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CURRENT PROBLEMS IN ECONOMIC PROCEEDINGS: THEORY AND PRACTICE

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ANNOTATION

The article discusses the legal problems of economic legal proceedings for conducting a trial, analyzes issues of conducting simplified proceedings and serving a statement of claim and problems of postponing the trial. It is concluded that the legislation should be amended and supplemented to establish the deadline for consideration of the claim.

Key words: legal proceedings, economic process, competition, claim procedure, economic court.

As we know, the protection of the rights of economic entities can have various methods of protection; they must not be prohibited by law and not violate the rights and legitimate interests of both participants in economic relations and persons indirectly associated with them. Judicial protection is currently one of the main[1]. Therefore, each participant in property relations in the field of entrepreneurial activity - an economic entity, in the event of a violation of his property rights, has the right to apply to a court of appropriate competence provided for by current legislation. To effectively protect violated rights, a clear procedure for consideration must be provided[2].

At the moment, there are certain problems in the economic legal proceedings of Uzbekistan that need to be considered and resolved.

According to Article 203^2 of the Economic Procedural Code of the Republic of Uzbekistan, it is stated that cases based on claims are subject to consideration under simplified proceedings if the value of the claim in relation to legal entities does not exceed twenty, and in relation to individual entrepreneurs - five basic calculated values.

Despite the apparent simplicity of simplified proceedings and the reduction in review time, in practice there are still some problems. Let's look at practical situations.

As part of simplified proceedings, the Joint Stock Company filed a statement of claim with the economic court, attaching a postal receipt for sending a copy of the statement to the defendant. The court refused to consider the application, since the shipping receipt is not evidence of delivery of the statement of claim to the defendant (Article 203^3 of the Economic Procedural Code of the Republic of Uzbekistan). The court's ruling states that proof of service implies the signature of the defendant in the covering letter, confirming that he received a copy of the statement of claim on

[1] Отажанов Б. А. ИҚТИСОДИЙ СУД ИШЛАРИНИ ЮРИТИШДА ПРОКУРОР ИШТИРОКИНИНГ ШАКЛЛАРИНИ ТАКОМИЛЛАШТИРИШ МАСАЛАЛАРИ //STUDIES IN ECONOMICS AND EDUCATION IN THE MODERN WORLD. – 2023. – Т. 2. – №. 6.

[2] Азбергенова М. ОДИЛ СУДЛОВ ТИЗИМИДАГИ ИСЛОҲОТЛАР ИНСОН ҲУҚУҚ ВА ЭРКИНЛИКЛАРИНИ ТАЪМИНЛАШ МЕЗОНИ //Евразийский журнал права, финансов и прикладных наук. – 2023. – Т. 3. – №. 12. – С. 212-215.

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purpose. Courts cannot accept a statement of claim without the appropriate document, since this is a violation of the requirements of Article 203[3] of the Economic Procedural Code of the Republic of Uzbekistan.

But in this case, it becomes unclear what the plaintiff should do when the actual location of the defendant is unknown or the defendant refuses to receive a copy of the statement of claim or refuses to sign the covering letter stating that the documents have been received[3].

How to deal with such situations is not provided for in the legislation and solutions. This is legal uncertainty because, without proof of delivery of the statement of claim to the defendant, the economic court will not accept the statement of claim; It is also impossible to consider the claim in the ordinary course of proceedings; the amount is small, as a result, in fact, the plaintiff's claims cannot be fulfilled[4].

Understanding the practical difficulty of resolving this legal uncertainty, the courts still refuse to accept the statement of claim without written proof of delivery of the statement of claim to the defendant [5].

To solve this problem, it is advisable to supplement them with a postal notification of delivery of a registered letter to the defendant. In addition, it is necessary to provide for a situation where the actual location of the defendant is unknown.

The Economic Procedural Code of the Republic of Uzbekistan, in terms of the grounds and procedure for postponing a trial, states that the court has the right to postpone a trial if it is impossible to consider the case in court in the event of unforeseen and extraordinary circumstances. The grounds for postponing the process, in addition to those already specified in Article 171 of the Economic Procedural Code of the Republic of Uzbekistan, include: at the request of a party, in the event that it seeks assistance from the court for the purpose of a peaceful resolution of the dispute:

if a person participating in the case, and duly notified of the time and place of the court session, filed a motion to postpone the trial with justification for the reason for failure to appear at the court session, if consideration of the case without the participation of this person is impossible;

– at the request of a person participating in the case due to the failure of his representative to appear at the court hearing for a valid reason;

– in case of failure of any of the participants in the trial to appear, if the court considers it impossible to consider the case without the participation of this person;

at the request of a party to postpone the trial due to the need to present or request additional evidence from third parties;

– if it is impossible to establish video conferencing during a court hearing via video conferencing;

in case of failure of any of the participants in the trial to appear and there is no evidence of proper notification of the specified person about the time and place of the trial;

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[3] Babakulovna I. F., Ibratova F. B., Yerkebayeva Z. A. Mediation as an alternative way to resolution of economic disputes. – 2023.

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if it is necessary to replace an improper defendant with a proper defendant;

– if it is necessary to replace the withdrawing party in a disputed legal relationship with its legal successor;

– if it is necessary to involve a second defendant or a third party in the case.

In order to prevent the parties to the trial from unreasonably delaying the process, this list of grounds for postponing the trial is exhaustive. But the legislator left such circumstances as an unforeseen event and an emergency circumstance. But the concept and description of which case is unforeseen and which circumstance is an emergency are not defined[6]. According to the meaning of the law, in each specific case, what circumstance was unforeseen or extraordinary is left to the discretion of the court, thereby allowing the unscrupulous party to expand the scope of the grounds and file petitions at its own discretion in order to delay the process[7].

Clause 6 of Part 1 of Article 107 of the Economic Procedural Code of the Republic of Uzbekistan specifies the basis for leaving a statement of claim without consideration if the plaintiff did not appear at the first court hearing and did not declare the case to be considered without his participation.

This approach does not meet the interests of the plaintiff, who, having paid the state fee, went to court to protect his violated rights. It is necessary, similar to civil proceedings, to leave the application without consideration only if the plaintiff, for unjustified reasons, did not appear at the second court hearing[8].

So, according to Article 107 of the Economic Procedural Code of the Republic of Uzbekistan, the court leaves the statement of claim without consideration if: the plaintiff does not comply with the pre-trial (claim) procedure for resolving a dispute with the defendant, when this is provided for by law for this category of disputes or by agreement.

Should the court always leave a claim without consideration if the mandatory pre-trial procedure is not followed? Let's consider the situations in more detail.

Malika JSC filed a lawsuit against Kamalak JSC to collect the debt from the latter under the supply agreement. During the consideration of the dispute, the defendant filed several petitions for various demands, for examinations, and filed a counterclaim. Due to this, the consideration of the case was delayed.

A little more than a month and a half after the claim was accepted for proceedings, during the next court hearing the defendant began to insist on the need to leave the company's claim without consideration. The fact is that Malika JSC ignored the claim procedure for the dispute, which was provided for in the supply agreement, and immediately went to court. And this is indeed grounds for leaving the claim without consideration. The court of first instance granted the application of Kamalak JSC and left the claim without consideration. In this case, is failure to comply with the claim procedure for settling a dispute an unconditional basis for leaving the claim without consideration?

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[6] Yulьchibaevich X. D., Boboqulovna I. F., Qobiljon o'g'li A. N. KORPORATIV NIZOLARNI HAL QILISHNING O'ZIGA XOS XUSUSIYATLARI: NAZARIYA VA AMALIYOT //SCIENTIFIC ASPECTS AND TRENDS IN THE FIELD OF SCIENTIFIC RESEARCH. – 2023. – T. 1. – №. 10. – C. 263-271.

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Based on the purpose of the claim procedure, this is a procedure that should be considered as a method that allows you to voluntarily, without additional expenses for paying state fees and with a significant reduction in time, restore violated rights and legitimate interests. This procedure for resolving a dispute is aimed at its prompt resolution and serves as an additional guarantee of the protection of the rights of both parties to the conflict. On the contrary, the defendant's behavior does not show any intention to voluntarily and quickly resolve the dispute out of court. The behavior of the defendant in court is seen as lack of good faith and abuse of law.

Most of his motions in the court of first instance were aimed not at resolving the dispute, but at either suspending the case or postponing the trial on the merits. The court's ruling to leave the claim without consideration led to the infringement of the rights of Malika JSC.

According to the general procedure, statements or petitions must be submitted by the parties in a timely manner, in the event that they were not timely filed by a person participating in the case due to abuse of their procedural rights and are clearly aimed at disrupting the court session, delaying the trial, preventing the consideration of the case and the adoption of legal and justified judicial act, then the court must have the right to refuse to satisfy the application or petition[9].

An exception should be cases where the applicant was not able to submit such an application or such a petition earlier for objective reasons.

From this example it follows that in Article 169 of the Economic Procedural Code of the Republic of Uzbekistan, the following additions must be made in order for the court to resolve applications and petitions of persons participating in the case; the economic court has the right to refuse to satisfy the application or petition if they were not filed in a timely manner by the person participating in the case, as a result of abuse of their procedural rights and are clearly aimed at disrupting the court session, delaying the trial, preventing the consideration of the case and the adoption of a lawful and justified judicial act, except in the case where the applicant did not have the opportunity to file such an application or such a petition earlier for objective reasons[10].

To summarize the problems identified above, the current need to improve procedural legislation will contribute to the protection of civil rights, as well as the interests of organizations and citizens. At the same time, it would be possible to develop more civilized behavior of participants in court proceedings and increase procedural risks for parties who abuse their rights.

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