

The essence of the institute of court costs in the economic process

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ABSTRACT

This article defines the concept of legal expenses in legal documents and examines the implementation of specific legal expenses by individuals involved in economic proceedings. It analyzes the issues surrounding the payment and collection of state duties, as well as the expenses associated with the consideration of cases.

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Иқтисодий процессда суд харажатлари институтининг моҳияти

Калит сўзлар:

суд харажати,
давлат божи,
ишда иштирок этувчи
шахслар,
ишни кўриш билан боғлиқ
чиқимлар,
почта харажати,
низо,
тарафлар,
суд буйруғи.

АННОТАЦИЯ

Ушбу мақолада суд харажатларининг тушунчаси, иқтисодий суд ишларини юритишда иштирок этувчи шахслар томонидан муайян суд харажатларининг амалга оширилиши қонун ҳужжатларида белгилаб қўйилганлиги, давлат божи ва ишни кўриш билан боғлиқ чиқимларни тўлаш ҳамда ундириш масалалари таҳлил қилинади.

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Сущность института судебных издержек в экономическом процессе

АННОТАЦИЯ

Ключевые слова:

судебные расходы,
государственный
пошлина,
лица,
участствующие в деле,
право,
расходы,
связанные с
рассмотрением дела,
почтовые расходы,
спор,
стороны,
судебный приказ.

В данной статье в правовых документах определяется понятие судебных расходов, осуществление отдельных судебных расходов лицами, участвующими в экономическом судопроизводстве, анализируются вопросы уплаты и взыскания государственной пошлины и расходов, связанных с рассмотрением дела.

According to Article 55 of the Constitution of the Republic of Uzbekistan, "Everyone has the right to protect his/her rights and freedom through all methods not prohibited in law. Everyone is guaranteed the right to protect their rights and freedom through the court, and to appeal to the court against illegal decisions, actions, and inaction of state bodies and other organizations and their officials.

Hearing cases in economic courts require certain costs. The legislation, in turn, provides for the reimbursement of these costs by the people participating in the case. Court costs are fees collected from the participants in the case for the benefit of the state and compensation for other costs.

At the same time, citizens and organizations are required to pay court costs when they apply to economic courts with a claim, application, or complaint.

However, court costs are not defined in our legislation, but, the concept of court costs is given in legal literature.

According to the legal scientist Sh.Sh.Shorakhmetov, a certain part of the funds spent by the state in the administration of justice in business (economic) cases is paid by the individuals interested in the case. The law obliges these individuals (citizens and organizations) to cover court costs incurred in connection with conducting economic affairs in courts – state duty and expenses related to the hearing of the case.

Z.N. Esanova, a procedural scientist of Uzbek jurisprudence, refers to court expenses as "organization of judicial activities, formation of the state budget, smooth implementation of court proceedings, organization of the circulation of court documents, as well as ensuring the fulfillment of procedural obligations of those who apply to the court, procedural obligations of persons participating in the case "Court costs are the funds that are received, collected, paid, distributed and spent for the further increase of their responsibility, material incentives for the procedural actions of the persons implementing justice and other actions related to the court".

Scientist on legal science, Sh.Sh. Shorakhmetov said that the importance of payment of court costs by the persons interested in the case is not to obtain funds for the state but to encourage the parties to fulfill their civil legal duties voluntarily and to prevent the initiation of groundless disputes.

According to the general rules, any interested person, to protect his violated rights and interests protected by law, applies to the court based on a written claim (application, complaint) following the procedure established by the economic procedural legislation.

To consider this lawsuit, applications, and complaints, the court will accept them, initiate an economic case, appoint the case for hearing, demand the necessary documents, and issue a decision based on the results of the case.

In the implementation of these procedural actions, it is taken into account the need to submit a payment document confirming the payment of court costs, state duty and postal costs.

A certain part of the funds spent by the state in the implementation of justice in economic cases is paid by the person interested in the case.

According to Article 112 of the Economic Procedural Code of the Republic of Uzbekistan, court costs consist of state duty and court costs related to the consideration of the case.

In the economic courts of the Republic of Uzbekistan, when the parties file a claim (petition, complaint) in the court, not knowing what kind of cases state duty will be paid and how much it will be paid, can be a reason for the parties to be confused when applying to the court, such as repeatedly applying to the court.

Under the first part of Article 3 of the Law of the Republic of Uzbekistan "On State Duties", state duty means a mandatory fee charged for the performance of legally significant actions and (or) the issuance of documents by authorized institutions and (or) officials for such actions.

The main purpose of collecting state duties is to prevent unjustified appeals to the court, to encourage individuals to fulfill their obligations voluntarily, and to cover the costs of court proceedings in a certain sense. Litigation expenses include the reimbursement of costs incurred for legal proceedings, dispute resolution or application, as well as the means involved in determining the objections of the opposing party.

The state tax on economic affairs is collected from the following:

- 1) lawsuits submitted to courts;
- 2) applications to declare legal entities and individuals insolvent;
- 3) applications for employment as a third party with independent requirements about the subject of the dispute;
- 4) applications to determine the facts that are important for the emergence, change, or cancellation of the rights of legal entities and individual entrepreneurs in the field of economy;
- 5) applications to dispute the decisions of the arbitration court;
- 6) applications to issue a writ of execution for the compulsory execution of decisions of the arbitration court;
- 7) applications for recognition and enforcement of a decision of a foreign court (arbitration);
- 8) appeals and cassation complaints:
 - a) over decisions of economic courts;
 - b) over the rulings on termination of proceedings, on leaving the claim unheard, on the imposition of court fines;
 - c) over rulings on disputes regarding decisions of the arbitration court;
 - g) on decisions to issue a writ of execution for the compulsory execution of decisions of the arbitration court;

d) on rulings on the recognition and enforcement of the decision of a foreign court (arbitration);

9) for providing duplicates and copies of court documents.

State duty is also levied on applications to increase the amount of the claim and to issue a court order.

State duty is not charged for photocopying of work documents.

10) From applications to cancel the arbitration decision.

Relations related to the payment of state duty on economic affairs are regulated by Chapter 12 of the Economic Procedural Code of the Republic of Uzbekistan and the Law "On State Duty".

The amount of state duty to be paid is determined according to the rates established by law, depending on the type of claim the plaintiff (applicant) is applying to the court.

In particular, in the Law of the Republic of Uzbekistan "On State Duty" from claims of a property nature in the amount of 2 percent of the value of the claim, but not less than 1 times the amount of the basic calculation, from claims of a non-property nature and arising during the conclusion, amendment or cancellation of business contracts in the amount of 10 times the amount of the basic calculation, about inability to pay A state duty is paid in the amount of 3 times the amount of the basic calculation from the applications for the initiation of a case.

As a rule, the state duty is paid before the complaint application (application), and the complaint is submitted to the court, otherwise specified by law (for example, the payer is exempted from paying the state duty or the court has delayed the payment of the state duty).

The fact that the state duty has been paid in cashless form must be confirmed by a payment order with a bank's sign that the payment has been received.

The fact that the state duty has been paid in cash must be confirmed by a receipt of the specified form given to the payer by the bank.

The state duty must be paid before filing a claim (application) by an interested party in the economic court, if there is no exemption from paying the state duty or a delay in the payment of the state duty.

When the fact of payment of state duty is made without cash, the fact that it was paid in cash is confirmed by a bank payment order, and a receipt issued by the bank.

Based on Article 114 of the Economic Procedural Code of the Republic of Uzbekistan, the value of the Claim is determined as follows:

1) based on the amount to be collected in the case of claims for recovery of funds;

2) on claims for recognition of ownership rights to property – based on the value of the property;

3) on the claims of declaring the execution document or other document, the collection of which is carried out in an unconditional (acceptance) procedure, as unenforceable – based on the disputed amount;

4) according to the claims for requisitioning of property – based on the value of this property;

5) in the case of claims for the acquisition of a plot of land – based on the value of the plot of land at the established price, and in the absence of a price, based on the market price.

The cost of the claim includes the sums of neustopika specified in the claim.

The value of a claim consisting of several independent claims is determined by the sum of all claims.

If the value of the claim is incorrectly specified, the value will be determined by the court.

According to Article 139 of the Economic Procedural Code of the Republic of Uzbekistan, a state duty is paid in the amount of fifty percent of the rate calculated based on the amount in dispute when applying to the court with a lawsuit in the general procedure for an application to issue a court order.

The amount of the state duty to be paid on the application for issuing a court order should not be less than 50% of the amount of the base calculation, and when small business and private business entities apply to the court with an application for issuing a court order, the amount of the state duty to be paid should not be less than 25% of the amount of the base calculation.

Expenses related to the consideration of the case – expenses related to the consideration of the case, in addition to the state duty, arise in the conduct of economic court cases. These include claims and application requirements, counterclaim requirements, objections, etc. It arises from the involvement of information communication techniques in the process.

The following are the outputs related to economic performance:

- 1) sums to be paid to witnesses, experts, specialists, translators;
- 2) costs associated with on-site examination of evidence;
- 3) expenses related to the examination ordered by the court;
- 4) postal costs related to sending court notices and court documents;
- 5) expenses related to conducting the court session in the video conference mode;
- 6) consists of other costs related to handling the case.

the rate of expenses related to the consideration of the case is established by law, as well as by the court. In particular, the amount of postal costs related to sending court documents is determined by the court, but this amount should not exceed one-tenth of the amount of the basic calculation and must be deposited in the deposit account of the court by the person filing the claim (petition, complaint). Also, court costs related to conducting the court session in the mode of video conference, i.e. expenses are determined by the court and collected from the parties based on the results of the case review by Article 118 of the Economic Procedural Code of the Republic of Uzbekistan.

According to the decision of the Supreme Court of the Republic of Uzbekistan No. RS-59-18, adopted on October 25, 2018, the amount of postal expenses when applying to the courts (application, complaint) from November 1, 2018 was determined. Based on the decision of the Board of Directors No. RS-71-22 of December 28, 2022, changes were made to the amount of postage that must be paid to the courts, and starting from January 1, 2023, when applying to the courts with a claim (petition, complaint), the amount of postage will be paid as follows:

– when applying for a court order – in the amount of five percent of the base calculation amount;

– when applying for all other cases, filing a lawsuit, reviewing court documents with a request for reconsideration of newly opened cases, and filing an appeal or cassation appeal against the court decisions issued in the reviewed cases, or based on the

application to file a protest about re-examination of the case in the cassation procedure when the case is re-examined in the cassation procedure – it is set at ten percent of the base calculation amount.

The fact that the party (parties) have not submitted court rulings in advance is a reason for refusing to satisfy the request to summon a witness, an expert, or a specialist, to visit the site, if it is necessary to comprehensively, fully, and objectively determine the rights and obligations of the parties, the true circumstances of the case, there is no reason to refuse satisfaction. In this case, the expenses incurred in connection with the consideration of the case are charged when the court document is accepted according to the provisions set forth in Article 118 of the Economic Procedural Code of the Republic of Uzbekistan.

As a general rule, the court costs of the case shall be paid by the party who has been wronged in the dispute.

The distribution of court costs between the parties and their recovery in favor of the state is regulated by Article 118 of the Economic Procedural Code of the Republic of Uzbekistan. Therefore, during the trial, the court (judge) should examine the circumstances related to court costs, make relevant conclusions in the supporting part of the decision regarding these circumstances, and determine not only the right to recovery, but also the exact amount that should be recovered from the party (parties) in the case, and decide this amount. It must be indicated in the conclusion of the decision (judgment, decision).

The claimant (applicant) is exempted from paying the state duty, if the defendant is not exempted from paying the duty, it will be charged to the state revenue from the defendant in proportion to the amount of satisfied requirements.

When a claim (application) submitted by one or more claimants (applicants) against several respondents, who are exempted from paying the state duty, is fully or partially satisfied, it is charged to the state in proportion to the separately satisfied requirements of each respondent.

Court costs may be charged to the plaintiff (applicant) only if the claim petition (application) is satisfied and there is a corresponding request.

The state duty shall be collected from the claimants who filed the claim in the interest of the state authorities and other persons exempted from paying the state duty, when the lawsuits (applications) filed in the interest of legal entities and citizens are left unheard or when the proceedings are terminated.

If a request for the application of the consequences of invalidity of the transaction is submitted in the claim, the state fee for this claim is charged at the rate established for claims of a property nature.

The costs incurred by the claimant (applicant) when he abandons his demands are not covered by the respondent.

If the claimant (applicant) who is exempted from paying the state duty waives his demands as a result of their voluntary full or partial satisfaction by the respondent, the state duty shall be charged to the state income from the respondent.

In conclusion, court costs are not a reimbursement by the state for legal expenses related to the review and settlement of economic cases, the organization of judicial activities, or the administration of justice. Rather, they are part of the contractual legal relationships between business entities, aimed at encouraging voluntary fulfillment of contractual obligations and avoiding unnecessary litigation.

REFERENCES:

1. Constitution of the Republic of Uzbekistan [text] – Tashkent: Legal literature publishing, 2023 y. – 30 p.
2. Law of the Republic of Uzbekistan "On State Duty" No. ORQ-600 of January 6, 2020 //URL: <https://lex.uz/docs/4680944>.
3. Economic procedural codex of the Republic of Uzbekistan (with changes and additions until January 15, 2024) – T.: "Legal literature publishes", 2024 y. – 66 p
4. Decision No. 36 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated December 19, 2020 "On the practice of collecting court costs in economic cases" //URL: <https://lex.uz/docs/5194320>.
5. Decision of the Directorate of the Supreme Court of December 28, 2022 No. RS-71-22 "On amending the decision of the Directorate of the Supreme Court of the Republic of Uzbekistan No. RS-59-18 of October 25, 2018"
6. Shorakhmetov Sh. Economic procedural law of the Republic of Uzbekistan: textbook for students of higher educational institutions studying law / Responsible editor: M.E. Abdusalomov.-T.: "Literature Foundation" publication, 2001.-76 p.
7. Shorakhmetov Sh.Sh. Civil procedural law of the Republic of Uzbekistan. Textbook. – Tashkent: Justice. 2001. – 106 p.
8. Economic procedural law. Textbook / responsible editor y.f.d. Z.N. Esanova. – Tashkent: TDYU publishing house, 2020. – 535 p.
9. Civil procedural law Textbook. Z.N. Esanova – Tashkent: Legal literature publishing, 2022. 194 p.
10. Economic procedural law. Textbook. The team of authors. – Tashkent: Legal literature publishing, 2022. 121 p.
11. Egamberdiyev, D.A. Economic procedural law (questions and answers) [text]: study guide/Dilshodjon Alisherovich Egamberdiyev. – T.: TDYU publishing house, 2023. – 320 p.