



DAMAGE CAUSED AS A RESULT OF COMMITTING AN ADMINISTRATIVE OFFENSE AND METHODS OF COMPENSATION

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Abstract: The article provides a scientific analysis of the concept of damage caused as a result of committing administrative offenses and methods of compensation. Additionally, substantiated proposals and recommendations have been developed to improve the methods of compensating for damage caused as a result of administrative offenses.

Keywords: property damage caused as a result of an administrative offense and civil law procedure for its compensation, administrative offense, victim, methods of compensation.

Article 29 of the Constitution of the Republic of Uzbekistan states: "The rights of victims of offenses are protected by law. The state ensures protection and access to justice for victims, and creates conditions for compensation for the damage caused to them." [1]

The Basic Law imposes on the state the obligation to compensate for damage to persons who have suffered from offenses, including administrative offenses. Of course, such an approach is fully consistent not only with the principles of a legal state but also with those of a social state. After all, in a social state, the state and its authorized bodies are considered responsible subjects for preventing the commission of offenses in society. Therefore, the state also assumes responsibility for ensuring compensation for damages caused as a result of these offenses. These standards are defined as universally recognized rules in international legal documents. In particular, paragraphs 12 and 13 of the Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the UN on November 29, 1985, recommend that "When compensation is not fully available from the offender or other sources, States should endeavor to provide financial compensation to victims, establish, strengthen and expand national funds for compensation to victims, and when necessary, establish other funds for this purpose." [2]

Based on the general rule, it can be said that damage caused as a result of committing an administrative offense refers to damage caused by an illegal, culpable (intentional or negligent) action or inaction, for which administrative liability is provided in the legislation on administrative liability. It should be noted that the absence of a legal definition of damage caused as a result of committing an administrative offense in our national legislation made it possible to develop this subjective doctrinal definition. At the same time, it should be noted that there are other doctrines related to the doctrinal definition of this institution in legal literature.

In accordance with Article 295 of the Code of Administrative Offenses of the Republic of Uzbekistan, a person who has suffered moral, physical, or property damage through an administrative offense is recognized as a victim. Consequently, it is these entities that have the right to demand compensation for damage caused as a result of an administrative offense. That is, the fact of an administrative offense is the basis for demanding compensation for damages. A document confirming the fact of an administrative offense is an administrative

decision (administrative protocol) adopted by an authorized body or a court. According to the current procedure, bodies and officials authorized to consider cases of administrative offenses, having established the damage caused by the administrative offense, attach all supporting documents to the administrative report.

According to Article 38 of the Code of Administrative Offenses of the Republic of Uzbekistan, if the property damage caused by the commission of an administrative offense does not exceed the established basic calculated value, the body and official authorized to consider the case of the administrative offense, when applying a penalty, also have the right to decide on the compensation of this damage by the guilty party. That is, in the following two cases, the authorized body and official consider the issue of recovering the damage caused to the victim from the guilty party:

firstly, the damage caused must be of a property nature, and if the victim also claims moral damage, the consideration and resolution of this part of the case falls under the jurisdiction of the court;

secondly, the damage cannot exceed the amount of the basic calculated value established by law.

Our national legislation defines the above two cases as a necessary condition for the bodies and officials authorized to consider cases of administrative offenses to consider the issue of recovering damages from the guilty party. However, the legislation does not clearly define the legal mechanisms for this. That is, it is not specified what measures the body and officials authorized to consider the case of an administrative offense can take to recover the damage caused to the victim from the guilty party or what legal means and methods they can use to ensure compensation for the damage.

In our opinion, when ensuring the recovery of damages caused to the victim from the guilty party, the body and officials authorized to consider the case of an administrative offense should explain, firstly, that compensation for damage caused to the victim to the administrative offender is taken into account as a mitigating circumstance when imposing punishment on him, and that he can be released from administrative liability under the types of administrative offenses established by law, and secondly, that he can resolve compensation for damage to the victim in civil law, that is, he has the right to apply to the court in civil cases on the basis of the issued administrative decision. However, until the legislation establishes strict and specific measures to recover damages caused by an administrative offense from the guilty party in favor of the victim, this issue will remain debatable.

As noted above, if the damage caused as a result of an administrative offense is in a non-property form or its amount exceeds the established basic calculated value, or if it was impossible to recover the damage from the guilty party at the time of application of the administrative penalty, the victim has the opportunity to recover the damage caused as a result of the administrative offense in the following ways, in accordance with the procedure established by law, i.e., in a criminal court or in a civil law procedure.

Today, the use of the above-mentioned method of compensation for damage caused by the commission of an administrative offense by an authorized body and an official ensures a complete, comprehensive, and objective study of the circumstances of the case and eliminates duplication of their work by the courts. According to the current procedure, the bodies and officials authorized to consider cases of administrative offenses are limited to explaining to the administrative offender that compensation for damage caused to the victim is taken into

account as a mitigating circumstance when imposing punishment on him, and that victims of administrative offenses can apply to the court with a civil claim. Also, in cases of receiving a request from the court, they submit to the court case materials on administrative offenses. Analysis shows that victims, due to various problems, in most cases do not apply to the courts with a civil claim and, as a result, remain defenseless in matters of compensation for damages. In addition, the legislation on administrative liability provides that only property damage caused as a result of an administrative offense can be recovered[3]. That is, the issue of compensation for moral damage is outside the scope of legal regulation. However, Article 295 of the Code of Administrative Offenses stipulates that moral damage may also be caused to the victim as a result of an administrative offense. In this matter, L.V. Shashkova states: "The subject of a civil claim may be the victim's claim for compensation for moral damages. Since the victim has the right to file a civil claim for compensation for moral damages, these issues should be resolved in the system of applying administrative penalties"[4], and proposes to introduce the institution of a civil claim into the legislation on administrative liability. Supporting this proposal, it should be noted that the institution of reconciliation has been introduced into the legislation on administrative responsibility, but the institution of a settlement agreement between the administrative offender and the victim still does not exist.

In conclusion, we believe that the introduction into national legislation of effective methods of timely and full compensation for damage caused as a result of an administrative offense, the introduction of a settlement agreement between the administrative offender and the victim, the institution of a civil claim and measures to ensure it will serve to a certain extent to improve the institution of compensation for damage caused to the victim as a result of committing an administrative offense.

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