AJPDIS GLOBAL RESEARCH NETWORK

AMERICAN Journal of Public Diplomacy and International Studies
Volume 02, Issue 06, 2024 ISSN (E):2993-2157

Some Issues that are Causing the Trial to Be Delayed

O‘. M Davletov
Public safety of the Republic of Uzbekistan deputy head of Department of the University, Yu.f.f.d (PhD), associate professor

Abstract: The article explores the reasons for effective coping with the mechanisms by which the court delays the process, the development of a professional action plan in preparing the case for a hearing, as well as the reasons for the delay that the parties can use based on the actual circumstances of the case, and highlights specific aspects of speeding up proceedings.

Keywords: Civil process, civil procedural law, court hearing, trial, process delay, speeding up proceedings, third party, foreign citizen, disclosure of evidence, parallel Trial, Appeal, suspension of proceedings and foreign experience.

The delay in the consideration of the case, the postponement of meetings, the announcement of the breaks, as a rule, means that the court has not yet made a decision and should get a deeper acquaintance with the materials of the case or receive new evidence. Often, experienced lawyers feel the moment when the judge is ready to make a decision. And in the case of an expected negative result, they can try to “change” the situation. Unfortunately, the legislation “provided”many opportunities for unscrupulous participants in the trial to achieve their goal and delay the proceedings for months, or even years. To prevent this, it is necessary to know the most common mechanisms of abuse, competently prepare for a court hearing, minimize the risk of unreasonably delaying the deadlines for hearing the case, and effectively fight against them.

In this case, our civil procedure legislation sets very short deadlines for the consideration of judicial disputes. As a general rule, cases will be heard and decided by the court no later than a month after the date of preparation and division of the case (Article 207 Code of Civil Procedure).

This period can be extended for up to two months according to the judge's reasoned ruling on the complexity of the dispute, insufficient evidence, the need for examination, with the exception of cases about alimony, cases about mutilation or other injuries to health, as well as cases about compensation for damage caused in connection with the death of the breadwinner, as well as Often the delay in these deadlines is not associated with objective reasons. That is, actions aimed at artificially delaying the trial are caused by the unscrupulousness of other participants. How to effectively deal with process delay mechanisms? To prepare the case for a hearing, it is necessary to draw up a procedural action plan, including attention to the reasons for the delay that the parties may use, based on the actual circumstances of the case. Some ways to delay the trial [1]:

1) to attract third parties who do not arz with independent demand to participate in the work; 2) violation of the procedure for attracting a foreign citizen, compliance with special rules for informing him; 3) violation of the deadlines for the disclosure of evidence; 4) initiating parallel litigation; 5) appeal of court decisions; 6) non-compliance with the grounds for suspension of proceedings. Third parties who do not deal with independent requirements for the subject of the

dispute – entering into a process initiated by other persons, the court decision issued on the case is considered to some extent the persons with whom certain rights and obligations arise as a result of the settlement of the case in court, affecting their civil material rights. The purpose of attracting a third party in relation to the subject of the dispute should be to prevent negative influences on it [2]. Third parties who do not carry independent requirements for the subject of the dispute can also be involved in the case on the petition of the parties, the prosecutor, other persons participating in the case, or on the initiative of the court. To resist unreasonable petitions to attract third parties, it is necessary to present to the court a reasonable legal position confirming that the standard of proof described above is not observed and that the attraction does not risk causing negative consequences (rental of Property, Trust Management, etc.).

Thus, the participation of a third party in the work, which does not carry out with independent requirements for the subject of the dispute, leads to the adoption of preventive measures to inform many individuals about the process. Another special mechanism for delaying the consideration of a case is due to the need to attract a foreign citizen, to comply with special rules for informing him. In accordance with the law of the member states of The Hague (Hague, 15.11.1965), the procedure for informing a foreign person on the case is established by the convention on the presentation of judicial and extrajudicial documents in civil or commercial cases abroad. Thus, a court or lawyer can provide a notice belonging to a foreign company in a short time. In judicial practice, the maximum effectiveness of this method is noted [3]. In order to exercise the right to inform in the manner prescribed by the convention, it is necessary to send a petition to the court to impose this task, as well as all costs associated with reporting [4]. In addition, judicial practice confirms the possibility of sending notifications not only by official state postal services, but also by international courier services [5].

The notification of the relevant documents by the lawyer by sending them to the Competent Authority of a foreign state (Article 10 of the convention) can also help the court to speed up the procedure through courier services, paperwork, ensuring the sending of notifications, etc. Violation of the deadlines for the disclosure of evidence for the delay in the proceedings also takes its toll. To avoid this, it is necessary to treat the need to disclose evidence at the stage of preparing the case for a court hearing as an obligation, and not as a right. In addition, evidence that piecemeal learning should not affect the length of time a case is heard. It is even impossible to imagine that in an English court the parties will not disclose the evidence on time. Of course, the cited Rule is significant in that it is aimed at ensuring the establishment of objective reality in the work. In order to avoid abuse of procedural rights, including the timely disclosure of evidence, all legal costs, regardless of the outcome of the dispute, are imposed on the guilty party. A judicial fine may also be imposed on the party for failure to comply with the court's decision. However, these sanctions do not fully protect the parties from the consequences of violating the deadline and procedure for disclosing evidence. Such abuses disrupt the opposite, orderly process, affect the formation of judicial conclusions on the results of the assessment of evidence, the essence of the materials of the case. Another way to delay the process is to start parallel court proceedings. This mechanism is implemented in practice by suspending or delaying the process until parallel work is considered. Parallel trials do not include a general rule. It applies only to a separate category of disputes.

When dealing with this method of deferral, it is necessary to constantly monitor cases involving the plaintiff and the defendant, as well as the relevant persons, use the electronic cartography of court cases, prevent or delay the proceedings until new claims are considered. Appeals of court decisions also have some effect on delaying the proceedings. The party seeking to delay the hearing of the case may appeal the decisions made by the court, in addition to making petitions about correcting technical errors, explaining the writ, etc. As a result, the trial will take years. To counter this, strict monitoring of the appeal of decisions made by the court must be carried out. Another way to combat the postponement of the trial is the non – compliance of the suspension grounds of proceedings (requirements of Article 116, 117 of the FPK). This can lead to a delay in the trial for various objective and subjective reasons (e.g.: violation of the statute of

limitations for hearing a case, failure to resume proceedings even after the grounds for suspension of proceedings have been eliminated, loss of proceedings). The president of the court has the right to draw the attention of the judge to the need to take specific measures to speed up the consideration of the case (to quickly notify the persons involved in the case, to obtain the evidence required by the court, to control the deadlines for the examination, etc. It should be noted that sending an application for acceleration to the chairman, even if he refuses to be satisfied, can have a positive effect on the trial.

It is known that the court makes a decision on its internal trust. The identity of the judge is the most important factor and sometimes affects the outcome of the trial to no lesser extent than the evidence in the case. The judge determines the methods of predicting possible events in the process of considering a dispute, pre-elaborating the tactics and methodology of conducting a case and studying the evidence during the trial, establishing a psychological connection. To this end, the previous work of the judge, the statistics of decisions, the methods of studying the evidence and evidence that he takes into account are analyzed. At the same time, the first source of information about the psychological characteristics of the judge is information about them from colleagues, the second source is Articles, monographs, books, lectures, professional interviews, forums, round tables, etc., since judges have the right to engage in scientific and pedagogical activities, their professional views on certain issues of law. You can find out from them how the court conducts the process, what requirements it has, what it pays attention to, how much it is in its judgments, what principles it adheres to when making decisions. For example, some judges carefully review the entire case, read and study its materials at a hearing. Others prepare in advance. One of them understands in half a word what the party wants to say, and the other must “review” each episode in detail so that the judge can define the main points in a certain way.

When you know what logic a person follows on a particular issue, it becomes much easier to plan a position on the case and formulate arguments. In the process of work, we do not deny that the judge forms “template” approaches to the application of legal norms and the assessment of evidence. In this regard, it is necessary to determine whether the judge has previously considered similar disputes. If so, what are their results, how does it relate to the assessment of evidence and the application of certain norms of law in similar situations. An important role in speeding up proceedings is played by a concise and understandable position, well-chosen judicial practice, pre-submitted evidence, preparation of a lawyer for the process, including the possibility of contacting a clear sheet of case materials, clear answers to additional questions of the court, etc. Moreover, the sensitive attitude of the representative to the behavior of the judge gives a lot. Experience has shown that judges usually record evidence they consider important and plan to investigate. Sometimes, however, judges break the lawyer's speech, act sharply, punish representatives of the parties. In such situations, for the benefit of the case, it is necessary not to oppose the judge and shorten his speech. This does not mean that his non-procedural behavior must be tolerated to the detriment of his protected interests. He just needs to choose enough, the most effective response measures. In the judicial practice of the Russian Federation, the experience of which has been studied, it is observed that former employees of the investigative departments of the internal affairs bodies carefully study the evidence presented in the position of a judge [6]. In conclusion, judges with extensive experience are well versed in their work, conduct the process clearly, make understandable and sound decisions. With this level of professionalism, they earn the respect of lawyers. Each judge is as unique as each Trial [7]. His ability to understand and find an approach serves to control the process and increase his chances of winning. In order to carry out the case as efficiently as possible, experienced lawyers study the practices and approaches of a particular judge to consider judicial disputes, find its strengths and weaknesses, draw a clear line of behavior depending on the existing style of the judge.

Literature used:

1. https://e.korpurist.ru/421318.
2. Постановления Президиума СИП от 23.01.2015 по делу № СИП-713/2014, АС Центрального округа от 17.03.2015 по делу № А08-4058/2012, АС Восточно-Сибирского округа от 07.08.2015 по делу № А33-23319/2014, АС Московского округа от 26.08.2015 по делу № А40-207731/14.
3. Постановления ФАС Северо-Западного округа от 21.02.2013 по делу № А56-73854/2010, Девятого ААС от 19.02.2014 по делу № А40-51217/ 11-24-313 б.
4. Постановления ФАС Северо-Западного округа от 18.07.2013 по делу № А56-24567/2012, от 05.09.2013 по делу № А56-8626/2012.
5. Определение ВАС РФ от 14.11.2012 № ВАС-14362/12 по делу № А40-30754/ 10-42-269, постановления ФАС Дальневосточного округа от 10.01.2007 по делу № А59-2724/ 04-С8, ФАС Уральского округа от 22.12.2011 по делу № А60-19356/2010, ФАС Московского округа от 14.02.2014 по делу № А40-34148/2013.
6. Вера Рихтерман., Юлия Боброва. Как ускорить суд, если оппонент затягивает процесс // Корпоративный юрист. № 11, 2015.
7. При описании классификации судей использованы работы: Цветков Ю.А. Профессионально-психологические типы судей // Уголовный процесс. 2013. № 11. С. 92–101.Рудаков Д.С. Пять типов судей // Сайт Апелляционного центра, г. Санкт-Петербург.