



IMPROVEMENT OF THE SYSTEM OF PROCEDURAL COERCIVE MEASURES DEFINED IN CIVIL PROCEEDINGS

Davronov Doniyorbek Abdullo o`g`li

Lecturer at the Department of Civil Procedural
and Economic Procedural Law, Tashkent State Law University

ORCID: 0000-0003-1786-8095

UDK: 347.9(043.3)(575.1)

E-mail: doniyorbekdavronov98@gmail.com

+998 99 9701422

ANNOTATION

This article analyzes the types of coercive measures used in civil proceedings, including coercion, warning, expulsion from the courtroom, and court fines. The article also discusses the grounds, procedure and timing of the application of coercive measures, the need for coercive measures and the practical problems arising in the process of litigation, the experience of international countries in this area, as well as the application of coercive measures in society. The role and significance of coercive procedural measures in the judicial system, its application, procedure, scope, restrictions and exceptions in the using of coercive measures, including compulsory attendance, the bodies authorized to apply these measures, their rights and obligations established by the law, relations between judicial bodies and bodies authorized to implement coercive procedural measures, comparative analysis of national and foreign civil procedural legislation on applying of coercive measures in civil court proceedings, similarities and different aspects, making suggestions and recommendations on improving procedural coercive measures in civil proceedings are analyzed.

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

It is known that in recent years many changes have been made in the process of conducting civil court cases. However, the process of civil court proceedings is different, there are still problems that prevent the hearing of the case due to a number of reasons and grounds. In particular, the terms of hearing the case in the court will be extended. According to our current civil procedural law, any interested person has the right to appeal to the civil court in order to protect his violated or disputed right





or interest protected by law. The judge shall individually decide the issue of acceptance, rejection or return of the applications received from the interested parties within ten days from the date of receipt of the application to the court. If the application does not meet the requirements of the civil law, the application will be returned. Even in this case, it requires additional time, and after eliminating the deficiencies in the application, it can be applied again in the general procedure. Not later than ten days from the date of acceptance of the application and initiation of the civil case, measures are taken by the judge to prepare civil cases for trial. A decision must be issued by the court no later than one month from the date of preparation of the civil case for trial. In addition, if the civil case is very complicated or requires additional study, according to the reasoned decision of the judge, the term of hearing the case can be extended up to two months. In general, one civil case is considered within two or three months. if all material and procedural rules are strictly followed. However, it is not a secret that in practice, there are many cases of postponement of court proceedings due to the absence of the parties from the civil court proceedings. This also requires additional time. If the court deems it necessary for the party who did not participate in the court session for the second time, a ruling may be issued on the application of the procedural coercion measure of compulsory attendance. This is not a complete solution to the problem. If the residence address of the party who did not appear at the court session is unknown, a search warrant may be issued against this person if deemed necessary. It seems that this situation leads to a delay in ensuring the rights of the people who applied to the court for the protection of their rights and legal interests. It is not a secret that in practice, there are many cases of postponement of the court proceedings due to the absence of the parties from the civil court proceedings. This also requires additional time. If the court deems it necessary for the party who did not participate in the court session for the second time, a ruling may be issued on the application of the procedural coercion measure of compulsory attendance. This is not a complete solution to the problem. If the residence address of the party who did not appear at the court session is unknown, a search warrant may be issued against this person if deemed necessary. It seems that this situation leads to a delay in ensuring the rights of the people who applied to the court for the protection of their rights and legal interests. It is not a secret that in practice, there are many cases of postponement of the court proceedings due to the absence of the parties from the civil court proceedings. This also requires additional time. If the court deems it necessary for the party who did not participate in the court session for the second time, a ruling may be issued on the application of the procedural coercion measure of compulsory attendance. This is not a complete solution to the problem. If the





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In addition, in our civil legislation, in the course of the trial, the people who violated the order of the court are warned, the court postpones the hearing of the case even if the citizens violate the order of the court in a public way, or the prosecutor, the lawyer does not obey the orders of the presiding officer of the court case and there is no possibility to replace them. All these cases lead to the prolongation of procedural terms in the consideration of civil cases and delay the provision of the rights of interested people. For this reason, it is necessary to improve existing procedural coercion measures in our civil law in order to ensure that the participants of the court strictly follow the procedural procedures, to ensure timely and high-quality consideration of court cases.

During the research, as a result of studying the experience of national and foreign countries, it was concluded that a number of changes and additions should be made to the current civil procedural legislation on the use of procedural coercive measures in the conduct of civil court cases.

Improvement of the general legal system

In practice In three articles of the Civil Procedure Code of the Republic of Uzbekistan, i.e. Article 313, consideration of a civil court case is established. According to it, the court will consider the case of finding a citizen incompetent with the participation of





the prosecutor and the representative of the guardianship and patronage body. Also, in cases specified in Article 186 of the Code of Civil Procedure of the Republic of Uzbekistan, i.e., the court may find it necessary for the defendant to appear in court in cases of alimony collection.

In addition, Article 222 of the Civil Procedure Code of the Republic of Uzbekistan states that "In the event that a witness, expert, specialist, interpreter does not appear at the court session, it is correct that the people participating in the court case can consider the case in the absence of the absent witness, expert, specialist, interpreter listens to their opinions and makes a decision on continuing the trial or postponing the trial. If the summoned witness, expert, expert, interpreter does not appear at the court session for reasons deemed by the court to be inexcusable, procedural coercive measures provided for in this Code may be applied to them. If the summoned witness does not appear at the court hearing on the second summons, he may be brought in a mandatory manner according to the court's decision.

In our current legislation, the principles of applying procedural coercion measures are mentioned in the above-mentioned articles. Article 144 of the Civil Procedural Code stipulates that the court may bring the case only if it is provided for in the Civil Procedural Code. This means that the basis for the compulsory bringing of a person to trial should be only the cases defined in the Civil Procedure Code. It follows from this that coercive measures cannot be used to impose coercion against a person in cases not provided for in the Civil Code.

Therefore, some norms should not be strictly limited in our legislation. Instead, we should add the sentence "In the cases provided by the Civil Procedure Code or in the cases deemed necessary by the court" to our existing legislation. Because, in some cases, the court may consider the participation of a witness, expert or specialist in the court session necessary. In this case, the procedural coercion measure of compulsory bringing cannot be applied because our Civil Procedural Code does not provide coercive measures against these people. The application of procedural coercion must be within the exclusive competence of the judge.

Also, Article 145 of the Civil Procedure Code of the Republic of Uzbekistan stipulates that people who violate court order in the course of conducting civil court proceedings shall be warned by the presiding judge on behalf of the court.

In the case of violation of order by a party or a third party during the court session in part 2 of this article, the court shall expel the person who is disorderly from the courtroom for all or part of the time of hearing the case. When the temporarily expelled person is returned to the courtroom, the chairman will introduce him to the procedural actions taken while he was not in the courtroom. If both parties or third





parties violate the order at the court session, the court postpones the discussion of the case if it is possible. But this situation only leads to prolongation of the trial period. If the court order is violated again during the next court session, the court may postpone the hearing again. Because in our civil procedural legislation, there is no norm that "if there are signs of a crime in the actions of a person who violates the order of the court by the parties or violates the established order of the court, it can be issued to the prosecutor in order to initiate a criminal case." However, we can see that this experience exists in the experience of several CIS countries. In particular, according to Article 159 of the Civil Procedure Code of the Russian Federation, if the actions of the person who violates the order at the court session are signs of a crime, the court may initiate a criminal case against the person who violates the court order.

Civil Procedure Code of the Republic of Uzbekistan Part 3 of Article 145 states that "In case of repeated violation of order, the persons participating in the case, witnesses, experts, specialists, and interpreters may be expelled from the courtroom by the court's ruling, while the citizens present during the proceedings may be expelled from the courtroom by order of the presiding judge. In the event of a mass violation of order by citizens, the court may postpone the trial of the case". It is established that the court may postpone the hearing of the case in case of public violation of the order. In these cases, postponing the trial may not give good results. Because, in the second court session, if the court order is violated in a public manner, the court will have to postpone the proceedings again. In the experience of neighboring countries, including Kazakhstan According to Article 179 of the Civil Procedure Code, in case of a public violation of court order, the court may expel all citizens from the courtroom, not participate in the case, and may consider the case in a closed session or postpone the court session.. Based on the experience of this country, we can improve our legislation. Also, according to the Civil Procedure Code, failure of the court participants to appear in court is a reason for postponing the court session. If they do not come to the court session despite the fact that they have been duly warned about the court session and the place for the second time, it is a reason to bring the person to court. For the time lost during this period, civil damages are collected by the person who caused the loss of time in accordance with Article 112 of the Civil Code of Kazakhstan. According to it, the court will charge the other party with compensation for lost profit and time if the party who knowingly creates a groundless claim or dispute against the claim or regularly opposes the correct and prompt resolution of the case. possible.

One of the most important issues is the issue of court costs. It is known that Article 127 of the Civil Procedure Code of the Republic of Uzbekistan stipulates that court costs include state duty and other expenses related to the consideration of the case.





Article 132 of this Code stipulates that the following are included in the expenses related to the consideration of the case.

- Sums to be paid to witnesses, experts, specialists, translators;
- Costs associated with on-site inspections;
- Civil Procedure Code Article 165 expenses incurred for the search of the defendant in the specified cases;
- Postal costs associated with sending court notices and court documents;
- Costs related to conducting the court session in videoconference mode;
- Other necessary costs recognized by the court.

It is also possible to include other costs related to the search and compulsory appearance of parties in court proceedings who are not present at the court session. As it is known, on the basis of the Regulation of the Republic of Uzbekistan "On the procedure for the execution of orders for the compulsory bringing of people who refuse to appear in court, preliminary investigation bodies or courts for no reason", Inquiries and investigative actions related to the affairs of the people may be brought to the court, if deemed necessary.

Clause 20 of this regulation stipulates that "expenses related to compulsory delivery shall be charged to the state in court proceedings from the person who has been forcibly brought." However, it is known that a lot of money is spent on organizing court cases today. In particular, expenses related to the organization of the court session through video conference, summoning of witnesses, involvement of experts, (if witnesses and experts visit the court session from another region, their travel and accommodation expenses) should also be recognized as court expenses and the court session must be fully compensated by the people who forced them to spend excessively. Therefore, paragraph 20 of the Regulation should be supplemented with the following sentence:

Also, the party who did not attend the court session on time must compensate the court for the excessive costs, if there are no good reasons for not appearing at the court session.

In addition, court costs include postage. The amount of postage shall be determined by the court, but this amount shall not exceed one-tenth of the basic calculation amount and shall be credited to the court's escrow account.

The amount of expenses related to holding a court session in the videoconference mode is determined by the court and is collected from the people participating in the case according to the results of the case hearing in accordance with this Code.. According to the requirements of Article 135 of the Civil Procedure Code of the Republic of Uzbekistan and the Decision of the Plenum of the Supreme Court of the





Republic of Uzbekistan No. 14 of November 24, 2009 "On the practice of collecting court costs in civil cases" 14 - according to the court costs should be paid by the parties. However, it is known that people assisting the court, experts or translators may be called in different regions. In this case, it is necessary to ensure that their costs are covered by the court. If the court postpones the hearing of the case due to the non-appearance of one of the parties, the party that caused the postponement of the court session, not by both parties, shall pay the costs incurred by the court in full. In the Decision of the Plenum of the Supreme Court, part 2 of Clause 13 stipulates that the party who regularly opposes the proper and timely consideration of the case shall pay. However, not being present at the first summons to the court is not considered as regular opposition to the correct and timely consideration of the case. Therefore, in Article 143 of the Civil Procedure Code of the Republic of Uzbekistan, "reimbursement of court costs" should be supplemented with a new procedural coercive measure. In this case, if any of the participants in the court is the cause of excessive spending of the court costs, the court costs must be fully covered by that person. Therefore, in Article 143 of the Civil Procedure Code of the Republic of Uzbekistan, "reimbursement of court costs" should be supplemented with a new procedural coercive measure. In this case, if any of the participants in the court is the cause of excessive spending of the court costs, the court costs must be fully covered by that person. Therefore, in Article 143 of the Civil Procedure Code of the Republic of Uzbekistan, "reimbursement of court costs" should be supplemented with a new procedural coercive measure. In this case, if any of the participants in the court is the cause of excessive spending of the court costs, the court costs must be fully covered by that person.

As it is known, related to compulsory bringing, approved by the decision of the Cabinet of Ministers of the Republic of Uzbekistan No. 1024 of December 15, 2018, "On compulsory bringing of people who refuse to appear before the inquiry, preliminary investigation bodies or the court for no reason" is regulated only by the Regulation on the procedure for the execution of tasks. It is not possible to find a complete solution to various problems in practice related to compulsory delivery with this regulation. Therefore, the development of a separate normative document "On the procedure for the execution of orders for the compulsory bringing of people who refuse to appear in the civil court for no reason" should fully cover all aspects related to the application of procedural coercion measures. allows for detailed arrangement and explanation.

By introducing this procedure, we can ensure that the parties strictly and without deviation adhere to the court order and procedural procedures in conducting civil court cases.





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