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Enforcement Proceedings in Russia: Samara

The institution of enforcement proceedings was created, among other powers, for the compulsory execution of judicial acts.

In the 11th century, in accordance with Russian Pravda, the so-called posadnikov or princely warriors – youths, swordsmen and children, acted as "executors", defenders of the plaintiff's interests, collected court fees and assisted in getting back the borrowed property.

It is believed that it was from this time that the institution of bailiffs began to emerge in the history of Russia.

Progress does not stand still, and technologies reach, among other things, the modern bailiff service.

Despite the fact that the debtor is, in fact, a person who has violated the law or an obligation, and in respect of whom a judicial act has been issued, the debtor has a certain list of rights and guarantees that cannot be violated.

In practice, there are often cases when bailiffs–executors, within the framework of the statutory enforcement actions, infringe on the rights of debtors.

Since the entry into force of the Federal Law "On Enforcement Proceedings", the following instruments have been introduced to facilitate the process of enforcement proceedings:

- ▶ submission of applications, complaints and petitions in electronic form;
- ▶ the possibility of concluding a conciliation agreement between the parties;
- ▶ requesting from the tax service information about the presence of the debtor's property;
- ▶ the bailiff does not have the right to foreclose on the funds established by Article 101 of the Federal Law "On Enforcement Proceedings";
- ▶ the debtor has the right to independently sell property worth less than 30,000.00 rubles;
- ▶ the debtor has the right to leave unrealized property worth less than 30,000.00 rubles for himself;
- ▶ notices of trades are posted only on the Internet;
- ▶ a lump sum payment of 10,000 rubles for each child is not subject to collection

In addition to the existing institutions for protecting the rights of the debtor, new tools are being introduced to prevent unnecessary write-offs of funds from the debtor.

So, for example, in May 2020, changes were made in terms of income that cannot be collected even by a court decision.

According to the current federal law, no more than half of the paid wages or other current income can be collected to pay off debts.

The mechanism was introduced to protect debtors. Since, in practice, bailiffs often foreclose on all their funds without understanding who the sender of the funds is and on what basis they were credited to the account. At the same time, banks are not obliged by law to establish the source of funds for the accounts for the further possibility or impossibility of fulfilling the requirements of the bailiffs. This situation provokes litigation on the claims of private debtors. At the same time, the bailiffs claim that they do not know the sources of funds to the plaintiff's account, and the banks, in turn, refer to their lack of obligation to

verify this.

It is understood that in the future, in connection with the development of scientific and technological progress, enforcement proceedings will also develop towards humanization and compliance with the balance of the rights of both the d

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