPO) provide for institutions such as the entry of a third party into the proceedings with



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an independent claim, participation in support of a party, and notification of the involvement of a third party in the proceedings. For example, according to Paragraph 66, a person legally interested in the victory of a party in a dispute between other persons may participate in the proceedings in support of that party. Paragraph 67 defines the possibilities for such a person to perform procedural actions.

An important aspect of the German experience is that the entry of a third party into the process is considered not only as a formal status but also as a mechanism that subsequently ensures the legal effect of the court decision in relations with the main party.

The Civil Procedure Code of the Republic of Kazakhstan also regulates third parties as a separate institution. The Code provides that during the preparation of the case, the court shall notify third parties if there is reliable information that the requirements may affect their rights, freedoms, and legitimate interests. A third party who does not file an independent claim enjoys the procedural rights of a party, but does not have the basic powers to modify a claim, recognize a claim, withdraw a claim, or enter into a settlement agreement.

This experience can be used for Uzbekistan to further clarify the mechanism for the mandatory identification and notification of third parties, especially at the stage of preparing the case for trial.

6. Proposals for improving legislation

Based on the analysis, the following proposals can be put forward.

First, in order to practically clarify the criterion of Article 49 of the Civil Procedure Code "if the decision affects their rights or obligations," it is necessary to determine the main circumstances that the court takes into account when



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involving a third party at the level of the law or the explanation of the Plenum of the Supreme Court.

Secondly, it is advisable to strengthen the separate procedural obligation to identify and notify third parties at the stage of court case preparation.

Thirdly, it is necessary to more clearly define the possibilities of appealing to a higher instance in cases where a judicial act of a third party who does not file an independent claim directly affects their independent legal interests.

Fourth, it is necessary to improve the special procedural mechanism for protecting the rights of persons who have not been brought to trial but whose rights and obligations have been resolved in a judicial act. This direction is also given special attention in the Resolution of the Plenum of the Supreme Court No. 11 of 2020.

Fifth, it is advisable to introduce a mechanism for the automatic determination of the procedural status of third parties in the electronic court system, providing them with the opportunity to use judicial documents electronically, and calculating procedural time limits electronically.

The institution of third parties serves the comprehensive and full consideration of a dispute in court, ensures the right of interested parties to judicial protection, and enhances the stability of judicial documents. In the legislation of Uzbekistan, two main types of third parties are distinguished—third parties who file independent claims and third parties who do not file independent claims—and their procedural rights and obligations are regulated in sufficient detail.

At the same time, in law enforcement practice, issues of determining the grounds for involving a third party in a case, their timely notification, the correct determination of procedural status, and ensuring the possibility of effective appeal against a judicial act are of great importance. Unification of judicial practice, development of an electronic court system, development of practical



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methodological recommendations for judges and lawyers, and further specification of criteria for identifying third parties in legislation can be effective measures in solving these issues.

Foreign experience, in particular, the legislation of Germany and Kazakhstan, shows the importance of approaching the participation of a third party in the process not only as a formal procedural status, but also as a means of protecting their legal interests from subsequent legal consequences. From this perspective, it is advisable to further develop a system in Uzbekistan for the early identification, notification, and guarantee of the procedural rights of third parties through digital tools.

Primary sources used

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