

**THE SUSPENSION CASES OF CIVIC JUDGMENT PRACTICE WITH AN EMPHASIS ON THE JUDICIAL TREND****OS CASOS DE SUSPENSÃO DA PRÁTICA DO JULGAMENTO CÍVICO COM ÊNFASE NA TENDÊNCIA JUDICIAL****Masoudreza Ranjbar<sup>1</sup>****Alihasan Asgari<sup>2</sup>****Abstract**

The verdict is the extract of a trial process. The maxim of a verdict is its execution in the shortest possible time span. Therefore, the continuation of the execution process is a necessity after it has been started except in cases which law makes it possible to confine, cancel or delay the execution process. The death of the losing party or his losing mind, the claim of the third party on the waste of the confined belonging, 5 years pass from the execution, the winning party brings a receipt which shows he has received his belonging or his written form of satisfaction for suspension and cancellation, delay or stoppage in the execution process, third party's complaint on the confined belonging at the time of verdict practice and/or his complaint on the verdict, protestation, renewal process, trial process, the final verdict with earlier or later date and an official document with an earlier date on the execution seizure for the confined belonging are among the suspension cases of verdict execution; the cases are either legal, i.e. the verdict execution will be stopped without judicial acts, or judicial which requires the court of law's decision and of course, they both are lawful. Through the provision and announcement of the various cases of belonging suspension which have been mentioned in a variety of laws and clarification of the unknown legal, some practical solutions are needed to hasten the process of law as well as saving losing/winning parties' and third party's rights. The court of law's decision in the face of the order of execution seizure in the form of suspension or delay in verdict's practice is certain. There is no stable and solid trend for this issue to hasten decision-making as well as verdict execution process.

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**Keywords:** final verdict, suspension, and delay in verdict practice

## Resumo

A sentença é o resultado de um processo de julgamento. Sua máxima é sua execução no menor intervalo de tempo possível. Portanto, a continuação do processo de execução é uma consequência natural à sentença, exceto nos casos em que a lei permite limitar, cancelar ou atrasar o processo de execução. A morte da parte vencida ou a perda de sua capacidade mental, a reclamação do terceiro sobre o desperdício do pertencimento confinado, 5 anos após a execução, a parte vencedora traz um recibo que mostra que ele recebeu a sua pertença ou a sua forma escrita de satisfação pela suspensão e cancelamento, atraso ou paralisação no processo de execução, reclamação de terceiros sobre a pertença confinada no momento da prática do veredicto e/ou sua queixa no veredicto, protesto, processo de renovação, processo de julgamento, veredicto final com data posterior e um documento oficial com uma data anterior sobre a apreensão de execução para o pertencimento confinado estão entre os casos de suspensão de execução de veredicto; os casos são legais, ou seja, a execução do veredicto será interrompida sem atos jurídicos ou judiciais, o que exige a decisão do tribunal e, é claro, ambos são lícitos. Através da provisão e anúncio dos vários casos de suspensão de pertencimento que foram mencionados em uma variedade de leis e esclarecimento do desconhecido legal, algumas soluções práticas são necessárias para acelerar o processo da lei, bem como para salvar as partes perdedoras / vencedoras e o direito de terceiros. A decisão do tribunal em face da apreensão da ordem de execução sob a forma de suspensão ou atraso na prática do veredicto é prevista. Não existe uma tendência estável e sólida para esta questão acelerar o processo de tomada de decisão, bem como de execução da sentença.

**Palavras-chave:** sentença final, suspensão e atraso na execução de sentença.

## INTRODUCTION

The civic juridical procedure and the civic judgment practice are among the most important issues in the field of law and for every scholar and field of law, it is necessary to have knowledge because the substantive rights, and duties of a community of people after the provision and practice of these rights, will take on the color and the odor of the right and this is

done only through the civic juridical procedure which makes it possible to know and prove the right and enforce the verdict that enforces the practice of right.

In practical terms, too little attention has been paid to the issue of the execution of judgments practice in both criminal and judicial affairs. There are no lessons in the implementation of juridical judgments, in college courses and even in courses in judicial training or other judicial professions and those who enter the courthouse are in hose capacities before and after the branches of the courts, whether they are engaged in legal or criminal or divorce proceedings who are not scientifically, practically and empirically aware of the need for the execution of judgments which is the extract of the trial proceeding and, of course, there should be experienced judges in these affairs, this is also remarkable from other angles; after arriving in the execution of judgments and seeing the problems of executing judgments, perhaps the time of branch offices, the judge could better take into account the sensitivity of the civic juridical procedure and pay more attention to the execution of judgments that is, he sees himself as executer of judgments and issue a verdict that was on the requested subject matter and scope. Although the principle is that after that the verdict is certain, the enforcement of judgments should continue until the end and it is not permissible to delay and confine or cancel unless the legislator prescribes it, however, sometimes there are law cases for the execution of judgments suspension or actions that causes no way except suspension or delay in execution of judgments and from the rule of no-harm, or the removal of indigestion and embarrassment, there is no choice but to be aware of the execution of judgment complaint and, in some cases, to the suspension of execution. Therefore, stopping the execution of judgments may be related to a verdict, losing party, winning party, debt in the record or third party involvement.

The continuation of the execution of judgments and its non- suspension is a principle. But there is no ground that, without exception, this principle is not an indispensable principle; which in this article, while defining and expressing the meaning of suspension and delays, and the cases of the execution of judgment suspension and judicial procedure, are examined.

## THE MEANING OF SUSPENSION AND EXECUTION OF JUDGMENT SUSPENSION CASES

The delay means to postpone, but suspension means to quench, stop, and stay stable.<sup>3</sup>

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<sup>3</sup> Bazgir, Yzddela, Supreme Court Verdicts in Legal Matters, Tehran, 2003.

Some scholars believe that the purpose of the delay in execution of the judgment is that operation is delayed or suspended by virtue of an act attributable to one of the parties of the proceedings, the law of the court or the court issued by the judicial authorities is delayed or suspended.<sup>4</sup>

Some consider the abonnement of delay and suspension of execution of judgment as being temporary and periodical but the difference between these two is that in the delay, the desired action is not completely stopped, just a part of it or all of it will not be performed within the specified period, but it will stop completely in suspension of execution of judgment.<sup>5</sup>

Some believe that in delay the execution of judgment has not been begun, but has been begun in the execution of judgment suspension.<sup>6</sup>

Others believe that stopping the execution of a judgment is possible by appealing to losing party and may be prosecuted by third-party protestor death or immigration of losing the party.<sup>7</sup>

In all cases, it is not possible to confine and delay a regulation for distinguishing between these two terms. In both cases, a decision must be taken on the basis of the text of the law on the imposing a delay or suspension decision of execution of judgment.

In a classification, these can be categorized according to the interests of the community and government, the situation of the parties, the subject of the verdict, the verdict and the third parties as follows:

## THE EXECUTION OF JUDGMENT SUSPENSION DUE TO INTERESTS OF SOCIETY AND GOVERNMENT

### Issued Judgments against the Government

"The lawsuit against the government gradually destroys the public dignity of government, in some cases; it is international worse than it is a condemnation of the state and finding the way to courts."<sup>8</sup>

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<sup>4</sup> Bahrami, Bahram, Execution of Civil Judgments, Binet's view, Q 4, 2009.  
and dark French, civil practice Oxford, 2005, sixth, edition, p 934, No 763

<sup>5</sup> Rafiee, Ali, Execution of Civil Judgment against the Government. Fekrsazan, 2011.

<sup>6</sup> Zeinali, Mehdi, The Case of Revocation of the Executive in the Proceedings of the Courts, Charge dish, 2016.

<sup>7</sup> Shams, Abdullah, Civil Procedure Code, J 1, C 15, Tehran: Mizan Publishing, 2009.

However, any governmental department or organization should be compensated immediately upon conviction and immediately provide for the rights of winning party. Or, in some way, provide a deadline or the consent of the winning party. Worst of all is a rejection of the state as a losing party and providing no response to a court verdict. Apart from being a sign of the government's disobedience and infraction, it weakens the validity of court verdicts and judgments which certainly does not have a good effect on the citizens, and it will be a likely future abstraction of government and legal regulations. With this introduction and objectives of the above-mentioned law, the method of examining the government in debt and the non-supply and state property garnishment in the form of a single article was adopted in 1986. This law is somewhat discriminatory, because in principle the government in the general sense, which itself is the enactor of laws and regulations, should not be excluded from the law.

Ministries and state institutions are obliged to pay funds to the debt in record of state on the definitive judgments of courts, the recorded indispensable documents, official documents bureaus, or the execution of courts and other legal authorities, in compliance with the provisions of the lawfulness of the payment of budget commitments approved in previous years in the budget law of the whole country and in the absence of the possibility of providing other legal places in the next year's budget. The execution of the judiciary and the departments of registration of documents and real estate and other legal authorities are no longer allowed to garnish the movable and immovable property of ministries and governmental institutions that do not have the necessary funds to pay for the debt in record until the adoption and notification of the budget of one year and a half after the issued verdict year. Meanwhile, the government is exempted from any provision at this time. The claimant's organization shall, upon request of the claimant, provide the required bank guarantee as for the lodging of the petitioner to the court. If the lawsuit or a part of the request is rejected, the court will deny insurance or the amount paid to the claimant's organization.

Against the accession law, some points have been added to Law of Adjusting Part of the government's financial regulation approved on 23th of Feb 205 paragraph C Article 24: In addition to the deadline of 1.5 years after the date of the issuance of a verdict, another three months has been added to this period. Now, with the increase in this deadline, the court will no longer be able to garnish the property of the state organization and should notify the Management and Planning Organization therefore within three months, without limiting the

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<sup>8</sup> Third Party in Seized Site, Legal Magazine 22-21, 1997.

transfer of funds from the ownership of the capital assets and the cost of the budget of the related organization, pay directly to the winning party or execution of court judgment or other judicial and accounting authorities.

It has become more difficult for both the winning party and the execution of judgment if, prior to this mandatory law, they were in compliance with the relevant deadline. Now you must comply with the deadline mentioned in this article and if they have been faced with a state organization so far, they are facing two states administrative now that will delay the execution of judgment.

### **Issued Verdicts against the Municipality**

The legislator due to the general nature of the municipality, which is the city's authority and in times when it conflicts with other people in the community considers the interests of the community related to the municipality. This is not so much contrary to logic and with this philosophy, by issuing a specific law; the law on the prohibition of the garnishment of movable and immovable belonging to municipalities was adopted on the basis of the single article on 4<sup>th</sup> of June 1982. According to this item, the funds and movable and immovable property belonging to the municipality, whether in the banks or in the capture of the municipality or with third parties and in the form of a guarantee in the name of the municipality, cannot be provided before the issuance of a definite verdict for garnishment and detention.

Municipalities are required to transfer funds from the court to the debt in record of definitive judgments issued by courts or executive bills, or the execution of courts and other legal authorities in respect of their financial regulations from the place of budget for the year in which the action was taken or, if it is not possible from the next year's budget without loss of damage. Otherwise, the beneficiary may arrange or garnish the property from the municipalities belongings. If it is proved that the municipality has had the necessary resources avoided paying his debts, the mayor will be dismissed for one year. Therefore, the funds of movable and immovable property belonging to the municipality cannot be garnished before that the final verdict is issued. The garnishment of the property is not a matter for the municipality, if the municipality does not provide the grounds for execution of judgment in the same year nor the next year, the winning party may request execution of judgment in accordance with the general rules. The terms garnishment and seizure has its own specific meaning and is equivalent to providing garnishment and seizure. According to the single article

of the municipalities adopted in 1982, the authority recognizing the financial strength of the municipality, the municipality which itself is the losing party and provides grounds for abusing rights; if the discovery of this issue was with a court or other authority, there was no way of abusing it which would be harmless to the winning party. The reason for not paying compensation for the delay in paying by the municipality in the term and period of one year may be imposing an additional cost of such a kind to the community; whose winning party is also one of these people in the community and that is indirectly imposed on him. The preference of the juridical person of the municipality is preferable to the private persons and with the prediction of the range and local budgets to pay such a debt, it is not necessary to delay the execution of judgment and pay claims.<sup>9</sup>

It should be noted that this law, which was set at certain times and conditions, is not currently in harmony with the principle of fairness and equality of the parties in legislation, jurisdiction and execution of judgments. Although the municipality is a juridical person that is definitely more dominant with respect to the private person, therefore, why should not it be possible to garnish his property at the stage of the trial? In addition, the recognition of the welfare has also been made to the municipality itself and has been exempted from delayed compensation.

### **Non-Payment of Garnished Property Prices by the State**

If the necessity for urgent implementation of civil, public and etc. projects is determined by the Minister of the executive, before making a final deal, by arranging the form of the parliament, the current status of the property, with the presence of the owner or his representative and the official expert on the garnishment and implementation of the plan, but within three months from the date of seizure, should be applied to the payment of the price of the equation. The owner of the right, in the absence of payment during the mentioned period, may request the garnishment of the executive operation; and, with the payment of the price specified, remove the garnishment of the executive operation (Article 9 of the bill of public programs and etc. Government approved in 1979).

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<sup>9</sup> Katouzian, Nasser, Time Lapse. Print 28, Tehran: Volume, 1995.

The juridical balance of rights regarding delay and being delayed is also relevant to the issue of the subject of the verdict and executive parties and cannot be said that a civilian will have another ownership without payment.

### **Prohibition of Evacuation of Educational Facilities**

In the years 72, 77 and 78, the articles were approved according to which, since the adoption of this law, the evacuation of educational facilities occupied by the Ministry of Education is forbidden for five years after proving the impacts of indigestion and embarrassment according to law by the court until the needs of the Ministry have been met. The complaint against the order to dispose of the lease regarding the authenticity of the contract or the extension of the term, and etc. is issued if the request is reasoned in accordance with Article 17 of the Code of Law on the relations between landlord and tenant, approved in 1997, the garnishment of executive operations by obtaining supplies.

### **THE CIRCUMSTANCES AND CONDITIONS OF THE DEBT IN RECORD AND THE EXECUTION OF JUDGMENT SUSPENSION**

Debt in the record is, in fact, the same as the request that the petitioner has requested from the court at the time of filing a petition. Therefore, this request should be void and not vague; if it is not explicit and not required by the notice of defect elimination, and will face rejection of the lawsuit in the court office. If for any quality of this dispute, regardless of this matter, consideration is given to the verdict; or the request is specific; however, in the course of the trial or thereafter, is destroyed with the losing party or third parties refuse to deliver it to the execution circle or is of exceptions of religion, all of which are among the terms that will stop the enforcement of the judgment as follows.

### **Destruction Claim or Refusal of the Third Party to Deliver the Garnished Property**

One of the cases of the garnishment of the executive operation is the following paragraph 93, where the losing parties' property is garnished by a third party and the third party alleges that he has missed it without any violation and has proved this in court. In this



case, the court will order the seizure of the executive operation until the deciding final assignment.<sup>10</sup>

If the third party denies possessing the property of the losing party or declares it on part of it, and via it winning party prosecuted for damages, he can go to the competent court for compensation. The court will prosecute in favor of winning party at the expense of third parties if the winning part receives damage.

### **Exclusion from Garnished Property or Abstract subject Matter of the Verdict**

Execution of the vote is excluded from the properties not liable to distraint of the losing parties' property. This issue also applies to uncontested property, such as municipal property or government. This claim is made by the losing party against the financial detainee and at the moment, the car is not of properties not liable to distract, but the appliances, tools, and housing are subject properties not liable to distraint, both in terms of supply and enforcement of the prohibition and this is about respecting the life of the losing party and his family. Verifying the veracity of the claim by the execution of judgment judge or the issuing verdict judge creates a practical interruption in the enforcement of the judgment.

In accordance with Article 3 a verdict that its subject matter is not determined, is not enforceable. Article 28 of the mentioned Law says that a verdict that is not determinative cannot be applied. The philosophy behind the trial and the final verdict is the execution of judgment. If the subject matter of the court verdict is not determined, it will not be possible to execute and will cancel.

### **CIRCUMSTANCES AND CONDITIONS RELATING TO THE VERDICT AND SUSPENSION OF EXECUTION**

Occasionally, the execution of a judgment suspension is based on the nature of the vote. For example, a vote that needs to be corrected or eliminated, or a warrant that occurs in the course of an executive process and sometimes by protesting a verdict called protest, appeal, reinstatement, or objection to an arbitration, or a complaint regarding the enforcement of judgment, the period after which enforcement cannot be prosecuted. All of these are about the

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<sup>10</sup> Madani, Jalaluddin, Civil Procedure Code 3. Tehran: Ganj Danesh, 1993.

nature of the vote. In the cases concerning domestic arbitration, the 492 Civil Code, and international arbitration votes, according to the International Commercial Arbitration Act of 1997, there is the possibility of verdict suspension.<sup>11</sup>

### **Correction and Amendment of the Vote and Resolution of the Conflict with the Provisions of Verdict**

One of the other things that the legislator, in contrast to the general principle set forth in Article 8 is the possibility of changing the verdict, correction, and amendment of the vote, if the vote can be corrected (Article 309 A. D. M. and Articles 38 and 40 of the probate law). Since the correction of the vote is to be communicated to the parties and if the revision is possible, the original vote can also be revised; therefore, a delay to the execution of judgment will take place. In the case of administrative judgments, it is of the same quality. The request for resolution of the debate will not delay the execution of judgment unless the court issues the delay verdict to execute judgments. Therefore, the court should specify the execution circle with the order of appointment as soon as possible and issues a verdict for execution delay until the assignment of the request enforce it. In addition, it may be possible to enforce the verdict on the basis of another authority and the resolution of the ambiguity of the verdict should be made by sending the case to the court which would cause delays and interruptions, but differences in the enforcement of judgments are made by the impeachment court (Articles 20, 25, 26, and 29).

### **Protestation, Renewal and Trial Process Bail**

Protestation and renewal bail (paragraph 1 of Article 306, 340 and 347) suspends the enforcement of judgment; because accepting a petition means the uncertainty of the verdict.

If, after submitting the trial process request for the court, the judge decides on a reopening of the trial process, he will issue the verdict for it.<sup>12</sup>

If the debt on record is non-financial, the execution of judgment will be suspended. If the debt on record is financial and the possibility of obtaining and compensating for damages is

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<sup>11</sup> Deputy Judiciary Education, Iran's Judiciary in relation to the enforcement of civil code, Tehran, Forest, 2009

<sup>12</sup> Moin, Mohammad, Persian Culture, Sixth Volume, Amir Kabir, Printed 26, 2009, First C.

possible, the court will determine the suitability of obtaining and enforcing the judgment. If the losing party does not provide, the execution of judgment in this section also will be suspended (see Article 435 and Article 437).

### **Third Party Protest to Verdict on the Issue**

A third-party protest stops enforcement of the judgment. If, after issuing a final verdict by a third party, he considers the verdict to be detrimental to him and file a lawsuit against the protest, if compensation for losses arising from the enforcement of judgment is not possible, based on article 424, the issuing court can order a delay in the execution of judgment for a specified period. This protest can be mentioned before the execution of the judgment and after execution of judgment is possible to be mentioned if the rights that are the basis of the protest have not been abolished according to the law.

### **Complaint about Violation of Auction Provisions and Time Lapse and Execution Garnishment**

Article 136 of the Civil Procedure Code, which is submitted to the court within one week of the date of sale and which is not delivered to the buyer before the decision is made and execution stops. Because it is void in case of complaint and the auction is renewed.

Revocation of auctions: Sale at not specified day and time or in a place which is not specified by the ad; reject the highest bidder or prevent someone from buying them in a lawful way; auctions without the presence of a representative of the court; the buyer was prohibited from buying (Article 137); the complaint will be filed within one week of the date of sale.

One of the cases in which the seizure and cancellation of executive proceedings are requested from the court is related to the time lapse in the official documents that the pledged official document considers it to be time-bound. The admission seems to be the exception to the principle of time-lapse. The social justice and order of every civilized society requires the owner of the right to be supported against the owed and committed one, and can, in any case, be able to exercise his rights through the law and with the help of the general forces.<sup>13</sup>

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<sup>13</sup> Movahedian, Gholamreza, Civil Procedure and Civic judgment Execution, Tehran: Farsazan, 2017.

If, since the issuance date of the past five years, the losing party has not pursued the execution of judgment, the executive is deemed to be unenforceable, and if it is not enforced, it will no longer be available. The losing party may again apply for a court, but only one time is allowed to be enforced in respect of the execution of any judgment (Article 168 of the Criminal Code).

### THIRD PARTY INTERFERENCE AND SUSPENSION OF ENFORCEMENT OF JUDGMENT

Third party involvement at the time of enforcement of the judgment may be in relation to a third party property and as the property of the losing party; the executor intends to garnish it. Or that the property is garnished and then the third party is notified and complaints in garnishment of the property as they are his, indeed, third-party protest is not against the vote, but rather on how it is implemented. If the property is in the hands of a third party, in accordance with Article 42 the Criminal Code; if the debt in the record is in possession of anyone other than the losing party, this does not preclude enforcement actions unless the claimant claims to have the same rights or interests and provides reasons. In this case, the officer will give him one week to go to the competent court and if within fifteen days from the due date of deadline does not provide for delays in execution of judgment in the implementation section, the execution of the proceeding will continue and the third party will object to the confiscated property, as Articles 146 and 147 of Criminal Code; if for the transfer of property, a third party has a claim, if the documentary evidence is a definite statement or official document whose history is preceded by the date of the garnishment, the garnishment verdict will cancel otherwise, the execution operations will be prosecuted and the claimant can sue the court to stop the execution of operations and to prove his claims. If his claim is documented in a definitive document or an official document, the date of which is prior to the date of the garnishment, the garnishment will be canceled, otherwise, the execution of the operation continues. The protester may sue the court and the court will suspend the enforcement of the judgment by obtaining the security if the reasons for the complaint are strong. Third party status that is unaware of the subject of the dispute is different with other cases of garnishment because the purpose of the fair trial is to make it correct which does not correspond to this philosophy in the event of harm to a third party. In fact, it means that the proceedings were not conducted correctly or fairly.

### STATUS AND CONDITIONS OF THE PARTIES TO THE EXECUTION

The final satisfaction of the winning party will cause in closing; the court will delay the execution of judgment. The death of the losing party is also due to the fact that the people for having a right, begin with their birth and end with death; therefore, with the death of the losing party, before the announcement of the execution, the execution of judgment will be announced to the heirs, the wife, the guardian and the manager of the rest; during the execution of judgment, it will stop the execution and notification of the execution and the provisions of the operations carried out by the heirs, the wife, the guardian and the manager of the rest. The bankruptcy of the businessman losing party in accordance with Article 33 of the Enforcement of Judgments Act will stop the execution of judgment. As well as the businessman losing party according to Articles 34 and 35 Criminal Code and Article 3 of the Law on the Implementation of the 2014 Sentenced Decisions prohibits the execution of judgments.

If the conviction of insolvency is due to obligations which should be received, for example, a promissory note or a check; the principle is based on the fact that the insolvency has the right to prove his claim; otherwise, those who have been owed without receiving a payment, as a debtor of wergild and marriage portion, a plaintiff's case should prove the solvency that the debtor's claim will be proven by the oath of office owned by the opposing party's request.<sup>14</sup>

There is a question about the legal record that is sometimes about the seizure of individuals against debts and vice versa, because of each of these two causes a huge amount of harm to the judiciary. Sometimes it is in the best interest of the winning party and sometimes to losing party, while the philosophy of issuing a sentence of execution is non-stoppable except cases which are provided in the law or in the case that indigestion and embarrassment of winning party are issued. The extremes in this regard jeopardize the interests of the community and vibrant investment. In addition, the strict implementation of the law and the use of its capacities can be very effective in implementing the vote and reducing the disputes.

In the legal system of the Common Law and United Kingdom juridical system, the prosecution claims that it is incapacitated to pay the compensation and to pay its installment, as is the case with the insolvency in Iranian law, there is the ability to suspend the execution of judgment. Meanwhile, the timely implementation of the vote, for example, the execution of a

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<sup>14</sup> Mohajeri, Ali, A comprehensive description of the civil enforcement law. C First, Tehran: thinkers, 2004.

judgment for the closure or dismounting of residential buildings in the winter will stop the execution of judgment.

## JUDICIAL PROCEEDINGS

Subject to Article 24 Criminal Code which indicates the principle of non-stoppable, the judge may not, after the commencement of execution, close, interrupt, or cancel the execution of the judgment, or delay it, unless by virtue of the contract, he or she has ordered the execution of judgment or a court that has the power to issue a decree on the execution of judgment or the receipt of a conviction to winning party or his written consent of suspension or interruption or delay. However, judicial procedures vary in different ways and depending on who the request of execution suspension and at what stage and time the enforcement are. For example, if the debt in the record is in seizing of someone other than the losing party, this does not preclude enforcement actions unless the claimant claims to have the same rights or interests and provides reasons. In that case, the prosecutor will give him a week to return to the competent court and within 15 days from the date of the deadline, it is expected that the execution of judgment delay refers to implementation section. This deadline is very difficult due to the judicial process and the timing of the proceedings. The protester may, within twenty days from the time of the court, delay the execution of the judgment and put it into enforcement circle.

Sending a case from the enforcement circle to the branch and reviewing the case by the judge needs more time than the deadline. If third parties claim to have lost their assets prior to the claim, they would be in violation of the lawsuit and, in this regard, have filed a suit with the court. The court will, if justified, justify its reasons; it will issue the seizure of the executive operation until final settlement. The Supreme Court has upheld the verdict of execution suspension in numerous verdicts, including 18/78/68 and 277/68/23, for the purpose of assigning the property to the enforcement of a judgment to a third party.<sup>15</sup> In fact, cases in protest against the executive operations may be decided by the judge and those cases that do not require judicial commentaries, such as Articles 146 and 147 of the Criminal Code consideration of the date of the official document or definitive court notice that will stop the execution judgment. However, in these cases, the executor and the prosecutor are to consider

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<sup>15</sup> Bahraini, Fereidoun, Stage of execution of court order, Ganj Danesh, 2013.

the judgment of the judge or the court judge for comments. In the executive decrees, the petition for the seizure of executive operations without revoking the executive order, as this request without a lawsuit, is not the subject of a lawsuit. The court dismisses the petition.<sup>16</sup>

The Judiciary's Legal Department considers the *prima-facie* case.

No official or governmental department cannot change the court's verdict or prevent its execution, except the court itself which ordered it or the higher court also in cases specified by law. In accordance with paragraph 7 of Article 15 of the Law on the Supervision of the Status of Judges adopted in 2013, an unjustified delay of more than one month in the issuance of vote and its execution will be subject to a fourth to seventh-degree condemnation, including the deduction of salaries up to the lowering of the two bases of the judiciary. This decree in Article 176 of the Code of Judiciary for violations of the law approved by the judges of 1304 is a violation of the law and the compensation is also according to civil liability u to the culprit.

The decision of the court in the face of a petition of delay or execution suspension is an agreement, and not the verdict. In some cases, the subject of the request is explicitly stated in legal cases, including Articles 146 and 147 Criminal Law, some of the subject matters of the petition is mentioned, for example, regarding the request for a third party's original objection, which appears to be more correct. However, the introduction is a lawsuit petition, because the court decision is issued in the form of agreement. Where there is no need to investigate the nature of the request, the petition should be requested by the filing of the execution suspension. Article one of Law of Modification of registration rules explicitly called for the filing of the petition. Although it is related to documents, it can be used for its unity. Verification is justified and reasonableness and then proper procurement is required to make a judicial decision. According to Articles 5 and 330 Criminal Code, the principle is based on the certainty of the vote. Regarding the appointment as an appeal in Article 332 of the Criminal Code, the court decision is definitive.

The issue that is not clearly stated in the law and requires a decision and a judicial procedure is a damage which may be claimed. This is different from municipalities and government. The law prohibiting the garnishment of the property of municipalities explicitly excludes the loss of payment of payment delay for a one-year period, which requires a reflection on the subject matter as it is different from the moratorium that the ruler determines to pay for compensation in accordance with Article 277 of the Civil Code. Here, the judge owes

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<sup>16</sup> Wahidi, Jawad, Excerpts of execution of laws and instruments of entry, Faculty of Law and Political Science, University of Tehran, 1966-1967.

himself to a particular situation and decides on his or her indigestion and embarrassment while this issue has been turned down by the municipality or government and is unable to be justified, apart from discrimination. However, in light of the explicitly stated law on the municipality, such damage is untenable, but it does not prohibit the government.

## CONCLUSION

Since the main purpose of the court's trial and issuance of the verdict is to execute it and the enforcement of judgment returns back to the winning party, then the enforcement stage should be considered as the stage of completion of the trial; and by executing the court verdict, the court is finished and justice is complete. What is happening today in progressive countries is the effective implementation of judgment that the sentence must be executed in an effective way, both in the shortest time possible and in compliance with the legal and legal principles without violating the laws or any abuse by the parties or agents of execution. If the sentence is so long, it is not effective. As if, without observing the rules, for example, the certainty of voting or lack of proper communication, execution of judgment will be ineffective; and the actions of the agents must be in accordance with all legal principles of fairness and good faith. Therefore, the execution of the judgment at a halt, night or away from the location of the losing party residence is without legal certainty.

The wisdom and tradition confirm the continuation of the verdict and its disagreement. Otherwise, it is useless to trial and vote which do not rush out the rationale; but there are exceptions that have been made by the legislator according to the particulars. These exceptions may be related to the nature of the vote (amendment of the vote, executive or uncertainty of the vote), the debt in record (waste of debt in record), the status of the executive parties of the judgment (the death or immigration of the parties), third party interference (third party protest) and the interests of government and society (enforcement of judgment against municipalities and government).

Where the execution of judgment causes indigestion and embarrassment of losing party and, the legislator considered it possible to stop the execution by issuing an insolvency permit and proving it. Because it is not supposed to execute a definitive verdict in any circumstances; and this is also a kind of legal balance in the enforcement of the judgment. Of course, legal provisions, such as those provided for in the Law on the Implementation of Financial Convictions, should not be grounds for misuse of rights.



Although the enforcement stage is subject to a definite verdict; but the importance of executing a sentence is less if it is not more than the issuance of this sentence. If enforcement agents are fully aware of the implementation issues, many disruptions related to implementation will be overcome. The losing parties' property, which is a private person, can be seized before execution; however, this is not the property of the state; as the government is also possible to make contracts and commitments like many people other than the sovereignty of the state. Therefore, there should be no difference in such matters with other people.

Regarding the execution of judgment against the state and municipalities, the scope of the restrictions imposed on them should be reduced and mitigated; and it's not fair that the government does not pay the trial, and delaying the prosecution for the open government and, on the other hand, delaying the execution of judgment and payment the debt on record for many years, and the delayed compensation payment does not include the government, and the Guardian Council, which often does not allow grace periods due to being non-justified (8, 6, and 4-month grace periods for the immovable and movable property auction, Article 34 of the Law on Registration), should also comment on this. In addition, this single article, at a time and conditions that Iran has been involved in unfair warfare, has argued that this excuse is currently being ruled out. Judicial procedures can pave the way for this, or people's representatives in the legislature enter this issue.

Seizure of the execution of judgment in law and procedure should be justified, reasoned, documented and secured. The decision of the court in this regard is in the form of agreement is issued and is definitive. Admissibility of insolvency, regardless of whether the entry of court files increases, which itself causes the loss of human and financial capital, instead of addressing more important issues, the prosecution will be the dissatisfaction of the people and the homeland with the judiciary. Of course, the abuse of the right and the non-enforcement of judgments or the delay in the execution of judgments is the result: the accuracy of executive regulation, the use of modern electronic communication technologies for individuals and legal entities, and the use of legal capacity of the enforcement law, includes the guarantee of the implementation of damages, the replacement of the implementation of the same obligation, the initiative of judges and enforcement officers and increased powers, as in Criminal matters. Dissemination of laws, modification of the Criminal Procedure Implementation Act and the use of Criminal Assurances comply with applicable laws and regulations with regard to enforcement, and third parties ineffective enforcement of votes.

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