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SOI: [1.1/TAS](#) DOI: [10.15863/TAS](#)

### International Scientific Journal Theoretical & Applied Science

p-ISSN: 2308-4944 (print) e-ISSN: 2409-0085 (online)

Year: 2021 Issue: 02 Volume: 94

Published: 11.02.2021 <http://T-Science.org>

QR – Issue



QR – Article



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## CONCEPT AND SIGNIFICANCE OF PERFORMANCE PRODUCTION

**Abstract:** *The study of the legal nature of executive law (enforcement proceedings) is of particular interest due to the fact that this branch of law is still relatively young and is still in its formation.*

**Key words:** court, execution, bailiff, order, decision, civil process, claimant, debtor.

**Language:** English

**Citation:** Enazarov, Z. (2021). Concept and significance of performance production. *ISJ Theoretical & Applied Science*, 02 (94), 88-91.

**Soi:** <http://s-o-i.org/1.1/TAS-02-94-23> **Doi:**  <https://dx.doi.org/10.15863/TAS.2021.02.94.23>  
**Scopus ASCC:** 3308.

### Introduction

In the meantime, it should be recognized that the question of the legal nature of the industry n Rav is today in jurisprudence is quite debatable conditionally possible to allocate the following approaches to the legal nature of the rules on enforcement proceedings:

1. Enforcement proceedings are considered as an integral element (stage) of civil procedure and, accordingly, is a part of civil procedural law. It should be said that such an understanding was traditional for the Soviet stage of development of legislation and science. This point of view was based primarily on the fact that the enforcement of court decisions was regulated by the norms of the Civil Procedure Code (CPC) of the RSFSR. The HS were supporters of this approach. Yudel'son, M.G. Avdyukov. In addition, nowadays his supporters are: M.S. Shakaryan, I.B. Morozova, A.T. Bonner and some other scientists.

2. Enforcement proceedings are a sub-branch of administrative law (administrative process). Here, the main argument is the assertion about the special legal status of the enforcement agencies - the bailiff service, which belongs to the state authorities and administration. Consequently, the bailiff-executor, being an official of the executive authority [1], is vested with powers in relation to all other participants in the enforcement proceedings. This approach was implemented in the works of I.I. Strelkova, I.P. Kononova, A.N. Sarycheva, N.E. Buznikova, etc.

3. Enforcement proceedings form an independent complex branch of law. Moreover, within the framework of this approach, some authors are inclined to attribute this branch to the number of non-procedural (material) branches of law (V.V. Yarkov), while others, on the contrary, emphasize its procedural nature (O.8. Isaenkova, E.N. Serditova, D.Kh. Valeev, M.Yu. Chelyshev).

The first to advocate the independence of enforcement proceedings back in 1975 was M.K. Yukov. In his opinion, proceedings on the execution of court decisions and decisions of other jurisdictional bodies are not a stage of civil proceedings. M.K. Yukov believes that executive law "is one of the branches of law, without which the legal system cannot function normally.

The executive law regulates legal relations that develop in the process of enforcement proceedings, where a subjective substantive law or an interest protected by law, violated or contested by the debtor and confirmed by a jurisdictional act, is implemented through the mechanism of state coercion [2].

The scientist came to the conclusion that this branch of law has legal integrity, its own separate subject and a special method of legal regulation, its own principles and general provisions.

In our opinion, this approach, taking into account the essence and specifics of the regulated sphere of public relations, the nature and purpose of such regulation, is more preferable, with the only

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clarification that enforcement proceedings must be considered as the basis of the procedural branch of law [3].

Enforcement proceedings, from our point of view, is a special statutory procedure or a set of procedures that have as their main purpose the enforcement of judicial acts, as well as acts of other bodies

**Enforcement proceedings** in civil proceedings are activities of a court and a bailiff, as well as other participants in enforcement proceedings, regulated by the Civil Procedure Code of the Kyrgyz Republic, to ensure and enforce orders contained in judicial decisions and other acts, to protect rights in the manner prescribed by law. Enforcement proceedings, as a rule, represent the final stage of the civil process and arises in cases of refusal by the debtor to voluntarily execute court orders and other acts to protect the right. In the latter cases, the enforcement proceedings complete the protection of the right carried out by the extrajudicial body.

Enforcement proceedings are a specific stage of the civil process, since the application of measures of direct coercion is imposed by law on bailiffs [4]. Execution of judicial acts and acts of other bodies of the Kyrgyz Republic is entrusted to bailiffs, the number of which is determined by the Chairman of the Supreme Court of the Kyrgyz Republic on the proposal of the Director of the Judicial Department in agreement with the Council of Judges within the budget.

The task of the enforcement proceedings is to restore the violated rights, freedoms and legal interests of individuals and legal entities.

Enforcement proceedings are carried out on the principles [5]:

- 1) the legality and obligation of execution of the executive documents;
- 2) the timeliness of the execution of enforcement actions;
- 3) discretion;
- 4) procedural equality of the parties to the enforcement proceedings;
- 5) independence of the bailiff;
- 6) inviolability of the minimum property necessary for the existence of a debtor - an individual and his family members.

The presence of such measures (seizure of property, its implementation, etc.), their implementation by a special body significantly distinguishes enforcement proceedings from other stages of the civil process [6]. At this stage, the subjective rights and interests protected by law, confirmed by the court or other jurisdictional bodies, find real implementation.

In the cases provided for by this Law, the bailiff shall issue an appropriate resolution.

The resolution must indicate [7]:

- 1) the date and place of the decision;

- 2) the position, surname, name and patronymic of the bailiff who issued the order;

- 3) enforcement proceedings on which the decision is made;

- 4) the essence of the issue under consideration;

- 5) the grounds for the decision taken with reference to laws and other regulatory legal acts, as well as documents that were guided by the bailiff when making the decision;

- 6) conclusion on the issue under consideration;

- 7) the procedure and term for appealing against the decision.

The decision of the bailiff may be appealed against to a higher bailiff or to the court within ten days from the date of familiarization with it or receipt of notification of its adoption [8].

To confirm the right of the claimant for enforcement, the legislation requires, within the time limits established by law after the issuance of an act or its entry into force, the issuance of executive documents by the relevant jurisdictional body, while the implementation of decisions binding on state bodies and officials is carried out on the basis of court orders without issuing executive documents ...

In its development, enforcement proceedings go through a **number of stages**:

- 1) initiation of enforcement proceedings;

- 2) preparation for compulsory execution;

- 3) implementation of the performance;

- 4) issuance of an act completing the enforcement proceedings.

Enforcement proceedings do not arise automatically. By virtue of the principle of dispositiveness, in order to initiate it, it is necessary to submit an executive document to the court, as well as submit a written or oral statement of the claimant or other person authorized by law.

Executive documents are:

- 1) orders of execution issued by courts on the basis of decisions, sentences, rulings and orders of courts, amicable agreements approved by the court, decisions of international and foreign courts and arbitration tribunals;

- 2) court orders;

- 3) court rulings issued in order to secure a claim;

- 4) executive inscriptions of notary bodies;

- 5) collection orders with a note of banks and other credit institutions about the absence of funds in the payer's account;

- 6) decisions on monetary penalties issued by commissions for minors;

- 7) decisions made by bodies (officials) authorized to consider cases of administrative offenses;

- 8) certificates issued on the basis of decisions of labor dispute commissions and trade union bodies;

- 9) decisions of the prosecutor on the eviction in an administrative order of citizens who have

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arbitrarily occupied residential premises or live in houses that threaten to collapse;

10) acts of other bodies in the cases provided by law.

2. In case of loss of the original of the executive document, the court or other body that issued the act on the basis of which the lost executive document was issued may issue a duplicate, having the force of the original.

Copies of executive documents are not.

The writ of execution may contain other information necessary for the implementation of the execution. So, for example, in cases of the recovery of alimony for minor children, the time and place of birth of the debtor, as well as information about the children (surname, name and patronymic, date of birth), etc. are indicated [9].

A writ of execution on the basis of court orders is issued to the recoverer by the court of first instance after the decision, verdict, ruling, ruling enters into legal force, except for cases of immediate execution, when the writ of execution is issued immediately after the court decision is made.

The bailiff as an obligatory subject of civil procedural relations is endowed with law enforcement power.

A bailiff is an official who is in the civil service and performs the tasks assigned to him for the compulsory execution of executive documents.

The bailiff carries out the execution of executive documents independently, regardless of the will of third parties, subject only to the Constitution of the Kyrgyz Republic and the law.

The bailiff is obliged:

1) take measures provided by law for the real, complete and timely execution of the executive document;

2) explain to the parties their rights and obligations, the provisions of the law on liability and

actively help them in protecting their rights and interests protected by law;

3) provide the parties to the enforcement proceedings or their representatives the opportunity to use the rights and fulfill the obligations provided for by law;

4) consider applications regarding enforcement proceedings and petitions of the parties and issue resolutions on them, explain the terms and procedure for their appeal;

5) declare self-rejection if he is personally, directly or indirectly interested in the outcome of the enforcement proceedings, or there are other circumstances that raise doubts about his impartiality;

6) observe official, commercial, banking and other secrets protected by law;

7) comply with professional ethics;

8) perform other duties provided for by the legislation on enforcement proceedings [10].

The parties to the enforcement proceedings are the claimant and the debtor. The persons participating in enforcement proceedings are:

1) the claimant and the debtor (hereinafter referred to as the parties to the enforcement proceedings) and their representatives;

2) other participants (experts, specialists, appraisers, translators and attesting witnesses) who contribute to the fulfillment of the requirements contained in the executive document.

The guarantee of the right of the parties to judicial protection in enforcement proceedings is their right to appeal against the actions of the bailiff in the court in which he is a member. The parties also have the right to submit private complaints against judges' decisions to resolve issues related to the implementation of enforcement proceedings.

Enforcement proceedings are a specific stage of the civil process, since the application of measures of direct coercion is imposed by law on bailiffs.

## References:

- (2002). *LAW OF THE KYRGYZ REPUBLIC* of March 18, 2002 No. 39 On enforcement proceedings and the status of bailiffs in the Kyrgyz Republic As amended by the Laws of the Kyrgyz Republic of [November 20, 2006 No. 181](#) , [December 24, 2009 No. 314](#) , [October 25, 2014 No. 148](#) , [March 13, 2015 No. 57](#) , [22 June 2016 No. 84](#) , [16 December 2016 No. 207](#) , [2 March 2017 No. 41](#) ).
- (2017). *LAW OF THE KYRGYZ REPUBLIC* of January 28, 2017 No. 15 On the status of bailiffs and enforcement proceedings (Entered into force by the [Law of the Kyrgyz Republic](#) of January 20, 2017 No. 6 from July 1, 2017).
- Valeev, D.Kh. (2008). *Enforcement proceedings Tutorial*.
- Vstavskaya, I.M., & Savchenko, S.A. (2010). *Executive proceedings Uch. Settlement*.
- Gureev, V.A., & Gushchin, V.V. (2009). *Executive Law Textbook*.
- Kuznetsov, V. F. (2004). *System of enforcement proceedings (questions of theory and practice)*.

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- Dissertation for the degree of Doctor of Law. sciences'. 12.00.15. - Chelyabinsk, 2004.
7. Maleshin, D. Ya. (2002). *The court in the process of executing court decisions*. Abstract of the dissertation for the degree of Candidate of Law. sciences'. 12.00.15-Moscow.
  8. Bazylev, B. T. (1985). *Legal responsibility (theoretical issues)*. (p.120). Krasnoyarsk: Publishing house of the University of Krasnoyarsk.
  9. Galperin, M. L. (2017). *Executive production*. Textbook for bachelor's and Master's degrees. (p.452). Moscow: Yurayt.
  10. (2012). *Enforcement proceedings*. Textbook for Masters / Under the editorship of O. V. Isaenkova, S. F. Afanasyev. (p.413). Moscow: Yurayt.

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