



PRINCIPLES FOR THE APPLICATION OF ADMINISTRATIVE PENALTIES IN THE REPUBLIC OF UZBEKISTAN

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Annotation: appointment of a fair punishment for persons who have committed administrative offenses, their upbringing in the spirit of compliance and respect for the law. Transferring some cases of violations from criminal jurisdiction to administrative jurisdiction.

Keywords: Administrative offenses, administrative responsibility, national legislation, law-abiding upbringing, application of administrative punishment, liberalization of administrative responsibility.

In recent years, the Republic of Uzbekistan has been implementing a number of legal reforms aimed at strengthening the rule of law in society and ensuring human rights and interests. Specifically, Uzbekistan has adopted a number of amendments and additions to the legislation on administrative liability in order to impose a fair punishment on individuals who have committed administrative offenses, educate them in the spirit of observance and respect for the law, as well as prevent the commission of new offenses and eliminate cases of violation or violation of their rights, freedoms and legitimate interests in this regard. Given that certain constitutional rights of citizens are restricted when applying administrative sanctions, along with the improvement of this national legislation, it is becoming increasingly important to align it with generally recognized international legal norms.

However, responsibility for administrative punishment should correspond to the goals defined at the level of the state's fundamental law, as well as to the measure of limiting the rights and freedoms of citizens.[1] Legal liability is provided for violation by a guilty person of social relations regulated and protected by various branches of law. Legal liability is manifested in the application of a specific punishment to the guilty party. For example, in case of violation of labor discipline - disciplinary punishment, in case of an administrative offense - administrative punishment, in case of a crime - criminal punishment is applied.[2]

Taking this into account, Article 15 of the new Constitution of the Republic of Uzbekistan stipulates the unconditional recognition of the supremacy of the Constitution and laws in the Republic of Uzbekistan, and that the state and its bodies, other organizations, officials, civil society institutions, and citizens shall conduct their activities in accordance with the Constitution and laws.

In Uzbekistan, the rights and freedoms of citizens can only be restricted by a court decision. For this purpose, great attention and authority are given to the activities of courts in the country. According to Article 245 of the Code of Administrative Responsibility of the Republic of Uzbekistan, criminal courts are authorized to consider cases and impose sanctions for a large number of administrative offenses (over 250 articles). Certainly, the fact that almost all issues of administrative responsibility are heard and resolved by the court with consideration of majority opinion fully corresponds to the principle of justice. Additionally,

the legislator has granted specific individual powers to criminal courts when applying punishment.

The proportionality of punishments applied to administrative offenses serves as the most important, universally recognized, and sufficiently legitimate means in society to ensure their compliance with the state's legal objectives.

In general, according to Article 30 of the Code of Administrative Responsibility of the Republic of Uzbekistan, punishment for an administrative offense is applied within the limits and in the manner prescribed by this Code and other regulatory documents. This article strictly establishes that the following circumstances must be taken into account when an official applies punishment. Specifically:

- the nature of the offense committed;
- the personality of the offender, the degree of their guilt, and their property status;
- mitigating and aggravating circumstances of liability.

In the Republic of Uzbekistan, the individualization of punishment is also emphasized in the application of administrative sanctions. This means imposing punishment within the limits of the sanctions established by administrative liability legislation, taking into account the nature of the act committed, the degree of guilt, the personality of the offender, as well as mitigating and aggravating circumstances provided for by law. The authorized body (official) individualizes the punishment, primarily considering the nature and degree of the act committed, and the personality of the offender. This takes into account the manner in which the act was committed, with whom, to what stage it was carried out - preparatory or completed, whether the offender is a minor or an adult, whether the offense is committed for the first time or repeatedly, whether the offense is committed intentionally or through negligence, and so on.

When individualizing punishment, it is necessary to consider all positive and negative characteristics of the perpetrator, as well as mitigating and aggravating circumstances, since punishment is primarily personal in nature and applied to the perpetrator.

Furthermore, the legislation of the Republic of Uzbekistan on administrative liability is based on the following principles:

- legality;
- equality of citizens before the law;
- democracy;
- humanism;
- justice and the inevitability of responsibility for guilt.

Legality is the strict observance of the Constitution and laws of the Republic of Uzbekistan by the state, its bodies, officials, public associations and citizens. Several norms of the Code of Administrative Offenses of the Republic of Uzbekistan directly define the requirements of this principle. Specifically, Article 8 of the Code of Administrative Offenses states that no one may be subjected to a measure of influence for an administrative offense other than the grounds and procedure established by law.

The principle of equality of citizens before the law. In the Republic of Uzbekistan, all citizens have the same rights and freedoms and are equal before the law, regardless of gender, race, nationality, language, religion, social origin, beliefs, personal and social status.

The principle of democracy. The essence of this principle is that the case of an administrative offense is considered openly. In order to increase the educational and warning

role of consideration of cases of administrative offenses, such cases may be considered in the collectives of the offender at the place of work, study or place of residence.

The principle of humanism. When applying administrative sanctions, the authorized body (official) takes into account mitigating circumstances of liability, the material situation of the offender, and applies a lighter sanction than the one established for certain offenses, or is limited to a warning.

The principle of justice. This principle means that authorized bodies (dependent person) shall conduct a comprehensive, complete and objective investigation of each case, resolve the case in accordance with the law, apply sanctions in accordance with the rules established by law when applying administrative measures, fully studying the nature of the offense, the personality of the offender and other circumstances.

The application of administrative measures for an unlawful act within the time limits established by law, in order to ensure the rights and freedoms of citizens, property, state and public order, protection of the natural environment, social justice and lawfulness in the interests of the well-being of man and society, means the principle of inevitability of liability for guilt.

It can be said that when appointing punishment for administrative offenses committed by authorized bodies, strict attention is paid to the mutual proportionality of the principles of inevitability of guilt liability, along with the principle of humanity established in Article 3 of the Code of Administrative Offenses of the Republic of Uzbekistan. After all, in a society where inevitability of guilt liability is ensured, the rule of law is ensured, which in turn protects the violated rights and freedoms of citizens, while simultaneously preventing damage to the business reputation of employees of internal affairs bodies.

Liberalization of administrative responsibility in the Republic of Uzbekistan. One of the expected results of the reforms being carried out in the legislative system of the Republic of Uzbekistan is the liberalization of laws, including administrative responsibility. Therefore, a review of the system of offenses and punishments based on the principles and criteria that meet the requirements used in developed democratic countries serves to ensure the rights and freedoms of citizens. Taking this into account, the Law of the Republic of Uzbekistan "On Amendments and Additions to the Criminal, Criminal Procedure Codes and the Code of Administrative Responsibility of the Republic of Uzbekistan in Connection with the Liberalization of Criminal Punishments" was adopted on August 29, 2001.[7] Based on this law, amendments and additions were made to several articles of the Code of Administrative Offenses of the Republic of Uzbekistan. In particular, it was established that the value of the plundered property is subject to liability in accordance with the Criminal Code only if it exceeds five times the minimum wage. In addition, administrative responsibility (administrative preclusion) was established for the first time the commission of several criminal acts.

The aforementioned law provided a legal basis for the first stage of the liberalization concept in the Republic of Uzbekistan. The concept of liberalization, which is an important component of reforms in the judicial and legal sphere, is a long-term process that requires consistent development.

It is known that the implementation of tasks aimed at democratizing and modernizing society, reforming and modernizing the country requires the effective implementation of a number of measures. Including:

a) reduction of the list of bodies applying administrative sanctions;
b) transfer of certain types of responsibility from business entities to officials;
c) reduction of outdated and unjustified, serious types of administrative offenses;
g) reduction of administrative sanctions and improvement of the procedure for their application;

d) development of new laws reflecting the responsibility of officials of state bodies for illegal interference in the activities of economic entities

e) improvement of legislation on administrative liability, etc.

At the same time, based on the liberalization of legislation on administrative liability, the following main directions for its improvement can be identified:

1) Development of a concept for the development of legislation on administrative liability;

2) regular monitoring of legislation on administrative liability;

3) Unification of legislation on administrative liability;

4) Development of administrative law institutions;

5) Development of a mechanism for implementing such institutions as reconciliation and public control, which arose on the basis of the concept of liberalization in the legislation on administrative liability.

It should be noted that a lot of work is being done in the Republic of Uzbekistan on the formation of civil society, protection of human rights and freedoms. After all, the liberalization of the judicial and legal system should systematically and comprehensively reflect the large-scale fundamental changes that have occurred in administrative legislation and criminal law policy.

First of all, it is necessary to further liberalize criminal legislation, that is, to transfer certain cases of violations of the law from criminal jurisdiction to administrative jurisdiction. The adoption of new editions of laws that effectively ensure the rights and freedoms of citizens will ensure the unification of the legislation on administrative responsibility, which is reflected in dozens of normative legal acts today.

These laws should also reflect measures to improve and democratize the procedural mechanisms for considering cases of administrative offenses, ensure legality in this area and reliable protection of the rights of citizens.

References:

1. И.В.Максимов. «Соразмерность» как принцип установления и применения административных наказаний (методологический аспект) // Вестник Саратовской государственной юридической академии • Дополнительный выпуск (85) 2012, стр. 89
2. И.А.Хамедов, Ў.Х.Мухамедов таҳрири остида Маъмурий ҳуқуқ. Дарслик. 2017 й. 491 б.
3. Ўзбекистон Республикасининг Маъмурий жавобгарлик тўғрисидаги кодекси // Қонун ҳужжатлари маълумотлари миллий базаси, 30.08.2023 й., 03/23/865/0664-сон, 245-модда.
4. И.В.Максимов. «Соразмерность» как принцип установления и применения административных наказаний (методологический аспект) // Вестник Саратовской государственной юридической академии Дополнительный выпуск (85) 2012, стр. 89

- 5.Ўзбекистон Республикасининг Маъмурий жавобгарлик тўғрисидаги кодекси
// Қонун ҳужжатлари маълумотлари миллий базаси, 30.08.2023 й., 03/23/865/0664-
сон, 245-модда.
- 6.Бахрамов Х.Х., Селиманова С.М. Административная ответственность: обстоятельства,
влияющие на назначение наказания // Ҳуқуқ-Право-Law/. -2005. - №3. -С. 78-79.
- 7.Ўзбекистон Республикаси Олий Мажлисининг ахборотномаси. – 2001. – 9-10-сон. –
165-м.