



Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan “On Certain Issues Regarding the Application by Courts of First Instance of Procedural Law Rules in Considering Administrative Cases”

Related to the adoption of the Republic of Uzbekistan Code of Administrative Procedure, and related to issues arising in court practice, and for the purpose of ensuring the consistent and correct application of legal rules by courts of the first instance, governed by Article 17 of the Republic of Uzbekistan Law on the Courts, the Plenum of the Supreme Court of the Republic of Uzbekistan hereby resolves:

1. That the attention of the courts must be directed to the necessity of strictly complying with the legal process for administrative cases established by the rules of procedural law, and the necessity of improving the quality of their consideration, handing down in every case a lawful and well-justified decision.
2. In accordance with Article 40 of the Republic of Uzbekistan Code of Administrative Judicial Procedure (hereinafter, the CAJP), the parties to an administrative matter are:
 - the petitioners, the citizens, or legal entities filing claims in defense of their rights and legally protected interests or in the interests of whom claims are filed;

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“Bulletin of the Supreme Court of the Republic of Uzbekistan” (2018), no. 3.
Translated by Shelley Fairweather-Vega.

- the respondents, the administrative bodies, bodies for citizen self-government, or their officers against whom particular claims are filed.

Administrative bodies are understood to include government agencies, as well as other organizations authorized to exercise administrative or legal functions (Clause 2, Part 1, Article 27, CAJP).

3. Administrative courts have under their jurisdiction cases relating to disputes arising from administrative and other public legal relationships, and particularly cases:

- disputing the departmental normative-legal acts of administrative bodies;
- disputing the decisions of administrative bodies and bodies for citizen self-government that violate the law or violate the rights and legally protected interests of citizens or legal entities;
- disputing the acts or omissions of the officers of administrative bodies and bodies for citizen self-government which violate the law or violate the rights and legally protected interests of citizens or legal entities;
- disputing the actions (or decisions) of electoral commissions;
- disputing a refusal to exercise notary functions;
- disputing the acts or omissions of a notary;
- disputing a refusal to register civil status documents;
- disputing the acts or omissions of an officer of a civil status registration agency;
- appealing a denial of government registration or a delay in government registration with respect to an established deadline.

Administrative courts do not have under their jurisdiction cases relating to disputes, whether arising from administrative or other public legal relationships, which are classified by law as under the jurisdiction of the Constitutional Court of the Republic of Uzbekistan, civil courts, economic courts, or military courts.

If a petition is submitted to invalidate an act by an enterprise, organization, or institution which is not an administrative body, or regarding an illegal act or omission by an officer thereof, or if a petition (or complaint) is submitted with respect to an administrative body but the act in question arises out of employment relationships, then that claim is not under the jurisdiction of the administrative court.

When several related claims are combined, some of which are under the jurisdiction of the administrative court and others of which are under the jurisdiction of a civil court, then all the claims are subject to consideration in the civil court (Part 4, Article 26, CAJP).

4. Courts must keep in mind that cases regarding complaints regarding decisions or the acts or omissions of government agencies and the officers thereof, which are made or committed in compliance with the Republic of Uzbekistan Code of Administrative Violations or the Republic of Uzbekistan Criminal Procedure Code, are not under the jurisdiction of the administrative court. When such a petition (or complaint) is filed, the judge must decline to accept it in accordance with Clause 1 of Part 1 of Article 133 of the CAJP. If the petition (or complaint) has been accepted for consideration, then the consideration of the case is terminated in accordance with Clause 1 of Part 1 of Article 108 of the CAJP.
5. Courts must keep in mind that according to Article 36 of the CAJP, only legal entities are able to exercise their rights and responsibilities in court. As a result, the court does not have the right to accept a petition (or complaint) from an individual division (or branch or representative office) of a legal entity if it lacks a power of attorney from that legal entity. Such a petition (or complaint) is subject to return in accordance with Clause 3 of Part 1 of Article 134 of the CAJP, and if it has been accepted for consideration, may be dismissed in accordance with Clause 2 of Article 105 of that Code.

In complaints about the acts or omissions of an officer of an administrative body or body for citizen self-government, the legal entity for which an act or omission by its officer is in question must be indicated as the respondent in the petition, as well as the officer.

6. In resolving a case disputing a departmental normative-legal act, the court must bring in, as a respondent, the Ministry of Justice of the Republic of Uzbekistan, the body which carried out its government registration.
7. More than one related claim, of which some are under the jurisdiction of an administrative court and the others are under the jurisdiction of a civil court or economic court, may not be combined.

In such cases, in accordance with Clause 2 of Part 1 of Article 134 of the CAJP, the petition (or complaint) is subject to return, and if it has been accepted for consideration, then proceedings are terminated for the portion of claims not under the jurisdiction of the administrative court (Clause 1, Article 108, CAJP).

8. Under Part 1 of Article 128 of the CAJP, a petition (or complaint) on behalf of a legal entity must be signed by its director or representative. In this case, a signature made using mechanical means or other forms of copying is not permitted, except in cases stipulated by law.

A person acting as the director of a sole executive body may sign a petition (or complaint), but in this case documents confirming his status must be attached to the petition (or complaint).

If the organization is managed collectively, then a document confirming the authority of the individual to sign it must be attached to the petition (or complaint).

On behalf of an organization being liquidated, a petition may be signed by the chair of the liquidation commission.

9. The petitioner has the right to combine, in one petition (or complaint), several related claims. If the claims are not related, the court shall hand down a decision regarding the return of the petition (or complaint) in accordance with Clause 7 of Part 1 of Article 134 of the CAJP. If the petition (or complaint) has been accepted for consideration, the court, in accordance with Article 138 of the CAJP, shall consider those claims by separating them for individual consideration.
10. Courts must keep in mind that the list of justifications for returning a petition (or complaint) stipulated in Part 1 of Article 134 of the CAJP is not subject to broad interpretation.

If, after accepting a petition (or complaint) for consideration, justifications are discovered for returning it according to Clauses 3 and 4 of Part 1 of Article 134 of the CAJP, the court shall accordingly dismiss the petition (or complaint) (Clause 2, Article 105, CAJP), and hand down a decision regarding transferring the case for consideration to another administrative court (Clause 1, Part 2, Article 34, CAJP).

11. To a petition (or complaint) from the Republic of Uzbekistan Chamber of Commerce and Industry or its regional directorates, which is filed in the interests of a member of the Chamber, there must be attached the

membership agreement signed by the business enterprise and the Republic of Uzbekistan Chamber of Commerce and Industry. If this requirement is not met, then the petition (or complaint) may be returned on the basis of Clause 3 of Part 1 of Article 134 of the CAJP, and if this circumstance is discovered after the acceptance of the petition (or complaint), then it may be dismissed (Clause 2, Article 105, CAJP).

12. It must be explained to courts that the procedural law contains no rule stipulating the transfer of a case by an administrative court to a civil court or economic court. As a consequence, in the event that a dispute is outside the jurisdiction of the administrative court, it must refuse to accept the petition (or complaint) for consideration, and if it has already been accepted for consideration, it must terminate proceedings on the case.
13. Justifications for refusing to accept a petition (or complaint) are stipulated in Article 133 of the CAJP and are not subject to broad interpretation. In the event that justification for refusing to accept the petition (or complaint) is discovered after the petition (or complaint) is accepted for consideration, then consideration of the case may be terminated on the basis of Article 108 of the CAJP.
14. Courts must keep in mind that until the initiation of an administrative case, the court has no right to take measures to secure evidence (Article 89, CAJP), issue court orders (Article 90, CAJP), or provide for provisional remedies (Article 94, CAJP).

Judges have the sole right to decide whether to accept a petition (complaint) for consideration and initiate a case.

15. It must be kept in mind that preparing a case for court consideration is an important stage in the process, which ensures its timely, complete, and correct consideration and resolution.

The on-time and high-quality preparation of a case for court consideration provides the court with the ability to do the following:

- define the legal relationship between the parties and identify the law which must govern the resolution of the case;
- specify the facts underlying the parties' claims and objections, as well as other facts that have bearing on the correct resolution of the dispute;

- identify the evidence necessary to resolve the dispute, for the purpose of ensuring it is provided for court consideration in a timely manner;
- ensure the necessary evidence is provided to the parties to the case and to other parties participating in the case;
- to resolve the issue of which parties are able to participate in the case;
- to resolve the issue of provisional remedies and measures to secure evidence.

In accordance with Part 2 of Article 140 of the CAJP, the list of actions to prepare a case for court consideration is not exhaustive, and a judge may also take other actions intended to ensure the correct and timely resolution of the dispute.

Rulings regarding the preparation of a case for court consideration and other rulings handed down in connection with those preparations do not preclude further movement of the case and are not subject to appeal.

16. A court's ruling regarding the preparation of a case for court must indicate whether a court hearing may be held by means of video conferencing and must be sent to the parties participating in the case and to the court that may cooperate in holding such a hearing.
17. The court shall inform the parties participating in the case about the time and place of the court hearing according to the procedure stipulated in Article 124 of the CAJP.

If the respondent fails to appear in court and has been notified according to the established procedure regarding the time and place of the court hearing, then in every such instance the question of whether it is possible to consider the case without his participation is subject to discussion, taking into account the reasons for his failure to appear and the particularities of the case.

18. The provisional remedies indicated in Article 93 of the CAJP, if failure to implement them would complicate or preclude the protection of the rights, freedoms, and lawful interests of the petitioner, may be implemented at any stage of the court proceedings.

By motion of the parties participating in the matter, the court may rescind provisional remedies, including before a decision to deny a claim enters into legal force, by following the procedure stipulated in Part 2 of Article 98 of the CAJP.

19. The petitioner's right to change the justification or the subject of his petition (or complaint), stipulated in Part 1 of Article 136 of the CAJP, may be exercised in a court of first instance up until the time a decision is made. This rule is not applicable during the consideration of a case at other instances.

Changing the subject of a petition (or complaint) means changing the petitioner's material and legal claims against the respondent.

The justification and subject of a petition (or complaint) may not be changed simultaneously (Part 3 of Article 136 of the CAJP).

20. In accordance with Part 1 of Article 58 of the CAJP, legal entities' cases are managed in court by their constituent bodies within the limits of the authority provided to them by law or by their founding documents.

Representatives of legal entities manage cases in court within the limits of the authority indicated in the powers of attorney issued to them. A representative's power of attorney may specifically stipulate his authority to take the actions stipulated in Part 2 of Article 62 of the CAP. If such authority is not indicated in the power of attorney issued to the representative, then the representative may take procedural actions except those stipulated in the relevant rule of the law.

21. An order issued to an organization of attorneys (or a law office or firm) provides an attorney only with the right to take the actions stipulated in Part 1 of Article 62 of the CAJP in the interests of the party applying for legal assistance. The authority of an attorney to take procedural actions stipulated in Part 2 of this Article must be stipulated in the power of attorney issued to him by the party he represents.

22. It must be explained to courts that the institution of terminating consideration of a case is one form of ending the consideration of a case without handing down a ruling on the merits of the dispute. The list of justifications for terminating consideration of a matter stipulated in Article 108 of the CAJP is exhaustive and is not subject to broad interpretation.

23. When it establishes the circumstances stipulated in Article 105 of the CAJP, the court dismisses the petition (or complaint), and rules accordingly. In rulings handed down in accordance with Article 106

of the CAJP, there should be an explanation of ways to rectify the circumstances preventing the consideration of the case and serving as the justification to dismiss the petition.

24. If a petitioner who has been informed of the time and place of a court hearing according to the established procedure does not appear at the court hearing and has not provided his consent for the case to be considered in his absence, then in accordance with Clause 3 of Article 105 of the CAJP, the petition (or complaint) is dismissed.

Courts must keep in mind that if the petitioner participated in the court of first instance, but did not participate in subsequent hearings, the petition (or complaint) may not be dismissed.

25. It must be explained to courts that the rules stipulated in Part 1 of Article 20 of the CAJP do not extend to cases of the overturning of rulings regarding the dismissal of petitions (or complaints) and the return of petitions (or complaints).
26. For the purpose of increasing citizens' legal literacy, it is recommended that after releasing a court ruling, courts should explain its meaning and the reasons underlying the adoption of the court ruling.
27. In considering cases, courts must pay attention to the causes and conditions contributing to the arising of disputes in the area of administrative-law relationships.

When considering a case, if it is discovered that a government agency or other body, a legal entity, an officer or a citizen violated the law, then the court may issue a special ruling regardless of their participation in the case. If their actions are found to contain material elements of an offense, the court shall communicate this fact, attaching relevant materials, to a procurator to consider initiating a criminal case.

A special ruling shall be announced at a court hearing and recorded in the minutes.

Chair of the Supreme Court of the Republic of Uzbekistan

K. KAMILOV

Secretary of the Plenum and Judge of the Supreme Court of the
Republic of Uzbekistan I. ALIMOV

City of Tashkent,

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