



## TYPES OF COERCIVE MEASURES IN THE CIVIL PROCEEDINGS: NATIONAL AND FOREIGN EXPERIENCE

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### ABSTRACT

*This article deals with the concept and necessity of coercive measures in the judicial process, international practice in this area, the role and importance of coercive measures in society, the judicial system, the theoretical and practical issues of the basis and procedure for applying coercive measures.*

In the process of litigation of civil cases by the courts, all participants in the proceedings resolve the content of civil cases, provided that they follow the procedural discipline established by the Code of Civil Procedure. The parties are also obliged for each participant to exercise fairly the rights and obligations of the parties to the proceedings established by the procedural code, which will prevent unnecessary time and money in the process and increase the efficiency of the court.

Compulsory citation in the cases provided for in the Code of Civil Procedure as a measure of coercive procedure in Chapter 14 of the Code of Civil Procedure adopted in the new edition;

- warning;
- removal from the courtroom;
- judicial fine,
- as well as the imposition of coercive

procedural measures on a person, the imposition of an order not to release him from the performance of the relevant obligations established by the Code of Civil Procedure or

the court; serves to increase the prestige of the institute. In turn, it saves procedural time and strengthens procedural coercion and discipline in court.

In turn, a number of scientific and theoretical views and debates on the need and essence of this institute continue. In particular, our teacher, a lawyer, Ph.D., Professor Z.N. Esanova divided procedural coercive measures into compulsory measures of a property nature and compulsory measures of a non-property nature and compulsory measures of a compulsory nature. In cases provided for in the Code of Procedure, the introduction of coercion, warning, removal from the courtroom[1].

Professor D.Yu. Khabibullayev states that as a coercive measure, judicial fines can be imposed on experts or specialists, for example, if the expert does not appear on the attendance of the court for reasons that the court finds unjustified, the court may impose a fine [2]. Procedural scholar E.V. Chuklova notes that civil procedural responsibility can be divided



into positive and negative forms in terms of meaning [3].

While not disproving the views of the above authors, the possible procedural coercive measures serve to strengthen discipline in the trial and in some cases are the basis for disciplinary action against the subjects, as provided by Article 14 of the Code of Civil Procedure. In case of disobedience, they are warned. If these persons again disobey the orders of the presiding judge, and if it is not possible to replace them with another person without harming the case, the case may be postponed by a court ruling. The court shall simultaneously issue a private ruling, which shall be forwarded to a higher prosecutor or to a qualification commission under the territorial administration of the Chamber of Advocates of the Republic of Uzbekistan.

It should be noted that in our current legislation, procedural coercive measures are regulated only by the Code of Civil Procedure of the Republic of Uzbekistan and are limited to the above coercive measures. As a result of non-compliance with modern requirements and the development of a good system of coercive measures, there are cases when participants in court proceedings do not participate in court proceedings, trials are prolonged and coercive measures do not work.

In the experience of foreign countries, in particular, the system of coercive measures of the German state is effectively organized. According to the German Code of Civil Procedure [4], the following coercive measures are established in civil proceedings:

1. Reimbursement of expenses
2. Administrative fine
3. Compulsory imprisonment
4. Forced production may be ordered
5. Arrest
6. Removal from the court session

In the practice of this state, the costs incurred as a result of the absence of witnesses,

experts and specialists from the parties to the court session convened in the prescribed manner, third parties assisting the proceedings, shall be recovered from these persons, he was sentenced to compulsory imprisonment.

A system has been developed for forcing a person to pay a court fine or an administrative fine if he or she is unable to pay it. This ensures the effectiveness of coercive measures.

The system of coercive measures in the Anglo-Saxon legal system. In the United Kingdom, the Contempt of Court Act was passed in 1981. This act establishes liability for contempt of court. If someone tries to delay or suspend a fair trial and influence the outcome of the trial, he will be held accountable. In the British experience, the following cases are considered disrespectful to the court.

- disobedience or disregard of court decisions;
- taking photographs or shouting in court (disrupting the trial);
- Refuse to answer court questions if you have been called as a witness;
- Public comment on the case, for example, on social media or on the Internet;

Paragraph 17 of the Contempt of Court Act provides for the imposition of a fine for breach of the court for contempt of court, and failure to pay the fine may result in an additional fine or deprivation of certain rights. The offender could face up to two years in prison, a fine, or both [5].

In the experience of foreign countries, it is necessary to emphasize the system of coercive measures in the Scandinavian countries. In the practice of the Finland, coercive measures are divided into three groups: coercive measures against the individual, against property and imposed by a fair court.

It is regulated by the following legal documents:



1. Coercive measure act [6]
2. Police act [7]
3. Aliens act for some foreign citizens [8]

In Finland, creditors or other plaintiffs in civil or commercial proceedings may take precautionary measures in their favor. The purpose of precautionary measures is to ensure that any decision made on the merits of the case is enforced. The rules for prescribing precautionary measures are set out in Chapter 7 of the Code of Judicial Procedure [9] and in Chapter 8 of the Code of Enforcement.

Under Finnish law, coercive measures may be applied on the basis of a court decision or without a court order. Law enforcement agencies may apply coercive measures without a court order if they deem it necessary under the Police Act.

The precautionary measures to be taken by the court are clearly defined. They are:

- deprivation of certain rights (prohibiting the defendant to do or enter anything under threat of punishment);
- coercion (ordering the defendant to do something under threat of punishment);
- authorization (empowering the applicant to do something or do something);
- order the transfer of the defendant's property to the agent's custody;
- order other precautionary measures necessary to ensure the applicant's rights.

In the CIS countries, including Russia, Ukraine, Kazakhstan, Turkmenistan, and Kyrgyzstan, the procedural codes, in particular the procedural codes, are mainly used for warning and expulsion from the courtroom. The Code of Civil Procedure of the Russian Federation [10] provides for warnings of offenders in court, removal from the courtroom, fines, criminal charges, referral of materials to the prosecutor, and public hearings. The Code of Civil Procedure of Ukraine [11] provides for warning, removal from the courtroom, temporary receipt of evidence for judicial examination; The Code of Civil Procedure of Kazakhstan [12] provides for coercive measures for contempt of court, compulsory attendance, removal from the courtroom. The Kyrgyz Code of Civil Procedure [13] provides for fines and warnings for violators of court proceedings, removal from the courtroom, fines, and the prosecution of criminal cases.

In our opinion, Article 145, paragraph 3 of the Code of Civil Procedure stipulates that "in the event of a mass violation of the order by the participants in the trial, the court may adjourn the case." In order not to omit this paragraph, it is expedient to add the sentence "in case of mass violation of the order by the participants of the trial, the court may adjourn the case and send the materials to the prosecutor if there are signs of a crime".

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([https://www.imolin.org/doc/amlid/Finland/Finland\\_Coercive\\_Measures\\_Act\\_1987.pdf](https://www.imolin.org/doc/amlid/Finland/Finland_Coercive_Measures_Act_1987.pdf))
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