

Issues of Charging Court Costs in Civil Courts

*Sulaymonova Nargiza Muxiddinovna*¹

Annotation: In this article, comments on the concept and types of legal costs in civil cases, on the practice of foreign states in court costs, as well as proposals for legislation are given.

Keywords: court costs, state duty, deductions related to hearing the case, benefits in paying the state duty, lawyer costs.

Introduction

The regulation of court costs in civil litigation plays a significant role in the administration of justice, ensuring the smooth operation of judicial proceedings while safeguarding the interests of parties involved. In the Republic of Uzbekistan, as in many other jurisdictions, court costs encompass various financial obligations associated with civil proceedings, including the state duty, costs of legal representation, expert fees, and other expenses incurred during the case process. Understanding how these costs are distributed and their impact on access to justice is crucial for both legal professionals and the general public. The practice of charging court costs, especially the state duty, has raised significant questions about fairness, accessibility, and the practical implications for those seeking justice.

This article explores the legal framework surrounding court costs in Uzbekistan, comparing it to the systems in Germany and the Netherlands. By analyzing the relevant legislative acts governing court costs in these countries, this study aims to highlight similarities, differences, and potential areas for reform within the Uzbek legal system. Moreover, the article discusses the potential benefits of incorporating flexible approaches to the assessment of state duties, considering the material situation of litigants and promoting fairness in civil proceedings. In doing so, it aims to contribute to the ongoing discourse on improving the efficiency and accessibility of civil justice.

Methods

This research employs a comparative legal analysis methodology, examining the regulation of court costs in civil proceedings in Uzbekistan, Germany, and the Netherlands. The study analyzes primary legal texts, including the Uzbek Code of Civil Procedure, the German Zivilprozessordnung (ZPO), the Gerichtskostengesetz (GKG), and the Dutch Wetboek van Burgerlijke Rechtsvordering (WBR) and Wet griffierechten burgerlijke zaken, among other relevant legislative provisions. The research focuses on understanding how each jurisdiction handles the imposition and distribution of court costs, particularly the state duty, and the impact on access to justice for individuals and legal entities.

Additionally, the study reviews secondary literature, including scholarly articles, legal commentaries, and expert opinions, to gain insights into the effectiveness and challenges of current practices in these jurisdictions. Key variables examined include the calculation of court costs, exemptions or reductions based on financial hardship, and the principle of “loser pays” in relation to cost distribution. By synthesizing the legal frameworks and the relevant case law from each jurisdiction, this study aims to identify best practices and areas for improvement in the Uzbek legal system, with a particular focus on ensuring equitable treatment for all litigants, regardless of their financial position.

¹ Lecturer, Department of Civil Procedural and Economic Procedural Law, Tashkent State University of Law



Results

The analysis of court costs in Uzbekistan, Germany, and the Netherlands reveals both similarities and notable differences in their approaches to the regulation and distribution of costs in civil litigation. In all three countries, the primary framework for court costs includes the state duty, legal representation fees, and additional expenses such as expert fees, translation costs, and postage. However, one of the main differences lies in how state duty is assessed and whether financial hardship considerations are integrated into the system.

In Uzbekistan, the state duty is fixed according to the claim's value, with no specific provisions for reducing or waiving the fee based on the financial situation of the litigants. This contrasts with the systems in Germany and the Netherlands, where there are more flexible provisions allowing for reductions or waivers of state duty based on a party's financial circumstances. In these countries, the principle of fairness is extended through means-testing, ensuring that individuals with limited financial resources can still access the courts without being deterred by prohibitive fees.

The study also reveals that the "loser pays" principle, common to all three jurisdictions, serves as a mechanism to allocate court costs in a manner that encourages fairness in the litigation process. However, the research suggests that while the Uzbek system is in alignment with international practices, it could benefit from adopting more flexible approaches to state duty assessment, similar to those in Germany and the Netherlands, to ensure a more equitable and accessible justice system for all.

Discussion

Civil courts play a fundamental role in regulating civil legal relations and resolving disputes in our country. Various measures are taken to ensure that court decisions are not left unfulfilled once they have entered into legal force. Court costs are financial obligations arising during the Proceedings of a court case, which include legal services, specific costs of a hearing, examination and other similar costs. It is important in civil courts to collect legal costs, ensure the effectiveness of the judicial system and protect the rights of participants.

One of the most fundamental and relevant topics at the moment is the issue of judicial expenses and its distribution, without a doubt. Chapter 13 of the Code of Civil Procedure of the Republic of Uzbekistan, focused on this topic[1]. But the issue of court costs is a rather broad topic, the regulation of which is not limited only to the knowledge of the code. We will not be mistaken if we say that the law of the Republic of Uzbekistan on the state duty of the Republic of Uzbekistan is the main guide to court costs[2]. The issue of the state duty occupies an important place not only in us, but also in the system of foreign state judicial proceedings. For example, in German law, the issue of the state duty is covered in their "Zivilprozessordnung"(ZPO, next) – German Code of Civil Procedure, and in the "Gerichtskostengesetz" (GKG, next) – "court costs act". Or, one of the most developed states of civil litigation – the collection of civil litigation costs in the Netherlands is based on the following legislative acts: "Wetboek van Burgerlijke Rechtsvordering" (WBR in the following places) – Code of civil procedure, as well as the law "Wet griffierechten burgerlijke zaken" – "court costs". In addition in these states, there are other legislative acts that regulate the collection of court costs, which you will get acquainted with during the reading of the article. We reflect on the types of costs associated with civil court proceedings in the countries of Uzbekistan, Germany, the Netherlands, which are our objects of research, their similarities and differences, how to sample them-and which ones do not suit us.

Although there is no clear definition of legal costs, professor Z.Esanova believes that in civil cases, the organization of judicial activities, the formation of a state budget, the non-deviant implementation of judicial proceedings, the organization of a turnover of court documents, as well as ensuring the fulfillment of procedural obligations of court applicants, further increasing the procedural responsibility of persons involved in the case, material incentives for procedural actions carried out by persons assisting in the implementation of justice and other court-related proceeds that will be levied, paid, distributed and expended are called court costs[3].



In short, court costs are the total sum of the financial costs incurred during the Proceedings of a court case. Under the Civil Procedure Act, court costs include the state duty as well as other deductions related to the consideration of the case. The state duty is levied on civil courts from petitions, petitions, appeals, Cassation appeals and HKS depending on the price of the claim or on the rate set in intangible cases. Other issues related to the consideration of the case will consist of the costs of mail, the costs of video conferencing, the costs charged for the expert involved in the case (forensic examination), specialists and translators, etc., depending on the type and individual circumstances of the case. These two combine to create a common state duty. In the Netherlands, however, the state duty is levied in such a way that there are some additions to the legislation of the UZR. That is, from them, the state duty, the performance of the case (costs of an expert, translator, specialist, VKS, etc.) in addition to lawyer expenses and mediator and executive expenses (ambshandelingen) [4]. Of course, while it is not always mandatory for a lawyer to participate in Dutch FIB courts, under Article 79 of the WBR, divorce from marriage as well as the participation of a lawyer in property disputes are mandatory. Under Article 93 of the WBR, however, for small financial demands of up to € 10,000, parties will be able to participate in the case without hiring a lawyer. The exact tariff rate of payments for a lawyer is not provided. Because it is determined by the contract between the lawyer and the client. Lawyers charge fees in the form of an hourly fee (usually between € 150 and € 500 per hour) or a fixed fee (for completing a job in its entirety).

The costs for bailiffs, however, are for Ambshandelingen. Ambshandelingen bu is an act (official services) carried out by bailiffs or other public officials in the Netherlands as part of the fulfillment of legal obligations. These actions are carried out in the manner prescribed by law and are often aimed at enforcing court decisions or applying legal processes. Ambshandelingen includes cases such as conveying a warning and summons, enforcing a court order, imposing a ban or restriction, and recording official records in mortgage or debt matters. In some respects, although this mentions the MIB in Uzbekistan, but the powers of the bodies performing the affairs of ambshandelingen are considered wider. In Dutch law, fees for performers are set out in the “Wet op de gerechtsdeurwaarders” (“bailiffs act”) as well as the “tarieflijst gerechtsdeurwaarders” (bailiffs tariff list) contained therein. Germany also has a special type of court costs, which can be learned from the German law on court costs. Court costs in Germany include the state duty, payment for the services of a lawyer, the travel expenses of witnesses, payments to specialists and experts [5].

In Germany, there are cases where a lawyer is required to participate in FIB courts, as in the Netherlands. This requirement is regulated through Article 78 of the German FPKsi (ZPO). Attorney participation is mandatory in the higher-level courts: the higher regional courts (Oberlandesgericht, OLG) and the Federal High Court (Bundesgerichtshof, BGH). Also, for complex and high-value disputes, the participation of a lawyer is required. Because, in such cases, it is considered necessary to ensure a professional approach to judicial proceedings. Under Section 79 of the zpo, in low-value disputes or local courts (Amtsgericht), parties may participate without counsel [6]. Unlike the Netherlands, German law follows strict norms in determining the amount of fees for lawyers. Lawyers calculate their service fees based on the law “Rechtsanwaltsvergütungsgesetz” (RVG), i.e. “on remuneration to lawyers”. In this law, the cost of the services of lawyers varies depending on the complexity and value of the court case. The Act established minimum amounts for attorney fees, and the fee paid to them could not be lower than the base amounts set out in the act. Note that the amount charged for postal expenses, which is contained in the legislation of Uzbekistan, is not available in Germany and the Netherlands. Because in them, the cost of mail is calculated by adding to the amount of the state duty paid by citizens and does not require separate collection [7].

The general basis for the distribution of state duty and court costs in civil litigation in the Netherlands and Germany is similar to the legislation of Uzbekistan. Under the “Wet griffierechten burgerlijke zaken” – “court costs Act”, the state duty in the Netherlands is issued based on the amount of the claim valuation. The amount of state duty also increases as the state duty increases. If we issue a state duty in interest based on the price of the claim, the Nider will be charged in landia in a fixed amount [8]. For example, if a minimum amount is set for small-value works, a large financial interest is set at a high level of the state duty for existing works. Fixed amounts start at € 79 for individuals, depending



on the value of the claim. And for legal entities, the maximum state duty amount can reach 3946 euros. In addition, if a smaller amount is charged when applying to the courts of first instance, the amount of the state duty paid to the courts of Appeal and Cassation can reach 5270 euros [9].

In the Netherlands, the distribution of court costs was regulated by a separate legislative act which became known as the “Algemene Wet Inzake Rijksbelastingen” (“General Court Fees Regulation”). With the help of this law, the distribution and control of fees and expenses in the entire judicial system of the Netherlands is carried out. The distribution of court costs is usually carried out on the principle of “the losing party covers the costs”, as in the legislation of Uzbekistan [10].

The same procedure can be seen in the German civil proceedings. According to Paragraph 3&() of the German “court costs act”(GKG), the amount of court costs and state duty depends on the valuation of the claim. According to gkg 39&I, a claim valuation is understood to be the financial sum required under the case or the material value assessed. For example, if the plaintiff asks for € 10,000 in the application, it constitutes the valuation of the claim. Like the legislation of other states, the larger the claim value in Germany, the greater the amount of the state duty. In gkg's 34&I, state duty amounts are in a Specially Designated schedule(Kostentabelle)where the amount of state duty per case is set[11].

From the legislative comparison above, it can be seen that Uzbekistan also does not lag behind Europe in matters related to judicial proceedings, in particular, judicial expenses, which have many similarities in the three-state legislative system[12]. But there are aspects that need some development. For example, it is most interesting to me that the blind in a side takes into account the material situation of citizens and legal entities when calculating the state duty in these European countries[13]. If the conditions do not coincide, the state duty is waived or covered at the expense of the state. And we are guided by the strict rules established by the state Duty Act in this regard[14]. In the legislation of Uzbekistan, this issue is based on equality. That is, both a person with excellent conditions and a person with a difficult condition pay the same amount of state duty. Even a person with a difficult financial situation is given the privilege only to delay or pay the state duty in installments.

Second, it is worth considering the implementation of court costs as an issue after the decision to settle the payment came out, the full sum. There is a lot of this practice prevents misery. As an example, an appeal to the courts of the FIB when the state duty is paid in advance. If the plaintiff's claim is satisfied, he will the state duty paid in advance is levied on the defendant in favor of the plaintiff. In addition, if an expert, expert or translator is involved in the work, they will be left receipts are also recalculated and charged at the end. This means that over-indulgence is. If the state duty is based on the decision of the court on the conclusion of the case when distributed and charged, all costs are combined and there is no confusion.

But in the legislation of Uzbekistan on all types of claims of state duty to be charged in interest on property disputes, not in a strictly defined amount, our I consider legislation to be the dominant aspect. Imagine 1000 in Germany for pre-Euro work, a state duty of 81 euros is charged. If the claim if the price is a work of 1100 euros, then it is set for an amount of up to 5000 euros the state duty will be. This amounts to 150 euros. The person who asked to charge € 1,000 Pays € 81, and pays almost twice as much to charge € 1,100. I believe this is a flawed aspect in German and Dutch law[13].

References

1. Code Of Civil Procedure Of The Republic Of Uzbekistan. <https://lex.uz/docs/-3517337>
2. The law of the Republic of Uzbekistan “About the state duty”. <https://lex.uz/ru/docs/4680955?ONDATE=16.01.2024>
3. Civil procedural law. Textbook. Z.N.Esanova. Tashkent. 2022.
4. <http://www.rechtspraak.nl>
5. German Law Archive (germanlawarchive.iuscomp.org).
6. German Law Archive (germanlawarchive.iuscomp.org).



7. Official German Government Resources (bundesjustizamt.de)
8. <https://www.government.nl/topics/administration-of-justice-and-disputesettlement/the-dutch-court-system>
9. <https://www.amsadvocaten.com/blog/litigation/what-costs-can-you-expect-if-you-want-to-take-legal-action-in-the-netherlands/>
10. <https://www.maak-law.com/legal-costs-and-fees-in-the-netherlands/>
11. “Raad voor Rechtsbijstand”
12. “Wetboek van Burgerlijke Rechtsvordering” WBR
13. Official German Government Resources (bundesjustizamt.de)
14. The law of the Republic of Uzbekistan “About the state duty”.
<https://lex.uz/ru/docs/4680955?ONDATE=16.01.2024>.
15. <https://www.government.nl/topics/administration-of-justice-and-disputesettlement/the-dutch-court-system>

