



Improve the legal status of the parties in the institute of appeal courts arbitrage of the Republic of Uzbekistan

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Abstract

In this article the author to control the economic decisions of the court proceedings court of appeal instance, one of its specific characteristics, in particular, the history of its development and other court instance difference, the legal status of the parties, rights and obligations associated with the legal and procedural aspects of the study and the relevant national legislation suggestions.

Keywords: court, the economic process, appeal, appeal protest

Introduction

Rights and freedoms, and to guarantee the legal protection of the human rights violations as a priority of reforms. Under market economy conditions, the economic relationship between the participants of the different types of legal relations and the settlement of disputes that may arise as a result of these issues of legal regulation of relations in the sphere of our attention to the first days of independence. Business structures, different types of enterprises and institutions, in general, the legal relationships between persons possible specialization of courts and special courts - courts have been established and they are assigned to the task of implementation of the resolution of disputes, access to justice confirmed. In this regard, the President of the Republic of Uzbekistan in the first said: "The democratic renewal of the country is one of the most important step is to strengthen the rule of law, protection of rights and interests aimed at the gradual democratization and liberalization of the judicial system. In a word, a law-governed state and nurturing legal awareness and awareness remains a crucial task for us"^[1].

To appeal court decisions on the history of the emergence and development of the institution testifies to the appeal likely he or she is linked with the level of development of the state. According to E.A. Borisova appeal to every one of the people from the realities of life^[2].

The first phase of the development of the state public institution in which the people of the court. He said an independent report of its activity. First, there is no central government in general, and then the power of the court to check the activities of their institutions through its weakness. That is why the court decision is not final form and there is no appeal.

The authority of the central state of continuous development and escalation of the court lost its independence, and has become a kind of state power. It should be noted that, during the state of development of this appeal were not available, but a decision on the complaint to the possibility of a correction by the court, the court's decision in the second, but the decision adopted by the court, was aimed at the cancellation of this decision.

Appealed control of the central government to subdue the people's court, or even in his hierarchy of submission of his institution, and that the lower courts to the higher level of strengthening the level of replacing the system of subordination of the courts could lead to leading.

According to V.R. Topildiev in ancient Rome to make a complaint on the decisions made by the state court did not, however, appeal to the decisions of the court-party destinations on the basis of the decision of the court, the legal effects and the action in the first mode or such motion or contact^[3].

Ancient Roman Empire appealed only came into existence after the establishment of the empire. Prior to any decision of the master People's Court following the cancellation.

The highest official of the emperor of the Roman Empire to the highest state authorities of all types, including the judicial authorities of both together.

At the end of the third century, the Roman Empire instance the judicial system and the decisions of the lower courts are able to make the complaint to the higher court. Please consider a complaint on appeal (Latin appellare call), the process of reviewing the decision adopted the appeals process, was renamed.

According to many publications, from the right of appeal was in the French^[4]. The concept of appeal in France is about to arise in the XIII century. During this period, an appellate judge from the personal character was used as an injustice to blame. The judge was to protect their own weapons in the hands of the decision. These rules and the protection of their rights with the weapons in the hands of the judge's fighting was established in 1270 by the appellate courts, determined by the Establishments de Saint Louis. In 1667 with the production of Ordonans not an appellate judge on the court decision on the claim. 1579 against the orders of the king, Henry III in order determined by the lack of any real decision^[5].

In 1796 by the decisions of the courts of first instance and appeal in this instance it was the first attempt to consider. However, a lot of time to consider the content of the work without the establishment of two court decisions, and the courts of appeal as the second instance and the full year 1810 they formed.

To resolve disputes on November 20, 1991, the first legal document "On arbitration courts and the procedure for resolving disputes," the law. Although the law on September 2, the Supreme Council of the Republic of Uzbekistan and void in accordance with Decree No. 925-XII, however, to resolve disputes on a number of important rules. This law is "how to check the validity of the legal and the decision" to solve economic disputes in chapter XI of the provisions concerning the review of the decision. In particular, in accordance with Article 133 of this law, the decision of how to check the validity of legal and arbitration board consisting of three judges examine the validity of the legal and the decision of the arbitration court. These results indicate that the decision by a majority of votes. No decision of the investigating body to control the decisions of the courts of arbitration in the arbitration court by the chairman or his deputy.

Vice-Chairman of the Court of Arbitration decision may be reviewed by the chairman.

December 8, 1992, article 111 of the Constitution of the Republic of Uzbekistan in the commercial courts enshrined in the rules.

December 14, 2000, the new edition of the Republic of Uzbekistan "On Courts" as defined in section 3 of the Law courts jurisdiction, the appeal of Karakalpakstan, Tashkent city and regional courts is taken. According to Article 52 of this Act, the Judicial Board of the Supreme Economic Court of the Republic of Uzbekistan for the first instance and cassation procedure. In accordance with Article 57 of the Law on "The Economic Court of the Republic of Karakalpakstan, regional and Tashkent city court cases within its jurisdiction as a court of first instance and the appeal procedure."

The basic rules of appeal provided by the Economic Procedure Code of the Republic of Uzbekistan. Prior "decision" - called Section 21 SECTION 3, "Appellate proceedings" to work, and the court of appeal on Article 17. Articles appeal (protest) the right to appeal (protest) the duration and content of the appeal (protest) persons who participated in the study, a copy of the appeal (protest) on the written appeal (protest) in the face, appeal (protest) to get to work on the ruling, and the appeal procedure of the case, the court of appeal to cancel or modify the decision of the powers of principles, rules and regulations, such as the decision of the appeal instance.

Citizens and legal entities entered into legal force in case of disagreement with the decision of the court of first instance, their rights and legitimate interests of the cassation instance, the ability to protect the direct presence of his lawyer. This, in turn, timely correct the errors made by the courts of first instance, the court has become an important guarantee and avoid the red tape. This situation can be seen in the practice of the court.

Economic proceeding by the appellate court of the first instance decision has not come into legal force, and to review the rulings appeal instance. In addition, the Institute of the appeal court proceeding is listed as a separate stage. Appeal considers the complaint to the appellate court of appeal. The Republic of Uzbekistan "On Courts" in accordance with Article 57 of the Law of the Economic Court of the Republic of Karakalpakstan, regional and Tashkent city court: matters within its jurisdiction as a court of first instance and on appeal.

The economic purpose of the appeals process and the rationale to check the legality of the decisions of the court. Court appeal judges collegial case on the Rules of the Court of First

Instance. The economic court of appeal or a combination of several requirements to separate the basis of the claim or to change the subject, change the size of the claims, filing a counter-claim, the respondent applied rules on the involvement of third parties. Appeal proceedings and in the appeal instance view is based on the nature of the content, you can highlight the following specific signs:

- appealed the court decisions did not come into legal force;
- The appellant received the document submitted by the Economic Court;
- The appeal of the second instance and collegial manner;
- Refers to the wrong decisions of the court of first instance and the filing of appeals in this case by a court of law or practice mode is set to the wrong materials or for supporting the wrong party who provided incomplete data;

According to the appellate court examines the legal and factual aspects of the material;

- Once in each of the appeal;
- The case will be within the powers of the Court of Appeal can only appeal;
- The case study and provided additional evidence;
- In addition to the economic court of appeal instance (new) evidence, if the applicant is not available for the submission by the court of first instance is based;
- Is the subject of proceedings of the court of first instance cases considered to be the subject of appeal instance ^[6].

Some of the unique features of the appeal proceedings pursuant to the principles limited. For example, oral disputes, etc.

Thus, the economic rights of interested parties in the conflict participants are not only the first instance court, as determined in accordance with the civil works of civil proceedings, with some exceptions, are protected by the courts. Consideration of such an order is the first case to be included in the court of material and procedural norms of human rights law or the complexity of the facts of the case, unless the basis for other reasons as well.

The high courts, the courts had acted within their authority shall be obliged to check the legal validity of the decisions he has made.

The Court of Appeal when the court of first instance as you needs to understand the procedural order. The Court of Appeal sent to the high courts like to see a new job and must decide on his own ^[7].

This place is important to note that, based on the practice court is the court of appeal with the rules concerning the terms of reference. Plenum of the Supreme Economic Court of the Republic of Uzbekistan No. 173 of December 28, 2007, "the appellate court has examined the application of the Economic Procedural Code of the Republic of Uzbekistan" according to the resolution of the complaint (protest) period begins the day after the date of the decision of the calculation. Appeal (protest) time is missed; the complaint (protest) can be restored by the court on the petition of the person. The petition of appeal (protest), the person who sent the applicant missed the deadline of the reasons and must be substantiated. The petition for complaints (protests) can be described in a separate application or appeal (protest) should be given at the same time.

Analysis of the positive aspects of the appeals introduction of this institution to highlight a number of important cases.

First of all, the appeal of the Institute to ensure better

implementation of the right to judicial protection, because it allows you to view the contents of the appeal case for the second time. In addition, the lack of results of the decision of the court of first instance, the decision reviewed by an experienced and qualified judges, the judges participated in the study to be free of local influences and an important spiritual significance for society as a whole to apply for and belief in the power of the law.

Second, the appeal of justice and the implementation of the Institute to ensure speed and accuracy.

Third, the court of appeal against acts of complaints in the first instance courts to serve as a line, and in turn, this leads to a reduction of judicial errors.

You may say the court of appeals, proceedings of these institutions that guarantee the fairness of court decisions and ensure the high level of protection of the rights and interests of the persons concerned. This, in turn, human rights and freedoms are the highest value of the developed democratic principles of human rights in the country.

At the same time, the appellate court violated the right protection (in contrast to the cassation instance) is due to be revised taking into account the slow implementation of it. However, the appellate review of the case study participants to link the new facts, new evidence (of the manner specified limits), the Court of Appeal of the evidence presented in this case and other materials analysis and allows you to accept the result of his decision. In addition, every time the appeals court does not consider the case is totally different. If you have complained about the decision of the court completely, and said part of the appeal.

In general, compared to other types of complaints against the decisions of the court at the appeal of its positive and negative aspects. However, other methods of complaints against the decisions of the court of appeal can not deny the positive aspects of economic activity, the Institute should be noted that [8].

Categories appeal instance, should be the final step of the process. Administrative court proceeding on particular categories of cases appealed in the number of appeals to be short of international standards and the implementation of the provisions of this procedure will allow the economy to [9].

Foreign law and legal practice in the decisions made as a result of the economic process, the rulings provided for in the rules to apply to the Appeal instance. In particular, the Austrian legislation provides for appeal proceedings to verify the nature of the conflict is not a new process and then not be seen for the first time identified deficiencies. An appeal by the court of first instance, and it should be given a period of 4 weeks. Entry into force of the decision of the appellate court complaint and the execution is suspended until a decision appeal. Austria, in 2007, 19.4% of the case on appeal and most of them are left unchanged [10].

The Republic of Belarus from January 1, 2014, the general courts and the courts combined into a single system [11]. According to I. Martynenko that the right of appeal proceedings following participants of the legal proceedings:

- 1) Persons participating in the case;
- 2) Not to participate in the study but not involved in the case, but accepted the decision of the court on the rights and obligations of persons and this is a violation of their legitimate rights and interests of individuals;
- 3) involved in the case as well as the state share in the

authorized capital of legal entities, as well as the prosecutor appealed in order to protect the interests of the state and society;

- 4) The representative of the person, if he has an attorney to appeal against the decision of the court has the right to appeal;
- 5) The procedural legal succession occurs, the legal heirs of the persons participating in the case [12].

This is not a case of procedural law, the author of the work and the persons who have the right to appeal. However, the main part in the appeal proceedings and place the claimant and the respondent status, rights and obligations as well as to participate in this stage of the distinctive features. In particular, the appeal (protest) the person making the complaint and attached to other persons participating in the case, these individuals will send copies of the documents, the person involved in the case, appeal (protest) received a copy of his written opinion on the case and a copy of the written opinion other persons to confirm the evidence of consideration of the appeal to be sent to the court within days to ensure economic right, is due to additional evidence that the applicant was not able to provide the court of first instance in which court to receive additional evidence, the Court in the first instance the new requirements will not be accepted and the court of appeal, will not be considered important.

Civil Procedure Code, the court of appeal is the function of the provisions of Chapter 37, including persons involved in the case of Article 337 concerning the consequences of the court session appearance norm. Economic Procedure Code, this provision does not exist. That's why 21 of the IPC in accordance with the purpose of the relevant amendments to the following chapter.

165¹- Article. In this study, the effects of the participating entities shall appearance

If you come to the hearings that none of the persons participating in the case, and the case has been properly notified about the time and place of the information is not available, the court adjourned the case.

Participating in the case, related to the time and place of the proceeding, it is not a barrier to individuals not the case. However, even in such cases, the court failed to do if it finds an excuse to put the right.

The prosecutor or the attorney fails to appear before the court ruling, and it is superior prosecutor or the Chamber of Advocates of the Republic of Uzbekistan, the regional qualification commission.

Legal literature, the study of the rights and obligations of the parties in the appeal stage. According to E.A. Treshcheva business process and appeal on the issue of the parties litigation stage and the attention to the change in the size of their rights and obligations. In his opinion, written complaint (appeal) but not as the rights of the parties as to give a written opinion on the statement of claim should be mandatory. The appeal court proceeding allows the parties to strengthen the principle of litigation [13].

This is the opinion of the author song. We believe that the economic protection of the rights of the parties to the proceedings are free, and the implementation of specific actions. To protect the economic rights of the parties in the proceedings of subjective rights, which are expressed in the statement of claim against the party or deny the claims

acknowledge that there is no connection know of. For example, a claim by the written comments on the request of the court to settle the sake of his work to the detriment of its legal effect or be challenged by the plaintiff cannot satisfy the demand. In this case, the violation of the principle of justice. Therefore, in any case, the appeal court examined in accordance with the requirements of the law and the arguments of the same, regardless of the primary responsibility to respond to him to be legitimate and fair decision. After all, the economic process based on the will of the parties the right to protection can be carried out or performed. In this approach, the written stage of the appeal of the respondent, the mind must be contrary to the subjective rights and the fundamental principles of the economic process, and such a request does not correspond to the content of the subjective right to protection.

In view of the above, the appeal instance can highlight the following features: appeal court decisions and have not submitted the relevant documents adopted by the Economic Court; the second instance of appeal and collegial manner; appeal (protest) to transfer refers to the wrong decisions of the court of first instance, and in this case by a court of law or practice mode is set to the wrong materials or for supporting the wrong party who provided incomplete data; According to the appeals court examines the legal and factual aspects of the material; once in each of the appeal; The powers of the court of appeal of the case is only part of the appellant's complaint; the case study and provided additional evidence; in addition to the economic court of appeal instance (new) evidence, if the applicant is not available for the submission by the court of first instance is based; the circumstances are not the subject of proceedings of the court of first instance considered the subject of the appeal instance.

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