



**ORDER PROCEEDINGS: COMPARATIVE ANALYSIS OF LEGISLATIONS**

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**ABSTRACT**

The article analyzes the legislation of the Republic of Uzbekistan regulating the issuance of court orders, with the aim of comparing it with similar norms in Russia, Germany and the USA. The grounds for issuing a court order, requirements for the form of the application, the procedure for consideration and grounds for refusal are considered. Particular attention is paid to the possibilities of borrowing foreign experience to improve the effectiveness of law enforcement practice in Uzbekistan.

**KEYWORDS**

Court order, debt collection, judicial proceedings, international law, legal system, efficiency of legal proceedings.

**Introduction**

The writ procedure plays a significant role in modern legal systems, providing creditors with the opportunity to collect debts in a simplified manner<sup>1</sup>. A court order, as a form of judicial act, is intended to ensure the efficiency and effectiveness of justice, reducing the burden on the courts and reducing the costs of the parties in court proceedings.

In Uzbekistan, the legislation on court orders is regulated by the Economic Procedural Code, in particular Chapter 17, Section II, which describes the grounds and procedure for issuing it. This legislation allows a creditor in some cases to obtain a court order to collect a debt, bypassing a full-fledged trial. However, in light of legal reforms and the desire to improve the judicial system, it is important to analyze how similar norms work in foreign countries and whether elements of their law enforcement practice can be adapted in Uzbekistan<sup>2</sup>.

To achieve this goal, the article provides a comparative analysis of the legal regulation of the institution of a court order in Russia, Germany and the United States. These countries were chosen due to the peculiarities of their legal systems and experience in using the institution of a court order. The article examines in detail the key aspects of the legislation of each country, provides excerpts from their laws and draws conclusions about which elements could be useful for Uzbek legislation<sup>3</sup>.

<sup>1</sup> Алексеева, И. М. Приказное производство в Экономическом судопроизводстве: Монография. — М.: Юнити-Дана, 2018.

<sup>2</sup> Шадловская О. Д. Приказное производство как упрощенная форма гражданского судопроизводства : дис. — Москва: 2015.—432с, 2015.

<sup>3</sup> Туманов Д. А. Приказное производство в настоящее время: процесс или фикция процесса? //Журнал российского права. — 2008. — №. 7 (139). — С. 66-76.

The procedure for issuing a court order in the legal system of Uzbekistan is an important tool for the rapid and effective resolution of undisputed debt claims, which is especially relevant in the context of the growing workload on the courts. The introduction of this mechanism in the Economic Procedure Code is aimed at simplifying the collection of obligations that do not require lengthy litigation.

A court order in Uzbekistan is issued for certain categories of cases, as provided for in Article 135 of the EPC. First of all, this concerns the collection of tax arrears, which allows the state to promptly collect debts from legal entities and individuals. In addition to tax claims, the court order procedure can be used to collect debts for utilities and telecommunications services if there is documentary evidence of obligations<sup>4</sup>. This allows to reduce time and financial costs for processes related to utilities. Also, a court order can be applied in case of accounts receivable, if it is confirmed by documents, which is especially relevant for commercial relations, where the parties have already acknowledged the existence of debt<sup>5</sup>.

The order procedure system also provides for foreclosure on movable property if it is used as collateral for the debt and there is a written agreement to this effect. This mechanism guarantees creditors the possibility of debt collection without lengthy litigation, which increases the protection of financial interests. Bill obligations are also subject to the order procedure, which helps to effectively resolve disputes related to debt obligations without the need for a full court hearing.

Article 136 of the EPC regulates the form and content of the application for a court order. The application must contain complete information on the identification of the parties, including the name of the court, the details of the creditor and the debtor. This helps to avoid possible disputes about jurisdiction and participants in the process. The application must be clearly formulated with an indication of the creditor's claim and a reference to the legal provisions on the basis of which this claim is put forward. The need to specify in detail the circumstances and evidence, as well as an accurate calculation of the amount to be collected and the period of debt helps the judge to assess the validity of the claims without conducting additional proceedings<sup>6</sup>.

The procedural rules governing the procedure for filing and considering an application for a court order, as well as the rights and obligations of the debtor, are described in Articles 137-147 of the EPC. The law requires that the debtor be given a copy of the application, which ensures his awareness and opportunity to respond. Within the established period, the debtor has the right to file objections, which allows preventing the issuance of an order on disputed issues. In addition, there are cases in which the debtor can apply for the cancellation of the order if the deadline for filing objections was missed due to valid circumstances. Thus, the institution of a court order in Uzbekistan is an effectively structured procedure aimed at the rapid collection of undisputed debts<sup>7</sup>.

An analysis of the legislation on the writ of execution in Uzbekistan allows us to identify its main goals and objectives, among which the priority is to ensure prompt and cost-effective collection of undisputed debt obligations. The Uzbek model of writ proceedings is based on the concept of simplified proceedings, intended for cases that do not require a full trial. Such a procedure allows us

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<sup>4</sup> Экономический процессуальный кодекс Республики Узбекистан (ЭПК РУз) // LexUZ. (<https://www.lex.uz/>)

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

<sup>6</sup> Ласкина Н. В. Упрощенное и приказное производства: " за " и " против " //Арбитражный и гражданский процесс. – 2017. – №. 7. – С. 12-15.

<sup>7</sup> Ходеева У. А. Приказное производство как форма судопроизводства: проблемы и перспективы правового регулирования //Молодой ученый. – 2016. – №. 15-1. – С. 91-94.

to significantly unload the judicial system and speed up the execution of obligations, which meets the interests of both the state and individuals<sup>8</sup>.

For a deeper understanding of the features of the Uzbek model of a court order, it is advisable to consider how similar procedures are implemented in other countries, such as Russia, Germany and the United States, where there are different approaches to writ proceedings. Comparison of the legal systems of these countries with Uzbek legislation will allow not only to identify distinctive features, but also to determine possible areas for improvement<sup>9</sup>.

In Russian legislation, a court order also represents a simplified method of considering cases that do not require a trial<sup>10</sup>. According to the Russian Economic Procedure Code, a court order is issued by the court alone and, as in Uzbekistan, is aimed at collecting debts on various obligations. However, Russian legislation defines several other categories of claims subject to a court order, which shows the variability of approaches within the framework of a similar procedure. In addition, issues of protecting the rights of debtors in writ proceedings are actively discussed in Russia, which may be useful for adapting the relevant rules in Uzbekistan, ensuring a balance of interests between creditors and debtors<sup>11</sup>.

In Germany, the procedure for issuing a writ of execution is regulated by the Code of Economic Procedure and is known as Mahnbescheid. Unlike Uzbekistan and Russia, the German model provides for the possibility of issuing a writ of execution even if the creditor lacks specific evidence, which significantly simplifies the procedure<sup>12</sup>. However, the debtor is given the right to appeal the order, which, if objections are filed, leads to a full trial. The German model is thus oriented towards accelerated debt collection, subject to the protection of the rights of debtors, which can serve as a model for improving the Uzbek writ proceedings.

In the United States, the writ procedure system is not uniform, as each state has its own civil law system. However, a number of states use procedures similar to writ procedures, such as speedy trials for uncontested claims or the so-called default judgment, when the court rules in favor of the plaintiff if the defendant fails to appear<sup>13</sup>. The American model is generally more flexible and gives courts broad discretion to take into account the specific circumstances of each case.

A comparative analysis of Uzbek legislation with the legislation of Russia, Germany and the United States reveals several potential areas for improvement. In particular, it seems advisable to introduce clearer mechanisms for protecting the rights of debtors, similar to those that exist in Germany. The use of such mechanisms will provide debtors with the opportunity to appeal a court order, which will create a balance of interests and help avoid potential abuses by creditors. It may also be useful to

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<sup>8</sup> Кулик Т. Ю. Приказное производство в арбитражном процессе //Северо-Кавказский юридический вестник. – 2016. – №. 3. – С. 119-125.

<sup>9</sup> Дружинина Ю. Ф., Трезубов Е. С. О проблеме распределения судебных расходов в приказном производстве //Вестник гражданского процесса. – 2018. – Т. 8. – №. 5. – С. 103-118.

<sup>10</sup> Экономический процессуальный кодекс Российской Федерации (ЭПК РФ) // КонсультантПлюс ([http://www.consultant.ru/document/cons\\_doc\\_LAW\\_39570/](http://www.consultant.ru/document/cons_doc_LAW_39570/)) или Гарант. (<http://www.garant.ru/products/ipo/prime/doc/12149354/>)

<sup>11</sup> Каранов Д. В. Приказное производство в гражданском процессе //ЗАКОНОМЕРНОСТИ И ТЕНДЕНЦИИ РАЗВИТИЯ НАУКИ В. – 2015. – С. 133.

<sup>12</sup> Экономический кодекс Германии (Bürgerliches Gesetzbuch, BGB) // Gesetze im Internet. (<https://www.gesetze-im-internet.de/bgb/>)

<sup>13</sup> Закон о судопроизводстве в административных делах (Administrative Procedures Act) США // govinfo.gov. (<https://www.govinfo.gov/>)

introduce additional grounds for issuing an order, as is implemented in the United States, which will speed up the debt collection procedure while respecting the procedural rights of both parties<sup>14</sup>.

The analysis showed that each of the reviewed models of writ proceedings (Russia, Germany, USA) has its own unique features that may be of interest for reforming the Uzbek system of writs. Given the priorities facing the judicial system of Uzbekistan, as well as the desire to modernize it, several recommendations can be identified aimed at improving the writ procedure.

First of all, the introduction of an expanded list of grounds for issuing a court order into Uzbek legislation, as implemented in the United States, could significantly reduce the time for consideration of undisputed claims. Currently, in Uzbekistan, a court order can be issued on a number of limited grounds, which does not always meet the needs for prompt resolution of debt disputes. Expanding the list of grounds will allow for more flexible application of the court order, adapting it to various situations where accelerated debt collection is possible without prejudice to the rights of the parties<sup>15</sup>. It is also worth considering the possibility of borrowing the German approach, which provides for the issuance of an order even if the creditor does not have a full package of evidence, which allows for a significant simplification of the process. At the same time, as in Germany, it is important to provide debtors with effective means to appeal the court order if they consider the creditor's demands to be unfounded. This will ensure a balance between the interests of creditors and the protection of the rights of debtors, and will also increase trust in the judicial system. The introduction of such rules in Uzbekistan could help reduce the number of cases of abuse of rights and protect more vulnerable categories of citizens from unlawful demands<sup>16</sup>.

In addition, the Russian model of writ proceedings places great emphasis on compliance with procedural guarantees for debtors, which is expressed in stricter requirements for documents provided by the creditor. In Uzbekistan, Russian experience can be used in terms of introducing additional requirements for substantiating the stated claims, which will increase the level of procedural fairness and prevent the issuance of orders for insufficiently substantiated claims.

The issue of digitalization of writ proceedings is also important. The experience of Germany and the United States shows that the use of information technology in the judicial system significantly increases its efficiency. In Germany, for example, the procedure for filing applications and issuing orders is fully automated, which not only speeds up the process, but also reduces the risk of technical errors. For Uzbekistan, the introduction of such a system would reduce the workload of courts of first instance and make judicial proceedings more accessible and transparent<sup>17</sup>.

In considering the prospects for reform, one could also borrow the American practice of making default judgments, when courts can make decisions in favor of the plaintiff if the defendant fails to appear without the need for additional proceedings. Introducing a similar procedure in Uzbekistan

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<sup>14</sup> Лощина Е. И. Проблемные аспекты приказного производства в гражданском процессе //Вестник Саратовской государственной юридической академии. – 2017. – №. 6 (119). – С. 185-188.

<sup>15</sup> Шпак В. В. Оптимизация приказного производства //Евразийская адвокатура. – 2016. – №. 6 (25). – С. 60-63.

<sup>16</sup> Терехова Л. А. Эффективность приказного производства //Вестник Омского университета. Серия «Право». – 2023. – Т. 20. – №. 2. – С. 69-78.

<sup>17</sup> Загугин Д. С., Самыгин П. С., Ковалев В. В. Зарождение и эволюция приказного производства //Юристъ-правоведъ. – 2019. – №. 1 (88). – С. 193-197.

would simplify and speed up the process of debt collection, while simultaneously unloading the courts from cases that can be resolved without the participation of the parties<sup>18</sup>.

Thus, the improvement of the Uzbek model of writ proceedings should be aimed at expanding the grounds for issuing orders, introducing additional procedural guarantees to protect the rights of debtors, and actively using modern technologies. These measures will create a more effective and flexible judicial system capable of promptly and fairly resolving undisputed disputes, which will help strengthen confidence in the legal system of Uzbekistan.

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6. Экономический кодекс Германии (Bürgerliches Gesetzbuch, BGB) // Gesetze im Internet. (<https://www.gesetze-im-internet.de/bgb/>)
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<sup>18</sup> Ярошенко Т. В. Приказное и упрощенное производство в гражданском процессе: сравнительный анализ // Вестник Балтийского федерального университета им. И. Канта. Серия: Гуманитарные и общественные науки. — 2019. — №. 1. — С. 13-19.