

Проект обеспечения юриспруденции Конституционного Суда Республики Узбекистан на Английском языке.

Нагойский Университет
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Данный проект в рамках исследовательского гранта, предоставленного Японским Агентством по Академическому Развитию (JSPS) - “Углубление Исследований Азиатского Конституционализма – Установление Транснациональной Исследовательской Группы по продвижению Прав Человека и Правовой Системы” (далее грант Азиатского конституционализма) направлен на укрепление международных связей между специалистами Азиатского конституционализма. В рамках данного гранта, была осуществлена кропотливая работа по аутентичному юридическому переводу решений Конституционного Суда Республики Узбекистан на Английский язык. В свете современных реформ в области конституционализма, данная инициатива направлена на создание англоязычного ресурса конституционного правосудия Узбекистана, с целью предоставления открытого доступа и более широкого привлечения зарубежного академического сообщества к проблемам и вызовам современного Азиатского конституционализма. Публикация перевода осуществляется на законодательной базе (lex.uz) и сайте Конституционного Суда.

Данная работа проводилась специалистами в области конституционализма и прав человека, имеющих необходимые языковые навыки для обеспечения качественного перевода, дел и решений конституционного суда. Академические сотрудники Нагойского Университета (Япония), **Исматов Азиз (доцент), Обата Каору (профессор), и Макино Эми (доцент)** работали над проектом вместе со специалистами права и лингвистами Мельбурнского Университета (Австралия), и Сингапурского Национального Университета (Сингапур). Данная работа проходила при координации Заместителя Председателя Конституционного Суда Республики Узбекистан, судьи **Гафурова Аскара Бойисовича**.

Мы надеемся, что данная работа внесёт свой позитивный вклад в свете проводимых реформ конституционного правосудия в Узбекистане и возрастающего интереса к вопросам Азиатского конституционализма со стороны зарубежных обозревателей.

Просим все вопросы касательно перевода высылать по нижеуказанному адресу;
(Мы также просим указать данную контактную информацию на соответствующих ресурсах при загрузке перевода решений)

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RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**IN THE CASE CONCERNING THE VERIFICATION OF CONSTITUTIONALITY OF ORDER NO. 164
OF THE HOKIM OF THE SURHANDARYA REGION FROM 15 AUGUST 1996**

Constitutional Court consisting of Chairman B. Eshonov, judges O. Ernazarov, G. Abdumazhidov and G. Pirzhanov,
Guided by article 109, paragraph 1, of the Constitution and article 1 of the Constitutional Court Act,
examined at an open court hearing the matter of verification of the constitutionality of the order of the khokim of the Surkhandarya region of August 15, 1996 No. 164.
The basis for the consideration of the case was the initiative of the judges of the Constitutional Court of the Republic of Uzbekistan O. Ernazarov, G. Abdumazhidov, G. Pirzhanov on the appropriateness of checking the conformity of the order of the khokim of the Surkhandarya region of August 15, 1996 No. 164 of the Constitution of the Republic of Uzbekistan.
Having heard the information of the reporting judge G. Pirzhanov and having studied the case materials, the Constitutional Court **found**:

According to the order of the khokim of the Surkhandarya region, adopted on August 15, 1996 No. 164 and aimed at preparing and publishing the color book-album "Surkhandarya" and covering associated costs, the Denau Cotton Cleaning Joint-Stock Company was allocated 200 (two hundred) tons of Prima cotton which it had to send to Novosibirsk paper mill plant. The plant, in turn, had to transfer 110 thousand US dollars to the Finnish company. The khokim of the Surkhandarya region, however, ordered the cotton cleaning joint-stock company to pay 5 million 800 thousand sums at the expense of sponsoring organizations and enterprises. Thus, the rights of the joint-stock company to use and dispose of their funds were clearly violated.

Article 113 of the "Joint-Stock Companies and the Protection of Shareholders' Rights Act" states that the State guarantees the rights and legitimate interests of shareholders and that interference by State bodies and other organizations in the economic and other activities of joint-stock companies is prohibited.

Hokim of Surkhandarya region intervened in the economic activities of the joint-stock company and limited the rights of the owner to possess, use and dispose of their property at the owner's discretion.

In accordance with articles 25, 26 and 27 of the Constitutional Court Act, the Constitutional Court **decided**:

1. To recognize the order of the khokim of the Surkhandarya region dated August 15, 1996 No. 164 on the preparation and publication of the color book-album "Surkhandarya" inconsistent with article 54 of the Constitution of the Republic of Uzbekistan.
2. This decision is final and not subject to appeal.

**Constitutional Court
of the Republic of Uzbekistan**

Tashkent,
February 25, 1997

(Newspaper "People's Word," February 26, 1997, No. 44 (1565))

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**IN THE CASE CONCERNING THE VERIFICATION OF CONSTITUTIONALITY OF PARAGRAPH 2.7
OF THE DECISION OF THE KHOKIMIYAT KHOREZM REGION OF 11 NOVEMBER 1996 NO. 275
"PROVISION FOR THE GRANTING OF A STATE PERMIT (LICENCE) FOR THE PURPOSE OF
REGULARIZING ISING THE ACTIVITIES OF THE CONCERT**

Constitutional Court consisting of Chairman B. Eshonov, judges O. Ernazarov, G. Abdumazhidov and G. Pirzhanov,

Guided by article 109, paragraph 1, of the Constitution and article 1 of the Constitutional Court Act,
examined at an open court hearing the matter of compliance of paragraph 2.7 of the decision of the khokimiyat of the Khorezm region from November 11, 1996 No. 275 "Regulation and issue of state permits (licenses) streamlining the concert and touring activities of art groups in the region and providing soloists with artistic services at weddings and other celebrations, as well as other activities of the cultural services bureau" with article 105 of the Constitution of the Republic of Uzbekistan.
The basis for the consideration of the case was the initiative of judges of the Constitutional Court of the Republic of Uzbekistan O. Ernazarov, G. Abdumazhidov, G. Pirzhanov.
Having heard the information of the reporting judge O. Ernazarov, the written explanation of the khokim of the Khorezm region and having studied the case materials, the Constitutional Court **found:**

Paragraph 2.7 of the khokimiyat of the Khorezm Region, decision No. 275 of 11 November 1996, "Regulation and issue of a state permits (licenses) streamlining the concert and touring activities of art groups in the region and providing soloists with artistic services at weddings and other celebrations, as well as other activities of the cultural services bureau" states: "Mahalla committees and elders of rural gatherings are responsible in their territories for strict control over the availability of state permits (licenses) and daily trips of teams, groups and soloists providing art services at weddings and other celebrations."
The imposition of such responsibility on citizens' self-governed bodies, which are not part of the structure of the Councils of People's Deputies and Khokimiyats and act on a voluntary basis, is contrary to the Constitution. The Part 2, Article 105 of the Constitution states: "The procedure for elections, the organization of activities and the scope of powers of self-governed bodies are regulated by law." Paragraph 2.7 of the "Regulations" contradicts Part 1, Article 15 of the Constitution, which refers to the unconditional recognition of the rule of law.

In accordance with articles 25, 26 and 27 of the Constitutional Court Act, the Constitutional Court **decided:**

1. Consider paragraph 2.7 of decision No. 275 from 11 November 1996 "Regulation and issue of state permits (licenses) streamlining the concert and touring activities of art groups in the region and providing soloists with artistic services at weddings and other celebrations, as well as other activities of the cultural services bureau" inconsistent with article 105 of the Constitution.
2. This decision is final and not subject to an appeal.

**Constitutional Court
of the Republic of Uzbekistan**

Tashkent,
February 25, 1997

(Newspaper "People's Word," February 26, 1997, No. 44 (1565))

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**IN THE CASE CONCERNING THE VERIFICATION OF CONSTITUTIONALITY OF THE
PROVISIONS OF THE STANDARD FORM EMPLOYMENT CONTRACS FOR TEACHERS,
APPROVED BY CABINET DECISION NO. 394 OF 24 AUGUST 1992**

Constitutional Court of the Republic of Uzbekistan consisting of Chairman B. Eshonov, judges O. Ernazarov, G. Abdumazhidov, G. Pirzhanov, with the participation of L. Kruttsova, representing the interests of the Cabinet of Ministers, expert associate professor M. Hasanov, Guided by article 109, paragraph 1, of the Constitution and article 1 of the Constitutional Court Act, considered at an open court hearing a case on the verification of the constitutionality of the "Regulation of the standard form employment contracts for pedagogical workers," approved by Cabinet of Ministers Decision No. 394 of 24 August 1992. Proceedings were initiated by the Constitutional Court on the basis of Article 15, paragraph 1, of the Constitution and Article 19 of the Constitutional Court Act. A normative act of the Cabinet of Ministers was subject to inspection, regulating the conditions of the standard form contract with pedagogical workers. Having heard the report of the reporting judge G. Pirzhanov and having studied the case file, the Constitutional Court **found:**

Cabinet of Ministers Decision No. 394 of 24 August 1992 approved the "Regulation of Standard Form Employment Contracts for Teachers". According to this Regulation, an employment contract for teachers employed by the State higher and secondary special educational institutions, vocational schools and general education schools is entered into a for a period of 1 to 5 years.

Having heard the representative of the Cabinet of Ministers, the expert's opinion, having analysed the norms of the Constitution, the Labor Code, and the "Education Act", the Constitutional Court concluded that the said "Regulation" does not comply with the Constitution and restricts employment rights of pedagogical workers of state higher and secondary special educational institutions, vocational schools, general education schools.

Firstly. Article 14 of the Constitution stipulates that the State shall build its activities on the principles of social justice and legality in the interests of individual and society. Article 18 of the Constitution stipulates that all citizens have the same rights and freedoms and are equal before the law. Article 37 of the Constitution guarantees all citizens the right to work and fair employment conditions.

Secondly. Article 58 of the Labour Code also provides for equality of opportunity in employment, working conditions and employability. According to article 76 of the Code, fixed-term employment contracts are entered into only in cases where they cannot be entered into indefinitely, taking into account the nature of the work to be carried out, the conditions for its performance or the interests of the employee, and in other cases provided by law.

The provision in the Labour Code outlining the possibility of entering into a fixed-term employment contract only in clearly defined cases is general and applies to all workers, including teachers. Entry into fixed-term employment contracts with teachers in other cases does not meet the requirements of article 76 of the Labour Code, and therefore article 15 of the Constitution, which establishes the supremacy of the Constitution and the laws of the Republic of Uzbekistan.

Thus, Cabinet of Ministers Decision No. 394 of 24 August 1992 and the Regulation of the Standard Form Employment Contracts for Teachers of State Higher, Secondary Special Educational Institutions, Vocational Schools and General Education Schools, which it approved, contravene articles 14, 15, 18 and 37 of the Constitution of the Republic of Uzbekistan.

On the basis of articles 19, 25, 26 and 27 of the Constitutional Court Act, the Constitutional Court **decided**:

1. The decision of the Cabinet of Ministers of the Republic of Uzbekistan from 24 August 1992 No. 394 on transition to standard form employment contracts with pedagogical workers should be recognized as inconsistent with the Constitution of the Republic of Uzbekistan.
2. Publish this decision in the media.
3. The decision comes into force from the moment of its publication, is final, is not subject to appeal.

**Constitutional Court
of the Republic of Uzbekistan**

Tashkent,
June 17, 1997

(Newspaper "People's Word," June 18, 1997, No. 127 (1649))

**RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
IN THE CASE CONCERNING THE VERIFICATION OF CONSTITUTIONALITY OF PARAGRAPH 2
OF THE GENERAL PART OF THE RECOMMENDATIONS FOR THE STANDARD FORM WRITTEN
EMPLOYMENT CONTRACT (CONTRACT) APPROVED BY CABINET OF MINISTERS DECISION
NO. 133 OF 11 MARCH 1997**

Constitutional Court consisting of Chairman B. Eshonov, judges O. Ernazarov, G. Abdumazhidov, G. Pirzhanov,

with the participation of L. Kruttsova, representing the interests of the Cabinet of Ministers, expert associate professor M. Hasanov, Guided by article 109, paragraph 1, of the Constitution and article 1 of the Constitutional Court Act,

considered at an open court hearing a case on the verification of constitutionality of the second paragraph of the general part of the "Recommendations on the entering into standard form written employment contract (contract)," approved by the Cabinet of Ministers Decision No. 133 of 11 March 1997.

Having heard the report of the reporting judge O. Ernazarov, having studied the materials of the case, the Constitutional Court **found:**

The Cabinet of Ministers Decision No. 133 of 11 March 1997 "On the approval of normative acts necessary for the implementation of the Labour Code of the Republic of Uzbekistan" approved "Recommendations on the entering into standard form written employment contract (contract)."

The "Recommendations" provide that a written employment contract (contract) should be provided to permanent employees (accepted indefinitely) and those who commence employment under a fixed-term employment contract. A fixed-term employment contract according to the "Recommendations" is an employment contract entered into for a certain period of time not exceeding five years, as well as an agreement with temporary and seasonal workers.

Having heard the representative of the Cabinet of Ministers, the expert's opinion, having analyzed the norms of the Constitution and the Labor Code, the Constitutional Court concluded that the normative act of the Cabinet of Ministers limits the employment rights of employees.

First. Article 15 of the Constitution recognizes the absolute supremacy of the Constitution and the laws of the Republic of Uzbekistan. Therefore, no legal instrument should be contrary to the norms and principles of the Constitution.

Second. Article 75 of the Labour Code provides for entering into employment contracts for an indefinite period, for a certain period not exceeding five years and for the duration of certain employment.

The Labour Code, unlike the earlier Labour Code, does not provide for entering into employment contracts with temporary and seasonal workers. Therefore, the regulations of the former Union, which provided for a number of exceptions to the general provisions of employment legislation, which significantly limited the employment rights of temporary and seasonal workers, should not be applied in the territory of the Republic of Uzbekistan from April 1, 1996, that is, from the date of the enactment of the Labor Code.

The Labour Code does not exclude the possibility of recruiting citizens for temporary or seasonal work. These employees are subject to all general standards and guarantees provided for persons who have entered into a fixed-term employment contract.

Third. Government regulations should not be contrary to the Constitution and laws. However, the Cabinet of Ministers in this case went beyond its competence and adopted these "Recommendations" in violation of article 20 of the "Cabinet of Ministers of the Republic of Uzbekistan Act."

On the basis of articles 19, 25, 26 and 27 of the Constitutional Court Act, the Constitutional Court **decided:**

1. To declare the second paragraph of the general part of the Recommendations on the entering into standard form written employment contract, authorised by Cabinet of

Ministers Decision No. 133 of 11 March 1997 on the Entering into Employment Contracts with Temporary and Seasonal Workers, inconsistent with the Constitution of the Republic of Uzbekistan.

2. Publish this regulation in the media.
3. The decision comes into force from the moment of publication, is final, is not subject to appeal.

**Constitutional Court
Republic of Uzbekistan**

Tashkent,
June 17, 1997

(Newspaper "People's Word," June 18, 1997, No. 127 (1649))

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON IMPROVING THE LEGISLATION GOVERNING THE ORDER OF DEBIT OF FUNDS FROM
THE ACCOUNT OF BUSINESS ENTITIES**

The Constitutional Court of the Republic of Uzbekistan, consisting of the chairman of the court, Bahodir Eshonov, judges O. Ernazarov, G. Abdumazhidov, G. Pirzhanov, with the participation of Minister of Finance of the Republic of Uzbekistan D. Sayfuddinov, Chairman of the Central Bank of the Republic of Uzbekistan F. Mullazhanov, expert, Professor Kh. Rakhmankulov, being guided by subsection 1, section one of Article 109 of the Constitution of the Republic of Uzbekistan and Article 1 of the "Republic of Uzbekistan Constitutional Court Act"

considered at an open hearing the case on compliance with the Constitution of the Republic of Uzbekistan of article 781 of the Civil Code of the Republic of Uzbekistan and paragraph 24 of the Republic of Uzbekistan "Enterprises Act."

Proceedings were initiated at the initiative of judges of the Constitutional Court O. Ernazarov, G. Abdumazhidov, G. Pirzhanov in connection with the appeal of the Ministry of Finance and the Central Bank of the Republic of Uzbekistan in accordance with article 19 of the "Republic of Uzbekistan Constitutional Court Act."

Having heard the information of the reporting judge G. Abdumazhidov, the opinion of expert X. Rakhmankulov, having studied the case materials, the Constitutional Court **found:**

Article 784 of the Civil Code of the Republic of Uzbekistan provides for the order of debit of funds from the client's account.

In accordance with this norm, if funds are available on the account, and the amount is sufficient to satisfy all the requirements presented to the client, the withdrawal of these funds from the account is carried out in the order of receipt of client requests and other prescribed documents (calendar order), unless otherwise provided by law.

If the funds in the account are insufficient to satisfy all claims, the funds are debited as follows:

firstly, debit is made according to executive documents providing for the transfer or withdrawal of funds from the account to satisfy requirements arising from legal

employment relations, on the recovery of alimony, on the payment of remuneration under copyright agreements, as well as on compensation for damage to life and health; second, debits are made on payment documents that include payments to the budget and to extrabudgetary funds; third, debits are made on the execution of documents that provide for other monetary claims; fourth, funds are debited on the execution of other payment documents in calendar order.

In accordance with article 24, paragraph 4, of the Enterprises Act, payment of wages, payments to the budget, as well as insurance payments for State compulsory types of insurance and payments to the Pension Fund are priority for all enterprises, including agricultural ones. The remaining types of settlements are carried out by enterprises in calendar order.

The Ministry of Finance and the Central Bank raise the issue of compliance with article 784 of the Constitution of the Republic of Uzbekistan and article 24, paragraph 4, of the Enterprises Act, Arguing that legislative preference given to claims arising from employment relations, over liabilities of enterprises for tax payments and payments to extrabudgetary funds, is contrary to the Constitution of the Republic of Uzbekistan and prevents the implementation of the resolution of the Oliy Majlis "On the State Budget of the Republic of Uzbekistan 1998."

As indicated in the letter by the Ministry of Finance and the Central Bank - in practice enterprises use the above legal norms primarily to debit the funds to satisfy the requirements arising from employment relations, and do not fulfill their obligations for payments to the budget. In addition, some enterprises, by agreement with consumers of their products or services, ensure the receipt of revenue co-incides with the payment of wages, thus avoiding payments to the budget and extrabudgetary funds.

All this leads to increased arrears in payments to the budget, jeopardizes the fulfillment of the State budget obligations established by the Oliy Majlis of the Republic of Uzbekistan, and most importantly, limits the possibility of timely and complete payment of wages to employees of budget organizations (teachers, doctors, military personnel, employees of public administration bodies, etc.), pensions, scholarships, childcare benefits for low-income families, temporarily unemployed benefits and other types of social support for citizens, which infringe on the constitutional rights of socially vulnerable groups of the population. At the same time, the establishment of legal priority in favour of debiting the funds for payments to the budget of extrabudgetary funds will reliably guarantee the constitutional rights and freedoms of a significant part of the population.

The Constitutional Court, having discussed the arguments of the Ministry of Finance and the Central Bank, determined that there were no grounds for recognizing article 784 of the Civil Code of the Republic of Uzbekistan and paragraph 4 of article 24 of the Republic of Uzbekistan "Enterprises As" incompatible with the Constitution of the Republic of Uzbekistan. However, the legislation regulating the order of debit of funds from the account of business entities needs to be improved.

The Constitution of the Republic of Uzbekistan is based on the most important principle of the priority of economic and social rights of citizens. The Constitution puts the State under an obligation to provide special care to pensioners, large families, and other groups of the population in need of social protection. To ensure the realization of the

economic and social rights of citizens, to create appropriate living conditions for people in a state with a strong economy.

It is known that funds allocated by enterprises to the budget and to extrabudgetary funds are the most important source through which the rights and freedoms of citizens are respected and protected, as well as the fulfilment of the State function arising from the preamble to articles 13, 14 and 45 of the Constitution of the Republic of Uzbekistan. Without tax payments to the budget, it is impossible to finance state order enterprises, health institutions, education, the army, law enforcement agencies, ensure national security, and pay salaries to public sector employees.

The existing procedure for satisfying creditors' claims (article 784 of the Civil Code) creates difficulties for the formation of budget income, which may lead to arrears in the payment of wages and the allocation of funds for social needs.

Having analysed articles 3, 56, 783, 784 of the Civil Code, paragraph 6 of article 67 of the Labour Code, article 24 of the Enterprises Act and the provisions of civil law contained in other legal acts, the Constitutional Court concluded that it was necessary to improve the legislation governing the order of debit of funds from the accounts of enterprises.

On this basis, and with a view to implementing the constitutional principles for the protection of the economic and social rights of citizens, ensuring the replenishment of the budget, unconditional implementation of the Oliy Majlis decision "On the State budget 1998," the Constitutional Court, in accordance with article 82 of the Constitution of the Republic of Uzbekistan, **decided:**

Submit to the Oliy Majlis the issue of improving the legislation governing the order of debit of funds from the account of business entities, establishing a priority of funds debit in favour of payments to the budget and to extrabudgetary funds.

**Constitutional Court
of the Republic of Uzbekistan**

Tashkent,
January 16, 1998

RESOLUTION

OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN

IN THE CASE CONCERNING THE VERIFICATION OF THE CONSTITUTIONALITY OF THE APPLICATION OF ARTICLE 118 OF THE LABOUR CODE OF THE REPUBLIC OF UZBEKISTAN

Constitutional Court of the Republic of Uzbekistan consisting of Chairman B. Eshonov, judges O. Ernazarov, G. Abdumazhidov and G. Pirzhanov, being guided by point of 1 part one of Article 109 of the Constitution of the Republic of Uzbekistan and a part two, Article 1 of the Law of the Republic of Uzbekistan of "About the Constitutional Court of the Republic of Uzbekistan", considered at an open court hearing a case on the verification of the constitutionality of the application of article 118 of the Labor Code of the Republic of Uzbekistan regarding the establishment of working hours for medical workers.

The question was introduced at the initiative of judges of the Constitutional Court of the Republic of Uzbekistan O. Ernazarov, G. Abdumazhidov, G. Pirzhanov in connection with the appeal of the Institute for Monitoring of Current Legislation under the Oliy Majlis of the Republic of Uzbekistan.

Having heard the report of the reporting judge G. Pirzhanov, the opinion of the expert, associate professor M. Hasanov, having studied the case materials, the Constitutional Court **found**:

Under the Labour Code, normal working hours for an employee may not exceed forty hours per week (art. 115, para. 1). Certain categories of workers, taking into account their age, state of health, working conditions, the specificity of their work function and other circumstances, shall, in accordance with legislative and other regulatory acts, as well as the terms of the employment contract, qualify for a reduced working time without reduced pay rate (article 116, para.1).

Reduced working time is provided for:

- Employees under the age of 18 (art. 242);
- Employees suffering from groups I and II disability (article 220, part three);
- Workers employed in industries with harmful working conditions (art. 117);
- Employees with special nature of employment (art. 118).

Reduced working hours are provided by the Code for all employees of the first two categories without exception. The provision of reduced working hours (not more than 36 hours per week) for the third category of workers depends primarily on the existence of a list of such industries in sectoral (tariff) agreements, collective agreements or agreements with a trade union committee or other representative body of workers. At the same time, the Government of Uzbekistan has the right to establish a maximum working time (not more than 36 hours per week) for workers engaged in work with particularly harmful and especially difficult working conditions.

Unlike the three categories of employees mentioned above, the range of workers with a special nature of work is not undeniable. As such, article 118 of the Labour Code recognizes all employees whose work is associated with increased emotional, mental and nervous tension. No more than 36 hours of working should be prescribed (in accordance with article 118) "to certain categories of employees (medical workers, teachers and others)." This means that "individual categories of workers" includes all medical and pedagogical workers, and not their individual categories. With regard to the use of words "and others" in the text of the article, it was understood that the list of such (other) employees and the specific duration of their working hours were established, as recorded in the article, by the Government of the Republic of Uzbekistan. Any doubt as to the meaning of the text of the legal norm should be resolved taking into account the priority of individual rights. The need for an extensive interpretation of article 118 of the Code is confirmed by the following.

Prior to the enactment of the Labour Code, i.e. prior to 1 April 1996, almost all health-care workers have been entitled to reduced working hours. The list of workers with a special nature of work, approved by Cabinet of Ministers Decision No. 133 of 11 March 1997, significantly limited the number of medical workers entitled to reduced working hours.

On the basis of articles 25, 26 and 27 of the Constitutional Court Act, the Constitutional Court **decided**:

1. In the interests of protecting labour rights enshrined in the Constitution of the Republic of Uzbekistan and within the meaning of article 118 of the Labour Code of the Republic of Uzbekistan, it is assumed that the standard working hours of medical workers who are not listed in the "List of workers with a special nature

- of work," approved by the Cabinet of Ministers of the Republic of Uzbekistan dated 11 March 1997, cannot exceed thirty-six hours a week.
2. This decree is final and comes into force from the moment it is published in the newspapers "Hulk Suzi" and "People's Word."

Constitutional Court
of the Republic of Uzbekistan

Tashkent,
January 16, 1998

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**IN THE CASE CONCERNING THE VERIFICATION OF THE CONSTITUTIONALITY OF PART
FIVE OF PARAGRAPH 17 "PROVISIONS ON THE PROCEDURE FOR THE APPOINTMENT
AND PAYMENT OF STATE SOCIAL INSURANCE BENEFITS"**

Constitutional Court consisting of Chairman B. Eshonov, judges O. Ernazarov, G. Abdumazhidov, G. Pirzhanov,

With the participation of representatives of the Ministry of Finance of the Republic of Uzbekistan, the Council of the Federation of Trade Unions of Uzbekistan, the Ministry of Social Security of the Republic of Uzbekistan, the Ministry of Labor of the Republic of Uzbekistan, the Social Insurance Fund under the Cabinet of Ministers of the Republic of Uzbekistan, as well as an expert assistant professor M. Hasanov, being guided by section 1, Part one of Article 109 of the Constitution of the Republic of Uzbekistan and Part 2 of Article 1 of the Law of the Republic of Uzbekistan of "About the Constitutional Court of the Republic of Uzbekistan",

considered at a public hearing the question of verifying the constitutionality of part five of paragraph 17 of the Regulation on the Procedure for the Appointment and Payment of State Social Insurance Benefits, approved by the Council of the Federation of Trade Unions of Uzbekistan on December 1, 1993, the Social Insurance Fund under the Cabinet of Ministers of the Republic of Uzbekistan on February 10, 1994, The Ministry of Labour of the Republic of Uzbekistan on 10 February 1994, the Ministry of Social Security of the Republic of Uzbekistan on 11 February 1994 and the Ministry of Finance of the Republic of Uzbekistan on 14 February 1994.

The question, in accordance with article 19 of the Constitutional Court of the Republic of Uzbekistan Act, was submitted at the initiative of the judges of the Constitutional Court of the Republic of Uzbekistan O. Ernazarov, G. Abdumazhidov and G. Pirzhanov in connection with the appeal of the Institute for Monitoring of Current Legislation under the Oliy Majlis of the Republic of Uzbekistan.

Having heard the report of the reporting judge G. Pirzhanov, representatives of the above ministries and departments, the opinion of the expert M. Hasanov, having studied the case materials, the Constitutional Court **found**:

Article 38 of the Constitution of the Republic of Uzbekistan establishes the right of employees to paid leave. Under article 133 of the Labour Code, all employees are granted annual leave to rest and restore their working capacity while maintaining their place of work (position) and average earnings.

In accordance with article 39 of the Constitution, everyone has the right to social security at old age, in case of disability, at the loss of a carer and in other cases provided

by law. Article 285, paragraph 1, of the Labour Code stipulates that temporary carer's leave is paid to employees when caring for a sick family member. However, according to part five of paragraph 17 of the Regulations on the Determination and Payment of State Social Insurance Benefits, if the illness of a family member occurred during the employee's annual leave, where the employee was deprived of rest in order to care for a family member, carer's leave is not available and annual leave is not extended for a number of days, during which the employee cared for a sick family member. Thus, the constitutional rights to rest and social security of workers caring for a sick family member during annual leave are infringed. On the basis of articles 25, 26 and 27 of the Constitutional Court Act, the Constitutional Court **decided:**

1. To recognize part five of paragraph 17 of the Regulation on the Procedure for the Determination and Payment of State Social Insurance Benefits, as not complying with the Constitution, as it limits the right to receive carer's leave benefits of an employee on regular annual or any other type of leave.
2. This decision is final, is not subject to appeal and comes into force from the moment of its publication in the newspapers "Hulk Suzi" and "People's Word."

Constitutional Court
of the Republic of Uzbekistan

Tashkent,
February 26, 1998

(Newspaper "People's Word," February 27, 1998, No. 42-43 (1826-1827))

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**IN THE CASE CONCERNING THE VERIFICATION OF THE CONSTITUTIONALITY OF
CERTAIN LEGAL NORMS GOVERNING THE PROVISION OF BENEFITS TO SURVIVORS OF
THE SECOND WORLD WAR WITH DISABILITIES AND FAMILIES RECEIVING BENEFITS FOR
LOSS OF CARER WHO WAS A MILITARY SERVICE PERSON, AS WELL AS BENEFITS FOR
ACCOMMODATION AND UTILITIES.**

Constitutional Court of the Republic of Uzbekistan consisting of Chairman B. Eshonov, judges O. Ernazarov, G. Abdumazhidov and G. Pirzhanov, with the participation of the representative of the Cabinet of Ministers of the Republic of Uzbekistan D. Irgazieva,

being guided by section 1, part one of Article 109 of the Constitution of the Republic of Uzbekistan and Article 1 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at an open court hearing a case on the verification of the constitutionality of certain legal norms governing the provision of benefits to survivors of World War II with disabilities and families receiving benefits for loss of carer who was a military service person, as well as benefits for housing and communal services.

The basis for the consideration of the case was the initiative of the judges of the Constitutional Court O. Ernazarov, shown in accordance with article 19 of the "Constitutional Court of the Republic of Uzbekistan Act" G. Abdumazhidov and G. Pirzhanov in connection with the appeal of the Control Inspectorate of the Office of the President of the Republic of Uzbekistan, Noting the uncertainty and contradiction of certain legal norms that relate to the payment of accommodation costs and utilities by

these categories of citizens, in need of increased social protection, and indicating the appropriateness of checking the constitutionality of these norms.

Having heard the report of the reporting judge G. Abdumazhidov, the explanation of the representative of the Cabinet of Ministers of the Republic of Uzbekistan, the opinion of specialists, having studied the case materials, the Constitutional Court **found**:

1. In accordance with the Regulation approved by Decree of the Council of Ministers of Uzbekistan of July 7, 1981 No. 544, survivors of the Second World War with disabilities and families receiving benefits for loss of carer who was a military service person, had to pay an accommodation fee reduced by 50% and calculated on the basis of standard living space of 9 square meters. For any excess area of up to 15 square meters the fee is payable in full. At the same time, the reduced size of the accommodation fee for workers and employees was to be calculated within the established norm of 9 square meters for each member of the family occupying the living space.
2. By decree of the Presidium of the Supreme Council of Uzbekistan of December 19, 1983 on the procedure for enacting the Housing Code, the Government of the Republic was instructed to bring its decisions into line with this Code. In particular, the standard living space should have been set at 10 square meters, which was not done.
3. Following the issuance by the President of Uzbekistan of Decree No. 4 of 7 May 1990 on additional benefits for disabled persons and participants of the Second World War, soldiers fought in international military conflicts and families of deceased servicemen in commemoration of the 45th anniversary of the victory in the Second World War, these categories of citizens were completely exempted from accommodation fees from July 1, 1990.
4. The Agreement on Mutual Recognition of Benefits and Guarantees for Participants and Survivors of the Second World War with disabilities, Participants of Military Conflicts in the Territory of Other States, Families of Deceased Military Personnel, concluded by the Governments of the CIS on 15 April 1994, established a 50 per cent reduction of accommodation fee, and allowed the CIS countries to increase this benefit.
5. When considering this issue at a meeting of the Constitutional Court on December 23, 1996, the representative of the Cabinet of Ministers of the Republic of Uzbekistan L.A. Kruttsova and the Minister of Public Services V.K. Mikhailov petitioned to postpone the consideration of the case, stating that new rules for granting benefits to these categories of citizens are currently being developed. However, those rules had not yet been adopted and the 1981 Regulation on the matter had not been declared void and a nullity.
6. On the basis of the constitutional principle that in Individual-State relations, priority should be given to a person's rights and interests, there is no doubt that the requirements of the Decree of the President of Uzbekistan of May 7, 1990 are being fulfilled.
7. The current situation requires the Cabinet of Ministers to review the existing rules for granting the above-mentioned benefits as soon as possible, but no later than within two months, in order to eliminate the gap in the legislative regulation of this issue.

In accordance with articles 25, 26 and 27 of the Constitutional Court Act, the Constitutional Court **decided**:

1. The regulation on the procedure for granting to survivors of the Second World War with disabilities and families receiving benefits for loss of carer who was a military service person, approved by Decree of the Council of Ministers of Uzbekistan of July 7, 1981 No. 544, is declared unconstitutional.
2. This decision is final, not subject to appeal and comes into force two months after its publication in the newspapers Hulk Suzi and Narodnoye Slovo.

Constitutional Court
of the Republic of Uzbekistan

Tashkent,
February 26, 1998

(Newspaper "People's Word," February 27, 1998, No. 42-43 (1826-1827))

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON THE INTRODUCTION OF A DRAFT BILL ON ADDITIONS TO CERTAIN
LEGISLATIVE ACTS OF THE REPUBLIC OF UZBEKISTAN FOR CONSIDERATION BY
THE OLIY MAJLIS**

Constitutional Court of the Republic of Uzbekistan consisting of Chairman B. Eshonov, Deputy Chairman B. Mirbabaev, judges G. Abdumazhidov, S. Khakimova, Yu. Zhuraev and G. Pirzhanov, Guided by article 82 of the Constitution and article 10 of the Constitutional Court Act, considered at an open court hearing a case on the submission to the Oliy Majlis of a draft law on the addition of certain legislative acts of the Republic of Uzbekistan.

The basis for the consideration of the question was the initiative of the judges of the Constitutional Court B. Mirbabayev, shown in accordance with article 19 of the Constitutional Court of the Republic of Uzbekistan Act, G. Abdumazhidov and Y. Zhuraev in connection with the clarification of the plenums of the Supreme Court and the Supreme Economic Court of the Republic of Uzbekistan stating that if the court, in considering the case, finds any normative act important for making the right decision inconsistent with the Constitution, it makes a decision on the suspension of the case.

Having heard the message of Judge G. Abdumazhidov, the opinion of specialists Professor Kh. Rakhmankulov, Associate Professor M. Azimov and Candidate of Legal Sciences B. Pulatov, having studied the case materials, the Constitutional Court **found**:

A study of legislation on the procedure for the consideration and resolution of civil, economic and criminal cases and the practice of its application indicates that the courts sometimes doubt the constitutionality of the law or its norms to be applied in specific cases, which significantly affect the rights, freedoms and legitimate interests of citizens, as well as the interests of society and the State. The Civil Procedure Code, the Economic Procedure Code and the Criminal Procedure Code do not contain rules governing the procedure for resolving doubts about the constitutionality of the law or its norms. In this regard, the Plenum of the Supreme and Plenum of the Supreme Economic Court of the

Republic of Uzbekistan, by a joint decision of December 20, 1996, explained to the courts that if the court, when considering the case, establishes that any normative act relevant for making a decision is inconsistent with the Constitution, it makes a decision on the suspension of the case. However, under articles 16 and 46 of the Courts Act, the plenums of the Supreme Court and the Supreme Economic Court have the power to clarify the application of legislation, whilst the suspension of proceedings in civil, economic and criminal matters must only be regulated by law.

In this regard, in accordance with article 82 of the Constitution of the Republic of Uzbekistan and article 10 of the the Constitutional Court of the Republic of Uzbekistan Act, the Constitutional Court **decided**:

To submit for consideration by the Oliy Majlis a draft bill on supplementing certain legislative acts of the Republic of Uzbekistan on the suspension of proceedings in civil, economic and criminal cases, in cases where the court the constitutionality of the law or its norms applicable in a particular case (the draft is attached).

Tashkent,
June 16, 1998

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON THE INTERPRETATION OF ARTICLE 4, PARAGRAPH 1, OF THE CITIZENSHIP
ACT**

Constitutional Court of the Republic of Uzbekistan consisting of Chairman B. Eshonov, Deputy Chairman B. Mirbabaev, members of the court G. Abdumazhidov, Yu. Zhuraev, G. Pirzhanov and S. Khakimova, with the participation of Deputy Minister of Internal Affairs of the Republic of Uzbekistan K. Burkhanov, S. Berdiyev, Leading Consultant to the Office of the President of the Republic of Uzbekistan, D. Irgazieva, Deputy Head of the Legal Department of the Cabinet of Ministers of the Republic of Uzbekistan, Professor A. Tulyaganov, guided by article 109, paragraph 1, paragraph 3, of the Constitution, examined at an open hearing the case "On the interpretation of article 4, paragraph 1, of the Citizenship of the Republic of Uzbekistan Act", adopted on 2 July 1992 (hereinafter referred to as the Act).

The question in relation to article 19 of the Constitutional Court Act was submitted at the initiative of the judges of the Constitutional Court, B. Mirbabayev. G. Abdumazhidov and Yu. Zhuraev in connection with the appeal of the Ministry of Internal Affairs of the Republic of Uzbekistan to the Oliy Majlis of the Republic of Uzbekistan, referred to the Constitutional Court. The question relates to the interpretation of article 4, paragraph 1, of the "Stateless persons permanently residing on the territory of the Republic of Uzbekistan Act". Having heard and discussed the information of the rapporteur judge G. Abdumazhidov, having considered the opinion of K. Burkhanov, S. Berdiev, D. Irgazieva and A. Tulyaganov participating in the meeting, having studied the case materials, the Constitutional Court **found**:

Article 4 of the Act is of a general nature, consists of three paragraphs and, in general, defines the class of persons who are citizens of the Republic of Uzbekistan.

Article 4, paragraph 1, of the Act states:

"Citizens of the Republic of Uzbekistan are:

1) Persons permanently residing in the Republic of Uzbekistan at the time this Act comes into force, irrespective of origin, social and property status, race and nationality, sex, education, language, political views, religious beliefs, type and nature of occupation, who are not citizens of other States and have expressed a desire to become citizens of the Republic of Uzbekistan. "

The letter of the Ministry of Internal Affairs of the Republic of Uzbekistan dated 7 July 1998 states that article 4, paragraph 1, of the Act applies also to stateless persons, if they were permanently resident on the territory of the Republic of Uzbekistan on the date the Act came into force and expressed a desire to become citizens of the Republic of Uzbekistan. The note of the legal department of the Secretariat of the Oliy Majlis of 14 July 1998 set out the position that article 4, paragraph 1, of the Act should not be applied to stateless persons. Thus, there exist mutually exclusive understandings of the interpretation of this rule, which can lead to serious errors in law enforcement practice. A formal interpretation of the rule was therefore needed to ensure that it was applied consistently and correctly.

Having analysed the norms of the Law and comparing them with the norms of the Constitution of the Republic of Uzbekistan, guided by article 25 of the Constitutional Court of the Republic of Uzbekistan Act, the Constitutional Court decided:

1. According to article 4, paragraph 3, of the Act, citizens of the Republic of Uzbekistan are persons who have acquired Uzbek citizenship in accordance with the Act. The admission of foreign citizens and stateless persons to Uzbek citizenship is regulated by article 17 of the Act, which provides that stateless persons may be admitted to Uzbek citizenship at their request.

Consequently, stateless persons may become citizens of the Republic of Uzbekistan only after they have acquired the citizenship of the Republic of Uzbekistan, that is, after they have been granted citizenship in accordance with article 17 of the Act. Under article 93, paragraph 19, of the Constitution and article 30 of the Act, the President of the Republic of Uzbekistan decides the admission to citizenship of stateless persons. Thus, within the class of persons mentioned in article 4, paragraph 1, of the Act, the legislature intended to include citizens of the former Uzbek SSR who expressed a desire to become citizens of the Republic of Uzbekistan.

2. In accordance with articles 9 and 27 of the Constitutional Court Act, this interpretation is binding and comes into force upon publication.

Tashkent,
September 29, 1998

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN

ON SUBMISSION TO OLIY MAJLIS OF THE DRAFT BILL "AMENDMENTS TO CERTAIN LEGISLATIVE ACTS OF THE REPUBLIC OF UZBEKISTAN"

The Constitutional Court of the Republic of Uzbekistan, consisting of Chairman B. Eshonov, judges B. Mirboboev, G. Abdumazhidov, G. Pirzhanov and S. Khakimova, guided by article 82 of the Constitution of the Republic of Uzbekistan and article 10 of the "Constitutional Court of the Republic of Uzbekistan Act," considered at an open court hearing a case on submission to the Oliy Majlis of the draft bill "Amendments to Certain Legislative Acts of the Republic of Uzbekistan".

At the initiative of the judges of the Constitutional Court B. Mirboboev, G. Pirzhanov and G. Abdumazhidov, shown in accordance with article 19 of the Constitutional Court of the Republic of Uzbekistan Act, the court considered it necessary to amend article 240 of the Criminal Code, article 86 of the Civil Procedure Code and article 47 of the Economic Procedure Code of the Republic of Uzbekistan which relate to liability of experts for evading testimony.

The Constitutional Court of the Republic of Uzbekistan, having heard the information provided by the reporting judge G. Abdumazhidov, the opinions of specialists - the head of the Office of the President's expert group for relations with the legislative and judicial authorities J. Nazarov, First Deputy Minister of Justice of the Republic of Uzbekistan G. Rakhimov, Deputy Chairman of the Supreme Economic Court of the Republic of Uzbekistan M. Azimov, Deputy Chairman of the Supreme Court of the Republic of Uzbekistan, Chairman of the Military Collegium X. Usmonov, A. Salikhov, Head of the department of criminal prosecutorial powers within the Office of Prosecutions' of the Republic of Uzbekistan, M. Hasanov, Deputy Director of the Institute for Monitoring of Current Legislation under the Oliy Majlis of the Republic of Uzbekistan, and S. Otakhodzhaev, Director of the Sulaymanova Republican Research Forensic Center of the Ministry of Justice of the Republic of Uzbekistan, having checked the case materials, **established:**

1. Article 29 of the Constitution states that everyone has the right to freedom of thought, expression and belief. Under this rule, any person is free to express his or her opinion. No one should be compelled to express their opinion.
2. Procedural legislation provides for the participation of an expert in court proceedings. In particular, the expert can be invited in the process of inquiry, preliminary investigation and judicial consideration of cases involving criminal, civil, economic and administrative offenses. The expert is obliged to give an opinion on issues requiring specialised knowledge. Very few cases occurred in judicial practice where an expert refused to give an opinion or evaded a case. This type of conduct is an offence under article 240 of the Criminal Code, as well as article 86 of the Civil Procedure Code, article 47 of the Economic Procedure Code and article 68 of the Criminal Procedure Code.
3. Under article 240 of the Criminal Code, evasion or refusal of an expert to provide expert opinion, regardless of the reasons, entails a fine of up to twenty-five penalty units (with one unit equivalent to a minimum wage) or a sentence of up to three months. The refusal to fulfill the duties of an expert can take place for various reasons: familiar, friendly, hostile, official and other relations, the expert's lack of knowledge and relevant expertise, lack of availability, low wages,

undue influence, danger to professional reputation and others. The person is not obliged to explain the valid reasons for the refusal.

4. In accordance with the law, an interrogator, investigator or specialists of expert institutions, State enterprises and organizations or any other persons with relevant knowledge may be appointed as an expert. However, even a person for whom the expression of an opinion as an expert is considered an official duty may evade the examination. The consequences of such refusal cannot exceed those provided for in article 100 of the Labour Code, that is, a measure more serious than the termination of an employment contract with an employee should not be applied.

On the basis of the above, and in accordance with articles 25 and 26 of the Constitutional Court Act, the Constitutional Court **decided:**

As part of the legislative initiative, submit to the Oliy Majlis for consideration a draft bill amending certain legislative acts of the Republic of Uzbekistan, as follows:

"Amend the following legislative acts of the Republic of Uzbekistan:

1. Amend the title and first paragraph of the first part of article 240 of the Criminal Code of the Republic of Uzbekistan as follows:

"Article 240. Witness or victim evading testimony

Evasion or refusal or to testify by a witness or victim during an inquiry, preliminary investigation or in court.

2. Part three of article 86 of the Civil Procedure Code, part four of article 47 of the Economic Procedure Code and part four of article 68 of the Criminal Procedure Code should read as follows:

"Expert shall be criminally responsible for intentionally providing a false statement."

Constitutional Court
of the Republic of Uzbekistan
Tashkent,
April 12, 2000

RESOLUTION

OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN ON THE INTERPRETATION OF PARAGRAPH 5 OF ARTICLE 6 OF THE OF "THE LEGAL PROFESSION ACT" OF THE REPUBLIC OF UZBEKISTAN

The constitutional court of the Republic of Uzbekistan consisting of the chairman B. Eshonov, the vice-chairman B. Mirboboyev, members of the court G.

Abdumazhidov and G. Pirzhanov according to point 3 part one of Article 109 of the Constitution of the Republic of Uzbekistan considered case of interpretation of the paragraph 5, part one of Article 6 of "The Legal Profession Act" of the Republic of Uzbekistan enacted on December 27, 1996.

The question was submitted in accordance with article 19 of the Constitutional Court Act of the Republic of Uzbekistan on the initiative of judges B. Eshonov, B. Mirboboev and G. Pirzhanov following an application by lawyer X.

Nurmukhamedov to the Constitutional Court with a request to interpret this legislative norm.

Having heard the information of provided by the reporting judge B. Mirboboev, the opinions of specialists - Chairman of the Bar Association of Uzbekistan S. Yakubov, Deputy Minister of Justice of the Republic of Uzbekistan P. Samatov, Deputy Director of the Institute for Monitoring of Current Legislation under the Oliy Majlis of the Republic of Uzbekistan M. Hasanov, S. Berdyev, Leading Consultant of the Office of the President of the Republic of Uzbekistan expert group monitoring relations with the Legislative and Judicial Authorities, K. Rashidov, head of the department of the Higher Economic Court of the Republic of Uzbekistan, director of the Sulaymanova Republican Research Forensic Center of the Ministry of Justice of the Republic of Uzbekistan S. Otakhodzhaev, having studied the case materials, the Constitutional Court **established**:

The statement of lawyer X. Nurmukhamedov provides that in accordance with paragraph 5, part 1 of article 6 of the Legal Profession Act, the lawyer carrying out professional activities has the right to "request and receive with client's consent written opinions of experts... on issues necessary for the provision of legal assistance". He applied to the Sulaymanova Republican Forensic Research Center for a written opinion of the expert in the case. However, the centre denied his request, citing the absence of a rule establishing such a right of counsel in procedural codes.

Thus, with regard to this rule, there are mutually exclusive provisions, which can lead to errors in law enforcement practice. A formal interpretation of the rule was therefore necessary in order to ensure consistent and correct application. In analysing the legislative norms and comparing them with certain norms of procedural codes, in accordance with article 25 of the Constitutional Court of the Republic of Uzbekistan Act, the Constitutional Court **decided**:

1. This provision of the Legal Profession Act grants counsel the right to request and obtain, with the consent of the client, written opinions on matters necessary for the provision of legal assistance from no other person but an expert or an expert institution.

By giving the counsel this right, the legislature intended to place an obligation on expert institutions and experts to provide written opinions to the lawyers.

Thus, expert institutions or experts at the request of a lawyer supported by the consent of the client, must provide written opinions on issues necessary for the provision of legal assistance.

2. In accordance with articles 9 and 27 of the Constitutional Court Act, this interpretation is binding and comes into force as soon as it is published.

Constitutional Court
of the Republic of Uzbekistan

Tashkent,
July 5, 2000

(Newspaper "Narodnoye Slovo," July 13, 2000, No. 134 (2429))

DECISION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON THE WITHDRAWAL OF AGENDA ITEM IN THE MATTER OF "COMPLIANCE
WITH THE CONSTITUTION OF THE ACT AMENDING AND SUPPLEMENTING
CERTAIN LEGISLATIVE ACTS OF THE REPUBLIC OF UZBEKISTAN" FROM 30
AUGUST 1997 AND THE CABINET OF MINISTERS DECISION "ON IMPROVING THE
PROCEDURE FOR ISSUING SPECIAL PERMITS (LICENSES) FOR CERTAIN
ACTIVITIES" FROM 19 APRIL 1994**

Constitutional Court of the Republic of Uzbekistan consisting of Chairman B. Eshonov, judges B. Mirboboev, U. Bazarova, G. Pirzhanova, considered at an open hearing the application of the Chairman of the Supreme Economic Court of the Republic of Uzbekistan to withdraw agenda item in the matter of "Compliance with the Constitution of the "Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan Act" from August 30, 1997 providing for the exclusion of the activity named "Performance of work related to the provision of legal assistance to citizens and legal entities" from the "List of activities in which enterprises (organizations) of all forms of ownership, including foreign and joint, are entitled to engage only subject to a special permit (license)", approved by a decision of the Supreme Council of the Republic of Uzbekistan on January 14, 1992 and a decision of the Cabinet of Ministers" On improving the procedure for issuing special permits (licences) to engage in certain activities" dated April 19, 1994 No. 215 in the part providing for the type of activity titled "Implementation of work related to the provision of legal assistance to citizens and legal entities".

An application for withdrawal of agenda item was made following the adoption by the Cabinet of Ministers of a resolution "On amending the Regulation of procedure for issuing enterprises (organizations) with special permits (licenses) to engage in certain activities" dated January 24, 2001 No. 52.

In accordance with article 18 of the Constitutional Court of the Republic of Uzbekistan Rules, the Constitutional Court has **determined:**

To terminate, following the withdrawal of agenda item by the Chairman of the Supreme Economic Court, proceedings in the matter of "Compliance with the Constitution of the "Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan Act" from August 30, 1997 providing for the exclusion of the activity named "Performance of work related to the provision of legal assistance to citizens and legal entities" from the "List of activities in which enterprises (organizations) of all forms of ownership, including foreign and joint, are entitled to engage only subject to a special permit (license)", approved by a decision of the Supreme Council of the Republic of Uzbekistan on January 14, 1992 and a decision of the Cabinet of Ministers" On improving the procedure for issuing special permits (licences) to engage in certain activities" dated April 19, 1994 No. 215 in the part providing for the type of activity titled "Implementation of work related to the provision of legal assistance to citizens and legal entities".

Constitutional Court
of the Republic of Uzbekistan
Tashkent,
February 6, 2001

DECISION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON THE PROPOSAL TO OLIY MAJLIS OF THE REPUBLIC OF UZBEKISTAN TO
ELIMINATE INCONSISTENCY BETWEEN ARTICLES 53, 54 AND 257 OF THE
ADMINISTRATIVE LIABILITY CODE OF THE REPUBLIC OF UZBEKISTAN**

Constitutional Court of the Republic of Uzbekistan consisting of Chairman B. Eshonov, judges B. Mirboboev, U. Bazarova, G. Pirzhanova and S. Khakimova, guided by article 82 of the Constitution of the Republic of Uzbekistan and article 10 of the Constitutional Court of the Republic of Uzbekistan Act, considered at an open hearing the matter of "Introducing a proposal to the Oliy Majlis of the Republic of Uzbekistan to eliminate the discrepancy between articles 53, 54 and 257 of the Administrative Liability Code of the Republic of Uzbekistan.

The basis for the consideration of the case was a discrepancy found in articles 53, 54 and 257 of the Administrative Liability Code of the Republic of Uzbekistan and the initiative of the judges of the Constitutional Court U. Bazarov, G. Pirzhanov and S. Khakimova in accordance with article 19 of the Constitutional Court of the Republic of Uzbekistan Act. The reason for the analyses of the issue was the appeal of the chief medical officer of the Tahiatash center of sanitary and epidemiological control A. Madreimov.

The Constitutional Court of the Republic of Uzbekistan, having heard the information of the reporting judge S. Khakimova, the opinions of the parties and specialists: representative of the Oliy Majlis of the Republic of Uzbekistan A. Yuldashev, representative of the Ministry of Health of the Republic of Uzbekistan N. Atabekov, member of the Scientific Advisory Council of the Constitutional Court M. Az, having studied the materials available in the case, **found:**

Article 53 of the Administrative Liability Code establishes a fine of five to ten penalty units (with one unit equal to a minimum wage) for violations of legislative norms of sanitary control, sanitary standards, rules and hygiene practices. (As amended by the Republic of Uzbekistan Act of May 1, 1998 - Vedomosti of the Oliy Majlis of the Republic of Uzbekistan, 1998, No. 5-6, Art. 102).

Article 54 of the Code provides for a fine of between ten and fifteen penalty units (with one unit equal to a minimum wage) for violations of mandatory rules established to prevent the occurrence or spread of quarantine and other infectious diseases (As amended by the Republic of Uzbekistan Act of May 1, 1998 - Vedomosti of the Oliy Majlis of the Republic of Uzbekistan, 1998, No. 5-6, Art. 102).

In accordance with article 257, paragraph 2, of the Constitution, the following authorities can consider cases of administrative offences and apply administrative penalties in the form of a fine:

The Chief Medical Officer of the Republic of Uzbekistan and his deputies - up to seven penalty units (with one unit equal to a minimum wage);

Chief Public Health Officer of the Republic of Karakalpakstan, Regions and Cities of Tashkent and their Deputies, Chief Public Health Officers of Cities with District Division and Chief State Health Officers of Water Transport Basins - up to five penalty units (with one unit equal to a minimum wage);

Chief Public Health Officers of districts, cities without district divisions and Chief Public Health Officers of ports and linear sections of water transport - up to three penalty units (with one unit equal to a minimum wage).

Thus, the sanctions provided for in articles 53 and 54 are inconsistent with the part 2, article 257. The contradiction lies in the fact that, in practice, the Chief State Medical Officer of the Republic of Uzbekistan and his deputies, who have the right to impose fines, cannot fully apply the sanctions provided for in articles 53 and 54. This discrepancy must therefore be resolved.

On the basis of article 82 of the Constitution and articles 10, 25, 26 and 27 of the Constitutional Court Act, the Constitutional Court **decided**:

1. To declare provisions of article 53, 54 inconsistent with part two, article 257 of the Administrative Liability Code.
2. Submit a proposal to the Oliy Majlis of the Republic of Uzbekistan, as a matter of legislative initiative, to eliminate the discrepancy between articles 53, 54 and part two of article 257 of the Code of Administrative Liability of the Republic of Uzbekistan.
3. In the law-enforcement practice of State bodies, it should be assumed that, until the Oliy Majlis makes the relevant amendments, the provisions of article 53 and 54 of the Administrative Liability Code should be applied.
4. Publish this Decision in the newspapers "Hulk Suzi" and "People's Word."

Constitutional Court
of the Republic of Uzbekistan
Tashkent,
June 12, 2001

(Newspaper "Narodnoye Slovo," June 15, 2001, No. 117 (2627))

DECISION

CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN ON INTERPRETATION OF PART 2, ARTICLE 16 OF OF THE REPUBLIC OF UZBEKISTAN "GUARANTEES OF FREEDOM OF BUSINESS ACTIVITY ACT"

The constitutional court of the Republic of Uzbekistan consisting of the Chairman B. Eshonov, judges B. Mirboboyev, U. Bazarov, G. Pirzhanov and S. Hakimova, being guided by point there, part one of Article 109 of the Constitution of the Republic of Uzbekistan and Article 1 of the Constitutional Court of the Republic of Uzbekistan Act, considered at public hearing a matter of "Interpretation of a part 2, Article 16 of the "Guarantees of Freedom of Business Activity Act" enacted on May 25, 2000.

The question is brought before the court in accordance with Article 19 of the Constitutional Court of the Republic of Uzbekistan Act at the initiative of judges U. Bazarov, G. Pirzhanov and S. Hakimova in connection with the appeal to the Constitutional court of the business owner V. Frolov.

Having heard the reporting judge S. Hakimova, opinion of the vice-chairman of Oly Mazhlis Committee of the Republic of Uzbekistan on reforming the economy and business K. Yuldashev, the consultant of the Office of the President of the Republic of Uzbekistan expert group monitoring communications with bodies of legislative and judicial authority Yu. Nazarov, legal department of the Cabinet of

the Republic of Uzbekistan manager B. Kuchkarov, the chief of the department of the legislation of the Ministry of Justice of the Republic of Uzbekistan H. Sadykov, the vice-chairman of the State Tax Committee of the Republic of Uzbekistan E. Gadoyev, the deputy head of department of tax policy of the Ministry of Finance of the Republic of Uzbekistan T. Minibayeva, the head of the department of Revenue Reporting of the State tax committee of the Republic of Uzbekistan O. Ganiyev, the President of Chamber of producers and businessmen of Uzbekistan M. Sobirov and members of Scientific and advisory council of the Constitutional court of the Republic of Uzbekistan: the deputy director of Institute of monitoring of the current legislation at Oly Mazhlise of the Republic of Uzbekistan of M. Gasanov, the vice-chairman of the Supreme economic court of the Republic of Uzbekistan M. Azimov, the Chairman of presidium of the Tashkent city Bar S. Yakubov, the chief of department of Ministries of Internal Affairs Academy of the Republic of Uzbekistan. X.Odilkariyev, having studied all materials and documents available in the matter, the Constitutional court **established:**

The business owner V. Frolov complained of illegal deprivation of benefits provided under a part 2, Article 16 of the "Guarantees of Freedom of Business Activity Act". He appealed to the Constitutional court of the Republic of Uzbekistan.

Being a sole trader since October, 1999, V. Frolov paid a tax according to Article 641 of the Tax Code of the Republic of Uzbekistan and the resolution of the Cabinet of the Republic of Uzbekistan No. 541 of 31.12.1998 at the rate of 5 minimum wages per month. Later changes were made to the maximum tax rate for the individual income tax, raising fixed rates to 10, and then to 20 and to 30 minimum wages per month (resolutions of the Cabinet of the Republic of Uzbekistan of 31.12.1999 No. 554 and of 26.12.2000 No. 500).

In spite of the fact that V. Frolov is entitled to use benefits provided under part 2, Article 16 of the "Guarantees of Freedom of Business Activity Act", the Ministry of Finance and State tax committee of the Republic of Uzbekistan in the joint explanatory letter No. TD/04-01-05/213 No. 15/3-3987 of 13.06.2001 deprived him of such right.

According to Article 2 of the "Normative Legal Acts of the Republic of Uzbekistan Act", "the normative legal act is the official document enacted in the form determined by the current legislation, aimed to establish, change or cancel the legislative rules as mandatory state instructions". Article 5 of the same Act lists acts which are normative legal acts. On this basis, the Constitutional court notes that the explanatory letter of the Ministry of Finance and State Tax Committee of the Republic of Uzbekistan No. TD (04-01 - 05/213 No. 15/3-3987 of 13.06.2001) is not the normative legal act. For this reason, this letter and any similar letters attempting to explain the application of a part 2, Article 16 of the "Guarantees of Freedom of Business Activity Act" are unconstitutional.

Article 15 of the Constitution recognises the superiority of the Constitution and the legal acts of the Republic of Uzbekistan, and no subordinate act can change the law.

Because the wrongful interpretation and application of the provisions of the law by tax and financial bodies entailed certain legal consequences not only for V.

Frolov, but for other small and private businesses, the Constitutional court of the Republic of Uzbekistan came to a conclusion about the need to interpret part 2, Article 16 of the "Guarantees of Freedom of Business Activity Act".

In the analysis of current laws, the Constitutional court of the Republic of Uzbekistan proceeds from the following:

1. According to part 2, Article 18 of the Constitution of the Republic of Uzbekistan a benefit can only be established by law and have to correspond with principles of social justice.
2. In accordance with Article 19 of the Constitution of the Republic of Uzbekistan "Citizens of the Republic of Uzbekistan and the state are connected by the rights and mutual responsibility. The rights and freedoms of citizens affirmed in the Constitutional laws are paramount and nobody has the right to deprive or limit the right without the court's involvement".
3. According to Article 51 of the Constitution of the Republic of Uzbekistan, the citizens are obliged to pay the taxes and local fees established by the law. In point 2, Article 11 of the Tax Code it is said that taxpayers have the right to use tax benefits in an order and on the bases established by the present code and other legislative acts.
4. According to part 2, Article 16 of the "Guarantees of Freedom of Business Activity Act", if changes creating less favourable conditions for owners of small private business are made to the tax law, then, according to the legislation, taxes existing before the changes came into effect are levied on them within the next two years.

Analysing the given norms in their interrelation and considering that citizens, making the decision to start a business activity in the conditions of market economy, should independently plan and carry out this activity based on existing system of taxation, established tax rates and local fees, as well as other rates, benefits, etc. operating at the time of their business registration, the Constitutional court states the need to apply the benefits considered within two years for adaptation of business owners.

On that basis, being guided by Articles 1, 19, 25, 26, 27 of the Constitutional Court of the Republic of Uzbekistan Act, the court **decided:**

1. The changes in the tax legislation connected with the introduction of new taxes and local fees, increase in rates of taxes and local fees, and cancellation of benefits should constitute less favourable conditions for owners of small and private businesses.
2. The provision enshrined in a part 2, Article 16 of the "Guarantees of Freedom of Business Activity Act" grants business owners the right to pay tax at the rate operating at the time of their registration for two years from the moment changes creating less favourable conditions for owners of small and private businesses come into effect.
3. This decision is to be published in the media.

Constitutional court
Republic of Uzbekistan
Tashkent,
August 9, 2001.

(Narodnoye Slovo newspaper, August 15, 2001, No. 158 (2718))

DECISION
OF CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INTERPRETATION OF ARTICLE 59 OF THE TAX CODE OF THE REPUBLIC OF
UZBEKISTAN**

The constitutional court of the Republic of Uzbekistan consisting of the chairman B. Eshonov, judges B. Mirboboyev, U. Bazarov, G. Pirzhanov and S. Hakimova, being guided by point 3, Article 109 of the Constitution of the Republic of Uzbekistan and Article 1 of the Constitutional Court of the Republic of Uzbekistan Act, considered the case of interpretation of Article 59 of the Tax Code of the Republic of Uzbekistan at a public hearing.

The basis for consideration of the case was the initiative of judges U. Bazarov, G. Pirzhanov, S. Hakimova who found ambiguity in the interpretation and application of provisions of Article 59 of the Tax Code of the Republic of Uzbekistan by law-enforcement bodies shown according to Article 19 of the "Constitutional Court of the Republic of Uzbekistan Act". A reason for consideration of the case was the application of S. Muratkhodzhayev in relation to violation of his constitutional right to tax benefits provided by Part 2, Article 59 of the Tax Code of the Republic of Uzbekistan.

Having heard the message of the reporting judge S. Hakimova, an explanation of representatives from: The Ministry of Finance of the Republic of Uzbekistan — T. Zhurayeva, the State Tax Committee of the Republic of Uzbekistan — E.

Gadoyeva, Uzzhilsberbank — R. Bakhromova, Aviabank Joint-stock commercial bank — F. Holmatova, Specialized joint-stock commercial bank Alokabank — Z. Kamoliddinova, Private joint-stock commercial bank "HIFBank" — A. Abdullaeva, speeches of the representatives invited to a meeting: Oly Mazhlis of the Republic of Uzbekistan — B. Panayeva, General Prosecutor's Office of the Republic of Uzbekistan — P. Babadzhanova, the Supreme Court of the Republic of Uzbekistan — S. Kadyrova, the Supreme economic court — M. Azimova, having investigated all provided documents and other materials, the Constitutional court **found**: S. Muratkhodzhayev filed an application with the Constitutional court of the Republic of Uzbekistan in relation to violation of his right to privilege provided by a Part 2, Article 59 of the Tax Code of the Republic of Uzbekistan. Being a shareholder, S. Muratkhodzhayev received dividends from various banks of Uzbekistan: in Uzzhilsberbank, JSB Aviabank, SAKY Alokabank, ChAKB "HIFBank" and others.

According to subsection 'b', Part 2, Article 59 of the Tax Code S.

Muratkhodzhayev has the right to tax benefit on individual income tax in the size of four minimum wages for each calendar month.

At payment of dividends to S. Muratkhodzhayev by the banks, 15% tax withholding was made on the basis of explanatory letters issued by the State Tax Committee of the Republic of Uzbekistan No. 11/1-1-2188 from March 17, 1999 and No. 11/1-1-2743 from April 6, 1999. At the same time, it was specified in explanations that tax benefits provided by Article 59 of the Tax Code of the Republic of Uzbekistan do not extend to income in the form of dividends and interest.

Later S. Muratkhozhayev received a joint explanatory letter from the Ministry of Finance of the Republic of Uzbekistan and the State tax committee No. 17-12/548, 15/1-5316 from August 30, 2000 which stated that the benefits provided under Part 2, Article 59 of the Tax Code do extend to dividends and interest. The State Tax Committee directed a similar letter No. 15/1-398 from January 19, 2001 with explanation about the extension of the benefits prescribed by Part 2, Article 59 of the Tax Code to dividends and interest to Oly Mazhlis of the Republic of Uzbekistan.

However, in practice the above-mentioned banks continue to use outdated letters of the State Tax Committee No. 11/1-1-2188 from March 17, 1999 and No. 11/1-1-2743 from April 6, 1999 in contradiction with the law. As a result, the rights of taxpayers contained in Part 2, Article 11 of the Tax Code are violated. The constitutional court especially notes that the issue by the State Tax Committee of the explanatory letters containing contradictory positions on the same question of law became the reason for violation of the rights of citizens and illegal actions by public authorities.

The constitutional court, being guided by the principle of the supremacy of law, notes that substitution of legal norms on regulation of public relations contained in legislation (Tax Code) with letters of explanations is unacceptable.

According to Article 2 of the "Normative Legal Acts Act", the normative legal act is the official document compliant with the requirements determined by law and aimed to establish, change or cancel the rules of law containing mandatory state instructions. Article 5 the Act lists the standard form legal documents.

Constitutional court notes that explanatory letters of the State Tax Committee of the Republic of Uzbekistan No. 11/1-1-2188 from March 17, 1999 and No. 11/1-1-2743 from April 6, 1999 are not considered normative legal acts. Therefore, all of those letters and communication of similar type purporting to interpret the application of Article 59 of the Tax Code of the Republic of Uzbekistan are unconstitutional.

Because the wrongful interpretation and application of the provisions of Article 59 of the Tax Code led to certain legal consequences not only for S. Muratkhozhayev, but for other shareholders entitled to corresponding privileges, the Constitutional court found the need to interpret this article.

After analysing all existing legal rules, the Constitutional court determined the following.

1. Part 2 of Article 18 of the Constitution of the Republic of Uzbekistan states: "Benefits can only be established by law and must correspond to principles of social justice".

Article 51 of the Constitution states: "Citizens must pay taxes and local fees as determined by law".

2. Paragraph 2 of Article 11 of the Tax Code notes: taxpayers have the right "to use tax benefits in order and on the basis of legal norms established by the Code and other relevant legislation".

3. Article 50 of the Tax Code defines proprietary income of natural persons as interest, dividends, and rental income. Article 56 of the Code states: "Dividends and interest paid to natural persons are taxed at the rate determined by the Cabinet of the Republic of Uzbekistan". According to appendix No. 6 to the resolution of the Cabinet from December 31, 1998 No. 541, the income from dividends paid to natural persons is taxable at 15% rate.

4. Article 59 of the Tax Code regulates an order of remission of an income tax. According to a Part 2 of this article, natural persons are exempt from paying tax on part of their income equivalent to four minimum wages.

Article 63 of the Tax Code prescribes income tax withholding order for individuals by payment sources. According to Part 1 of this article "legal entities paying dividends and interest must withhold taxes payable by natural persons".

In accordance with the Tax Code, the Ministry of Finance and the State Tax Committee published the instrument titled "The income tax order of calculation and budget repayments" No. 444, registered by the Ministry of Justice of the Republic of Uzbekistan on June 11, 1998 (with changes and additions No. 444-1, No. 444-2, No. 444-3). However, this instrument does not contain the answer to the question of proper tax withholding for dividends and interest in cases where the taxpayer uses income tax benefits provided by Part 2, Article 59 of the Tax Code. In other words, there is no accurate mechanism of taxation for the shareholders using tax benefits.

On that basis and being guided by Articles 1, 19, 25, 26, 27 of the Republic of Uzbekistan "Constitutional Court of the Republic of Uzbekistan Act", the Constitutional court, stating the ambiguity in interpretation and application of the analysed legal norms contained in Article 59 of the Tax Code, **decided:**

1. The privileges prescribed by Article 59 of the Tax Code of the Republic of Uzbekistan extend to income from dividends and interest.
2. To the Ministry of Finance of the Republic of Uzbekistan, the State Tax Committee of the Republic of Uzbekistan must make departmental acts on application of Article 59 of the Tax Code compliant with this decision.

Constitutional court

Republic of Uzbekistan

Tashkent,

October 10, 2001.

(Narodnoye Slovo newspaper, October 17, 2001, No. 207 (2767))

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INTERPRETATION OF PART 4, ARTICLE 62 OF "THE COURTS ACT OF THE
REPUBLIC OF UZBEKISTAN"**

The constitutional court of the Republic of Uzbekistan consisting of the chairman B. Eshonov, judges B. Mirboboyev, U. Bazarov, G. Pirzhanov and S. Hakimova, being guided by point 3 part one of Article 109 of the Constitution of the Republic of Uzbekistan and Article 1 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at a public hearing the matter of interpretation of Part 4, Article 62 of "The Courts Act".

The proceedings are brought in accordance with Article 19 of "The Constitutional Court of the Republic of Uzbekistan Act" at the initiative of judges B. Mirboboyev, U. Bazarov, G. Pirzhanov in connection with the application to the Constitutional court by the lawyer of 'Prezumtsiya' law firm K.Zh. Muzaffarov. Having heard the address of the reporting judge B. Mirboboyev, opinion of the chairman of presidium of the Tashkent city Bar S. Yakubov, the chairman of the Tashkent city Criminal Court S. Mirsafayev, the vice-chairman of the Supreme Court of the Republic of Uzbekistan S. Kadyrov, the vice-chairman of the Supreme economic court of the Republic of Uzbekistan Sh. Ruzinazarov, the director of the Center for promotion of legal education at the Tashkent state law institute G. Abdumadzhidov, deputy director of Institute for monitoring the current legislation at Oly Mazhlis of the Republic of Uzbekistan of M. Gasanov, the head of the department of legislation of the Ministry of Justice of the Republic of Uzbekistan X. Sadykov, manager of Oly Mazhlis legal department A. Yuldashev, the consultant from the Office of the President of the Republic of Uzbekistan expert group on communication with the legislative and judicial authorities X. Isakov, the Deputy Attorney-General of the Republic of Uzbekistan A. Holmakhmatov, having studied the materials available in the case, the Constitutional court **found:**

The lawyer of Prezumtsiya law firm K. Muzaffarov requested the Constitutional court of the Republic of Uzbekistan to give official interpretation of Part 4, Article 62 of "The Courts Act". Based on the existing various interpretations of this norm, the court concluded there is a need for official interpretation.

The contents of Part 4, Article 62 are as follows: "Juries are called for court duty in order of priority for a period not exceeding two weeks per year, except cases where an extension of this term is necessary to consider the case that has begun with their participation. For the duration of this period, a member of the jury is paid their average earnings".

K. Muzaffarov argues that if the member of the jury exhausted the specified two weeks of court duty, then the member cannot participate in another matter in the same year and is subject to discharge.

According to Article 13 of the Criminal Procedure Code of the Republic of Uzbekistan, criminal cases are considered at jury trial, with the exception of charges under Parts 2 and 3 of Article 15 of the Criminal Code that are heard by a judge alone.

Jury trials at first instance consist of judge and two jurors. The bench of the Supreme Court of the Republic of Uzbekistan consists of three judges.

According to Article 76 of the Criminal Procedure Code, the member of the jury cannot participate in criminal proceedings and is subject to discharge if:

1) the juror participates or participated in the same matter as the victim, the civil claimant, the civil defendant, the expert, the translator, the witness, the defender or another legal representative of the suspect, the defendant, the lawyer or the representative of the victim, the civil claimant, or the civil defendant;

2) the juror is a relative of any of the officials responsible for the case, or other persons listed in Paragraph 1 of this part of Article 76;

3) when there are other circumstances raising doubts as to the objectivity and impartiality of the juror.

The judge, as prescribed by Part 2 of this article, can't be involved in consideration of the case if the judge was involved in the matter as the investigator, the prosecutor, or the court clerk.

According to Part 3, the judge who heard the matter at trial, on appeal or cassation cannot participate in the matter after acquittal, or where a decision was made with this judge's involvement.

Having analysed the current law, the Constitutional court established:

1) It is established Part 2, Article 7 of the Constitution of the Republic of Uzbekistan that the government in the Republic of Uzbekistan is acting for the benefit of the people and only through the agencies authorized by the Constitution of the Republic of Uzbekistan and the legislation passed in accordance with the Constitution;

2) Part 2, Article 107 of the Constitution of the Republic of Uzbekistan provides that the organization and the functioning of the courts are determined by law;

3) Article 30 of the Criminal Procedure Code provides that the judges and jurors appointed or elected members of the court, consider criminal cases;

4) according to Part 3, Article 13 of the Criminal Procedure Code, in serving justice the jurors have all powers of the judge; jurors have the same powers as the chairman of the court in session in relation to all questions arising out of the case and in connection with the verdict;

5) Article 76 of the Criminal Procedure Code prescribes a number of circumstances in which the judge (juror), the prosecutor, the investigator, or the court clerk are excluded from participation in the matter.

Therefore, the discharge of the judge juror in accordance with Part 5, Article 80 of the Criminal Procedure Code it only possible in circumstances listed in Article 76 of the code.

In establishing the period of jury service in courts, the legislator thereby does not limit their power to serve justice in criminal cases. According to part 1, Article 62 of the "The Courts Act" the juror is elected for a period of two and a half years.

On this basis and being guided by Articles 1, 19, 25, 26 of the "Constitutional Court of the Republic of Uzbekistan Act", the Constitutional court **decided**:

1. To explain that Part 1, Article 62 of "The Courts Act" defines the term of jury service as being two and a half years in length. According to Article 30 of the Criminal Procedure Code of the Republic of Uzbekistan the judges and jurors appointed or elected members of the court consider criminal cases.

2. The Court notes that the term of service being no more than two weeks per year (as prescribed by the Criminal Code) does not constitute the circumstance precluding the juror from participation in another criminal case. Therefore, in cases where the juror's duty exceeds two weeks per year, it cannot serve as a basis for discharge.

3. To ensure the supremacy of the Constitution and the laws, it is recommended that the Supreme Court of the Republic of Uzbekistan studies the practice of application of Part 4, Article 62 of "The Courts Act" by all courts and makes the relevant explanations where necessary.

Constitutional court
Republic of Uzbekistan
Tashkent,
April 10, 2002.

(Legislative Assembly of the Republic of Uzbekistan, 2002, No. 8, Article 56)

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INTRODUCTION OF THE INITIATIVE TO REMOVE INCONSISTENCY BETWEEN
CERTAIN NORMS WITHIN THE LEGAL ACTS OF THE REPUBLIC OF UZBEKISTAN
TO THE OLIY MAZHLLIS**

The constitutional court of the Republic of Uzbekistan consisting of the Chairman B. Mustafayev, judges B. Mirbabayev, U. Bazarov, G. Pirzhanov, S. Hakimova, being guided by Article 82 of the Constitution of the Republic of Uzbekistan and Article 10 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at public court hearing a question of introduction to Oly Mazhlis of the initiative to increase compliance of certain norms within the acts of the Republic of Uzbekistan.

In accordance with Article 19 of the "Constitutional Court of the Republic of Uzbekistan Act", the basis for this motion is the initiative of judges of the Constitutional court B. Mirbabayev, U. Bazarov and G. Pirzhanov who considered it necessary to remove inconsistency between Part 2, Article 239 of the Criminal Procedure Code of the Republic of Uzbekistan and Part 1, Article 16 of the "Constitutional Court of the Republic of Uzbekistan Act".

Having heard the information provided by the reporting judge Mr. Pirzhanov, opinions of the Chairman of the Constitutional court B. Mustafayev, judges B. Mirbabayev, U. Bazarov, S. Hakimova, the Constitutional court of the Republic of Uzbekistan **established:**

Part 2, Article 239 of the Criminal Procedure Code of the Republic of Uzbekistan states: "Restraining measure in the form of detention can be applied in relation to... judges of the Constitutional court of the Republic of Uzbekistan — with the consent of the Constitutional court of the Republic of Uzbekistan".

Part 1, Article 16 of the "Constitutional Court of the Republic of Uzbekistan Act" states: "The judge of the Constitutional court can't be... arrested... without consent of Oly Mazhlis, and in the period between sessions — without the consent of Council (Kengash) of Oly Mazhlis".

The constitutional court of the Republic of Uzbekistan considers it necessary to remove inconsistency between the above legal norms.

Based on the above and being guided by Articles 25 and 26 of the "Constitutional Court of the Republic of Uzbekistan Act", the Constitutional court **decided:**

To introduce a legislative initiative to remove inconsistency between Part 2, Article 239 of the Criminal Procedure Code of the Republic of Uzbekistan and Part 1, Article 16 of the "Constitutional Court of the Republic of Uzbekistan Act" to Oly Mazhlis of the Republic of Uzbekistan.

Tashkent,

October 30, 2002.

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INTRODUCTION OF THE INITIATIVE TO ELIMINATE DISCREPANCY BETWEEN
RUSSIAN AND UZBEK LANGUAGE TEXTS OF PART 4, ARTICLE 128 OF THE
“ADMINISTRATIVE CODE OF THE REPUBLIC OF UZBEKISTAN” TO THE OLIY
MAZHLIS.**

The constitutional court of the Republic of Uzbekistan consisting of the Chairman B. Mustafayev, judges B. Mirbabayev, U. Bazarov, G. Pirzhanov, S. Hakimova, being guided by Article 82 of the Constitution of the Republic of Uzbekistan and Article 10 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at public court hearing a question of introduction to Oly Mazhlis of the initiative to eliminate discrepancy between Russian and Uzbek language texts of Part 4, Article 128 of the Republic of Uzbekistan Administrative Code. The basis for this motion in accordance with Article 19 of the "Constitutional Court of the Republic of Uzbekistan Act", is the initiative of judges of the Constitutional court S. Hakimova, U. Bazarov and G. Pirzhanov who considered it necessary to remove discrepancy between Russian and Uzbek language texts of Part 4, Article 128 of the Republic of Uzbekistan Administrative Code.

Having heard the information provided by the reporting judge S. Hakimova, opinions of the Chairman of the Constitutional court B. Mustafayev, judges B. Mirbabayev, U. Bazarov, G. Pirzhanov, the Constitutional court of the Republic of Uzbekistan **established:**

The Uzbek text of Part 4, Article 128 of the Republic of Uzbekistan about Administrative Code states that “commission of four or more offences listed in part 1 of this article within a year attracts a penalty equivalent to three minimum wages or license suspension for a period of up to six months”.

The Russia text Russian of Part 4, Article 128 states that commission of four or more offenses listed in part 1 of this article within a year attracts a penalty equivalent to three minimum wages or license suspension for a period of six months”.

Penalty measures established by Part 4, Article 128 of the Republic of Uzbekistan Administrative Code for the same offense vary as a result of discrepancy between texts in Russian and Uzbek languages.

Proceeding from the above and being guided by Articles 25 and 26 of the "Constitutional Court of the Republic of Uzbekistan Act", the Constitutional court **decided:**

To present to Oly Mazhlis a legislative initiative to eliminate the discrepancy in Russian and Uzbek language texts of Part 4, Article 128 of the Republic of Uzbekistan Administrative Code.

Tashkent,

November 14, 2002.

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INTRODUCTION OF THE “CONSTITUTIONAL COURT OF THE REPUBLIC OF
UZBEKISTAN ACT (MODIFICATIONS AND ADDITIONS) AMENDMENTS BILL” TO
THE OLIY MAZHLIS.**

The constitutional court of the Republic of Uzbekistan consisting of the Chairman B. Mustafayev, judges B. Mirbabayev, U. Bazarov, G. Pirzhanov, S. Hakimova, being guided by Article 82 of the Constitution of the Republic of Uzbekistan and Article 10 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at public court hearing a question of introduction to Oly Mazhlis of the Republic of Uzbekistan of the "Constitutional Court of the Republic of Uzbekistan Act (Modification and Additions) Amendments Bill".

The basis for this motion is the "Modifications and Additions to the Constitution of the Republic of Uzbekistan Act" enacted by Oly Mazhlis on April 24, 2003. Having heard the message of the Chairman of the Constitutional court B. Mustafayev, opinions of judges B. Mirbabayev, U. Bazarov, G. Pirzhanov, S. Hakimova, manager of the secretariat of the Constitutional court of M. Aliyeva, the senior expert N. Kariyeva and the expert I. Yusubzhanov, having discussed the "Constitutional Court of the Republic of Uzbekistan Act (Modification and Additions) Amendments Bill", the Constitutional court **established:** According to the "Modifications and Additions to the Constitution of the Republic of Uzbekistan Act" enacted on April 24, 2003 and the "Courts Act" enacted on December 14, 2000, there is a need for modifications and additions to Articles 1, 2, 10, 13, 17 (in Uzbek), 18, 19, 21, 31 of the "Constitutional Court of the Republic of Uzbekistan Act" enacted on August 30, 1995 (*Oly Mazhlis Reports of the Republic of Uzbekistan, 1995, No. 9, Article 178; 2003, No. 1, Article 8*).

Based on the above and being guided by Articles 25, and 26 of the "Constitutional Court of the Republic of Uzbekistan Act", the Constitutional court **decided:**

To present to Oly Mazhlis of the Republic of Uzbekistan the legislative initiative in the form of the "Constitutional Court of the Republic of Uzbekistan Act (Modification and Additions) Amendments Bill".

Legislative proposal
Constitutional court

**“CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN ACT
(MODIFICATIONS AND ADDITIONS) AMENDMENTS BILL”**

Oly Mazhlis of the Republic of Uzbekistan **decides:**

To include into the "Constitutional Court of the Republic of Uzbekistan Act" enacted on August 30, 1995 (*Oly Mazhlis Reports of the Republic of Uzbekistan,*

1995, No. 9, Article 178; 2003, No. 1, Article 8) the following changes and additions:

1) in Article 1:

to amend the second paragraph of Part 2 to read as follows:

"Constitutional court determines constitutionality of the laws of the Republic of Uzbekistan and resolutions of chambers, decrees of the President of the Republic of Uzbekistan, decrees of the Government and local public authorities, interstate contractual and other obligations of the Republic of Uzbekistan;

Secondly, to add paragraphs four and five into Part 2 to read as follows:

"– resolves the disputes concerned with constitutionality of elections and referenda;

determines constitutionality of political parties, public associations or other non-state run not-for-profit organizations";

Paragraph 4 shall become paragraph 6;

2) in Article 2:

- in Parts 1 and 4, replace the words "Oly Mazhlisom", "Oly Mazhlis" respectively with words "Senate Oly Mazhlis" and "Senate Oly Mazhlis".
- in Part 2, the word "Oly Mazhlis deputies" shall be replaced with the words "members of the Senate Oly Mazhlis";
- repeal Part 5

3) to amend Article 10 to read as follows:

"Article 10. Legislative initiative of the Constitutional court

In accordance with Article 83 of the Constitution of the Republic of Uzbekistan, the Constitutional court has the right of legislative initiative. This right is exercised by the Constitutional court by means of introducing the bills for consideration by the Oly Mazhlis Legislative House of the Republic of Uzbekistan";

4) Part 1, Article 13 - supplement the word "Person" with the word "for the first time";

5) Article 18 - replace the words "Oly Mazhlisa" with the words of Senate Oly Mazhlisa;

6) to amend Article 19 to read as follows:

"Article 19. Right to file matters in the Constitutional court

Oly Mazhlis chambers of the Republic of Uzbekistan, the President of the Republic of Uzbekistan, the Speaker of Legislative house of the Oly Mazhlis, the Chairman of the Senate Oly Mazhlis, Zhokargy Kenes of the Republic of Karakalpakstan, group of deputies consisting of at least one quarter of the total number of Oly Mazhlis Legislative house deputies, group of senators consisting of not less than one quarter from the total number of members of the Senate Oly Mazhlis, the Chairman of the Supreme Court, the Chairman of the Supreme Economic Court and the General Prosecutor of the Republic of Uzbekistan have rights of filing matters for consideration by the Constitutional Court. The matter can also be brought at the initiative of not less than three judges of the Constitutional court";

7) in Article 21, replace the words "Chairman of Oly Mazhlis, His Deputies" with the words "Speaker of the Legislative House of Oly Mazhlis, His Deputies, Chairman of the Senate Oly Mazhlis, His Deputies";

To amend Article 31 to read as follows:

"Article 31. Remuneration of judges of the Constitutional court

The salary of the judge of the Constitutional court consists of an official salary, loading for a qualification class and length of service in the amount established by legislation.

Judges of the Constitutional court are entitled to paid annual leave of thirty six working days";

9) Add Article 311 to read as follows:

"Article 311. Measures of social protection of judges of the Constitutional court and members of their families

Life and health of the judge of the Constitutional court are under special protection of the state and are subject to mandatory national insurance at the expense of state budget.

National insurance bodies cover the following cases:

- Compensation in the amount of the fifty monthly salaries of the judge is payable to the successors of the judge if the death of the judge occurred during the term of service or after, and was caused by physical injuries or other health related issues connected with the execution of official duties;
- Compensation in the amount of twenty five monthly salaries is payable to the judge if serious physical injury or health related condition preventing the judge from engaging in further professional activity occurs in connection with execution of official duties by the judge.
- Compensation in the amount of five monthly salaries is payable to the judge if physical injuries or other health related condition in connection not preventing the judge from engaging in further professional activity occurs in connection with execution of official duties by the judge.

If serious physical injury or health related condition preventing the judge from engaging in further professional activity occurs in connection with execution of official duties by the judge, the judge is entitled to a monthly compensation in the form of difference between the judge's official salary and any pension the judge is entitled to. This amount does not include any other compensation payable to the judge by the national insurance bodies.

If the death of the judge was caused by physical injuries or other health related issues connected with the execution of official duties, compensation is payable to the judge's dependants in the form of difference between the part of the salary of the deceased spent on supporting each dependant and the pension granted to each dependant for the loss of carer. This amount does not include any other compensation payable to the judge's dependants by the national insurance bodies.

The destruction or damage caused to the property belonging to the judge in connection with the judge's duties is subject to compensation paid to the judge or members of the judge's family in full.

The compensation payments listed in Parts 2,3,4, and 5 are made out of state budget with the subsequent recovery from perpetrators in accordance with the law.”

Tashkent,

1 July, 2003.

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INTRODUCTION OF THE “MISCELLANIOUS ACTS OF THE REPUBLIC OF
UZBEKISTAN AMENDMENTS BILL” TO THE OLIY MAZHLLIS**

The constitutional court of the Republic of Uzbekistan consisting of the Chairman of the Constitutional court B. Mustafayev, judges B. Mirbabayev, U. Bazarov, G. Pirzhanov and S. Hakimova, being guided by Article 82 of the Constitution of the Republic of Uzbekistan and Article 10 of the Republic of Uzbekistan "Constitutional Court Act", considered at public court hearing the matter of introduction to the Oly Mazhlis of the “Miscellaneous Acts of the Republic of Uzbekistan Amendments Bill”.

The basis for matter under Article 19 of the “Constitutional Court of the Republic of Uzbekistan Act” is the initiative of judges of the Constitutional court B. Mirbabayev, U. Bazarov and G. Pirzhanov who considered it necessary to make changes and additions to Part 1, 2 and 5 of Article 536 of the Criminal Procedure Code enacted on September 22, 1994 and Part 2 and 3 of Article 164 of the Criminal and Executive Code of the Republic of Uzbekistan enacted on April 25, 1997 (Oly Mazhlis of the Republic of Uzbekistan Reports, 1997, No. 6, Article 175).

Having heard the information provided by the speaker — the Chairman of the Constitutional court B. Mustafayev, opinion of judges B. Mirbabayev, U. Bazarov, G. Pirzhanov and S. Hakimova, having discussed the “Miscellaneous Acts of the Republic of Uzbekistan Amendments Bill”, the Constitutional court **established**:

There is a clear need make additions and modifications in Parts 2,3 and 5 of Article 536 of the Criminal Procedure Code enacted on September 22, 1994 (Supreme Council of the Republic of Uzbekistan Reports, 1995, No. 2, Article 5; Oly Mazhlis of the Republic of Uzbekistan Reports, 1995, No. 12, Article 269; 1997, No. 2, Article 56, No. 9, Article 241; 1998, No. 5-6, Article 102, No. 9, Article 181; 1999, No. 1, Article 20, No. 5, Article 124, No. 9, Article 229; 2000, No. 5-6, Article 153, No. 7-8, Article 217; 2001, No. 1-2, Articles 11 and 23, No. 9-10, Articles 165 and 182; 2002, No. 9, Article 165; 2003, No. 5, Article 67) and in PAtrs 2 and 3, Article 164 of the Criminal and Executive Code enacted on April 25, 1997 (Oly Mazhlis of the Republic of Uzbekistan Reports, 1997, No. 6, Article 175; 2003, No. 5, Article 67).

Proceeding from the above and being guided by Articles 25 and 26 of the "Constitutional Court of the Republic of Uzbekistan Act", the Constitutional court **decided**:

To present for consideration by the Oly Mazhlis legislative proposal in thr form of “Miscellaneous Acts of the Republic of Uzbekistan Amendments Bill”.

Constitutional court
Legislative Proposal

LAW OF THE REPUBLIC OF UZBEKISTAN

On modifications and additions to miscellaneous Acts of the Republic of Uzbekistan

To make changes and additions to the following Acts of the Republic of Uzbekistan:

I. Criminal Procedure Code of the Republic of Uzbekistan enacted on September 22, 1994 (Supreme Council of the Republic of Uzbekistan Reports, 1995, No. 2, Article 5; Oly Mazhlis of the Republic of Uzbekistan Reports, 1995, No. 12, Article 269; 1997, No. 2, Article 56, No. 9, Article 241; 1998, No. 5-6, Article 102, No. 9, Article 181; 1999, No. 1, Article 20, No. 5, Article 124, No. 9 of Article 229; 2000, No. 5-6, Article 153, No. 7-8, Article 217; 2001, No. 1-2, Articles 11 and 23, No. 9-10, Articles 165 and 182; 2002, No. 9, Article 165; 2003, No. 5, Article 67):

Article 536:

Part 1— after the words "on submission by supervisors" insert the words "or following the application by the person in custody, or the person's defender";

Part 2— after the words "on application by Command" insert the words "or following the application by the person in custody, or the person's defender";

Part 5— replace the words "presented by" with words "presentation or... by".

II. The Criminal and Executive Code of the Republic of Uzbekistan enacted on April 25, 1997 (Oly Mazhlis of the Republic of Uzbekistan, 1997, No. 6, Article 175; 2003, No. 5, Article 67):

Article 164:

Part 2 — after the word "after" insert the words "in cases where the person in custody or the person's defender have not applied directly to the court";

Part — to replace the word "lawyer" with the word "defender".

Tashkent,

November 4, 2003.

RESOLUTION

OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INTRODUCTION OF THE LEGISLATIVE INITIATIVE TO ELIMINATE
DISCREPANCY IN UZBEK AND RUSSIAN LANGUAGE TEXTS OF PART 3, ARTICLE 1
OF THE "SECURITIES AND STOCK EXCHANGE ACT" TO THE OLIY MAZHLIS.**

The constitutional court consisting of the chairman M. Abdusalomov, judges U. Bazarov, G. Pirzhanov and S. Hakimova, being guided by Article 82 of the Constitution of the Republic of Uzbekistan and Article 10 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at public court hearing the introduction of the legislative initiative to eliminate discrepancy between Uzbek and Russian language texts of Part 3, Article 1 of the "Securities and Stock Exchange Act" to the Oliy Mazhlis.

In accordance with Article 19 of the "Constitutional Court of the Republic of Uzbekistan Act", the basis for this proposal is the initiative of judges of the Constitutional court U. Bazarov, G. Pirzhanov and S. Hakimova who considered it

necessary to remove inconsistency between Uzbek and Russian language texts of Part 3, Article 1 of the "Securities and Stock Exchange Act".

Having heard the information provided by the speaker - Judge S. Hakimova, opinion of the chairman of the Constitutional court M. Abdusalomov, judges U. Bazarov and G. Pirzhanov, the Constitutional court **established**:

The Uzbek language text of Part 3, Article 1 of the "Securities and Stock Exchange Act" states: «Киритилган улуш шаклидан қатъи назар, қимматли қоғозларнинг қиймати Ўзбекистан Республикаси пул бирлигида, уларни чиқариш шартларида назарда тутилган ҳолларда эса — чет эл валютасида (акциялар бўйича — мулкни етказиб бериш йўли билан ҳам) ифодаланади ва тўланади».

The Russian language text of the same provision states: "Irrespective of the deposit form, the cost of securities is determined and paid in the currency of the Republic of Uzbekistan, apart from cases where the terms of issue provide for payment in foreign currency (through securities and transfer property transfers)".

Thus, Uzbek and Russian language texts of Part 3, Article 1 of the Act do not align with each other.

On the basis of the above and being guided by Articles 25 and 26 of the "Constitutional Court of the Republic of Uzbekistan Act", the Constitutional court **decided**:

To present for consideration by the Oly Mazhlis the legislative initiative to eliminate discrepancy between Uzbek and Russian language texts of Part 3, Article 1 of the "Securities and Stock Exchange Act".

Tashkent,

July 20, 2004.

DECISION

OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN ON INTERPRETATION OF PART 4, ARTICLE 10 OF THE "LEGAL PROFESSION ACT" AND PART 5, ARTICLE 6 OF THE "LAWYERS ACTIVITIES GUARANTEES AND SOCIAL PROTECTION OF LAWYERS ACT"

The constitutional court of the Republic of Uzbekistan consisting of the vice-chairman B. Mirbabayev, judges U. Bazarov, G. Pirzhanov and S. Hakimova, being guided by point 3, Part 1 of Article 109 of the Constitution of the Republic of Uzbekistan and Article 1 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at public hearing the matter of interpretation of Part 4, Article 10 of the "Legal Profession Act" and Part 5, Article 6 of the "Lawyers activities guarantees and social protection of lawyers Act".

The question is brought before the court in accordance with Article 19 of the "Constitutional Court of the Republic of Uzbekistan Act" at the initiative of judges U. Bazarov, G. Pirzhanov and S. Hakimova following application to the Constitutional court by lawyer A.R. Lutfullayev.

Having heard the message of the reporting judge S. Hakimova, opinion of the chairman of the Bar association of Uzbekistan B. Salomov, the member of the Senate Oly Mazhlis of the Republic of Uzbekistan S. Adilkhodzhayev, the member

of Scientific and Advisory Council of the Constitutional court of the Republic of Uzbekistan M. Gasanov, the vice-chairman of the Supreme Court of the Republic of Uzbekistan B. Zhamolov and others, having studied the materials of the case, the Constitutional court **established:**

Part 4, Article 10 of the "Legal Profession Act" states: "The lawyer can't be liable for criminal, civil or other penalties or threatened with sanctions in connection with rendering legal aid to natural and legal entities in accordance with the law". A similar norm is contained in Part 5, Article 6 of the "Lawyers activities guarantees and social protection of lawyers Act".

Definition of "other penalties" in these norms demands an understanding of the of the words "other penalties" and their meaning, therefore causing a need for interpretation.

In the analysis of the relevant standards contained in the Constitution of the Republic of Uzbekistan, laws of the Republic of Uzbekistan and other materials of the case, the Constitutional court of the Republic of Uzbekistan proceeds as follows:

1. According to Part 1, Article 26 of the Constitution of the Republic of Uzbekistan, "Any person accused of crime, is considered innocent until proven guilty as established by law, and by way of public judicial proceedings where the accused is provided an opportunity to defend themselves".
2. Further, Article 116 of the Constitution of the Republic of Uzbekistan states: "The right to protection is provided to the defendant. The right for professional legal aid is guaranteed at all stages of legal proceedings. Lawyers are responsible for rendering legal aid to citizens, enterprises, institutions and organizations. The organization and order of activity of the legal profession are defined by law".
3. The constitutional court of the Republic of Uzbekistan considers that when determining Part 4, Article 10 of the "Legal Profession Act" and a Part 5, Article 6 of the "Lawyers activities guarantees and social protection of lawyers Act", the law maker intended to prioritise the universally recognized principles and norms of international law. In particular, it is stated in the "Basic Principles of the Role of Lawyers" adopted by the Eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders in August, 1990, that governments have to ensure that lawyers carrying out their duties in accordance with professional and ethical standards are not faced with possibility of sanctions or threats of any sanctions, whether administrative or economic. According to this document, lawyers have to have be immune from criminal prosecutions, civil action or other forms of liability for making written or oral submissions while carrying out their professional duties in court, tribunal or other legal or administrative authority. On the basis of the above, the Constitutional court of the Republic of Uzbekistan considers that the legislature in this case intended to refer to legal liability. As types of legal liability may include criminal, civil, administrative, disciplinary and other forms of liability, the Constitutional court considers it impossible to impose any type of legal liability or threats of sanctions on lawyers in connection with rendering legal aid according to law.

On this basis, being guided by Articles 1, 25, 26, 27 of the "Constitutional Court Act", the Constitutional court decided:

1. To interpret Part 4, Article 10 of the "Legal Profession Act" and a Part 5, Article 6 of the "Lawyers activities guarantees and social protection of lawyers Act" in the following manner:
 - the words "other responsibility", contained in Part 4, Article 10 of the "Legal Profession Act" and Part 5, Article 6 of the "Lawyers activities guarantees and social protection of lawyers Act", are to be include civil, administrative and disciplinary liability;
 - the provision implied in Part 5, Article 6 of the "Lawyers activities guarantees and social protection of lawyers Act" makes it impossible to impose any type of legal liability or threats of sanctions on lawyers in connection with rendering legal aid according to law.

2. This decision of the Constitutional court of the Republic of Uzbekistan to be published in the Hulk Susie and National Word newspapers.

Comment of LexUz

*The present resolution is published in the Narodnoye Slovo newspaper on February 8, 2006 No. 26 (3895)
Tashkent,
February 7, 2006.*

(Law Reports of the Republic of Uzbekistan, 2006, No. 6-7, Article 40)

DECISION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INTERPRETATION OF PART 2, ARTICLE 31 OF THE "NORMATIVE LEGAL ACTS
ACT"**

The constitutional court of the Republic of Uzbekistan consisting of the vice-chairman B. Mirbabayev, judges U. Bazarov, G. Pirzhanov and S. Hakimova, being guided by point 3, Part 1, Article 109 of the Constitution of the Republic of Uzbekistan and Article 1 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at a public hearing the matter of "Interpretation of Part 2, Article 31 of the "Normative Legal Acts Act".

The matter is brought before the court in accordance with Article 19 of the "Constitutional Court of the Republic of Uzbekistan Act" at the initiative of judges U. Bazarov, G. Pirzhanov and S. Hakimov following the appeal to the Constitutional court of the citizen K. Muzaffarov.

Having heard the report of the reporting judge S. Hakimov, opinion of the Chairman of the Committee of the Senate Oly Mazhlis of the Republic of Uzbekistan M. Radzhabov, the director of the National Centre For Human Rights of the Republic of Uzbekistan A. Saidov, the chief of the Department of the Academy of Ministry of Internal Affairs of the Republic of Uzbekistan X.Adilkariyev, the Deputy General Prosecutor of the Republic of Uzbekistan K. Ismailov, the vice-chairman of committee of Oly Mazhlis Legislative House of the Republic of Uzbekistan S. Zhabborov, having studied the materials of the case, the Constitutional court **established**:

Part 2, Article 31 of the " Normative Legal Acts Act" provides that "According to the Constitution of the Republic of Uzbekistan, the Constitutional court of the Republic of Uzbekistan interprets the laws".

According to Part 2, Article 6 of this Act "the Constitution of the Republic of Uzbekistan, Laws of the Republic of Uzbekistan, and the Resolutions of Oly Mazhlis of the Republic of Uzbekistan Chambers are Acts".

The mention resolutions of Oly Mazhlis of the Republic of Uzbekistan Chambers in Part 2, Article 6 of the " Normative Legal Acts Act" dictates the need to answer the question of whether this term includes the concept of "laws" mentioned in Part 2, Article 31 of Act, and whether the Constitutional Court has jurisdiction over interpreting the resolutions of the Oly Mazhlis of the Republic of Uzbekistan Chambers?

In answering this question, the Constitutional court of the Republic of Uzbekistan reasons as follows.

1. According to Article 76 of the Constitution of the Republic of Uzbekistan " Oly Mazhlis of the Republic of Uzbekistan is the supreme public representative body holding the legislative powers.

Oly Mazhlis of the Republic of Uzbekistan consists of two chambers — Legislative house (lower house) and the Senate (upper house)".

2. The law is the normative legal act adopted by the supreme representative body of the government in accordance with the procedure established by the Constitution or by way of holding a referendum.

3. According to Part 1, Article 84 of the Constitution of the Republic of Uzbekistan "The law gains validity when it is passed by the Legislative house, approved by the Senate, signed by the President of the Republic of Uzbekistan and published in the order established by law".

4. Article 79 of the Constitution of the Republic of Uzbekistan refers to special powers of Oly Mazhlis Legislative house of the Republic of Uzbekistan to make decisions in connection with the organization of activities and internal schedule of the Chamber, adopting resolutions on matters of political, social and economic life as well as matters concerning domestic and foreign policy of the state.

5. Article 80 of the Constitution of the Republic of Uzbekistan refers to special powers of the Senate Oly Mazhlis of the Republic of Uzbekistan to make decisions in connection with the organization of activities and internal schedule of the Chamber, adoption of resolutions on matters of political, social and economic life as well as matters concerning domestic and foreign policy of the state.

6. According to Part 1, Article 19 of the "Oly Mazhlis Legislative House of the Republic of Uzbekistan Regulations" "On matters not concerning the passage of laws, the Legislative house can adopt resolutions". According to Paragraph 7, Part 4, Article 85 of the Constitution of the Republic of Uzbekistan the Speaker of the Oly Mazhlis Legislative house of the Republic of Uzbekistan "signs the resolutions of the Legislative house".

7. According to Part 1, Article 15 of the " Senate Oly Mazhlis of the Republic of Uzbekistan Regulations" "On matters not concerning the passage of laws, the Senate can adopt resolutions". According to Paragraph 7, Part 5, Article 86 of the

Constitution of the Republic of Uzbekistan, the Chairman of the Senate Oly Mazhlis of the Republic of Uzbekistan "signs the resolutions of the Senate". On the basis of the above analysis of the constitutional standards and laws of the Republic of Uzbekistan as well as other materials of the case, the Constitutional court of the Republic of Uzbekistan considers that 'laws' of the Republic of Uzbekistan and the resolutions of the Oly Mazhlis of the Republic of Uzbekistan Chambers differ in the order of their enactment and acquisition of validity established by the Constitution. This distinction is the basis for a conclusion that the Constitutional court of the Republic of Uzbekistan has jurisdiction to interpret only those laws that were enacted in accordance with Article 84 of the Constitution of the Republic of Uzbekistan. The concept of 'laws' mentioned in Part 2, Article 31 of the "Normative Legal Acts Act" doesn't include the resolutions of the Oly Mazhlisa of the Republic of Uzbekistan Chambers. The constitutional court of the Republic of Uzbekistan does not have jurisdiction over interpreting the resolutions of the Oly Mazhlisa of the Republic of Uzbekistan Chambers.

On that basis, being guided by Articles 1, 25, 26, 27 of the "Constitutional Court of the Republic of Uzbekistan Act", the Constitutional court **decided**:

1. To give the following interpretation to Part 2, Article 31 of the "Normative Legal Acts Act" in conjunction with Part 2, Article 6 of the Act:
 - the concept of 'laws' mentioned in Part 2, Article 31 of the "Normative Legal Acts Act" does not include the resolutions of the Oly Mazhlisa of the Republic of Uzbekistan Chambers;
 - The constitutional court of the Republic of Uzbekistan has no jurisdiction over interpretation of the resolutions of the Oly Mazhlisa of the Republic of Uzbekistan Chambers.
2. This decision of the Constitutional court of the Republic of Uzbekistan is to be published in the Hulk Susie and National Word newspapers.

Constitutional court of the Republic of Uzbekistan

*Tashkent,
May 2, 2006.*

(Narodnoye Slovo newspaper, May 3, 2006, No. 84 (3953))

DECISION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON THE INTERPRETATION OF PART 1, ARTICLE 10 OF THE "GUARANTEES AND
PROTECTION OF THE RIGHTS OF FOREIGN INVESTORS ACT"**

The constitutional court of the Republic of Uzbekistan consisting of the vice-chairman B. Mirbabayev, judges U. Bazarov, G. Pirzhanov and S. Hakimova, being guided by point 3, Part 1, Article 109 of the Constitution of the Republic of Uzbekistan and Article 1 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at a public hearing the matter of c interpretation of Part 1, Article 10 of the "Guarantees and Protection of the Rights of Foreign Investors Act".

The matter is brought in accordance with Article 19 of the "Constitutional Court of the Republic of Uzbekistan Act" at the initiative of judges U. Bazarov, G. Pirzhanov and S. Hakimova in connection with the application to the Constitutional court by the Cabinet of the Republic of Uzbekistan. Having heard the message of the reporting judge S. Hakimova, opinion of the Chairman of the Committee of Oly Mazhlis Legislative house of the Republic of Uzbekistan N. Ismailov, the Chairman of the Committee of Oly Mazhlis Legislative house of the Republic of Uzbekistan, the member of Scientific and advisory council at the Constitutional court A. Saidov, the Deputy Minister of Justice of the Republic of Uzbekistan E. Kanyazov, manager of the legal department of the Cabinet of the Republic of Uzbekistan of B. Kuchkarov, the chairman of Chamber of Commerce and Industry of the Republic of Uzbekistan A. Shaykhov, and having studied the materials of the case, the Constitutional court **established**:

The application by the Cabinet of the Republic of Uzbekistan to the Constitutional court contains a request to give official interpretation to Part 1, Article 10 of the "Guarantees and Protection of the Rights of Foreign Investors Act". The question before the court is whether the provisions of the Act contain implied consent of the republic of Uzbekistan to transfer an investment dispute to the International Centre for Settlement of Investment Disputes (the Center) for resolution.

Part 1, Article 10 of the "Guarantees and Protection of the Rights of Foreign Investors" states: "The dispute directly or indirectly connected with foreign investments (investment dispute) can be resolved by agreement of the parties or by means of consultations between them. If parties aren't able to reach an agreement, the dispute has to be resolved by the Economic court of the Republic of Uzbekistan or by means of arbitration in accordance with rules and procedures under the international treaties (agreements and conventions) on resolution of investment disputes, to which the Republic of Uzbekistan is a party".

The necessity of interpretation of this norm is caused by the fact that certain investors interpret provisions in Part 1, Article 10 of the "Guarantees and Protection of the Rights of Foreign Investors Act" as an expression of consent by the Republic of Uzbekistan to transfer certain disputes for resolution to the Centre under Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention), ratified by the resolution of the Supreme Council of the Republic of Uzbekistan of May 6, 1994 In interpreting Part 1, Article 10 of the "Guarantees and Protection of the Rights of Foreign Investors Act" the Constitutional court reasons as follows:

1. According to the Preamble of the Constitution of the Republic of Uzbekistan recognises the priority of the universally accepted norms of international law.
2. According to Article 15 of the Constitution of the Republic of Uzbekistan "The Republic of Uzbekistan recognises the supremacy of the Constitution and laws of the Republic of Uzbekistan.

The state, it's institutions, officials, public associations, and citizens function in accordance with the Constitution and the laws".

3. According to Article 111 of the Constitution of the Republic of Uzbekistan "Resolution of disputes arising in the economic sphere and in relation to its

management process between the enterprises, institutions, organizations of various forms of ownership and between businessmen, is carried out by the Supreme Economic Court and other Economic courts who have sufficient jurisdiction and competency".

4. According to Part 1, Article 3 of the "Guarantees and Protection of the Rights of Foreign Investors Act", the state guarantees and protects the rights of foreign investors who are carrying out investment activities in the territory of the Republic of Uzbekistan.

5. Part 1, Article 10 of the "Guarantees and Protection of the Rights of Foreign Investors Act" clarifies that investment disputes can be resolved:

- by agreement between the parties by means of consultations between them, that is by coming to a joint decision mutually acceptable for the disputing parties and carried out within and on the basis of the law;
- if the parties cannot settle the dispute, such dispute has to be resolved by the Economic court of the Republic of Uzbekistan or by means of arbitration in accordance with the rules and procedures under the international treaties (agreements and conventions) on resolution of investment disputes to which the Republic of Uzbekistan is a party.

From the meaning of the specified provisions it follows that the legal norms in Part 1, Article 10 of the "Guarantees and Protection of the Rights of Foreign Investors Act", outlining the possible options for resolution of investment disputes, do not suggest that a written consent of any of the parties is required for the resolution of an investment dispute through these options. Part 1, Article 10 of the "Guarantees and Measures of Protection of the Rights of Foreign Investors Act" establishes the general rules and instructions, without referring to a particular international agreement or convention.

However, the mandatory written consent of the parties to an investment dispute is requested in Paragraph 1, Article 25 of the ISCID Convention.

According to Paragraph 1, 25 of the ISCID Convention, written consent is a mandatory requirement for the transfer of disputes for resolution by the Centre. On the basis of the above analysis, as well as specified constitutional standards, legal norms and materials of the case, the Constitutional court considers that Part 1, Article 10 of the "Guarantees and Protection of the Rights of Foreign Investors" does not contain implied consent of the parties. The possibility of resolution of investment disputes by means of arbitration in accordance with the rules and procedures under the international treaties (agreements and conventions) on resolution of investment disputes to which the Republic of Uzbekistan is a party, as provided in this article, is not to be taken as an expression of consent by the parties. Existence of the mandatory written consent requirement is the prerequisite for resolution of investment disputes by the Center as provided in Paragraph 1, Article 25 of the ISCID Convention, and this requirement has to be observed.

On this basis, being guided by Articles 1, 25, 26, 27 of the "Constitutional Court of the Republic of Uzbekistan Act", the Constitutional court decided:

1. To give the following interpretation to Part 1, Article 10 of the "Guarantees and Protection of the Rights of Foreign Investors Act":

— provisions in Part 1, Article 10 of the "Guarantees and Protection of the Rights of Foreign Investors Act" do not contain implied consent of the parties;
— the possibility of the resolution of investment disputes by means of arbitration in accordance with the rules and procedures under the international treaties (agreements and conventions) on resolution of investment disputes to which the Republic of Uzbekistan is a party, as stated in Part 1, Article 10, is not to be taken as an expression of consent by the parties.

2. To publish the present Decision in the *Hulk Susie* and *National Word* newspapers.

Comment of LexUz

The present resolution is published in the *Narodnoye Slovo* newspaper of November 21, 2006 No. 227 (4096).

Tashkent,
November 20, 2006.

(Law Reports of the Republic of Uzbekistan, 2006, No. 46-47, Article 462)

DECISION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INRODUCTION OF THE "JOINT-STOCK COMPANIES AND PROTECTION OF
THE RIGHTS OF SHAREHOLDERS (ARTICLE 74, MODIFICATIONS AND ADDITIONS)
AMENDMENTS BILL" TO THE OLY MAZHLIS LEGISLATIVE HOUSE OF THE
REPUBLIC OF UZBEKISTAN**

The Constitutional court of the Republic of Uzbekistan consisting of the vice-chairman B. Mirbabayev, judges U. Bazarov, G. Pirzhanov and S. Hakimov, being guided by Article 83 of the Constitution of the Republic of Uzbekistan and Article 10 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at a public hearing the matter of introducing the "Joint-Stock Companies and Protection of the Rights of Shareholders (Article 74, Modifications and Additions) Amendments Bill" for consideration by the Oly Mazhlis Legislative house of the Republic of Uzbekistan.

The matter is brought in accordance with Article 19 of the "Constitutional Court of the Republic of Uzbekistan Act" at the initiative of judges U. Bazarov, G. Pirzhanov and S. Hakimova in connection with the application by the CEO of Uzbektelekom X joint stock company X.Mukhitdinov and CEO of the UzMADparranda-holding holding company A. Sadikov.

Having heard the message of the reporting judge U. Bazarov, having analyzed opinions of the manager of the legal department of the Cabinet of the Republic of Uzbekistan B. Kuchkarov, the vice-chairman of the Supreme Court of the Republic of Uzbekistan B. Zhamolov, the first deputy chairman of the Supreme Economic court of the Republic of Uzbekistan N. Akhmonov, the Deputy Minister of Justice of the Republic of Uzbekistan M. Isakov, Deputy Attorney-General of the Republic of Uzbekistan R. Mukhitdinov, vice-chairman of Scientific and advisory council of the Constitutional court, head of the department of the International private law of the Tashkent state legal institute X. Rakhmonkulov, the acting as professor of this department S. Gulyamov, the senior lecturer of

that department V. Ergashev of the matter, having studied the materials of the case, the Constitutional court **found**:

The submission to the Constitutional court pointed out a discrepancy between the norms contained in Part 3, Article 74 of the "Joint-stock Companies and Protection of the Rights of Shareholders Act" and Articles 135 and 138 of the Civil Code of the Republic of Uzbekistan, which creates substantial difficulties in practical application of these provisions.

Part 1, Article 12 of the "Joint-stock Companies and Protection of the Rights of Shareholders Act" states: "Founders of joint-stock company are legal entities and individuals who signed the founding agreement to create that company".

According to a Part 3, Article 74 of the Act "The shareholder's representative at general shareholder meetings acts through the power of attorney given in writing. The power of attorney giving the right to vote has to contain the details of both the represented shareholder and their representative (name, residential address, passport details). The power of attorney giving the right to vote has to be certified by a notary".

Part 1, Article 134 and Part 1, Article 135 of the Civil Code of the Republic of Uzbekistan state that written authorization issued by one person (principal) to another person (attorney) for representation before third parties is recognized as the power of attorney, and the power of attorney is given in a written form and certified by a notary.

According to Part 2, Article 135 of the Civil Code, "The power of attorney to make transactions involving the legal entities has to be certified by a notary, with the exception of cases stated in Articles 136, 137, 138 of the Civil Codes and other cases where the legislation prescribes the power of attorney to be given in a different form".

According to Part 1, Article 138 of the Civil Code "The power of attorney on behalf of the legal entity is issued after it is signed by the head of such legal entity and accompanied by the legal entity's stamp".

The above-stated standards of the Civil Code of the Republic of Uzbekistan state that the power of attorney on behalf of the legal entity is not issued through certification by the notary, but rather is signed by the head of that legal entity and accompanied by the legal entity's stamp. However, according to a Part 3, Article 74 of the "Joint-stock Companies and Protection of the Rights of Shareholders Act" the power of attorney giving the right to vote on behalf of the shareholder irrespective of whether the shareholder is a natural or legal entity, has to be certified by a notary.

The norms in Part 3, Article 74 of the "Joint-stock Companies and Protection of the Rights of Shareholders Act", Part 2, Article 135 and Part 2, Article 138 of the Civil code of the Republic of Uzbekistan are inconsistent.

The fundamental principles underpinning civil legislative act are enshrined in the Civil Code of the Republic of Uzbekistan. According to Part 2, Article 3 of the Civil Code of the Republic of Uzbekistan, "The standards of civil legislation contained in various laws and legislative acts have to be consistent with the present Code".

The specified provisions of the "Joint-stock Companies and Protection of the Rights of Shareholders Act" must be made consistent with the standards of the Civil Code of the Republic of Uzbekistan.

On the basis of the above and being guided by Articles 10, 25, 26, 27 of the "Constitutional Court of the Republic of Uzbekistan Act" and Articles 5 and 26 of the "Order of Preparation of draft Bills and Their Introduction for Consideration by the Oly Mazhlis Legislative House of the Republic of Uzbekistan Act", the Constitutional court **decided**:

1. In order to increase compliance in application of the norms contained in Part 3, Article 74 of the "Joint-stock Companies and Protection of the Rights of Shareholders Act", Part 2, Article 135 and Part 1, Article 138 of the Civil Code of the Republic of Uzbekistan, to introduce to Oly Mazhlis Legislative house of the Republic of Uzbekistan a legislative initiative in the form of "Joint-Stock Companies and Protection of the Rights of Shareholders (Article 74, Modifications and Additions) Amendments Bill".
2. To appoint the judge of the Constitutional court of the Republic of Uzbekistan U. Bazarov as the representative for participation in consideration of this Bill by the Oly Mazhlis Legislative house of the Republic of Uzbekistan.
3. To publish the present Decision in "The bulletin of the Constitutional court of the Republic of Uzbekistan".

Tashkent,

January 17, 2007.

APPENDIX

to the decision of the Constitutional court of the Republic of Uzbekistan
from January 17, 2007

Draft Bill

"Joint-Stock Companies and Protection of the Rights of Shareholders (Article 74,
Modifications and Additions) Amendments Bill"

Passed by Legislative house _____

Approved by the Senate _____

Article 1. To include in Article 74 of the "Joint-stock companies and protection of the rights of shareholders Act" from April 26, 1996 No. 223-I (Oly Mazhlis' of the Republic of Uzbekistan Reports, 1996, No. 5-6, Article 61; 1997, No. 2, Article 56; 1998, No. 3, Article 38, No. 9, Article 181; 1999, No. 9, Article 229; 2001, No. 1-2, Article 23; 2003, No. 1, Article 8, No. 9-10, Article 149; Oly Mazhlis of the Republic of Uzbekistan Chambers Reports, 2006, No. 4, Article 154) the following amendments and additions:

To amend point 3, Part 3 to read as follows:

"The power of attorney to vote on behalf of natural person has to be certified by a notary";

to supplement a Part 3 with the following contents:

"The power of attorney to vote on behalf of legal entity is issued once it is signed by the head of that legal entity and accompanied by the legal entity's stamp".

Article 2. The present Law comes into effect from the date of its official publication.

President of the Republic of Uzbekistan I. Karimov

(Law Reports of the Republic of Uzbekistan, 2007, No. 3, Article 28)

DECISION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INTRODUCTION OF "THE LABOR CODE OF THE REPUBLIC OF UZBEKISTAN
(ARTICLE 192 MODIFICATION) AMENDMENTS BILL" TO THE OLY MAZHLLIS
LEGISLATIVE HOUSE OF THE REPUBLIC OF UZBEKISTAN**

The constitutional court of the Republic of Uzbekistan consisting of the vice-chairman B. Mirbabayev, judges U. Bazarov, G. Pirzhanov and S. Hakimova, being guided by Article 83 of the Constitution of the Republic of Uzbekistan and Article 10 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at a public hearing the matter of introduction of the "Labor Code of The Republic of Uzbekistan (Article 192 Modification) Amendments Bill" for consideration by the Oly Mazhllis.

The matter is brought in accordance with Article 19 of the "Constitutional Court of the Republic of Uzbekistan Act" at the initiative of judges U. Bazarov, G. Pirzhanov and S. Hakimova in connection with the application to the Constitutional court of the CEO of National airline "Ўзбекистон ҳаво йўллари " V. Tyana.

Having heard the report of the reporting judge S. Hakimova, opinion of the head of the department of the Tashkent State Legal Institute, the vice-chairman of Scientific and advisory council of the Constitutional court of the Republic of Uzbekistan, academic H. Rakhmankulov, the deputy director of the Center for Studying Legal Problems, associate professor of the Tashkent State Legal Institute, the member of Scientific and advisory council at the Constitutional Court of the Republic of Uzbekistan M. Gasanov, the chairman of Presidium of the Tashkent city Bar, the member of Scientific and advisory council of the Constitutional court of the Republic of Uzbekistan S. Yakubov, the Deputy Attorney-General of the Republic of Uzbekistan, the member of Scientific and advisory council of the Constitutional court of the Republic of Uzbekistan A. Sharafutdinov, the chief of the department of Ministries at the Internal Affairs Academy of the Republic of Uzbekistan, the member of Scientific and advisory council of the Constitutional court of the Republic of Uzbekistan H. Adilkariyev, the vice-chairman of the Supreme Economic court of the Republic of Uzbekistan, the member of Scientific and advisory council at the Constitutional court of the Republic of Uzbekistan H. Azizov, the head of legal department of the Office of Oly Mazhllis Legislative house of the Republic of Uzbekistan A. Yuldashev, and having studied the materials of the case, the Constitutional court **found**:

In the submission to the Constitutional court the CEO of national airline "Ўзбекистон ҳаво йўллари " V. Tyana, notes the ambiguity found in Article 1009 of the Civil Code of the Republic of Uzbekistan and Article 192 of the Labor Code of the Republic of Uzbekistan which establish the order of compensation for loss of carer, and asks the court to make a determination on correct application of these norms.

According to Part 3, Article 1009 of the Civil Code of the Republic of Uzbekistan the harm arising from the death of carer is compensated to:

- Minors until the age of 18;
- Students over the age of eighteen years — until the completion of a full-time course, but up to the age of 23.

However, according to a Part 5, Article 192 of the Labor Code of the Republic of Uzbekistan, students at the age of 16 and older are entitled to compensation during their studies in educational institutions, but up to the age 18.

Thus, according to Article 192 of the Labor Code of the Republic of Uzbekistan the students between the ages of 18 and 23, studying in educational institutions, are not entitled to compensation in connection with the death of carer, whereas according to Article 1009 of the Civil Code of the Republic of Uzbekistan they are entitled to such compensation.

This inconsistency between the standards of the Civil code of the Republic of Uzbekistan and the Labor Code of the Republic of Uzbekistan regulating compensation entitlements for loss of carer causes serious difficulties in application of the specified norms in practice.

In making its decision the Constitutional court reasons as follows:

1. According Part 1, Article 39 of the Constitution of the Republic of Uzbekistan everyone has the right to social security at old age, in cases of disability, after the loss of carer and in other circumstances provided by the law.
2. Article 15 of the Constitution recognizes the absolute supremacy of the Constitution and the laws of the Republic of Uzbekistan. The state, its institutions, officials, public associations, and citizens function in accordance with the Constitution and laws.
3. According to Article 41 of the Constitution of the Republic of Uzbekistan everyone has the right to education.
4. According to Article 43 of the Constitution of the Republic of Uzbekistan the state guarantees the rights and freedoms of citizens enshrined in Constitution and laws.
5. According to Part 2, Article 3 of the Civil Code of the Republic of Uzbekistan, the standards of civil legislation contained in various laws and legislative acts have to be consistent with the Code.

The constitutional court considers that compliance with standards of the Constitution and laws of the Republic of Uzbekistan dictates the need make standards contained in Article 192 of the Labor Code of the Republic of Uzbekistan consistent with standards of Article 1009 of the Civil Code of the Republic of Uzbekistan.

Therefore, it is necessary to make the change allowing for students between the ages of 18 and 23, studying in educational institutions, to receive compensation in connection with the death of carer under Article 192 of the Labor Code of the Republic of Uzbekistan.

On that basis and being guided by Articles 10, 25, 26, 27 of the "Constitutional Court of the Republic of Uzbekistan Act", Articles 5, 26 of the "Order of Preparation of draft Bills and Their Introduction for Consideration by the Oly Mazhlis Legislative House of the Republic of Uzbekistan Act", the Constitutional court **decided**:

1. To create consistency between the norms in Part 5, Article 192 of the Labor Code of the Republic of Uzbekistan and Part 3, Article 1009 of the Civil Code of

the Republic of Uzbekistan by introducing legislative initiative in the form of "Labor Code of The Republic of Uzbekistan (Article 192 Modification) Amendments Bill" for consideration by the Oly Mazhlis Legislative house of the Republic of Uzbekistan.

2. To appoint the judge of the Constitutional court of the Republic of Uzbekistan S. Hakimova as the representative for participation in consideration of this bill by the Oly Mazhlis Legislative house of the Republic of Uzbekistan.

3. To publish the present decision in the "Vestnik Konstitutsionnogo Suda Respubliki Uzbekistan" magazine.

Constitutional court of the Republic of Uzbekistan

Tashkent,

October 15, 2008.

APPENDIX

to the decision of the Constitutional court of the Republic of Uzbekistan from
October 15, 2008

Draft

"THE LABOR CODE OF THE REPUBLIC OF UZBEKISTAN (ARTICLE 192 MODIFICATION) AMENDMENTS ACT"

Accepted by Legislative house _____

Approved by the Senate _____

Article 1. Replace the word "eighteen" with the words "twenty three" in Part 5, Article 192 of the Labor Code of the Republic of Uzbekistan enacted on December 21, 1995 No. 161-I (Oly Mazhlis Reports of the Republic of Uzbekistan, 1996, the annex to No. 1; 1997, No. 2, Article 65; 1998, No. 5-6, Article 102, No. 9, Article 181; 1999, No. 1, Article 20, No. 5, Articles 112, 124, No. 9, Article 229; 2001, No. 5, Article 89, No. 9-10, Article 182; 2002, No. 9, Article 165; Reports of Oly Mazhlis of the Republic of Uzbekistan Chambers, 2005, No. 9, Article 312).

Article 2. The present Law comes into force effect the date of its official publication.

President of the Republic of Uzbekistan I. Karimov

(Law Reports of the Republic of Uzbekistan, 2008, No. 44-45, Article 446)

DECISION

OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN ON INTRODUCTION OF THE "TAX CODE OF THE REPUBLIC OF UZBEKISTAN (PARAGRAPH 35, ARTICLE 208 UZBEK LANGUAGE TEXT MODIFICATION) AMENDMENTS BILL" FOR THE CONSIDERATION BY THE OLY MAZHLIS LEGISLATIVE HOUSE OF THE REPUBLIC OF UZBEKISTAN

The constitutional court of the Republic of Uzbekistan consisting of the vice-chairman B. Mirbabayev, judges U. Bazarov, G. Pirzhanov and S. Hakimova, being guided by Article 83 of the Constitution of the Republic of Uzbekistan and Article

10 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at a public hearing the matter of introduction of the legislative initiative in the form of "Tax Code of the Republic of Uzbekistan (Paragraph 35, Article 208 Uzbek Language Text Modification) Amendments Bill" for consideration by the Oly Majlis Legislative house of the Republic of Uzbekistan.

The matter is brought in accordance with Article 19 of the "Constitutional Court of the Republic of Uzbekistan Act" at the initiative of judges U. Bazarov, G. Pirzhanov and S. Hakimova in connection with the application to the Constitutional court of the chairman of the Supervisory board of Elxolding Scientific and Production Association D. Shukurov.

Having heard the report of the reporting judge S. Hakimova, opinion of the Deputy Minister of Finance of the Republic of Uzbekistan M. Mirzayev, the first deputy chairman of the State tax committee E. Gadoyev, the head of the department of the Ministry of Finance of the Republic of Uzbekistan I. Golysheva, the board member of the public association "Chamber of Tax Consultants" I. Indina, having studied the materials of the case, the Constitutional court **found**:

The submission to the Constitutional court by the chairman of the Supervisory Board of Elxolding Scientific and Production Association D. Shukurov asks to give interpretation to the norm stated in Paragraph 35, Article 208 of the Tax Code of the Republic of Uzbekistan, after issues arose in connection with ambiguous interpretation of this norm by tax authorities.

According to Paragraph 35, Article 208 of the Russian language text of the Tax Code, "wholesale offtake of book products, school educational supplies and visual aids, medicines and products of medical purpose" is exempt from a value added tax.

The text of this provision in Uzbek language uses the word "wholesale trade" (*ulgurzh savdo*) instead of "wholesale offtake". Thus, according to the text in Uzbek the "wholesale trade" is exempt from payment of a value added tax, and according to the text in Russian the "wholesale stock" is exempt from payment of a value added tax.

In Article 22 of the Tax Code of the Republic of Uzbekistan the definition is given to the concepts of "stock" and "trade activity":

offtake — shipment (transfer) of goods, performance of work and rendering of services for the purpose of sale, exchange, gratuitous transfer and a transfer of the property right to pledged goods by the pledgor to the pledgee;

trade activity — activities carried out in connection with the sale of goods acquired for the purpose of their resale.

"Wholesale offtake" — is a concept wider, than "wholesale trade" as it includes wholesale trade as well as delivery of own produce, exchange, gratuitous transfer, etc.

In making this decision the Constitutional reasons as follows:

1. According to Article 51 of the Constitution of the Republic of Uzbekistan, the citizens must pay taxes and local fees as established by law.
2. According to Part 2, Article 18 of the Constitution of the Republic of Uzbekistan, any benefit can only be established only by law and have to correspond to principles of social justice.

3. Article 15 of the Constitution of the Republic of Uzbekistan, recognizes the absolute supremacy of the Constitution and the laws of the Republic of Uzbekistan. The state, its institutions, officials, public associations, and citizens function in accordance with the Constitution and laws.

The Constitutional court considers that mistakes in application of this standard of the Tax Code of the Republic of Uzbekistan as well as the supremacy of the Constitution and the laws of the Republic of Uzbekistan dictate the need to create consistency between Paragraph 35, Article 208 of texts in Uzbek and Russian languages of the present Code.

Therefore, in Paragraph 35, Article 208 of the Uzbek text of the Tax Code of the Republic of Uzbekistan the word "савдоси" should be replaced with the words "реализация қилиниши". Paragraph 32, Article 71 of the Uzbek text of the Tax Code of the Republic of Uzbekistan (in force until January 1, 2008) reflected the concept of «улгуржи реализация қилиш», which was then was applied.

On that basis and being guided by Articles 10, 25, 26, 27 of the "Constitutional Court of the Republic of Uzbekistan Act" and Articles 5, 26 of the "Order of Preparation of draft Bills and Their Introduction for Consideration by the Oly Mazhlis Legislative House of the Republic of Uzbekistan Act", the Constitutional court **decided**:

1. In order to create consistency between Paragraph 35, Article 208 in Uzbek and Russian language texts of the Tax Code of the Republic of Uzbekistan, to introduce a legislative initiative in the form of "Tax Code of the Republic of Uzbekistan (Paragraph 35, Article 208 Uzbek Language Text Modification) Amendments Bill" for consideration by the Oly Mazhlis Legislative house of the Republic of Uzbekistan (attached).
2. To appoint judge of the Constitutional court of the Republic of Uzbekistan S. Hakimova as the representative for participation in consideration of this bill by the Oly Mazhlis Legislative house of the Republic of Uzbekistan.
3. To publish the present decision in the "Vestnik Konstitutsionnogo Suda Respubliki Uzbekistan" magazine.

Tashkent,

February 5, 2009

APPENDIX

to the decision of the Constitutional court of the Republic of Uzbekistan from
February 5, 2009

Draft

TAX CODE OF THE REPUBLIC OF UZBEKISTAN (PARAGRAPH 35, ARTICLE 208 UZBEK LANGUAGE TEXT MODIFICATION) AMENDMENTS BILL

Accepted by Legislative house _____

Approved by the Senate _____

Article 1. In Paragraph 35, Article 208 of the Uzbek language text of the Tax Code of the Republic of Uzbekistan enacted on December 25, 2007 No. ZRU-136 (Oly

Mazhlis of the Republic of Uzbekistan Chambers Reports, 2007, appendix 1 to No. 12) replace the word "савдоси" with the words "реализация қилиниши". Article 2. The present Act comes into force from the date of its official publication.

President of the Republic of Uzbekistan I. Karimov

(Law Reports of the Republic of Uzbekistan, 2009, No. 6, Article 54)

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INTERPRETATION OF POINT 2, PART ONE, ARTICLE 21 OF THE "CITIZENSHIP
OF THE REPUBLIC OF UZBEKISTAN ACT"**

The Constitutional court of the Republic of Uzbekistan consisting of the vice-chairman B. Mirbabayev, judges U. Bazarov, G. Pirzhanov and F. Khusanova, being guided by point 3, part one, Article 109 of the Constitution of the Republic of Uzbekistan and Article 1 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at a public hearing the case of interpretation of point 2, Part 1, Article 21 of the "Citizenship of the Republic of Uzbekistan Act". The matter was brought in accordance with Article 19 of the "Constitutional Court of the Republic of Uzbekistan Act" at the initiative of judges U. Bazarov, G. Pirzhanov and F. Khusanova in connection with the application to the Constitutional court by the Ministry of Foreign Affairs of the Republic of Uzbekistan.

Having heard a report of the reporting judge U. Bazarov, opinion of the first secretary of consular management of the Ministry of Foreign Affairs M. Ismailov, the Deputy Speaker of Oly Mazhlis Legislative house of the Republic of Uzbekistan U. Vafoev, the General Prosecutor of the Republic of Uzbekistan R. Kadyrov, the President of Chamber of lawyers of the Republic of Uzbekistan R. Akhmedov, the chief of the department of the Ministry of Internal Affairs Academy, member of the Scientific and advisory council of the Constitutional court H. Adilkariyev, the chief of head department of the Ministry of Justice N. Zhurayev, the deputy head of the department of the Ministry of Internal Affairs U. Tashkhodzhayev, the Chairman of the Committee of Oly Mazhlis Legislative house of the Republic of Uzbekistan, the director of the National centre for human rights of the Republic of Uzbekistan, member of the Scientific and advisory council of the Constitutional court A. Saidov, having studied the materials of the case, the Constitutional court found:

Point 2, Part 1, Article 21 of the "Citizenship of the Republic of Uzbekistan Act" states that the citizenship of the Republic of Uzbekistan is lost if the person who is permanently living abroad did not register with the Consulate within five years and did not have valid excuse not to do so.

At the same time, according to the Provision regulating the passport system of the Republic of Uzbekistan approved by the Decree of the President of the Republic of Uzbekistan on January 5, 2011, titled "Additional measures for improvement of the passport system of the Republic of Uzbekistan" the citizen of the Republic of Uzbekistan who is no longer registered at their permanent

address and has acquired an exit visa for permanently living abroad is considered a citizen permanently living abroad.

On this basis, the Ministry of Foreign Affairs of the Republic of Uzbekistan asks the Constitutional court to give official interpretation to Point 2, Part 1, Article 21 of the "Citizenship of the Republic of Uzbekistan Act" in order to resolve a question of application of this norm to persons living abroad without cancelling registration at their permanent address, who did not obtain exit visa and did not register with the Consulate within five years, where the person does not have a valid excuse not to do so.

In interpreting Point 2, Part one, Article 21 of the "Citizenship of the Republic of Uzbekistan", the Constitutional court of the Republic of Uzbekistan reasons as follows:

1. Article 21 of the Constitution of the Republic of Uzbekistan, establishes uniform citizenship across the whole territory of the Republic of Uzbekistan. The citizenship of the Republic of Uzbekistan is equal for all, irrespective of the basis for its acquisition. The grounds and order of acquisition and loss of citizenship are established by law.

2. According to Article 1 of the "Citizenship of the Republic of Uzbekistan Act", the citizenship of the Republic of Uzbekistan creates continuous political and legal connection between the person and the state, manifested in their mutual rights and responsibilities. In the Republic of Uzbekistan each person has the right to citizenship. Nobody can be deprived of citizenship or the right to change citizenship. The Republic of Uzbekistan represented by the institutions and officials is accountable to citizens of the Republic of Uzbekistan, and the citizens of the Republic of Uzbekistan are accountable to the state. The Republic of Uzbekistan protects the rights, freedoms and the interests of its citizens within the territory of the Republic of Uzbekistan and beyond its borders.

3. Standards of Article 1 of the "Citizenship of the Republic of Uzbekistan Act" correspond with Article 15 of the Universal Declaration of Human Rights which provides that each person has the right to citizenship. No person can be arbitrarily deprived of citizenship or the right to change citizenship.

4. According to the Provision regulating the passport system of the Republic of Uzbekistan approved by the Decree of the President of the Republic of Uzbekistan on January 5, 2011 "Additional measures for improvement of the passport system in the Republic of Uzbekistan",

- the citizens of the Republic of Uzbekistan who are no longer registered at their permanent address and have obtained an exit visa for permanently living abroad in accordance with established procedure are considered citizens permanently living abroad.
- the citizens of the Republic of Uzbekistan temporarily living abroad are — the citizens of the Republic of Uzbekistan who are permanently living in the Republic of Uzbekistan, and left the country to temporarily stay abroad;

- permanent consular registration — registration of the citizens of the Republic of Uzbekistan who are permanently living in the territory of the Consular district of the Consulate of the Republic of Uzbekistan abroad, who obtained an exit visa to permanently live abroad in accordance with established procedure;
- temporary consular registration — registration by the Consulate of the Republic of Uzbekistan abroad of citizens of the Republic of Uzbekistan who are temporarily located abroad and are permanently living in the Republic of Uzbekistan, and who have obtained an exit visa for temporarily living abroad in accordance with established procedure;

5. According to Paragraph 2, Section IV of the Provision regulating acquisition of citizenship of the Republic of Uzbekistan, approved by the Decree of the President of the Republic of Uzbekistan on November 20, 1992, titled "Adoption of the Provision regulating an order of acquisition of citizenship of the Republic of Uzbekistan", if the person is permanently living abroad and did not register with the Consulate within 5 years where a person did not have a valid excuse not to do so, the Consulate directs materials of the case to the Ministry of Foreign Affairs. The conclusion of the Ministry of Foreign Affairs is directed for consideration to the Presidential Commission for Citizenship of the Republic of Uzbekistan. The Commission considers the materials of the case and makes a recommendation for acceptance by the President of the Republic of Uzbekistan.

6. According to Article 43 of the "Normative Legal Acts Act", the official interpretation of normative legal acts is carried out where the ambiguities are present in the normative legal act, which leads to incorrect or contradictory practical application. In the course of official interpretation of normative legal acts, the introduction of amendments, changes, or additions aimed to specify the legal norms is not allowed.

On the basis of the analyses of the Constitution and the laws of the Republic of Uzbekistan as well as other materials of the case, the Constitutional court of the Republic of Uzbekistan considers that:

firstly, the citizenship of the Republic of Uzbekistan is equal for all and creates continuous political and legal connection between the person and the state manifested in their mutual rights and responsibilities;

secondly, the concepts used in the Provision regulating the passport system of the Republic of Uzbekistan are defined for application of the mentioned standards of this Provision.

On the basis of the above, being guided by Articles 1, 25, 26, 27 of the "Constitutional Court of the Republic of Uzbekistan Act", the Constitutional court **decided:**

1. To give the following interpretation to point 2, Part one, Article 21 of the "Citizenship of the Republic of Uzbekistan Act":

the words "the person who is permanently living abroad" contained in point 2, Part one, Article 21 of the "Citizenship of the Republic of Uzbekistan Act" mean persons living abroad, who cancelled their registration from their permanent address in the Republic of Uzbekistan and obtained an exit visa for living abroad

on permanent basis in accordance with the established procedure, and the persons living abroad without cancelling their registration at their permanent address in the Republic of Uzbekistan or without obtaining an exit visa for living abroad on a permanent basis. Therefore, the standard in point 2, Part 1, Article 21 of the "Citizenship of the Republic of Uzbekistan Act" can be applied to persons living abroad persons living abroad without cancelling registration at their permanent address, who did not obtain exit visa and did not register with the Consulate within five years, where the person does not have a valid excuse not to do so.

2. This decision is to be published the "Law Reports of the Republic of Uzbekistan" and "The bulletin of the Constitutional court of the Republic of Uzbekistan".

*Tashkent,
April 22, 2014.*

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INTRODUCTION OF THE "CIVIL PROCEDURE CODE, ECONOMIC PROCEDURAL
CODE AND ADMINISTRATIVE LEGAL PROCEEDINGS CODE OF THE REPUBLIC OF
UZBEKISTAN AMENDMENTS BILL" TO THE OLY MAZHLIS**

The constitutional court of the Republic of Uzbekistan consisting of the chairman B. Mirbabayev, judges A. Gafurov, S. Koshayeva, B. Miralimov, G. Pirzhanov, K. Ulzhayev and F. Kayumov, being guided by Article 83 of the Constitution of the Republic of Uzbekistan and Article 14 of the "Constitutional Court of the Republic of Uzbekistan Act", considered at a public hearing the matter of introduction of the "Civil Procedure Code, Economic Procedural Code and the Administrative Legal Proceedings Code of the Republic of Uzbekistan Amendments Bill" for consideration by the Oly Madhzhlis.

The matter is brought before the court in accordance with Article 25 of the "Constitutional Court of the Republic of Uzbekistan Act" at the initiative of judges A. Gafurov, S. Koshayeva and B. Miralimov in connection with the application to the Constitutional court by citizen S. Yakubzhanov.

Having heard the message of the reporting judge S. Koshayeva and having studied the materials of the case, the Constitutional court **found**:

The submission to the Constitutional court by citizen S. Yakubzhanov requests to give interpretation to Part 2 and Part 4, Article 143 of the Administrative Legal Proceedings Code of the Republic of Uzbekistan which regulate the audio recording (sound recording) of the proceedings: the question before the court is whether the audio recording (sound recording) of the proceedings can only be carried out with the court's permission or whether the persons present in the court session have the right to record proceedings.

The court found that Part 2, Article 143 of the Administrative Legal Proceedings Code states that video or audio recording of the proceeding can be carried out "at the initiative of the court or at the petition of participants of administrative legal proceedings".

At the same time, Part 4 of the same article of the Code states that "persons present at the court room during the hearing have the right to make written notes, transcript and sound recording. Photographs, video and broadcast of the court session on radio and television are allowed with the leave of the court considering case".

In this article two terms — "audio recordings" and "sound recording" appear to constitute the same concept which is inconsistent with Article 21 of the "Order of Preparation of draft Bills and Their Introduction for Consideration by the Oly Mazhlis Legislative House of the Republic of Uzbekistan Act".

A similar procedure for carrying out sound recording of judicial proceedings is established as Parts 2 and 4, Article 165 of the Economic Procedural Code of the Republic of Uzbekistan.

Norms In Part 2, Article 143 of the Administrative Legal Proceedings Code and Part 2, Article 165 of the Economic Procedural Code violate the rights of parties during legal proceedings and are inconsistent with the Constitution of the Republic of Uzbekistan. If the petition of the participant in legal proceedings is not satisfied by court, then the participant cannot carry out sound recording, whilst any attendee present in the court room during the session can record the proceedings without the leave of the court.

In accordance with Article 113 of the Constitution, "all trials are conducted in open courts. Hearing of matters behind closed doors is only allowed in cases established by the law". From this article of the Constitution, it follows that generally hearings of administrative, economic and other matters have to be carried out in accordance with the principle of publicity of judicial proceedings. However, Part 2, Article 143 of the Administrative Legal Proceedings Code and Part 2, Article 165 of the Economic Procedural Code of the Republic of Uzbekistan put an obligation on the court to consider the petition by the parties to legal proceedings to carry out sound recording. Whereas according to Part 4, Article 143 of the Administrative Legal Proceedings Code and a Part 4, Article 165 of the Economic Procedural Code of the Republic of Uzbekistan all persons present at the court room during the hearing have the right to conduct sound recording without the leave of the court.

Thus, contrary to the principle of publicity of judicial proceedings, the right of parties to legal proceedings is limited, as their ability to record proceeding is determined by the decision of the court, whilst and other persons present at the court room during judicial proceedings have the right to conduct sound recording without the leave of the court.

Furthermore, standards of the mentioned codes regulating sound recording during judicial proceedings differ from standards of the Civil Procedure Code. According to a Part 4 and 6, Article 208 of the Civil Procedure Code, the sound recording can be carried out at the request by the parties to legal proceeding and is allowed with the consent of all parties and permission of the chairman of the court session.

Proceeding from the above and being guided by Articles 14, 31, 32, 33 of the "Constitutional Court of the Republic of Uzbekistan Act", Articles 5, 26 of the "Order of Preparation of draft Bills and Their Introduction for Consideration by

the Oly Mazhlis Legislative House of the Republic of Uzbekistan Act”, the Constitutional court **decided**:

1. To introduce the legislative initiative in the form of "Civil Procedure Code, Economic Procedural Code and the Administrative Legal Proceedings Code of the Republic of Uzbekistan Amendments Bill" for consideration by the Oly Mazhlis Legislative house of the Republic of Uzbekistan. The Bill provides uniform procedural standards regulating sound recording of court sessions in all three specified codes and eliminates infringement on the right of parties to legal proceedings to carry out sound recording (attached).
2. To appoint judge of the Constitutional court of the Republic of Uzbekistan S. Koshayeva as the representative for participation in consideration of this bill by the Oly Mazhlis Legislative house of the Republic of Uzbekistan.
3. To publish the present decision in newspapers "Халқ сўзи", "A national word" and other official media outlets for publication of the decisions of the Constitutional court as provided in Article 33 of the "Constitutional Court of the Republic of Uzbekistan Act".

Tashkent,

November 14, 2018.

RESOLUTION
OF THE CONSTITUTIONAL COURT OF THE REPUBLIC OF UZBEKISTAN
**ON INTRODUCTION OF THE " CIVIL CODE OF THE REPUBLIC OF UZBEKISTAN
(ARTICLE 15) AMENDMENTS BILL" INTO THE LEGISLATIVE CHAMBER OF THE
OLY MAJLIS OF THE REPUBLIC OF UZBEKISTAN**

The Constitutional Court of the Republic of Uzbekistan, consisting of Chairman B. Mirbabaev, judges A. Gafurov, F. Kayumov, S. Koshaeva, B. Miralimov, G. Pirzhanov and K. Ulzhaev, guided by article 83 of the Constitution of the Republic of Uzbekistan and article 14 of the "Constitutional Court of the Republic of Uzbekistan Act," considered at an open hearing the case of introduction of the "Civil Code of the Republic of Uzbekistan (Article 15) Amendments Bill" to the Legislative Chamber of the Oly Majlis of the Republic of Uzbekistan.

The matter was brought before the court in accordance with Article 25 of the "Constitutional Court of the Republic of Uzbekistan Act" at the initiative of judges A. Gafurov, G. Pirzhanov and S. Koshayeva in connection with the application to the Constitutional Court of the Ministry of Justice of the Republic of Uzbekistan. Having heard the report of the reporting judge S. Koshaeva and having examined the materials of the the case, the Constitutional Court **found**:

The Ministry of Justice applied to the Constitutional Court in accordance with article 83 of the Constitution of the Republic of Uzbekistan, requesting to submit a legislative initiative to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan in the form of "Miscellaneous Legislative Acts of the Republic of Uzbekistan Amendment Act" prepared by the Ministry of Justice on the basis of paragraph 9 of the Action Plan for the Implementation of the Concept of Improving Normative Activities, approved by the Decree of the President of the Republic of Uzbekistan on August 8, 2018 No. UP-5505.

Article 15 of the Civil Code stipulates that losses caused to a citizen or a legal person as a result of unlawful acts (omissions) of state authorities, self-governed

bodies or representatives of these bodies, including the issuance of executive acts by State authorities or self-governed bodies that do not comply with the current law, are compensable by the State or self-governed bodies.

However, this article, as well as other Acts of civil legislation, do not define specific sources of compensation for such loss.

Therefore, for introduction of direct legislative norms, clarification of ambiguous norms, which may differ in their practical application, in particular, when executive acts of state institutions or self-governed bodies are declared invalid in accordance with the established procedure in order to strengthen the protection of the rights of citizens and legal persons, increase the accountability of state authorities and self-governed bodies to ensure the legality of executive acts adopted by those bodies and authorities, it is necessary to clearly determine the sources of compensation for losses to citizens and legal persons (State budget of the Republic of Uzbekistan, extrabudgetary funds of the state authority or funds of self-governed bodies) and to make the corresponding changes and additions to Article 15 of the Civil Code.

On this basis, the draft Bill was finalized by the Constitutional Court.

On the basis of the above, and guided by articles 14, 31, 32 and 33 of the "Constitutional Court of the Republic of Uzbekistan Act", Articles 5 and 26 of the "Order of Preparation of draft Bills and Their Introduction for Consideration by the Oly Mazhlis Legislative House of the Republic of Uzbekistan Act" the Constitutional Court **decided**:

1. In order to specify the source of compensation for loss caused to a citizen or legal person as a result of illegal actions (omissions) by state authorities, self-governed bodies or officials of these bodies, including the issue of an executive act by the state authority or self-governed body that do not comply with the legislation, introduce to the Legislative Chamber of the Oliy Majlis a legislative initiative in the form of "Civil Code of the Republic of Uzbekistan (Article 15) Amendments Bill" (attached).
2. Appoint judge of the Constitutional Court S. Koshaeva as the representative for participation in the consideration of the draft Bill by the Legislative Chamber of the Oliy Majlis.
3. Publish this decision in the newspapers "Халқ сўзи" "People's Word" and other official media outlets for publication of decisions of the Constitutional Court provided by Article 33 of the "Constitutional Court of the Republic of Uzbekistan Act".

Tashkent,

October 18, 2019