

APPLICATION OF COERCIVE MEASURES IN THE CIVIL PROCEEDINGS IN UZBEKISTAN

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Abstract:

This article deals with the concept, necessity, place and importance of coercive measures in civil proceedings, the grounds and procedure for the application of coercive measures, the application of coercive measures in civil proceedings. Problems related to the using of coercive procedural measures in the course of litigation, theoretical and practical issues of coercive procedural measures, analysis of civil procedure legislation of the Republic of Uzbekistan and its norms based on civil law of foreign countries, procedural experience of foreign countries coercive measures, proposals and recommendations on improving procedural coercive measures in civil proceedings.

Keywords: coercive measures, court fine, removal from the courtroom, coercion, compulsory attendance, warning, ruling, court protocol, court order.

Introduction

One of the priorities for the further development of the country is the consistent democratization of the judicial system, ensuring strict compliance with the constitutional norms on the independence of the judiciary.

Over the past years, significant efforts have been made to establish the court as an independent and separate branch of government, to transform it from a former punitive body into a truly independent institution of the state that protects and reliably protects human rights and freedoms. .

At the same time, it is necessary to improve the system of ensuring fairness in the process of conducting civil court cases, restoring citizens' confidence in justice by ensuring the violated rights and interests, and ensuring strict adherence to the procedural procedures and deadlines established in the civil procedural legislation. . Because of the Constitution of the Republic of Uzbekistan as defined in Article 18, "All citizens in the Republic of Uzbekistan have the same rights and freedoms, regardless of gender, race, nationality, language, religion, social origin, faith, personality and social status, the law are equal in front of them. Privileges can only be determined by law and must be consistent with the principles of social justice. .

Ensuring the strict and unwavering adherence to procedural procedures during the conduct of civil court cases, i.e. ensuring the presence of court participants, parties, witnesses,



specialists, translators, experts, prosecutors, lawyers, etc., at the appointed time of the court, it is possible to ensure timely and high-quality review of civil court cases by strictly following the rules during the court process and ensuring that the measures of legal influence determined by the court are followed without deviation.

It is not a secret that today in the course of conducting civil court cases, in practice, there are many situations where the participants of the court do not attend the court session on time, do not come to the court session, do not follow the established procedures of the court and measures of legal influence. As a result of this, cases of non-observance of the established procedural terms lead to the prolongation of the terms of consideration of the case by the court. This hinders the timely and fair consideration of the rights and freedoms of citizens.

For this reason, there was a need to make changes and additions to the Civil Procedure Code of the Republic of Uzbekistan. Taking into account the problems arising in practice, it was studied on the basis of foreign experiences. As a result, a new Chapter 14 "Procedural coercive measures" was added to the Civil Procedure Code developed in 2018. With the addition of this chapter, procedural measures such as coercive measure, warning, exclusion from the court session, court fine were added to the Civil Procedure Code. The inclusion of coercive measures into the civil law was determined by the circumstances that arose during the course of court proceedings.

A number of scientific-theoretical views and debates are ongoing regarding the need, importance and essence of this institute. In particular, Z.Esanova, a lawyer who served in Uzbekistan, prof. considered that coercive measures:

ensures that the people participating in the case strictly follow the procedural procedures;

they help the timely and high-quality conduct of court proceedings;

serves to increase the authority of the institution of procedural coercive measures;

saves procedural time (time);

strengthens procedural obligation and discipline in court .

It is known that in Article 2 of the Law "On Courts" of the Republic of Uzbekistan adopted on December 14, 2000, "Courts in the Republic of Uzbekistan Constitution and other laws, the rights and freedoms of citizens, as well as the rights and interests of enterprises, institutions and organizations protected by law, which are declared in international documents on human rights, are called to be protected by the courts and as a duty of the courts is set . Also, in Article 2 of the new version of the Civil Procedure Code of the Republic of Uzbekistan, the tasks of conducting civil court cases are mentioned. The duties of conducting civil court cases include the personal, political, economic and social rights, freedoms and legal interests of citizens, the rights and interests of the Republic of Uzbekistan, as well as the rights of enterprises, institutions, organizations, public associations and citizens' self-government bodies, and in order to protect their interests protected by law, correct and timely consideration and resolution of civil cases, to strengthen legality and law and order, to promote democracy, social justice, peace and national harmony among citizens to help provide is set. Therefore, the appeals received by the court



should be considered in a timely and fair manner. However, in practice, in the process of conducting court cases, there are cases where the participants of the court do not attend the court session, do not go to the court session on time, or do not go to the court session at all. At this point, a question may arise as to who are considered participants in court proceedings. Chapter 6 of the newly revised Civil Procedure Code of the Republic of Uzbekistan lists the participants in civil court proceedings. Article 39 of this code states that "Parties, third parties, their representatives, applicants and other interested parties in cases pending in court, the prosecutor, the state participating in the protection of the rights and interests protected by law of other people in the case management bodies, organizations and some citizens are recognized as people participating in the case" is defined as At this point, we should analyze who are the parties in court proceedings. In civil court proceedings, based on the content of the case, the plaintiff (applicant) and the defendant are parties to civil court proceedings.

It is known that a plaintiff is a person whose rights have been violated or whose rights are in dispute, or who has applied to the court for the protection of his interests in accordance with the law, or a case has been initiated for his interests. In this case, a person's rights and legal interests are violated or there is a dispute between two parties. A person whose interests have been violated may demand protection of his rights by submitting a lawsuit to the court. The respondent is the person against whom the claim is presented. That is, the person considered by the claimant to have caused the violation of his rights and interests. In this type of civil cases, there is a dispute between the parties, therefore, the conduct of civil court cases is conducted in the order of claims.

The applicant is the person who filed an application for cases conducted in a separate procedure, therefore, other types of cases provided for in the Code of Civil Procedure" marked as The applicant can apply for protection of his rights and legal interests. In civil cases of this type, there will be no conflict between the parties or the other party will not exist. For example, the collection of communal debts is considered a non-dispute case in terms of legal nature. In cases such as determining paternity, finding a citizen missing or dead, the second party does not have to be present or participate in the case.

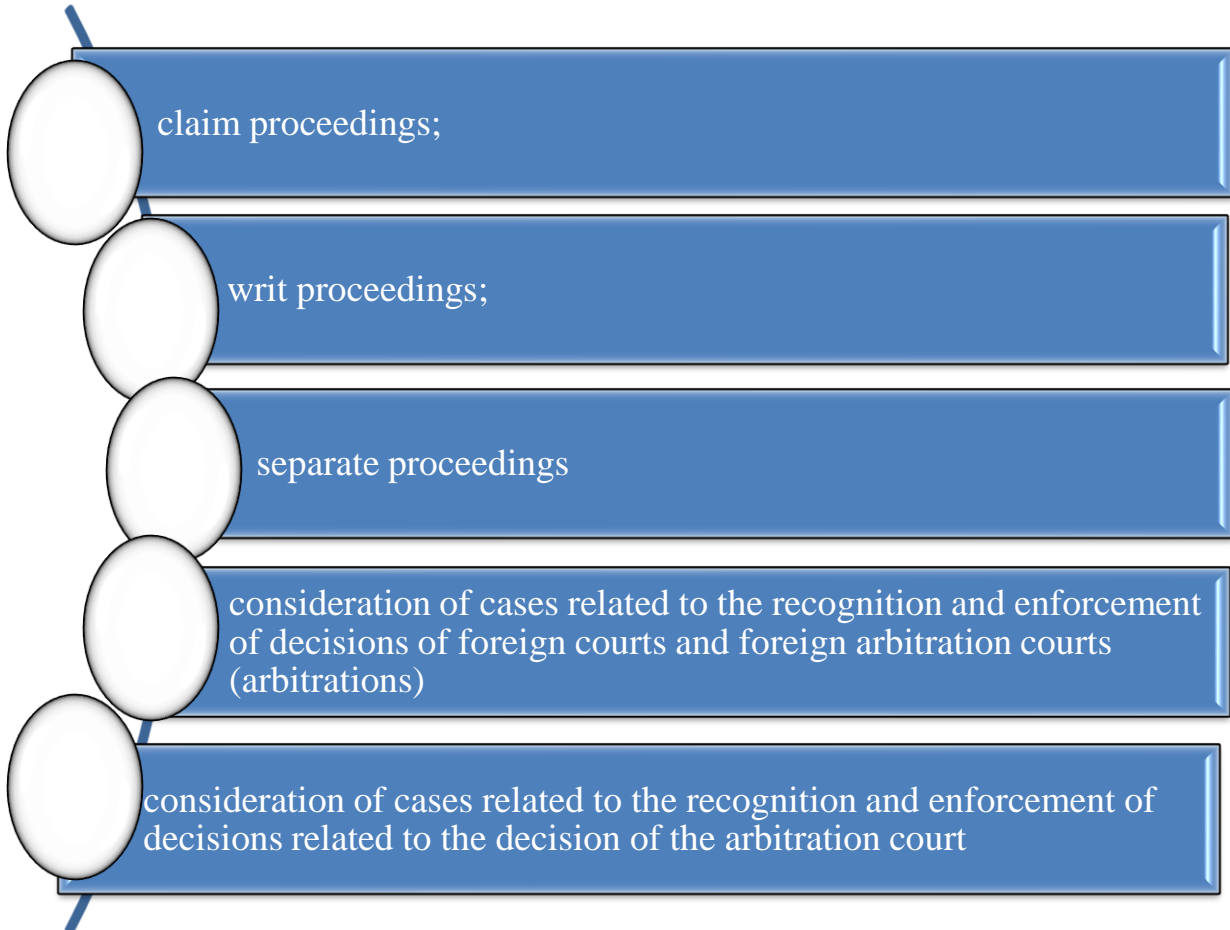
Procedural coercive measures are used in conducting civil court cases based on the content of civil court cases. That is, procedural coercive measures cannot be used in all types of civil cases. For example, coercive measures cannot be used in civil court proceedings in order of order. Because there is no court session in this type of court, the participation of the parties in court cases is not required. Therefore, it is appropriate to analyze the types of civil court proceedings and the parties in civil court proceedings.

It is no secret that civil court proceedings are divided into several types, and accordingly, the parties apply to the court in several ways. In Article 1 of the Civil Procedure Code of the Republic of Uzbekistan, "Legislative acts on the conduct of civil court proceedings shall apply to cases in the order of order, cases in the order of claim, cases conducted in a separate procedure, cases related to the decision of an arbitration court and foreign state determines the procedure for consideration and resolution of cases related to the recognition and



enforcement of decisions of courts and arbitration courts (arbitrations) of foreign countries" is set as

Types of civil court proceedings include:



In civil court cases, the conduct of court cases differs depending on the content of the case, that is, the participation of the parties, whether there is a dispute between them or not. In particular, lawsuits. There will be no conflict of rights in this type of work. We can include, for example, cases related to family, housing, labor relations, and cases arising from civil legal relations. As we have analyzed above, in this type of cases, the parties participate as plaintiffs and defendants.

The main feature of the cases that are heard in civil courts in order of order is that there is no conflict of rights in such cases. That is, the debt collector submits an application to the court for debt collection and attaches information confirming the existence of the debt to the application. There will be no court session in conducting court cases of this order, the court will issue a court order on its own behalf within 3 days based on the documents attached to the application. The debtor party is not required to participate in this process. For this reason, the parties in this type of work are called the debtor and the debtor.

In conducting civil court cases, the complainant and the official participate as parties in the cases of complaints filed against the actions of state bodies, other bodies, as well as officials.



The peculiarity of these cases is that the relations of the parties are seen in connection with the activities of state administration bodies.

The main feature of the cases that are considered separately is that there is no dispute about rights in this type of cases, and no lawsuit is filed against any person. The applicant only states his claim to the civil court and a case is initiated based on his application. This type of work can include determining a legal fact, finding a citizen missing or declaring him dead, and other works. If an interested party raises a dispute about any rights while the court is hearing a case in a separate procedure, the court will leave the application without consideration and explain to the applicant the right to apply in the general procedure. .

The main goal of the cases under consideration in the court process is to restore the violated rights of the participants in the process, to ensure justice. Of course, in order to ensure this, the participation of the parties in the court proceedings is considered important. Because, first of all, if one or both of the parties, who have been duly notified about the date and place of the trial, do not appear, the trial will be postponed. This situation, in turn, leads to the prolongation of the procedural terms and the prolongation of ensuring the rights of the applicant or claimant.

References

1. ZN Esanova. Procedural coercive measures in civil proceedings: (grounds, procedure, innovations in this area). / Newsletter of Legal Sciences. TSU. B.-10.
2. Ibratova F., Khabibullaev D., Sh S. COURT ORDERS AND CONTENT REQUIREMENTS: THEORY AND PRACTICE //Norwegian Journal of Development of the International Science. – 2021. – №. 73-2. – С. 20-23.
3. Esanova Z. Priority aspects application of the institute of mediation in resolution of disputes: national and foreign experience //International Journal of Advanced Science and Technology. – 2020. – Т. 29. – №. 5. – С. 1785-1793.
4. Эсанова З. Н., Ёдгоров Х. Б. УПРОЩЕННОЕ СУДОПРОИЗВОДСТВО: СУДЕБНЫЙ ПРИКАЗ В ГРАЖДАНСКОМ ПРОЦЕССЕ (АНАЛИЗ ПО ЗАКОНОДАТЕЛЬСТВУ РЕСПУБЛИКИ УЗБЕКИСТАН) //Polish Journal of Science. – 2021. – №. 42. – С. 52-54
5. Мамараймова Гулрух Правовые проблемы трансграничного наследования интеллектуальной собственности // Review of law sciences. 2020. №Спецвыпуск. URL: <https://cyberleninka.ru/article/n/pravovye-problemy-transgranichnogo-nasledovaniya-intellektualnoy-sobstvennosti> (дата обращения: 27.07.2021).
6. Mamaraimova G. Inheritance issues of non-property (moral) rights of intellectual property // Norwegian Journal of Development of the International Science. 2021. №65-1. URL: <https://cyberleninka.ru/article/n/inheritance-issues-of-non-property-moral-rights-of-intellectual-property> (дата обращения: 27.07.2021).
7. Мамараймова Г. М. Проблемы наследования интеллектуальных прав доменных имен по законодательству Республики Узбекистан //Журнал правовых исследований. – 2020. – Т. 5. – №. 2.



8. Contempt of Court Act 1981 (<https://www.legislation.gov.uk/ukpga/1981/49>)
9. Akhrorova S. THE INFLUENCE OF DIGITAL MARKETING IN COMPETITION LAW: OVERVIEW //Herald pedagogiki. Nauka i Praktyka. – 2021. – T. 1. – №. 5.
10. Qobiljon ogli, A. A. (2021). The Concept, Types and Licensing Procedures of Activities that Must Be Licensed in International Investment Law. International Journal of Development and Public Policy, 1(6), 188-193.
11. Aliens Act of Finland (301/2004, amendments up to 973/2007 included)
12. Esenbekova P. et al. LEGAL NEGOTIATION ISSUES: THE IMPORTANCE AND TYPES //Norwegian Journal of Development of the International Science. – 2021. – №. 75-2. – C. 17-20.
13. Code of Judicial Procedure (4/1734; amendments up to 732/2015 included)
14. Civil procedure code of the Russian Federation of November 14, 2002 no. 138-fz (as amended on 08-12-2020)
15. Aminjon, K. "COMPARATIVE ANALYSIS OF CORPORATE BANKRUPTCY IN UZBEKISTAN AND ABROAD." Herald pedagogiki. Nauka i Praktyka 1.5 (2021).
16. Civil procedure code of Ukraine with amendments and additions provided by the law of Ukraine issued on 23rd June, 2005
17. Civil procedural code of the Republic of Kazakhstan. (Code of the Republic of Kazakhstan dated October 31, 2015 No. 377-V ZRK).
18. Code of civil procedure of the Kyrgyz Republic of January 25, 2017 no. 14 (as amended on 11-04-2020).

