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THE PROBLEMS OF THE REVIEW OF CASES IN THE INSTITUTE OF CASSATION BY THE SUPREME COURT

Bunyod Khakimov
Department of Civil Procedure and Economic Procedural Law
Tashkent State Law University, Lecturer. Uzbekistan
Email: khakimovbunyod@gmail.com

Annotation
In this article, the problems related to the consideration of cases in the Supreme Court are analyzed using the comparative legal method. In particular, problems related to the postponement of the deadline for consideration of cases and the qualitative consideration of case are among them. As a result, certain solutions to these problems are proposed.
The objective of this research is to identify the problems of the cassation review and to suggest effective solutions regarding to the issues on based the result of this research. Overall, ultimate goal of the article is to reassure the importance of establishing the institution of case management to the review of cases by Supreme Court.

Keywords: court, cassation, dispute, last instance, court practice, interpretation, appeal.

In recent years, several changes have been made in the judiciary in the Republic of Uzbekistan. One of them was the introduction of the principle of "one court - one instance". Based on this principle, cases reviewed in the first instance in inter-district, district (city) courts in civil cases should be reviewed in the appellate instance only by regional and equivalent courts. Re-examination of the cases considered at the appellate instance is carried out by the Supreme Court at the cassation instance [1].

In developed countries, case review is formed in the form of a 3-step instance. That is, the Supreme Court performs the role of the last - 3rd instance. In the current procedural legislation of Uzbekistan, the 3rd instance corresponds to the Supreme Court. Only, as the 4th instance, there is also the institution of re-examination of cases in the cassation procedure. Below is a little discussion about the cassation instance, which is the 3rd instance. The purpose, tasks and importance of this institute will be discussed. Also, an attempt will be made to shed light on the problematic situations related to the reconsideration of cases at the cassation instance.

The cassation appeal for reconsideration of the case at the cassation instance shall be submitted directly to the Judicial Committee on Civil Cases of the Supreme Court of the Republic of Uzbekistan within one year from the date of acceptance of the decision of the appellate instance court. The judge of the Supreme Court examines the cassation appeal within a period not exceeding five days and makes one of the decisions to refuse to accept the cassation appeal or to return it or to accept the cassation appeal for proceedings and take the case as a demand accepts. The decision on appointing a cassation appeal for trial consideration shall be considered within a period of no more than one month from the date of its issuance [2].

When the case is considered at the cassation instance, the court checks whether the norms of substantive law were correctly applied by the court of the first instance and the appellate instance, and whether the requirements of the procedural law were observed based on the materials in the case. That is, at the cassation instance, the judge does not consider the content of the case. He does not have the right to study new evidence and determine new facts. Based on the results of the case review, the judge may not satisfy the cassation appeal, partially or completely cancel the court documents and make a new decision, change the court document, cancel the court documents and retry the case. has the authority to send to court.

Above, the procedure for reviewing cases at the cassation instance based on the procedural legislation of the Republic of Uzbekistan was briefly described. In any legal system, the activity of the Supreme Court has the following two goals. The first is an individual goal, and the second is a public goal. The individual purpose of the Supreme Court responds to the natural desire of the losing party to have the case reviewed by a higher court. Its public purpose is to control the activity of lower courts, to unify the practice of applying the law and to develop the law. Today, this public goal is of great importance. Because the principle of the rule of law requires that similar cases be resolved on the basis of the same legal criteria and that these criteria be known in advance[3].

Hearing cases in the Supreme Court as the last instance also serves the above two purposes to a certain extent. When the Supreme Court reviews a case, it aims to correct errors in the application of law by lower courts. At the same time, the Supreme Court provides the general public with information on how to apply the law in the future.

One of the main problems of the Supreme Court in all legal systems is the large number of cases that must be heard. That is, the impossibility of considering cases on time and unreasonably postponing them, as well as problems related to the high-quality implementation of justice by the Supreme Court. There are two ways to solve

these problems. The first is to increase the ability of the Supreme Court to consider more cases, and the second is to reduce the number of cases. The decision of the High Courts to choose one of these two solutions depends on several factors. In particular, factors such as how to understand the problem of caseloads, national theories about the purpose of the Supreme Court, special emphasis on the right to appeal against court documents, budgetary constraints, and the strictness of legal norms, which of the above two different solutions are emphasized.

The Supreme Court is the court at the center of the judicial system, which makes the final decision on legal issues within the country and serves various purposes. The principle of the rule of law requires that laws be applied equally to all. The Supreme Court acts as a beacon for lower courts in interpreting the law. Decisions of the Supreme Court, along with elimination of ambiguities and gaps in the law, adapt the legal norms to the current requirements. The Supreme Court should play a key role in ensuring the accuracy of legal norms, the good functioning of the justice system, and the functioning of the function of predictability of legal norms[4].

The Supreme Court is the last link in overturning unjust court decisions. In general, Supreme Court review means focusing on the errors of decisions made by lower courts. Usually, the parties have the understanding that the decisions they do not like should be revised and changed as erroneous decisions. As a result, the Supreme Court receives a large number of complaints from the parties.

As a result, if there is no mechanism for proportionally sorting these complaints, the number of cases to be considered in the Supreme Court will increase. The number of cases in the Supreme Court is different in each country, depending on its judicial system. For example, for the US Supreme Court, which hears 100-150 civil cases per year, 4,000 cases per year could be disastrous. In contrast, for the French Court of Cassation, which hears 22,000 civil cases a year, hearing 4,000 cases a year means that the court is not functioning.

Now there will be some discussion about the solutions to the above problems. As mentioned earlier, solutions to these problems can be divided into 2 large groups. 1) increase the possibility of the Supreme Court to consider cases; 2) reducing the amount of work;

Increasing the number of judges is one of the most frequently proposed solutions to increase the Supreme Court's capacity to hear cases. However, there are other measures that can have the same effect. For example, judges may be given additional support staff and these staff may be assigned some tasks that judges should do. Others may recommend dividing the court into smaller sections or sections. In addition, procedural reforms can be introduced to speed up the case review process. For

example, the abolition of oral hearings, the introduction of different procedural processes depending on the type of cases are examples of these[5].

When it comes to the problem of reducing cases before the Supreme Court, much attention is paid to the case sorting mechanism in comparative law studies. As important aspects of such a sorting mechanism, it is possible to cite aspects such as the basis of sorting, the sorting process, and whether this sorting is carried out by the lower court that issued the court decision, or whether it is carried out by the Supreme Court.

Other than these two solutions, there are other measures. In some court systems, special attention is paid to measures to prevent delay in hearing the case. Even if the quality of justice is affected, it is important to conduct cases in a timely manner. In legal systems with a strong emphasis on the right to appeal against court decisions, it is very difficult to discuss the sorting mechanism. In some legal systems, the adoption of laws is required to organize court proceedings and to change the rules of court proceedings [6].

And this happens very slowly. On the contrary, if the Supreme Court can adopt these rules, it is easier and faster to make such changes. Budgetary constraints limit the ability of the Supreme Court to increase the number of judges, assistants and other staff and to make reforms related to improving the structure of the court.

From the above arguments, it can be concluded that the main goal and task of the Supreme Court is to ensure the fair resolution of individual disputes, control the activities of lower courts, and unify the practice of law enforcement. But the main obstacle to achieving these goals in the activity of the Supreme Court is the large number of cases that need to be considered. The solution to this problem may be different depending on factors such as the legal system, legal culture and level of judges of each country.

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