

## **Issues of the introduction of the legal mechanism of simplification of executive activity of management system of compulsory execution system**

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**Abstract:** This article describes issues of introduction of the legal mechanism of simplification of enforcement activity of management system of the obligatory executive system. The report also proposes several suggestions to solve the problems in legislation in the field of enforcement in our country to establish a simplified procedure by analyzing simplified procedures in various areas of law and the existing issues in foreign countries; it also informs about the widespread introduction of information and communication technologies in this area.

**Keywords:** enforcement proceedings, simplified procedure, IT technologies, foreign countries, litigation, time savings, great benefits, transactions, mediation.

“The legal force of any court decision is directly related to how it is implemented in practice. Therefore, in order to guarantee the protection of the interests of our citizens, society and the state, we can create an effective mechanism to ensure the unconditional and full implementation of court decisions, control over the actions and results of enforcement documents ”[1].

"Judgments, decisions and rulings that have entered into force have the same force as the law," he said. It is obligatory for everyone to accept it unconditionally, to perform it, and to obey it. ”[2] Indeed, non-compliance with decisions is prohibited by law. Therefore, it is the duty of every natural and legal person to ensure the unconditional execution of the decisions of courts and other bodies.

The main goal of management in the enforcement of court decisions is to optimize the performance of the system, analyze the shortcomings in the system to give them the most possible benefit with the least effort and cost, taking into account the time spent, and to provide them with scientifically based recommendations.

It is no secret that no state, regardless of the system (private or public) in which the body, organization or institution operates, will start to increase the negative aspects of any system, if not work to increase its effectiveness.

To prove our point, we cite the example of Mark Schmitts, who said that "the whole world is being digitized at the speed of light, and that the current Covid-19 pandemic is accelerating this process."

In this regard, the legal and regulatory framework has been created in the country. Examples of this are the Law of the Republic of Uzbekistan dated December 9, 2015 "On e-Government", the Resolution of the President of the Republic of Uzbekistan dated March 21, 2012 "On measures for further introduction and development of modern information and communication technologies."

As the President of the Republic of Uzbekistan said, “for all of us, the acquisition of modern knowledge, true enlightenment and high culture must become a vital necessity, in order to achieve development, we need to acquire digital knowledge and modern information technologies, which will allow us to take the shortest path to growth, because today in the world, information technology is penetrating deep into all areas” [4].

Indeed, we live in a violent information age, with the rapid development of information technology and telecommunications, leading to dramatic positive changes in the life of society and the state, bringing human development to new stages.

In accordance with the Decree of the President of the Republic of Uzbekistan dated November 24, 2020 No PF-6118 "On measures to further improve the system of execution of court documents and documents of other organizations", the introduction of a simplified institute of compulsory enforcement without affecting the property of citizens (except for cash) and without the application of legal sanctions and sanctions against them.

Institute of Simplified Enforcement Proceedings represents a mechanism that provides for the widespread use of IT technologies. After all, today the use of IT technologies is an integral part of our modern life.

As a proof of our opinion, we refer to the description of KL Branovitsky in this regard: "The introduction of information technology will allow to form a system of organizational and legal relations within the executive system, as well as more effective relations between the court, bailiffs and participants in the process, accelerate the circulation of the judiciary, executive authorities and increase the transparency of the executive system" [5].

I.V. Reshetnikova argues that the creation of any model of the simplified procedure should not contradict the goals of any system, as well as the consideration of the case in a simplified procedure means the removal of certain elements from it to a certain extent [6]. After all, any system, whether it is a court or other state body that protects law, has the same goals as protecting the legitimate interests of other individuals, the state and society in the exercise of the rights and freedoms of citizens.

Speaking about the simplified procedure in civil cases, H.A. Kuchkarov divides the proceedings in the simplified procedure into two directions. The first is the establishment of simplified rules for certain categories of cases (less important, without disputes), in contrast to the general rules of procedure, ie the introduction of a special type of litigation, and the second is to eliminate and reduce the obstacles to going to court to protect the violated rights and legitimate interests” [7].

Speaking about the simplified procedure in criminal cases, the lawyer DS Davudova noted the positive aspects of this procedure. According to him, the simplified procedure has the advantages of fast resolution of the case, saving court resources for other important and complex criminal cases [8].

In our opinion, the simplified procedure is, first of all, a mechanism that provides quick, easy and convenient, time-saving for everyone.

Z.A. Papulova said that "simplified paperwork is an accelerated form of paperwork" [9].

At present, the legislation in the field of enforcement in our country does not specify the procedure for simplified procedures.

In some foreign countries, there are several views of this institution as a separate stage.

In particular, in the Russian Federation, work is underway to conduct enforcement proceedings in a simplified manner with the widespread use of information technology. In particular, work is underway to create a service "Digital Enforcement Management". According to him, it is planned to introduce a model of the register of executive documents, to keep the register of executive documents and to keep the executive documents in full electronic form, instead of paper.

The digitalization of enforcement proceedings is seen as an objective necessity, as the number of enforcement documents is growing every year. In particular, the use of digital technologies in enforcement proceedings and the automation of enforcement proceedings have solved two problems: making the enforcement process easier for the parties and optimizing the activities of bailiffs [10].

As part of the Digital Enforcement Service, a database has been created to store and systematize information on incoming and outgoing documents of enforcement proceedings and to fully automate the processes that occur during the activities of bailiffs.

It should be noted that due to the rapid digitalization of enforcement proceedings, the International Union of Bailiffs adopted the Global Code of Digital Enforcement (Всемирный кодекс цифрового исполнения/Global Code of digital Enforcement) at the XXVI World Congress in Dubai in November 2021.

The Code, in turn, aims to establish universal principles that states can incorporate into their national legislation on the use of digital technologies in the enforcement of court decisions and contracts.

As an example of the register of enforcement proceedings, it is envisaged to introduce a simplified mechanism for enforcement of decisions on administrative offenses for violations of traffic rules recorded in the photo and video recording systems of road offenses. "As a rule, this is a fine of no more than 3,000 rubles," said DV Aristov, director of the Federal Bailiffs Service. As a result of simplified enforcement proceedings in the territory of the Russian Federation by 2020, from total of 80 mln. documentaries, 22 million from executive documents were executed [13].

In his research, O.P. Gurev noted that the simplified procedure for enforcement proceedings in the legislation of the Russian Federation is also reflected in the norms providing for the initiation of enforcement proceedings and the recovery of property.

Simultaneously with the submission of the writ of execution for execution in accordance with the provisions of Part 2 of Article 30 of the Law of the Russian Federation "On Enforcement Proceedings" the claimant has the right to submit all the information about the debtor known to him (residence, property and income) as an appendix, which in turn allows the claimant to apply for a decision to initiate

enforcement proceedings by applying to the area at his convenience. At the same time, along with the initiation of enforcement proceedings, the bailiff performs actions that require less time and effort, ie enforcement actions, primarily by directing the recovery to the debtor's funds (Article 69, Part 3 of the Law). This, in turn, was interpreted as a manifestation of the simplified procedure of enforcement proceedings.

In addition, in order to obtain information about the debtor's income, the bailiff sends inquiries to various government agencies and organizations (tax authorities or other credit institutions). In this case, the participation of the debtor is not required and his rights are not violated.

In France, innovative reforms have been implemented to improve the traditional activities of bailiffs, including the creation of an electronic program "Credicys", which provides for the introduction of a simplified procedure for debt collection. The program provides for the collection of debts not exceeding five thousand euros. This simplified procedure provides for the collection of unpaid invoices, rent and loans. Alimony collection is not included in this category.

According to this procedure, the debt is collected during the pre-trial period, and the debtor applies to the territorial bailiff, depending on the place of residence. Based on this application, the debtor agrees to sign the contract by confirming the stated arguments or rejects these arguments. A contract shall be signed between the debtor and the claimant with the assistance of the executor only if the claimant does not object to the arguments stated in the application. The conditions set out in the contract must be met within one month. The contract specifies the terms of the debt, the amount and method of payment. In case of non-compliance with the requirements of the contract, the claimant has the right to appeal to the court [13, p-62-63].

A similar simplified procedure has been introduced in Georgia. For information: here the enforcement is carried out by the National Enforcement Bureau.

The simplified procedure is intended to provide an opportunity to effectively resolve disputes related to non-payment of debts. The simplified procedure is carried out on the basis of a specific payment at the request of the claimant. Ten days after the date of filing the application, the debtor has the right to take the following actions. These include: full repayment of the debt, partial payment of the debt if the claim is partially justified, and appeal against the claim if the application denies the claim, submission of an application for a transaction.

Under the agreement, the collector and the debtor can agree on the term of mutual payment, the amount to be paid. They are assisted by specialists - case managers of the National Executive Bureau [15].

The simplified procedure in France and Georgia is reminiscent of the practice of using the mediation procedure in the process of compulsory execution of court documents and documents of other bodies, provided by the national legislation of the Republic of Uzbekistan [16]. In accordance with the requirements of national legislation, the mediation procedure may be applied even after the initiation of enforcement proceedings, in contrast to the requirements of the above-mentioned foreign state. Implementation of the mediation procedure is the basis for the

suspension of enforcement proceedings for a period not exceeding fifteen days at the request of the claimant.

According to the law [17], the parties and the mediator are the participants in the mediation. Both individuals and legal entities can be parties to mediation.

Failure to reach an agreement between the parties on the subject of enforcement, as well as the refusal of one of the parties to continue mediation, the expiration of the term of their implementation shall be grounds for resumption of enforcement proceedings. In this case, the repetition of the mediation procedure is not allowed.

In the event that an agreement is reached between the parties on the subject of enforcement at any stage of the enforcement proceedings, the state executor shall terminate the enforcement proceedings and the state executor and representatives of other state organizations shall not interfere in the mediation procedure. Mediation is an instrument that can be used as a basis for reconciliation, reconciliation, and the conclusion of a settlement agreement. It involves explaining to the parties that they have "reconciled" or come to a certain agreement during the explanation of their rights and obligations after the enforcement proceedings have been instituted by the state executor. In this case, if the parties reach an agreement, there is no need to apply enforcement actions by the state executor.

In this regard, Z.N. Esanova, acting on the basis of the legislation and practice of foreign countries, the United States, Great Britain, Austria, Finland, provides specific advice (directions) on the resolution of the mediation agreement only ("conciliator"). Expressed the view that their powers could be guaranteed by granting them the status and authority to obtain [18].

Analyzing the existing practice in foreign countries, we consider it expedient to propose the development of the necessary norms for the implementation of some of them in our national legislation, based on the existing problems.

At present, the workload of state executives remains very high. In particular, when the Bureau was established, the state executors the number was doubled (from 1,058 to 2,329). However, the current workload of executors was 315 documents per month (in 2018 - 312 documents), which is 15 times more than the scientifically based norm (19 cases per month according to the norm) [19].

In such working conditions, the failure of state executors to perform their duties in a timely manner has a negative impact on the level of legitimate complaints of citizens and legal entities, as well as the level of recovery of the budget.

In practice, there is also a tendency to impose administrative fines only on a mandatory basis, with most decisions being enforced. This leads to excessive conflicts and social tensions in society between the population and government agencies.

One of the main reasons for this situation is the lack of appropriate infrastructure for the voluntary payment of fines and mandatory payments, which ultimately weakens the culture of voluntary payment of fines and other mandatory payments.

The writ of execution is issued to the claimant or, within five days of the court's entry into force, at the request of the claimant, the writ of execution is sent to the state executor for execution, except in cases where the writ of execution is issued



immediately upon execution (Code of Civil Procedure of the Republic of Uzbekistan, Article 448 Part 4).

A similar requirement is reflected in the Code of Economic Procedure. In particular, within five days after the entry into force of the court document, the writ of execution is issued to the claimant or, at his request, sent to the state executor for execution.

The writ of execution for recovery of funds to the budget shall be sent to the state bailiff at the place of residence of the debtor within five days after the entry into force of the court document (Article 336).

At the same time, the lack of a differential approach to the execution of enforcement documents according to the type and level of complexity leads to the irrational use of the Bureau's power and means.

In particular, in 2021, 53.3% of individuals in the Office of the Bureau will be administrative documents for the collection of administrative fines, tax debts and state duties.

These small amounts of levies are a major part of the workload of public executors, along with their time spent, which distracts them from important documents that require the application of more complex enforcement measures.

In accordance with the current procedure, state executors carry out an average of 23 types of enforcement actions, including legal enforcement, for each enforcement document, regardless of the amount of its recovery.

The above 3 categories constitute enforcement documents and usually the execution of these enforcement documents does not require complex enforcement actions.

Based on the above, we consider it expedient to introduce a simplified procedure for enforcement proceedings to ensure the execution of executive documents on the collection of administrative fines, tax debts and state duties from individuals.

In this case, it is expedient to introduce a simplified procedure for enforcement proceedings in ensuring the execution of executive documents on the collection of state duties, administrative fines from individuals, tax arrears.

These simplified enforcement actions are carried out by the state executor remotely without going to the place of residence or property of the debtor and without applying legal sanctions through information and communication technologies.

Within one working day from the date of receipt of the writ of execution, the state executor shall send a notice to the debtor on the fulfillment of the requirements of the writ of execution and give five days for voluntary execution. If the debtor voluntarily fails to comply with the requirements of the writ of execution for unjustified reasons, the state executor shall impose enforcement measures on him (direct the recovery to the debtor's bank account or salary and other income) and collect the enforcement fee from the debtor in the prescribed manner.

In accordance with the above, the Republic of Uzbekistan in 2001, it was suggested that a new Chapter 31 be added to the Law on Enforcement of Judicial and Other Bodies' Documents, adopted on 29 August.

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