



ISSUES OF IMPROVING THE PROCEDURAL MECHANISM OF CONSIDERATION OF CASES FOR THE PROTECTION OF THE RIGHTS AND LEGITIMATE INTERESTS OF A GROUP OF CITIZENS

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Annotation

The article analyzes the existing models of group suits, the latest trends in the field of legal regulation of means of protection of collective interests, the essence, content and classification of group suits, highlights its advantages and distinctive features, and as a result of the study, the author proposes to amend the legal regulation of group suits in the Civil Procedural Code of the Republic of Uzbekistan.

The purpose of the study is to form a unified judicial practice to protect the rights and interests of groups of individuals, taking into account the requirements of current legislation, resolutions of the Plenum of the Supreme Court of the Republic of Uzbekistan and other regulatory legal acts .

Keywords: group suits, group proceedings, civil procedure, collective interest, types of class actions.

It is known that a lawsuit is a procedural form of applying to court, a process that arises as a result of violation of the rights and legal interests of individuals and legal entities in order to protect (restore) these rights. In the modern world, a lawsuit is considered a universal means of legal protection. The effectiveness of the application of the lawsuit as a means of legal protection largely depends on the further theoretical and practical development of this ancient procedural institution.

First of all, it should be noted that theoretically there are different names of this legal institution. For example, G.O. Abolonin called it a "collective lawsuit"[1], Yarkov V.V. and he calls it "claiming as a group"[2]. In our opinion, it is more appropriate to call it a "class action".

The essence of this legal institution is defined differently among procedural scholars. Abolonin G.O. considers that a "class action" is a written appeal to the court on behalf of a large group of individuals, which includes a demand for the recovery of a sum of money and is based on a common demand for the restoration of a violated right.





Yarkov V. V. notes that "class action" is a procedural institution that allows the protection of the interests of a group of individuals who are unknown at the time of the initiation of the case.

Fursov D.A. "collective lawsuit" means a lawsuit aimed at protecting the interests of a large group of people[3].

According to N.M. Korshunov, a "collective claim" is a claim of people with similar requirements, the scope of which is not defined at the time of application, but can be defined by notifying all interested parties[4].

Based on the above definitions, we consider it appropriate to highlight the following main features of a collective lawsuit.

- one or more people have the right to apply to the court as a group. These may be individuals and legal entities, and in some cases, state bodies, organizations and local self-government bodies;
- the person (s) who applied to the court with a claim, as a rule, is a part of the group of people whose rights and legal interests have been violated;
- collective lawsuits are aimed at protecting the violated rights and legal interests of a certain group of individuals;
- legal (that is, specifying a certain legal norm) and actual (that is, a set of legal facts) circumstances of the case must be similar for all members of the group, that is, there must be common grounds for the claim;
- claims and objections must be the same for all members of the group, that is, they must be the common subject of the claim;
- a court decision issued on a collective action may be applied to subjects who did not participate in the trial.

Based on the above, the concept of collective action is defined as follows. A collective action is a procedural document submitted by a group of people with the same subject and basis of dispute, the main feature of which is to protect the entire group of people with the same procedural position.

In world practice, there are types of regulatory criteria of collective action. In general, according to this criterion, collective claims are divided into the following types: public, organizational and private.

A private class action is filed by an individual or organization and litigated on their behalf. It is not necessary to present a power of attorney to the court. Public class action lawsuits are filed by a public authority to protect the rights of a specific group of individuals. An organizational claim is submitted by a specialized public organization operating in a specific field of social relations to protect the rights of citizens or organizations whose rights have been violated in this field[5].



It should be noted that, although the practice of considering collective lawsuits in court has been established in practice, the legal basis and procedure of this process are not regulated in detail and clearly by law, but this institution exists. For example, in accordance with Articles 50 and 52 of the Civil Procedure Code of the Republic of Uzbekistan, prosecutors or judicial bodies can file a lawsuit in the interest of several employees in connection with disputes related to the labor rights of citizens, and there are no legal prohibitions.

Also, in accordance with Article 29 of the Law of the Republic of Uzbekistan dated April 26, 1996 No. 221-I "On the Protection of Consumers' Rights", it is necessary to control the quality of goods (works, services) in the case of claims related to the violation of their rights. It is established that implementing state bodies, public associations of consumers have the right to apply to the court for the interests of the consumer (an indefinite circle of consumers).

In addition, in Article 281 of the Labor Code, labor disputes concerning collectives regarding the application of labor legislation and other regulatory documents, including collective contracts, agreements, local documents adopted pursuant to an agreement between the employer and the trade union committee or another representative body of employees, are subject to judicial procedure. Courts consider labor disputes concerning collectives based on the application of one of the parties regarding the application of collective contracts, agreements and other local documents adopted in accordance with the agreement between the employer and the trade union committee or other representative body of employees.

Based on existing procedural traditions, the procedural institution of collective appeal is understood differently in different legal systems.

The emergence of the collective appeal procedural institution did not happen in the same way in different countries. For example, the institution of class action in Great Britain was invented by the Courts of Justice in the 17th century[6]. In this country, to protect the rights of a group of people, the representative action, which combines the features of partnership and representation, was originally used. There are currently two ways to protect the rights of a group of individuals in England: representative and class action. Class actions are governed by a special section of the Civil Procedure Rules 1998 (Articles 19.10-19.15). The section on class action is called Class Proceedings[7].

Thus, Article 19.10 of the Rules of Civil Procedure establishes the following procedural grounds for filing a class action: general issues of law and legal fact for the group. Based on the specific features of proceedings in the English court, the applicant who wants to start a collective process before discussing the content of the dispute sends a





motion to the court, not an application (Article 23 of the CPR). A pleading may be filed before or after filing a lawsuit and at any time by either the plaintiff or the defendant. In addition to the above requirements, the petition must contain the following information:

- about the summary of the work;
- about the issues forming the subject of the dispute;
- about the number of parties included in the group;
- on legal fact, general and specially defined issues of law;
- on compatibility of issues in the group.

If we refer to the laws of common law countries, class actions may be brought for all types of disputes. In countries based on continental law, the application of collective actions is limited to one or more areas. For example, in France, class action lawsuits can be filed for issues related to consumer protection, labor protection, personal data protection, environmental protection, and antitrust laws.

In Germany, the institution of collective action is used only for the protection of investors' rights, consumer protection, and environmental protection in the stock market. In Spain, Sweden, Belgium, Brazil, the scope of application of collective actions is limited to issues related to consumer protection and antitrust laws[8].

Starting from October 1, 2019, the Civil Procedure Code of the Russian Federation on collective claims "22.3. A new chapter entitled "Review of cases on protection of rights and legal interests of a group of people" was introduced and filled with chapter appeared. Relevant changes were made by Federal Law No. 191-FL dated 18.07.2019. Based on the experience of foreign countries, we believe that it is necessary to improve the national civil procedural legislation. In particular, the time has come to introduce a new chapter entitled "Consideration of cases on protection of the rights and legal interests of a group of people" to the current Civil Procedure Code of the Republic of Uzbekistan. Introduction of these changes is the introduction of legal mechanisms for the protection of the rights and legal interests of groups of natural and legal entities in courts (class actions), the protection of the rights and legal interests of a group of individuals in all categories of civil disputes, including the protection of consumer rights, and the adjudication of cases on compensation for damages, aimed at improving the legal regulation of the review.

Thus, citizens and legal entities will have the opportunity to protect their interests in court through an authorized person without a notarized power of attorney. At the same time, the courts are freed from the need to consider many identical claims, which helps to process cases efficiently and quickly.





In short, the proposed new procedural legal institution allows to unify the procedural procedure for consideration of cases for the protection of the rights and legal interests of a group of people, which in turn helps to form a uniform judicial practice.

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