

THE WAYS TO PROTECT CIVIL RIGHTS

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Abstract. *In this article, effective mechanisms for the formation of civil society, ensuring human rights and freedoms and protecting these rights, as well as the methods and means of protecting the rights of the subjects of social relations in the society are widely covered.*

Keywords: *transaction, in kind, forfeit, damage, moral damage, non-property and property rights, creditor, debtor, etc.*

It is an important task to establish a democratic legal state and civil society in the Republic of Uzbekistan, to ensure human rights and freedoms and to create an effective mechanism to protect these rights. Fulfillment of these important strategic tasks, to a large extent, depends on the perfection of methods and means of protecting the rights of the subjects of social relations in society.

Today, there is a more perfected system of methods and means of protection of property, personal, political, socio-economic rights of a person. However, it cannot be said that the methods and means of rights protection have a perfect system in all areas of law.

According to Article 11 of the Civil Code of the Republic of Uzbekistan, civil rights are protected in the following ways:

- recognition of the right;**
- restoration of the situation before the violation of the right and prevention of actions that violate the right or threaten to violate it;**
- find the transaction invalid and apply the consequences of its invalidity;**
- invalidating a document of a state body or self-governing body of citizens;**
- individual's right to self-defense;**
- to force the duty to be performed in kind;**
- payment of damages;**
- collection of neustopyka;**
- compensation for moral damage;**
- cancellation or change of legal relationship;**
- failure of the court to apply an illegal document of a state body or self-government body of citizens.**

Civil rights can be protected by other methods provided by law.

This article lists the methods of protection of civil rights. The Civil Code of the Republic of Uzbekistan lists the 11 most common ways of protecting civil rights in economic and judicial practice.

But this list cannot be called exhaustive. It is allowed to protect civil rights by other methods provided by law. It is not excluded to use several methods of civil rights protection at the same time.

In emergency situations, due to legal requirements or based on the nature of the violated (claimed) right, it should be protected only in a certain way. The methods of protection of civil rights can be divided depending on the mechanism of implementation of these methods

Emergence of civil rights and duties:

1) methods used only by the court, and in some cases by other competent state bodies, which implies the need to appeal to them with a request for protection by means of a specific method (recognition of the right, restoration of the situation that existed before the violation of the right, cessation of actions that violate the right etc.);

2) methods used independently by the participant of the legal relationship (self-defense, termination of the legal relationship by unilateral refusal to fulfill obligations, if provided for by law or contract, etc.);

3) methods used both with the help of judicial authorities and independently (compensation of damages, collection of neustopyka, etc.).

The ability to use various methods and measures to protect the violated rights and legal interests of legal subjects serves as one of the guarantees of the implementation of subjective civil rights.

Recognition of the right

Professors Kh.R.Rakhmonkulov and O.O.Okylulov say that with the recognition of the right, the suspicions arising in connection with the existence of the right in this person will be eliminated. The presence or absence of this subjective right in this person can only be confirmed or denied by the court as a body of jurisdiction. As one of the methods of recognition of civil rights, the recognition of the right is used in cases where the existence of a subjective right in a person is denied by someone, as a result of which a conflict may arise.

For example, if a person is recognized by the court as the author of a musical or other work, this court will remove the possibility of appropriation of this right by another person. There are cases where several legal entities claim ownership rights to one non-residential room. Court recognition of the property rights of one of these legal entities to this non-residential room precludes further continuation of the dispute.

Restoring the situation before the violation of the right and preventing actions that violate or threaten to violate the right

Restoring the situation that existed before the violation of the right and stopping the actions that violate the right or threaten to violate it is a common way to protect the rights of the subject.

Restoring the situation that existed before the violation of the right, as a method of protection, is primarily aimed at eliminating the consequences of the violation of the right, and consists in returning the subjects of the legal relationship to the initial state before the violation. This includes forcing a person who arbitrarily built a building on another's land to demolish it (**CC RoUzb– Part 3 of Article 212**), as well as bilateral restitution in applying the consequences of an invalid contract (**CC RoUzb 114-article**) or invalidating the disputed transaction (**CC RoUzb 113-article**) can serve as an example.

Declaring the agreement invalid and applying the consequences of its invalidity

Declaring the agreement invalid and applying the consequences of its invalidity as a way of protecting civil rights is carried out in accordance with Articles 113-128 of the Civil Code of the Republic of Uzbekistan.

According to Article 113 of the Civil Code, an invalid agreement does not have legal consequences other than those related to its invalidity and is invalid from the moment of its conclusion.

If the transaction is invalid, each of the parties must return to the other everything received under the transaction, if the received item cannot be returned in its original form (including the use of property, work performed or services rendered), and if other consequences of the invalidity of the transaction are provided by law if it is not withheld, he must pay its value in money.

As for self-invalid agreements, such an agreement, unlike a disputed agreement, does not necessarily require the court to recognize its invalidity. However, the CC of the Republic of Uzbekistan does not rule out the possibility of making a request to declare an invalid transaction invalid by itself. Any interested person can make a request for the application of the consequences of invalidity of an invalid agreement. At the same time, the court has the right to apply such consequences on its own initiative in order to protect the violated subjective rights of any person. (CC113-article).

Declaring a document of a state body or self-government body of citizens invalid

A document of a state body or a citizen's self-government body that is not in accordance with the law and violates the civil rights and interests protected by law of a citizen or a legal entity may be declared invalid by the court.

Judicial review of administrative documents and actions serves as an important guarantee of the implementation and observance of civil rights. A document of a state body that can be declared invalid by the court is defined as the document specified in the second part of Article 8 of the Civil Code of the Republic of Uzbekistan and provided by law as a basis for the creation of civil rights and duties. Such documents may include orders, instructions, letters and other documents containing actions on the disposition of civil rights and duties.

A person's right to self-defense

According to Article 13 of the Civil Code, it is allowed to protect civil rights by the individual himself.

The methods of protection of the civil rights of the individual should be proportional to the violation of the right and should not go beyond the scope of necessary actions to prevent the violation of the right.

Unlike other methods of protection of civil rights, self-defense of a person is carried out without recourse to a court or other body that implements the protection of civil rights. To use this method of protection, three conditions must be met:

- a) violation of the right or the possibility (danger) of its violation;
- b) the need to stop, eliminate (prevent) the violation;
- c) application of measures appropriate to the nature and content of the violation of rights.

According to some researchers, the legal consciousness and legal culture of citizens will increase as the legal democratic state is formed. In such conditions, the scope of self-defense of civil rights by the right holder should be expanded. The widespread use of the self-defense method reduces the need for intervention by law enforcement agencies and the court in the protection of rights in a certain way. However, the method of self-defense must have a certain legal basis. These legal bases should regulate in detail the circumstances, conditions, scope of self-defense, the means of protection used, and the consequences of its abuse.

Force to perform duty in kind

One of the ways to protect civil rights is to force the obligation to be performed in kind, which is usually called real (real) performance. That is, the debtor is forced to fulfill the obligation imposed on him by the contract or the law (delivery of the goods, provision of the room, etc.).

For example, if the debtor does not properly fulfill the obligation, the creditor has the right to demand from him to fulfill the obligation in kind, that is, to perform actions that constitute the essence of the obligation (Part 1 of Article 330 of the Criminal Code). However, in case of non-fulfillment of the obligation, compensation of damages and payment of penalty for non-fulfillment shall release the debtor from the obligation to fulfill the obligation in kind (Part 2 of Article 330 of the Criminal Code).

Another example is Article 408 of the Civil Code of the Republic of Uzbekistan, which provides for the right of the buyer to demand from the seller free of charge elimination of defects found in goods or replacement of defective goods.

The requirement to perform the obligation in kind can be satisfied only if there is a real possibility of performing the obligation in kind. Otherwise, it may be about compensation for damages or compensation for the value of goods.

Payment of damages

According to Article 13 of the Civil Code, if the law or contract does not provide for the payment of damages in a smaller amount, the person whose rights have been violated may demand full compensation for the damage caused to him.

Damage is the negative property consequences that occur to a person as a result of violation of personal non-property or property rights. Damage compensation is a universal method of protection of violated civil rights, regardless of whether such an opportunity is provided by law in a particular situation, and **contractual** (for example, the debtor's failure to fulfill obligations arising from the concluded contract or as a result of not performing properly), as well can be used in relations outside the scope of the contract (for example, in case of damage to property or health as a result of an accident).

To levy forfeit

Article 260 of the Civil Code contains the concept of neustoika.

According to it, the amount of money that the debtor is obliged to pay to the creditor in case of non-fulfillment or improper fulfillment of the obligation defined by the law or the contract is considered as non-payment.

In essence, forfeit is not only a method of protection of civil rights, but also a method of ensuring the fulfillment of obligations. That is, one of the components of the forfeit is its compensatory function, just like the damage done. Unlike negligence, damages caused by non-fulfillment of an obligation or non-fulfillment on an appropriate basis must be compensated by the debtor to the creditor, unless otherwise provided by law or contract.

Compensation for moral damage

According to Article 1022 of the Civil Code, moral damage is compensated in money.

The amount of compensation for moral damage is determined by the court depending on the nature of the physical and moral suffering inflicted on the victim, as well as the degree of guilt of the person who caused the damage in cases where guilt is the basis for compensation. The requirements of reasonableness and fairness are taken into account when determining the amount of damages.

The nature of physical and mental suffering is assessed by the court taking into account the actual circumstances of moral damage and personal characteristics of the victim.

Non-pecuniary damage is compensated regardless of the property damage to be paid.

Cancellation or change of legal relationship

Cancellation or modification of obligations by agreement of the parties, fulfillment of obligations and other legal means cannot be considered as the use of a means of protection of civil rights. From this, termination or modification of legal relations is used as a means of protection if, upon a unilateral application of one of the parties, the other party seriously violates the contract, or on other grounds stipulated by the law or the contract, legal relations are canceled or changed. In this case, legal relations can be canceled or changed both by agreement of the parties and by a court decision.

Failure of the court to apply an illegal document of a state body or self-government body of citizens

The non-application by the court of an illegal document of a state body or self-government body of citizens is a special way of protecting civil rights. In this case, a document should be understood as a normative and a non-normative law application document aimed at a specific person or group of persons. In this case, the possibility of not applying the law by the court is excluded, because the basis for applying the considered method of protection is the document's illegality.

Civil rights can be protected in other ways provided by law. An example of such a way of protecting civil rights can be when the debtor does not fulfill his obligations in terms of delivery of goods, work, and service, when the creditor entrusts its performance to third parties or pays all the necessary expenses to the debtor himself.

According to Article 10 of the Civil Code, civil rights violations are protected by a court, an economic court or an arbitration court, depending on which court the cases are referred to, as defined in the procedural laws or the contract. Civil rights are protected in the administrative procedure only in cases provided for by law. You can appeal to the court against the decision made in the administrative procedure.

REFERENCES

1. Civil Code of the Republic of Uzbekistan. (with changes and additions until March 1, 2021). Based on the national database of legal documents of the Republic of Uzbekistan www.lex.uz (official source). Tashkent "Yuridik adabiyotlar publish" 2021. <https://lex.uz/docs/111189> ;
2. Topildiev, V.R. "Civil Rights" part 1. Tashkent "University" 2014;
3. Commentary on the Civil Code of the Republic of Uzbekistan. Volume 1. Academician of the Academy of Sciences of the Republic of Uzbekistan, doctor of legal sciences, professor Kh. R. Rakhmankulov, doctor of legal sciences, Under the editorship of professor O. O. Okyulov. Tashkent "Vector-Press" 2010. <https://www.osce.org/files/f/documents/8/7/74875.pdf>