



Judicial Practice On Establishing The Fact Of Residence

Yuldasheva Shakhnoza Muhammadjanovna,

Judge of the Uchqo'rg'on Interdistrict Court on Civil Cases

ABSTRACT

This article provides a scientific, theoretical, and practical analysis of the legal grounds for establishing the fact of residence, its role in judicial practice, the system of evidence, procedural aspects, and existing challenges.

ARTICLE INFO

Received: 24th March 2026

Accepted: 20th April, 2026

KEY WORDS: Legal fact, establishment of fact, fact of residence, civil procedural law, judicial practice, evidence, legal relations, proof.

The issue of establishing the fact of a person's residence in a specific territory holds special significance in civil legal relations. This matter is particularly relevant in the areas of inheritance law, pension provision, social benefits, citizenship registration, and disputes related to housing. In practice, the need to establish the fact of residence through judicial proceedings frequently arises due to a person's absence of formal registration or the loss of relevant documents.

This article provides a scientific, theoretical, and practical analysis of the legal grounds for establishing the fact of residence, its role in judicial practice, the system of evidence, procedural aspects, and existing challenges.

The issue of establishing the fact of residence occupies a special place in civil legal relations, playing an important role in the realization of a person's rights and legitimate interests. In judicial practice, this institution manifests as one of the primary instruments for resolving numerous legal disputes. The fact of residence is understood as a legally significant circumstance confirming that a person permanently or temporarily resided at a specific address during a defined period of time. This fact may independently give rise to legal consequences or serve as a necessary basis for the emergence, modification, or termination of other legal relations.

Pursuant to Article 295 of the Code of Civil Procedure of the Republic of Uzbekistan, the court establishes not just any fact, but a legal fact only when certain conditions are present.

From the perspective of a judge, the fact of residence is not a simple domestic circumstance but a complex legal category requiring legal evaluation. This is because correctly establishing this fact directly affects the realization of a citizen's fundamental rights — the right to inheritance, the right to social security, and the right to use residential property.

In accordance with the theory of legal facts, the fact of residence is characterized as a "legally significant circumstance." Its content and legal nature are manifested through the following principal features.

First, this fact is inextricably linked to a specific time and place. That is, when establishing the fact of residence, the court must determine — on the basis of clear and reliable evidence — at which address and during which period the person resided. This requires a comprehensive, complete, and impartial examination of all circumstances of the case.

Second, the fact of residence gives rise to specific rights and obligations. For instance, in determining the place of opening of an inheritance, in availing of privileges associated with residence in a particular territory, or in obtaining social guarantees established by the state, this fact is of decisive importance.

Third, this fact must necessarily be confirmed by evidence. In judicial practice, no circumstance is established solely on the basis of assumptions or subjective views. When establishing the fact of residence, various types of evidence — written documents, witness testimonies, and circumstantial information — are evaluated in conjunction.

From this standpoint, the legal essence of the fact of residence is determined not only by its existence, but also by whether it has been proven in a reliable and lawful manner. For the judge, the primary task consists in ensuring the sufficiency, reliability, and mutual consistency of the evidence when establishing this fact.

In judicial practice, cases involving the establishment of the fact of residence are examined under special proceedings and are of significant importance for the realization of citizens' personal and property rights. Practical experience as a judge demonstrates that this category of cases is closely interconnected with various legal relations, and their correct resolution requires a thorough and comprehensive examination of all circumstances of the case.

In particular, the need to establish the fact of residence frequently arises in matters of inheritance. In determining the place of opening of an inheritance, establishing the last place of residence of the testator is of decisive importance, as it determines which notarial office is to administer the inheritance proceedings.

The fact of residence also plays an important role in pension-related matters. In certain cases, documents confirming that a citizen resided or worked in a particular territory may not have been preserved. In such situations, judicial establishment of this fact serves as the basis for the realization of the citizen's right to receive a pension.

The need to establish the fact of residence also arises in the processes of obtaining or restoring citizenship. In particular, when confirmation of permanent residence on the territory of the republic during a specific period is required, a court decision acquires decisive significance.

Furthermore, the fact of residence constitutes one of the primary subjects of proof in disputes related to the protection of housing rights. For example, confirming that a citizen actually resided in a given dwelling may serve to recognize that person's right to use that residential property.

In examining this category of cases, courts adhere to the principle of comprehensive, complete, and impartial evaluation of evidence. The judge's inner conviction is formed solely on the basis of the totality of all evidence in the case.

Among the most commonly applied types of evidence in practice are witness testimonies, certificates issued by mahalla or citizens' assemblies, documents related to utility payments, data from medical and educational institutions, as well as information provided by employers. This evidence is analyzed by the court in conjunction, and its reliability and authenticity are verified.

It should be emphasized that while witness testimonies are of significant importance, they alone are not considered sufficient to fully confirm the fact of residence. Judicial practice generally requires a set of several independent and mutually complementary pieces of evidence, which serves to ensure the lawfulness and reasonableness of the court decision rendered.

Cases involving the establishment of the fact of residence occupy a distinct place in civil judicial practice. One of the cases examined in the course of my activity as a judge clearly illustrates the practical significance of this institution.

Specifically, citizen "B" filed an application with the court requesting the establishment of the fact of his permanent residence on the territory of the Republic of Uzbekistan during a specific period. As stated in the application, he was born on 25 March 1994 in the city of Tursunzoda, Republic of Tajikistan, and in 2001 relocated together with his parents to the Uychi district of the Republic of Uzbekistan for the purpose of permanent residence. According to the applicant, he attended Secondary School No. 34 in Uychi district from 2001 to 2010, and subsequently continued his studies at the Uychi District Agricultural Vocational College. In subsequent years, he established a family, registering a marriage with citizen "M" on 5 December 2018. Two children were born from their marriage — a daughter born on 20 November 2019 and a son born on 20 September 2021.

According to the case materials, based on a certificate dated 22 February 2024 issued by the Migration and Citizenship Registration Division of the Uychi District Internal Affairs Department, it was established that no official documents confirming the applicant's permanent registration prior to 1 January 2005 were available. In this regard, the need arose to establish through judicial proceedings the fact of his residence on the territory of the Republic of Uzbekistan prior to that date.

The applicant requested the court to establish the fact of his permanent residence from 2001 at the address: Uychi district, Boyag'on mahalla citizens' assembly, 29 Xonobod Street. In the course of examining this case, the court comprehensively reviewed the applicant's arguments, the written evidence submitted, information obtained from educational institutions, as well as witness testimonies. In particular, the fact that the applicant had studied continuously at the school and college, and that the relevant data confirmed his long-term residence in the mahalla territory, was found to be significantly consistent.

As a judge, it is worth noting that in this category of cases, reliance on a single piece of evidence is insufficient. Rather, the interconnection, consistency, and reliability of the evidence as a whole is of decisive importance. In the present case as well, the fact that the circumstances described by the applicant were confirmed through several independent sources made it possible to find his arguments well-founded.

As a result, the court concluded that there were legal grounds to establish the fact of the applicant's permanent residence at the stated address from 2001. This example demonstrates how important it is in judicial practice to correctly evaluate the body of evidence, to approach each case individually, and to safeguard the rights of citizens when establishing the fact of residence.

An analysis of judicial practice shows that while cases involving the establishment of the fact of residence may appear straightforward, a number of practical and theoretical problems arise in the course of resolving them. In the course of judicial activity, certain systemic shortcomings have been observed in the examination of this category of cases, which to some extent affect their full, impartial, and fair consideration.

First and foremost, one of the most pressing problems is the insufficiency of the evidence base. In many cases, applicants are unable to provide official documents confirming their residence during a specific period. This is explained, in particular, by the fact that registration and record-keeping systems were not sufficiently developed in earlier years. As a result, the court is compelled to rely more heavily on circumstantial evidence.

The second significant problem is the issue of assessing the reliability of witness testimonies. In practice, witnesses are often persons close to the applicant, and their testimonies require thorough analysis from the standpoint of impartiality. This demands a high degree of caution and professional judgment from the judge in evaluating such evidence.

A third problem is the incompleteness or, in certain cases, the absence of information provided by administrative authorities. In particular, the insufficient preservation or digitization of archival data held by migration and registration authorities complicates the examination of cases.

The fourth issue is the insufficient development of a uniform approach in judicial practice. The adoption of differing decisions by various courts in similar circumstances may have a negative impact on the stability of law enforcement practice.

In order to address the problems identified above, it is necessary, first and foremost, to further develop electronic registration systems at the national level. The systematic maintenance of data on citizens' places of residence through a unified electronic database will serve to significantly reduce the number of such disputes in the future.

It is also of great importance to strengthen information exchange between state authorities. The integration of information systems will enable courts to obtain the necessary case-related information quickly and from reliable sources.

Regular generalization of judicial practice and the issuance of clarifications by higher judicial instances are likewise important factors in shaping a uniform law enforcement practice, ensuring a consistent approach in the activities of judges.

Furthermore, it is advisable to develop a scientifically and practically grounded unified methodology for the evaluation of evidence. Such a methodology would provide judges with practical assistance in conducting a systematic and impartial analysis of evidence in each case.

Establishing the fact of residence is an institution of significant importance in judicial practice, playing a major role in ensuring the rights and interests of citizens. In order to improve this institution, it is necessary to develop legislation, unify judicial practice, and introduce digital technologies.

From a scientific standpoint, the fact of residence occupies an independent position in the system of legal facts, and its legal nature requires further in-depth investigation.

References

1. Civil Procedural Legislation of the Republic of Uzbekistan.
2. Commentaries on Judicial Practice.
3. Scientific Literature on the Theory of Legal Facts.
4. Sources on the Experience of Foreign States.