



THE WAYS OF RESOLVING ELECTORAL DISPUTES IN REPUBLIC OF UZBEKISTAN

Rajabova Karima Kakhramonovna

Lecturer at Tashkent State Law University

ORCID: 0000-0002-6132-0521

E-mail: rajabova.karima@gmail.com

<https://doi.org/10.5281/zenodo.10649243>

ABSTRACT

Elections are part of democracy, and it is significant to effectively protect the rights and freedoms of citizens in this process. This article examines just such a situation, that is, the concept of election disputes established in the legislation of the Republic of Uzbekistan and the ways for resolving them in order to improve legislation in the field and increase the system of the mechanism for their implementation. In particular, through scientific and legal analysis, a theoretical analysis of election disputes, administrative and judicial procedures for their resolution, their features and implementation procedures are revealed.

Also, based on an analysis of the legislation of Uzbekistan and other foreign countries, gaps in national legislation on resolving election disputes were discussed.

Key words: election disputes, administrative procedure for resolving disputes, court, procedure, subject of the dispute, relevance, deadlines, decision.

АННОТАЦИЯ

Выборы являются частью демократии, и важно эффективно защищать права и свободы граждан в этом процессе. В данной статье рассматривается именно такая ситуация, то есть понятие избирательных споров, установленное в законодательстве Республики Узбекистан и способы их разрешения в целях совершенствования законодательства в сфере и повышения системности механизма их реализации. В частности, в научно-правовом анализе раскрывается теоретический анализ избирательных споров, административной и судебной процедуры их разрешения, их особенностей и порядка реализации.

Также на основе анализа законодательства Узбекистана и других зарубежных стран были обсуждены пробелы в национальном законодательстве по разрешению избирательных споров.

Ключевые слова: избирательные споры, административный порядок разрешения споров, суд, процедура, предмет спора, актуальность, сроки, решение.

THE INTRODUCTION

As a sign of a democratic state, elections show the role of citizens in managing state and community affairs. Thus, in order to further improvement of this right of citizens in our country, the electoral legislation is being consistently improved. In particular, the referendum, in other words, the fact that a number of norms regarding the electoral system have been reflected in the new version of our Constitution, which was adopted on the basis of the will of the public, is a clear manifestation of this. Of course, for such reforms to be effectively applied in practice, it is necessary to have a reliable protection mechanism. A lot of work has been done in this regard, such as the assessment of actions (inaction) and decisions of election

commissions based on the amendments to the electoral law introduced in May 2021 based on the recommendations [7] of the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe. was included in the exclusive competence of administrative courts, that is, the parallel possibilities of resolving election disputes were eliminated.

However, these reforms could not eliminate all the gaps and contradictions in our national legislation regulating the protection of citizens' electoral rights and freedoms. In this article, this situation was highlighted as a result of scientific research.

MATERIALS AND METHODS

During the research, the author will focus on the following issues:

- methods of protecting violated and contested rights and freedoms of citizens;
- methods and procedures for resolving election disputes;
- analyzes of the peculiarities of this situation in the law enforcement practice of foreign countries were carried out and relevant conclusions were drawn.

In order to find answers to the above questions, the scientific works of scientists were analyzed and the relevant legal documents were analyzed, and appropriate suggestions and conclusions were made.

In this study, the methods of analysis, generalization, comparative-legal, systematic-structural, formal-legal study of scientific knowledge were used.

RESULTS AND DISCUSSIONS

According to the legislation of the Republic of Uzbekistan, we can see two different mechanisms for protecting the rights and freedoms of citizens related to the election, or for resolving public disputes related to the election, and before analyzing them, firstly, the article will define "public-legal dispute".

Y.N. Starilov [4; 125] states that a public-legal dispute is a legal dispute between subjects of administrative-legal relations in the field of functioning of public power, and their participants are in an unequal relationship, while Kh.Islamkhodzhaev [6; 514] states that it is a state expresses its opinion that it is the disagreements about the legality of administrative acts that are related to the implementation, application, violation or establishment of legal norms in the field of management and are resolved within the framework of a specific legal procedure. A.B. Zelensov [5; 170-175] says that it is disagreements between the subjects of public-legal relations about the mutual rights and obligations and the legality of administrative documents, which are the implementation and application of legal norms in the field of public administration. related to demolition or installation, and states that it will be resolved within the framework of a specific legal procedure.

Summarizing these points, public-legal disputes are considered to be the disputes that arise between entities with unequal legal status. We can evaluate disputes related to elections as such disputes. Because we can see that its participants are entering into an unequal relationship. We will consider this situation by discussing the procedure for resolving such disputes.

There is an administrative and judicial procedure for solving public disputes related to the election. Let's first consider the administrative procedure.

The protection of the rights of citizens in the administrative procedure means a complaint to a superior body or a specially established body against the illegal action

(inaction) made by the administrative body or their officials or against the illegal decisions issued by them by individuals and legal entities. it is understood to do and consider [1; 371].

According to other theory, this concept is described as a complaint by individuals and legal entities about their violated or contested rights to a higher authority [2; 84].

We can see the aforementioned procedure in our national legislation, according to Article 63 of the Law "An interested person has the right to file an administrative complaint with a higher administrative body or with another authorized administrative body that, in accordance with the law, is authorized to consider administrative complaints, through the administrative body that adopted the appealed administrative act, procedural act or performed an administrative action". However, this concept cannot be applied to election processes in accordance with Article 3 of this law.

According to Article 21 of the Law " Appeals of Individuals and Legal Entities", appeals are submitted directly to the state body, organization, or their official, or to a higher authority in the order of subordination. According to Article 22 of this law, an application or complaint to a higher body in the order of subordination shall be made to an individual or legal entity from the moment when it is known that an action (inaction) that violates his rights, freedoms and legal interests has been committed or a decision has been made. It is set to be given no later than one year.

Summarizing the above concepts, the protection of citizens' rights in an administrative procedure is a complaint to a higher body or other authorized body from the body that made an illegal decision or committed an illegal act or inaction in order to restore their violated rights.

According to the Election Code of the Republic of Uzbekistan, it is possible to appeal to the election commission in case of election-related disputes. In particular, according to Article 101 of this Code, election commissions consider within their powers the appeals received by individuals and legal entities regarding violations of the requirements of this Code or other issues of election organization during the election campaign. must conduct investigations on appeals and give written answers to them within three days, and immediately review and respond to appeals received less than six days before the election or on the day of voting. The chairman of the election commission considers the appeal and makes a decision on it.

It should also be noted that election commissions do not consider all types of complaints, that is, it differs according to the subject of the dispute. For example, the decision of the Central Election Commission regarding the invalidation of the election of the President of the Republic of Uzbekistan and the election to the Legislative Chamber is taken by the Central Election Commission, while in other elections the relevant regional commission has the authority to resolve this dispute. Complaints about actions or decisions of election commissions are considered only in court.

If we turn to the next type of election disputes, namely, the court stage, theoretically this is an appeal to the court by individuals and legal entities against the illegal action (inaction) of the administrative body or their officials, or against the decisions issued by them. it is understood to do and consider it[1; 374].

If these disputes have a public-legal character, such disputes are considered by administrative courts.

N. Bondar [3; 60-70] distinguishes the following three models of the issue of jurisdiction of election disputes:

In the first model, all election disputes are heard by general jurisdiction or administrative courts. Such a model is suitable for the courts of Russia and Uzbekistan. In this model, sometimes separate courts can be established. For example, in the judicial system established in Article 92 of the Brazilian Constitution, tribunals and courts dealing with electoral disputes are separated.

As for the second model, disputes related to elections are referred to constitutional courts and general jurisdiction (administrative) courts. The same procedure applies in the Republic of Armenia [9], according to which the decisions issued by the Central Election Commission in the elections to the National Assembly are submitted to the Constitutional Courts, and other decisions, as well as disputes related to the actions (inaction) of the Central Election Commission, are resolved by the courts of all jurisdictions.

In the third model, the courts do not resolve electoral disputes, but verify the legitimacy of the elections. For example, the Constitutional Court of the Republic of Austria exercises such authority [10].

In accordance with the Code of Administrative Court Proceedings of the Republic of Uzbekistan, complaints against the actions (decisions) of the election commission are heard by district (city) administrative courts, actions and decisions of the Central Election Commission of the Republic of Uzbekistan and the submitted complaints are considered by the Supreme Court of the Republic of Uzbekistan. In this case, the deadline for filing a complaint is given in Article 102 of the Election Code of the Republic of Uzbekistan, according to which the decision of the bodies of political parties, candidates, proxies, observers and election commissions of voters who nominated candidates can be appealed to the court within five days after the adoption of these decisions. can do. Decisions of the Central Election Commission can be appealed to the Supreme Court of the Republic of Uzbekistan within five days after the decision was made. Complaints must be considered within three days of receipt, less than six days before the election or on the day of voting.

Another procedure for consideration of cases related to these disputes is carried out on the basis of the general procedure provided for in the Code of Administrative Court Proceedings.

The complaint will be considered by the court no later than three days after the date of filing of the complaint, if less than six days before the election. At the hearing of the petition, the petitioner and the representative of the relevant election commission, as well as the prosecutor, if the complaint concerns a citizen other than the person who submitted the petition, is considered in the presence of that person. The non-appearance of the above-mentioned persons does not prevent the appeal from being considered in court.

It is important to note that as soon as the decision of the court is issued, it is immediately submitted to the relevant election commission and the applicant and must be executed immediately.

When applying to the court on election-related disputes, the application (complaint) is submitted to the court in written form. It is signed by the applicant or his representative.

In the application (complaint), the requisites established in Article 128 of the Criminal Procedure Code must be specified.

The applicant has the right to combine several interrelated demands into one application (complaint) if they are related to the administrative court.

When submitting an application (complaint), the applicant must send to the defendant and third parties copies of the application (complaint) and the attached documents that are not in them.

The application (complaint) shall be accompanied by supporting documents specified in Article 130 of the Criminal Code of Ukraine.

If the Code of Conduct of Administrative Court Cases does not provide otherwise, the judge shall consider the issue of acceptance of the application (complaint) for processing, refusal of acceptance or return of the application (complaint) to the court. decides individually no later than five days from the date of receipt.

A decision on acceptance, rejection or return of an application (complaint) is issued, a copy of which is sent to the persons participating in the case no later than the day after it is issued.

When considering cases of this category, the deadline for filing a complaint with the courts established by the election legislation is fixed, and its renewal is not provided for in the legislation.

Accordingly, the expiration of the deadline for filing a complaint with the court, which is established by the legal documents regulating this category of relations, is the basis for rejecting the stated request.

If, based on the results of the review of the complaint, the court determines the validity of the complaint, it declares the decision of the election commission to be invalid, considers its actions to be illegal, and imposes on the election commission the obligation to satisfy the request of the applicant or to remove his violated rights and freedoms in a different way. restores with

According to the Code of Administrative Court Proceedings of the Republic of Uzbekistan, persons participating in the case, as well as persons who were not involved in the case, but received a court decision on their rights and obligations, are accepted by the court. the prosecutor has the right to appeal against the decisions, to file a protest.

In the case of an appeal (cassation) against the decisions made in this regard, the court hearing the case must consider the appeal in the shortest possible time set by law.

Therefore, in accordance with our current legislation, the subjects of cases related to disputes over the actions and decisions of the election commission are bodies of political parties that nominated candidates for deputy, candidates for deputy, proxies, observers and voters (applicant), election commissions (respondent). The subject of such disputes may be the actions or decisions of the officials of the election commissions that are not in accordance with the law, violate the rights and interests of organizations and citizens protected by law.

THE CONCLUSION

The legislation of the Republic of Uzbekistan regulates the protection of the electoral rights, freedoms and interests of citizens, but there are a number of gaps in our national legislation in resolving election-related disputes.

If we start from the administrative procedure of dispute resolution, in this case, the deadline for consideration of the complaint by the election commission is given, but how long the applicant can file a complaint, the procedure for considering the complaint, that is, who is

involved in this process issues such as how these complaints can be conducted individually, collegially or with the formation of a special dispute resolution commission, the decision to be issued as a result of considering the complaint and its consequences have not been covered.

As for the judicial procedure, one of the loopholes in the legislation is that there is no deadline for appeals against the actions of the election commission. As we have seen above, it is possible to appeal against the decisions of the election commission within the time limits specified in Article 102 of the Election Code of the Republic of Uzbekistan, but it is not specified when it is possible to appeal against its actions. In addition, the procedure for complaining about the election commission's inaction is not established in the legislation. This is the basis for refusing to accept an application (complaint) for proceedings by the courts in accordance with Article 133 of the Code of Administrative Court Proceedings of the Republic of Uzbekistan in the event of disputes related to this inaction, and as a result, there may be problems related to ensuring citizens' electoral rights.

Also, in the international experience, public disputes related to elections are not limited to the actions of the election commission and cover a wider range. In particular, Articles 40, 79 of the Law of Ukraine "On the Constitutional Court of Ukraine", Article 41 of the Basic Law of Germany, Article 239 of the Code of Administrative Court Proceedings of the Russian Federation and other disputes related to elections to be considered and decided by the courts.

Therefore, it is necessary to fill and improve these gaps in the electoral legislation of our country through the experience of developed countries. After all, the establishment of the democratic legal state of Uzbekistan requires the formation of free suffrage in the society, the strengthening of the role of citizens in state management, and fundamental changes in the field of public-legal relations.

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