

Some Issues of Relevance To The Court: on The Example of Administrative Courts

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Abstract

This Article presents an analysis of the legal description of certain aspects of jurisdiction in the Proceedings of administrative court cases. There is also a practical example analysis of the application of rules relating to jurisdiction in the practice of administrative courts.

Keywords: relevance to sudlv, administrative court, administrative-legal attitude, judicial practice analysis

INTRODUCTION

With the adoption of the Decree of the President of the Republic of Uzbekistan No. 4947 dated February 7, 2017 "On the strategy of actions for the further development of the Republic of Uzbekistan", a new era in the field of administrative law has begun, we will not exaggerate. After all, the concept of administrative reforms in the Republic of Uzbekistan, the Law of the Republic of Uzbekistan "On Administrative Procedures" (hereinafter referred to as Mttqonun[1]), the adoption of the Code of Administrative Procedure, the introduction of administrative courts from June 1, 2017 – at the level of standards of developed foreign countries and taking into account the peculiarities of national legislation, it introduced the rule of law in relations in our country with administrative bodies, the most up-to-date rules for ensuring the rights and legitimate interests of individuals and legal entities.

This article will analyze the Code on Administrative Courts and Administrative Proceedings (referred to as the ICJC, respectively), which was introduced for the first time in the history of our country.

First of all, according to the decree of the President of the Republic of Uzbekistan "On measures to radically improve the structure of the judicial system of the Republic of Uzbekistan and increase the efficiency of its activities" (PF-4966 of 02/21/2017), administrative courts were granted powers to consider administrative disputes arising from mass legal relations, as well as cases

By their nature, administrative courts are aimed at considering administrative cases on the protection of violated or disputed rights, freedoms and legitimate interests of citizens and legal entities. However, administrative border violation cases will focus on punishing the person who committed the border violation. And the question of punishment is really close to the subject of criminal law. Accordingly, the consideration of cases of administrative offenses by administrative courts did not correspond to the original nature of the courts under consideration.

This issue has been resolved in the state program for 2020 by the fact that from December 1, 2020, it is planned to transfer the powers to consider cases of administrative offenses to the jurisdiction of criminal courts, and from January 1, 2021, in practice, to criminal courts.

Also, the judicial reform, which should be implemented in 2021, was defined in the decree of the President of the Republic of Uzbekistan PF-6034 of July 24, 2020 "On additional measures to further improve the activities of courts and increase the efficiency of justice." In particular, according to this decree, for the consideration of cases arising from administrative and other public legal relations

The organization of specialized Karakalpakstan republican, regional centers and inter-district administrative courts in the city of Tashkent was envisaged, in this regard, the abolition of district (city) administrative courts and Administrative courts of the Republic of Karakalpakstan, regions and the city of Tashkent. It was also decided to transfer the powers to consider cases of administrative offenses from administrative courts to criminal courts.

In this regard, according to the Law of the Republic of Uzbekistan dated February 8, 2021 No. 671, additions and additions related to Article 107 of the Constitution of the Republic of Uzbekistan were made.

But we believe that there are still controversial issues regarding the relationship of disputed cases to the court. Below are some of these points of view.

First of all, cases arising from administrative-legal relations should, as a rule, be referred to the Administrative Court. However, in the Economic Procedural Code of the Republic of Uzbekistan, paragraph 1 of Article 25, part 1, "cases arising from disputes arising from administrative and legal relations between legal entities in the field of economics and citizens engaged in entrepreneurial activity without creating a legal entity and receiving the status of a legal entity." an individual entrepreneur in accordance with the procedure established by law," it is established that This creates a discrepancy with the regularity of consideration of administrative court cases. Therefore, it is proposed to distinguish cases related to disputes arising from administrative and legal relations from the framework of cases related to economic courts[2].

Secondly, the issue of proceedings (articles 215-222) on the application of judicial measures in chapter 27 of the Economic Procedural Code is also a problematic issue. In fact, this category of work in its content in most cases refers to issues arising from administrative and legal relations. Including termination of activities on the basis of a request from regulatory authorities, termination and (or) reorientation of activities of facilities that have a detrimental effect on the natural environment, restriction, suspension and prohibition of activities, suspension of operations on bank accounts, application of financial sanctions for certain types of business activities, such as suspension of licenses (permits) for a period of more than ten working days or termination of their validity and revocation of licenses (permits) are actually cases, arising from administrative and

legal relations. Because in this case, the relationship between the administrative body and the person engaged in administrative and legal activities is of the most fundamental importance.

In this position, it is also appropriate to note that administrative courts are provided for the consideration of disputed cases arising from administrative-legal relations. However, when conducting cases on the application of legal measures, there may also be cases that do not cause disputes. That is, there may also be no dispute if the business entity recognizes the fact that the license has grossly violated its requirements and conditions, and does not object to the measure of influence noticed by the Supervisory Authority. It is appropriate to note that, despite the absence of a dispute, in accordance with the current legislation, cases of this category are considered by economic courts. In our opinion, it actually makes sense for cases of this category to be considered by administrative courts within the framework of administrative-legal relations.

In addition, during the proceedings in the administrative court, as a rule, applicants may be citizens and legal entities who file a claim in order to protect their rights and interests protected by law, or in respect of which a request is filed in their interests (article 40 of the ICJCC). However, according to chapter 24 of the ICJC, in the case of placing a person who does not have a fixed place of residence in a rehabilitation center, an official of the relevant state body applies to the court. Thus, the decision of the administrative court can also be appealed to the administrative authorities in certain exceptional cases.

In our opinion, even in this matter it would be more correct to look at the aspect of the case, whether the main criterion follows from administrative and legal relations[2].

I. In this regard, M. Salimova was also motivated by the fact that cases on the application of legal measures in her scientific work are not considered as an economic dispute arising from administrative legal relations, and a proposal was put forward to transfer this category of cases from the competence of economic courts to the competence of administrative courts. Because the work on the application of legal measures in its purest form comes from administrative and legal relations, and the party in this category of work, of course, is the state body performing the control function. This body applies to the court if, in the exercise of its control functions, a certain law detects a violation and concludes that there are grounds for taking certain measures against an economic entity for this [3].

Thirdly, in the practice of administrative courts, there are also cases of consideration in an Administrative Court of a civil dispute that actually arises between two citizens.

For example, Koshkopir district, Khayrabad village, I.B. according to the minutes of the meeting of the Farmers' Union dated December 23, 1999 E.X. the allocation of a land plot with an area of 800 sq.m was shown, and by the decision of the governor of the Koshkopir district No. 416 of 27.03.2000, 800 sq.m of land was allocated.

Citizen E.H. on the basis of the above decision, the state enterprise "Khorezm Regional Land Management and Real Estate Cadastre" applied to the Khorezm district branch with a request to issue cadastral documents in his name, consisting of a total of 5 rooms (3 living rooms, 1 hut, 1 dolon) located in the Khorezm district, Khayrabad village, Connazey district.

The state enterprise "Khorezm Regional Department of Land Management and Real Estate Cadastre" in response letter No. 1141 of the Koshkopir district office dated 30.11.2018.

on this land plot in 2012, citizen B.A. (uncle E.H.), in whose name it is explained that cadastral documents were prepared, since the land plot is disputed, he will resolve this issue through the court.

Citizen E.H. appealed to the court with a claim to the Khorezm regional Land Administration and the state enterprise of the real estate cadastre on assigning the department of the Koshkopir district the obligation to issue cadastral documents in respect of the disputed place of residence.

The petition was granted by the decision of the Administrative Court of Koshkopirsky district dated 20.12.2018.

As can be seen from the example above, in this case, two citizens demand to clarify who owns the housing, conflicting with each other in the proceedings in the Administrative Court. However, for this purpose, a lawsuit is filed against the actions of the cadastral authority. But the cadastral authority cannot specify who owns the disputed housing, and cannot take certain actions for registration of housing on an unspecified (disputed) issue.

So, the housing dispute on this issue, the parties to which are two citizens, will be referred to the civil court.

Instead of a conclusion, we can say that with the introduction of innovations in the system of administrative courts into practice, the independence of the judiciary will be further strengthened, the effectiveness of the administration of justice will increase, ultimately, the protection of human rights and freedoms, the entrepreneurial subtext in our country will increase. In this regard, it is important to form a clear range of cases related to the Administrative Court. Accordingly, administrative courts become an important guarantee of the rule of law, the rights and legitimate interests of individuals and legal entities.

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