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ENHANCING THE LEGAL FRAMEWORK TO PROTECT THE MINIMUM STANDARD OF LIVING AND STRENGTHEN SOCIAL SAFEGUARDS FOR DEBTORS DURING ENFORCEMENT PROCEEDINGS

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Abstract
There is a growing need to systematize and further improve legislation on the execution of judicial decisions and documents from other authorities. This legislation aims to reduce the human factor in the enforcement process, while guaranteeing the inviolability of property and funds necessary to ensure citizens' minimum standard of living.

The institution of compulsory enforcement is considered an essential and integral component of any democratic state governed by the rule of law. It serves to ensure the unconditional execution of obligations arising from court decisions that have entered into legal force and enforcement documents of other authorized bodies.

The effectiveness of enforcement proceedings directly depends on the timely, correct, and lawful application of enforcement measures. Among these enforcement measures, directing recovery to the debtor's monetary funds and other property holds a particularly important place, as this method provides a stable source of recovery and allows for the prompt fulfillment of the requirements stipulated in enforcement documents.

In the process of enforcement proceedings, directing recovery towards the debtor's monetary funds and other property is one of the most frequently used and effective means in enforcement practice, which in most cases ensures successful recovery. The legal regulation of this mechanism is of great legal importance for the stability of the enforcement process and the guarantee of recovery. Therefore, the improvement of this legal institution is considered one of the urgent and priority tasks of the enforcement system.

According to Article 47 of the Law of the Republic of Uzbekistan " On the execution of judicial acts and acts of other bodies " (hereinafter referred to as the Law), recovery shall be primarily directed at the debtor's property, including cash

funds and monetary assets held in accounts and deposits at banks or other credit institutions, in the amount and volume necessary for the execution of the enforcement document.
If the state executor identifies information about the existence of the debtor's accounts and deposits in banks or other credit organizations and the presence of funds therein, they shall take measures to freeze the funds in these accounts.

Keywords: Law, Bureau of Compulsory Enforcement, court documents, debt, property, wages, cash funds, bank, deposit, required amount, guarantee, minimum standard of living, human factor.

Introduction

The legislation of the Republic of Uzbekistan, particularly **Article 64 of the Law**, pays special attention to this matter. This article establishes the procedure for directing enforcement actions towards the debtor's wages and payments equivalent to them.[1]

Compulsory enforcement is a complex legal process aimed at ensuring the fulfillment of the debtor's obligations specified in legally binding court judgments and other enforcement documents. The effectiveness of this process primarily depends on the correct and timely application of enforcement measures. A wide range of enforcement measures exists, with particular importance placed on actions such as directing recovery towards the debtor's monetary funds and other property. The procedure for directing enforcement against the debtor's wages and payments equated to them is established by Article 64 of the Law. The mechanism for enforcing against wages and equivalent payments has some shortcomings and problems. Specifically, according to this article, up to fifty percent of the debtor's monthly wages and payments equated to them may be withheld under enforcement documents. When enforcement is directed against wages and equivalent payments under multiple enforcement documents, fifty percent of the employee's wages must be preserved.

[1] Law of the Republic of Uzbekistan " On the execution of judicial acts and acts of other bodies," No. 258-II, dated August 29, 2001, https://lex.uz/docs/26477

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In this case, the recovery is directed towards the debtor's wages or other equivalent payments in the following circumstances:

- in the execution of decisions regarding the collection of periodic payments; (alimony, compensation for damages caused to health, payments related to death, and so forth)
- when recovering a monetary sum not exceeding the minimum wage, including for executive documents combined into summary enforcement proceedings for this amount; (currently, the minimum wage is set at 1,155,000 soums per month)[2].
- when the debtor does not have property or has insufficient property to fully satisfy the amounts being collected. (in cases where the state executor has not identified any property at the debtor's place of residence or in their name that could be subject to recovery)
- from the date of receipt of the writ of execution from the claimant or the state executor, the debtor (an individual) or other persons are obliged to withhold funds from the wages and other income of the debtor (an individual) in accordance with the requirements specified in the writ of execution.
- the organization or individual paying the debtor's wages or other equivalent income is obligated to pay or transfer the withheld funds to the claimant within three days from the date of payment. In this case, the payment costs remain the responsibility of the debtor.

The established restrictions on directing recovery towards the debtor's property, particularly their income, which limit recovery to up to 50 percent of the debtor's property and any income, are intended to guarantee minimal expenses for the debtor's own normal living conditions. However, the amount of minimal expenses necessary for a person to maintain a normal standard of living in our country has not yet been determined. This is causing numerous disputes and complaints from debtors in practice. Despite the Presidential Decree No. PF-1 dated
3 January 2024 setting half of the minimum wage as the guaranteed minimum amount of income, questions arise about the adequacy of this amount in relation to the current cost of living.[3]

[2] The subsistence minimum is referred to as an economic indicator
https://visasam.ru/emigration/vybor/prozhitochniy-minimum-v-mire.html#i-3
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Analysis of foreign experience shows that in many countries, in addition to the minimum wage, there is also a set amount of funds designated as necessary for citizens' essential needs, which is exempt from collection. For example, in Belgium, where the monthly wage is 1,934 euros, the amount that cannot be collected is 1,030 euros (53%); in Spain, where it's 1,345 euros - 579 euros (43%); in Luxembourg, where it's 2,483 euros - 2,000 euros (81%); and in Turkey, where it's 482 euros - 281 euros (58%). The amount of these funds depends on the specific characteristics and economic conditions of each country and constitutes between 43% and 81% of the minimum wage.[4]

In the context of Uzbekistan, it is appropriate to implement such an approach, namely to recognize more than half of the minimum wage as a guaranteed minimum income and to establish by law that it cannot be subject to recovery. This will protect the rights of debtors and ensure fairness in enforcement proceedings. At the same time, when developing this mechanism, it is necessary to take into account the opinions of specialists, economists, and sociologists.

Consequently, this indicates the need to make appropriate amendments to the Law. To this end, it is necessary to stipulate in the Law that monetary **funds amounting to half of the minimum wage** shall not be subject to collection.

In conclusion, the application of enforcement measures must be carried out in accordance with the procedures and grounds established by law. These measures are implemented alongside restrictions aimed at protecting the debtor's rights and ensuring their minimum standard of living. However, certain shortcomings in practice, such as the lack of a clear definition for the concept of **"half of the minimum wage,"** demonstrate the need to improve this process.

Based on the foregoing, in this article:

It is necessary to amend the Law **to recognize more than half of the minimum wage as guaranteed minimum income that cannot be subject to foreclosure, as well as to establish a minimum guaranteed income (half of the minimum wage) that cannot be seized from citizens for their debts.** Specifically, a provision should be introduced in Article 47 of the Law stating that "when determining the debtor's funds and other property subject to foreclosure, funds amounting to half of

[4] Minimum wage (MROT) https://profkadrovik.ru/articles/glavnoe/mrot-2019/

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the minimum wage shall be taken into account and this amount shall not be subject to seizure."

References

1. Law of the Republic of Uzbekistan " On the execution of judicial acts and acts of other bodies," No. 258-II, dated August 29, 2001, https://lex.uz/docs/26477.
2. Law of the Republic of Uzbekistan " On the execution of judicial acts and acts of other bodies," No. 258-II, dated August 29, 2001, https://lex.uz/docs/26477.
3. Decree of the President of the Republic of Uzbekistan No. PF-108 dated 12.08.2024, "On Increasing the Amount of Wages, Pensions, and Benefits," https://lex.uz/docs/7059431.
4. The subsistence minimum is referred to as an economic indicator https://visasam.ru/emigration/vybor/prozhitochniy-minimum-v-mire.html#i-3
5. Minimum wage (MROT) https://profkadrovik.ru/articles/glavnoe/mrot-2019/.