



CONCEPT, PURPOSE AND DUTIES OF CIVIL COURT CASES

Khabibullaev Davlatjon Yulchiboevich

Head of the Department of Civil Procedure and Economic Procedural Law

Tashkent State University of Law, PhD in Law, Professor. Uzbekistan

E-mail: davlat.xabibullayev@mail.ru

Orcid.0000-0002-8355-3983

Annotation

This article analyzes the concept, goals and tasks of civil court proceedings. In particular, the article discusses broad and narrow concepts of conducting civil court cases. The opinions of legal scholars in this regard were analyzed, and an author's definition of the concept of conducting civil court proceedings was developed. Also, one of the tasks of conducting civil court cases is the issue of correct and timely consideration and resolution of civil cases, both theoretically and scientifically. Comparative analysis of the civil procedural legislation of foreign countries was carried out, and proposals and recommendations aimed at improving the national civil procedural legislation were developed.

Keywords: civil court, justice, civil litigation, civil case, dispute, civil procedure

From the point of view of reforming the current civil procedural legislation, it is of urgent importance to define the concept, goals and tasks of conducting civil court cases. The Constitution of the Republic of Uzbekistan defines the forms (types) of justice, which are called constitutional, civil, economic, administrative and criminal proceedings (Articles 130, 132 and 134). It can be seen that civil litigation means the procedure for considering and deciding cases in courts of general jurisdiction.

At the same time, the newly adopted Civil Procedural Code of the Republic of Uzbekistan defines the tasks of conducting civil court cases, and only the activities of courts of general jurisdiction are envisaged in the implementation of justice in civil cases.

The concept of civil litigation in the doctrine of civil procedural law is controversial. According to the traditional doctrine, the conduct of civil court cases was carried out only within the framework of the civil procedural form. Broad and narrow concepts of conducting civil court cases are discussed in the science of civil procedural law. Proponents of the narrow concept refer to the conduct of civil court cases only as the court's activity in the implementation of justice in civil cases. In a broad sense,





conducting civil court cases includes the activities of the court and other participants in the proceedings.

In a narrow sense, civil litigation is only the activity of courts of general jurisdiction to protect the violated rights and freedoms of citizens, and it is only litigation. In a broad sense, this is the activity of any jurisdiction to protect the violated rights and freedoms of citizens. With this concept, civil proceedings include both the activities of courts and the activities of non-judicial bodies (notaries, arbitration courts, mediation) [1].

Conducting civil court cases is one of the forms of administration of justice, which differs from the activity of other bodies related to civil cases by the existence of a specific procedural form.

The concept of conducting civil court cases is defined differently in science. The first group, according to some scholars, is the procedure for the administration of justice in civil cases [2]. Another second group of legal scholars believe that the conduct of civil court proceedings is the activity of the court and other subjects of the civil procedure regulated by the civil procedural law, as well as the conduct of executive proceedings[3].

Another third group of legal scholars defines it as one complex legal relationship or a set of legal relationships that arise in the consideration and resolution of civil cases [4]. Supporters of the fourth group view civil litigation as the activities of the court and other participants in the process and related legal relations[5].

Supporters of the fifth group point of view that civil litigation consists of three elements:

1. procedural activity;
2. procedural relations;
3. they understand it as a procedural form [6].

According to M.Mamasiddikov, "conducting civil court cases" means the procedure for conducting civil cases determined by the norms of civil procedural law [7]. M.Yu. Lebedev defines conducting civil court cases as a normatively regulated activity of the court and other participants of procedural legal relations to review and resolve disputes and other cases arising from material legal relations related to the court[8].

N.A. Chechina and D.M. Chechots, according to the the conduct of civil court cases is the procedure for the emergence and development of civil procedural legal relations provided for in the norms of civil procedural law aimed at correct and quick consideration and resolution of civil cases by the court (procedure for the administration of justice in civil cases) [9] .



The classic definition of civil litigation is it was given by K.S.Yudel'son, who considered the conduct of civil court cases to be the activity of judicial bodies to review and resolve civil cases regulated by the norms of civil procedural law [10].

Similar definitions are given by other authors. For example, G.L.Osokina according to, conducting civil court cases is understood as the procedure for consideration and resolution of civil cases by courts of general jurisdiction, following the rules of the Criminal Procedure Code and the law [11].

M.K. Treushnikov states that the conduct of civil court proceedings should be called the procedure of civil proceedings in accordance with the norms of civil procedural law[12]. T.V. Sakhnova understands the conduct of civil court proceedings as a system of legal rules regulating the procedure for the administration of justice in civil cases, as well as the activity of each participant in the civil process to protect their rights and interests protected by law[13].

The differences between these definitions and the definition given by K.S. Yudel'son are only terminological: while the author believes that conducting civil litigation is the activity of the court, G.L. Osokina, M.K. Treushnikov and T.V. Sakhnovas understand that the procedure for consideration and settlement of civil cases is that the actual procedure for consideration of civil cases is defined in the norms of the Civil Code, and the court implements this procedure in its activities on consideration and settlement of civil cases.

The following are the most important features of conducting civil court cases in legal literature:

1. It is regulated by legislation (the procedure for consideration and resolution of civil cases in court is determined by an independent field of law - civil procedural law);
2. The full procedure for consideration of a civil case in court has been developed (the sequence of all actions performed by the court and other participants in the process, the content of these actions and procedural documents is confirmed in the Code of Civil Procedure);
3. The universality of the procedural form of resolving disputes in court (the Civil Procedure Code stipulates the procedure for consideration and resolution of cases on all types of civil court proceedings at all stages of civil court proceedings);
4. Imperativeness of the procedural form (the order of consideration of cases specified in the Code of Civil Procedure is mandatory for everyone: the court, other participants in the proceedings, even for persons present in the courtroom. Violation of the established order of consideration of cases can lead to various negative consequences: annulment of the court decision, order to impose a fine on the violator and others[14].



Based on the above-mentioned characteristics, civil court proceedings can be defined as follows: civil court proceedings are procedural actions regulated by civil procedural legislation and civil procedural acts that arise between the court and other entities during the review and decision of a civil case by a court of general jurisdiction. set of legal relations. From this definition, the following features of civil court proceedings follow:

- 1) that the court is a mandatory subject of conducting civil court cases;
- 2) the actions performed by the court and the participants of the proceedings are legal, civil procedural actions;
- 3) the subject and object of civil court proceedings are civil cases in a broad sense.

Article 2 of the Civil Procedural Code of the Republic of Uzbekistan specifies the general tasks and objectives of conducting civil court proceedings in a court of general jurisdiction. In a generalized form, they represent the ideas of the whole society about the necessary and expected result of the implementation of justice in civil cases. All other norms of civil procedural law and the activity of the subjects of the procedure cannot contradict the stated general tasks and goals of conducting civil court proceedings. Also, the principles of conducting civil court proceedings guarantee the implementation of tasks of civil court proceedings in the administration of justice.

Sh. Shorakhmetov, it should be said about the duties of conducting civil court cases (civil proceedings) that the personal-political, economic-social rights, freedoms and interests of citizens, as well as enterprises, institutions, organizations, public associations and citizens themselves states that it consists in correct and timely consideration and resolution of civil cases in order to protect the rights and interests of management bodies protected by law [15].

According to M. Mamasiddikov, the tasks of conducting civil court cases include protecting the violated rights and interests of citizens protected by law, and thereby educating citizens in the spirit of a conscious attitude to the implementation of laws and legal norms [16].

According to Z. Esanova, the concept of conducting civil court cases directly represents the content and form of hearing civil cases in court [17].

As can be seen from the opinions of the above legal scholars, the main tasks of civil court proceedings are to protect the personal, political, economic and social rights, freedoms and legal interests of citizens, the rights and interests of the Republic of Uzbekistan, as well as the rights of enterprises, institutions, organizations, public associations and citizens' self-government bodies. and protection of interests protected by law. Such a sequence of purposeful orientation of the procedural activities of the court and other participants of the civil process corresponds to the



provisions of the Constitution of the Republic of Uzbekistan on the priority of the rights and freedoms of a person and a citizen defined in Articles 13, 19, 20, 24.

According to the legal literature, the purpose of civil litigation is to protect the violated rights and legal interests of all subjects involved in the field of conflicting legal relations [18].

The use of two concepts (tasks and goals) representing the purposeful direction of procedural activity in civil procedural legislation requires consistent development of civil court proceedings. The task of conducting civil court cases always serves as a means to achieve a further goal at a longer stage of procedural activity, and at another stage the task itself acts as an end. For example, the general tasks of correct and timely consideration and resolution of cases specified in Article 2 of the Civil Procedural Code of the Republic of Uzbekistan are a means of achieving the ultimate goals of conducting all civil court cases. At the stage of preparing the case for trial, the tasks themselves are understood as the final goals achieved by performing their specific tasks defined in the procedural law.

The main and optional goals specified in this article are final and remain unchanged during the entire civil process and are achieved through the implementation of general tasks, as well as the requirement for the correct and timely performance of each procedural action, valid from the initiation of the civil case and until its completion.

In some cases, the final goal of the application of law in the consideration and decision of a civil case is the implementation of substantive legal norms that regulate disputed legal relations. However, the need to implement them arises precisely in order to protect rights and achieve other defined final goals of civil litigation. Therefore, the implementation of the norms of material law in accordance with the law should be included in the content of the task of correct consideration and resolution of the civil case.

According to Article 2 of the Civil Procedural Code of the Republic of Uzbekistan, one of the tasks of conducting civil court cases is the correct and timely consideration and resolution of civil cases.

In this regard, the legal scientist M. Mamasiddikov expressed his opinion and said that the correct consideration and resolution of civil cases means that this case is considered and resolved on the basis of laws and substantiated evidence[19].

In support of this opinion, it should be said that the correct consideration and resolution of civil cases is understood as the activity of the court on civil cases on the adoption of decisions and other documents in strict accordance with the law and the



actual circumstances of the case. In other words, court documents must be legal, that is, legally correct, reasonable, that is, factually correct.

A decision is legal only if it is made in strict compliance with the norms of procedural law and in accordance with the norms of substantive law that should be applied to this legal relationship, based on the application of analogy of law or analogy of law in necessary cases.

When the decision reflects facts important for the case, evidence verified by the court, their relevance and admissibility meet the requirements of the law, or circumstances that the court found to be well-known and do not need to be proved, as well as the final conclusions arising from the established facts, is considered justified (Articles 73-75 of the Civil procedural Code) [20].

Let us show one practice as an example. A court decision on compensation for property damage caused by a car accident is legally incorrect, that is, it is considered illegal if the court collects the damage from the real offender, not from the owner of the car, as required by law (Article 999 of the Civil Code) (the person who drove the car, who was not the owner at the time of the damage). In this case, the court incorrectly applied the relevant norm of civil substantive law. At the same time, the same decision may be illegal for other reasons, that is, because the court did not inform all persons involved in the case (for example, the defendant) about the case under consideration. The decision is illegal in the first case, because it was issued in violation of substantive legal requirements (Civil Code), and in the second case, it was issued in violation of procedural legal requirements (Civil procedural Code).

Another task of conducting civil court cases is timely consideration and resolution of civil cases by the court. According to M. Mamasiddikov, considering and solving civil cases in a timely manner means solving these cases in accordance with the procedural terms established by law. Also, the court is not limited to hearing civil cases at the court session, but resolves the case substantively by issuing a decision. This approach makes it possible to apply the tasks of civil court proceedings at all stages of the procedure[21].

In full agreement with this opinion, it can be said that, in our opinion, timely consideration means consideration of cases in civil procedural law and within the time limits set by the court. The terms of consideration and resolution of civil cases by the court of general jurisdiction are stipulated in Article 207 of the Civil procedural Code of the Republic of Uzbekistan and other norms. According to Article 207 of the Civil procedural Code of the Republic of Uzbekistan, civil cases are considered and decided by the court no later than one month from the date of preparation for trial[22]. However, some categories of civil cases must be considered by the court of first



instance in shorter (abbreviated) terms. For example, the cases regarding compensation for alimony, disability or other damage to health, as well as compensation for damages caused in connection with the death of a breadwinner, as well as claims arising from legal relations related to labor, shall be submitted to the court of first instance no later than twenty days after the date of preparation for trial. The next task of conducting civil court cases is to strengthen the rule of law and law enforcement. Legality means the regime of strict compliance with the Constitution of the Republic of Uzbekistan, laws and normative legal documents based on them. This task is solved not only by issuing correct court decisions by the court, but also by eliminating legal conflicts in the process of applying the law. According to Article 14 of the Civil procedural Code of the Republic of Uzbekistan, the court applies other legal documents, if they do not conflict with the Constitution and laws of the Republic of Uzbekistan.

Law and order means the order of social relations that meets the requirements of legality. Thus, legal means that ensure strengthening of legality (fair or correct court decisions, elimination of legal conflicts) are at the same time a means of protection of law and order.

In the second part of this article, the tasks of conducting civil court cases are provided to support the strengthening of legality and law and order, democracy, social justice, peace and national harmony among citizens. In carrying out this task, the courts pay special attention to the prevention of violations and the education of citizens in the spirit of respect for the law. Full compliance with civil procedural legislation by courts ensures correct and timely consideration and resolution of civil cases, protection of the rights and legal interests of citizens and organizations, strengthening of legality and law and order, prevention of violations, formation of the spirit of respect for laws among citizens.

When considering civil-legal disputes, the court must determine the reasons for the emergence of these disputes and the necessary conditions for conflicting situations, violations of the law, citizens' and organizations' rights and interests protected by law by officials. Courts do not have the right to ignore other violations and shortcomings in the activities of enterprises, institutions, organizations and officials when considering civil cases. The court, having determined that certain officials or citizens have violated the law and order during the consideration of a civil case, issues a private ruling (decision) and sends it to the relevant bodies and officials, who must inform the court about the measures taken.

Plenum of the Supreme Court of the Republic of Uzbekistan, 1998 in accordance with the decision No. 12 of April 17 "On the application of the laws regulating the





termination of the employment contract (contract) by the courts", paying special attention to the need for the courts to take measures aimed at eliminating the violations of the rights and legal interests of employees, in connection with the facts found on the violations of the labor laws an explanation is given on making private judgments and reacting[23].

As an important procedural measure in the implementation of the task of conducting court cases aimed at strengthening legality and law and order in society, helping to ensure democracy, social justice, peace and national harmony among citizens, it is possible to see and resolve court cases in mobile court sessions [24].

In the literature, consideration of certain types of civil cases, in particular, labor disputes in mobile court sessions, that is, with the participation of labor teams in enterprises, organizations, is recognized as an important procedural measure to prevent violations of labor laws[25].

Paragraph 31 of the Resolution No. 23 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated September 11, 1998 "On the Practice of Law Application by Courts in Resolving Disputes Related to Children's Education" states that, in necessary cases, public organizations and with the participation of representatives of labor unions, an explanation was given on hearing at mobile court hearings[26].

Hearing of civil cases by civil courts in mobile court sessions also serves to strengthen law and order in the society. Of course, in order to fully understand the importance of the goals and tasks of conducting civil court proceedings, it is necessary to analyze the legislation of other foreign countries and study their experiences. From this point of view, if we refer to the procedural legislation of the Commonwealth of Independent States (CIS) countries, the Civil procedural Code of the Russian Federation.

According to Article 2, "The tasks of conducting civil court cases are to protect the violated or disputed rights, freedoms and legal interests of citizens, organizations, the rights and interests of the Russian Federation, subjects of the Russian Federation, local structures, and other persons who are considered subjects of civil, labor or other legal relations. is to see and solve civil cases correctly and on time. Conducting civil court cases should help to strengthen legality, law and order, prevent violations, respect the law and the court" [27]. If we analyze this norm, it should be noted that, as a different aspect from our civil procedural legislation, the duties of conducting civil court cases are given a little wider and the purpose of preventing violations is indicated separately.

Article 5 of the Civil Procedural Code of the Republic of Kazakhstan states:



"The tasks of conducting civil court cases are to protect the violated or conflicting rights and freedoms of citizens, the state and organizations, their interests protected by law, to strengthen legality and law and order, and to prevent violations" [28].

As can be seen from the content of this article, the tasks of civil court cases are presented rather briefly and simply, and the range of subjects in civil cases is given in a general sense. Article 5 of the Civil Procedural Code of the Republic of Belarus is called "Tasks of Civil Procedural Legislation" and according to it, "The tasks of Civil Procedural Legislation are to ensure the correct and timely consideration and resolution of civil cases by courts, the execution of court decisions and other documents, the rights of citizens and legal entities and protection of interests protected by law.

Civil procedural legislation should help educate citizens in the spirit of respect and compliance with laws, prevent violations, strengthen the economic system and various forms of ownership" [29].

It can be seen that the tasks of conducting civil court cases in the legislation of the Republic of Belarus differ from our procedural legislation in some aspects. The most important task of conducting civil court proceedings in the Republic of Belarus is the proper and timely consideration and resolution of civil cases, which is intended to protect the rights and interests of citizens and legal entities protected by law. Also, the fact that enforcement of court decisions and other documents is included among the tasks of conducting civil court cases is a different aspect from our legislation. In our opinion, two different opinions can be expressed regarding the inclusion of enforcement of court decisions and other documents among the duties of conducting civil court proceedings. First, enforcement proceedings are included in the civil procedural legislation, but it has a separate procedure. Although we take into account the fact that enforcement proceedings are directly related to the court, that is, the court issues the writs of execution and is aware of the implementation of the execution, there is no other way in which enforcement proceedings are related to the conduct of court proceedings. In this regard, there are opinions that it is inappropriate to include the enforcement of court decisions and other documents in the tasks of civil court proceedings.

Secondly, it can be considered correct to include ensuring the execution of court decisions and other documents among the duties of conducting civil court proceedings. Because the main purpose of civil court proceedings is to protect the rights and interests of legal entities. If the civil case is considered by the court correctly and on time and a decision is made regarding the disputed rights and interests, but if it is not executed on time, the main purpose of conducting civil court cases cannot be



achieved. A violated right or interest can be protected only by executing a writ of execution written on the basis of a court decision. In this sense, it can be considered appropriate to include ensuring the execution of court decisions and other documents in the tasks of conducting civil court proceedings.

Through a comparative analysis of the civil procedural legislation of the above CIS countries and our country, we consider it appropriate to state the first part of Article 2 of the Civil Procedural Code of the Republic of Uzbekistan in the following version:

The duties of conducting civil court cases are as follows:

protection of personal, political, economic and social rights, freedoms and legal interests of citizens, the rights and interests of the Republic of Uzbekistan, as well as the rights and interests protected by law of enterprises, institutions, organizations, public associations and citizens' self-government bodies, court decisions and other documents correct and timely consideration and resolution of civil cases in order to ensure their execution;

to help strengthen legality and law and order, prevent crimes, ensure democracy, social justice, peace and national harmony among citizens;

to form respect for the law and the court.”

References

1. <https://studfile.net/preview/5551828/page:3/>
2. Civil Procedure: Textbook 8th ed. revised and additional / ed. Doctor of Law V.V. Yarkov. M.: Lawyer. - 2015. -182 p.
3. Civil process. Textbook for universities / Ed. editors prof. K. I. Komissarov, prof. Yu. K. Osipov. 10th edition, revised and enlarged. M.: BEK. - 2018. - 245 p.
4. Gagarinov A.V. The concept of civil process // Jurisprudence. -2018.-No. 4. - 16 p.
5. Baranov I.V. On the question of the grounds for initiating civil proceedings // Arbitration and civil proceedings. -2015. - No. 5. 132 p.
6. Diordieva O.N. Preliminary hearing in civil proceedings. // World judge. – 2020.- №6. – 24 s.
7. Civil procedural law. Textbook. The team of authors. -Tashkent TDUU. 2020. – P.18.
8. Lebedev M.Yu. Civil process: textbook. 7th ed., revised. and additional M.: Publishing house Yurait; 2021. P. 17.
9. Civil process / ed. V.A. Musina, N.A. Chechina, D.M. Chechota. M., 2020. P. 3.
10. Yudel'son K.S. Civil process: Textbook. M., 1956. P. 66
11. Osokina G.L. civil process. A common part. M., 2018. P. 21.





12. Civil process: Textbook / Ed. M.K. Treushnikov. M., 2016. P. 94 (the author of the chapter is M.K. Treushnikov).
13. Course of civil procedure / T.V. Sakhnov. - 6th ed., revised. and additional - M.: Statute, 2022. - from 25.
14. Vlasov A. A. Civil procedural law: Textbook. Moscow: TK Velby. - 2018. - 364 p.
15. Sh.Shorakhmetov. Comments on the Civil Procedure Code of the Republic of Uzbekistan. - Tashkent. TDYuI. 2016. -P.13.
16. Civil procedural law. Textbook. The team of authors. -Tashkent TDUU. 2020. -P. 18.
17. Z. Esanova. Civil procedural law. Textbook. - Tashkent. Legal literature published. 2022. -P.18.
18. Civil procedural law. Textbook. The team of authors. -Tashkent TDUU. 2020. -P. 19.
19. Civil procedural law. Textbook. The team of authors. -Tashkent TDUU. 2020. -P. 19.
20. Articles 3 and 4 of the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan dated 24.05.2019 No. 12 "On the decision of the court"
21. Civil procedural law. Textbook. The team of authors. -Tashkent TDUU. 2020. -P. 19.
22. Civil Procedure Code of the Republic of Uzbekistan. - Tashkent. Ministry of Justice. Justice. 2022.
23. Decision No. 12 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated April 17, 1998 "On the application of the laws regulating the termination of the employment contract (contract) by the courts" // lex.uz.
24. Civil procedural law. Textbook. The team of authors. -Tashkent TDUU. 2020. -P. 20.
25. Mamasiddikov M.M. Procedural features of court consideration of disputed cases arising from labor-related legal relations // Monograph. -T.: TDYuI. 2005. -18 p.
26. Decision No. 23 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated September 11, 1998 "On the practice of applying laws by courts in resolving disputes related to child upbringing" // // lex.uz
27. Civil Procedure Code of the Russian Federation. <http://www.consultant.ru/popular/gpkrf/>.
28. Civil Procedure Code of the Republic of Kazakhstan. http://base.zakon.kz/doc/lawyer/?doc_id=1013921.
29. Civil Procedure Code of the Republic of Belarus // https://kodeksy-by.com/grazhdanskij_protsessualnyj_kodeks_rb.htm.

