

LEGAL SCIENCES

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COURT ORDER IN CIVIL PROCEEDINGS OF UKRAINE

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Annotation: this article analyzed the foreign experience of applying a court order in the civil law of Ukraine. the theoretical aspects of the application of the court order in the enforcement practice have been clarified, the prospects of positive borrowing are outlined assets of foreign practice for further use in Ukrainian realities today feeding.

Key words: court order, judge, applicant, defendant, civil proceedings, court decision.

Today, Ukraine is actively reforming the judicial system, aimed at ensuring basic democratic standards in the administration of justice. It is worth emphasizing that the main task of the legislator in the field of settlement of relations in the solution of civil cases is to ensure accessibility, speed and efficiency of court proceedings.

Court order is also popular in other countries. Thus, in the Netherlands and France there is a shortened form of case review - "Decision with reservation". In Austria, expedited forms exist in the form of two institutions: the first form is used

for cases with a small cost of the claim and labor disputes, and the second one combines the elements of a lawsuit and a court order based exclusively on written evidence [2, p. 32-35]. In Great Britain, there are no official statistics of issued orders, refusals or decisions on their cancellation. English judges are protected by the court-addressed obligation of the applicant to compensate the defendant for damages, while their domestic colleagues must assess the merits of the applications. Emphasis is placed on studying the issues of determination by the courts of the size of the counter-security in cases where the imposed measures caused the defendant losses.

But still, despite a number of advantages, the institution of a court order has legal problems.

We can single out the following scientists who studied the institution of the court order: O. Ugrynovska, S. Fursa, Ya. Zeykan, V. Tertyshnikov, H. Tymchenko, M. Shtefan, V. Kravchuk, S. Shcherbak.

In the 4th quarter of 2022, according to judicial statistics in Ukraine, in the "civil justice" section there were 223,885 applications for the cancellation of a court order were received, of which 173,268 were satisfied.

Court decisions are acts of exercising judicial power, because the judicial activity of considering and resolving a civil case as a law enforcement one is accompanied by the adoption of acts that have the general name "court decisions". There are four forms of court decisions in civil justice: 1) court decision; 2) court ruling; 3) court resolution; 4) court order (Part 1 of Article 258 of the Civil Code of Ukraine).

In the context of the issue of differentiation of general claim proceedings and simplified claim proceedings according to the criterion - categories of cases,

V. I. Bobryk singles out an exclusive list of categories of cases that are subject to consideration in the order of simplified claim proceedings, namely: cases of claims, the price of which does not exceed 100 sizes living wage for able-bodied persons, with some exceptions; individual uncomplicated disputes regardless of the price of the claim; disputes on the requirements for which a court order may be issued, in case of cancellation of the corresponding court order [1, p. 492]. To begin

with, we note that the consideration of the application for the issuance of a court order is conducted without a court session and notification of the applicant and the debtor (Part 1 of Article 167 of the Code of Civil Procedure of Ukraine). A copy of the court order is sent to the debtor at the same time as a copy of the application for the issuance of the court order together with the documents attached to it (Parts 1, 2 of Article 169 of the Code of Civil Procedure of Ukraine) only after the issuance of the court order. Thus, if a court order is issued, the applicant has become a debt collector. Finally - in Part 3 of Art. 171 of the Code of Criminal Procedure of Ukraine, in general, the legislator put an equal sign between the categories under consideration: "In the absence of grounds for returning the application for the cancellation of the court order, the judge no later than two days after its submission issues a decision on the cancellation of the court order, in which he explains to the applicant (collector) his right to apply to the court with the same requirements in the order of simplified legal proceedings".

A court order becomes legally binding within five days after the expiration of the term for its appeal, and when the subject of penalty is alimony, the court order becomes legally binding on the day it is issued. And after that, the judicial institution enters the information into the Unified State Register of Court Decisions and the Unified State Register of Executive Documents and sends it to the applicant by registered letter.

REFERENCES:

1. Civil Procedure Code of Ukraine: Law dated 18.03.2004 No. 1618-IV/ Information of the Verkhovna Rada of Ukraine. 2022. No. 40–41, 42, Art. 492.
2. Kolos A. Theoretical problems of simplified proceedings in a civil process. Civil law and process. K. 2019. P. 32–35.