

LEGAL ISSUES IN REVIEW OF COURT DECISIONS ACCORDING TO THE LEGISLATION OF UZBEKISTAN

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Abstract

This article discusses the theoretical and practical aspects of reviewing court decisions by way of audit in the Economic Justice of the Republic of Uzbekistan. The goals and objectives of the audit authority in the world are explored, mainly on the basis of similar models of the countries of the Commonwealth of Independent States, summarizing the scientific and theoretical views of various scientists. It is concluded that in order to ensure a clear and uniform consideration of cases in the auditing authority, it is advisable to adopt a resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan, containing clarifications on the application of legal norms.

Keywords: judicial practice, economic proceedings, review of decisions, audit.

Introduction

Revision of court decisions as the institution improves, optimizing the paperwork of courts in economic cases should be considered in three main aspects: social, economic and legal. From a social point of view, the need for optimization is associated with low trust of citizens and legal entities in the judicial system, as a result of which there is often a negative attitude towards the justice authorities¹. From a social point of view, optimization of economic proceedings contributes, on the one hand, to increasing the level of legal culture of individuals and legal entities who directly apply to the court for protection, and on the other hand, to protect justice in economic cases. On the other hand, it creates the prerequisites for judges' own professional and personal development². The economic side of optimization presupposes the need to reduce the existing procedural costs of the persons involved in the case and the court when considering cases in economic courts. As for the legal aspect of optimization, it presupposes the need to increase the level of legal technology when adopting relevant regulations in the

¹ Хаитбоев А. ИҚТИСОДИЙ СУДЛАРДА СУД ХУЖЖАТЛАРИНИ ҚАЙТА КЎРИШ НАЗАРИЯ ВА АМАЛИЁТ //BOSHQARUV VA ETIKA QOIDALARI ONLAYN ILMIY JURNALI. – 2024. – Т. 4. – №. 2. – С. 52-55.

² Жумаев У. СУДЛАРДА ИҚТИСОДИЙ ИШЛАРНИ ҚАЙТА КЎРИШНИНГ АҲАМИЯТИ ВА УМУМИЙ ТАВСИФИ //Innovations in Technology and Science Education. – 2023. – Т. 2. – №. 16. – С. 128-142.



field of regulating the activities of economic courts³. In addition, this aspect involves eliminating existing contradictions and shortcomings of the current legal regulation, taking into account the experience of foreign countries⁴. It is worth saying that both legislative and law enforcement agencies are currently implementing certain measures aimed at optimizing judicial proceedings.

A striking example is the Law of the Republic of Uzbekistan dated December 25, 2023 No. UP-888 "On introducing amendments and additions to the economic procedural code of the Republic of Uzbekistan in connection with improving the procedure for verifying the legality and validity of court decisions." The law introduced a new procedure for reviewing court decisions, in particular, it determined the organizational and legal basis for the activities of the audit authority⁵.

At the same time, today there are other areas of optimization of economic legal proceedings that require detailed scientific analysis, which have not yet been reflected in either legislative or law enforcement activities.

The above-mentioned legal aspect of optimizing economic legal proceedings is of particular importance from the point of view of the subject of this study, since its practical application contributes to improving the quality and efficiency of justice and the creativity of judicial activities⁶. This, in turn, contributes to the disciplinary provision of the court and other participants in the economic process with a more responsible execution of the procedural rights and obligations assigned by law for the purpose of formal rather than real compliance with the form of economic proceedings provided for by law.

The audit review of judicial acts that have entered into legal force is an independent stage of economic legal proceedings and is important for the protection of subjective rights and legitimate interests of interested parties. The procedural legislation of the Republic of Uzbekistan is based mainly on the provisions of the international treaties it has ratified. In particular, the right to review a court decision through its revision is provided for in paragraph 6 of article 14 of the International Covenant on Civil and Political Rights of December 16, 1966⁷.

Consequently, a democratic state governed by the rule of law cannot be indifferent to the adoption of illegal and unfounded court decisions and other acts. Such a state strives to ensure that every unfair judicial document is corrected in a timely manner, so that the truth is

³ Ибратова Ф. и др. ПРАВОВЫЕ ВОПРОСЫ ЭЛЕКТРОННОГО ДОКАЗАТЕЛЬСТВА В ЭКОНОМИЧЕСКОМ ПРОЦЕССЕ //International journal of professional science. – 2022. – №. 4. – С. 18-24.

⁴ Мейлиева Н. Особенности повторного рассмотрения судебного дела по вновь открывшимся делам при проведении судебного разбирательства //Обзор законодательства Узбекистана. – 2008. – №. 2. – С. 89-92.

⁵ Ибратова Ф. Б. и др. СРАВНИТЕЛЬНЫЙ АНАЛИЗ НЕКОТОРЫХ МЕР ПРОЦЕССУАЛЬНОГО ПРИНУЖДЕНИЯ В СФЕРЕ ГРАЖДАНСКО-ПРОЦЕССУАЛЬНОГО ПРАВА //International journal of professional science. – 2022. – №. 10-2. – С. 5-16.

⁶ Нуриддинова Ф. ОДИЛ СУДЛОВНИ АМАЛГА ОШИРИШДА МАЪМУРИЙ СУДЛАР ФАОЛИЯТИНИНГ ҚОНУНИЙ АСОСЛАРИНИ ЯНАДА ТАКОМИЛЛАШТИРИШ ИСТИҚБОЛЛАРИ //Educational Research in Universal Sciences. – 2022. – Т. 1. – №. 5. – С. 104-110.

⁷ Международный пакт о гражданских и политических правах от 16 декабря 1966 г. // URL: <https://lex.uz/docs/-2640479>



established in every economic legal case⁸. In the system of stages of audit of economic legal proceedings, to achieve this goal, along with the appellate and cassation instances, there is the institution of review in order to audit court decisions, rulings and rulings of all courts that have entered into legal force.

A court decision in economic cases that has entered into legal force is considered an indisputable fact that controls the presence or absence of specific legal relations or legal facts, determines a specific person acting in a certain way, and is binding on all government bodies, public organizations and citizens⁹.

In this sense, the presumption of truth of a judicial decision that has entered into legal force is based on the fact that the procedural guarantees in force at the normal stages of economic litigation must be sufficient to establish the truth in the case¹⁰. A court decision is considered valid until the contrary is proven in accordance with the procedure established by law. This also applies to the process of checking the legality and validity of decisions, determinations and resolutions previously adopted in the audit procedure.

It is worth saying that one of the main elements of the rule of law is the principle of stability of judicial relations, that is, the final decision on any dispute should not be revised in the absence of legal grounds. Therefore, in the legislation of many states, review of a case by way of audit is permitted by law only in strictly defined cases.

This stage, along with the appellate and cassation instances, serves as a guarantee of the protection of the rights and legally protected interests of citizens and organizations and is a method of verifying the legality and validity of court decisions¹¹.

In order to consider the case, it is advisable to highlight the following features of the review:

- the procedure for filing a complaint with the parties in accordance with the law;
- the subject of the complaint is only a court decision that has entered into legal force;
- compulsory execution is not suspended¹².

After analyzing the legal literature, we can see that there are several different definitions of the audit authority.

- firstly, when considering a case in an audit procedure, the court checks, based on the case materials, the correct application of the rules of substantive law and compliance with the requirements of the procedural law by lower courts;
- secondly, new claims that were not the subject of consideration in the court of first instance are not accepted and are not considered by the court of the revision instance¹³;
- thirdly, failure to resolve or incorrectly resolve the issue of distribution of legal costs is not grounds for canceling or changing the court decision in the auditing instance;

⁸ Ibratova F. Civilinės teisės terminai ir jų taikymas ginant asmens teises Uzbekistano Respublikoje //Teisė. – 2009. – T. 71. – C. 182-194.

⁹ Терехова Л. А. Система пересмотра судебных актов в механизме судебной защиты. – Wolters Kluwer Russia, 2010.

¹⁰ Терехова Л. А. Современное состояние системы пересмотра судебных актов, вступивших в законную силу //Вестник гражданского процесса. – 2016. – №. 1. – С. 31-40.

¹¹ Борисова Е.А. Учебник. Проверка судебных актов по гражданским делам. – М. – 2005. – С.304.

¹² Викут М.А. Гражданский процесс России. – Учебник.: – М. – Юрист. – 2004. – С.459.

¹³ Ibratova F., Xodjaeva D. IQTISODIY SUD ISHLARINI YURITISHDA TAFTISH TARTIBIDA QAYTA KO'RISH: NAZARIYA VA AMALIYOT //Theoretical aspects in the formation of pedagogical sciences. – 2024. – T. 3. – №. 3. – C. 93-102.



– fourthly, the grounds for changing or canceling a decision, resolution or ruling are the illegality or unfoundedness of a judicial act;

– fifthly, a substantively correct decision, decree or ruling of the court cannot be canceled on formal grounds alone in an audit procedure¹⁴.

Judicial acts on cases considered in the audit procedure by the Court of the Republic of Karakalpakstan, regional and Tashkent city courts, judicial acts of the audit instance of these courts, and judicial acts adopted by these courts at first instance, considered in appeal or cassation proceedings, as well as judicial acts adopted The Supreme Court of the Republic of Uzbekistan in the first instance, considered in the appellate or cassation procedure, can be appealed (protested) in an audit procedure to the Judicial Collegium for Economic Cases of the Supreme Court of the Republic of Uzbekistan by the following persons:

– persons participating in the case, as well as persons not involved in the case, on whose rights and obligations the court made a decision and the Commissioner under the President of the Republic of Uzbekistan for the protection of rights and legitimate interests of business entities, with the exception of economic disputes arising between business entities, as well as disputes not related to business activities;

– The Prosecutor General of the Republic of Uzbekistan and his deputies, prosecutors of the Republic of Karakalpakstan, regions, the city of Tashkent and their deputies in the case considered with the participation of the prosecutor, as well as in other cases in the event of an appeal from persons participating in the case, as well as persons not involved in participation in a case on whose rights and obligations the court has decided¹⁵.

The audit authority allows the use of a simpler and more effective form of judicial control than other rules provided for by the economic procedural code. The possibility of review by way of audit is an additional guarantee of fairness and fairness of judicial acts, as well as the protection of the rights of each subject of legal relations in the field of economic activity¹⁶.

The institution of reviewing decisions and other judicial acts in the order of their revision is one of the most important guarantees of the effective application of law to correct judicial errors and establish the truth in economic cases. Although there is no catastrophic inevitability of miscarriages of justice, the presence of the institution of audit in the review procedure indicates that the legislator takes into account the risk of a miscarriage of justice. It also serves to address existing risks and study economic procedural law.

In some countries of the Commonwealth of Independent States there is no institution for reviewing court decisions by way of audit. Even those who have judicial practice often take the path of refusing to satisfy the relevant application. However, when courts identify violations

¹⁴ Каюмов Х. БИРИНЧИ ИНСТАНЦИЯ СУДИНИНГ ҲУКМ (АЖРИМ) ЛАРИ ЮЗАСИДАН ЮҚОРИ ИНСТАНЦИЯ СУДИНИНГ БАРЧА БОСҚИЧИЛАРГА ШИКОЯТ КЕЛТИРА ОЛИШ ҲУҚУҚИНИ ТАЪМИНЛАШ БОРАСИДАГИ ИСЛОҲАТЛАРНИНГ ЎЗИГА ХОС ХУСУСИЯТЛАРИ //IJTIMOIY FANLARDA INNOVASIYA ONLAYN ILMIY JURNALI. – 2024. – Т. 4. – №. 3. – С. 24-25.

¹⁵ Азбергенова М. ОДИЛ СУДЛОВ ТИЗИМИДАГИ ИСЛОҲОТЛАР ИНСОН ҲУҚУҚ ВА ЭРКИНЛИКЛАРИНИ ТАЪМИНЛАШ МЕЗОНИ //Евразийский журнал права, финансов и прикладных наук. – 2023. – Т. 3. – №. 12. – С. 212-215.

¹⁶ Турдиев Д. Суд қарорлари устидан шикоят қилишнинг янги тартиби белгиланди //Research and Publication. – 2024. – Т. 1. – №. 1. – С. 93-94.



of procedural law of a significant nature, there are precedents for satisfying these requests¹⁷. This position of the law enforcement agency contradicts the requirements of the law, since the presence of unconditional procedural violations is the basis for consideration of judicial acts in the appellate and cassation procedures and is not the basis for consideration of judicial acts in the order of their consideration. These include the procedural legislation of countries such as Russia and Moldova.

In order to ensure a clear and uniform consideration of cases in the auditing instance, it is advisable to adopt a decision of the Plenum of the Supreme Court containing appropriate explanations. It serves as an official source aimed at disclosing the content of the audit authority.

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¹⁷ Рахмонова С. Суд амалиётига татбиқ этилган янги тартиб самараси нимада? //in Library. – 2021. – Т. 21. – №. 1. – С. 13-17.



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