

SUMMARY

Key Words: summary proceedings, court order, absentee proceedings, absentee decision

Subject matter: Simplified civil proceedings: history and modernity

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Relevance of the research topic. The relevance of this topic lies in the fact that the expanded procedure for the consideration of civil cases, represented by a lawsuit, for the examination of documented and uncontested claims is not justified from the standpoint of the principles of procedural economy, material costs of the state and creates undesirable consequences, postponing the moment of execution of the court decision. Simplified production appeared in the civil process relatively recently. A short period of application of this procedure does not yet make it possible to fully evaluate its advantages or disadvantages. In this work, an attempt is made to illuminate the domestic history of the emergence of these procedures, their development at the present stage, the problems that arise when using them, and the main directions for improving such procedures, which today under the enormous legal burden are one of the main tools for its optimization, quality improvement and effectiveness of justice.

The purpose of the work: to study the history of the emergence and modern development of simplified types of legal proceedings in the Russian civil process, as well as the formation of proposals for improving legislation in this area.

Objective: a study of the history of the development of legislation on simplified proceedings in the civil process of Russia; revealing the features of order production in the modern civil process; analysis of the essence of modern extramural proceedings in the civil process; study of the procedure for the consideration of cases under the rules of simplified proceedings.

Theoretical and practical significance of the research results. The results can be used later in the scientific analysis of the problems of simplified types of production in the civil process, as well as in the course of practical activities.

Results of the study:

1. Already in the XIV - XV centuries. there were simplified procedures for the consideration of civil cases. The institute of so-called non-judicial letters presupposed a decision in favor of the person concerned without trial. Researchers believe that such letters were issued in connection with the failure of the obligated person to appear in court.
2. In the Russian legislation of the second half of the XIX century. There were a number of simplified procedures aimed at accelerating civil proceedings. These procedures include: reduced production, settlement production, simplified production, issuing an absentee decision. Their introduction was due to the large number of civil cases brought before the courts, and the need to streamline procedures to improve the effectiveness of justice.
3. The Soviet legislation initially provided for the issuance of a court order, which lasted from 1923 to 1929, after which it was canceled.
4. In 1985, a simplified procedure was introduced to recover child support for minor children in the absence of a dispute between parents. The introduction of a simplified procedure into the civil process to consider only one category of civil cases, of course, could not solve the problem of simplifying the civil procedural form as a whole, and was, in a way, an experiment.
5. At present, the following shortened proceedings are used in civil proceedings: clerical proceedings; correspondence production; simplified production.
6. Order proceedings - this is a simplified and shortened compared with lawsuit, alternative to lawsuit, proceedings in the court of first instance, based on reliable written evidence, aimed at protecting the rights and legitimate interests of the claimant by ensuring the possibility of the enforcement of a number of obligations and the material nature legal requirements specified in law by which a court order may be issued.

7. In h. 1 Article. 121 of the Code of Civil Procedure of the Russian Federation, the legislator has given the concept of a court order, which is a judge's decision issued on the basis of an application for the recovery of monetary amounts or for the collection of movable property from the debtor according to the requirements specified in the Code of Civil Procedure of the Russian Federation, if the collection amount or the value of the property does not exceed five hundred thousand rubles. we can distinguish the following stages of the order proceedings: 1) the initiation of the order proceedings; 2) issuance of a court order or refusal to issue; 3) cancellation of a court order; 4) execution of a court order.

8. An absentee proceeding is characterized by the fact that it is carried out in case of non-appearance at the hearing of the defendant duly notified of the time of the start of the hearing. In this case, the defendant does not report anything about the reasons for the failure to appear and does not ask for consideration of the case in his absence. In this case, the court does not postpone the hearing, which helps to expedite the process.

9. The possibility of considering cases in a simplified procedure depends, firstly, on the nature of the case, and secondly, on the will of the parties. The amount of claims in this case should not exceed one hundred thousand rubles and the parties should agree to the consideration of the case in a simplified procedure. The expedited nature of this procedure is that a trial is not held, and the court makes a judgment on the basis of the written evidence.

Recommendations:

1. The Civil Procedure Code of the Russian Federation does not indicate how long a copy of a court order must be sent to the debtor. Therefore, we believe that Art. 128 Code of Civil Procedure of the Russian Federation should be supplemented by an indication of a specific period during which a court order is sent to the debtor. This period should be as short as possible. Subject to the above, Art. 128 Code of Civil Procedure of the Russian Federation can be worded as follows: "The judge, within three days after the issuance of the court order, sends a copy to the debtor, who within ten days from the date of receipt of the order has the right to submit objections to its execution."

2. In order to improve the procedure of extramural proceedings, the following legislative changes are necessary:

a) In the Civil Procedure Code of the Russian Federation, it is necessary to fix the rule on the possibility of the plaintiff providing additional evidence in a court session.

b) In the Code of Civil Procedure of the Russian Federation, it is necessary to include a rule according to which the initiative in conducting absentee proceedings should come from the plaintiff in the form of a written application.

c) The accessibility of the appeal procedure is one of the guarantees of the right to a fair trial. In order for the plaintiff to be able to file an appeal, he must know when the defendant received a copy of the decision, since this fact is the starting point of the procedural period for appeal. However, the Code of Civil Procedure of the Russian Federation does not provide for the possibility of providing such information to the plaintiff. Thus, the plaintiff himself must be proactive in order to find out in court this date.