

ISSUES FOR FURTHER IMPROVEMENT OF THE INSTITUTION OF REVIEW OF JUDICIAL ACTS THAT HAVE ENTERED INTO LEGAL FORCE DUE TO NEWLY DISCOVERED CIRCUMSTANCES IN THE ECONOMIC PROCESS

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Abstract

This article highlights the concept, value, role and issues for further improvement of the institution of review of judicial acts that have entered into legal force due to newly discovered circumstances in the economic process and its place in the procedural legislation. In the article, examples from the legislation of foreign countries and judicial practice are given, opinions are expressed based on comparative legal analysis. The author analyzed the grounds for reviewing judicial acts on newly discovered circumstances and put forward proposals on this issue.

Keywords: Judicial acts, new or newly discovered circumstances, review, legal facts, appeal, cassation, supervision, transaction, constitutional Court.

Introduction

Review of court documents on the basis of newly discovered cases creates an additional guarantee to ensure the legality and validity of court documents and to protect the rights and interests of participants in legal relations in the field of entrepreneurship and other economic activities. This process is used as one of the acceptable methods in relation to other forms of judicial control provided for by law.

Reconsideration of economic court cases based on newly discovered cases is also one of the methods of implementation of the restorative function of procedural law. Because this institution serves as a means of ensuring the violated or conflicting rights of citizens and legal entities in the field of economy, as well as the interests protected by law, in conducting economic court cases. This institution has an important place in the system of revision of judicial documents and guarantees the legal and reasonable review of decisions on economic cases in appeal, cassation and audit procedures.

At this stage, the court determines whether there are newly opened circumstances. As new circumstances are identified, it assesses how they affect the legality and validity of the court's decision. In this process, the court examines previously unknown circumstances, examines the

evidence proving them and confirms their existence. These tasks should be performed at a specific stage of economic litigation.

Therefore, the institution of revision of economic cases based on newly discovered cases is not only independent, but also implemented in harmony with the main tasks of economic procedural law and has the following characteristics:

1. Even in cases other than the error of the court, the court document that has entered into legal force takes into account all the circumstances important for the case and creates the opportunity to re-solve the case.
2. A comprehensive and in-depth analysis of the data underlying the newly opened cases is provided.
3. When there is doubt about the legality and validity of court documents based on new circumstances, these documents can be canceled.

Legality and reasonableness of a court document entered into legal force can be revised only after the discovery of new circumstances. Legal scientist Sh.Sh.Shorakhmetov said that if the legality and validity of a court document is noted due to newly discovered circumstances, this is not considered an error of the court, but ensures the re-examination of these documents [1, B.428]. Procedural aspects of revision of court documents entered into legal force are covered in the Economic Procedural Code of the Republic of Uzbekistan, i.e. Chapter 37.

According to Article 327 of the Code of Economic Procedure, the grounds for re-examination of legally binding court documents based on newly discovered circumstances are as follows:

1. Circumstances relevant to the case, which existed at the time of acceptance of the court document, but were not known to the applicant and could not be known.
2. If the knowingly giving false information or incorrect translation of the expert or witness is confirmed by a legally binding court verdict and this situation caused the adoption of an illegal or unreasonable court document.
3. Criminal actions committed by the persons participating in the case or their representatives during the court process and determined by the court verdict or ruling that entered into legal force.
4. A court document or a document of other bodies accepted by the economic court, civil, criminal or administrative courts is the main document in this case, and its cancellation.

In the Russian edition of IPK, this chapter is called "Proizvodstvo po peresmotru vstupivshix v zakonnyu silu sudebnyx aktov po vnov otkryvshimsya obstoyatelstvam" and the term "vnov otkryvshiesya obstoyatelstva" is used. The meaning of the word "vnov" can be translated as "again". In economic procedural legislation, it would be correct to use the term "reopened cases" instead of the term "newly opened cases", because these cases include cases that existed at the time of the issuance of the court document, but were not known at that time.

Rediscovered circumstances, as a rule, are a component of the case's evidence, and they are not new or changed, but newly known circumstances. Therefore, it is proposed to change the term "newly opened cases" to "reopened cases" in economic procedural legislation.

In addition, according to Article 68 of the Criminal Code, various types of evidence, such as written and material evidence, expert opinions, expert explanations, witness statements and explanations of participants, are used to determine important situations in the case. Evidence obtained through violation of the law shall not be used in the case.



Article 2301 of the Criminal Code of the Republic of Uzbekistan defines falsification of evidence as a crime. However, Article 327 of the IPK does not mention the possibility of reviewing court documents based on the falsification of written and physical evidence. Nevertheless, the Civil Procedure Code and the Criminal Procedure Code of the Republic of Uzbekistan stipulate that decisions can be reviewed on the basis of forged documents.

A study of the judicial practice of the countries of the Commonwealth of Independent States (CIS) shows that in the civil and arbitration procedural legislation of Kazakhstan, Russia and Ukraine, the case of falsification of documents or material evidence is indicated as a basis for revising legally binding court documents. In particular, in Article 455 of the Civil Procedure Code of the Republic of Kazakhstan, Article 311 of the Arbitration Procedure Code of the Russian Federation and Article 320 of the Economic Procedure Code of Ukraine, in the event that the falsification of written, physical or electronic evidence leads to the adoption of an illegal or unfounded decision in a court document, they are reconsidered shown as the basis.

In accordance with this, a proposal is being made to add to Article 327 of the Economic Procedural Code of Uzbekistan as a basis for revising documents on falsified evidence. Also, in the decision of the Plenum, there is a need to add electronic evidence to the types of evidence and determine in what cases they are considered fake or falsified.

In the experience of Kazakhstan, providing false information by an expert or witness or incorrect translation by a translator is defined as a basis for reviewing court documents. Although the current Article 327 of the Criminal Code of Uzbekistan mentions cases such as false testimony or conclusions of a witness or expert determined by a legally binding sentence, it is necessary to amend the legislation to further strengthen the practical basis of their review. Also, according to the Code of Criminal Procedure of Uzbekistan, some criminal cases can be terminated without solving the issue of guilt of a person in committing a crime. But this does not prove innocence and does not require a retrial on the basis of illegal or unjustified court documents. In this regard, the Plenum of the Supreme Court issues decisions aimed at correcting judicial practice, but they do not introduce new norms into the laws.

According to this analysis, changes and proposals in legislation and practice regarding the review of legally binding court documents on the basis of newly opened cases cover the following main aspects:

1. **Forged or falsified evidence** : In the legislation of CIS countries such as Kazakhstan, Russia, Ukraine, forged documents affecting the legality of a court document are indicated as one of the grounds of falsification of written and material evidence. In Uzbekistan, it is proposed to add such grounds to Article 327 of the Economic Procedural Code.
2. **Unrecognized or invalid transactions** : Transactions, which are the basis for the adoption of a court document and declared invalid by a legally binding decision, should also be able to be reviewed based on newly discovered circumstances.
3. **Unconstitutionality of regulatory documents** : According to the newly revised Constitution, if the regulatory legal document that is the basis for issuing a court document is found to be unconstitutional by the Constitutional Court, such cases will also be considered as newly opened cases, and the court document can be reviewed.
4. **Concepts of reopened cases and newly opened cases** : There is a need to clarify the terms "reopened cases" and "newly opened cases" in the legislation. Reopened circumstances are



circumstances not known to the court, but existing at the time of the proceedings, which should have been discovered after the original court document was issued. Newly opened cases are cases that appeared or were recognized after the issuance of the court document.

By adopting these proposals, stronger legal guarantees of legality can be created in economic procedural legislation in Uzbekistan and transparency in judicial practice can be achieved.

The proposals are aimed at improving the institution of review of legally binding court documents, and this will make the mechanisms for protecting the rights and interests of citizens and legal entities more effective in the economic procedural legislation of Uzbekistan. Below are the highlights of these proposals:

1. Amendment of Chapter 37 of IPC :

Changing the title of Chapter 37 of the IPK to "Proceedings on re-examination of legal documents entered into legal force or on newly opened cases". This name change provides a clear distinction between "reopened cases" and "newly opened cases" in revisions.

2. Additions to article 327 of the IPK :

This article defines separate grounds for "reopened cases" and "newly opened cases".

reopened cases include:

1. Circumstances important to the case, which existed at the time the court document was received, but were not known to the applicant and could not be known.
2. If a false conclusion of an expert or a witness, a wrong translation or falsification of evidence has been established and an official decision has been made by the court or prosecutor's office.
3. Criminal acts of a party to the case or a judge in the trial are confirmed by a legally binding sentence.

newly opened cases are as follows:

4. Cancellation of another court or body document accepted on the basis of a court document.
5. Acceptance of a court document on the basis of an invalid transaction.
6. Declaring a normative legal act contrary to the Constitution by the Constitutional Court based on the law.

These changes strengthen the legal and stable mechanisms of protection of the rights and interests of citizens and legal entities in economic courts, contribute to ensuring the legality of court documents and their stability. It also allows uniform application of laws in judicial practice.

These proposals are an important step in improving the legislation of Uzbekistan and will help ensure clarity and transparency in economic affairs.

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