

ADMINISTRATIVE ACT AND ADMINISTRATIVE PROCEDURES IN THE REPUBLIC OF UZBEKISTAN: A BRIEF OVERVIEW.

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Abstract: This scientific article has an informative and analytical nature. In the article, the author analyzes and reveals aspects of administrative law, the administrative act of the Republic of Uzbekistan. The article also describes the importance of administrative procedures, the history of the development of the Law of the Republic of Uzbekistan "On Administrative Procedures" (hereinafter - LAP / Law), the structure of the LAP of the Republic of Uzbekistan, the principles of administrative procedures.

Key words: administrative law; administrative act; administrative procedure; administrative proceedings.

Introduction

In the modern world, administrative law plays a significant role, since it has the function of a key instrument for ensuring order, protecting the rights of individuals, and the effectiveness of the functioning of government bodies. During rapid changes in sociological, technological, and economic, administrative law is an important stabilizing factor regulating power relations and ensuring balance in the public administration system. In modern times, the landscape of administrative responsibility in the Republic of Uzbekistan includes a complex picture marked by contradictory trends. From one point of view, there is a tendency to increase rigor and order. New categories of administrative offenses have appeared, accompanied by the expansion of the organization of administrative penalties. Given all this, modern criteria challenge administrative law.

The concept of administrative law and administrative act.

Administrative law, as a branch of public law is determined primarily by its subject, the system of state and administrative relations, since public administration is carried out through the categories of interests, needs, goals and norms of society. Administrative law is understood as management law, and therefore it exists in every country with a developed legal system, since it represents a system of a set of rules governing the activities of the administration. Administrative law occupies a special place in the mechanism of legal influence, which is reflected in its action as a necessary tool for managing social processes in society. It also determines the supremacy of law in relations between the state and individuals and legal entities in the sphere of influence of government bodies and officials in the implementation of administrative activities. Administrative law regulates relations arising in the sphere of public administration, and as the main object of study regulates public administration, determines the legal basis for management, administrative activity and process. An administrative act is a specific

decision made by an administrative body or official in the course of their activities. Also, the interpretation of an administrative act is mentioned in the Law of the Republic of Uzbekistan "On Administrative Procedures", that an administrative act is a measure of influence of an administrative body aimed at creating, changing or terminating public legal relations and generating certain legal consequences for individual individuals or legal entities or a group of persons distinguished by certain individual characteristics [Law of the Republic of Uzbekistan On Administrative Procedures, Article

An administrative act and administrative bodies are closely related concepts. To assess the bodies of organizations and specially created commissions as governing bodies, they must have the authority to adopt an administrative act. In other words, to recognize state bodies and institutions as administrative bodies, they must enter into relations with individuals and legal entities related to the provision of public services and, as a result, adopt an administrative act [Akhrorov A., Administrative Law, 2023, p. 66.]. The main part of the Law "On Administrative Procedures" consists of provisions concerning the amendment, invalidation and cancellation of administrative acts. The purpose of the Law on Administrative Procedures is to regulate relations in the field of administrative procedures. The main objectives of this Law are to ensure the rule of law, the rights and legitimate interests of individuals and legal entities in relations with administrative bodies [Law of the Republic of Uzbekistan On Administrative Procedures, Article 1.

Normative regulation of administrative acts is contained in the legislation of individual CIS countries. Thus, the Law on Administrative Procedures of the Republic of Uzbekistan establishes the rules on the form and content of an administrative act (Articles 52, 53), the rules on the justification of an administrative act (Article 54), the procedure for the entry into force of an administrative act (Article 55), the procedure for making corrections to it (Article 56), the grounds and procedure for termination of an administrative act (Article 58 of the Law), the procedure for cancellation, amendment or recognition of an administrative act as invalid (Article 59). Administrative procedures in the Republic of Uzbekistan.

Administrative procedure - procedural rules governing the administrative and legal activities of administrative bodies, as indicated in the meaning of the concept in the ZAP, Article 4. And administrative and legal activity - administrative activity that affects individual individuals or legal entities or a group of persons identified by certain individual characteristics [Law of the Republic of Uzbekistan "On Administrative Procedures", Article 4.].

In 2018, a system of administrative courts was created, the Code of the Republic of Uzbekistan on Administrative Procedures came into force, and the Law of the Republic of Uzbekistan "On Administrative Procedures" was adopted, which entered into force on January 1, 2019.

It is noted that "such a level of legal consolidation of administrative procedures for the preparation, adoption and implementation of administrative acts is due to the need to protect and defend public relations from unlawful decisions of governing entities. In this sense, administrative procedures act as a foundation for building a legal system for protecting the rights, freedoms and legitimate interests of citizens in the sphere of administrative and other public legal relations [Starilov Yu.N. From a long-term discussion to the adoption of the Federal Law "On Administrative Procedures" // Bulletin of Voronezh State University. Series: Law. 2017. No. 4. Pp. 8-21.].

The development of the Law "On Administrative Procedures" (hereinafter - ZAP) began in 2005 (and scientific developments began even earlier):

- in 2005, the first draft was discussed with the participation of scientists from the USA, Germany and Japan;
- in 2007 - the Legislative Chamber of the Oliy Majlis adopted the ZAP - however, the Senate did not approve this draft;
- in 2011 there were many projects - in particular, a draft of the APC (draft administrative procedural code) was developed;
- an important historical event for the adoption of the ZAP was the adoption of the Action Strategy (dated 07.02.2017 UP-4947) and the Concept of Administrative Reform (08.09.2017 UP-5185);
- the Law itself was adopted on 08.01.2018 No. ZRU-457 "On Administrative Procedures" and entered into force (10.01.2019) [Trends in the Development of Public Law in Modern Uzbekistan: Controversial Issues of Constitutional and Administrative Law. Collection of materials from the republican scientific and practical symposium with international participation (Tashkent, May 28-29, 2019) and the International scientific and practical forum on administrative law (Speyer, June 6-7, 2019) / Tashkent State University of Law. - Tashkent, 2021. – p. 12.].

Let's consider several reasons why it is necessary to adopt the ZAP for countries such as Uzbekistan:

- 1) The administrative legislation of Uzbekistan occupies, perhaps, the largest part of the national legislation and it is quite scattered (after all, the executive power is the largest, most massive branch of government, which has over 1000 bodies and organizations) - therefore, there was (still is) a need to bring administrative legislation in order. [Yearbook of Public Law 2017: Discretion and Evaluation Concepts in Administrative Law. - M.: Infotropic Media, 2017. - ISBN 978-5-9998-0287-3. Pp. 333-334.]
- 2) Administrative procedures are aimed at unifying the provisions of various administrative regulations, which creates convenience for the population.
- 3) Through the clear work of administrative bodies based on administrative procedures, business representatives and the population will know how the state works and will take steps to act correctly.

One of the main differences between the principles of administrative procedures is that many of them have no analogues in other branches of law, as well as an article on the mandatory application of the principles of administrative procedures (administrative acts and administrative actions must comply with the principles of administrative procedures [Akhrorov A.A. (2020). To increase the investment potential of the Republic of Uzbekistan in the field of public administration. Legal proceedings in Uzbekistan, 220–223.]. Non-compliance with the principles of administrative procedures entails the cancellation or revision of administrative acts and administrative actions (Article 19 of the Law of the Republic of Uzbekistan on Administrative Procedures)). In addition, the Law of the Republic of Uzbekistan establishes the following key points of administrative proceedings (administrative

proceedings are a process of consideration of an administrative case, adoption of an administrative act, its revision based on an administrative complaint, as well as execution of an administrative act, regulated by an administrative procedure [Law of the Republic of Uzbekistan on Administrative Procedures, Chapter 1, Article 4.]), such as jurisdiction of administrative cases, interdepartmental interaction, participants in administrative proceedings, rights and obligations of interested parties, persons assisting in the resolution of an administrative case, issues of challenge, proper notification, terms of administrative proceedings, etc. Another important point is that the legislator of Uzbekistan has not conducted a major analytical study on the application of ZAP RU. This is also noted by leading scholars of administrative law: in none of the Central Asian countries has the legislator conducted sociological research, the doctrine is silent... Analysis through the prism of four dimensions [We are talking about such aspects as: a) human rights and justice; b) the concept of good governance (ensuring proper management, changing the content of the state apparatus and the potential of ZAP); c) freedom of the economy (problems of the activities of administrative regulators, the potential of ZAP); d) legal compatibility, priorities and adaptation (location of the ZAP, system reception of the framework ZAP and its relationship with the legislation on public services, licensing procedures, civil service, e-government, etc.).] the institute of administrative procedures in Uzbekistan has not yet been done [Yearbook of Public Law 2021: Instruments of action of administrative bodies. - M.: Infotropic Media, 2021. Pp. 22-23.]. Thus, the Law applies to the administrative and legal activities of administrative bodies in relation to interested persons, including licensing, permitting, registration procedures, procedures related to the provision of other public services, as well as other administrative and legal activities in accordance with the law (Part 1 of Article 3 of the ZAP). This Law does not apply to relations arising in the sphere of preparation and adoption of normative legal acts, collection of taxes and other obligatory payments, civil service, holding referendums, elections, defense, public security and law and order, as well as operational-search activities, inquiry, preliminary investigation, other activities related to the application of criminal coercion measures, legal proceedings, proceedings on cases of administrative offenses (Part 2 of Article 3 of the Administrative Procedure Code) [Khumoyun Soyipov, Asal Juraeva, Administrative Procedures of the Republic of Uzbekistan: a brief overview. 2022. Tashkent State University of Law.].

Administrative proceedings of the Republic of Uzbekistan.

In Uzbekistan, administrative disputes are considered by two autonomous systems of courts - civil and criminal courts, including military courts, headed by the Supreme Court and economic courts headed by the Supreme Economic Court. Within the framework of the latter, there is even a Judicial Collegium for the resolution of disputes arising from administrative legal relations. Such a judicial system was established by the Constitution of 1992 and the Law "On Courts" of September 2, 1993 (as amended by the Law of December 14, 2000, No. 162-11). Separate administrative courts have not been created, although the law provides that in the Republic of Uzbekistan, courts may be specialized by categories of cases [Article 1 of the Law of the Republic of Uzbekistan "On Courts" of December 14, 2000 provides for the specialization of courts, and not specialized judicial systems. Bulletin of the Oliy Majlis of the Republic of Uzbekistan. - 2001. - No. 1-2. - Art. 10.]. There is also the Code "On Administrative Procedure" of the Republic of Uzbekistan, which applies to the procedure for implementing administrative proceedings in the consideration and resolution of administrative cases on the protection of violated or disputed rights, freedoms and legitimate interests of citizens and legal entities, as specified by law in Article 3.

Objectives of administrative proceedings

The objectives of administrative proceedings are:

- ensuring the rule of law, the rights and legitimate interests of citizens, as well as enterprises, institutions, organizations (hereinafter referred to as legal entities) in relations with administrative bodies;
- protection of violated or disputed rights, freedoms and legitimate interests of citizens and legal entities in the sphere of administrative and other public legal relations;
- assistance in strengthening the rule of law and preventing violations in the sphere of administrative and other public legal relations;
- the formation of a respectful attitude towards the law and the court [Code of the Republic of Uzbekistan on Administrative Procedure, Article 2.].

As for the specifics of the legal proceedings, it should be noted that the Civil Procedure Code (hereinafter referred to as the CPC) of the Republic of Uzbekistan has a subsection on proceedings on complaints and applications against actions (decisions) of state and other bodies, as well as officials. Such cases are considered by the courts according to the general rules of civil proceedings with exceptions and additions specified in the relevant subsection of the CPC. And the CPC of the Republic of Uzbekistan practically does not establish the specifics of consideration of administrative disputes.

Prospects for the development of administrative proceedings in the Republic of Uzbekistan were discussed at an international conference.

On June 13-14, 2019, Tashkent hosted the international conference “Administrative Procedure of the Republic of Uzbekistan: Current Status and Development Prospects”, organized by the Supreme Court of the Republic of Uzbekistan jointly with the National Center for Human Rights of the Republic of Uzbekistan, the Development Strategy Center, the UN Development Program, the OSCE Office for Democratic Institutions and Human Rights, the OSCE Project Coordinator’s Office in Uzbekistan, the United States Agency for International Development (USAID) and the German Foundation for International Legal Cooperation (IRZ). The event was organized in accordance with the "Roadmap" for the implementation of the results of the Asian Forum on Human Rights, held last year in Samarkand and dedicated to the 70th anniversary of the adoption of the Universal Declaration of Human Rights [https://www.undp.org/ru/uzbekistan/press-releases/administrativnoe-sudoproizvodstvo-respubliki-uzbekistan-sovremennoe-sostoyanie-i-perspektivy-razvitiya].

It should be noted that within the framework of the conference, the achievements of Uzbekistan in the field of development of administrative justice were discussed, the main directions for further improvement of administrative and administrative-procedural legislation were outlined taking into account foreign experience, an exchange of experience with foreign experts on the organization of the administrative justice system took place, and further improvement of the administrative judicial system was also considered taking into account the development priorities of the Republic of Uzbekistan, approaches to administrative and judicial-legal reform and accumulated experience. The republic has

developed its own model for the systematic and gradual implementation of international standards into national legislation and law enforcement practice. Thus, administrative law plays one of the main roles in public administration, so it is necessary to increase the efficiency of administrative and legal regulation. It should also be noted that the formation and development of public administration cannot be without certain legal regulation of public authorities. In Central Asian countries such as the Republic of Uzbekistan, modern reforms are emerging to improve the efficiency of administrative and legal regulation of public authorities. Also, administrative procedures are aimed at unifying the provisions of various administrative regulations, which creates convenience for the population. As for administrative proceedings, it is necessary to ensure the rule of law, the rights and legitimate interests of citizens, as well as enterprises, institutions, organizations (hereinafter referred to as legal entities) in relations with administrative bodies.

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