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Order Production In The Economic Process Of The Republic Of Uzbekistan

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ABSTRACT

This article describes a normative model for the procedure: the subject matter is limited, consideration is based solely on documents, deadlines are clear, and the procedure for entry into force is established. The article also cites clarifications from higher courts, which seek to standardize practice. Key problem areas are identified: the criteria for "incontestability" through the lens of a "dispute over rights," information asymmetry in the presentation of evidence, issues of proper notification, and the sufficiency of procedural guarantees for the debtor. Based on these findings, a set of measures is proposed to improve legislation and practice (clarifying the threshold for incontestability, modernizing notification, adjusting deadlines, and increasing the transparency of procedural decisions).

Keywords: summary proceedings, court order, commercial court, dispute over rights, incontestability of claims, documentary recognition of debt, debtor, creditor.

Economic litigation is aimed at protecting violated or disputed rights and legitimate interests of economic actors, strengthening the rule of law, and preventing offenses. The Code itself explicitly stipulates that appeals to the court are possible through various procedural forms, including applications for summary proceedings.

At the constitutional level, the general principle of judicial protection of rights and freedoms and the right to appeal against unlawful decisions, actions and inactions of bodies and officials is enshrined, which forms an "external"



standard of accessibility and effectiveness of justice¹. In this logic, the order procedure acts as a tool for accelerating the collection of certain categories of claims, when the legislator considers it permissible to abandon classical judicial proceedings while maintaining the minimum necessary level of procedural guarantees.

Legislative model of writ proceedings. The regulatory framework for writ proceedings in economic courts is built around the chapter "Court Order" and assumes a strictly limited scope: a court order is issued by a judge acting alone only for five groups of claims listed in Article 135 of the Economic Procedure Code of the Republic of Uzbekistan. These include: foreclosure on property taxes, collection of utility and communication debts, collection of accounts receivable with documentary recognition, claims based on a notarized protest of a bill of exchange, and foreclosure on movable property serving as security for the fulfillment of obligations, in the presence of a written agreement.².

The procedure differs fundamentally from a claim proceeding in that a court order is issued without a court hearing, without summoning the creditor and debtor, or hearing explanations; the proceedings are conducted in writing and through documentary means. A key element of this model is prior notice to the debtor of the application: the creditor is required to provide the debtor with a copy of the application for the court order, and the order itself is issued ten days after such service.

Thus, it can be noted that, within the procedure, the legislator and judicial practice create several filters:

– the admissibility filter: the judge refuses to accept the application if the request does not fall under the list of Article 135 of the Economic Procedure Code of the Republic of Uzbekistan (and on general grounds for refusal to accept)³.

– Formal requirements filter: an application may be returned if the requirements for form and content are violated, in the absence of supporting

¹ Ходеева У. А. Приказное производство как форма судопроизводства: проблемы и перспективы правового регулирования // Молодой ученый. – 2016. – №. 15-1. – С. 91-94.

² Feruza I., Muslimakhon S. Ibratova F., Sobirova M. Legal issues of conciliation procedures in civil proceedings in Uzbekistan // Editorial team.

³ Шадловская О. Д. Приказное производство как упрощенная форма гражданского судопроизводства: дис. – Москва: 2015.–432с, 2015.



documents, proof of delivery of a copy of the application to the debtor, documents confirming payment of the state fee and postal expenses, etc.; however, the decision to return the application may be appealed, and a re-application is possible after the violations have been corrected.

– "Dispute over rights" filter: already at the stage of deciding whether to issue an order, the judge is obliged to refuse to issue it if the debtor has filed an objection or if there is a dispute over rights that cannot be resolved on the basis of documents.

The payment aspect is also legally established: an application for the issuance of a court order is subject to a state fee of 50% of the rate calculated as when filing a claim, which reduces the transaction costs of the procedure⁴.

The result of the writ proceedings has a dual nature: the court order comes into legal force after the expiration of a ten-day period following its issuance and at the same time has the force of an enforcement document subject to execution in accordance with the procedure for the execution of judicial acts.

Undisputed demands. Evidence to a strict standard. It should be noted that demands must be clear, and the evidence must be precise. Both the demands and the evidence supporting their validity are essential. We review the demands and the evidence.

Although doctrine and practice typically describe writ proceedings as a mechanism for "undisputed" demands, current regulations construct the criterion not through a direct definition of "undisputed," but through a combination of: (a) an exhaustive list of demands and (b) the negative criterion of "dispute over right"⁵.

First, the Supreme Court clearly emphasized that the list of requirements in Article 135 of the EPC of the Republic of Uzbekistan is complete and cannot be expanded. The list of requirements in Article 135 of the EPC of the Republic of Uzbekistan is needed as a means of restraining the writ procedure when a dispute may arise and a full examination of the evidence is required. It appears that without a complete list of requirements in Article 135 of the EPC of the Republic

⁴ Feruza I., Amirbek Y., Sherozhjon T. Legal Issues Consideration of Cases Involving Foreign Persons //American Journal of Pedagogical and Educational Research. – 2024. – Т. 30. – С. 33-37.

⁵Пронина М. П. Современное приказное производство: проблемы применения //Юрист. – 2013. – №. 3. – С. 39-42.



of Uzbekistan, it is difficult to maintain order and properly examine the evidence.

Secondly, the code links the refusal to issue a writ of execution to the debtor's objection or a dispute over rights that cannot be resolved by documents. Therefore, the "incontestability threshold" effectively becomes the "documentary resolution threshold": the court may proceed using the writ of execution procedure as long as the dispute (if any) has not been declared by the debtor and is not evident in the documents.

Thirdly, the "documentary standard" is expanded in the explanations: to collect accounts receivable with documentary recognition, the debtor must present (at a minimum) a contract, documents on delivery/work/services, and documents confirming the recognition of the debt (reconciliation statement, correspondence, etc.). This detail demonstrates that the legislative concept of incontestability in economic proceedings is closely linked to the presence of evidence of debt recognition in the written communications of the parties, and not merely to the existence of a contract as such.

The calculation of debt for communication services requires special consideration. A claim is only admissible when the amount of the debt is known from meter readings. In my opinion, this is an example of how a "quasi-criterion of indisputability" emerges through a verifiable technical calculation source⁶.

Thus, in the current model, two factors create practical difficulties (and discretion): 1) the ambiguity of the boundary between a

"documentarily resolvable" dispute and one requiring litigation;

2) the court's dependence on the array of documents compiled and submitted by the creditor, while the debtor does not participate in the hearing until the order is issued and can only influence the process through a written objection.

The debtor's guarantees in court and the balance of interests are an important issue. In economic proceedings, the debtor's guarantees in writ proceedings revolve around three things: notice (providing a copy of the application), the right to object before the order is issued, and a way to cancel the order after it has been issued. These three points effectively help the debtor defend their rights.

⁶ Feruza I., Amirbek Y., Sherozhjon T. Legal Issues Consideration of Cases Involving Foreign Persons //American Journal of Pedagogical and Educational Research. – 2024. – T. 30. – C. 33-37.



Notice before the order is issued. The Code obliges the creditor to provide the debtor with a copy of the application; this is not an optional element, but a mandatory condition of the procedure⁷. Court rulings further specify that proof of service for a legal entity debtor is the signature of the director or employee, certified by a seal (if any) or stamp, while for an individual debtor, it is a personal signature; failure to comply with this procedure results in the return of the application. This model seeks to "compensate" for the absence of a court hearing prior to the issuance of the order, but simultaneously makes the quality of the notice dependent on the creditor's actions.

Objection before issuing an order. The debtor has the right to submit an objection to the court within ten days of receiving a copy of the application, along with supporting documents. Failure to submit an objection (and the debtor's consent) is grounds for issuing a court order. The requirement that an order be issued "after ten days" from the date of service of a copy of the application is logically linked to this time limit for objection.⁸

Cancellation of a court order after its issuance. The procedure is as follows: the court issues a court order, and immediately sends a certified copy to the debtor. The order may also be sent electronically. The debtor has the right to file a petition to cancel the court order within ten days of receiving the copy. The debtor may file a petition if there is a valid reason for the debtor's failure to timely object to the creditor's demand. The question of cancellation or refusal to cancel is decided outside of court within ten days. It is clarified that the code does not establish any specific requirements for the form of such a petition; it may be in any form, but must include reasons and supporting documents, and can be sent electronically. Failure to file a petition for reinstatement within the deadline is grounds for denial.

The principle of adversarial proceedings and equality of arms, declared one of the fundamental principles of economic litigation, serves as the general "balance framework." However, it is precisely the order procedure that is the area

⁷ Громошина Н. А. Приказное производство как инструмент оптимизации цивилистического процесса //Законы России: опыт, анализ, практика. – 2017. – №. 5. – С. 93-95.

⁸ Троицкий О. Э. Приказное производство: понятие, сущность, проблематика //Научный электронный журнал Меридиан. – 2020. – №. 4. – С. 168-170.



where balance is achieved not through oral proceedings, but through the structure of notice and written objections⁹.

From the perspective of international fair trial standards, the key requirements are equality before the courts and the right to a fair hearing when determining rights and obligations in a legal dispute. Writ proceedings allow for "simplification," but the sustainability of this model depends on the debtor's ability to learn about the application and submit objections within a reasonable time, as well as the court's ability to screen out potentially disputed claims without a full examination of the evidence.

Typical problems in the application of law. The problems of writ proceedings in economic proceedings stem primarily from the very architecture of the "fast" procedure: limitations on the subject of proof and the absence of a hearing are compensated for by formal document requirements, but this does not eliminate procedural risks, but rather redistributes them¹⁰.

Inconsistency in the assessment of a "dispute over rights." The law formulates the criterion for refusal as "the existence of a dispute over rights that cannot be resolved based on the documents submitted." This formula inevitably leaves the court with discretion: the same set of documents may be perceived either as sufficient for an order or as a signal for refusal and the transfer of the dispute to litigation.

Information asymmetry. At the stage of issuing an order, the court examines only the materials submitted by the creditor and does not hear the parties. Even if the creditor is obligated to provide the debtor with a copy of the application and the debtor has the right to object, it is the creditor who actually forms the initial evidentiary picture. This increases the importance of the standard of appendices and the court's review not only of the presence of documents but also of their substantive quality.

Vulnerability of the notification block. The model in which the creditor delivers a copy of the application requires strict control over proof of service;

⁹ Ибратова Ф. Б. Хозяйственно-процессуальное право. Учебник //Ташкент: ТДУИ. – 2011.

¹⁰ Жемалетдинов Р. М., Баландина С. В. Современное приказное производство: проблемы правоприменительной практики //Международный журнал гуманитарных и естественных наук. – 2022. – №. 10-3. – С. 77-79.



the Plenum's clarifications specify formal criteria (signature, seal/stamp), and failure to properly deliver the application results in its return. However, in "borderline" situations (e.g., change of address, receipt by an unauthorized person, document flow errors), this protective mechanism may not be immediately activated: a court order is issued after 10 days from the date of service, and failure of the debtor to file an objection directly constitutes grounds for issuance.

Risks for the creditor in the event of procedural refusals. Court clarifications specifically emphasize that the statute of limitations is not interrupted if an application for an order is refused, the application is returned, or the order is refused. The interruption is tied to the filing of the application/claim and its acceptance by the court. This increases the "cost of error" for the creditor in the event of an incorrect choice of procedural form (an order instead of a claim) or an incomplete set of documents¹¹.

Fragmented regulation of individual issues. It was explicitly noted in judicial clarifications that the adoption of the Electronic Procedure Code (EPC) was accompanied by the emergence of problematic issues in the application of its provisions in judicial practice. It is significant that a significant portion of the practical clarifications regarding summary proceedings were "transferred" to the Plenum's resolution: electronic filing of applications as a requirement for written form, lists of documents for specific categories of claims, service standards, electronic submission of rulings, etc. This is beneficial for consistency, but also demonstrates the need for more rigorous legislative codification of key criteria.

Paths to improvement are simple steps that help you become better. The path to improvement opens up new opportunities. I believe everyone can choose their own path to improvement.

It's appropriate to consider the proposals for reforming the order procedure as a "package," since the weaknesses are interconnected: clarifying the incontestability of proceedings without improving the notification process will not eliminate the risks for the debtor; strengthening the notification process without clarifying the "dispute over right" filter will not solve the problem of

¹¹ Babakulovna I. F. Ibratova FB, Yerkebayeva Zh. A. Mediation as an alternative way to resolution of economic disputes //Editorial team.



broad application¹².

It seems appropriate and easier to codify the indicators when a dispute is unnecessary, using assumptions and "red flags." The Code considers a "dispute over the right" to be a reason not to issue an order. Therefore, in the chapter on court orders, I would add simple guidelines for when a dispute is considered obvious, and an order procedure is not necessary (for example, there is evidence of partial payment in a dispute over the amount; there is a statement of setoff; there are references to poor performance; there is a counterclaim; there is no evidence of acknowledgment of debt in accounts receivable cases). Such codification would make the application of the "dispute over the right" clause more predictable.

Raising the standard of creditor disclosure. Creditors could be required by law or clarification to attach to their application information about the claim/demand (where required by law or agreement) and key debt-related correspondence, as failure to provide documents confirming compliance with the pre-trial procedure is already grounds for the return of the application. This measure reduces the risk that the court will see an "artificially incontestable" picture due to selective document submission¹³.

Modernization of notification: transition to "court" or digital service by default. The current model places the responsibility for serving a copy of the application on the creditor, although it is the quality of the notice that determines the debtor's right to object. A promising transition would be to move to a mechanism whereby the court (via the information system) notifies the debtor of the receipt of the application, and the creditor only provides the court with confirmation of the validity of the address/contact information. The possibility of electronically sending acts and orders is already recognized in clarifications and regulations regarding the electronic submission of documents.

In my opinion, the logic of entry into force and the debtor's second chance require revision. Currently, a court order takes effect ten days after issuance. It

¹² Babakulovna I. F., Yashinbek I. Legal issues of the participation of the prosecutor in the economic process: a comparative analysis with the legislation of the Republic of Uzbekistan and the Russian Federation. – 2023.

¹³ Иванов В. М. Приказное производство в Германии //ГлаголЪ правосудия. – 2017. – №. 1 (13). – С. 70-74.



can only be revoked for good cause, if the debtor files an objection too late. To create a fairer balance of interests, I see two options: (a) tie the entry into force to the confirmed dispatch or delivery of a copy of the order to the debtor; (b) expand and more clearly define the grounds for revoking the order if notification was improperly provided. Comparative material shows that other models often use a more explicit logic of "entry into force in the absence of objections after proper service" and subsequent extraordinary review in the event of defects in service¹⁴.

These measures are aimed at improving clarity. The Code clearly lists the information required in the order: amounts, debt period, debtor details, numbers, and expenses. However, the Code does not require lengthy explanations. A comparison with other systems shows that a simple disclaimer can be added to the order: the act was issued based on the creditor's information and the court has not fully verified it. It is also worth adding a clear explanation of the debtor's options. Such clauses already exist in the European model payment order. It is believed that this approach will make the process more transparent. The introduction of a similar "information block" increases debtor awareness and reduces the risk of missing deadlines due to a lack of understanding of the legal consequences.

Institutional "hygiene" of the list of requirements. Since the highest judicial bodies have already explicitly enshrined the idea of an exhaustive list and the inadmissibility of expansive interpretation, it is advisable to maintain this approach in future amendments: any expansion of the list should be accompanied by detailed, legislatively established standards of evidence (similar to how the Plenum detailed the document packages for tax arrears and accounts receivable).

In economic litigation, summary proceedings are a simple way to quickly collect money for a limited number of claims. Summary proceedings do not require a court hearing; everything is done through paperwork. Summary proceedings set clear deadlines: you have ten days to object before the order is issued, then another ten days until the order takes effect. If valid reasons arise, summary proceedings allow for the order to be overturned by special procedures. Summary proceedings save time and effort, and the order itself already has the

¹⁴ Божко А. П. и др. О некоторых проблемах приказного производства //Вестник Волжского университета им. ВН Татищева. – 2019. – Т. 1. – №. 3. – С. 219-227.



force of an enforcement document. At the same time, the vulnerability of this model manifests itself where an assessment of a "dispute over rights" is required, as well as in the area of notification and complete disclosure of evidentiary material: the absence of a court hearing makes the quality of documents and communication between the parties a critical factor in the fairness of the procedure.

The proposed set of measures (codification of incontestability criteria, strengthening of creditor disclosure, modernization of notification, clarification of the rules for entry into force/cancellation and increasing the transparency of the content of the order) is aimed at achieving a sustainable balance between the speed of collection and the guaranteed right of the debtor to be heard.

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