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THEORETICAL AND PRACTICAL PROBLEMS OF JUDICIAL REVIEW IN UZBEKISTAN

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Abstract
This article analyzes the content of the latest reforms in the field of review of court decisions in the Republic of Uzbekistan and its theoretical and practical problems. The analysis is mainly carried out using theoretical and comparative study methods. The main goal of this research is to determine the factors that led to the implementation of the reform in the field of review of court decisions and its initiator, the theoretical and practical problems of the new system.

Keywords: appeal, Supreme Court, instance, civil cases, court decision, cassation, revision, uniformity of judicial practice, court practice, interpretation, application of law.

Introduction

In the Republic of Uzbekistan, reforms of various levels have been carried out regularly in the judicial sector in recent years. The branch of judicial system that has undergone the most changes in recent years is the institution of review of court decisions. In particular, in 2021, a law was adopted on the improvement of the institution of review of court decisions in civil cases. According to this law, the principle of "one court - one instance" was introduced for the first time. As a result, it was determined that court decisions will be reviewed only at the appeal instance in the regional courts. In the Supreme Court, the procedure for reconsideration of court decisions was introduced in the procedure of cassation and repeated cassation. Also, the cases that were not considered at the appeal instance were not reviewed at all in subsequent instances. It was established that an appeal can be filed within one month from the date of the decision of the court of first instance. A cassation appeal can be filed within 1 year after the decision of the appellate instance is issued.

However, less than 3 years after the above change, a new law was adopted on the improvement of the institution of review of court decisions in civil cases. According to this law, the institution of review of court decisions underwent further changes. In this article, first of all, what caused the institution of review of court decisions to be changed again and the newly introduced procedure itself will be briefly analyzed. Also, the theoretical and practical problematic aspects of these changes are considered. Theoretical and comparative analysis methods are mainly used in this research.

First of all, we will analyze the reasons that created the need to change the institution of review of court decisions in civil cases. First, the main initiator of this reform is the Supreme Court. On August 10, 2022, a new chairman of the Supreme Court of the Republic of Uzbekistan was elected at the plenary session of the Senate. After the chairman of the new Supreme Court began his work, the renewal of the institution of review of court decisions became the main topic of

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the day as the first reform in the field of the judiciary. It can be assumed that several problems in the region and the Supreme Court caused the chairman of the Supreme Court to take such an initiative.

The first of such problems is that the number of court decisions reviewed by the Supreme Court has increased. This problem is caused by the following factors: 1) introduction of the principle of "one court - one instance"; 2) low-quality consideration of cases by lower court judges; 3) introduction of the institution of review of court decisions in the procedure of repeated cassation.

As a result of the introduction of the "one court - one instance" principle, regional courts began to consider court decisions only in the appeal procedure. Therefore, the Supreme Court itself began to consider all appeals submitted to the cassation instance. As a result, a large number of appeals for reconsideration of court decisions accumulated in the Supreme Court.

It can be said that the low-quality consideration of civil cases by the lower courts is one of the main factors that led to the increase in the number of court decisions reviewed by the Supreme Court. Low-quality consideration of civil cases can be defined as the fact that the circumstances important for the resolution of the dispute are not fully determined, the evidence is not fully verified, and the persons involved in the case are not involved in the process. The occurrence of these situations can be attributed to the problem with the qualifications of judges of the first instance.

The institution of repeated cassation review also directly influenced the increase in the number of cases heard in the Supreme Court. The main problem to be solved by the Supreme Court in reviewing court decisions in the procedure of repeated cassation is the issue related to the application and interpretation of the law. Because in the application and interpretation of the law by the lower courts, there are many problems related to the different application or interpretation of legal norms. Therefore, the institutions of cassation and repeated cassation in the Supreme Court are engaged in generalizing the practice of law enforcement. The Supreme Court performs this function while considering cases in cassation or repeated cassation instances. It also directly implements court decisions in a form that is not related to review, that is, in the form of providing explanations on issues of law enforcement.

From the above, it can be concluded that the main initiator of the reform of the last court is the Supreme Court itself. The main reason for the Supreme Court to take such a measure is the increase in civil cases reviewed by the Supreme Court itself. As a theoretical problem of the pre-reform review institution, it can be said that the principle of "one court - one instance" is violated in the Supreme Court. The first major change is that the review of civil court decisions in regional courts is carried out in appellate, cassation and revision instances. That is, it was determined that the appeal or cassation, audit complaint against the decisions of the courts of the first instance will be carried out by the regional courts, which are the second tier courts of the judicial system. First of all, the rule that a court decision that was not considered in the previous appeal instance cannot be considered in the cassation instance was canceled. That is, it was determined that the court decision that was not heard at the appeal instance can be heard in the cassation procedure. The deadline for submitting an appeal was set as one month from the date of the decision of the first instance court. The period for filing appeals against court decisions at the cassation instance is set at 6 months from the day the decision of the first

instance court becomes legally effective. Decisions of the courts of first instance shall enter into force one month after their adoption. The deadline for submitting an appeal to review court decisions at the review instance is one year from the date of entry into legal force of the court decision. Now let's look at the differences between these instances. The procedure and scope of review of court decisions in the appeal and cassation instance are the same, and the case is considered according to the rules of review in the court of first instance. That is, the case will be fully investigated, all the evidence will be re-examined. The main difference between these two instances is that an appeal is made to the appellate instance before the court decision enters into force. An appeal is made to the cassation instance after the court decision enters into force. For this reason, the deadline for filing a complaint is also different. That is, if the term for filing an appeal is one month from the moment the court decision is adopted, the term for filing a cassation complaint is 6 months from the moment the court decision enters into legal force.

The review instance differs from the appeal and cassation instance in several respects. First of all, the deadline for submitting a complaint to the revision body is set within one day from the day the court decision enters into force. Review of court decisions at the review instance is carried out by the regional and Supreme Courts. One court decision can be reviewed three times. The review of the court decision in the first review procedure is carried out in the regional court. The review of the court's decision in the procedure of the second review is carried out by the trial panel on civil cases of the Supreme Court. The third review of the court decision is carried out by the Supreme Court Directorate. In the review procedure, the scope of reviewing the court decision is limited, and the question of whether the norms of substantive law were correctly applied and the requirements of the procedural law were observed in the adoption of the court decision by the lower courts.

Now, as a direct result of the new reforms, we will analyze what theoretical and practical problems may arise in the institution of revision of court decisions. First of all, if we dwell on the theoretical problems, we can see the violation of the principle of "one court - one instance". One court decision by the regional court is considered both in the appeal or cassation instance and in the revision instance. Also, the Supreme Court itself has established that one court decision should be reviewed twice. It is clear that this situation creates problems related to the formation of the jury, especially in the regional courts. That is, the judges who reconsidered the court decision at the appellate instance cannot take part in reviewing the same decision in the regional court. However, due to the small number of judges in regional courts, it may become impossible to follow this rule.

The next problem is the legal force and enforcement of court decisions. The provision of 6 months for cassation appeal and 1 year for review results in suspension of the legal force of the court decision for more than 1 year. This, in turn, may make the execution of the court decision difficult or completely impossible.

Based on the above analysis, it can be concluded that the last changes made in the institution of review of court decisions were made based on the interests of the Supreme Court. Because the main burden of reviewing court decisions according to the new procedure falls on the regional courts. Appeals to the Supreme Court are much less. But on the other hand, it may cause the rights of the parties to the dispute to not be fully protected or to an impossible situation.

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