

Administrative Justice System and Its Legal Foundations in The Republic of Uzbekistan

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Abstract: This article mainly analyzes the development, emergence and other aspects of the administrative justice system and the administrative processes. In addition, the constitutional legal basis of the administrative justice system and relevant legal norms are covered.

Keywords: Individuals and legal entities, administrative body, illegal act, administrative complaint, administrative body, procedural documents, interested person, administrative courts, administrative justice, civil procedure.

Introduction: If we directly touch on the concept of administrative justice, many foreign scholars have expressed their opinions on this. In particular, “administrative justice means direct control over subjects of public law [1]”.

In addition, “administrative justice is a system of special judicial consideration and resolution of administrative-legal disputes arising from state governance relations between state bodies and officials and citizens and legal entities” [2].

According to J. Nematov, administrative justice is aimed at nullifying the legal force of a certain legal fact or declaring it invalid [3].

An administrative justice system has been created in Uzbekistan, and two types of it operate: administrative procedure and judicial procedure.

The administrative procedure of administrative justice is regulated by the Laws of the Republic of Uzbekistan “On Administrative Procedures”, “On Appeals of Individuals and Legal Entities” and other legislative acts. In the administrative procedure of administrative justice, the resolution of administrative disputes is understood as a complaint by individuals and legal entities to a higher body or a specially organized body against illegal actions (inaction) taken by an administrative body or its officials or against illegal decisions made by them.

Chapter 5 of the Law “On Administrative Procedures” is devoted to the procedure for administrative appeals, and according to Article 62 of the Law, an

administrative appeal may be filed against administrative documents, procedural documents, if appeals against them are provided for by this Law, and against administrative actions, including the refusal to adopt an administrative document or its failure to adopt it within the due time. [4]

An interested person may file an administrative appeal with a higher administrative body authorized to consider administrative appeals in accordance with the legislation or with another authorized administrative body through the administrative body that adopted the administrative document, procedural document, or took the administrative action being appealed. The administrative body that received the administrative appeal shall forward the administrative appeal together with the administrative case to the higher authority or to another administrative body authorized to consider this administrative appeal within three working days from the date of its receipt. An interested person who is dissatisfied with the results of the administrative review of an administrative complaint against an administrative act or in the absence of a higher administrative body, has the right to appeal against the administrative act to the court.

Unless otherwise provided by law, an administrative complaint may be filed no later than thirty days from the date of proper notification of an administrative act, procedural document, or from the date the interested person became aware of the administrative action. The deadline for filing an administrative complaint, if missed for a good reason, may be restored by the

administrative body considering the complaint.

An administrative complaint shall be filed in writing, orally or electronically and shall contain the following:

- 1) the name of the administrative body that adopted the administrative act;
- 2) the surname, name, patronymic and place of residence of the applicant (his representative) who filed the complaint, and for a legal entity - its name and location (postal address);
- 3) the applicant's requirements;
- 4) a list of attached documents (if any);
- 5) the date of filing the application.

The administrative complaint shall be signed by the interested person or his representative. If the complaint is filed by a representative, a copy of the power of attorney or other document confirming the representative's authority must be attached to it. In cases provided for by law, an administrative complaint filed to protect the rights and legitimate interests of other individuals and legal entities must, in addition to the information listed in the Law "On Administrative Procedures", indicate the name (surname, name, patronymic) and address of the person in whose interests the complaint is filed, as well as other information provided for by law. Laws may also provide for other requirements for an administrative complaint and documents attached to it. An administrative body is not entitled to impose requirements for an administrative complaint and documents attached to it that are not provided for by law. When filing an oral complaint, an individual must provide a document confirming his or her identity, and a representative of a legal entity must provide a document confirming his or her authority and identity.

Complaints submitted electronically must include the applicant's email address and unique identifier, and in cases provided for by law, an electronic digital signature and other details. The indication of an email address in the complaint constitutes the applicant's consent to receive notifications electronically through the information system.

Unless otherwise provided by law, a higher administrative body or other authorized body shall make a decision on an administrative complaint within thirty working days. If a decision is not made on an administrative complaint within the established period, the interested person shall have the right to appeal against the administrative act, procedural act or administrative action in court.

A higher administrative body or other authorized body shall have the right to make one of the following decisions on an administrative complaint:

to leave the appealed administrative or procedural act unchanged;

to make amendments to the appealed administrative or procedural act;

to cancel the administrative or procedural act and, if necessary, to adopt a new act. [5]

In the judicial procedure of administrative justice, the resolution of administrative disputes means the appeal by individuals and legal entities to a court against unlawful actions (omissions) committed by an administrative body or its officials or against unlawful decisions made by them.

The Decrees of the President of the Republic of Uzbekistan N-4850 "On measures to further reform the judicial system and strengthen guarantees for reliable protection of the rights and freedoms of citizens" adopted on October 21, 2016 [6], N-4947 "On the Strategy of Actions for the Further Development of the Republic of Uzbekistan" adopted on February 7, 2017 [7], and N-4966 "On measures to radically improve the structure of the judicial system of the Republic of Uzbekistan and increase the efficiency of its activities" adopted on February 21, 2017 [8] also set out tasks related to the further specialization of courts and the organization of administrative courts. In this regard, lawyer Mirafzal Mirakilov noted the following: "The establishment of any rights, if real guarantees of their implementation are not provided, will not give the expected result. There are various guarantees for reliable protection of the rights and freedoms of citizens. The most important of the legal guarantees is ensuring the right of a person to judicial protection. An important step in this regard is the organization of administrative courts by reviewing the powers of civil, criminal and economic courts."

Based on national and foreign experience, we can say that administrative justice is an institution that, on the basis of a special form of trial, considers complaints against illegal actions (inaction) of state bodies and officials and includes activities aimed at canceling illegal acts, and is very important in ensuring legality in public administration.

We can say that modern administrative law is aimed at regulating relations between the executive branch and individuals in order to protect the rights and freedoms of citizens. If approached from this point of view, the activities of the state apparatus should be organized within the framework strictly defined by law. When they enter into relations with citizens through the acts they adopt, it is important that these documents are legal and fair.

It is obvious that today the majority of citizens complain

about decisions of a state body or official in the field of taxation, labor, entrepreneurship, housing, permitting and licensing. It is precisely such relations that we should understand as public-law relations, and we should also take into account that administrative courts, on the one hand, must consider and resolve cases in which the subject is a state body or official and disputes arising from the powers of state power.

It should be emphasized that in considering and resolving any dispute fairly, two aspects should be paid attention to. The first of them is to correctly determine which legal act or decision of the administrative body the dispute arose as a result of and strictly adhere to the legal requirements for considering and resolving the dispute in court. The second aspect is of great importance. After all, courts must consider administrative cases only in compliance with the law. This is, first of all, a strict principle established by the Constitution.

In this regard, on January 25, 2018, a separate Code of the Republic of Uzbekistan on Administrative Proceedings [9] was adopted, which is aimed at regulating relations related to the consideration and resolution of administrative cases by administrative courts. The Code is scheduled to enter into force on April 1, 2018. The Code consists of 29 chapters and Part IV, covering 288 articles.

The practical significance of the adoption of the Code is that now the consideration of administrative cases by courts is regulated not on the basis of civil procedural legislation, like civil cases, but by separate legislation on the conduct of administrative cases. That is, administrative courts consider administrative cases on the basis of separate procedural legislation. This means that the Code on Administrative Judicial Procedure differs in content and essence from civil procedural legislation. In particular, if in civil proceedings the parties to a claim have the right to conclude a settlement agreement at any stage of the proceedings, then in administrative judicial proceedings the parties do not have the right to do so. This will lead to state bodies and officials making decisions that affect the rights and freedoms and legitimate interests of citizens with careful consideration of all aspects. As a result, legality will be strengthened in the life of the state and society.

Based on this, it can be said that the Code on Administrative Judicial Procedure was adopted taking into account the specifics of the consideration of administrative cases. This is clearly reflected in the tasks of administrative judicial proceedings, enshrined in Article 2 of the same Code. These are ensuring the rule of law in relations with administrative bodies, the

rights and legitimate interests of citizens, as well as enterprises, institutions, and organizations; protecting violated or disputed rights, freedoms, and legitimate interests of citizens and legal entities in the field of administrative and other public legal relations; strengthening legality in the field of administrative and other public legal relations and assisting in the prevention of violations of the law; forming a respectful attitude towards the law and the court.

Articles 8-16 of the Code list nine principles that are important in the conduct of administrative judicial proceedings, such as the implementation of fair trial only by the court, equality before the law and the court, independence of judges and submission only to the law, adversarial and equal rights of the parties, the language of administrative judicial proceedings, openness of the trial, directness of the trial, resolution of administrative cases on the basis of legislative acts, and the binding nature of judicial acts.

The principle of adversarial and equal rights of the parties is an important principle in the consideration of administrative cases. The applicant and the respondent are considered parties in administrative judicial proceedings. The applicant is a citizen or legal entity that submits a claim in order to protect its rights and interests protected by law or in whose interests a claim is submitted. The administrative body to which the application (complaint) is addressed, the self-government body of citizens and their officials are responsible.

Based on the above principle, the court creates the necessary conditions for these parties to fulfill their procedural obligations and exercise the rights granted to them, while maintaining objectivity and impartiality.

The cases resolved by administrative courts include:

- 1) cases on disputes over departmental regulatory legal acts;
- 2) cases on disputes over decisions, actions (inaction) of state administration bodies, other bodies authorized to carry out administrative and legal activities, bodies of self-government of citizens and their officials that do not comply with the legislation and violate the rights and interests of citizens or legal entities protected by law;
- 3) cases on disputes over actions (decisions) of election commissions;
- 4) cases on disputes over the refusal to perform a notarial act, registration of civil status acts, or actions (inaction) of a notary or an official of a civil status act registration body;
- 5) cases on appeals against refusal to perform state registration or evasion of state registration within the

established period.

However, it should be noted that the court also decides other cases included in its jurisdiction by law, arising from administrative and other public legal relations on the protection of violated or disputed rights, freedoms and legitimate interests of citizens and legal entities.

From the above list, it is clear that the administrative court considers not only cases arising from administrative law, but also cases related to the violation of the constitutional rights of citizens. In the Code, they are referred to under one term, namely, administrative cases.

The issue of the jurisdiction of administrative cases is also important. Generally speaking, cases related to the court are considered by district (city) administrative courts. The administrative court of the Republic of Karakalpakstan, regions, and Tashkent city, as a court of first instance, consider cases related to state secrets. However, despite this, these courts have the right, depending on individual circumstances, to withdraw any case from the district (city) court and accept it into their proceedings of the first instance, and to transfer the case from one court to another.

The jurisdiction of the Supreme Court of the Republic of Uzbekistan includes consideration of cases on disputes over departmental regulatory legal acts and disputes over actions (decisions) of the Central Election Commission of the Republic of Uzbekistan. It should also be noted that the Supreme Court of the Republic of Uzbekistan has the right, depending on individual circumstances, to withdraw any case from any administrative court and accept it into its proceedings of the first instance, and to transfer the case from one court to another. In addition, the military courts of the Republic of Uzbekistan also consider administrative cases that are included in their jurisdiction by law.

Administrative cases are initiated by the above courts in the court of first instance. The basis for this is the application of interested persons or the prosecutor, or state bodies and other persons.

Another important aspect of the Code on the Procedure of Administrative Court Cases is that it clearly defines the burden of proof. According to Article 67 of the Code, each person participating in the case must prove the circumstances that serve as the basis for their claims and objections. Taking into account the important principle enshrined in Article 2 of the Constitution of the Republic of Uzbekistan - the responsibility of state bodies and officials to society and citizens, the obligation to prove the legality of disputed documents of administrative bodies, decisions of self-government bodies of citizens, actions (inaction) of their officials is imposed on the relevant bodies and

officials. These bodies and officials are also obliged to confirm the facts that serve as the basis for their objections. The establishment of such a rule encourages the pre-trial process - administrative procedures - to make decisions that affect the rights and legitimate interests of individuals and legal entities based on the principle of legality, and in case of violation, to be held accountable before the court.

As a result, the supremacy of the Constitution and the law will be ensured, state bodies and officials will respect the rights and freedoms of individuals and legal entities when entering into administrative-procedural relations related to the provision of public services, and ultimately, state bodies will be able to effectively serve our people.

Court decisions adopted by administrative courts can be reviewed in the appellate, cassation and supervisory procedures. In this regard, special attention should be paid to procedural deadlines. The administrative case must be completed within a period of no more than one month from the date of the ruling of the court of first instance on preparing the case for trial. Taking into account individual circumstances, the term of trial may be extended by the chairman of the court for a period of no more than one month. It is also specified that the complaint against the actions (decisions) of the election commission should be considered by the court no later than three days from the date of filing of the complaint, and if there are less than six days before the election, it should be considered immediately.

An appeal or protest against a decision of the court of first instance that has not entered into legal force may be filed within twenty days from the date of its adoption. The court of the appellate instance shall consider the filed appeal (protest) within a period not exceeding one month from the date of acceptance of the appeal (protest) for proceedings.

An appeal or protest against a decision of the court of first instance that has entered into legal force may be filed within one month from the date of its entry into legal force. Also, a cassation appeal (protest) shall be considered within a period not exceeding one month from the date of acceptance of the cassation appeal (protest) for proceedings.

CONCLUSION

In conclusion, it can be said that the Code of Administrative Judicial Procedure creates a solid foundation for citizens in our country to adhere to the rule of law in their daily lives by protecting human rights by restoring the rights and legitimate interests of citizens violated by administrative bodies through fair trials, and by exercising judicial control over the activities of state administration and other

administrative bodies.

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