



**LEGAL ISSUES CONSIDERATION OF CASES INVOLVING FOREIGN
PERSONS**

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ABSTRACT

The article examines the legislative regulation of the legal status of foreign persons in procedural legislation, in particular, issues of arbitration courts and the execution of foreign decisions in the Republic of Uzbekistan. It is concluded that all changes and additions made to the procedural legislation ensure equality of participants in the process and facilitate interaction between countries in the field of legal assistance, strengthening legal guarantees for foreign persons participating in legal disputes on the territory of Uzbekistan.

KEY WORDS

Equality, guarantees, foreign person, legal disputes, openness of justice, arbitration.

Introduction

The trends of active development of procedural law, inherent in all legal systems of the world, are also characteristic of the Republic of Uzbekistan. Such problems of procedural law of the Republic of Uzbekistan as access to court, fair trial, openness of justice, use of new technologies (the so-called "electronic justice"), simplification of judicial procedures, improvement of the judicial system, the system of appeal of court decisions, development of conciliation, are also problems of procedural law of any foreign country¹.

The procedural legislation of the Republic of Uzbekistan is developing quite dynamically. Thanks to the active policy of the current President of the Republic of Uzbekistan, the legislation of the Republic of Uzbekistan has been repeatedly improved in four areas - administrative, criminal, civil and economic legislation. Previously, the procedure for resolving economic disputes was regulated by the Economic Procedural Code, the main provisions of which are largely outdated due to the active

¹ Холиков М. А. Иқтисодий судларда чет эллик шахслар иштирокидаги ишларни кўришни тартибга солувчи ҳуқуқ нормалари //Та'лим фидойлари. – 2022. – Т. 22. – №. 7. – С. 522-532.

development of related legal branches and judicial reform². The creation of administrative courts within the system of courts of general jurisdiction, authorized to consider complaints and applications against the actions and decisions of state bodies and officials, has created the need to review issues of jurisdiction and competence of disputes considered in economic courts.

The Economic Procedural Code includes a number of innovations that were absent from the Commercial Procedural Code. Chapters have been introduced that regulate economic proceedings for individual categories of cases. For example, the principles of economic proceedings, based on international experience, are allocated to a separate chapter. The norms on the independence of judges and the language of legal proceedings are regulated in more detail. It has been established that judicial acts adopted during the trial are drawn up in the same language in which the court session was held. We will not go into detail and analyze all the changes made to the Economic Procedural Code of the Republic of Uzbekistan for the entire period, but will focus on only one section of the Economic Procedural Code of the Republic of Uzbekistan, namely Section III "Proceedings in cases involving foreign persons"³. It should be noted that the consideration of foreign cases is allocated to a separate section; previously, this category of cases was considered according to the general rules of legal proceedings established in the Commercial Procedural Code.

The provisions of this section, based on the generalization of accumulated practice and taking into account the latest theoretical research, have been expanded and improved by the norms⁴. Legal regulation of relations involving the participation of a foreign element, as well as the settlement of disputes that inevitably arise in such relations, certainly require a special approach.

Section III of the Economic Procedural Code of the Republic of Uzbekistan contains three chapters: Chapter 31 corresponds to its title - "General rules for considering cases involving foreign persons", Chapter 32 regulates issues related to the specifics of considering cases involving foreign persons in the Economic Court of the Republic of Uzbekistan, and, quite naturally, there is Chapter 33 "Proceedings on cases of recognition and enforcement of decisions of foreign courts and arbitrations". Some general points related to the resolution of disputes involving foreigners should be noted. Thus, according to Article 245 of the Economic Procedural Code of the Republic of Uzbekistan, which generally reflects the principle of the so-called national regime, foreign citizens, stateless persons, foreign organizations, international organizations have the right to apply to the courts of the Republic of Uzbekistan to protect their violated or disputed rights, freedoms and legitimate interests. According to the Law of the Republic of Uzbekistan "On International Commercial Arbitration", foreign persons engaged in entrepreneurial and other economic activities have the right to apply to arbitration courts in the Republic of Uzbekistan in accordance with international law. This means that these persons are endowed with procedural rights and bear procedural obligations equally with citizens and organizations of the Republic of Uzbekistan. In general form, this principle is enshrined in Article 24 of the Constitution of the Republic of Uzbekistan: "Foreign citizens and stateless persons located on

² Аллаёров, Ж. (2020). НЕКОТОРЫЕ ВОПРОСЫ ПРИМЕНЕНИЯ НОРМ МЕЖДУНАРОДНОЙ ПОДСУДНОСТИ. *Review of law sciences*, (3), 113-116.

³ Babakulovna, I. F., & Yashinbek, I. (2023). Legal issues of the participation of the prosecutor in the economic process: a comparative analysis with the legislation of the Republic of Uzbekistan and the Russian Federation.

⁴ Babakulovna, I. F., Ibraiyimovich, E. B., & Sodikovich, O. S. (2022). Simplified production in the economic process and its features: national and foreign approach. *International journal of professional science*, (5), 42-50.

the territory of the Republic of Uzbekistan are guaranteed rights and freedoms in accordance with the norms of international law. They bear the obligations established by the Constitution, laws and international treaties of the Republic of Uzbekistan."

The Law of the Republic of Uzbekistan dated 04.06.2021 No. ZRU-692 "On the legal status of foreign citizens and stateless persons in the Republic of Uzbekistan" specifies the concepts of foreign citizens and stateless persons. A foreign citizen is a person who does not have citizenship of the Republic of Uzbekistan, who has citizenship and proof of his/her belonging to the citizenship of another state. The status of foreign organizations is determined by the legislation of the states where they are established⁵. If a citizen has several foreign citizenships, his personal law is considered to be the law of the country in which the citizen has his place of residence.

Thus, both the general rules of the Economic Procedural Code and the special rules provided for by laws and international treaties apply to foreign persons⁶. For example, foreign citizens may be exempt from paying court costs; they have the right to conduct a case in court personally or through representatives. In this case, it is necessary to note one feature. Foreign citizens may be represented in courts by consuls of the respective states, and according to consular conventions, a consul may represent citizens of his country without special powers (without a power of attorney).

The extension of the national regime to foreign entities means that they may act in legal proceedings not only as plaintiffs and defendants, but also as third parties, making and not making independent claims regarding the subject of the dispute, participating in cases arising from public legal relations and special proceedings, using the services of representatives and acting as representatives.

However, not only the current Economic Procedural Code of the Republic of Uzbekistan determines the legal status of foreign persons in civil proceedings. The right of foreign citizens to apply to the courts of the Republic of Uzbekistan and enjoy the same procedural rights with citizens of the Republic of Uzbekistan is also enshrined in international acts. The Republic of Uzbekistan is a party to more than 25 bilateral and multilateral interstate conventions, treaties, agreements on mutual legal assistance in civil, commercial, and family matters. According to the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated November 20, 2023 "On some issues of the application of legislative acts in the consideration of cases by economic courts involving foreign persons", clarifications are given that when considering cases involving foreign organizations, international organizations, foreign citizens, stateless persons, including applications for recognition and enforcement of a decision of a foreign court or arbitration, as well as for the execution of an order of a foreign court, economic courts are guided by the Constitution of the Republic of Uzbekistan, the Convention "On the Recognition and Enforcement of Foreign Arbitral Awards" signed on June 10, 1958 in New York, the Agreement "On the Procedure for Resolving Disputes Related to the Implementation of Economic Activities" signed on March 20, 1992 in Kiev, the Convention "On Legal Assistance and Legal Relations in Civil, Family and Criminal Cases" signed on January 22, 1993 in Minsk, the Convention "On Legal Assistance and Legal Relations in Civil, "Family and Criminal Cases", signed on October 7, 2002 in the city of Chisinau, the Convention "On Civil Procedure",

⁵ Худайбердиев, Р. (2022). МАМЛАКАТИМИЗГА ХОРИЖИЙ ИНВЕСТИЦИЯЛАРНИ ЖАЛБ ЭТИШ ВА УЛАРНИ САМАРАЛИ БОШҚАРИШНИ ТАКОМИЛЛАШТИРИШ ЙЎЛЛАРИ. *Iqtisodiyot va ta'lim*, 23(6), 95-100.

⁶ Норбеков, В. (2007). Правовой статус иностранных юридических лиц. *Обзор законодательства Узбекистана*, (2), 44-46.

signed on March 1, 1954 in The Hague, international treaties of the Republic of Uzbekistan on the provision of legal assistance, other legislative acts of the Republic of Uzbekistan, and generally recognized principles of international law."

Thus, the legal status of foreign persons in the civil process of Uzbekistan is regulated not only by internal norms, but also by international legal standards⁷. This ensures equality of participants in the process and facilitates interaction between countries in the field of legal assistance, strengthening legal guarantees for foreign persons participating in legal disputes on the territory of Uzbekistan.

Today, Uzbekistan has agreements regulating issues of recognition and enforcement of court decisions with many European countries – Finland, Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Romania, Bulgaria, Greece, Cyprus, Italy, Belarus, Spain, as well as with Central Asia – Kazakhstan, Kyrgyzstan, Tajikistan.

The main national source at the moment is Chapter 33 of the Economic Procedural Code of the Republic of Uzbekistan. In accordance with Article 248 of the Economic Procedural Code of the Republic of Uzbekistan, decisions of foreign courts and arbitrations adopted by them on disputes and other cases arising in the economic sphere are recognized and enforced by economic courts of the Republic of Uzbekistan, if the recognition and enforcement of such decisions is provided for by the relevant international treaties and the legislation of the Republic of Uzbekistan⁸. The courts should also keep in mind that cases related to the consideration of a petition for recognition and enforcement of a decision of a foreign court or arbitration, as well as the execution of an order of a foreign court, are considered according to the rules of the Economic Procedural Code of the Republic of Uzbekistan, unless otherwise provided for by international treaties of the Republic of Uzbekistan.

In a certain part, the procedure for recognizing or allowing the enforcement of a foreign court decision on the territory of the Republic of Uzbekistan is regulated by international acts, but mainly the provisions of Articles 248-254 of the Economic Procedural Code of the Republic of Uzbekistan are applied, which provide for the form and content of relevant applications, the procedure for their submission and consideration, generalized grounds for rejecting petitions, and others⁹.

The grounds for refusal to recognize and enforce a foreign court decision and a foreign arbitration award are listed in full or in part in Articles 255-256 of the Economic Procedural Code of the Republic of Uzbekistan; the reasons for refusal are presented in a generalized version, according to established world practice, usually included in international conventions, agreements, contracts of the relevant class. An example of refusal may be if the decision of a foreign court has not entered into legal force or its effect is suspended until it enters into force, this may become the basis for refusal¹⁰. In addition, if the party against whom the judgment was rendered was not properly notified of the proceedings and did not have the opportunity to protect his interests, this may also be grounds for refusal.

⁷ Дастамов, К. (2012). Чет эл ҳуқуқи нормалари мазмунини аниқлашнинг айрим муаммолари. *Обзор законодательства Узбекистана*, (3), 61-62.

⁸ IBRATOVA, Feruza B. et al. Legal Issues of Observation – Bankruptcy Procedures Applicable by the Economic Court of Uzbekistan. *Journal of Advanced Research in Law and Economics*, [S.l.], v. 10, n. 1, p. 187-194, mar. 2019. ISSN 2068-696X. Available at: <<https://journals.aserspublishing.eu/jarle/article/view/4343>>. Date accessed: 02 oct. 2024. doi: [https://doi.org/10.14505/jarle.v10.1\(39\).19](https://doi.org/10.14505/jarle.v10.1(39).19).

⁹ Babakulovna, I. F. (2022). Grounds for the introduction of bankruptcy procedures for an individual entrepreneur or an individual who has lost the status of an individual entrepreneur. *International journal of professional science*, (1), 5-9.

¹⁰ Feruza, I., Madina, A., & Asal, R. (2022). LEGAL ISSUES OF JUDICIAL PROTECTION IN THE ECONOMIC COURT IN UZBEKISTAN. *International journal of professional science*, (4), 5-10.

In conclusion, I would like to note that any amendment to the Economic Procedural Code of the Republic of Uzbekistan requires a thoughtful approach and careful attitude to the current code. At the same time, it is always necessary to remember the tasks and goals of economic proceedings, enshrined in Article 2 of the Economic Procedural Code of the Republic of Uzbekistan, that is, the correct and timely consideration and resolution of civil cases in order to protect violated or disputed rights, freedoms and legitimate interests of enterprises, institutions of citizens, organizations, in the economic sphere of rights and interests of the Republic of Uzbekistan, subjects of the Republic of Uzbekistan.

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