

THE ISSUE OF ENTITIES IN THE EXECUTION OF COURT DOCUMENTS

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ABSTRACT

In this article, the mutual harmony of the field of civil procedural law and enforcement proceedings, the persons involved in enforcement proceedings, their powers, specific features of the enforcement stage, some problems in the field of ensuring the execution of court documents and opinions on their solutions, as well as comparative national and foreign experience. analysis took place.

Keywords: Court, judge, state bailiff, other persons participating in execution proceedings, stage of execution, court documents and their types, documents of execution proceedings, writ of execution, ruling, decision, explanation of court document, termination of execution proceedings.

INTRODUCTION

According to the general rule, enforcement of the documents issued by the court and other bodies is completed through the enforcement proceedings, in particular through the stage of execution of the documents of the court and other bodies.

Most scientific developments¹the stage of execution of court documents is shown as one of the necessary stages of the civil process, which is studied within the subject of civil procedural law. As proof of this, there is a separate chapter in the Civil Procedure Code of the Republic of Uzbekistan²issues of implementation are highlighted. A number of educational and scientific literature representing the content of "Civil Procedural Law".³the stage of execution and the procedural actions performed in it are specifically described.

According to scientific analysis, the task of completing the operation of court systems in all directions, ensuring the execution of court documents issued by them is carried out and completed through the stage of execution of court documents. However, in practice, the authority to carry out enforcement actions and ensure its mandatory enforcement is vested in the Bureau of Compulsory Enforcement established on the basis of the Decision No. given to the authorities. It should be said that in recent years, as part of judicial reforms implemented in our country, special attention has been paid to the system of mandatory execution of

¹Civil procedural law. Textbook. - Tashkent: TDUU, 2019. Gureev V.A., Gushchin V.V. Iсполnitelnoe proizvodstvo: Uchebnik (4-e izdanie, ispravlennoe i dopolnennoe).- M.: Statut, 2014.; Galperin, M. L. Iсполnitelnoe proizvodstvo: uchebnik dlya bacheloriat i magistratury / M. L. Galperin. - 4-e izd., pererab. i dop. - Moscow: Izdatelstvo Yurayt, 2018. - 498 p. (Bachelor and Master. Academic course).- ISBN 978-5-534-08131-2. Text: electronic // EBS Yurayt [site]. URL:<https://urait.ru/bcode/424299>(data processing: 24.04.2020).

²Civil Procedure Code of the Republic of Uzbekistan. - Tashkent: Adolat, 2018. Section V. Execution of court documents (Articles 446-462).

³Shorakhmetov Sh.Sh. Civil procedural law of the Republic of Uzbekistan. -Tashkent: Justice, 2007.; Mamasiddikov M.M. Civil procedural law. Textbook. General part. - Tashkent, TDYuI, 2010.; Enforcement of court decisions: on the example of decisions of civil and economic courts. Monograph. Tashkent, 2019. - 188 p.

decisions of courts and other bodies. The organizational structure of the Enforcement Bureau was radically updated, and some enforcement actions and deadlines were simplified.

At the moment, the activity of the Bureau of Compulsory Enforcement is focused on the execution of economic, civil, criminal, administrative courts, as well as the decisions of notaries, labor dispute commissions, arbitration courts, certain decisions of the prosecutor and documents of other bodies.

Ensuring the execution of court decisions on civil cases during coverage of the topic, to study the legal status of the participants in the stage of execution of court documents, their classification, powers and duties, to analyze the problems in this field and to give scientifically based conclusions based on the obtained information, to develop theoretically and practically important suggestions and recommendations, Interpretation of the norms of Article 6 "Court documents" and Section 5 "Execution of court documents" of the Civil Procedure Code of the Republic of Uzbekistan from a new perspective, as well as the norms of the law "On the execution of court documents and documents of other bodies" (in particular, 3, 5 of the Law, Article 7, Chapter 2. Persons participating in enforcement proceedings) is of urgent importance.

In the legal documents of almost all countries (national and foreign countries), the organizational and legal structure and name of the Compulsory Enforcement Body may be different, but the composition of the participants in the enforcement proceedings is the same, and their rights and obligations are almost similar to each other, but there are some differences within the participating subjects. is also seen.

The legal documents do not specify the stages of execution proceedings separately and are not divided into stages, only actions such as initiation, completion, termination of execution proceedings are indicated. However, the Law on participants in the stage of execution of court documents⁴In Chapter 2 of "Persons participating in the stage of execution of court documents" several articles (Article 9. Parties in enforcement proceedings; Article 83.

A series of literature⁵different opinions were expressed regarding the classification of the participants in the execution proceedings. In some of them⁶The participants of the executive proceedings are divided into two groups:

- 1) Persons implementing the requirements of the executive document;
- 2) (other) persons assisting in execution proceedings.

Other studies⁷subjects of enforcement proceedings are divided into two groups:

- o The main participants in the execution proceedings (state executor, collector, debtor, their representatives, etc.);

⁴of the Republic of Uzbekistan Law "On execution of court documents and documents of other bodies". Note: In the text, this law is abbreviated as "Law".

⁵Morozova I.B. Sub'ekty ispolnitelnogo proizvodstva : Dis. ... candy. walk science 12.00.01, 12.00.03. Moscow, 1999.- 225 c. RGB OD, 61:99-12/444-7.; Valeev D.Kh. Protsessualnoe polozhenie lits, uchastvuyushchich v ipolnitelnom proizvodstve. Dis. ... candy. walk Nauk : 12.00.03 : Kazan, 1999.- 166 c. RGB OD, 61:00-12/165-X.

⁶Morozova I.B., Treushnikov A.M. Ispolnitelnoe proizvodstvo. Uchebnoe-prakticheskoe posobie. 3-e izd, per i dop.- Moscow: Gorodets, 2004.- 528 p.

⁷Argunov V.V., Borisova E.A., Salogubova E.V., Skripnikov I.A., Treushnikov A.M., Pod ed.: Treushnikov M.K.: Grajdansky process. Chrestomatia. Uchebnoe posobie. 2-e izd., per i dop. - Moscow: Gorodets, 2005. - 896 p.

○ Participants (judge, prosecutor, internal affairs, bank, tax, neighborhood, etc.) who assist (cooperate) in execution proceedings.

In some studies, relations in the field of enforcement are divided into several types, for example, A.V. Rego⁸In his research, he classified the relations that arise in the field of executive work into four groups:

- Legal relations regarding enforcement;
- Legal relations carried out by higher authorities of the Enforcement Bureau (city, region, republic);
- Legal relations related to the implementation of judicial control at the execution stage;
- Legal relations related to the execution of documents of other bodies.

Judicial and enforcement proceedings

Scientific research⁹There is another issue for consideration, "Can a judge be a participant in enforcement proceedings?", "Or is enforcement proceedings independent of judicial activity?".

In our opinion, the procedural status of the court and the judge at the stage of enforcement proceedings depends on their function in proceedings.

In our opinion, since a number of actions (powers) of the judge are clearly defined in the execution stage of the execution case in the Law of the Republic of Uzbekistan "On the Execution of Court Documents and Documents of Other Bodies" and similar laws of other countries, it is natural that the court itself should be the subject of this stage as well. Also, it is appropriate to justify the procedural situation of the court (judge) at the execution stage through the following.

- The judge plays a key role in the performance of a number of important procedural actions in the enforcement proceedings;
- Court documents are important among the executive documents involved in the execution proceedings;
- The result of the court's activity is related to the enforcement proceedings.

V. M. Sherstuk¹⁰interprets the authority of the court in the execution phase into four groups:

- 1) authority related to issuing executive documents;

⁸ Rego A.V. Pravootnoshenia v ispolnitelnom proizvodstve: Dis. ... candy. walk science 12.00.15. Moscow, 2004. 191 c. RGB OD, 61:05-12/375.

⁹Valeev D.Kh. Litsa, uchastvuyushchie v polnitelnom proizvodstve. Kazan. 2000; Morozova I.B. Sub'ekty ispolnitelnogo proizvodstva. DNS. ... candy. walk science M., 1999.; Isaenkova O.V., Balashov A.N., Balashova I.N. Ispolnitelnoe proizvodstvo v RF. Course lecture. 2008. - 192 p.; Rego A.V. Pravootnoshenia v ispolnitelnom proizvodstve: Dis. ... candy. walk science 12.00.15. Moscow, 2004. 191 c. RGB OD, 61:05-12/375.; Ichenko A.G. Vzaimodeystvie suda i organov prinuditelnogo ispolneniya v Rossiyskoy Federatsii: theoretical-legal analysis : dissertation ... candidate of juridicheskikh nauk : 12.00.01 Nizhny Novgorod, 2007 154 p.

¹⁰Ispolnitelnoe proizvodstvo v Rossiyskoy Federatsii. V voprosakh i otvetax / Andreeva T.K., Sherstyuk V.M. - M.: Gorodets, 2000. - 112 c.

- 2) authority related to the movement of executive work (termination, termination, etc.).¹¹;
- 3) authority related to the explanation of decisions;
- 4) authority related to control of executive activities.

The practice of judicial and executive proceedings confirms that the above actions in the course of executive proceedings are actions performed by the judge, and the Law on this¹²directly indicated in (for example, sending a writ of execution, explaining an execution document, suspending execution proceedings, terminating execution proceedings, etc.).

However, the law does not include the court as a main or other entity. In our opinion, it is correct to understand that the court's "authority related to the control of execution activities" is within the scope of the court document it issued and sent for execution and from the point of view of the effectiveness of the execution of court documents. The judicial body has no right and authority to control other actions of the state executive and to influence his actions. Although this body is part of the Court in terms of its organizational structure, it is against the law to join the activities of executive proceedings. The analysis shows that certain powers of the court (judge) in the execution case (in particular, the Law¹³

Participants in executive proceedings

Compulsory enforcement of court documents and documents of other bodies Compulsory enforcement bureau under the General Prosecutor's Office of the Republic of Uzbekistan¹⁴(is charged to state executives of its bodies¹⁵, Tax, bank, other credit organizations are not considered compulsory executive bodies.

In our opinion, the relations related to the conduct of enforcement work are understood as the framework of relations implemented by the state bailiff in order to ensure the execution of enforcement documents with the collector and the debtor, as well as in necessary cases, by involving other persons in accordance with the procedure established by law. These relationships can be narrow or broad based on the range of participants.

A citizen of the Republic of Uzbekistan with a secondary specialized (legal) or higher (legal) education, and in special cases, persons with a higher education in another specialty can be a state executive. As a rule, a citizen of the Republic of Uzbekistan with a higher legal education can be a senior state executive.

Debtor and debtore are parties to the enforcement proceedings. The debtor is the person whose benefits and interests are mentioned in the executive document. The debtor is a person who is entrusted with the obligation to give money or other property to the receiver or to perform certain actions or to refrain from performing them. Several collectors or debtors may participate in enforcement proceedings. The rights of minors in enforcement proceedings are exercised by their legal representatives - parents, adoptive parents, guardians or sponsors. Also, representative, impartial, translator, specialist and other partner bodies participate in the execution process.

¹¹Comment: it is precisely the opinions related to this authority that Grajdanskoe protsessualnoe pravo. Textbook. /Pod red M.K. Treushnikova. - M, 2003.- S.554. can be found at

¹²of the Republic of UzbekistanLaw "On execution of court documents and documents of other bodies".

¹³This is given in the conclusion (suggestions) part of the article.

¹⁴ Hereinafter referred to as "Enforcement Bureau".

¹⁵of the Republic of UzbekistanLaw "On execution of court documents and documents of other bodies".Article 3.

Representative

Individuals can participate in enforcement proceedings independently or through their representatives. If, according to the execution document, the debtor is charged with obligations that can only be executed by him personally, as well as in cases where the character of the execution document requires the personal participation of the debt collector, the debtor or the debt collector has no right to act through his representative in their execution. Survey conducted¹⁶**according to**At the stage of enforcement proceedings, lawyers were involved in 23% of cases, and legal representatives were involved in 9% of cases.

Translator

During enforcement actions, persons who do not know the language of the enforcement action are provided with the right to use the services of an interpreter, who is appointed by the decision of the state executive. According to the analysis of the survey, only 3% of the cases have applications for the participation of an interpreter at the stage of execution.

Unbiased

Impartials must be involved in enforcement actions related to the opening of the debtor's rooms and warehouses, inspection of his property, identification, seizure and delivery. In other cases, arbitrators (not less than two people) are called at the discretion of the state executive. According to the analysis of the questionnaire, the participation of impartial was ensured in almost 78% of the cases at the stage of execution.

Specialist

In order to explain the issues that arise during the implementation of executive actions, which require special knowledge, the state executive may appoint an expert on his own initiative or at the request of the parties, and this written conclusion must be submitted within fifteen working days from the date of his acquaintance with the decision of the state executive. According to the analysis of the questionnaire, the participation of a specialist was observed in 17% of cases at the stage of execution.

Partner organizations

In order to ensure the mandatory execution of court documents and documents of other bodies of internal affairs (road patrol service, etc.), bodies of the state committee of land resources, geodesy, cartography and state cadastre, banks, deposits and other credit organizations, state tax service bodies, treasury bodies, state border guard bodies, neighborhood, medicine, fire anti-communist society, public education authorities **According to survey analysis**, at the stage of executive work, 88% had to cooperate with these organizations.

¹⁶From the results of the survey conducted with the participation of the employees of the district departments of the Bureau of Compulsory Enforcement on the topic of "Issues of further improvement of the mechanism of compulsory execution of court decisions (in the case of civil, economic, administrative and criminal cases)". (January-March 2020).

CONCLUSION AND SUGGESTION

In scientific and educational literature, it is appropriate to provide theoretical concepts defining the framework of relations related to executive work. Therefore, it is suggested that "Relations related to the conduct of enforcement work - the framework of relations implemented by the state executive with the debt collector and the debtor, as well as in necessary cases, by involving other persons in the manner established by law, in order to ensure the execution of executive documents."

Legal documents and scientific developments do not specify the stages of execution proceedings separately and are not divided into stages, only actions such as initiation, completion, termination of execution proceedings are indicated. However, the Law on participants in enforcement proceedings¹⁷Chapter 2 of "Persons participating in enforcement proceedings" has several articles. In our opinion, the stage of enforcement proceedings, namely: initiation of enforcement proceedings; application of mandatory enforcement measures; it is accepted that it consists of three stages, such as the completion of the execution work.

The law does not include the court as a main or auxiliary entity. In Chapter 2 of the Law, the inclusion of the court in the chapter "Persons participating in enforcement proceedings", but some of the powers of the court (judge) in the enforcement proceedings (in particular, the Law when the debtor or the collector applies to the relevant court or other body that issued the enforcement document with an application for delaying or partial execution of the enforcement document, changing the method and order of execution; when the debtor is on a long-term business trip; while the debtor is being treated in an inpatient treatment facility; when requested by the collector.

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