JOURNAL OF INTELLECTUAL PROPERTY AND HUMAN RIGHTS

Volume: 4 Issue: 2 | Feb–2025 ISSN: 2720-6882
http://journals.academiczone.net/index.php/jiphr

Some Opinions on Improving the Judicial Order

Khabibullaev Davlatjon Yulchiboevich
Head of the department "Civil Procedure and economic procedural law" TSUL, Doctor of Science, Professor

Annotation: in this article, the content and procedure for issuing a court order, problems of legislation on this issue, the effective use of information and communication technologies in order to further simplify the work of issuing a court order, the grounds for canceling a court order, expanding the range of requirements for issuing a court order, are analyzed in detail experience of foreign countries in this direction.

Key words: civil court, judge, court order, objection, recoverer and debtor.

Introduction

The judicial process plays a central role in ensuring the rule of law and the protection of citizens' rights in any legal system. In recent years, significant reforms in the judicial and legal systems have aimed to streamline court proceedings, improve efficiency, and better safeguard individual rights. In particular, the concept of court orders has become crucial in simplifying the judicial process and enhancing access to justice for individuals and organizations. A court order serves as a judicial instrument for enforcing rights and obligations, typically in cases where there is no dispute between the parties involved. This system has gained considerable attention as a means to ease the workload of judges, reduce judicial delays, and ensure more effective enforcement of civil claims.

Methods

To analyze the current judicial system surrounding court orders in Uzbekistan, this study adopts a mixed-method approach, combining qualitative analysis of legal texts with a review of international experiences in civil procedural law. A thorough examination of the Civil Procedure Code of the Republic of Uzbekistan, particularly Articles 178, 179, and 181, has been conducted to identify potential legal inconsistencies, ambiguities, or gaps in the legislation concerning the content, issuance, and execution of court orders. The paper also investigates statistical data on the issuance of court orders in Uzbekistan, as well as trends over recent years, in order to assess the volume and effectiveness of these judicial tools.

Comparative legal analysis forms another core element of this research. By reviewing the procedural codes of countries such as Russia, Kazakhstan, Germany, and others, the study identifies practices and legislative provisions that could be integrated into the Uzbek system to enhance its functionality. For instance, the study looks at how these countries manage the issuance of court orders for undisputed claims, their technological integration into the legal process, and their mechanisms for canceling or correcting court orders when necessary. Interviews with legal practitioners and experts in Uzbekistan, as well as case studies from the judicial system, will provide insight into the challenges faced by judges, creditors, and debtors in implementing these reforms. This method provides a well-rounded examination of both the legal framework and the real-world application of court orders in Uzbekistan.

The Republic of Uzbekistan, under the leadership of President Shavkat Mirziyoyev, has undertaken substantial judicial reforms, notably through the adoption of the Civil Procedure Code and other decrees aimed at enhancing the independence and impartiality of the judiciary. In particular, the issuance of court orders, both in civil cases and for enforcement actions like debt recovery, has become

Volume: 4 Issue: 2 | Feb–2025 ISSN: 2720-6882
http://journals.academiczone.net/index.php/jiphr

more widespread, signifying the progress of these reforms. However, despite the increased use and effectiveness of court orders, several issues still remain unresolved, including gaps in the procedural legislation, challenges related to the timely execution of orders, and the necessity of technological advancements. This paper will explore the current state of court order procedures in Uzbekistan, the challenges encountered, and suggestions for further improvement, drawing on international best practices and legal precedents.

Results

The findings indicate that the issuance of court orders in Uzbekistan has increased significantly in recent years, with the number of court orders rising from 88,655 in 2019 to over 483,000 by the first half of 2024. This surge reflects the growing adoption of court orders in civil cases, underscoring their effectiveness in easing the judicial workload and speeding up case resolution. However, several issues persist. One major problem identified is the lack of clarity in the Civil Procedure Code regarding the inclusion of essential personal information of the debtor, such as the date and place of birth, which has led to a high incidence of court orders being returned by bailiffs. This misalignment between the law and procedural practice is a significant impediment to timely enforcement.

Another finding concerns the inconsistencies in the timely delivery of court orders to debtors, with cases frequently reported where orders are either delayed or not sent at all, compromising the debtor's right to object. Additionally, there is no clear provision for canceling court orders once issued, especially in cases where the debtor is deceased or located outside the jurisdiction. This gap in the law has resulted in the inefficiency of enforcement actions in such scenarios.

The review of international best practices reveals several improvements that could be adopted by Uzbekistan to enhance the court order system. These include establishing clear procedures for sending court orders to debtors, as seen in Kazakhstan's model, and integrating modern information and communication technologies, as exemplified in Germany’s use of digital platforms for issuing uncontested court orders. Moreover, expanding the scope of requirements for issuing court orders, particularly in areas like the reimbursement of state enforcement costs or pension payments, aligns with international standards and can contribute to greater efficiency.

Discussion

As a result of the judicial and legal reforms being implemented in our country, the guarantees of the impartiality and independence of the courts in the administration of justice have been further strengthened legally. In particular, the adoption by our President Shavkat Mirziyoyev of the decrees PF-4850 dated October 21, 2016 “On measures to further reform the judicial and legal system, strengthen guarantees for reliable protection of the rights and freedoms of citizens” and PF-4947 dated February 7, 2017 “On the Strategy of Actions for the Further Development of the Republic of Uzbekistan” played an important role in further democratizing and liberalizing the judicial and legal system in our country and ensuring the true independence of judges in practice.

Also, the adoption of the new Civil Procedure Code of the Republic of Uzbekistan on January 22, 2018 led to an expansion of the types of civil judicial proceedings, a systematic logical sequence of procedural institutions, and the addition of new procedural institutions. In this regard, it can be said that the resolution of cases in this code in a short time, a reduction in the workload of judges, and an expansion of the requirements issued by court orders practically ensure the protection of the rights and legally protected interests of citizens and organizations in a short time. In this regard, if we pay attention to judicial statistics, we can see that in 2019, 88,655 court orders were issued in courts in civil cases alone across the republic, while in 2020 this figure was 96,584, in 2021 this figure was 166,812, in 2022 this figure was 301,597, in 2023 483,617, and in the 1st half of 2024 458,267 court orders were issued **[1].**

Volume: 4 Issue: 2 | Feb–2025 ISSN: 2720-6882
http://journals.academiczone.net/index.php/jiphr

The above judicial statistics indicate that the institution of court orders is proving itself in judicial practice and plays an important role in reducing the workload of judges. However, at present, further improvement of the institution of court orders is required, filling gaps in procedural legislation, and eliminating problems encountered in judicial practice.

Article 178 of the Civil Procedure Code of the Republic of Uzbekistan specifies the content of a court order, according to which the court order shall indicate the following:

The court order shall indicate the following:

1. the serial number of the case and the date of issuance of the order;
2. the name of the court, the surname, name and patronymic of the judge who issued the order;
3. the surname, name, patronymic (name), place of residence or location (postal address) of the collector;
4. the surname, name, patronymic (name), place of residence or location (postal address) of the debtor;
5. the law that is the basis for satisfying the claim;
6. the amount of money to be recovered or the movable property subject to recovery, serving as security for the debtor's obligations, its description and value;
7. the period in which the debt to be recovered arose;
8. the amount of the penalty, if its collection is provided for by law or contract;
9. the amount of state duty to be collected from the debtor;
10. the term and procedure for the debtor to file an objection to the claim.

In addition to the information provided for in paragraphs 1 - 5, 9, 10 of this article, the court order on the collection of alimony for minor children shall indicate the following: the date and place of birth of the debtor, the name and date of birth of each child for whose maintenance alimony is to be collected, the amount of payments to be collected from the debtor each month and the term for their collection.

Correction of errors in the writing of the court order and obvious arithmetic errors shall be carried out on the initiative of the court or upon the application of the collector or the debtor, in the same manner as this order was issued, based on the court ruling.

If we pay attention to the above requirements, it is established that in addition to the above information, the date and place of birth of the debtor must be indicated in the court order on the recovery of alimony for minor children. However, the date and place of birth of the debtor must also be indicated in other requirements. Since the failure to indicate these circumstances does not comply with the requirements of Article 8 of the Law of the Republic of Uzbekistan “On the Execution of Judicial Documents and Documents of Other Bodies”, in practice this leads to the return of court orders by state bailiffs. In this regard, if we pay attention to the Civil Procedure Codes of many countries, for example, Article 124 of the Civil Procedure Code of the Russian Federation and Article 136 of the Civil Procedure Code of the Republic of Kazakhstan, these rules are reflected **[2].** In our opinion, in order to ensure consistency between Article 8 of the Law of the Republic of Uzbekistan “On the Execution of Judicial Documents and Documents of Other Bodies” and Article 178 of the Civil Procedure Code of Uzbekistan, and to ensure the timely execution of judicial documents:

3) the name, surname, patronymic (name), place of residence or location (postal address) of the creditor, for individuals - the date and place of birth, place of work of the creditor, for legal entities - the bank details of the creditor;

Volume: 4 Issue: 2 | Feb–2025 ISSN: 2720-6882
http://journals.academiczone.net/index.php/jiphr

4) the name, surname, patronymic (name), place of residence or location (postal address) of the debtor; for individuals - the date and place of birth, place of work of the debtor, for legal entities - the bank details of the debtor.

Article 179 of the Civil Procedure Code of the Republic of Uzbekistan stipulates that after issuing a court order, the judge shall immediately send a copy of it to the debtor, and Article 181 states that the debtor has the right to send his objections to the claim filed within ten days from the date of receipt of a copy of the court order to the court that issued the order. It should be noted that in judicial practice, cases of failure to send a court order to debtors on time or not sending it at all are often observed. However, the immediate sending of a copy of the court order to the debtor is a guarantee of the debtor's rights.

Therefore, in order to additionally guarantee the debtor's rights in this process, it is advisable to establish a clear procedure and mechanism for sending a copy of the court order to the debtor in the civil procedural legislation of our country. In this regard, the legislative experience of foreign countries studied pays special attention to similar mechanisms. For example, Article 141 of the Civil Procedural Code of the Republic of Kazakhstan establishes that a court order must be delivered or sent to the debtor by means of communication that ensures the fact of its receipt no later than the day after its issuance. Also, the debtor has the right to file an objection to the claim filed with the court that issued the court order within ten business days from the date of receipt of a copy of the court order or from the date of notification of its issuance.

Currently, there are also some problems with the cancellation of court orders. For example, if a court order is issued to a citizen who has died or is outside the jurisdiction of Uzbekistan, and when it is sent for execution, it is returned to the court by the compulsory enforcement bodies due to the impossibility of execution. In this case, the court does not have a procedural mechanism for canceling a court order. In such a case, it would be appropriate to introduce a rule on the cancellation of a court order at the initiative of the collector or the court in Article 181 of the Civil Procedure Code of the Republic of Uzbekistan. This experience is available in the Civil Procedure Codes of the Russian Federation and the Republic of Kazakhstan **[3].**

Also, in order to further simplify the process of issuing a court order, it is necessary to introduce information and communication technologies more widely. For example, as the German scholar and judge Heinrich Schnitger noted, in Germany, court orders are issued six times more often than in cases considered in the claim procedure. A court order is an executive document issued for undisputed students. In Germany, a judge does not participate in these proceedings. These works are performed by court employees (not judges). This process is also carried out systematically on the basis of electronic technology. The application can be submitted via the Internet **[4, p. 15].**

Based on the above positive experience, taking into account the reduction of the workload of judges, the issuance of court orders on uncontested claims, it is advisable to introduce a norm on the issuance of court orders by an assistant judge in Chapter 18 of the Civil Procedure Code of the Republic of Uzbekistan entitled “Court Orders”.

The introduction of order proceedings in the civil procedural legislation of our country increases the efficiency of the protection of subjective rights and the effectiveness of its implementation. It ensures that judicial protection is convenient for everyone, reduces the workload of judges, relieves the parties from unnecessary expenses, and saves the time of the court and persons participating in the case. Taking into account the importance of cases conducted in the order procedure in the rapid protection of the rights and legitimate interests of citizens in a simplified manner, it is a requirement of the times to expand the scope of requirements for issuing a court order. In this regard, it would be expedient to include in Article 171 of the new edition of the Civil Procedure Code provisions on issuing a court order on “claims for reimbursement by the debtor of expenses incurred by internal affairs bodies and

Volume: 4 Issue: 2 | Feb–2025 ISSN: 2720-6882
http://journals.academiczone.net/index.php/jiphr

state enforcement officers in searching for the debtor or his property, for recovery of debt by the insurer (insurance organization) under an insurance contract, and for recovery of mandatory pension payments to the Unified Accumulative Pension Fund." If we pay attention to foreign experience in this regard, the issuance of a court order on these grounds is available in the Civil Procedure Codes of the Russian Federation, the Republic of Kazakhstan, the Kyrgyz Republic, and the Republic of Tajikistan **[5].**

Conclusion

The implementation of court orders in Uzbekistan has proven to be a valuable tool in streamlining judicial procedures, reducing the workload of judges, and facilitating the enforcement of civil claims. Despite these advancements, there remain significant challenges that hinder the full potential of the court order system. The lack of clarity in the Civil Procedure Code regarding the debtor's personal information, delays in the delivery of court orders, and the absence of a procedural mechanism for canceling court orders are key areas that need to be addressed.

Drawing on international experiences, particularly from countries like Russia, Kazakhstan, and Germany, it is evident that the integration of information technology and the establishment of clear procedural guidelines can enhance the efficiency of the court order system. Expanding the scope of claims that can be processed through court orders, as well as addressing gaps in the current legal framework, would further improve the effectiveness of judicial proceedings in Uzbekistan.

In conclusion, while Uzbekistan has made notable progress in judicial reform, there is still work to be done to ensure that the system of court orders is fully optimized. By incorporating the lessons learned from international jurisdictions and refining domestic procedural laws, Uzbekistan can continue to move toward a more efficient, accessible, and transparent judicial system.

References

1. Fuqarolik ishlar bo'yicha sudlar tomonidan sud buyrug'i berish tartibida ko'rilgan ishlar yuzasidan statistik ma'lumot // https://stat.sud.uz/file/2024/06.08/%D1%81%D0%B0%D0%B9%D1%82%20%D1%84%D1%83%D0%BA%D0%B0%D1%80%D0%BE%D0%BB%D0%B8%D0%BA%202024%20%D0%B9%D0%B8%D0%BB%201-%D1%8F%D1%80%D0%BC%D0%B8.pdf
2. Гражданский процессуальный кодекс Российской Федерации. http://www.consultant.ru; Гражданский процессуальный кодекс Республики Казахстан // http://www.frmp.kz/cgi-bin/index (Code of Civil Procedure of the Russian Federation. http://www.consultant.ru; The Code of Civil Procedure of the Republic of Kazakhstan // http://www.frmp.kz/cgi-bin/index).
3. Гражданский процессуальный кодекс Российской Федерации. http://www.consultant.ru; Гражданский процессуальный кодекс Республики Казахстан // http://www.frmp.kz/cgi-bin/index.((Code of Civil Procedure of the Russian Federation. http://www.consultant.ru; The Code of Civil Procedure of the Republic of Kazakhstan // http://www.frmp.kz/cgi-bin/index).
4. Хайнрих Шнитгер. Правосравнительные комментарии по Гражданскому процессуальному кодексу Узбекистана // Сборник статеймеждународного круглого стола на тему: «актуальные вопросы развития гражданского процессуального права». -Ташкент.:ТГЮУ, 2018. –С.15. (Heinrich Schnitger. Comparative comments on the Civil Procedural Code of Uzbekistan // Collection of articles of the international round table on the topic: "Topical issues of the development of civil procedural law". -Tashkent.: TSUL, 2018. –P.15.).
5. Гражданский процессуальный кодекс Российской Федерации. http://www.consultant.ru; Гражданский процессуальный кодекс Республики Казахстан // http://www.frmp.kz/cgi-bin/index; Гражданский процессуальный кодекс Кыргызской Республики //

Volume: 4 Issue: 2 | Feb–2025 ISSN: 2720-6882
http://journals.academiczone.net/index.php/jiphr

cbd.minjust.gov.kg/act/view/ru-ru; Гражданский процессуальный кодекс Республики Таджикистан // www.asia-realty.ru/co-zakon-tajikistan.php?Id=348. (Code of Civil Procedure of the Russian Federation. http://www.consultant.ru; The Code of Civil Procedure of the Republic of Kazakhstan // http://www.frmp.kz/cgi-bin/index; The Code of Civil Procedure of the Kyrgyz Republic // cbd.minjust.gov.kg/act/view/ru-ru; The Code of Civil Procedure of the Republic of Tajikistan // www.asia-realty.ru/co-zakon-tajikistan.php?Id=348).

6. R. A. Leflar, "Some observations concerning judicial opinions," *Columbia Law Review*, vol. 61, no. 5, pp. 810–824, 1961.
7. M. K. Wall, "What the courts are doing to improve judicial opinions," *Journal of the American Judicature Society*, vol. 32, pp. 154–160, 1948.
8. J. Leubsdorf, "The structure of judicial opinions," *Minnesota Law Review*, vol. 85, no. 5, pp. 1325–1360, 2001.
9. G. Lebovits, A. V. Curtin, and L. Solomon, "Ethical judicial opinion writing," *Georgetown Journal of Legal Ethics*, vol. 21, no. 1, pp. 237–290, 2008.
10. M. Skivenes and M. Tonheim, "Improving decision-making in care order proceedings: A multijurisdictional study of court decision-makers' viewpoints," *Child & Family Social Work*, vol. 24, no. 1, pp. 110–119, 2019.
11. B. G. McKenna, A. J. O'Brien, and J. S. McIntyre, "Improving the ability of mental health nurses to give second opinion in judicial reviews: An evaluation study," *Journal of Psychiatric and Mental Health Nursing*, vol. 18, no. 6, pp. 487–494, 2011.
12. L. Gross, "The International Court of Justice: Consideration of requirements for enhancing its role in the international legal order," *American Journal of International Law*, vol. 65, no. 2, pp. 253–267, 1971.
13. R. Pound, "Improving judicial administration—a glance backward and a look ahead," *American Bar Association Journal*, vol. 28, pp. 395–405, 1942.
14. R. U. Whitten, "Improving the better law system: Some impudent suggestions for reordering and reformulating Leflar's choice-influencing considerations," *Arkansas Law Review*, vol. 52, pp. 9–45, 1999.
15. N. Katyal, "Sunsetting judicial opinions," *Notre Dame Law Review*, vol. 78, no. 3, pp. 1237–1291, 2003.