

## Strengthening Access to Justice: Empowering Citizens and Businesses for Fairness and Effective Dispute Resolution

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### ABSTRACT

*This article delves into the fundamental right to a fair trial, exploring its essence and significance within the judicial system. The author examines the role of modern information and communication technologies in safeguarding the rights and freedoms of citizens and business entities through judicial protection, as mandated by the Constitution. The application of these technologies is highlighted as a crucial factor in ensuring an effective and efficient judiciary. It provides valuable insights into the importance of upholding constitutional principles, leveraging technology, and implementing necessary reforms to ensure a fair and accessible justice system for all citizens and business entities.*

**KEYWORDS:** *Achievement of justice, Court protection, Judiciary, Bureaucracy, Digitization, Electronic digital signature.*

The right to access a court and receive effective protection is a fundamental principle that underpins the pursuit of justice. The practical availability of accessing an independent, competent, and impartial court is essential for the realization of this right in all circumstances. The international community has recognized the right to a fair trial as a cornerstone of human rights, as reflected in various international instruments. Prominently, the Universal Declaration of Human Rights (1948, Article 8), the International Covenant on Civil and Political Rights (1966, Article 14), the Convention on Human Rights and Fundamental Freedoms (1950-1984, Article 6), and the Inter-American Convention on Human Rights (1969, Article 8) all explicitly uphold the right to a fair trial. Additionally, other conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women (1979, Article 15) and the Convention on the Rights of Persons with Disabilities (2006, Article 13), recognize and protect this right in specific contexts<sup>1</sup>.

Article 8 of the Universal Declaration of Human Rights emphasizes that every individual has the right to seek effective remedies through competent national courts when their fundamental rights, as granted by the constitution or law, are violated. Similarly, the International Covenant on Civil and Political Rights reinforces this principle by enshrining provisions such as equality before courts and tribunals. The Covenant guarantees that every person is entitled to a fair and public trial by a competent, independent, and impartial tribunal established by law. This right applies when facing criminal charges or when their rights and obligations are being determined in any prescribed civil process. It underscores the importance of ensuring access to justice and the right to a fair trial for all individuals, without discrimination.

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<sup>1</sup> The Republic of Uzbekistan ratified the Convention on Human Rights and Fundamental Freedoms on September 30, 1991. The International Covenant on Civil and Political Rights was ratified by the Republic of Uzbekistan on December 28, 1995. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was ratified on October 28, 1995. The Convention on the Elimination of All Forms of Discrimination against Women entered into force on August 18, 1995. Lastly, the Convention on the Rights of Persons with Disabilities entered into force for Uzbekistan on July 28, 2021.

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In addition to the previously mentioned rights, it is crucial to highlight that everyone possesses the right to defend their rights and freedoms through the court. This includes the ability to appeal in court against illegal decisions, actions, and inactions of state bodies, other organizations, and their officials. Furthermore, individuals have the right to have their violated rights and freedoms restored. Article 55 of the Constitution of the Republic of Uzbekistan explicitly guarantees this right. It ensures that every person can have their case considered by a competent, independent, and impartial court within the time limits established by law. This provision serves as a fundamental guarantee for equal rights and opportunities in the pursuit of justice.

In the legislation of Uzbekistan, the concept of ensuring a fair trial encompasses several key norms and principles that safeguard the following:

**The right to judicial protection of violated rights and freedoms:** Individuals have the right to seek legal remedies and have their case heard by a court when their rights and freedoms have been violated. This includes the right to access the justice system and have their claims addressed in a fair and impartial manner.

**The right to have a specific case considered by a relevant court:** Each case should be assigned to a court that is competent and appropriate for handling the specific nature of the case. The court's jurisdiction and powers should be determined by law, ensuring that it has the authority to address the matter at hand.

**The right to receive qualified legal assistance:** Individuals involved in legal proceedings have the right to obtain qualified legal representation or seek legal advice to effectively present their case. This ensures that parties have access to professional assistance in navigating the legal process and protecting their rights.

**Determination of the procedure and timing of case consideration:** Procedural legislation establishes the rules and timelines for the consideration of cases in court. These regulations guide the process, including the submission of evidence, examination of witnesses, presentation of arguments, and issuance of judgments. The procedural framework ensures that cases are heard in a timely and efficient manner, promoting fairness and transparency in the judicial process.

By incorporating these principles into the legal system, Uzbekistan aims to uphold the right to a fair trial. These provisions ensure that individuals have access to justice, receive appropriate legal representation, and have their cases heard in a manner that follows established procedures and timelines. Such measures contribute to the overall fairness and integrity of the judicial system in Uzbekistan.

According to the constitution and laws of Uzbekistan, not only individuals but also legal entities are entitled to equal rights and freedoms. This principle is reflected in various legal provisions, including Article 11 of the Law of the Republic of Uzbekistan "On Guarantees of Freedom of Entrepreneurial Activities."

The mentioned law aims to establish guarantees and favorable conditions for citizens to freely engage in entrepreneurial activities and derive benefits from them. It also strives to enhance entrepreneurial activity and protect the rights and legitimate interests of business entities<sup>2</sup>.

In the interaction between business entities and government bodies, including law enforcement and regulatory authorities, as well as banks, the principle of prioritizing the rights of the business entity is applied. This means that the rights of business entities are given precedence, and any conflicts or ambiguities that arise in the course of conducting business activities in accordance with the law are interpreted in favor of the business entity, whenever possible.

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<sup>2</sup> <https://lex.uz/acts/2006789>

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According to Article 50 of the mentioned law, complaints against decisions made by state bodies and other entities, as well as actions or inaction by their officials, can be lodged by business entities. Business entities have the right to appeal against illegal decisions made by state bodies and other entities, as well as unlawful actions or inaction by their officials. This can be done by submitting complaints to higher authorities or through the court system, following the established hierarchical order.

To facilitate the process of seeking justice, business entities are exempt from paying state fees when appealing to the court regarding decisions made by state bodies and other entities, as well as actions or inaction by their officials. This exemption applies specifically to cases where the appeal is related to the violation of the rights and legitimate interests of the business entity in connection with their entrepreneurial activities.

Article 186 of the Code of Administrative Proceedings of the Republic of Uzbekistan establishes the time limits within which a complaint (appeal) can be filed against a decision, action, or inaction of an administrative body, self-government body of citizens, or their officials. This article sets forth the specific deadlines that need to be adhered to when initiating the complaint process. The time limits may vary depending on the nature of the decision, action, or inaction being challenged. It is important for business entities to be aware of these deadlines and ensure that their complaints are filed within the prescribed timeframe.

Unless otherwise specified by the Code of Administrative Proceedings or other laws, the general rule is that an application (complaint) against a decision, action, or inaction of an administrative body, self-government body of citizens, or their officials must be filed within six months from the date of the decision, action, or inaction<sup>3</sup>.

This means that business entities have a period of six months to submit their application or complaint challenging the administrative decision or action. It is important to note that this timeframe starts from the date the decision, action, or inaction was taken.

Under the Law of the Republic of Uzbekistan "On State Duty", both citizens and legal entities are eligible for various benefits and exemptions when it comes to paying state fees, particularly in cases where they go to court. Here are some of the benefits outlined in the law:

**Owners:** Owners are exempt from paying state fees when appealing to the court against decisions made by state bodies, other bodies, self-government bodies of citizens, or actions (inaction) of their officials that violate their rights and legitimate interests related to private property rights.

**Joint-stock companies with foreign investments:** These companies are exempt from paying state fees when they are accused of rights violations or when their legitimate interests are infringed upon.

**Business entities:** Business entities are exempt from paying state fees when they submit an application for the issuance of a writ of execution to enforce decisions of the arbitration court.

**Plaintiffs:** Plaintiffs are exempt from paying state fees in various circumstances, including claims for the recovery of wages and other demands arising from labor relations, claims for alimony, claims for compensation for damage resulting from the loss of ability to work or other health-related damage, and claims for compensation for harm caused by illegal sentencing, criminal prosecution, or administrative punishment.

**Legal entities and individuals:** They are exempt from paying state fees when providing documents in civil cases related to the collection of alimony, as well as when filing complaints about the actions

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<sup>3</sup> <https://lex.uz/docs/3527353>

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(inaction) of the state executive body<sup>4</sup>.

Additionally, the following entities have the authority to file claims and petitions in the interests of specific groups:

**The Commissioner for the Protection of the Rights and Legitimate Interests of Business Entities:** This office, operating under the President of the Republic of Uzbekistan, can file claims and petitions in the interests of business entities<sup>5</sup>.

**The Councils of Farmers, Farmers, and Landowners:** The Council of Farmers, Farmers, and Landowners of Uzbekistan, as well as the Councils of Farmers, Farmers, and Landowners of the Republic of Karakalpakstan, can file claims and petitions in the interests of farmers and landowners<sup>6</sup>.

**Judicial Authorities:** Judicial authorities have the authority to file claims and petitions in the interests of the state, legal entities, and individuals<sup>7</sup>.

**Prosecutors:** Prosecutors have the authority to file claims and statements in the interests of the state, legal entities, and individuals<sup>8</sup>.

**The Chamber of Commerce and Industry:** The Chamber of Commerce and Industry of the Republic of Uzbekistan and its regional branches have the authority to file claims and petitions in the interests of their chamber members<sup>9</sup>.

During the period from 2016 to 2023, significant efforts were made to strengthen direct justice and protect human rights through the judiciary. Over 10 legal documents were adopted and implemented with the aim of creating a truly independent judicial system that reflects the will of the people. These measures have been instrumental in achieving the effective implementation of these policies and ensuring the protection of human rights.

The Decree of the President of the Republic of Uzbekistan No. PF-4850, dated October 21, 2016, titled "On measures to further reform the judicial system and strengthen guarantees of reliable protection of the rights and freedoms of citizens," signifies a significant step towards achieving a more expeditious trial process.

The Decree No. PF-4850 dated October 21, 2016, has introduced several significant reforms aimed at improving the judicial system and strengthening the protection of rights and freedoms. These reforms have had a transformative impact on various aspects of the justice system. Here are some key improvements outlined in the decree:

**Reduction in detention period:** The detention period for individuals suspected of committing a crime, as per the Criminal Procedure Law, was shortened from 72 hours to 48 hours. This change ensures a more expedited process for handling suspects.

**Shorter application of preventive measures:** The maximum duration for the application of preventive

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<sup>4</sup> <https://lex.uz/docs/-6410672>

<sup>5</sup> The "On the representative under the President of the Republic of Uzbekistan for the protection of the rights and legitimate interests of business entities" is a law in the Republic of Uzbekistan. It is available on the LexUZ website with the URL link:<https://lex.uz/acts/3321352>.

<sup>6</sup> The resolution PQ-3318 of the President of the Republic of Uzbekistan, dated October 10, 2017, "On organizational measures for the further development of the activities of farmers, peasant farms, and landowners" <https://lex.uz/docs/3372977>.

<sup>7</sup> Decree of the President of the Republic of Uzbekistan No. PF-89 "On measures to further improve the efficiency of justice bodies and institutions in ensuring the rights and freedoms of citizens and the provision of legal services", <https://lex.uz/uz/documents/5914998>

<sup>8</sup> Law of the Republic of Uzbekistan "On the Prosecutor's Office", <https://lex.uz/acts/10619>

<sup>9</sup> Law of the Republic of Uzbekistan "On the Chamber of Commerce and Industry", Article 21/ <https://lex.uz/uz/docs/3815461>

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measures such as imprisonment, house arrest, and preliminary investigation was reduced from 1 year to 7 months. This measure aims to streamline the legal process and prevent excessive pretrial detention.

**Judicial oversight of interception and exhumation:** The authority to sanction the interception and exhumation of telegraph dispatches was transferred to the courts. This shift ensures judicial oversight and safeguards individual rights during investigations.

**Alternative preventive measures:** Courts were granted the power to apply alternative preventive measures when the imposition of imprisonment or house arrest is deemed unnecessary. This provision allows for more tailored and proportionate responses to individual cases.

**Streamlining case investigation:** The practice of returning criminal cases for additional investigation by the court was eliminated, and mechanisms were introduced to address investigation deficiencies during the trial itself. This change helps expedite the trial process and ensures greater efficiency.

**Expedited review of court decisions:** The period for reviewing court decisions in civil cases through the control procedure was reduced from 3 years to 1 year. This reduction in review time enhances judicial efficiency and timely resolution of civil disputes.

**Termination of regional-level case review:** The institution of reviewing criminal and civil cases at the regional level courts was terminated, and the powers of court chairpersons and prosecutors to file protests in the control procedure were abolished. This streamlines the appeals process and ensures a more centralized approach to case review.

**Streamlined powers of the Supreme Court:** Duplicate powers of the Plenum of the Supreme Court of the Republic of Uzbekistan regarding case review in the control procedure were abolished. This consolidation of powers enhances clarity and efficiency in the decision-making process.

**Centralized support for judicial activities:** The responsibilities and powers related to material-technical and financial support for general jurisdiction courts were transferred to the Supreme Court of the Republic of Uzbekistan. This centralization ensures effective coordination and resource allocation for the judiciary.

These reforms outlined in the decree have significantly contributed to the modernization and efficiency of the judicial system in Uzbekistan, promoting the protection of rights and freedoms for all citizens.

As a continuation of the ongoing justice reforms, it is worth mentioning Decree No. PF-4966 titled "On measures to radically improve the structure of the judicial system of the Republic of Uzbekistan and increase the efficiency of its activities," which was adopted on February 21, 2017. This decree introduced several significant measures aimed at enhancing the structure and effectiveness of the judicial system. Some key improvements outlined in the decree include:

- **Creation of the Supreme Council of Judges:** The Supreme Council of Judges of the Republic of Uzbekistan was established to uphold the constitutional principle of judicial independence in the country. This council plays a crucial role in ensuring the independence of judges.
- **Improved procedures for judge selection and appointment:** The decree introduced enhancements to the process of electing and appointing judges, ensuring a more transparent and merit-based selection system. These improvements aim to guarantee the competence and integrity of judges.
- **Merger of the Supreme Court and the Supreme Economic Court:** The Supreme Court of the Republic of Uzbekistan and the Supreme Economic Court were combined into a unified entity, the Supreme Court of the Republic of Uzbekistan. This consolidation created a single highest judicial authority responsible for civil, criminal, administrative, and economic matters.

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- Establishment of administrative courts: Administrative courts were established at the levels of the Republic of Karakalpakstan, regions, and the city of Tashkent, as well as district (city) administrative courts. These specialized courts handle administrative disputes and cases related to administrative offenses arising from public legal relations.
- Integration of military courts into the Supreme Court: The Military Collegium of the Supreme Court of the Republic of Uzbekistan, state divisions of the Military Court of the Republic of Uzbekistan, district, and regional military courts were transferred from the Armed Forces to the system of the Supreme Court. This integration ensures greater uniformity and consistency in military judicial matters.
- Establishment of the Administrative Collegium: The Military Collegium of the Supreme Court was abolished, and the Administrative Collegium of the Supreme Court of the Republic of Uzbekistan was formed. This change aligns with the restructured judicial system and its focus on administrative matters.
- Reorganization of economic courts: Economic courts at the levels of the Republic of Karakalpakstan, regions, and the city of Tashkent were replaced by new economic courts. These courts handle economic disputes and contribute to the specialization and efficiency of the judicial system in economic matters.
- Creation of inter-district and district economic courts: To ensure accessibility and efficient handling of economic cases, 71 inter-district and district economic courts were established. These courts have jurisdiction over cases at the first instance.
- Restructuring of court staff: The position of court secretary was abolished, and the structure of the courts was revised to include senior assistant judges and assistant judges within the newly created general staff. This restructuring aimed to streamline court operations, enhance support functions, and improve the remuneration of court staff.

Under the Decree of the President of the Republic of Uzbekistan dated July 13, 2018, No. PF-5482 "On measures to further improve the judicial system and increase confidence in the judiciary," significant reforms were introduced to enhance the transparency of the judiciary and strengthen public participation in the administration of justice.

On January 6, 2019, the President of the Republic of Uzbekistan issued Decision No. PQ-4096 titled "On measures to prepare candidates for judicial positions, retrain judges and court staff, and fundamentally improve the system of their qualification." This decision led to the establishment of the High School of Judges under the auspices of the Supreme Council of Judges. Additionally, a state educational and scientific research institution was created to take responsibility for training candidates for judicial positions, retraining judges, and enhancing their qualifications.

It was adopted on July 24, 2020 in order to consistently implement the tasks set in the field of justice, increase the level of citizens' access to justice, improve the quality of hearing cases in court, and expand the mechanisms for ensuring the equality and appeal of the parties in order to make impartial, fair and legal court decisions. Presidential Decree No. PF-6034 "On additional measures to further improve the activity of courts and increase the efficiency of justice" ensured the revision of the current structure of judicial bodies in accordance with the requirements of the time and international standards.

The Law of the Republic of Uzbekistan "On Courts" was revised and a new version came into effect on July 28, 2021. This revision was made in line with the principle of "New Uzbekistan - New Court" and aimed to expand the population's access to justice, accelerate the reform of the judicial system, and advance the field of law. Simultaneously, on January 16, 2023, the President issued Decree No. PF-11 titled "On additional measures to further expand access to justice and increase the

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efficiency of the courts," emphasizing the need to align with international standards and addressing certain shortcomings in the field.

This Decree approved an action program for the implementation of a short-term strategy for bringing the judicial system to a qualitatively new stage for 2023-2026.

**According to the Decree PQ-4546 issued** by the President of the Republic of Uzbekistan on December 9, 2019, titled "On measures to further reduce bureaucratic obstacles and introduce modern management principles into the activities of government bodies and organizations," several measures were established. Starting from January 1, 2021, it was mandated that government bodies and organizations should generate and carry out reporting and document flow exclusively in electronic form, thereby eliminating the need for physical paperwork.

The decree also highlighted the importance of training officials in time management technologies and organizing activities aimed at eliminating bureaucracy and improving the efficiency of meetings. It emphasized the development of a program to train officials on how to eliminate bureaucracy and streamline administrative processes.

According to the decision No. 4818 issued by the President of the Republic of Uzbekistan on September 4, 2020, titled "On measures to digitize the activities of judicial authorities," several objectives were outlined to enhance the functioning of the judicial system. The decision aimed to liberalize the process of citizens and business entities seeking legal recourse to protect their rights and interests, while also increasing access to justice. It prioritized the use of modern scientific advancements to ensure transparency and openness in the activities of the courts.

Analyzing the above normative legal documents and the processes of introducing information and communication technologies in the judicial system, the following stages of digitalization of the judicial system in the Republic of Uzbekistan can be indicated:

1. The introduction of an electronic work management system aims to streamline the handling of cases within the judicial system. By digitizing documents and administrative paperwork, it reduces the reliance on physical files and paperwork, which can often be time-consuming and prone to errors. Instead, the system enables the electronic storage, retrieval, and management of case-related information, making it more accessible and easier to review and process.
2. The implementation of online court services. This stage aims to provide individuals with the ability to monitor the progress of their appeals online, offer free access to interactive state services within court buildings, and expand the range of interactive electronic services available to citizens and businesses through the courts. The introduction of online court services is intended to enhance accessibility and transparency in the judicial process. By allowing individuals to monitor the progress of their appeals online, they can stay informed about the status of their cases, upcoming hearings, and any relevant updates. This empowers individuals with greater visibility and involvement in the legal proceedings concerning their rights and interests.
3. The introduction of electronic signatures plays a crucial role in enhancing the validity and security of digital documents as part of the ongoing digitization process. Electronic signatures are a digital equivalent of handwritten signatures and serve as a means to authenticate and validate electronic documents. By incorporating electronic signatures, the judicial system aims to ensure the integrity, authenticity, and non-repudiation of digital documents, bolstering their legal standing and reliability.
4. The development of court portals is a significant step in the digitization process, providing comprehensive online platforms that facilitate access to legal information, court decisions, and other relevant court resources.

Court portals serve as centralized online hubs where individuals can conveniently retrieve a wide

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range of legal information and resources. These portals are designed to offer user-friendly interfaces, making it easier for users to navigate and search for specific court-related information they require.

5. The integration of court proceedings with information and communication technologies (ICT) is a key aspect of the digitization process within the judicial system. This integration involves equipping courtrooms with technological infrastructure to facilitate various aspects of court hearings, including the electronic presentation of evidence and enabling remote participation of parties.

The integration of ICT into court proceedings is an essential part of the digitization process. It enables electronic evidence presentation, facilitates remote participation, and enhances the overall efficiency of judicial processes. By leveraging technology, the judicial system can embrace modern advancements, improve access to justice, and create a more streamlined and effective court environment.

In Uzbekistan, each court has its own website, providing a platform for individuals to access information related to modernization and digitalization efforts within the specific courts. These websites allow users to explore sections dedicated to the ongoing initiatives aimed at embracing technology and improving the efficiency of judicial processes.

By visiting the websites of specific courts in Uzbekistan, individuals can gain insights into the modernization and digitalization initiatives undertaken by those courts. These sections may include details about the implementation of electronic systems, integration of ICT in court proceedings, and advancements in online services provided to the public.

**In conclusion**, empowering citizens and businesses for access to justice is a critical component of building a fair and efficient judicial system. Through various measures such as digitization, online court services, electronic signatures, and the integration of ICT in court proceedings, significant strides have been made to enhance access, transparency, and efficiency within the legal realm.

The digitization process has revolutionized the way individuals interact with the judicial system, offering convenient access to legal information, court decisions, and resources through online platforms. This has empowered citizens and businesses by providing them with readily available information, fostering transparency, and enabling active participation in the legal processes that affect their rights and interests.

The introduction of online court services has further expanded accessibility, allowing individuals to monitor the progress of their appeals and utilize interactive state services within court buildings. This not only saves time and resources but also ensures greater convenience for users.

The implementation of electronic signatures has significantly increased the validity and security of digital documents, enabling their acceptance and recognition in legal proceedings. This advancement has streamlined administrative processes, reduced paperwork, and improved the overall efficiency of the judicial system.

Moreover, the integration of ICT in court proceedings has revolutionized the way hearings are conducted, allowing for electronic evidence presentation, remote participation, and efficient management of court records. This has improved access to justice, especially for those facing geographical or logistical constraints.

As we move forward, it is crucial to continue investing in the development of technology-driven solutions and capacity-building initiatives. By doing so, we can further enhance the accessibility, efficiency, and fairness of the judicial system, ultimately creating an environment where all individuals and businesses can effectively exercise their rights and find resolution to their legal matters.



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