

Bridging the Gaps: Harmonizing Procedural Models in Civil and Economic Justice

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Abstract: This article is devoted to the problems of classifying types of proceedings in the Economic Procedural Code of the Republic of Uzbekistan. Particular attention is given to the need to clarify the concept of “certain categories of cases,” to systematize procedural forms, and to legislate special (non-contentious) proceedings as an independent type of adjudication. The article justifies the expediency of amending Article 1 of the Economic Procedural Code to eliminate legal uncertainty, improve the effectiveness of law enforcement, and ensure consistency in judicial practice. Specific amendments are proposed, along with arguments in favor of harmonizing the approaches of the Economic and Civil Procedural Codes to the classification of procedural forms. The results of the study are aimed at improving procedural legislation amid the ongoing judicial and legal reforms in the Republic of Uzbekistan.

Key words: economic adjudication, types of proceedings, special proceedings, certain categories of cases, EPC, CPC, arbitral tribunal, recognition of foreign judgments.

Introduction. The effective functioning of the judicial system is impossible without a clear delineation of procedural forms through which justice is administered. In the legislation of the Republic of Uzbekistan, a situation has developed in which the Civil Procedure Code (CPC) explicitly identifies five types of proceedings, whereas the Economic Procedure Code (EPC), in its Article 1, mentions only three: claim-based proceedings, writ proceedings, and proceedings on specific categories of cases.

This approach gives rise to both theoretical and practical challenges. Firstly, although the EPC contains provisions at the article level that regulate cases characteristic of special proceedings—such as the establishment of legal facts or the restoration of lost judicial or enforcement proceedings—special proceedings as an independent form of adjudication are not mentioned in the Code. Secondly, procedural forms relating to arbitral proceedings and the enforcement of foreign judicial decisions remain outside the general classification, despite their inclusion in separate chapters of the Code.

Such gaps negatively affect legal certainty, complicate the systematization of economic procedure, and may lead to inconsistent judicial practice. This article aims to identify and analyze these issues and to develop recommendations for the systematic improvement of Article 1 of the EPC in line with current justice-related objectives and international standards.

According to Article 1 of the Civil Procedure Code of the Republic of Uzbekistan, civil proceedings encompass the following five types of proceedings:

1. **Writ Proceedings** – a simplified form of adjudication for indisputable claims, generally applied in cases based on documentary obligations;
2. **Claim-Based Proceedings** – the primary type of proceedings, involving the resolution of disputes between parties;
3. **Special Proceedings** – applied in cases lacking a dispute over rights, such as the establishment of kinship or the declaration of a person as missing;

4. **Cases Related to Arbitral Awards** – including the annulment of arbitral awards and the compulsory enforcement of domestic arbitral decisions through the issuance of a writ of execution;
5. **Cases on Recognition and Enforcement of Foreign Judicial and Arbitral Decisions** – aimed at fostering international judicial cooperation.

This classification reflects the existing procedural model and is intended to systematize judicial activity across various categories of civil law cases.

The above classification is supported by leading scholars in procedural law. For instance, Z.N. Esanova, in her textbook "Fuqarolik protsessual huquqi"¹, fully reproduces this legislative structure, emphasizing that it reflects the modern framework of civil procedure in Uzbekistan. D.Yu. Khabibullaev, in his manual "Fuqarolik protsessual huquqi. Savollar va javoblar"², also adheres to the fivefold classification, treating cases involving foreign decisions as integral components rather than separate forms, which evidences a consolidated academic perspective in this regard.

At the same time, earlier academic sources offer different interpretations. For example, Professor Sh. Shorakhmetov, in his textbook "The Civil Procedure Law of the Republic of Uzbekistan"³, distinguishes the following types of proceedings: writ, claim-based, proceedings on disputes arising from civil, family, labor, and housing relations, proceedings on complaints and applications against actions (decisions) of state and other bodies, and special proceedings. Similarly, S.A. Maripova, in her textbook "Civil Procedure"⁴, identified four types of civil proceedings: claim-based, writ, special proceedings, and proceedings on complaints and applications against the actions (decisions) of state and other bodies and officials. Professor M. Mamasiddikov, in his textbook "Fuqarolik protsessual huquq. Umumiy qism"⁵, divided civil procedure into three types: claim-based proceedings, proceedings on complaints and applications against actions (decisions) of state and other bodies, and special proceedings.

It should be noted that the latter—proceedings on complaints and applications against the actions (decisions) of state bodies and officials—did indeed hold the status of an independent form of civil proceedings under the CPC at the time these publications were written. However, in the course of procedural reforms aimed at developing administrative justice, this type was removed from the jurisdiction of civil courts and transferred to administrative courts, where it was normatively formalized as a separate form of administrative proceedings.

Nevertheless, pursuant to the Law of the Republic of Uzbekistan "On Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan Aimed at Further Improving the Effectiveness of Justice and Repealing the Law of the Republic of Uzbekistan 'On Appealing to Courts Actions and Decisions Violating the Rights and Freedoms of Citizens'" dated October 11, 2018, Chapter 23¹ was introduced into the CPC – "Features of Proceedings in Cases Concerning the Challenge of Decisions of Enterprises, Institutions, Organizations, Public Associations, and Actions (Omissions) of Their Officials Not Arising from Administrative or Other Public Legal Relations." Thus, the legislator preserved the possibility of judicial protection through civil proceedings in matters arising from private law or other non-public relations that fall outside the competence of administrative courts.

¹ Эсанова З.Н. Фуқаролик процессуал ҳуқуқи. Учебник. – Ташкент: ТГЮУ, 2022. – С.18.

² Хабибуллаев Д.Ю. Фуқаролик процессуал ҳуқуқи. Саволлар ва жавоблар. Учебное пособие. – Ташкент: ТГЮУ, 2023. – С.7.

³ Шоррахметов Ш. Ўзбекистон Республикасининг фуқаролик процессуал ҳуқуқи. Учебник. – Ташкент: Адолат, 2007. – С. 18.

⁴ Маринова С.А. Гражданский процесс. Учебник. – Ташкент: ТГЮИ, 2009. – С. 44.

⁵ Мамасиддиқов М. Фуқаролик процессуал ҳуқуқ. Умумий қисм. Учебник. – Ташкент: ТГЮИ, 2010. – С. 486.

The evolution of academic views and progressive amendments to procedural legislation demonstrate a consistent effort to more clearly delineate judicial jurisdiction and optimize procedural forms based on the nature of legal disputes. In this context, the issue of classifying types of civil proceedings in Uzbekistan remains relevant both theoretically and practically. Given the need for legal certainty and uniform application of the law, it seems appropriate in practice to rely on the classification enshrined in Article 1 of the CPC of the Republic of Uzbekistan, while scholarly discourse may continue exploring the advisability of expanding the types of proceedings within the framework of future procedural reforms.

Подобные вопросы классификации и разграничения процессуальных форм не менее актуальны и в контексте экономического судопроизводства. В статье 1 Экономического процессуального кодекса Республики Узбекистан закреплено, что экономическое судопроизводство регулирует порядок рассмотрения только трёх видов судопроизводства:

1. **Claim-Based Proceedings** – the predominant form of adjudication in economic courts, initiated to protect violated rights and interests arising from civil and other legal relations in the economic sphere;
2. **Writ Proceedings** – similar to those in civil procedure, but reflecting the specifics of the parties involved (legal entities and individual entrepreneurs);
3. **Proceedings for Specific Categories of Cases** – as referred to in Article 1 of the Economic Procedure Code, raise certain difficulties in legal practice. The legislator does not specify which cases are included under this wording, thereby creating uncertainty and leaving broad room for arbitrary interpretation.

In practice, this may lead to a conflation of different procedural forms. For example, some practitioners erroneously equate “specific categories of cases” with those considered under special proceedings.

Thus, the absence of a clear normative distinction between “specific categories of cases” and other types of proceedings—especially special proceedings—poses a risk to the principles of legal certainty and consistency in judicial practice.

A similar classification of types of economic procedure is found in academic literature. For instance, Professor F.B. Ibratova, in her textbook “Economic Procedural Law. General Part”⁶, also identifies three types of proceedings: claim-based, writ, and proceedings for specific categories of cases.

However, judicial practice and subsequent academic developments demonstrate the existence of other *de facto* independent forms of economic procedure not mentioned in Article 1 of the EPC but codified in other chapters and widely applied by the courts.

For example, Professor Z.N. Esanova, in her textbook “*Iqtisodiy protsessual huquq*”⁷, proposes a broader classification that includes the following types of economic proceedings: claim-based proceedings, writ proceedings, insolvency cases, cases establishing legal facts, cases related to arbitral awards, corporate disputes, cases involving the application of legal sanctions, and proceedings involving foreign parties.

Thus, there exists a disbalance between the legislatively enshrined structure (three types of proceedings) and actual judicial practice, which indicates the need to revise Article 1 of the EPC to bring it in line with the real procedural forms applied in economic courts.

⁶ Ибратова Ф.Б. Экономическое процессуальное право. Общая часть. Учебник. – Ташкент: ТГЮУ, 2020. – С. 77.

⁷ Эсанова З.Н. Иқтисодий процессуал ҳуқуқ: Учебник / Коллектив авторов; отв. ред. З.Н. Эсанова. – Ташкент: ТГЮУ, 2020. – С. 20.

At first glance, the aforementioned tripartite classification appears limited compared to the more detailed list in the CPC. This gives rise to the question: does the absence of other types of proceedings in the EPC imply that economic courts do not consider such categories of cases?

Analysis of the Legal Nature and the Problem of Differentiation

The phrase "consideration of certain categories of cases," enshrined in Article 1 of the Economic Procedural Code of the Republic of Uzbekistan, represents a general concept that, in practice, causes difficulties in interpretation and application. The legislator does not define the content of this concept, does not specify the criteria for classifying certain types of cases under this category of proceedings, nor does it provide an exhaustive or even exemplary list of such cases. In the absence of regulatory clarification, the following issues arise:

Legal uncertainty – the lack of a clear definition gives rise to the risk of arbitrary expansive or restrictive interpretation by the courts, which undermines the principles of legal certainty and predictability of law enforcement.

Misclassification of categories – in legal literature and judicial practice, it is not uncommon for cases concerning the establishment of legally significant facts or the restoration of lost judicial proceedings—essentially belonging to special proceedings—to be mistakenly classified as “separate categories of cases,” whereas they in fact constitute an independent type of proceeding traditionally recognized in procedural law as special (non-contentious) proceedings.

Difficulties in classifying specific types of cases – including proceedings such as insolvency cases or cases concerning the application of legal sanctions to business entities.

These types of cases are in fact adjudicated within the framework of economic litigation, require specific procedures, and display a high degree of procedural specificity. However, due to the lack of regulatory clarity, it remains unclear whether they fall within the scope of “certain categories of cases” or constitute independent procedural forms.

The Economic Procedural Code of the Republic of Uzbekistan contains special chapters regulating the procedure for the consideration of such cases, for instance:

Chapter 24 – Cases for the establishment of legally significant facts;

Chapter 30 – Cases concerning the restoration of lost judicial and enforcement proceedings.

By their legal nature, such cases are typical examples of special (non-contentious) proceedings. They are characterized by a set of procedural features that distinguish them from other forms of litigation:

the absence of a dispute over substantive rights — in such cases, the court does not resolve a legal dispute between parties, but merely confirms the presence or absence of legally significant circumstances;

the absence of opposing interests between the applicant and any interested party;

the impossibility of establishing the relevant facts outside of court proceedings.

The Civil Procedural Code of the Republic of Uzbekistan explicitly recognizes special proceedings as an independent type of judicial procedure (Part 1, Article 1 of the CPC), which aligns with international standards of procedural regulation. This legislative recognition underscores the autonomy of procedural forms that are distinct from traditional claim-based or writ proceedings.

However, in the Economic Procedural Code, the term “special proceedings” is not mentioned as a separate type of adjudication. Despite the presence of dedicated chapters, as mentioned above, regulating such cases, the absence of their systematic consolidation under a unified category of special proceedings leads to legal uncertainty:

It creates the impression that such cases are merely “separate categories” rather than a distinct form of adjudication;

It increases the risk of incorrect application of procedural norms, particularly regarding procedural deadlines, the legal status of participants, and the nature of judicial acts;

There is no unified approach to the classification of procedural forms within economic jurisdiction, in contrast to civil jurisdiction.

Moreover, although the Economic Procedural Code of the Republic of Uzbekistan contains provisions governing the consideration of cases related to arbitral proceedings and the recognition and enforcement of foreign court and arbitral awards, such forms of proceedings are not identified in Article 1 of the Code as separate types of adjudication.

In practice, economic courts regularly adjudicate cases involving:

challenges to arbitral awards and their enforcement;

proceedings connected with arbitration;

cases on the recognition and enforcement of foreign court and arbitral decisions.

These proceedings possess unique characteristics. They are regulated not only by the national laws of Uzbekistan but also by international treaties. Special procedures apply—for example, courts verify whether the foreign decision is contrary to national interests and whether international conventions, such as the 1958 New York Convention, have been complied with. These cases are procedurally distinct from claim-based or writ proceedings.

Thus, while the Civil Procedural Code features a more developed and structured classification of procedural types, the Economic Procedural Code remains vague in this respect, which complicates both the practical application of the law and scholarly analysis.

Proposals for Improvement

1. Clarification of the List of "Certain Categories of Cases" and Expansion of the Types of Proceedings

In order to enhance the effectiveness of law enforcement practices and ensure procedural clarity, it appears justified to amend Article 1 of the Economic Procedural Code of the Republic of Uzbekistan by clarifying the list of “certain categories of cases” considered within the framework of economic proceedings.

Since the term “proceedings on certain categories of cases” generates ambiguity and conceptual confusion, it is necessary to clarify that this category should include only specific cases of a particular nature, such as:

Insolvency cases — characterized by a high degree of complexity, special subject composition (insolvency administrators, creditors, public authorities), multiple stages, and other features.

However, it should also be noted that insolvency cases, despite being traditionally singled out as a separate category in a number of jurisdictions, in their procedural nature largely correspond to the characteristics of adversarial proceedings. These cases involve disputes over rights, participation of parties with opposing interests (the debtor, creditors, and public authorities), and adjudication on the merits. Moreover, in the course of reviewing insolvency cases, courts issue judicial acts that bear the features of judgments on the merits. This is primarily expressed in the fact that materially-legal claims of the interested parties are resolved, namely: confirmation of debt, determination of its amount, establishment of the priority of claims, distribution of the debtor’s assets among creditors, and the issuance of a decision on the completion or termination of the insolvency procedure. These matters

affect the substantive rights and obligations of the parties, which is typical of a dispute over legal rights. The judicial act in such cases is binding, subject to enforcement, and directly impacts the proprietary interests of the parties, bringing it close to a court judgment issued in adversarial proceedings.

Therefore, despite certain procedural specifics, insolvency cases are, in essence, associated with the resolution of a legal dispute between parties, and the resulting judicial acts should be regarded as decisions on the merits of a legal conflict.

In this regard, it may be both possible and appropriate in the future to consider including insolvency cases within the scope of adversarial proceedings, provided that special provisions are introduced into the Economic Procedural Code regulating their peculiarities (e.g., specific subject composition, stages, etc.). Such an approach would ensure procedural certainty and eliminate the duplication of procedural forms. Otherwise, if these cases remain categorized under “certain categories of cases,” they must be clearly designated as a distinct subtype with corresponding specific regulatory provisions.

Cases involving the application of legal enforcement measures — these cases are initiated by authorized bodies (such as antimonopoly, tax, and other state authorities) requesting the application of sanctions or other measures against economic entities.

Such cases do not fit neatly into the frameworks of writ proceedings or other existing types and require a distinct procedural approach within the already legally established block of “certain categories of cases.” Therefore, it is proposed to supplement Article 1 of the Economic Procedural Code of the Republic of Uzbekistan to explicitly include, under “certain categories of cases,” both insolvency cases and cases involving the application of legal enforcement measures.

Thus, reformulating Article 1 of the Economic Procedural Code by specifying the list of certain categories of cases will contribute to further systematization of legislation and enhance the quality of justice in the economic sphere.

Additionally, in order to ensure systematic regulation of procedural forms and eliminate legal uncertainty, it is proposed to incorporate into Article 1 of the Economic Procedural Code of the Republic of Uzbekistan a list of the seven types of proceedings actually applied in the practice of economic courts, presenting Article 1 in the following revised wording:

“The legislation on economic proceedings establishes the procedure for the consideration and resolution of cases within the framework of writ proceedings, adversarial proceedings, proceedings on certain categories of cases (including insolvency cases and cases involving the application of legal enforcement measures), special proceedings, cases related to arbitral tribunal decisions, cases related to arbitration proceedings, and cases concerning the recognition and enforcement of foreign court and arbitral awards.”

2. Recognition of Special Proceedings as an Independent Type of Legal Procedure

Given the presence in the Economic Procedural Code of chapters regulating proceedings on the establishment of legal facts (Chapter 24) and restoration of lost judicial or enforcement proceedings (Chapter 30), which by their legal nature are special proceedings, it is proposed to recognize special proceedings as an independent type of legal procedure.

Article 1 of the Economic Procedural Code of the Republic of Uzbekistan should be supplemented to list special proceedings as an independent type of procedure alongside adversarial, writ, and other existing procedural forms.

3. Harmonization of Approaches between the Civil and Economic Procedural Codes Regarding the Classification of Procedural Forms to Ensure Legal Certainty and Uniformity in Judicial Practice

Conclusion

The above proposals for improving the provisions of the Economic Procedural Code of the Republic of Uzbekistan aim to eliminate legal uncertainty and increase the efficiency of law enforcement within the economic jurisdiction.

Firstly, clarifying the content and structure of the concept of “certain categories of cases” by explicitly referencing insolvency cases and cases involving legal enforcement measures will eliminate ambiguities in the interpretation of this category and establish a foundation for the development of specialized procedural regulation.

Secondly, the formal recognition of special proceedings as an independent type of legal procedure will allow for a logical systematization of existing procedural forms, which is especially relevant given the existence in the Code of chapters that correspond in nature to cases not involving a dispute over legal rights. Including special proceedings in Article 1 of the Code will bring economic proceedings into line with the approach already adopted in civil procedure.

Thirdly, the proposed amendments will promote the harmonization of the classification of procedural forms in both the Civil and Economic Procedural Codes, which in turn will ensure consistency in judicial practice, predictability of procedural outcomes, and the strengthening of legal certainty.

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