

## Claims in Civil Cases Considered by the Courts

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### Abstract:

According to Article 4 of the Civil Procedure Code of the Republic of Azerbaijan, all people and legal entities has the right to seek judicial protection as stipulated by law to safeguard their legally protected rights, freedoms, and interests. The prohibition against seeking judicial resources is illegitimate. A lawsuit is a primary method for commencing civil proceedings in a specific case, serving as the catalyst for judicial protection and the administration of justice.

The significance of adjudicating disputes and rendering final rulings in courts is complex and includes several essential elements. Courts are essential institutions that uphold the rule of law. They ensure the correct implementation of laws and the equitable resolution of legal conflicts. Conclusive verdicts offer legal assurance for the safeguarding of citizens' rights and liberties. A judicial ruling addresses the uncertainty present in contested legal relationships, providing clarity, stability, and enforceable legal authority (Garibli, 2024).

**Key words:** Civil procedural law, lawsuit proceedings, claim, statement, statement of claim, subject of the claim, grounds for claim, litigation

### Introduction

Filing a claim in legal proceedings, submitting a statement of claim to a court, is a constitutional right and a part of the right to judicial protection of rights and freedoms enshrined in Article 60 of the Constitution of the Republic of Azerbaijan. The majority of civil cases examined by courts consist of disputes arising from various legal relationships, which are classified by law under claim proceedings. Claim proceedings are a legally regulated process initiated by a claim, governed by civil procedural law, to examine and resolve disputes concerning subjective rights or legally protected interests arising from civil, family, labor, and other legal relationships (Alexy & Amaglobeli, 2005).

When studying claim proceedings, it is essential to clarify and understand the following key concepts: the claim itself, its elements, types of claims, the right to file a claim, the conditions for acquiring the right to file a claim, and the methods of defense available to the defendant against the claim. A claim serves as a means of protecting subjective rights in cases of their violation or the threat of violation, meaning it is a legal remedy when a material dispute arises.

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A claim is a procedural means of protecting the plaintiff's interests; it initiates claim proceedings, thereby submitting the dispute for judicial review. The conditions for filing a claim and the very possibility of initiating a case through claim proceedings are determined solely by procedural legal circumstances. Therefore, a claim is more accurately characterized as a category exclusively within civil procedural law (Inotsenko & Guzhov, 2014).

### **Concept of a Claim**

The term "claim" (*iddia*) in Arabic means "request" or "demand." When using any legal concept, we often compare it with the meaning attributed to it (or its equivalent) in Roman law and by legislators of different countries. Although a claim is an international concept, most legal systems do not provide a precise definition of "claim." In fact, both Anglo-Saxon and European legal systems follow the fundamental principles of Roman civil procedure, such as the classification of claims and methods of their enforcement, with some modifications in content. However, the meaning of the concept of "claim" has evolved.

The Roman jurist Celsus defined a claim (*actio*) as the right to pursue in court what is due, the right to demand what is owed to you. In Roman law, there were eight different terms for "claim," the most common of which was *actio*. However, the Romans used *actio* in several different senses. It could refer not only to a specific legal demand but also to judicial proceedings and action in general. *Actio* often encompassed not just a single legal demand but "the entire right with all present and future claims," which today is expressed through three distinct legal concepts: civil law, civil procedural law, and judicial proceedings.

Other terms for claims in Roman law included:

1. an abstract civil demand aimed at a specific monetary sum or object (*condictio*);
2. a dispute or lawsuit (*dica, persecutio*);
3. a specific legal demand, such as *vindicatio* (claiming ownership).

Additionally, the verb "to sue" (i.e., "to file a claim") in Latin was formed by adding a suffix to a noun that denoted a specific type of claim (*ager, condiser, vindicare*, etc.).

In Roman law, a claim was understood in multiple ways: as a procedural tool that allowed for legal protection (*legis actiones*); as a substantive right exercised by the plaintiff in asserting a legal demand; as a demand made by the plaintiff against the defendant before a competent authority (the court), representing a unilateral action of the plaintiff against the defendant, and as the judicial proceedings concerning the dispute (Solovieva, Isaenkova, Tkacheva, & NIKOLAYCHENKO, 2023).

A claim holds a central place among civil procedural law institutions. In terms of its meaning and scope, litigation constitutes the most important part of the entire civil procedure and serves as the procedural form of administering justice in civil cases. The claim is closely interconnected with all institutions of civil procedural law, shaping the "spirit" of the entire process of adjudicating civil cases and playing a guiding role in the legal regulation of judicial activities.

As it can be seen, the existence of higher courts ensures the full realization of citizens' right to judicial protection. Thus, the received complaint or protest is considered within the time provided

by the law, thereby ensuring the quick and accurate implementation of justice. Proceedings in the higher courts are a constitutional guarantee of the right of citizens to appeal to the court again (Garibli & Ozturk, 2024).

A claim is an appeal to the court by the claimant (the presumed holder of subjective material rights) against the defendant (the presumed bearer of a subjective obligation) for the examination and resolution of a material-legal dispute, as well as for the protection of a violated subjective right or legally protected interest (Alexy & Amaglobeli, 2005).

A claim serves as a procedural tool for initiating judicial proceedings to resolve legal disputes between parties in a material-legal relationship through judicial process.

Thus, a claim is a procedural means of protecting the claimant's interests. It initiates claim proceedings, thereby bringing the dispute before the court.

There are several key perspectives on the concept of a claim:

#### ***A. Understanding a claim in both material-legal and procedural-legal terms***

In material-legal terms, a claim represents the right to enforce one's demands. In Chapter 18 of the Civil Code of the Republic of Azerbaijan, the term "claim" is used to denote both "claim rights" and "claim periods." The Civil Code of the Republic of Azerbaijan defines a claim as the ability to enforce a subjective material right through judicial means. The period within which a claim can be filed to protect a violated right is called the limitation period.

Failure to comply with the limitation period results in the loss of the material claim right. As stated in Article 375, Clause 2 of the Civil Code of the Republic of Azerbaijan, if a party to the dispute submits a motion regarding the expiration of the limitation period, the court is obliged to dismiss the claim. Therefore, in material terms, a claim represents the most disputable enforceable subjective right.

In procedural-legal terms, a claim is a request submitted to a court of first instance for the protection of one's rights and interests. From this perspective, a claim serves as a means of initiating civil proceedings.

#### ***B. A unified approach to the concept of a claim***

Some legal scholars view a claim as a unified concept encompassing both material-legal and procedural-legal aspects. The procedural-legal aspect of a claim refers to the claimant's request to the court for the protection of their rights. The material-legal aspect of a claim involves the demand for the protection of a material right or interest.

However, a claim is a concept and institution of procedural law; therefore, it cannot simultaneously function as both a material and procedural institution. Consequently, it is more appropriate to characterize a claim as the claimant's demand, directed at the defendant through a court of first instance, for the protection of their right or legally protected interest. A claim is a procedural tool for protecting the claimant's interests, initiating claim proceedings, and bringing the dispute to court. The conditions for filing a claim and the possibility of initiating proceedings in court through claim proceedings are determined by procedural law. Therefore, a claim is more accurately classified solely as a procedural law category (Krashennikov, 2020).

## Elements of the Claim

A claim has an internal structure and consists of characteristic elements that allow for the individualization and classification of claims. The correct understanding of the content of the elements is not only of theoretical importance as the basis for the procedural classification of claims for different types, but it is also of great significance in determining the identity of the claims. Thus, the elements of a claim are individualized and allow one claim to be distinguished from another.

Some authors distinguish three elements (subject, basis, and content), while others separate two elements (subject and basis). In recent years, the parties to a claim are sometimes added to the existing two or three elements (Mokhov, 2017).

The subject of a claim refers to the specific demand the claimant has against the defendant, such as the recognition of copyright, reinstatement to a job, compensation for damages, the defendant's obligations, including administrative violations, certain actions to be performed, or actions to be refrained from, etc.

According to Article 149, Part 2, Paragraph 3 of the Civil Procedure Code of the Republic of Azerbaijan, the claimant must specify the subject of the claim in the claim application. The subject of the claim should not be confused with the material subject of the dispute (object), such as money, property, housing, etc. Correctly determining the subject of the claim determines the future enforcement of the court decision, because claims that are not properly formulated by the claimant may not allow for their enforcement in the future.

Different types of claims can be made regarding the material object of the dispute. For example, claims related to immovable property may be about recognizing ownership of a building, transfer, eviction, partition, demolition, etc. Therefore, the subject of the claim and the material subject (object) of the dispute are different concepts.

The basis of a claim refers to the factual circumstances that give rise to the claimant's right to demand. According to Article 149, Part 2, Paragraph 3 of the Civil Procedure Code of the Republic of Azerbaijan, the claimant must state the facts and circumstances they rely on as the basis for their claim, along with a list of evidence confirming these facts, in their claim application. The claimant must not only state the facts but also the legal facts, i.e., the circumstances related to the creation, modification, or termination of legal relationships. These facts must later be proven by the claimant in civil judicial proceedings.

The facts constituting the basis of the claim are divided into three groups: directly legal facts, active and passive legal facts, and facts that cause the claim. Typically, a subjective right is based not on a single legal fact but on their combination, meaning that the basis of the claim consists of a certain factual composition.

The basis of a claim is divided into factual and legal grounds. The factual basis of the claim is the set of legal facts, while the legal basis refers to the specific legal norms upon which the claimant's demand is based.

The content of the claim is the action requested from the court by the claimant in defense of the violated or disputed subjective right. The content of the claim is determined by the claimant, based on the defense methods provided by law.

The elements of a claim are the main criterion when determining the identity of claims, as the identity of claims is determined by the overlap of the subject of the claim, the factual basis, and the parties involved. If the parties, the subject of the claim, or the factual basis do not overlap, for example, if new legal facts are at the basis of the claim, it is not possible to speak of the identity of the claims, and the claimant has the right to file a new claim with the court.

In the doctrine, based on legislation and judicial practice, a number of classifications have been developed that allow the identification of the characteristics of different types of claims.

### Types of Claims

Claims can be classified based on three main criteria:

- ***By the subject of the claim*** – procedural-legal classification of claims;
- ***By the object of defense*** – material-legal classification of claims;
- ***By the nature of the legally protected interests*** (Krashennnikov, 2020).

*In the procedural-legal classification of claims*, recognition claims, enforcement claims, and modification claims are distinguished.

**Recognition claims** aim to protect the claimant's interests by claiming a specific subjective right that is disputed by another person (for example, a claim regarding the recognition of a right to a residence). Recognition claims are divided into two types: **positive** and **negative**. A **positive recognition claim** is when the claimant demands the recognition of a certain right, such as the recognition of ownership of a residence. A **negative recognition claim** is when the claimant denies the existence of a certain right, such as claiming that they do not have an obligation in relation to a disputed paternity registration. Thus, the general feature of recognition claims is that the claimant does not request the court to give them anything, but rather seeks recognition of their subjective right or the denial of its existence.

**Enforcement claims** are characterized by the claimant requesting the court to recognize a certain subjective right and compel the defendant to perform certain actions in accordance with that recognized right (such as handing over money, property, vacating a building or land, compensating for damages, etc.). As can be seen, enforcement claims are broader in legal characteristics, as the claimant requests both the recognition of a certain right and the performance of certain actions to enforce it. Often, recognition and enforcement claims can be combined in a single claim application. For example, a claim to declare a sale-purchase contract for a residence invalid and the removal of previous owners from the property.

The common feature of both enforcement and recognition claims is that both aim to confirm the existence of rights and obligations by the court, irrespective of whether they are before or during the proceedings. The decision does not alter the existing legal relationships after the court ruling, just as it does not alter the existing rights before the decision. Therefore, in civil procedural law theory, these two types of claims are referred to as **"declaratory"** (Blazhev, & Uksusova, 2015).

**Modification claims** refer to claims related to the suspension, modification, or, in some cases, the creation of material legal relationships. In this case, the court's decision acts as a legal fact of material law that changes the structure of legal relationships. For example, a claim regarding the partition of ownership turns joint property into fractional ownership. According to the law, the division of shares in a dispute is carried out based on a court decision. In this case, the court's decision serves as a legal fact in material law, thus completing the complex factual composition.

It should be noted that modern judicial activity is quite creative, as the court must determine many factual circumstances, particularly in cases where regulation is carried out with norms that involve relatively certain and uncertain assumptions. The court must clarify the factual composition and assign legal significance to certain facts. For example, it must interpret various evaluative concepts based on the evidence presented by the parties. In all such cases, the claim and the court decision have a modifying nature, and the court's decision serves as a legal fact in material law, objectifying the results of prior judicial activity.

Depending on the nature of the disputed *material-legal relationship*, claims arising from civil, labor, family, and other branches of law, such as civil, labor, family-marriage, land, financial, tax, customs, and other legal relationships, are distinguished. Then, each type of claim is further divided, for example, into claims arising from civil legal relationships, legal obligations, non-contractual liability, copyright, invention, inheritance rights, etc. Claims related to legal obligations are further divided into claims arising from contracts such as sale, donation, exchange, lease, custody, and so on. As can be seen, the material-legal classification of claims can be quite detailed and profound.

The practical significance of the material-legal classification of claims is as follows:

*First*, it forms the basis for court statistics, allowing for the monitoring of specific social processes based on the number of cases or the increase or decrease in their number in the courts;

*Second*, it serves as the basis for the generalization of judicial practice for different categories of civil cases, with decisions made by the Plenary Session of the Supreme Court;

*Third*, the material-legal classification of claims forms the basis for many scientific and practical research studies concerning the peculiarities of judicial review of cases in various categories (Krashennikov, 2020).

In recent years, legal literature has included a classification of claims based on the nature of the legally protected interests. This includes claims for the protection of individuals' rights, group claims, derivative (secondary) claims, claims related to personal interests, and claims related to the protection of public and state interests.

### **Conditions for the Right to File a Claim**

Thus, the right to a claim is the right to judicial protection of a violated or disputed right in accordance with the procedure established by law. The right to a claim is exercised through the submission of a statement of claim to the court. Meanwhile, the right to file a claim is the right to seek judicial protection for subjective civil rights and legitimate interests that have been violated

or contested. Therefore, in order for a court to consider and resolve a legal dispute, a claim must be filed (Razdorozhny, 2017).

According to Article 4 of the Civil Procedure Code (Right to Apply to the Court for Defense), all natural and legal persons have the right to use court protection in accordance with the law to protect and ensure their legally protected rights, freedoms, and interests. Thus, the exercise of the right to seek judicial protection is possible in the form of a claim application, in the manner prescribed by law. The right to file a claim is, in this regard, a form of exercising the right to apply to the court. The right to file a claim is the right to initiate court proceedings and defend a specific material-legal dispute in the first instance court with the aim of resolving it. This is the right to judicial adjudication of a specific material-legal dispute (Blazheev & Uksusova, 2015).

In civil proceedings, judicial protection is ensured by the unrestricted right to file a claim (Article 4 of the Civil Procedure Code). The right to file a claim, in any case, involves the existence of certain minimum and easily identifiable conditions—the initial conditions for the right to file a claim.

The initial conditions for the right to file a claim are the situations that the law associates with the existence or non-existence of a specific person's subjective right to file a claim in a particular case. If such initial conditions exist, that person has the right to seek judicial review of their material-legal demand. If any of these conditions are absent, then the right itself does not exist. In such cases, the claimant's application will not lead to the judicial consideration of the dispute.

The initial conditions for the right to file a claim are distinguished as follows:

**a. General and special conditions** – depending on the circumstances in which they are applied;

**b. Positive and negative conditions** – depending on the existence or non-existence of conditions stipulated by law for filing a claim.

The general initial conditions for filing any claim are as follows:

1. The procedural legal capacity of the claimant and the defendant, meaning the ability to be a party in a civil case (Article 48 of the Civil Procedure Code);

2. The jurisdiction of the court over the dispute (Article 24 of the Civil Procedure Code). If the dispute is not within the jurisdiction of the court or civil procedural law, the judge must refuse to accept the claim application on the grounds of inadmissibility (Article 153, Part 2, Item 1 of the Civil Procedure Code); Claim preclusion prevents relitigation of a claim or cause of action that was litigated between the same parties in a previous action. Professor Trautman reported that the Washington State Supreme Court had used the same claim preclusion test for nearly seven decades. A judgment has claim preclusive effect only if the proponent can show that two successive proceedings are identical in “(1) subject matter, (2) cause of action, (3) persons and parties, and (4) the quality of the persons for or against whom the claim is made”. Judgments from courts, administrative agencies, and arbitrators can all be preclusive (Trautman, 1984).

3. There must be no legally binding judgment of the court on the same dispute between the same parties regarding the same subject and grounds, or no decision of the court terminating the

case due to the claimant's withdrawal from the claim or confirming the settlement agreement (Article 153, Part 2, Item 2 of the Civil Procedure Code);

4. The court must not have refused to issue an enforcement order for the mandatory execution of the judgment in a case involving the same parties, subject, and grounds, or have returned the case for reconsideration by the same court, except in cases where it is impossible for the case to be heard by that court (Article 153, Part 2, Item 3 of the Civil Procedure Code);

5. There must be no ongoing case regarding the same dispute between the same parties in another court (Article 153, Part 2, Item 4 of the Civil Procedure Code).

The first two conditions are positive, while the following conditions are negative in nature.

Thus, a claim is a demand made by a person seeking legal protection for their own or another's legally protected right or interest. As an institution of procedural law, a claim must be formally defined as a demand made by an interested party based on a disputed substantive legal relationship, seeking the protection of a legal interest or right—either their own or another's—that is subject to judicial review and resolution in accordance with the law. A claim should be understood as a demand, formalized in the form of a statement of claim, substantiated by reference to factual circumstances, and accepted by the court for proceedings. Through this demand, the plaintiff seeks state assistance in enforcing a right (or multiple interrelated rights) allegedly belonging to the party in whose interest the claim is filed, against one or more defendants (Matantseva, 2019).

## **Conclusion**

The significance of claims in court is paramount, since they serve as the fundamental element that originates and guides the judicial process. The claim is the principal demand that initiates the legal conflict in court and propels the case into judicial procedures. The claimant seeks to assert their rights and interests by submitting a claim. The claim underpins the court's oversight of the matter and eventually its resolution. The court renders a judgment by evaluating the evidence, statutes, and legal doctrines submitted by the parties concerning the claim. The specifics of the claim dictate the decision type and applicable law.

Claims safeguard the rights and interests of both parties. By submitting a claim, the claimant asserts their rights, whilst the defendant seeks to demonstrate that the claim is baseless or that their stance is valid. The claim submitted to the court delineates the legal dimensions of the issue and appraises the court of the domain in which it must provide a ruling. The claim may pertain to property rights, necessitating the court to ascertain the existence of such rights.

Claims serve as a mechanism to request or compel the court to enforce legal commitments. The claimant may petition the court for redress of infringed rights, restitution of specific property, or other actions pertaining to property matters. Through a thorough assessment of the claim, the court establishes legal clarity and elucidates the legal dimensions of the prevailing issues. This is essential for governing legal interactions between the parties.

Claims in court are essential instruments for settling legal problems and are a prerequisite for the judicial process. They guarantee the safeguarding of rights and the appropriate enforcement of judicial rulings.



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