



### **REFORMING AND IMPROVING CIVIL PROCEDURE**

The Civil Procedure Code, the principal act governing civil procedure in the Republic of Azerbaijan, except for the introduction of the simplified procedure and electronic court system has not seen many critical revisions or amendments since it became effective in September 2000.

The most recent important revisions [introduced as of July 2021 the institute of mediation](#). Revisions to the civil procedure that took effect as of October this year, while aiming at improving the proceedings, essentially redefine certain stages of the procedure.

One of the revisions concerns an objection against a statement of claim and submission of a counterclaim. While the right to object a claim existed before, now, the legislator requires that a respondent object a claim and file the objection within the prescribed period of 20 days following a service onto it of a copy of a claim. This somewhat alludes to the “written objection” factor existing under the administrative procedure.

The period prescribed for filing an objection is also prescribed for filing a statement of counterclaim. This is notwithstanding the previous rule whereby a counterclaim could have been filed before the case is heard, *i.e.*, it could have been filed even before the preliminary hearing. The revised approach should be considered an improvement because, unlike previously, the condition of a counterclaim having been filed has been fleshed out.

The legislator applied another revision to the rules of implementing temporary security measures (previously, securing a claim) – a petition for the application of a temporary security measure can be filed with a court before a statement of claim. A petitioner must reason the petition by an impossibility or impracticality to protect its rights upon the change of existing circumstances as well as provide initial evidence before appropriately substantiating its claim demand. In this case, a court may implement a temporary security measure for a period not exceeding one month.

Unlike previously, petitions for temporary security measures are now considered in separate proceedings. It can be inferred that implementing separate proceedings to consider temporary security measure petitions serves the purpose of preventing an abuse of procedure consisting of “manipulations with the term” by filing various petitions during a court hearing.

An importance of a stage of trial has been reconfirmed. From now on, all evidence must be collected and clarifications, objections, and the like filed at the stage of preparing the case for hearing. If previously a hearing for preparing the case for trial could have been postponed in exceptional circumstances, presently, the legislator enables postponing the hearing for preparing the case for trial several times within a defined period until all evidence has been collected. The stage of preparing the case for a trial in administrative proceedings is observed similarly and the practice proves such observing effective.

The legislator has also revised time periods to consider cases such that all terms have been extended by a month. Concurrently, several terms have been clarified: specifically, a period of three months have been provided for disputes arising out of a hypothec agreement.

The Civil Procedure Code has approved the forms of additional appellate and cassation complaints. Parties must prepare their complaints according to the form and file them with the court. Complaints not made in compliance with the form will be returned based on relevant provisions of the Code.

A requirement to consider cassation appeals in civil and commercial cases in a manner of proceedings in writing has been introduced. A court may rule over considering a case in a court hearing for cases that it considers important or upon reasoned petitions by the parties. In this case, as in the periods prior to the revision having been introduced, a cassation appeal is considered in a court hearing.

For some while, a manner of proceedings in writing has been being implemented upon consideration of appellate complaints of first-instance court rulings. Practically, this implementation can be considered successful.

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