



ISSUES OF IMPROVING THE INSTITUTION OF REVIEW OF CIVIL CASES UNDER THE SUPERVISORY PROCEDURE

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Abstract

This article analyses the legal basis for the introduction of the institution of reviewing civil cases under the supervisory procedure. It also briefly outlines the theoretical and practical problems associated with this institution. Furthermore, specific proposals are put forward as possible solutions to the identified problems.

Keywords: Supervisory procedure, complaint, judicial act, intermediate-level courts, regional supervisory courts

Introduction

Over the past five years, a number of reforms have taken place in the judicial system of the Republic of Uzbekistan. Among them, particular attention should be paid to reforms aimed at improving the institution of review of judicial acts. Based on the Law adopted on January 12, 2021, a new procedure for reviewing civil cases was introduced. The previously existing supervisory review procedure was abolished, and the system of reviewing judicial acts through appellate and cassation instances was implemented. These changes were based on the principle of “one court – one instance.” As a result, the judicial system of Uzbekistan introduced a model of judicial review similar to that of developed legal systems. However, any reform that resolves certain problems may also create new challenges. One such challenge was the sharp increase in the number of civil cases reviewed by the Supreme Court under the cassation procedure.



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Various solutions to this issue could have been proposed, such as: increasing the number of judges of the Supreme Court or establishing specific admissibility criteria for cassation review. Nevertheless, a different approach was chosen. In practice, the system partially returned to the model that had existed prior to 2021. According to the Law No.O'RQ-887 of December 25, 2023, "On Amendments and Additions to the Civil Procedural Code of the Republic of Uzbekistan in Connection with the Improvement of the Procedure for Verifying the Legality, Validity and Fairness of Court Decisions," several changes were introduced to the institution of review of civil cases.

In particular: appellate and cassation instances were retained; the supervisory (revision) procedure was reintroduced; the authority to review judicial acts under the supervisory procedure was granted to intermediate-level courts (regional courts, the Tashkent city court, and the courts of the Republic of Karakalpakstan). As a result, a civil case may now be reviewed under the supervisory procedure up to three times.

The above changes have led to several theoretical and practical issues. First of all, the violation of the "One Court – One Instance" principle. In briefly, intermediate-level courts may now review the same civil case: in the appellate or cassation instance, and again under the supervisory procedure. This situation contradicts the principle of "one court – one instance" and indicates a partial return to the previous system of judicial review.

Secondly, impact on the stability of court decisions. In other words, multiple reviews of the same judicial act negatively affect:

- the finality and legal certainty of court decisions;
- the stability of civil turnover;
- the timely enforcement of judgments.

One of the main objectives of civil proceedings is the prompt and effective protection of violated rights. Excessive review mechanisms may undermine this objective.

Thirdly, limited access to the Supreme Court Presidium. When cases are reviewed under the supervisory procedure by the Presidium of the Supreme Court, the parties do not have the right to submit complaints directly to the court.



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This limitation may restrict the effective exercise of their right to judicial protection.

As a systemic solution, it is proposed to establish specialized regional supervisory courts, separate from intermediate-level courts. Ferghana Regional Supervisory Court – for Fergana, Andijan, and Namangan regions; Tashkent Regional Supervisory Court – for Tashkent city, Tashkent, and Syrdarya regions; Samarkand Regional Supervisory Court – for Samarkand, Jizzakh, Bukhara, and Navoi regions; Kashkadarya Regional Supervisory Court – for Kashkadarya and Surkhandarya regions; Urgench Regional Supervisory Court – for the Republic of Karakalpakstan and Khorezm region.

Regional supervisory courts may include:

- Presidium;
- Judicial panel for civil cases;
- Judicial panel for criminal cases;
- Judicial panel for economic cases;
- Judicial panel for administrative cases.

They would consist of a chairperson, deputy chairpersons (panel heads), and judges. This model would ensure compliance with the “one court – one instance” principle; reduce the workload of the Supreme Court; enhance the stability and finality of judicial decisions.

The supervisory review should be applied only in cases of serious violations of substantive or procedural law on the basis of clearly defined admissibility criteria within strict time limits. This would strengthen its nature as an exceptional legal remedy.

It is advisable to grant parties the right to submit complaints directly to the Presidium of the Supreme Court. This would enhance access to justice; ensure procedural equality; strengthen guarantees of judicial protection.

Before describing a supervisory instance, it is important to consider the meaning of the word supervision. The word "control" means the constant observation of an action, the state of something, the course of action, a person's behaviour, and so on. The supervisory body was an institution introduced during the Soviet era



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and incorporated specific aspects of Soviet law. In Soviet law, the institution of control played an important role not only in the judiciary, but also in the activities of other bodies. If we look at the date of introduction of the supervisory instance, we can be sure that it was introduced to control the activities of lower courts. Control over the activities of the courts is exercised in two different ways. The first is procedural supervision, which is the supervisory instance. The second is control, which is done in an organizational way. Soviet scholars point out that the main purpose of the supervisory instance is to correct the erroneous decisions of the lower courts, that is, to eliminate errors in judicial practice and, in turn, to generalize judicial practice.

Initially, cases in the supervisory instance were heard only on the initiative of the President of the Supreme Court and the Prosecutor General. The main reason for this was that the main purpose of reviewing cases was not because the parties were dissatisfied with the court decisions, but to correct errors in lower court decisions.

The supervisory review of civil cases plays an important role in ensuring the legality, validity, and fairness of judicial decisions. However, the current system does not fully comply with the “one court – one instance” principle; may negatively affect the stability and finality of judicial acts; creates procedural complexity. The establishment of regional supervisory courts and the clear regulation of supervisory review as an exceptional mechanism would contribute to the consistent development and effectiveness of civil procedural legislation.

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