

## Original Article

# Issues of Improving the Principles of Civil Proceedings

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## Abstract

*This article provides a scientific and theoretical analysis of the principles of civil proceedings and issues of their improvement. In particular, the opinions of legal scholars regarding the concept of the principle of legality and its significance in civil proceedings were analyzed and a scientific definition of this principle was given. Similarly, a scientific and theoretical analysis of the principle of free law initiating and activating civil proceedings and the principle of adversarial nature of the parties and their role in judicial practice, the opinions of legal scholars on this issue, as well as a comparative study of the civil procedural legislation of foreign countries and scientific and theoretical conclusions and proposals were given. In the article, the author paid special attention to the issue of the inadmissibility of abuse of procedural rights and highlighted its specifics. Having analyzed how abuse of procedural rights manifests itself and having studied scientific and theoretical concepts on this matter, a scientific definition of this concept was developed. Also, on issues of principles of civil proceedings, a comparative study was conducted of national civil procedural legislation with the civil procedural legislation of foreign countries, in particular the Constitutions of Japan, Greece, Bulgaria, Germany and the civil procedural legislation of the Russian Federation, Estonia, Armenia, Ukraine, Belarus, Kazakhstan, Kyrgyzstan. Scientific and theoretical conclusions, proposals and recommendations aimed at improving the principles of civil proceedings have been put forward.*

**Keywords:** Legality; Justice, Judge, Uzbekistan;

## Introduction

In accordance with Article 13 of the Constitution of the Republic of Uzbekistan, it is guaranteed that democracy in the Republic of Uzbekistan is based on universal human principles, that the individual, their life, freedom, honor, dignity, and other inalienable rights are considered the highest value, and that democratic rights and freedoms are protected by the Constitution and laws. This necessitated the implementation of judicial and legal reforms aimed at expanding judicial protection to the fullest extent possible, which is one of the most effective, impactful, and democratic methods of protecting the rights and legitimate interests of citizens, reforming and further deepening the democratic foundations of the judicial system, ensuring the correct and timely consideration of court cases, and further strengthening guarantees for the protection of personal, political, economic, and social rights and freedoms of citizens. <sup>1</sup>

According to the Constitution of the Republic of Uzbekistan, everyone is guaranteed the right to protect their rights and freedoms through the court, as well as the right to appeal to the court against unlawful decisions, actions, and inaction of state bodies and other organizations, and their officials (Article 55). This constitutional provision is also reflected in Article 3 of the Civil Procedure Code of the Republic of Uzbekistan. It states that any

<sup>1</sup> Abhishek Thommandru, Fazilov Farkhod Maratovich and Niyozova Salomat Saparovna, 'Fortifying Uzbekistan's Integrity Landscape: Harnessing India's Tech-Driven Anti-Corruption Strategies', *Sustainable Futures*, 7 (2024), 100206 <<https://doi.org/https://doi.org/10.1016/j.sfr.2024.100206>>.



interested person has the right to apply to the court in the manner prescribed by law to protect their violated or disputed right or legally protected interest.<sup>2</sup>

Developed based on the principle "From the Strategy of Action to the Strategy of Development" and consisting of seven priority areas, the Development Strategy of New Uzbekistan for 2022-2026 includes provisions for increasing citizens' access to justice in its second direction, titled "Transforming the principles of justice and the rule of law into the most fundamental and necessary condition for development".<sup>3</sup> The role of principles as fundamental rules in the administration of justice is invaluable. However, it should be noted that in judicial practice, there are both theoretical and practical challenges in implementing the principles of civil proceedings. The introduction of new principles into civil procedural legislation to improve the principles of civil court proceedings and enhance the procedural mechanism of court proceedings is a requirement of our times.<sup>4</sup>

## Method

Within the framework of the research, scientific methods in legal sciences were employed: systemic-legal analysis, comparison, comparative legal analysis, induction and deduction. This study uses the normative legal research method, supported by elements of comparative analysis. Secondary data, such as legislation, court decisions, and scholarly works, form the main basis. In addition, judicial practice is reviewed to observe the application of civil procedural principles in practice.

## Results and Discussions

As stipulated in Article 15 of the Constitution of the Republic of Uzbekistan, the supremacy of the Constitution and laws of the Republic of Uzbekistan is unconditionally recognized within the Republic of Uzbekistan. The Constitution of the Republic of Uzbekistan possesses supreme legal force throughout the entire territory of the country, is directly applicable, and forms the foundation of a unified legal space. According to Article 8 of the Law of the Republic of Uzbekistan "On Normative Legal Acts," the unconditional supremacy of the Constitution and laws of the Republic of Uzbekistan is recognized in the Republic of Uzbekistan. The Constitution of the Republic of Uzbekistan possesses supreme legal force and is applicable throughout the entire territory of the Republic of Uzbekistan.<sup>5</sup>

Laws and other normative legal acts of the Republic of Uzbekistan are adopted on the basis of and for the implementation of the Constitution of the Republic of Uzbekistan and must not contradict its norms and principles. This principle was stated in the 2019 Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan As explained in Resolution No. 12 of May 24, "On the Court's Decision," the courts should pay attention to the fact that the Federal Criminal Court Article 14. The court's decision must be based on the law. The application of other legislative acts is subject to the provisions of the Republic of Uzbekistan. Constitution is allowed as long as it does not contradict the laws.<sup>6</sup>

<sup>2</sup> Arnaud Deseau, Adam Levai and Michèle Schmiegelow, 'Access to Justice and Economic Development: Evidence from an International Panel Dataset', *European Economic Review*, 172 (2025), 104947 <<https://doi.org/https://doi.org/10.1016/j.euroecorev.2024.104947>>.

<sup>3</sup> Richard Reed and M.Ronald Buckley, 'Strategy in Action—Techniques for Implementing Strategy', *Long Range Planning*, 21.3 (1988), 67–74 <[https://doi.org/10.1016/0024-6301\(88\)90035-0](https://doi.org/10.1016/0024-6301(88)90035-0)>.

<sup>4</sup> Danur Condro Guritno and others, 'Do Public Sector Wages Moderate the Impact of Institutional Strengthening on Corruption?', *Journal of Financial Crime*, 32.5 (2025), 976–93 <<https://doi.org/https://doi.org/10.1108/JFC-12-2024-0381>>.

<sup>5</sup> Laurence Ferry, Khalid Hamid and Paula Hebling Dutra, 'An International Comparative Study of the Audit and Accountability Arrangements of Supreme Audit Institutions', *Journal of Public Budgeting, Accounting & Financial Management*, 35.4 (2023), 431–50 <<https://doi.org/https://doi.org/10.1108/JPBAFM-10-2022-0164>>.

<sup>6</sup> Assel T Uskelenova and Nina Nikiforova, 'Regional Development of Kazakhstan: Theoretical Premises and Reality', *Regional Science Policy & Practice*, 16.3 (2024), 12616 <<https://doi.org/https://doi.org/10.1111/rsp3.12616>>.



At this point, a legitimate question may arise as to whether the principle of resolving cases on the basis of applicable legislation does not imply the essence of the principle of legality. Of course not. Because the principle of resolving cases on the basis of applicable legislation mainly implies which legal norms should be applied in the conduct of judicial proceedings, the principle of legality is broader in content than it. One of the tasks of conducting civil judicial proceedings is to strengthen legality. While the principle of resolving cases on the basis of applicable laws regulates which laws courts should apply in resolving disputes, the principle of legality is mandatory not only for the court, but also for all participants in civil procedural legal relations. The principle of legality implies that persons participating in civil proceedings must strictly comply with the Constitution of the Republic of Uzbekistan, the Civil Procedure Code and other legislative acts and fulfill their requirements.<sup>7</sup>

Therefore, the principle of legality is one of the constitutional principles that applies to all aspects of social life. The principle of legality ensures the implementation of justice, the correct application of law, the legal, justified and fair issuance of court decisions, and the verification of the legality of decisions of lower courts by higher courts. The principle of legality is a widely debated and discussed topic today. Because today there is great competition between judges, and this situation is such that judges choose and interpret legal norms at their discretion. Legality has now become a process that is called by the judge in relation to the legal norms selected by him. In general law and history, it is the opposite, and judges correctly apply the legal norm adopted by the legislator to the real situation and perform the task of explaining it to the public. However, today we can witness that the application and interpretation of legal norms by some judges is also a reason to limit the principles of general law.<sup>8</sup>

Legal scholars have articulated diverse yet complementary perspectives on the principle of legality in civil litigation. M.K. Treushnikov defines the principle of legality as a system of well-founded guiding ideas that determine the content of mandatory legal rules, emphasizing that in civil procedural law it serves to regulate the activities of courts in the administration of justice in civil cases. Similarly, I.M. Zaysev explains that the principle of legality governs the legal status of courts and other participants in civil proceedings, the consideration and resolution of cases, as well as the protection of the rights and lawful interests of citizens and organizations. Supporting this view, A.S. Fedina underscores that the principle of legality establishes a strict procedural framework for resolving legal disputes in civil proceedings, issuing lawful judgments, and ensuring their enforcement. Fedina further highlights the contemporary relevance of studying this principle, noting that it must be examined from a modern perspective that prioritizes the protection of human rights and fundamental freedoms in judicial activity and recognizes the need to realize the principle of legality through the effective implementation of other civil procedural principles whose content has evolved in the course of judicial and legal reforms.<sup>9</sup>

According to A.O. Dolgopyat, "if we understand legality as compliance with all legal acts, then legality in civil proceedings means not only strict compliance with legal acts, but also the implementation of legal actions and the observance and respect for the rights and obligations established by law". According to other legal scholars, "The principle of legality is popular, that is, general, public. It can be found in all areas of law, because although all areas of law are different, there is one thing that unites them - the need to strictly adhere to them. Without such a requirement, they will disappear without finding their place in society

<sup>7</sup> Olga Golubeva, 'Accounting for Transition: A Literature Review', *Journal of International Accounting, Auditing and Taxation*, 51 (2023), 100548 <<https://doi.org/https://doi.org/10.1016/j.intaccudtax.2023.100548>>.

<sup>8</sup> Janja Mikulan Kildi and Victor Cepoi, 'The Importance of the Political Order for Peace', *Journal of Aggression, Conflict and Peace Research*, 9.1 (2017), 24–37 <<https://doi.org/https://doi.org/10.1108/JACPR-12-2015-0206>>.

<sup>9</sup> S. Perry, 'Law and Obligation', *The American Journal of Jurisprudence*, 50.1 (2005), 263–95 <<https://doi.org/10.1093/ajj/50.1.263>>.



or may be merged into another area of law as a branch". Based on the above considerations, it can be said that the principle of legality is a general legal principle of an organizational nature, which expresses the obligation of civil courts to consider civil cases in strict compliance with civil procedural norms and to make decisions in compliance with the norms of civil substantive law. The principle of legality ensures strict and unconditional compliance and execution of laws by participants in civil proceedings, timely preparation and consideration of civil cases, application of procedural coercive measures against violators of the procedure in the court session, return, rejection of unfounded applications, suspension or termination of proceedings, leaving the application without consideration, uniform strict compliance with the norms of substantive and procedural law by all participants in the trial, and legal resolution of the civil case.<sup>10</sup>

The importance of the principle of legality is clearly reflected in the review of judicial decisions at the appellate, cassation, and supervisory stages, where shortcomings and violations of the law committed by lower courts may result in the amendment or annulment of their decisions by higher judicial instances. This practice demonstrates the existence of an effective mechanism for the protection of the rights and lawful interests of individuals. The significance of legality is further affirmed in the newly adopted Law of the Republic of Uzbekistan "On Courts", which, in Article 8, establishes the principle of justice by stipulating that judicial activity shall be carried out in strict accordance with the law. However, despite its fundamental role, the principle of legality is not expressly articulated as an independent principle in Chapter 2 of the Civil Procedure Code of the Republic of Uzbekistan, entitled "Principles of Civil Judicial Proceedings". A comparative review of foreign civil procedural legislation shows a different approach; for instance, Article 6 of the Civil Procedure Code of the Republic of Kazakhstan explicitly enshrines legality as a separate principle. In view of the central role and systemic importance of legality in the administration of justice, it is therefore appropriate to formally incorporate it as an independent article within civil procedural legislation. This is particularly justified given that the principle of legality is constitutionally, reflected as a fundamental principle in criminal and criminal procedural legislation, and recognized as a universal principle of international law inherent in all democratic states governed by the rule of law. In this context, the rule of law requires that all acts of state authorities and officials strictly conform to the Constitution and statutory law.<sup>11</sup>

The rule of law also provides an individual with the right to protect their rights and freedoms through the courts, to appeal to the court against illegal actions of state bodies, officials, and public associations. Therefore, special attention is paid to the rule of law in the rankings compiled by various international organizations and research centers. In particular, the international non-governmental organization The World Justice Project annually conducts a special "The Rule of Law Index is maintained by the Transformation Index, the Bertelsmann Foundation, and the World Bank, which list the rule of law as one of the indicators of well-being in the Quality of Public Administration Index."<sup>12</sup>

The formal consolidation of the principle of legality as an independent provision in civil procedural law is essential to ensuring the supremacy of law in judicial proceedings, the equal subjection of all participants in civil litigation to legal norms, and the effective realization of judicial independence. Judicial independence implies that the judiciary, as a constitutional institution, and judges, in adjudicating specific cases, must be able to carry out their professional duties free from any external influence or interference by the executive,

<sup>10</sup> Cassey Lee, 'Legal Traditions and Competition Policy', *The Quarterly Review of Economics and Finance*, 45.2 (2005), 236–57 <<https://doi.org/https://doi.org/10.1016/j.qref.2005.01.002>>.

<sup>11</sup> Ted Gleason, 'Assessing Pathways for Pursuing Coherence between Local Implementation of Emerging Alternative Economic Approaches and International Investment Law', *Ecological Economics*, 232 (2025), 108566 <<https://doi.org/https://doi.org/10.1016/j.ecolecon.2025.108566>>.

<sup>12</sup> Ethan Bernick and Skip Krueger, 'An Assessment of Journal Quality in Public Administration', *International Journal of Public Administration*, 33.2 (2021), pp. 98–106, doi:10.1080/01900690903188891.



legislative, or other bodies. Only an independent judiciary is capable of administering justice impartially, strictly on the basis of law, and with due protection of human rights and fundamental freedoms. For this function to be exercised effectively and sustainably, public confidence in the independence and impartiality of the judiciary is indispensable. Once such trust erodes, the legitimacy of the judiciary as an institution, as well as the authority of individual judges, is undermined, thereby calling into question their capacity to fulfill the fundamental task of delivering justice. The principle of judicial independence does not serve the personal benefit of judges, but rather serves to protect people from abuse of power. Therefore, judges cannot act on their own initiative in the cases brought before them, their duty and obligation being solely to apply the law to the case at hand. In the field of protection of individual rights, judges are responsible for applying national and international human rights norms in each relevant case. The principle of independent resolution of issues of jurisdiction of courts has found expression at the national and international levels, and the jurisdiction of the European Court of Human Rights" On the protection of human rights and fundamental freedoms" Enshrined in Article 32, paragraph 2, of the European Convention.<sup>13</sup>

The concepts of judicial independence and impartiality are closely interconnected and are often examined jointly within the framework of international human rights and judicial oversight mechanisms. Although interrelated, each concept has its own distinct meaning and normative requirements. Judicial independence constitutes a fundamental constitutional principle that reflects the autonomy of the judiciary as a branch of state power. This principle encompasses not only the institutional independence of the judiciary but also the individual independence of judges. In accordance with international human rights standards, judicial independence refers to the legal status and functional relationship of the judiciary vis-à-vis the executive and legislative branches, grounded in guarantees that ensure freedom from external influence. Individual judicial independence is commonly ensured through guarantees such as security of tenure, while institutional independence is manifested in the organizational, administrative, and financial separation of courts from other branches of government. Historical legal traditions further emphasize the importance of safeguarding judicial independence, reflecting the long-standing understanding that justice must prevail regardless of external pressures.<sup>14</sup>

Alongside judicial independence, the principle of free law or dispositivity occupies a central position in civil litigation. This principle enables the parties to freely exercise their substantive and procedural rights throughout the initiation, conduct, progression, and termination of civil proceedings. It is based on the autonomy of the parties to determine the scope and direction of the process, including the submission of claims, evidence, and procedural motions. In civil procedural law, the principle of free law serves as a foundational mechanism that activates and guides other procedural principles, ensuring that the protection of lawful and disputed rights is achieved through the voluntary and informed exercise of procedural rights. This principle is reflected not only in procedural norms but also in substantive law, demonstrating its systemic character within the legal order.

However, contemporary judicial practice indicates that the principle of free law is not always clearly articulated as an independent principle within civil procedural legislation, which creates practical difficulties in its consistent application. Comparative legal analysis demonstrates that many foreign legal systems explicitly enshrine this principle as a separate and integral norm within their procedural codes, thereby strengthening party autonomy and procedural fairness. Drawing on such comparative experience, the formal inclusion of the principle of free law as an independent provision within civil procedural legislation appears both justified and necessary to enhance legal certainty and procedural effectiveness.

<sup>13</sup> Shannon Ishiyama Smithey and John Ishiyama, 'Judicious Choices: Designing Courts in Post-Communist Politics', *Communist and Post-Communist Studies*, 33.2 (2000), 163–82 <[https://doi.org/https://doi.org/10.1016/S0967-067X\(00\)00002-7](https://doi.org/https://doi.org/10.1016/S0967-067X(00)00002-7)>.

<sup>14</sup> Domenico Marino, 'Dynamics of Corruption: Theoretical Explanatory Model and Empirical Results', *Physica A: Statistical Mechanics and Its Applications*, 658 (2025), 130288 <<https://doi.org/https://doi.org/10.1016/j.physa.2024.130288>>.



Furthermore, the principle of adversarial proceedings constitutes another essential pillar of civil justice and operates in close conjunction with the principle of free law. Adversariality ensures that civil disputes are resolved through a structured legal contest between parties acting on an equal procedural footing. Each party is afforded the right to present claims, submit evidence, and provide arguments in support of its legal position, while the court evaluates only those materials that have been duly examined and confirmed during the proceedings. This structure reflects the doctrine of due process, particularly the right of the parties to present evidence and challenge opposing arguments. Through the effective implementation of adversarial proceedings, civil justice promotes the determination of objective truth, the protection of party rights, and the overall legitimacy and effectiveness of judicial decision-making.

## Conclusion

Based on scientific and theoretical analysis of the principles of civil litigation, this study formulates several integrated theoretical conclusions, proposals, and recommendations. It concludes that judicial independence must be constitutionally guaranteed, encompassing independence from the executive and legislative branches, internal independence in court administration and case allocation, financial independence supported by adequate funding, decisional independence with full respect and compliance by all state institutions, jurisdictional independence in determining competence, and the obligation to ensure fair trials accompanied by reasoned judgments. To prevent external and internal interference undermining judicial independence, the study proposes replacing routine reporting by court chairpersons to local representative bodies with periodic public disclosure of court activities through official regional court websites, developing a comprehensive law on the status of judges to strengthen judicial independence and prestige, and reforming disciplinary mechanisms by limiting centralized punitive authority and strengthening the role of the Supreme Council of Judges. Furthermore, the principle of legality is scientifically defined as the obligation of all participants in civil proceedings to strictly comply with the Constitution of the Republic of Uzbekistan, the Civil Procedure Code, and other legislation, ensuring that courts adjudicate civil cases lawfully and fairly. The study also refines the concept of the principle of free law as a foundational principle that initiates and guides civil proceedings, emphasizing the freedom of parties to exercise procedural rights to protect lawful interests. In addition, abuse of procedural rights is conceptualized as the unfair use of legally granted procedural rights with the intent to obstruct proceedings, delay justice, and cause material or procedural harm. Finally, the study recommends explicitly incorporating the principle of legality into Chapter 2 of the Civil Procedure Code of the Republic of Uzbekistan by introducing a new Article 71 on the Principle of Legality.

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