

## CIVIL PROCEDURAL COERCIVE MEASURES IN EUROPEAN COUNTRIES

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**Annotation.** This article discusses the experience of using coercive procedural measures the protrusion of civil proceedings in foreign countries, including the types of procedural coercive measures applied to the civil courts in germany, england, Finland, as well as the necessity, importance and practice of coercive measures. Also, the importance of society and rolan coercive measures in the judicial system, the grounds and procedure for the application of coercive measures, the problem associated with the application of coercive measures in the civil proceedings, the theo and practical issues of coercive measures, scientific-theoretical and practical views on coercive procedural measures of the foreign author, opinions, issues of application of coercive measures are analyzed. In addition, issues related to the application of a court fine, increasing or decreasing the amount of the fine, replacing it with another coercive measure, what violations are considered civil proceedings in the case of a judicial order warning that in the case of su parti later in the case, expulsion from the courtroom, the problem is in your court proceedings aris and their analysis, the competent state, the bodi, the lovely app coercive procedural measures to their rights and obligations, civil procedural legislation of the republic of uzbekistan and foreign countries, its comparative analysis of the legislation civil norm, proposals and recommendations for the improvement of coercive procedural measures in civil proceedings.

**Keywords:** coercive measures, the court fine, removal from the courtroom, coercion, compulsory attendance, warning, ruli, the court protocol, court order

**Kirish:** By establishing various legal measures of influence against persons who violate the established rules of procedure of the judicial process during the course of court proceedings, courts maintain court order, ensure timely and high-quality consideration of court cases, and strengthen the confidence of court participants, as well as other citizens, in the judicial system and justice.

Chapter 14 of the Civil Procedure Code, adopted in the new edition, establishes the following as procedural coercive measures: compulsory appearance, warning, expulsion from the courtroom in cases provided for by the Civil Procedure Code, imposition of a court fine, as well as the fact that the application of procedural coercive measures to a person does not exempt him from fulfilling the relevant obligations established by the Civil Procedure Code or by the court, which ensures compliance with procedural procedures by persons participating in the court case. In turn, it saves procedural time and strengthens procedural obligations and discipline in court.

It should be noted that in our current legislation, procedural coercive measures are regulated only by the norms established in the Civil Procedural Code of the Republic of Uzbekistan. As a result of the lack of a modern, good system for the application of coercive measures, in practice there are cases when participants in the court session do not participate in the trial, the trial is prolonged, and coercive measures do not work.

### Materials and Methods

This study examines the application of coercive procedural measures in civil proceedings across several European countries, focusing on Germany, England, Finland, and the United States. The

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primary materials used in this research include national legal codes, judicial guidelines, and scholarly works on procedural law from both domestic and international perspectives. Specifically, the German Code of Civil Procedure, English Contempt of Court Act, Finnish Civil Procedure Code, and relevant comparative studies on civil procedural law were reviewed. This selection of sources allows for an in-depth understanding of the various coercive measures applied in civil courts, such as compulsory attendance, warnings, fines, expulsion from the courtroom, and the enforcement of court orders. The research methodology employed is a comparative legal analysis, which involves examining the procedural norms, their application in practice, and the impact on judicial efficiency and court order maintenance.

Additionally, the study incorporates a review of case law, legal commentaries, and the opinions of foreign legal scholars on the theoretical underpinnings and practical applications of coercive measures. This approach aims to identify both the strengths and weaknesses of the coercive measures currently in place and to propose potential reforms that could improve the functioning of procedural justice systems, particularly in Uzbekistan.

### **Results**

The results of this comparative analysis reveal that coercive procedural measures play a critical role in maintaining order and ensuring compliance with judicial procedures in civil proceedings. In Germany, for example, coercive measures like court fines and mandatory imprisonment for non-compliance have proven effective in reducing delays and enforcing attendance. The German approach emphasizes the recovery of court costs from parties or witnesses who fail to attend proceedings without valid justification.

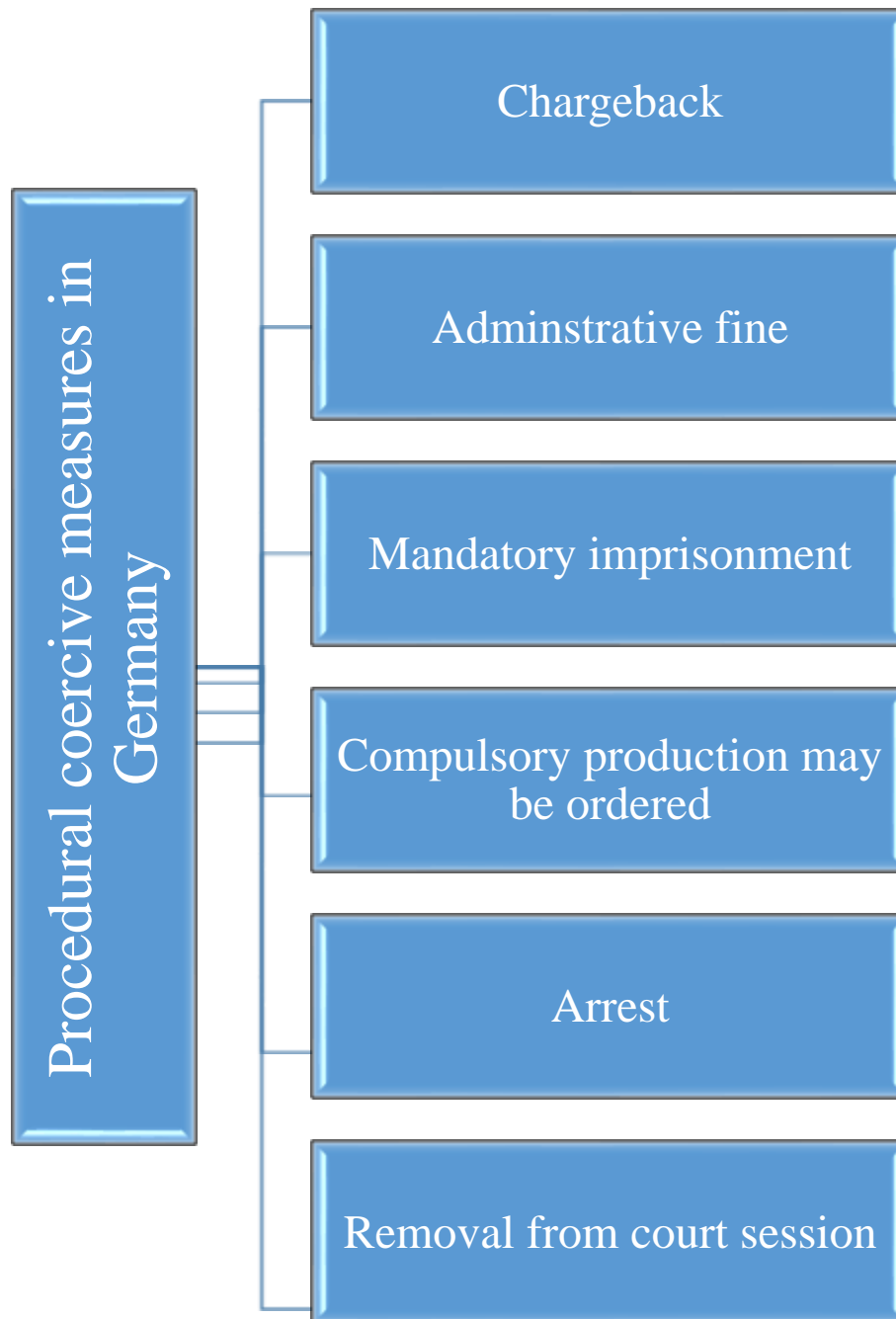
Similarly, in England, the Contempt of Court Act has established a robust framework for punishing disobedience to court orders, with imprisonment or fines imposed for contempt of court. The legal provisions in Finland also reflect the importance of coercive measures, where violations of court orders can result in fines or imprisonment, depending on the severity of the breach.

The research highlights that while coercive measures are effective in ensuring compliance, their application needs to be balanced with considerations of fairness and proportionality. For example, in some instances, excessive fines or punitive measures may hinder the access to justice, especially for economically disadvantaged parties. Additionally, while procedural coercion is generally well-regulated in these countries, inconsistencies in enforcement remain, indicating the need for clearer, more streamlined processes for the application of these measures. The findings suggest that the introduction of similar reforms in Uzbekistan could help improve court efficiency and reduce procedural delays.

### **Discussion**

In the experience of foreign countries, including Germany, the system of coercive measures has been effectively organized. According to the German Code of Civil Procedure, the following coercive measures are established in civil proceedings[1, p. 144]:





The purpose of the coercive measures established in the German Code of Civil Procedure is, first of all, to ensure strict compliance with the court order, as well as to ensure that the person who caused the prolongation of the trial and the expenditure of court costs fully compensates for these costs.

In particular, in accordance with Section 380 of the German Code of Civil Procedure, the costs incurred as a result of the failure of a duly summoned witness to appear shall be recovered from this witness, without any application being required. At the same time, a mandatory fine shall be recovered from this witness, and if this cannot be recovered, he shall be sentenced to mandatory imprisonment.

If the witness fails to appear in several instances, administrative coercive measures shall be recovered or ordered again, and the forced production of the witness may also be ordered. An appeal may be filed against these orders within a specified period [1, p. 58]. This provision also applies to other participants in the trial. In general, the costs incurred as a result of the failure of the parties to the court session, third parties assisting in the court process, witnesses, experts, specialists to appear in the court session convened in the prescribed manner shall be recovered from these persons. At the same time, a



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mandatory fine shall be recovered against a person who fails to appear in the court session, and if this cannot be recovered, he shall be sentenced to mandatory imprisonment.

Also, in the German experience, the application of court fines as a procedural coercion is established. If an expert fails to appear in court or, despite his obligation, refuses to submit a report, or the expert keeps a case or other documents, the costs associated with these actions shall be recovered. At the same time, a mandatory fine shall be levied against him [1, p. 431]. In case of repeated disobedience, the mandatory fine may be recovered again.

In addition, in order to maintain court order, it is established that special procedural coercive measures shall be applied to persons who violate court order during civil court proceedings. In particular, a person may be removed from the court session as a result of a court order issued within the framework of the court proceedings. If a person participating in the court session is removed from the court session in order to ensure order in the court, this person may join the court session after submitting an appropriate request [2].

If a person who has been fined by a court is unable to pay an administrative fine, he may be ordered to perform compulsory production. This ensures the effective functioning of coercive measures.

It is no secret that the judicial system in European countries is well established in ensuring strict adherence to judicial proceedings and court procedure. An important aspect is that all participants in the court, regardless of which legal system they are in, that is, the Anglo-Saxon or Roman-Germanic legal system, strictly adhere to the court procedure.

In this regard, it is appropriate to analyze the system of coercive measures in the Common law legal system. In particular, the use of coercive measures is well established in the experience of the English state. In England, the Contempt of Court Act was passed in 1981. This act establishes liability for contempt of court. If someone tries to delay or obstruct a fair trial and influence the outcome of the trial, he is liable in accordance with the appropriate procedure. Although this act has been passed for a long time, several amendments and additions have been made. The last amendment was made in 2012 and on October 1, 2020 [3].

According to Fiona Simpson, a prominent British lawyer, civil contempt of court is not a crime, but an act punishable by a court to ensure the enforcement of court decisions. Willful disobedience to a court order or breach of an obligation assumed during a court hearing are common examples of acts that demonstrate civil contempt [4]. If the claim for contempt is well-founded, proven beyond reasonable doubt, the court has the power to punish civil contempt by ordering imprisonment for up to two years, a financial fine or confiscation of property.

From October 1, 2020, new amendments and additions were introduced to the Civil Procedure Rules, which set out the practice and procedures for applying for and applying for coercive measures. The previous civil procedure rules on contempt of court and the application of coercive measures against it (under the law that came into force in 2012) were complex, repetitive and poorly designed, which caused problems in judicial practice. The new amendments and additions to the redrafting provide for the regulation of the rules on contempt of court (disobedience) to ensure that they are easier to use, in order to reduce the number of cases where procedural injustices are detected.

This act established the "strict liability rule" and it means the rule of law. Regardless of the intention in the trial, it is established that the intention to interfere with or obstruct the conduct of justice in a particular court proceeding or such actions are considered contempt of court [5].

In English practice, the following cases are considered contempt of court:

- disobedience to or disregarding a court order;
- taking photographs or shouting in court (disrupting the proceedings);
- refusing to answer the court's questions if called as a witness;
- making public comments about the court case, for example on social media or in news reports on the Internet;



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Section 17 of the Contempt of Court Act provides for a fine for contempt of court, failure to pay the fine may result in an additional fine or the deprivation of certain rights. The offender may also be sentenced to imprisonment for up to 2 years, a fine, or both [6]. In the Scottish judicial system, contempt of court is punishable by imprisonment for up to two years or a fine, or both, as the court may determine.

In the experience of foreign countries, it is worth highlighting the system of coercive measures in the Scandinavian countries. In Finland, the organization of the court process is organized in an exemplary manner and cases of violation of the procedural order are rare. This indicates that the judicial system has a well-established system of procedural coercive measures. In this country, contempt of court is understood as actions that contradict the authority of the court, show contempt for the court or impede the ability of the court to perform its duties [7].

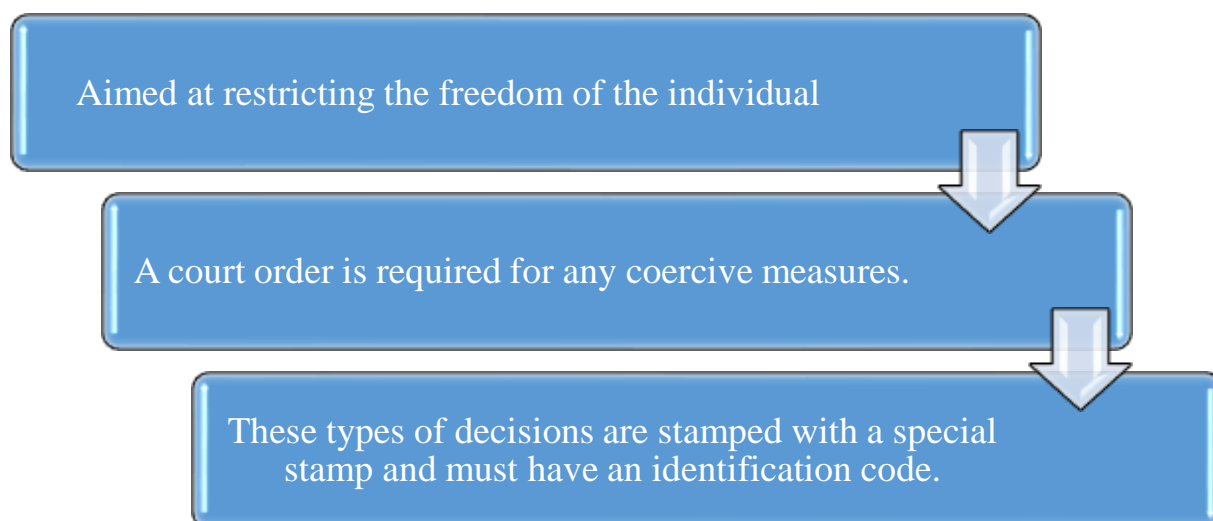
Unlike other countries, in the experience of this country, contempt of court, violation of the court order can give rise to liability in two ways. That is, the consequences of violation of the court order, contempt of court can be considered as an offense, or as a crime and can give rise to liability in the appropriate manner.

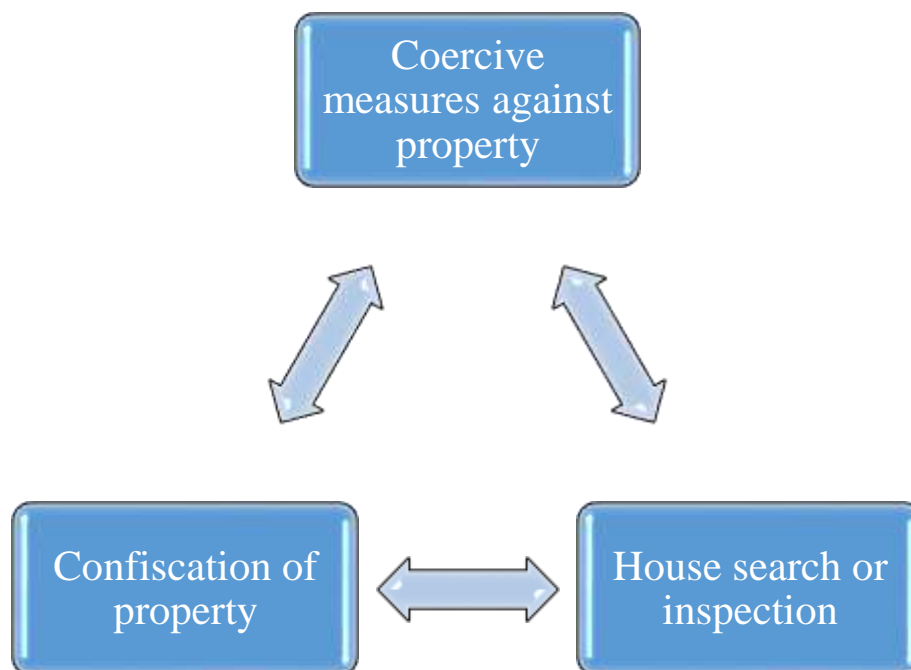
According to Finnish civil procedural law, the expression violation of the court order, or "contempt of court", is usually also used in relation to the following cases. For example:

- One or both parties causing serious disorder in the courtroom;
- Shouting at the judge;
- or refusal to testify before a jury, which can often lead to criminal consequences of contempt of court[8].

According to Finnish civil procedure law, contempt of court is limited to a fine in some cases and is recognized as a misdemeanor. For example, contempt of court by the parties is often imposed by the court if someone does not comply with or disobey a court order, which is limited to affecting only the rights of the other party.

In Finnish practice, coercive measures are divided into three groups: coercive measures against the person, against property and coercive measures ordered by a court of law. Each of these coercive measures has its own characteristics. In particular:

**Measures directed force against the person;**

**Force measures directed against property:****Measures the force appointed by the court of justice**

Coercive measures may be applied by a court in the event of a court order for arrest, a motion to release a person detained by the investigating authorities, a request to cancel a coercive measure, a request to change a coercive measure, and the collection of evidence, the taking of witness statements, and the application of a precautionary measure (prohibition of transfer and confiscation for security purposes). Regulated by the following legal acts:

1. Coercive Measures Act
2. Police Act
3. Coercive Measures for Certain Foreign Nationals (Alience Act)

In Finland, creditors or other claimants in civil or commercial proceedings may apply for precautionary measures in their own interest. The purpose of precautionary measures is to ensure the enforcement of any subsequent decision on the merits of the case. The rules on the imposition of precautionary measures are set out in Chapter 7 of the Code of Judicial Procedure [9] and Chapter 8 of the Code of Enforcement in the provisions on the enforcement of court decisions.

Under Finnish law, coercive measures may be imposed both on the basis of a court decision and without a court decision. Law enforcement authorities may, if they deem it necessary, apply coercive measures without a court decision under the Police Act.

The types of precautionary measures that can be imposed by the court are clearly defined. They are:

- Deprivation of a specific right (prohibiting the defendant from doing or accessing something under the threat of a penalty);
- Imposition of an obligation (ordering the defendant to do something under the threat of a penalty);
- Authorization (authorizing the applicant to do something or perform something);
- Ordering the defendant's property to be placed in the possession or custody of an agent;
- Order other precautionary measures necessary to ensure the rights of the applicant.

In the experience of the Finnish state, whoever caused the excessive expenditure of court costs, the same person is also liable for the costs incurred by other participants in the trial. In particular, if a witness has caused a party to incur court costs due to his absence without excuse or other inconsistency,





the court may require the witness to reimburse the costs deemed reasonable, even if no such claim is made. If the court has ordered the parties to pay compensation to the opposing party and the said party has done so, that person is entitled to receive from the witness what was ordered to be paid in compensation to the witness [10]. In addition, the witness is entitled to reasonable compensation for necessary travel and technical expenses, as well as for loss of wages. When the court summons a witness in a civil case on its own initiative, the parties are jointly and severally liable for the compensation. Special rules apply to the compensation of witnesses from public funds. A witness summoned by a private party is entitled to advance compensation for his travel and technical expenses. The person liable for the compensation shall pay the advance payment. When the witness is summoned, he shall be informed at the same time of the right to an advance payment. The court shall determine what constitutes a sufficient advance payment[11].

Of course, these opportunities impose proportionate obligations on the witness. If a witness fails to appear and does not have a valid reason or leaves the trial without permission, the witness may be fined by the court or the procedural coercive measure of compulsory attendance may be applied to the witness [12].

If a witness refuses to testify without good reason, the court shall order him to fulfill his obligation under the threat of a fine. If the witness refuses to comply with the court decision, the court shall decide on the payment of the threatened fine [13]. If a witness continues to refuse to comply with the court order, the court may, taking into account the nature of the case, the importance of the witness's testimony in resolving the case, the personal circumstances of the witness and other circumstances, impose a mandatory detention order to compel the witness to fulfill his obligation [14]. A witness may not be held in mandatory detention for longer than is necessary to fulfill the obligation to testify or for a period exceeding six months. However, mandatory detention may not last longer than the time the case is being considered in court.

At the same time, the parties to the court hearing may also be required to attend the court hearing. For example, the party may be warned and ordered to personally attend the main court hearing of the district court or the appellate and Supreme Courts, subject to a fine. If both parties do not attend the court hearing, the case shall be dismissed. If one party does not attend the court hearing and does not present valid reasons to the court, compulsory attendance may be applied to that party [15].

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