

LEGAL MEASURES HELPING TO COMBAT RENEGE ON ALIMONY PAYMENT

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Annotation

The article deals with the concept “alimony obligations” and regulations which allow combating renege on alimony payment in the Russian Federation. The author focuses on the individual right to material well-being and presents the legal measures helping to prevent the cases of desertion and non-support of a child in the modern society.

Keywords: alimony obligations, debtor, renege on alimony payment, legal measures, minor children support agency.

An important criterion for the development of every modern state is the protection of the legal rights of children. Issues that relate to the material well-being of minor children during divorce are the main ones among other aspects that allow complying with interests.

Each parent must take care of the child in order to provide him/her with a high living standard.

The purpose of this article is to research legal measures to combat non-payers of alimony in the Russian legislation, as well as to provide presumptive measures to recover alimony from debtors for the welfare of minors.

Evidently, to achieve the goal it's important to reveal the following aspects:

- the concept, essence and features of alimony obligations of parents and minor children;

- the legal measures to combat non-payment for minors as parents' support;
- the impact of criminal liability on the future life of a minor child;
- the recommendations for improving the norms of family law, which regulate alimony relationship.

In the Russian Federation, the creation of conditions for the welfare of a minor child by one of the parents is an urgent problem. The rights and obligations of alimony relations can be realized through legal measures.

It's important to mention, A.M. Nechayeva believes that after a divorce a child in a family should be raised in the conditions which allow providing the necessary material support, i.e. alimony obligations [8].

In addition, section № 5 of the Family Code of the Russian Federation contains the main legal regulation [1]. At the same time, alimony obligations arise not only between parents and minor children to ensure material welfare, but also before other entities. The article considers the alimony obligations of parents for the well-being of minor children.

According to I.B. Morozova, minor children don't have the necessary knowledge about their rights and obligations, due to their age and lack of legal awareness; therefore, children's rights to be maintained by their parents do not work in practice [7]. Besides, it's necessary to focus the fact that Article 113 of the Family Code of the Russian Federation includes the recovery procedure, as well as Articles 114 and 119 of the Family Code of the Russian Federation contain the procedure for exemption of the alimony payment.

Interestingly, late payment of alimony is punishable under the Family Code, for example, a penalty of 0.1% of the alimony that were not paid for each day of delay (clause 2 of Article 115 of the Family Code of the Russian Federation), as well as the cases of changing the amount of alimony according to Article 119 of the Family Code of the Russian Federation.

T.V. Shershen claims that malicious debtors of alimony usually secrete their real income [9]. As a general principle the bulk of average earning is unnoticed and it is almost impossible to find out the real profit.

If the sum of money transferred by the debtor is not large, then ensuring material well-being of children does not work in practice. The Family Code does not include a specific amount of alimony to be paid for the financial support of a minor child.

It is needed to consider the case of the litigation practice in Komi-Permyak Autonomous Area. M.A. Ivanova turned to the magistrate to recover alimony for child support from F.O. Makarov, who was the father of minor child and did not try to pay alimony regularly [10]. The plaintiff's claims were partially satisfied. In turn, F.O. Makarov applied to court and asked to mitigate alimony in gross. This plaintiff, in turn, produced documents proving the income. It was also found out that F.O. Makarov sold the trailer to his first degree relative. M.A. Ivanova argued that F.O. Makarov had laundered his real profit in order not to pay payments of alimony. The judge, making the decision, referred to Article 83 of the Family Code of the Russian Federation, which indicated cases when a parent is obliged to pay alimony for irregular income or when his earning is deficient. Taking into consideration the fact that in clause 2 of Article 83 of the Family Code of the Russian Federation includes cases of changing amount payments of alimony. Also it exposed cases where one of the parents laundered his real earnings. But it is worth noting that the court did not accept Makarov's arguments about the lack of the necessary income. Makarov's appeal was not satisfied. This case can adduce that some debtors complain about unstable earnings or lack of work in order to default their obligations.

It's necessary to analyze the following legal measures helping to prevent the cases of desertion and non-support of a child in the modern society.

Any debtor of alimony cannot drive off abroad and it is proved by Article 15 of the Federal Law № 114 «On the procedure for leaving the Russian Federation and entering the Russian Federation» dated on 15 August 1996 [5]. In turn, Federal

Bailiff Service (FBS) propounded a proposal disqualification from driving and travel restrictions of debtors across the territory of the Russian Federation, as well as the use of mobile phones and the Internet [6].

Article 69 of the Family Code of the Russian Federation gives the information that disqualification from driving is a possible legal measure helping to prevent the cases of desertion and non-support of a child in the modern society.

According to clause 1 of Article 1117 of the Civil Code of the Russian Federation, parents who are deprived of parental rights, as well as those who maliciously avoid payments of alimony for a minor child are deprived of their right to inheritance [3].

Also in accordance with part 1 of Article 5.35.1 of the Code of Administrative Offences, a debtor of alimony who does not comply with the requirements of the enforceable for two or more months from the date of initiation of enforcement proceedings will be held liable in the form of compulsory labor for up to 150 hours, or administrative arrest for a period 10 – 15 days, and an administrative fine of 20,000 rubles may also be imposed [4].

Significantly, Article 157 of the Code of Criminal Procedure is the most significant way to protect the legal rights of minor children, since this article establishes criminal liability for malicious evasion of payment of alimony by parents [2].

The compulsory labor is a criminal punishment for the personal delict, as well as deprivation of freedom for a term of a year or more, or hold for a term of up to three months. Unfortunately, this method is not efficient either.

The first problem is that it is difficult to find an organization that has an agreement with the state on the involvement of offenders in the employment, and deprivation of freedom does not put the awareness in the helve of financial guarantee to the child.

The second problem is the influence of the parents' criminal liability on the child's future life. Complexities can arise when choosing a profession, since many

enterprises, government agencies carry out checks on employees, as well as their family members, for a criminal record.

It can be concluded that there is an aggravating in the legal measures helping to prevent the cases of desertion and non-support of a minor child in the Russian Federation. It should be highlighted that Russian Legislation obliges one of the parents to pay alimony during a divorce to ensure the well-being of children.

Nowadays, legal measures against non-support for the maintenance of minor children are not effective. It is also necessary to remember that the parents' criminal liability has a negative impact on the child's position in society, physical and mental health and relationships with peers. There is a threat of the formation of wrong beliefs and views of creating a family and its functioning in society. Undoubtedly such parents' attitude can become an active force for evasion of their children from paying money to maintain parents in the future.

Thus, it is needed to establish a special state agency to help minor children. The measure is aimed to take care of children in cases of desertion and non-support from the part of one of the parents. When the debtor is found, he is forced to pay alimony. All the necessary information about all debtors will be contained in a single database created by the agency. The back-paid child support must be carried out at the expense of the federal budget, alimony debtors and other constituent entities of the Russian Federation.

Therefore the activity of State bodies and civil society should be aimed to make malicious evasion of alimony obligations for economic benefit, as well as to acquire a socially condemned character.

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