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The Concept, Structural Elements and Classification of the Procedural Legal Status of Persons Participating in a Case

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Abstract: The article examines the concept of the procedural legal status of persons participating in a case, its structural elements and its classification on the basis of the theory of law, the doctrine of civil procedural law, the Civil Procedure Code of 2018 and the Labour Code of 2022. The study applies formal-legal analysis of national legislation, systematic interpretation of the norms of procedural and labour law, comparative-legal analysis of the legislation of the Russian Federation, Germany and France, and logical modelling. The views of national and foreign scholars on the categories of "legal status", "legal position" and "procedural status" are compared, and the author's definition of procedural legal status is substantiated as a derivative, dynamic and intersectoral category consisting of five elements: procedural legal personality, legal interest, procedural rights and obligations, procedural guarantees and procedural liability. A three-criteria classification of persons participating in labour dispute cases is developed. The analysis revealed six inconsistencies between the Civil Procedure Code and the Labour Code, concerning the procedural capacity of minor employees, the status of trade unions, the participation of a state body in reinstatement cases, the position of the culpable official, the defendant where the employer is a separate subdivision and the protection of employee witnesses. The discussion shows that foreign legislation resolves these issues through special procedural rules for labour cases. Proposals are put forward to amend the Civil Procedure Code, the Labour Code and the guidance of the Plenum of the Supreme Court.

Keywords: Legal status, procedural legal status, persons participating in a case, legal interest, procedural legal capacity, procedural capacity to act, parties, third parties, prosecutor, trade union, labour dispute.

Introduction

Article 55 of the Constitution of the Republic of Uzbekistan guarantees everyone the right to judicial protection [1]; however, the practical realisation of this right depends to a large extent on the procedural status of the persons involved in court proceedings, that is, on a clear statutory regime defining their rights and obligations, the grounds on which they enter the proceedings and the ways in which they can influence the outcome of the case. A participant whose procedural status is unclear cannot effectively defend his or her interests, and the court is deprived of the opportunity to assess the lawfulness of procedural actions properly. The Civil Procedure Code (CPC) adopted in 2018 regulates, in Chapter 6 "Participants in Civil Proceedings", the composition and status of persons participating in the case and persons assisting in the administration of justice and, in Chapter 7, representation in court [2].

The Labour Code adopted in a new version in 2022 expanded the range of parties to an individual labour dispute and strengthened the role of trade unions, the state labour inspectorate and other actors in protecting labour rights [3]. As a result, the status of persons participating in labour dispute cases has become a complex legal phenomenon formed at the intersection of civil procedural and labour legislation. National scholars have examined the procedural features of the consideration of labour disputes [4], and Russian scholars have shown that individual labour disputes require a combined substantive and procedural approach to legal regulation [5].

In legal theory, two approaches to the concept of the legal status of the individual have been developed. According to the narrow approach, legal status is equated with the totality of a person's rights and obligations, while according to the broad approach it is a systemic construct of interrelated elements. N. V. Vitruk distinguishes legal position as a broader category that includes, alongside rights, freedoms and obligations, legal capacity, legitimate interests, guarantees and legal liability [6], and N. I. Matuzov includes in legal status legal norms, legal personality, subjective rights and obligations, legitimate interests, citizenship, liability, principles and guarantees [7]. In civil procedural doctrine, the common features of persons participating in a case have been identified as a legal interest in the outcome of the case, participation in their own name, broad procedural rights and the extension to them of the legal force of judicial acts [8], and the difference between these persons and representatives, who protect the interest of another person, has been emphasised [9]. In national labour law, Y. Tursunov stresses that procedural relations in labour disputes arise from labour relations and continue until the decision is enforced [10].

Nevertheless, the general theoretical foundations of the procedural legal status of persons participating in labour dispute cases – its concept, structural elements and classification – have not yet been the subject of a comprehensive study based on the norms of both substantive and procedural law. The aim of this article is to define the concept of procedural legal status, to identify its structural elements, to classify the persons participating in labour dispute cases and to develop proposals for improving national legislation.

Materials and Methods

The material of the study comprises the Civil Procedure Code of the Republic of Uzbekistan of 2018, the Labour Code of 2022, the Law "On Trade Unions" and official explanations of the norms on labour disputes, the procedural and labour legislation of the Russian Federation, Germany and France, works on the theory of law, civil procedural law and labour law, and practical materials of the Supreme Court of the Republic of Uzbekistan. The following methods were used: the formal-legal (dogmatic) method to analyse the content of the norms defining the status of participants in proceedings; systematic interpretation to identify the relationship and inconsistencies between the norms of the CPC and the Labour Code; the comparative-legal method to compare the national regulation with that of the Russian Federation, Germany and France; and the logical-modelling method to construct the structure and classification of procedural legal status. The identified inconsistencies were grouped by the element of status they affect, and proposals were formulated for each of them.

Results

Concept of procedural legal status. Summarising the theoretical approaches, the following definition is proposed: the procedural legal status of a person participating in a case is a legal position established by procedural legislation, arising on the basis of a legal interest in the outcome of the case and comprising procedural legal capacity and capacity to act, procedural rights and obligations, guarantees of their exercise and procedural liability, which expresses the place and role of the person in civil proceedings. Procedural legal status is, first, derivative, since it is based on the general legal status of the person and manifests itself only within the proceedings; second, dynamic, since it may change during the proceedings, for example when a third party is joined as

a party or in procedural succession; and third, intersectoral, since in labour dispute cases its content is determined by both the CPC and the Labour Code.

Procedural legal status should be distinguished from procedural position and procedural stance. Status is a model of rights and obligations predetermined by law for a category of participants and is the same for all such participants; procedural position is the place occupied by a specific person in a specific case in implementing this model; and procedural stance expresses the person's legal and factual views on the substance of the dispute. Status is realised through civil procedural legal relations, the mandatory subject of which is the court: persons participating in a case enter into procedural relations through the court, which is therefore not a participant but the principal guarantor of the realisation of their status.

Structural elements. Five interrelated elements form the structure of procedural legal status (Figure 1). The first is procedural legal personality, which comprises procedural legal capacity, recognised equally for all citizens and organisations under Article 41 of the CPC, and procedural capacity to act, which under Article 42 belongs to adult citizens and organisations, while the rights of minors aged fourteen to eighteen are protected by their parents, adoptive parents or guardians. In labour law, by contrast, labour legal capacity and capacity to act arise simultaneously at the age of sixteen, and in certain cases employment from the age of fifteen is permitted with the consent of a parent. Thus, a sixteen-year-old employee who has concluded an employment contract independently must protect his or her labour rights in court through a legal representative. Article 37 of the CPC of the Russian Federation resolves this issue by entitling minors aged fourteen to eighteen to defend their rights in person in cases arising from labour relations [11]. The procedural legal personality of the employer is also distinctive: under the Labour Code, branches, representative offices and other separate subdivisions may act as employers, but since they are not legal entities, the question of who should be the defendant remains contentious in practice.



Figure 1. Structure of the procedural legal status of a person participating in a case

The second element, legal interest, is the ground for involving a person in the proceedings and determines the nature of his or her status; it may be personal or state-public. Article 544 of the Labour Code broadens the scope of personal interest by recognising as a party to an individual labour dispute not only the employee but also a person who previously had labour relations with

the employer and a person whom the employer refused to hire [12]. The third element, procedural rights and obligations, forms the core of status: Article 40 of the CPC establishes the general rights of all persons participating in a case together with the obligation to exercise them in good faith, and Article 44 enshrines the special dispositive rights of the parties, including the right to conclude a settlement or mediation agreement, which in labour disputes serves to preserve the employment relationship [13]. The scope of these rights depends on the category of participant: third parties not asserting independent claims cannot change the ground or subject of the claim or withdraw it, and the prosecutor and other actors protecting the rights of others cannot dispose of the substantive claim against the will of the person whose interests they protect.

The fourth element, procedural guarantees, ensures the actual realisation of rights: in labour disputes these include the exemption of the employee from court costs, the absence of a cap on the amount of the claim, special time limits for filing claims and the possibility of restoring them, and the immediate enforcement of certain decisions. The fifth element, procedural liability, comprises the adverse consequences applied for failure to fulfil procedural obligations or for abuse of rights, such as a court fine, the imposition of court costs or the loss of the right to perform a procedural action, and it makes status a balanced system of rights and responsibility.

Classification. Under Article 39 of the CPC, persons participating in a case include the parties, third parties, their representatives, applicants and other interested persons in special proceedings, the prosecutor, and state administration bodies, organisations and citizens protecting the rights of others, while Article 54 defines the persons assisting in the administration of justice. Unlike the national legislator, the CPC of the Russian Federation does not include representatives among the persons participating in the case, since they have no personal legal interest. The approach of national legislation is of practical significance in allowing representatives to use the general procedural rights, although theoretically the status of a representative is derivative and limited by the powers granted. On this basis, persons participating in labour dispute cases are classified according to three criteria: the nature of the legal interest, the procedural function and the manner of entry into the proceedings (Figure 2, Table 1).

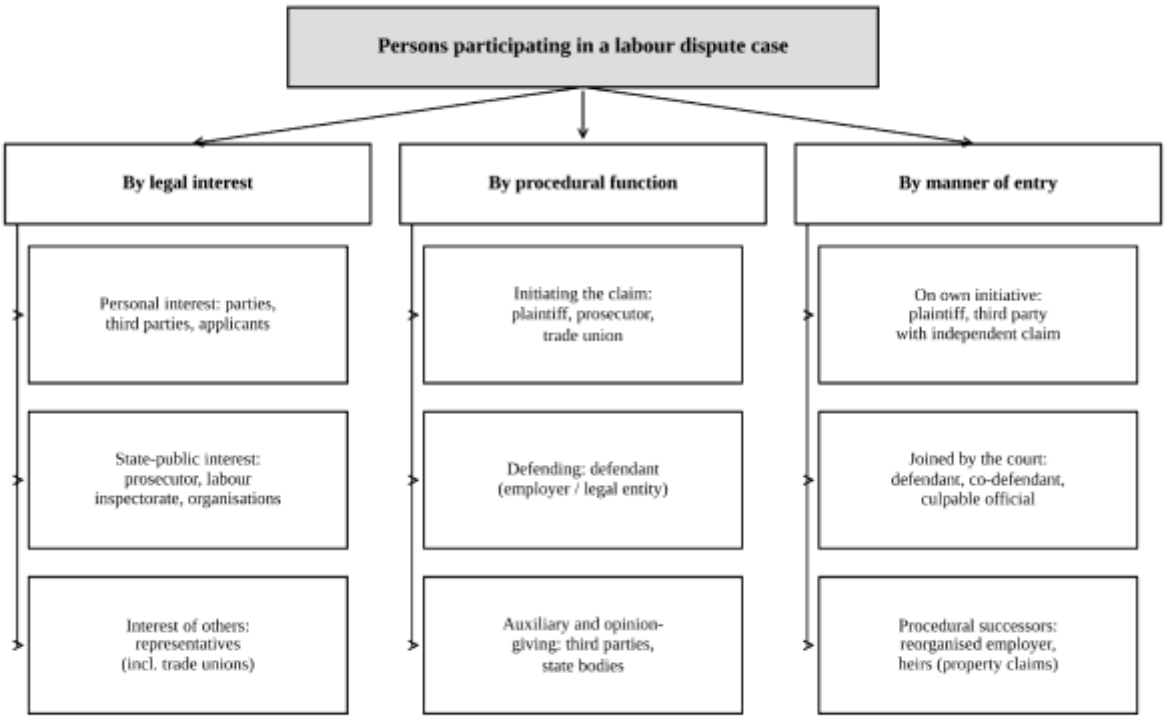


Figure 2. Classification of persons participating in labour dispute cases

Table 1. Classification of persons participating in labour dispute cases

Criterion	Group	Participants	Specific features in labour disputes
Nature of legal interest	Personal	Parties, third parties, applicants	Employee, former employee, rejected job applicant (Art. 544 LC)
	State-public	Prosecutor, state bodies, organisations	Prosecutor (Art. 50 CPC), labour inspectorate (Art. 52 CPC)
	Interest of others	Representatives	Trade union as representative or organisation (Arts. 52, 67 CPC)
Procedural function	Initiating	Plaintiff, prosecutor, trade union	Claim in the interests of the employee
	Defending	Defendant	Legal entity where employer is a subdivision
	Auxiliary / opinion	Third parties, state bodies	Culpable official in material liability cases
Manner of entry	Own initiative	Plaintiff, third party with own claim	Labour inspectorate entering to give an opinion
	Joined by court	Defendant, co-defendant, third party	Joinder of the culpable official
	Succession	Legal successor (Art. 47 CPC)	Reorganised employer; heirs only for property claims

Note: LC – Labour Code; CPC – Civil Procedure Code. Developed by the author.

Special participants in labour disputes. Procedural succession under Article 47 of the CPC is of particular importance in labour disputes. When the defendant employer is reorganised, its legal successor is joined to the proceedings, whereas on the death of an employee succession is impossible for claims personally linked to him or her, such as reinstatement, while heirs may enter the proceedings in respect of property claims such as unpaid wages; thus, the limits of succession are determined by the degree to which the substantive claim is linked to the person. Trade unions have the right under Article 43 of the Labour Code and Article 35 of the Law "On Trade Unions" to protect the interests of employees in the consideration of labour disputes [14], but the CPC does not mention them by name, so they may participate only as an organisation protecting the rights of others under Article 52 or as a representative under Article 67, and the question of whether a trade union may protect a non-member requires systematic interpretation. The State Labour Inspectorate may be joined by the court or enter on its own initiative to give an opinion under Article 52 of the CPC, but national legislation does not provide for the mandatory participation of a prosecutor or labour inspector in reinstatement cases, and proposals to strengthen the role of courts in labour disputes have been put forward in the literature [15]. The practical manual of the Supreme Court and the United Nations Development Programme also pays attention to the procedural features of labour cases [16]. Employees of the defendant employer who appear as witnesses face a risk of disciplinary or other adverse measures, which limits the collection of evidence, while the labour disputes commission is not a participant in the proceedings, since the court considers the dispute anew and assesses the minutes of the commission as written evidence.

Identified inconsistencies. The analysis revealed six inconsistencies between the CPC and the Labour Code that affect the elements of procedural legal status: the mismatch between labour capacity at sixteen and procedural capacity at eighteen; the absence of trade unions from the CPC; the lack of mandatory participation of a state body in reinstatement cases; the uncertain procedural position of the culpable official in cases of material liability under Article 564 of the Labour Code; the uncertainty of the defendant where the employer is a separate subdivision; and the absence of guarantees for employees who testify as witnesses.

Discussion

Comparison with foreign legislation shows that these problems have been addressed elsewhere through special procedural rules for labour cases (Table 2). In the Russian Federation, the prosecutor gives an opinion in reinstatement cases, and an individual labour dispute may be brought before the court on the application of the employee, the employer or a trade union protecting the interests of the employee [17]. In Germany, the Labour Courts Act grants representatives of trade unions and employers' associations the right to represent their members before labour courts [18], and in higher instances such representation is carried out through special legal entities established by trade unions [19]. In France, an employee may be represented before the labour courts by a trade union defender (défenseur syndical) with a special status [20]. Comparative research confirms that the institutional design of judicial regimes for employment disputes, including the participation of lay members and representative organisations, affects employees' access to justice [21], and comparative labour law shows the general trend towards special procedural protection of the weaker party [22].

Table 2. Comparison of procedural rules for labour disputes

Issue	Uzbekistan	Russian Federation	Germany	France
Minor employee in court	Through legal representative	In person from 14 (Art. 37 CPC RF)	Capacity for authorised employment (§ 113 BGB)	—
Trade union standing	Not named in CPC	May bring dispute (Art. 391 LC RF)	Represents members (§ 11 ArbGG)	Défenseur syndical
State body in reinstatement cases	Not mandatory	Prosecutor's opinion	Specialised labour courts	Specialised labour councils
Protection of employee witnesses	No special rule	—	—	—

Note: "—" – no special rule identified in the sources analysed. Compiled by the author on the basis of the cited legislation.

Three trends can be identified: granting employees' representative bodies a special procedural status in labour cases, the participation of a state body in socially significant categories of cases such as reinstatement, and special procedural guarantees aimed at offsetting the weaker position of the employee. These trends should not be transplanted mechanically but adapted to the national judicial system and trade union movement; in particular, broader procedural powers of trade unions should be accompanied by guarantees that they cannot act against the will of the employee. The relevance of these measures is increased by the fact that labour disputes commissions have not been established at many enterprises, so that most disputes are heard directly in court [23]. The study has limitations: it is based on doctrinal and comparative analysis and does not include a quantitative study of judicial practice, which should be the subject of further research.

Conclusion

The procedural legal status of a person participating in a case is a derivative, dynamic and intersectoral legal position that arises from a legal interest in the outcome of the case and consists of five elements – procedural legal personality, legal interest, procedural rights and obligations, procedural guarantees and procedural liability – and the persons participating in labour dispute cases can be classified by the nature of their legal interest, their procedural function and the manner

of their entry into the proceedings; the analysis of the CPC and the Labour Code revealed inconsistencies in the regulation of the status of minor employees, trade unions, state bodies, the culpable official, employers that are separate subdivisions and employee witnesses. To eliminate them, it is proposed to supplement Article 42 of the CPC with a rule entitling minors aged sixteen to eighteen, and those lawfully working from fifteen, to protect their rights in labour cases in person while preserving the court's right to involve their parents; to name trade unions expressly in Articles 52 and 67 of the CPC with the right to bring a claim and represent an employee, regardless of membership, with the employee's written consent; to provide for the participation of a prosecutor or state labour inspector to give an opinion in reinstatement cases; to establish in procedural legislation or a resolution of the Plenum of the Supreme Court the mandatory joinder of the culpable official as a third party in cases under Article 564 of the Labour Code and the rule that, where the employer is a separate subdivision, the legal entity is the defendant and the head of the subdivision is its representative; and to prohibit in the Labour Code disciplinary or other adverse measures against an employee for giving testimony in a labour dispute.

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