

Code of Civil Procedure

Articles 33-39 and 40-41

Article 33. Jurisdiction of Several Unrelated Cases

1. Claim to several defendants who reside or who are located in different places shall be initiated in the court that has the jurisdiction over the place of residence or location of one of the defendants, at plaintiff's option.
2. Counter-claim, regardless of the jurisdiction, shall be filed to the court adjudicating the initial claim.
3. Civil claim stemming from the criminal offence, which was not filed or decided in the course of criminal offence proceedings, shall be filed as a civil case in accordance with the rules on jurisdiction set forth by this Code.

Article 34. Agreement on Jurisdiction

1. The parties may change, by mutual agreement in writing, the territorial jurisdiction (venue) for the pertinent case prior to filing the claim to the court.
2. Jurisdiction established in Articles 27, 28, 29 and 32 of this Code may not be changed based on the agreement of the parties.

Article 35. Transfer of the Case Adjudicated by One Court to Another Court

1. The merits of the case that was accepted to be adjudicated by a court in accordance with the rules determining, shall be decided by such a court even where in the course of the proceedings the case fell under the jurisdiction of another court.
2. The court shall transfer the case for the adjudication by another court in the following cases, if:
 - Defendant whose place of residence or location was previously unknown files a petition requesting the case to be transferred to the court having jurisdiction over his/her place of residence or location;
 - Both parties file a petition requesting the adjudication by the court having the jurisdiction over the location of the majority of evidence;
 - Based on the petition of the defendant, it was established that the court has accepted adjudication of the case in violation of the rules applicable to determination of jurisdiction;
 - Because of the recusal of one or several judges or for other reasons, replacement of judges or adjudicating of the case in such a court has become impossible, in which case the transfer of a case shall be performed by the court of the immediately higher instance.
3. In the cases referred to in item 3 of paragraph 2 of this Article, the transfer of a civil case from one court to another may not be carried out if a defendant, from the moment of official call to the court, does not challenge the jurisdiction of the case.
4. A decision shall be issued the matter of case transfer to another court or refusal of case transfer to another court, which may be individually appealed by the persons-parties to the proceedings. Transfer of the case from one court to another shall be carried out upon

the expiration of the time limit for the submission of an appeal against such a decision, and in the case of lodging of an appeal, upon the decision not to grant the appeal.

5. A case transferred from one court to another shall be adjudicated by the court to which it has been transferred to. Disputes on jurisdiction between the courts of general jurisdiction shall be prohibited.

CHAPTER 4. PERSONS PARTICIPATING IN A CASE

Article 36. The Structure of Persons Participating in a Case

Persons participating in a case shall be the following: the parties, the third persons, prosecutor, persons requesting the court to protect their rights, liberties and legal interests of other persons or intervening for the purpose of giving the opinion on the bases referred to in Articles 4, 47, 48 and 49 of this Code, the petitioners and interested persons related to special proceedings.

Article 37. Rights and Obligations of the Persons Participating in a Case

1. Persons participating in a case shall have the following rights:
 - Familiarize with the case papers, making abstracts and copies of them;
 - File challenges, provide evidence and participate in their investigation;
 - Put questions to other persons participating in a case, witnesses, court experts and analysts;
 - Present a petition on retrieval of evidence;
 - Give explanation to the court in oral and writing; advance its own arguments to all concerns arising in the course of a trial, protest against petitions and arguments of other persons participating in a case;
 - Appeal judgments and use other procedural rights provided for in the legislation on civil-judicial proceedings. They shall use all their procedural rights in a bona fide manner.
2. Persons participating in a case shall be responsible for procedural obligations provided for in this Code and other laws; failure to fulfill them shall have the consequences provided for in the legislation on civil judicial proceedings.

Article 38. Civil Procedural Standing

Civil procedural standing and procedural obligations of the party (civil procedural standing) shall be acknowledged equal for any citizen and legal entity having the right to judicial protection of their rights, liberties and legal interests under the legislation of the Republic of Tajikistan.

Article 39. Civil Procedural Capacity

1. Any citizen who has reached the age of 18 and any legal entity shall have the full capacity to realize his/her procedural rights, to fulfill his/her procedural obligations and to entrust the dealings to a proxy (civil procedural capacity).
2. An under-aged person shall have the capacity to realize his/her procedural rights fulfill his/her procedural from the moment of marriage or acknowledgment of having the legal capacity (emancipated).
3. Rights, liberties and interests of under-aged person of 14 – 18 years of age protected by law shall be defended by their legal representatives; however the court must involve in these cases such persons themselves.
4. In the instances provided by the law, cases arising from the civil, family, labour, public and other legal relationships, the under-aged persons of 14 – 18 years of age shall personally protect their own rights, liberties and legal interests. The court shall have the right to involve the legal representatives of under-aged persons in such cases.
5. The rights, liberties and legal interests of under-aged persons and citizens recognized as legally incapable shall be protected in the process by their legal representatives: parents, foster parents, guardians, tutors and other persons who are empowered by the law.

Article 40. The Parties

1. The parties to the civil proceedings (plaintiff or defendant) may be the supposed and actual parties of the disputable material legal relationship.
2. A person, on whose behalf a case has been initiated based on the application of the persons having the legal right to go to the court for the purpose of protection of rights, liberties and legal interests of other persons, shall be informed by the court about the proceedings initiated and shall have the right to participate as a plaintiff.
3. The parties shall enjoy equal procedural rights and obligations.

Article 41. The Participation of Several Plaintiffs or Defendants

1. A claim may be submitted jointly by several petitioners or against several defendants (joinder of parties).
2. The joinder of parties shall be allowed if:
 - The subject-matter of the case is the common rights and obligations of several plaintiffs or defendants;
 - The rights and obligations of several plaintiffs or defendants have the same grounds;
 - The subject-matter of the case is the similar rights and obligations.
3. Any of the plaintiffs or defendants shall act independently in relation to the opposite party. Participants may empower one or several other participant to conduct the case.