

Legal Grounds for Initiating Civil Proceedings to Protect the Rights of Other Persons and Issues of Their Improvement

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Abstract: The article examines, under the civil procedural legislation of the Republic of Uzbekistan, the authority of state administration bodies, local self-government bodies, organizations, and certain citizens to apply to the court, and the grounds for initiating proceedings, for the purpose of protecting the rights of other persons. The theoretical-legal nature of this institution is revealed, and its substantive-legal and procedural-legal grounds are classified. A comparative analysis is carried out with the civil procedural legislation of a number of member states of the Commonwealth of Independent States. Based on the analysis, specific proposals are put forward for improving certain articles of the current Civil Procedure Code.

Keywords: Civil procedure, protection of the rights of other persons, authority to apply to the court, grounds for initiating proceedings, state administration bodies, prosecutor, class action, procedural rights and obligations.

Introduction: The initiation of civil cases is considered the initial and independent stage of civil procedure. At this stage, a person's right to apply to the court is exercised, and the legal grounds necessary for the commencement of proceedings are formed. Ordinarily, any interested person applies to the court independently to protect a violated or disputed right. However, in some cases a person is objectively unable to protect their right independently. In such situations, the legislation grants state administration bodies, local self-government bodies, organizations, and certain citizens the authority to apply to the court in defense of the rights of other persons.

Articles 15 and 7 of the Constitution of the Republic of Uzbekistan establish that state power is exercised in the interests of the people. The participation of state bodies in civil proceedings in defense of the interests of other persons is regarded as a practical manifestation of this constitutional function. It is precisely for this reason that legal literature recognizes such participation as one of the important manifestations of democracy.

In recent years, reforms in the fields of constitutional and administrative law determining the structure and

powers of state bodies have further increased the relevance of a thorough study of this institution. An analysis of the practice of courts of general jurisdiction shows that certain theoretical and practical issues related to initiating proceedings to protect the rights of other persons remain insufficiently substantiated. In particular, there are discrepancies in scholarly-legal approaches regarding the procedural legal status of these subjects, the forms of their participation, and the scope of their powers. This, in turn, leads to the formation of differing approaches in judicial practice.

The purpose of the article is to systematically examine the authority to apply to the court and the legal grounds for initiating proceedings for the purpose of protecting the rights of other persons, and to develop scientifically substantiated proposals for improving the current Civil Procedure Code.

METHOD

1. The legal nature of the authority to apply to the court for the purpose of protecting the rights of other persons.

Article 52 of the Civil Procedure Code of the Republic of Uzbekistan provides for two forms of participation in civil proceedings by state administration bodies,

organizations, and certain citizens protecting the rights of other persons. In the first form, such subjects apply to the court with a statement of claim to protect the rights and legitimate interests of other persons in cases provided for by law. In the second form, they are involved by the court to give an opinion on a case in order to fulfill duties assigned to them, or they enter the proceedings on their own initiative.

Legal literature indicates that the difference between these two forms lies in the following: in the first form, the claim is submitted solely for the purpose of protecting the rights and legitimate interests of another person, whereas in the second form the opinion may also be given for the purpose of protecting the interests of the state and society.

As for the structural characteristics of this institution, a number of distinctive features stand out. First, initiating a claim or giving an opinion for the purpose of protecting the rights of other persons is permitted only in cases specifically indicated by law. Second, Articles 52 and 53 of the Civil Procedure Code are regarded in legal literature as norms of a "blanket" nature, since their application always depends on a special indication in other legislative acts. This rule is clearly confirmed by a case in judicial practice in which the court refused to accept an application from a trade union committee seeking to have a normative legal act declared invalid, since although trade unions are entitled to bring claims in defense of labor rights, they do not possess such authority with respect to normative acts.

As M.M. Mamasiddikov fairly notes, unlike a prosecutor, who has the right to initiate any civil case, state administration bodies have the right to initiate civil proceedings only in cases specifically indicated by law. For this reason, before accepting an application, the court always verifies whether the applying body possesses the relevant authority.

Based on the foregoing, it can be concluded that the legal basis for initiating proceedings to protect the interests of other persons requires the simultaneous presence of two structural elements. The first element is that the person whose right is being protected must themselves possess the right to bring a claim. The second element is that the subject applying to the court must be clearly and directly authorized to do so by law. If the law does not grant such authority to a state body, the court returns the application in accordance with Article 195 of the Civil Procedure Code; if this circumstance is discovered after the proceedings have been initiated, the application is left without consideration under Article 122 of the Civil Procedure Code.

2. Substantive-legal and procedural-legal grounds for

initiating proceedings. One of the main conditions for initiating claims in court is correctly determining the range of persons entitled to apply to the court. Although Articles 50-52 of the Civil Procedure Code establish, in general terms, the authority of the prosecutor, state administration bodies, organizations, and certain citizens to apply to the court, the specific category of persons in whose interests they may apply is fixed in other special laws.

An analysis of the current legislation shows that there are a number of conditions for state administration bodies and bodies of citizens' self-government to apply to the court. The first condition is that the relevant body must be expressly authorized to do so by legislative acts. The second condition is the existence of a violation of a right, or the threat thereof, giving grounds for the application. The third condition is that the action of the applying body must be directed at protecting the interests of a specific person or of society. At the same time, the application submitted must meet the requirements as to form and content established by civil procedural legislation.

The participation of the prosecutor occupies a special place within this institution. According to Article 50 of the Civil Procedure Code, the prosecutor participates in court proceedings only in cases provided for by law, as well as for the purpose of protecting state interests in cases related to land relations, state property, compensation for damage caused to the state, and budget recoveries. Article 51 of the Civil Procedure Code equates the prosecutor's status to that of a claimant but exempts them from the obligation to conclude a settlement agreement and to pay court costs. This circumstance demonstrates that the prosecutor's activity is of a public, rather than a personal, nature.

Articles 40 and 53 of the Civil Procedure Code establish the procedural rights and obligations of state administration bodies, organizations, and certain citizens. They enjoy the general rights of participants in proceedings, such as familiarizing themselves with case materials, presenting evidence, submitting motions, and appealing court decisions. At the same time, they have the right to support the claims stated or to withdraw them. Under an important rule, the withdrawal of the claim by these subjects does not restrict the right of the interested person to demand that the case be considered on the merits. This procedure is considerably more precise than the corresponding norm under Article 44 of the previously effective Civil Procedure Code.

Summarizing the grounds for initiating proceedings, they may be divided into two groups. The substantive-

legal ground consists in the existence of a violation of the interested person's right, or a threat thereof. The procedural-legal ground consists in the applying subject possessing the relevant authority established by law. The simultaneous presence of these two grounds constitutes the principal criterion ensuring the legitimacy of the initiation of proceedings and its procedural lawfulness.

3. Comparative analysis with the experience of CIS member states.

The Civil Procedure Code of the Republic of Uzbekistan does not provide for a requirement that subjects applying to the court for the purpose of protecting the rights of other persons obtain the consent of the person whose interests are being protected. In this respect, national legislation differs from the experience of a number of Commonwealth member states.

Under Article 46 of the Civil Procedure Code of the Russian Federation, state bodies, organizations, or citizens have the right to apply to the court to protect the rights of other persons at the request of those persons in cases provided for by law, with the exception of cases involving the protection of the interests of legally incapable persons. A similar norm is fixed in Article 56 of the Civil Procedure Code of the Republic of Kazakhstan, Article 59 of the Civil Procedure Code of the Republic of Azerbaijan, and Article 73 of the Civil Procedure Code of the Republic of Moldova. Article 88 of the Civil Procedure Code of the Republic of Belarus establishes that state bodies and citizens apply to the court at the request or with the consent of the interested person, though Article 85 of the same Code grants state bodies and legal entities the right to apply without consent in certain categories of cases, such as the annulment of adoption, deprivation of parental rights, and recovery of alimony.

Legal literature contains differing views on this matter. According to N.M. Kostrova, current legislation shows a tendency toward expanding the powers of subjects applying to the court in defense of the rights of other persons, which testifies to the fact that civil procedure possesses not only a dispositive but also a public character. Other authors justify the absence of a consent requirement on the grounds that the activity of state bodies is primarily aimed at protecting the interests of the state and society. However, scholars such as V.V. Yarkov and O.P. Chistyakova emphasize that obtaining the consent of the interested person should follow from the principle of free exercise of rights in civil procedure.

Having analyzed these views, it is considered appropriate that, when state administration bodies and organizations apply to the court in defense of the rights

of other persons in cases provided for by law, they should base such application on the written request of the interested person. An exception to this should be reserved only for cases involving the protection of the interests of minors or persons lacking legal capacity, since in such cases the interested person is unable to express consent independently.

4. The institution of the class action and its significance.

Among foreign legal systems, particular attention should be given to the institution of the "group claim," which became widespread in the 20th century, notably in European procedural law. In France, this right to claim was confirmed by the Court of Cassation in 1907 and 1923. The class action allows for the simultaneous protection of public-law interests as well as the private interests of a large group of persons.

Scholars such as H. Schack point out that group claims may infringe upon the right holders' independent right to manage their own affairs. On the other hand, authors who have studied the participation of organizations in public life regard modern organizations as a new manifestation of democracy. The class action enables courts to protect the rights of a group of persons simultaneously, thereby preventing an increase in procedural costs. The introduction of this institution into national legislation would serve as an additional procedural guarantee for persons unable to independently exercise their right to judicial protection.

5. Proposals for improving legislation

An analysis of the current legislation shows that the scope of the right of state bodies and organizations to apply to the court is regulated in a fragmented manner rather than through clear and universal criteria. This circumstance gives rise to differing interpretations in practice. In order to address this problem, it is proposed that Article 52 of the Civil Procedure Code be supplemented with a norm establishing general procedural grounds. Specifically, an application to the court for the purpose of protecting the rights of other persons should be made when the following four conditions are simultaneously present: the interested person's right has been violated or is under threat of violation; the interested person's ability to independently protect their right is limited or absent; the authority of the subject applying to the court is directly provided for by law; and the claims submitted serve the genuine interest of the interested person and do not contradict their consent or legitimate interest.

It is also proposed that Part One of Article 52 of the Civil Procedure Code be supplemented with a requirement to rely on the written request of the interested person,

with the protection of the interests of minors or persons lacking legal capacity established as an exception. As a logical continuation of this, it would be appropriate to introduce into Article 189 of the Civil Procedure Code a provision allowing the application to indicate the interested person's interest and the legal grounds confirming the violated right.

Clarification is also needed regarding the consequences of withdrawing a claim. According to the proposed revision, even if a state body or organization withdraws the claim, consideration of the case on the merits should continue if the interested person or their legal representative does not withdraw the application. Only where the interested person themselves withdraws the application, and provided this does not contradict the rights of other persons, may the court terminate the proceedings. This approach ties the fate of the case to the will of the interested person, thereby more fully guaranteeing their right to judicial protection.

CONCLUSION

The study conducted shows that the authority to apply to the court for the purpose of protecting the rights of other persons is granted not only to the interested person themselves, but also, in cases directly provided for by legislation, to state administration bodies, local self-government bodies, public associations, and certain institutions. In this respect, the violation of a right, or the threat thereof, is required as the substantive-legal ground, while the applying subject's authority established by law is required as the procedural-legal ground.

Unlike the experience of many Commonwealth of Independent States member states, national legislation does not provide for a requirement to obtain the consent of the interested person. In order to close this gap and ensure the primacy of the interested person's will, it is recommended that clarifying norms be introduced into Articles 52 and 53 of the Civil Procedure Code. Furthermore, the introduction of the institution of the class action into national legislation could serve as an additional guarantee for securing the interests of persons unable to independently exercise their right to judicial protection.

The implementation of the proposals set out above will increase the effectiveness of the institution for protecting the rights of other persons, clarify the legal boundaries of the authority to apply to the court, and contribute to ensuring a unified, consistent approach in judicial practice.

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