

VOLUNTARY AND COMPULSORY EXECUTION OF COURT DOCUMENTS, ENFORCEMENT MEASURES USED IN THE RECOVERY OF CRIMINALLY OBTAINED ASSETS.

Jabborov Nozimjon Kosimovich,

Independent Researcher of Law Enforcement Academy of the Republic of Uzbekistan; E-mail: nozimjonjabborov82@bk.ru

Abstract: This article discusses voluntary and compulsory enforcement of judicial acts and acts of other bodies; the goals and objectives outlined in the Strategy for the development of a national system to combat the legalization of proceeds of crime, terrorist financing and proliferation of weapons of mass destruction; measures used when seizing property under writs of execution: property inventory, evaluation, storage and sale; the statutory procedure for foreclosure on the property of the debtor located outside the Republic of Uzbekistan, the procedure for the recovery of property from a debtor who is not a citizen of the Republic of Uzbekistan.

Keywords: voluntary, enforcement action, enforcement measures, legalization of proceeds from criminal activity.

Court verdicts shall be binding on all state bodies, public associations, enterprises, institutions, organizations, officials and citizens[1].

Execution of judgments is regulated by the Law of the Republic of Uzbekistan of August 29, 2001 "On the enforcement of judicial acts and acts of other bodies" (hereinafter - the Law) and legislative acts.

Also, the law enshrines the voluntary execution not only of judicial acts, but also of decisions of other bodies.

Including the introduction of institutions of voluntary execution of certain categories of enforcement documents prior to their submission to the bodies of the Bureau of Enforcement, as well as enforcement proceedings in a simplified procedure.

The law establishes that a period of up to fifteen days from the date of initiation of enforcement proceedings is established for voluntary fulfillment of the requirements of any enforcement document by the debtor, and after this period, economic and legal measures are applied to the debtor.

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As for compulsory execution of enforcement documents, the enforcement measures applied in the process of enforcement are regulated by the Law and other legal acts.

In the Decree of the President of the Republic of Uzbekistan from 28.06.2021 № DP-6252 "On approval of the development strategy of the national system of the republic of uzbekistan for combating the legalization of proceeds of crime, the financing of terrorism and the financing of proliferation of weapons of mass destruction" provides for the further development of cooperation and the establishment of a systematic dialogue with international organizations and foreign States:

- strengthening cooperation with foreign countries on the search, seizure, confiscation and return of property derived from criminal activities and assets from abroad;

- further expansion of cooperation in the field of combating money laundering, financing of terrorism and financing weapons of mass destruction proliferation with specialized international and regional organizations, as well as foreign states;

- further developing cooperation with financial intelligence units, including law enforcement and specially authorized government agencies of foreign countries;

- assisting in improving the effectiveness of the national system and enhancing the exchange of experience with foreign states within the framework of the Eurasian Group on Combating Money Laundering and Financing of Terrorism.

In order to ensure the implementation of this Decree, a Government Decree was adopted and the Regulation "On the Procedure for Providing Information Related to Combating Money Laundering, Financing of Terrorism and Financing Weapons of Mass Destruction Proliferation" was approved[3].

This Regulation establishes international cooperation on the return of property obtained as a result of a crime and removed from the territory of the Republic of Uzbekistan.

Also in accordance with the requirements of the Regulation, the search and seizure of property obtained through the commission of a crime and removed from the territory of the Republic of Uzbekistan, are carried out by law enforcement and investigative authorities in accordance with legislative documents. and international treaties of the Republic of Uzbekistan or on the basis of the principle of reciprocity.

Law-enforcement and investigative authorities are working on the search for and identification of confiscated property with the competent authorities of foreign countries through foreign telecommunications operators or using networks of persons associated with asset recovery.

Information is exchanged through consultations, correspondence, negotiations by telephone, facsimile, video and other means of communication or through personal meetings.

Execution of court decisions on legalization of proceeds of crime is regulated by the Law and legislative acts.

Chapter 4 of the Law is devoted to the principles and measures of application of measures of direct influence, according to which measures of enforcement are applied when a duly executed enforcement document is submitted in accordance with the law and when the body of executive power decides to initiate enforcement proceedings.

The state enforcement officer is obliged to accept for execution the enforcement document from the court or other body that issued it, or the claimant (if the deadline for submission of the enforcement document for execution has not expired and the document meets the requirements stipulated by the Law) and to initiate enforcement proceedings. If the legislation provides for mandatory attachments to certain types of enforcement documents, they must be submitted to the state enforcement officer together with the enforcement document.

The ruling on the initiation of enforcement proceedings shall specify:

- 1) the date and place of the ruling;
- 2) position, surname, first name and patronymic of the person who issued the ruling;
- 3) the executive proceedings for which the ruling is issued;
- 4) the issue that is resolved by the ruling;
- 5) grounds for the decision with reference to laws and other legislative acts, which guided the bailiff;
- 6) the conclusion on the issue under consideration;
- 7) the procedure and term of appeal or challenge of the ruling.

The ruling of the state enforcement officer on the imposition of an administrative penalty is issued without drawing up a protocol on administrative offence and is executed without initiation of separate enforcement proceedings.

The decision of the state enforcement officer may be appealed or appealed.

At the request of the claimant or on his own initiative, the state enforcement officer for property claims has the right to take an inventory of the debtor's property and seize it, as indicated in the ruling, simultaneously with the issuance of the decision on the initiation of enforcement proceedings.

Simultaneously with the initiation of enforcement proceedings the seizure of property is carried out, as a rule, when the state enforcement officer has a suspicion that the debtor may conceal, lose, alienate or cause the loss of property.

Arrest is applied:

to ensure the safety of the debtor's property, which is subject to subsequent transfer to the recoverer or sale;

when executing a court order to seize property belonging to the defendant and held by him or by other persons.

The process of **seizure of property** by a state enforcement officer includes the following steps:

1) making an inventory. A state enforcement officer shall make an inventory of the property of the debtor in the amount necessary to repay the amount awarded to the recoverer, taking into account the costs of execution. In order to take an inventory of the property, the value of which provides for recovery, the bailiff shall independently determine the approximate value of the property on the basis of available data on the supply and demand situation on the domestic market.

An inventory of property shall be made in the presence of the debtor who is a natural person and witnesses, in the absence of the debtor who is a natural person - one of the adult members of his family, and in the absence of these persons - with the participation of representatives of citizens' self-government bodies. An inventory of the property of the debtor-legal entity shall be made in the presence of representatives of the debtor and witnesses.

If during the inventory of the debtor's property other persons claim their rights to the property, the property is still included in the inventory, and a note is made about the claim of another person in the inventory. At the same time, the enforcement officer explains to the person concerned the procedure by which he has the right to apply to the court for the exclusion of the property from the inventory;

2) Prohibition on disposal of property;

3) If necessary - restriction of the right to use (property), its seizure or transfer for storage.

Types, amounts and timing of restrictions are determined by the state enforcement officer in each specific case, taking into account the properties of the property, its importance to the owner or owner.

Seizure of seized property with its transfer for sale shall be carried out within the period established by the state enforcement officer, but not earlier than five days after the seizure.

Depending on the circumstances of a particular enforcement proceeding, a state enforcement officer has the right to seize the property or its individual items at the same time as arresting the property.

Foodstuffs and other items subject to rapid deterioration are seized and handed over for sale immediately[6].

Cash in sums and foreign currency, securities, precious stones, jewelry and other articles of gold, silver, platinum and platinum group metals, precious stones,

pearls, as well as scrap and individual parts (fragments) of such items found during the inventory of the debtor's property, which is seized, are subject to compulsory seizure.

Violation of the state enforcement officer's prohibition to dispose of, or failure to comply with the restriction of the right to use, the property of the debtor under arrest shall entail liability as provided for by law[7].

Acts of property seizure are formalized by the act of property seizure and attachment.

The act of inventory and seizure of property must specify:

- 1) time and place of drawing up the act;
- 2) surname, name and patronymic of the state enforcement officer drawing up the act, as well as persons who were present at drawing up the act;
- 3) details of the enforcement document and its content;
- 4) the name of the debtor and the recoverer;
- 5) name of each item entered in the act, its distinctive features (weight, meterage, degree of wear and tear, etc.), evaluation of each item separately and the value of all the property;
- 6) the sealing of items, if any;
- 7) name of the person to whom the property is deposited, its address, if the storage of the property is not entrusted to the debtor;
- 8) a note explaining to the debtor and other persons the procedure and term for appealing against the actions of the state enforcement officer, as well as explaining to the debtor or custodian of the property their duties in custody and the responsibility for embezzlement, alienation or concealment of the property deposited;
- 9) comments and applications of the recoverer, debtor, persons who were present during the seizure, and orders of the state executor on them.

In the act of inventory it is also necessary to specify the material, dimensions, production weight, trademark, number and date of issue, date of purchase and other features characterizing the seized property.

If the owner has preserved documents on the acquisition of things, it is necessary to refer to them in the act.

The act of seizure and arrest of property is drawn up in two copies, one of which remains in the enforcement proceedings, and the other is given to the debtor against a signature on the first copy.

If the seized property is not given to the debtor for safekeeping, but to another person, the act of seizure and arrest of property is drawn up in three copies, one of which is given to the keeper, one to the debtor, and the third remains in the enforcement proceedings.

The valuation of the described property. The valuation of the described property is provided by the state enforcement officer.

To establish the initial price of the sale of property, the state enforcement officer shall, by order of assessment, engage an appraiser entitled to assess the property to be sold under the writ of execution.

The evaluation of the described property is organized by the state enforcement officer in accordance with the established procedure.

An evaluation organization is hired to evaluate the following property[8]:

a) motor vehicles;

b) machinery and equipment and production lines;

c) real estate;

g) securities not included in the official list of the stock exchange and not listed on the central level.

The value of securities included in the official list of the stock exchange shall be determined by the state enforcement officer by sending a written request for these securities to the stock exchange.

The state enforcement officer may, on his or her own initiative or at the request of the parties, by order, appoint a specialist appraiser to appraise the property.

The procedure for selecting appraisers, as well as the specifics of appraisal of seized property, are determined by the Regulations approved by the General Prosecutor's Office of the Republic of Uzbekistan, the State Assets Management Agency.

The procedure for the seizure, sale or destruction of property to be turned over to the state shall be established by legislative acts.

After the seizure of property, a responsible official of the authorized body shall decide within 24 hours to place it in storage.

The seized property, as a rule, is transferred (except for the property seized by customs authorities) for storage to trade organizations, with which the territorial departments of the Bureau of Enforcement under the Prosecutor General's Office of the Republic of Uzbekistan in the prescribed manner have concluded contracts for the provision of services for sale of property, which have appropriate premises for storage of property.

Seized jewelry made of precious metals and precious stones, precious metals (gold, silver, platinum and platinum group metals - palladium, iridium, rhodium, ruthenium, osmium) in any form or condition, natural precious stones in raw and processed form (diamonds, diamonds, rubies, emeralds, sapphires and natural pearls), semi-precious stones, articles containing precious and semi-precious stones, natural pearls (hereinafter referred to as precious metals and stones) are transferred to the Central Bank of the Republic of Uzbekistan for storage. Other property requiring

special storage conditions (motor vehicles, medicines, etc.) may be placed for storage in premises, sites, warehouses;

authorized body, with the definition of the person responsible for storage;

other enterprises and organizations that have special storage facilities, equipment and conditions that meet the established norms of responsible storage of property.

The withdrawn cash in national or foreign currency (except for the cash recognized as physical evidence) shall be submitted within three days to the bank for crediting to a special demand deposit account in national or foreign currency of the body which carried out their withdrawal. At the same time, money from these special demand deposit accounts shall be withdrawn in accordance with the procedure established by the legislation only for transferring them to special accounts of relevant departments of the district (city) Bureau of Enforcement opened in accordance with the legislation, as well as for returning them to their owners in cases stipulated by the legislation.

Persons (organizations) responsible for the storage of property must observe and ensure appropriate storage conditions and bear full material and other responsibility for damage, damage, misappropriation, embezzlement, concealment and destruction of property.

Money seized in the course of pre-investigation, inquiry, investigation, or trial and held on the deposit accounts of the agencies of inquiry, investigation, and courts shall be transferred by the said agencies to the special accounts of the district (city) Bureau divisions no later than three business days from the date of issuance of the enforcement document.

Foreclosure on the property of the debtor, located outside the Republic of Uzbekistan, including its funds in foreign banks, shall be carried out in accordance with the legislation and international treaties of the Republic of Uzbekistan.

The sale of property. The sale of property transferred to the state, with the exception of vehicles and immovable property, shall be carried out on a contractual and commission basis or on the terms of an auction sale.

Sale of motor vehicles and immovable property shall be carried out at open auction in the manner prescribed by law[9].

Trading organizations to cover their costs associated with the receipt and sale of property, make a deduction in their favor of trade discount from the sale of property in the amount specified in the contract, but not more than 10 percent of the value of the sold property[10].

At the expiration of the shelf life of the property, which is on sale, the trade organization shall send to the state enforcement officer a corresponding notice. The state enforcement officer within three days shall apply to the court or other body that

issued the enforcement document for a decision on the destruction of the property for which the expiration date has expired. The court or other body issuing the enforcement document shall consider the said appeal of the state enforcement officer in order to change the method and procedure for the execution of the enforcement document.

References:

- 1.** The Constitution of the Republic of Uzbekistan (article 114).
- 2.** Law of the Republic of Uzbekistan of 29.08.2001. "On the execution of judicial acts and acts of other bodies".
- 3.** The Resolution of the Cabinet of Ministers of the Republic of Uzbekistan from 29.06.2021 № 402 "On additional measures to implement the law of the republic of uzbekistan "on combating the legalization of proceeds of crime, the financing of terrorism and the financing of proliferation of weapons of mass destruction".
- 4.** Order of the Minister of Justice of the Republic of Uzbekistan, registered on 29.12.2001, reg. number 1091 "On approval and state registration of the regulation on the order of execution proceedings and organization of activities of bailiffs.
- 5.** The Resolution of the Cabinet of Ministers of the Republic of Uzbekistan from 08.05.2009 № 132. "On approval of the regulation on the procedure and conditions for storage of seized and confiscated property in the enforcement of judicial acts and acts of other bodies".
- 6.** The Resolution of the Cabinet of Ministers of the Republic of Uzbekistan from 15.07.2009 № 200."On improving the procedure for the seizure, sale or liquidation of property to be turned over to the state".
- 7.** "Criminal Code of the Republic of Uzbekistan" From 01.04.1995 art.233.
- 8.** Resolution of the General Prosecutor's Office of the Republic of Uzbekistan, State Assets Management Agency, (registered by the Ministry of Justice on 05.05.2021, reg. number 3297) "On approval of the regulation on the procedure for valuation of property seized by state enforcement officers when performing enforcement actions".
- 9.** The Resolution of the President of the Republic of Uzbekistan, 27.07.2017, № 3149 "On measures to radically improve the procedures for the sale of property in the execution of judicial acts and acts of other bodies".
- 10.** Resolution of the Prosecutor General's Office of the Republic of Uzbekistan, the Supreme Court of the Republic of Uzbekistan, the National Security Service of the Republic of Uzbekistan, the Ministry of Internal Affairs of the Republic of Uzbekistan, the Ministry of Justice of the Republic of Uzbekistan, the Ministry of Defense of the Republic of Uzbekistan, the State Customs Committee of the Republic of Uzbekistan, and the State Tax Committee of the Republic of Uzbekistan, "On approval of the instruction on the procedure for seizure (acceptance), accounting,

storage, transfer, sale, return, destruction of physical evidence, material assets and other property during the preliminary investigation, inquiry, preliminary investigation and trial” (registered by the Ministry of Justice on 29.12.2010, reg. number 3024).