

Methods and procedures of civil proceedings in Afghanistan

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Abstract: The Law of each individual society is right or rights by individuals, organizations (entities Decree) the authorities, government and non-government trampled can be to the official visit, pleading, demanding their right. According to the law civil procedure, the claim wants the right, from otherwise, before the Court; the rights department Ministry of Justice, the first reference is that the lawsuits are civil, commercial and family the ways to handle it is presented. If the claimant has valid documents in the hands, administration of rights is obliged to the right, checks that matching documents is proven within of the ten days receives. or invite the parties to compromise, compromise if they refused or were not satisfactorily address the administration rights of the parties to refer the case to the court In Afghanistan, the court has three stages (primary, appeal and Supreme) if the parties can submit the complaint were not satisfied with the decision of the primary court and proceedings against the primary court for their rights to be of a higher court. Of course, keep in mind that schedule, appeal the verdict primary court for 30 days (one month); if not satisfied, the parties to the decision of the Appeal Court, one can appeal, if the civil claim is a lawsuit in the Court of Civil Supreme Court (Supreme Court) will be presented. And the Supreme Court at the stage of the proceedings, the final theorems, this qualification could be: breach or annulment of the decision or the Court of inferior and send it to the court, the relevant institutional address re -; the issuance of a decision in order to correct the violation in the documentation to the sentence of the law; confirmation of Supreme Court lower if in accordance with law.

Keywords: right, Case, claim, Court, civil proceedings, civil procedure, claimant, primary court, appeal court, Supreme Court.

Introduction: The right to claim that the issue could be included, such as the right to objective financial and fights over land, buildings, money ... and can include intellectual property rights such as patents and copyrights that if someone deliberately called it register their inventions could be filed against him, the definition that there is a lawsuit by lawyers ask the right of is not before the court.

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Now a set of principles and rules for how to advance the claims that the terms of the shape of Civil Procedure in this plan and in 1990 form of 506 articles', respectively, and pass that to some extent he practices litigation (civil) to explain the "remember ever in view of the special nature of the case it has brought the principles and practices and pending criminal case, for example, to certain principles and certain principles designed for commercial disputes; here I have tried to give the reader a civil lawsuit and how to handle sexual intercourse with the judicial process the primary Courts, Appeals and clean the Afghan legal system familiar.

Main part

Case definition and conditions:

According to Article V Civil Procedure Law, the Case is asking for the right to non-detention before a court. Every member of society has the right by law or the rights of individuals, organizations (legal persons), and the government departments have been violated, and they can go to authorities to claim their right to be armed [1].

Terms claim:

All claims will be presented to the court with a series of conditions to be accepted by the Supreme Court in order to be addressed, otherwise it cannot be denied verifiable knowledge and keeping in mind that every case the following conditions must be

1. General Conditions,
2. Special Conditions.

General conditions: the condition that any claim must be met and shared between all the claims.

Special conditions: conditions those are specific to the particular case.

General conditions in every case there should be:

1. The capacity of the parties: it means that the parties claim (plaintiff) claimed against (the one who asked him to be) must be sane, and have the authority to sue.
2. It abstinence of the defendant: the right who asked him the names and other signs that reveal her identity should be noted.
3. The parties should present the parties are not absent. (Of course, there are exceptions in cases such as if loss or lack of legal capacity and the absence of provisions of the provincial administration and guardianship of is of adaptable).
4. It maintains the value of abstinence: What is the subject of litigation with the state, however, commodity and the amount turns out to be otherwise not hear it: if the house or the land value, and the type of the specified boundaries.

5. Proof of claim likely to have the means to prove probable cause (for example: If a person forty years, thirty-five-year-old man claims that his son is not audible).
6. The claim must be filed House judiciary: out of court and out of the House Judiciary area is not audible.
7. The case does not contradict what has been claimed, again something not claim the opposite. For example, in the case of usurpation of land confiscation claim was once again inconsistent with previous claims that have usurped the house or the land cannot [2].

Dedicated authorities claim:

1. Rights Department of the Ministry of Justice: the first reference case in order to address those present that we (civil litigation, commercial and family), Office of the Ministry of Justice (Article 12 CPL). That through formal petition with a copy of the document is positive right to appeal. After obtaining a receipt to claim rights office paper document or data under the law offices of his attorney in the first place to attract and asked the defendant claims in the form of a written communicated to him handle claiming rights on the documents to the source the plaintiff is required to prove that according to documents found during the ten day study rights management can invite the parties to compromise, if they refused to compromise or deal with rights management for content partners did not refer the case to the court.

2. Court when the case is submitted to the Supreme Court in writing to the chairman of the court's consideration of the case presented in court, it was seen primarily in terms of subject matter jurisdiction (jurisdiction of the court in terms of subject matter, Criminal Court to the fight no civil jurisdiction) and regional (local authority, the court divided the primary court of Kabul to Herat Primary Court is investigating claims that qualifications cannot handle) If the study has no jurisdiction to Tahir court directed is given to cases on the basis of an (decision that the way it will be) the competent court order.

If it has jurisdiction to determine whether it will take action to address the court proceedings are the first initial protests (this step to protest the parties concerned stating that the judges accepted them or not, claim the defendant is found or not, the two sides of qualification is or not, there is no topic sentence, while another court case set forth in the petition or not) is. After a preliminary investigation into the case claims that the Supreme Court shall be filed within fifteen days of their submission to the court. After the presentation of claims to the court for trial, a copy of the defendant in order to arrange a defense submission that the claim must be submitted within fifteen days of the disposal of the court. After presenting the case to the court claim, a copy of the defendant in order to prepare and present a defense must be submitted within fifteen days of the court disposed of the case. After a hearing date will be communicated to the parties to the lawsuit after lawsuit and disposal for the preparation and the case was presented to the court by the president of the court is one of the judges to scrutinized shall proceedings on the meeting of Judiciary Committee of the claims will prove his claim as proof of the right to bear claims that can

admit evidence, witnesses, and other evidence in order to provide proof hearing the court decided to see it welcomes the verdict. As for performance in the Primary Court ends and if one of the parties to the court is not satisfied are you Appeals [3].

Procedures of civil proceedings in the Court of Appeal (second):

If the parties are not satisfied with the decision of the primary court can submit complaints against the proceedings protest against a court demanding their rights from the higher court. Of course, keeping in mind that schedule, you Appeals after a court judgment for 30 days (one month) (Article 365 CPL).

The Court of Appeals after receiving the complaint letters, papers related to decision to make official reference which claim. And a quote from the complaint or protest, written the day from the contemplative and thoughtful representatives of the judicial to the front of the deposit, answer to written employers and the reasons for existing and reasons that by both parties of the theorem delivers a scrupulous legality, and reasoned being finalized in court inferior to a meeting hearing people in the day of diving and check the issue decided his case the theorem takes place. Matching guide article 398 of the law, principles, and trials, civil, to one of the following decides:

- The nullity of the decisions of the courts, inferior, etc. in this case theorem in order to handle the fallback to the Supreme Court The lower sends.
- Violation of the decisions of the Supreme Court The lower, in this case, Proceed to decision new), and if the necessity of further research, reference to the Court of lower respective.
- Steer the direction of fix the error in the figures, in this case, the decision properly considered order correction to the court, the relevant sent.
- Confirm the decision, if that decision of the Supreme Court the lower quite in accordance with the laws and shortcomings in order to see what it confirms [4].

Procedures of civil proceedings in the Supreme Court cleaning:

If not satisfied, the parties to the lawsuit, the decision of the Court of Appeals a person can appeal. In the event that a lawsuit is civil Complaint to the Supreme Court and civil rights the Supreme Court (the Supreme Court) will be presented. And the Supreme Court at the stage of the proceedings, the final theorems has jurisdiction, the following:

- A violation or annulment of the decision or the Court of inferior and send it to the court, the relevant institutional address again.
- The issuance of a decision in order to correct the violation documentation to the rule of law.
- - Confirmed by the Supreme Court of the lower case that, in accordance with law [5].

Appeals on decisions and appointments, the final theorems on the civil cases:

The judge, Chief Justice, the Attorney General and the Parties to a lawsuit in the event that the reasons for the new laws to be can affect the decisions and appointments the final of the courts appealed. Appeals on decisions and appointments, ultimate courts ahead of the Supreme Council of the Supreme Court. In the following over decisions or appointments, the final appeal takes place:

- In case of false testimony,
- Proved false expert conclusion,
- Proof of adulteration of documents and evidence,
- Provide supporting evidence of the accused against which the judgment is not available.

Other new important causes and reasons for the court when the issue was clear and the verdict is clear and is not considered during the investigation.

Appeal on decisions and appointments, the final should be a petition, a formal way to the Supreme Court presented. Period presented in the appeal is three months from the date of issuance of the decision and the final. Whenever there are justified reasons based on the cancellation of the final verdict will be available, the Supreme Council of the Supreme Court (the Supreme Court) to revoke the sentence of the issued), and the theorem will be "tending to re-the Court of the relevant ruling or court other referral picks [6].

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ISSN: 2366-2751