

专题聚焦：中国式民事司法的现代化

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Substantive Scope and Procedural Regulation for the Trial Courts to Refuse Judicial Relief

WU Jun

Abstract: The clause “belonging to the scope of civil litigation accepted by the People’s Court” in the *Civil Procedure Law* is considered to be a legislative expression of the jurisdiction of the court. The court jurisdiction system plays the role of allocating the power to adjudicate civil legal disputes among different agencies and organizations. The legislation only stipulates that legal disputes that are not within the jurisdiction of the court are illegal, but there is no supporting system to clarify the specific scope of the jurisdiction of the court and the mechanism for handling jurisdiction disputes. The interest of action mechanism also plays a role in regulating the scope of the court’s judicial power. However, in practice, judges tend to restrict the scope of cases accepted by the court, put the court jurisdiction judgment before the interest of action judgment, and replace the policy-based court jurisdiction system with the rule-based interest of action mechanism. The court’s decision to refuse judicial relief should be based on a second-order judgment structure of “interest of action” and “court jurisdiction”. After judging the interest of action, the court should explain the legal channels through which the parties can seek relief for legal disputes that are not under the jurisdiction of the court. For disputes under the jurisdiction of administrative agencies exclusively, the court can refer to the rules for transfer jurisdiction based on the consent of the plaintiff. From the institutional perspective, the scope of cases accepted in civil litigation can be unified through mechanisms such as restriction of similar cases, escalation of hierarchical jurisdiction, and special procedural guarantee for disputes between court jurisdiction and other organization jurisdiction, through accumulation of individual cases.

Keywords: Civil Litigation; Judicial Relief; Court Jurisdiction; Interest of Action; Scope of Cases Accepted by the Court