



## THE ADMINISTRATIVE AND LEGAL NATURE OF THE PROCEEDINGS ON ADMINISTRATIVE OFFENSES CONDUCTED BY INTERNAL AFFAIRS BODIES

Rustamov Sanjar Suxrobovich

Associate Professor, Department of State and Legal Sciences, Law Enforcement Academy of the Republic of Uzbekistan

<https://doi.org/10.5281/zenodo.20139727>

**Abstract.** The article provides a scientific and theoretical analysis of the administrative and legal nature of the proceedings on administrative offenses conducted by internal affairs bodies. The author substantiates the role of this activity within the legal status of internal affairs bodies, its functional features, and its importance in the application of administrative coercion measures and the execution of administrative penalties. Furthermore, the correlation between the objectives of legislation on administrative liability and the primary tasks of internal affairs bodies is revealed. In conclusion, it is established that this activity is an integral component of the administrative and legal status of internal affairs bodies.

**Keywords:** internal affairs bodies, administrative offense, administrative liability, administrative and legal status, administrative coercion measures, administrative proceedings, law enforcement activity, prevention inspector, public order, administrative penalty.

Scientific research on the activities of internal affairs bodies in conducting proceedings on administrative offenses reveals that this institution has been examined from various scholarly perspectives. In particular, the issues of conducting proceedings on administrative offenses by internal affairs bodies have been studied by Professor S.B. Xujakulov from the standpoint of general offense prevention[1]; by Q.A. Saitqulov from the perspective of the victimological prevention of offenses by internal affairs bodies[2]; by S.S. Sharipov from the standpoint of managing the activities of patrol service units of internal affairs bodies[3]; the administrative and legal aspects of organizing the activities of internal affairs bodies by A. Eraliyev[4]; the administrative and legal provision of public order and security during public events by A.A. Xudoyberdiyev[5]; the regulation of the passport system by Dj.X. Yuldashev[6]; the enforcement of administrative liability for offenses against morality by Sh.A. Ganiyev[7]; the prevention of offenses related to domestic violence by internal affairs bodies by A.Sh. Murodov[8]; and the prevention of crimes by the prevention services of internal affairs bodies by J.S. Muxtorov[9]. These studies have primarily advanced opinions on establishing new administrative liabilities that did not previously exist and on the need for such offenses to be adjudicated by internal affairs bodies. Specifically, Sh.A. Ganiyev proposed establishing administrative liability for child prostitution and child pornography; A.A. Xudoyberdiyev for violating the rules of maintaining public order and ensuring citizen safety during public events; S.B. Xujakulov for the failure to comply or the improper compliance with a submission (private ruling) to eliminate the causes of an offense and the conditions that facilitate it; and Dj.X. Yuldashev for violating the requirements of legislation on citizenship. However, the issues concerning the activities of internal affairs bodies in conducting proceedings on administrative offenses have not been sufficiently researched.

Continuing our scientific research on the important activities of internal affairs bodies in conducting administrative offense cases, we focus on the tasks of the legislation on administrative liability and the main tasks of internal affairs bodies, observing their intersection at specific points. Specifically, Article 2 of the Law "On Administrative Responsibility" provides that the tasks of administrative liability legislation include protecting the rights and freedoms of citizens, property, state and public order, the natural environment, ensuring social justice and legality, the timely and objective consideration of administrative offense cases, as well as preventing such offenses, and educating citizens in the spirit of compliance with the Constitution and laws of the Republic of Uzbekistan for the benefit of the individual and society; while Article 2 of the Law "On Internal Affairs Bodies" dated September 16, 2016, provides that the primary tasks of internal affairs bodies are the protection of the rights, freedoms, and legitimate interests of citizens, the property of individuals and legal entities, the constitutional order, ensuring the rule of law, the security of the individual, society, and the state, as well as the prevention and prophylaxis of offenses.

According to the analysis, the administrative and legal nature of the activities of internal affairs bodies in conducting administrative offense cases is manifested in the following:

Firstly, it is an integral part of the legal status of internal affairs bodies.

It should be noted that the legal status of internal affairs bodies is complex in nature and, on the one hand, refers to the role of internal affairs bodies in the civil service system. For example, in the Law of the Republic of Belarus "On Civil Service," the civil service system is divided into state civil service, military service, and paramilitary service, while service in the internal affairs bodies is included in paramilitary service[12]. In this sense, the internal affairs bodies are a state body between the armed forces and civil organizations. On the other hand, it represents its status as a subject of law. In particular, the rights, duties, and powers of internal affairs bodies are reflected in the relevant legislative acts. Some authors also emphasize the status of internal affairs bodies as subjects of constitutional law [13].

Article 4 of the Law of the Republic of Uzbekistan "On Internal Affairs Bodies" defines the main activities of the internal affairs bodies, Article 16 defines the duties of the internal affairs bodies, and Article 17 defines the rights of the internal affairs bodies; interestingly, administrative offense proceedings are simultaneously defined as one of the main activities, duties, and rights of the internal affairs bodies.

The Regulation on the Ministry of Internal Affairs of the Republic of Uzbekistan, approved by the Decree of the President of the Republic of Uzbekistan dated April 12, 2017, No. PP-2883 "On organizational measures to further improve the activities of internal affairs bodies," defines the conduct of administrative offense cases as one of the functions of the internal affairs bodies[14].

The list of tasks assigned to prevention inspectors of the internal affairs bodies, approved by Decree of the President of the Republic of Uzbekistan No. UP-27 dated November 29, 2021, "On approval of the Concept of Public Safety of the Republic of Uzbekistan and measures for its implementation," provides for the preparation of protocols on administrative offenses and the consideration of relevant administrative offense cases in accordance with the Code of the Republic of Uzbekistan on Administrative Responsibility[15].

Secondly, these are measures to ensure the fulfillment of the tasks assigned to the internal affairs bodies.



It should be noted that the legal status of internal affairs bodies is of particular importance in the state mechanism. This, in connection with the functional tasks of internal affairs bodies, is manifested in:

first, internal affairs bodies are one of the bodies of state administration;

secondly, internal affairs bodies, as law enforcement agencies, ensure the fundamental aspects of the vital activities of the state and society;

thirdly, internal affairs bodies strengthen the concept of social harmony between the state and the citizen by protecting and effectively ensuring the rights and freedoms of citizens on behalf of the state[16].

The tasks assigned to the internal affairs bodies are so important that they play an important role in achieving citizens' satisfaction with the state and the ongoing reforms. After all, internal affairs bodies are a structure that distinguishes right from wrong, ensures peace and tranquility, and establishes the rule of law and justice. Administrative offense proceedings are of particular importance for the effective and full performance of the tasks assigned to internal affairs bodies. The fact is that the protection of the rights, freedoms, and legitimate interests of citizens, the property of individuals and legal entities, the constitutional order, ensuring the rule of law, the security of the individual, society, and the state, as well as the prevention and prophylaxis of offenses, cannot be carried out without administrative liability.

In general, the main tasks of the internal affairs bodies are ensured through administrative liability in certain cases.

Thirdly, it provides for the participation of internal affairs bodies in ensuring the tasks of the legislation on administrative liability. Article 2 of the Code of Administrative Responsibility defines the tasks of administrative liability legislation as protecting the rights and freedoms of citizens, property, state and public order, the natural environment, ensuring social justice and legality, the timely and objective consideration of administrative offense cases, as well as the prevention of such offenses, and educating citizens in the spirit of compliance with the Constitution and laws of the Republic of Uzbekistan[17].

Legal and institutional foundations have been created to ensure these tasks, in which internal affairs bodies act as bodies (officials) authorized to consider cases of administrative offenses.

It should be noted that among about fifty bodies (officials) authorized to consider cases of administrative offenses, internal affairs bodies rank second after criminal courts in terms of the number of cases related to administrative offenses. Simply put, internal affairs bodies are one of the main subjects in ensuring the tasks of the legislation on administrative liability.

Fourthly, it is the main "platform" that provides for the application of administrative coercive measures.

It is well known that internal affairs bodies apply numerous measures of administrative coercion. An analysis of current legislative acts shows that administrative coercive measures applied by internal affairs bodies are divided into two groups based on the grounds for their application:

the first - within the framework of administrative offense proceedings;

the second is outside the jurisdiction of administrative offense cases.

Internal affairs bodies have the authority to apply all measures to ensure the conduct of administrative liability cases. In particular, according to Article 287 of the Code of

Administrative Responsibility, internal affairs bodies have the authority to carry out administrative detention in more than 100 cases. Also, within the framework of administrative offense proceedings, internal affairs bodies are authorized to conduct personal searches and inspections, seizure of items and documents, detention and inspection of vehicles, removal from driving, and examination to determine the state of intoxication.

According to Article 17 of the Law "On Internal Affairs Bodies," the following coercive measures applied by internal affairs bodies are applied within the framework of administrative offense proceedings:

to demand from citizens compliance with legislation and the termination of unlawful actions, and in case of non-compliance with these requirements, to apply coercive measures;

during the performance of official duties, to verify citizens' identity documents, and if there are grounds to believe that they contain weapons, ammunition, explosives, radioactive or poisonous substances, explosive devices, pyrotechnic products, narcotic drugs, their analogues, psychotropic substances, precursors, or other items whose circulation is prohibited or restricted, to conduct a personal search of citizens, an inspection of their belongings, baggage, and luggage, and to seize said items, means, and substances in the absence of legal grounds for their transportation and storage;

to demand that citizens leave the place where the crime or administrative offense was committed or the scene of the incident if it is necessary for conducting pre-investigation and investigative actions, operational-search and search activities, documenting the circumstances of the crime or administrative offense or incident, or preserving the traces of the crime or administrative offense or the circumstances of the incident;

detention and delivery to internal affairs bodies of persons who have committed administrative offenses in the manner prescribed by law;

to stop vehicles and, if necessary, to verify documents granting the right to drive and use them, documents for the vehicle, as well as for transported cargo, and to conduct an external inspection of the vehicle and cargo together with the driver or the person accompanying the cargo;

in cases and in the manner prescribed by law, to detain vehicles and persons, conduct searches, suspend persons from driving a vehicle, seize documents granting the right to drive a vehicle, as well as transport vehicles for storage;

conducting examinations of persons suspected of committing crimes or administrative offenses to determine the presence of alcohol, narcotic drugs, psychotropic substances, or other substances affecting intellectual and volitional activity in their bodies.

Fifth, a separate area of activity for the execution of judicial acts and acts of other bodies.

Both internal affairs bodies participate directly in the execution of 7 administrative penalties provided for by the Code of Administrative Responsibility. It is known that the execution of a decision on the application of an administrative penalty is the final stage of administrative offense proceedings.

Internal affairs bodies directly participate in the execution of the following administrative penalties.

Specifically:

compulsory execution of a decision on the imposition of a fine. At the same time, according to Article 333 of the Code of Administrative Responsibility, if the person who was fined is not

working or if it is impossible to recover the fine from the offender's salary or other income, pension, or stipend for other reasons, its recovery is carried out by the state executor from the offender's property, as well as from their share in the common property, based on a decision issued by the relevant body (official) to impose a fine.

In this case, in the process of collection, the internal affairs bodies directly perform tasks related to the protection of public order, that is, the internal affairs bodies perform tasks aimed at ensuring the compulsory execution of the decision to impose a fine;

Internal affairs bodies also participate in the execution of a decree on the gratuitous seizure of an item. In this case, the decision on the compensated seizure of weapons and ammunition for them shall be executed by the internal affairs bodies;

When executing a decision to deprive a special right. At the same time, decisions on the deprivation of the right to drive vehicles shall be executed by the internal affairs bodies;

During the execution of a decree on administrative arrest. The ruling on administrative arrest shall be executed by the internal affairs bodies immediately after its issuance.

As can be seen from the above analysis, the conduct of administrative offense cases occupies a special place in the activities of internal affairs bodies and is an integral component of the legal status of internal affairs bodies.

It is known that the proceedings in cases of administrative offenses are a procedural process. From the beginning to the end of this procedural process, internal affairs bodies participate within their powers.

Thus, the activity of administrative offense proceedings is an integral component of the administrative-legal status of internal affairs bodies and serves to effectively fulfill the tasks assigned to the internal affairs bodies

### References:

1. Khojakulov S.B. Improving the general prevention of offenses (on the example of the activities of internal affairs bodies): abstract of the dissertation for the degree of Doctor of Philosophy in Legal Sciences. – T. – 2019. – P. 32.
2. Saitkulov K.A. Improving the activities of internal affairs bodies in the victimological prevention of offenses: Doctor of Philosophy in Law. (PhD) dissertation abstract. – T. – 2020. – P. 27.
3. Sharipov S.S. Improving the management of the activities of patrol and post service units of the internal affairs bodies: Doctor of Philosophy in Law. (PhD) dissertation abstract. - T., - 2020. – P. 26.
4. Eraliev A.B. Administrative and Legal Aspects of Organizing the Activities of Internal Affairs Bodies: Doctor of Philosophy in Juridical Sciences. (PhD) dissertation abstract. – T. – 2022. – P.50.
5. Khudoyberdiyev A.A. Improving the Administrative and Legal Support of Public Order and Safety during Mass Events: Doctor of Philological Sciences, Law. (PhD) dissertation abstract. – T. – 2020. – P.52.
6. Yuldashev Dj.Kh. Theoretical and legal aspects of improving the passport system of the Republic of Uzbekistan: Doctor of Philosophy in Law. (PhD) dissertation abstract. – T. – 2020. – P. 26.

7. Ganiev Sh.A. Improving administrative liability for offenses against morality: author's abstract of the doctoral dissertation. – T. – 2016. – P.90.
8. Murodov A.Sh. Improving the prevention of offenses related to domestic violence by internal affairs bodies: Doctor of Philosophy in Law. (PhD) dissertation abstract. – T.: 2019. – P.52.
9. Mukhtorov J.S. Ensuring crime prevention by preventive services of internal affairs bodies // <https://diss.natlib.uz/tanishish/4018cb6f-8004-4d3f-b85e-c49530c4c308>.
10. Code of the Republic of Uzbekistan on Administrative Responsibility // <https://lex.uz/docs/97664>.
11. Law of the Republic of Uzbekistan "On Internal Affairs Bodies" // <https://lex.uz/docs/3027843>.
12. Law of the Republic of Belarus dated June 1, 2022, No. 175-Z "On Civil Service" // <https://etalonline.by/document/?regnum=h12200175>.
13. Andrey V.B. Constitutional and Legal Foundations of the Activities of Internal Affairs Bodies to Ensure Law and Order in Russia // [file:///C:/Users/user/Downloads/constitutional-legal-foundations-of-activities-of-internal-affairs-bodies-to-ensure-law and order-in-Russia.pdf](file:///C:/Users/user/Downloads/constitutional-legal-foundations-of-activities-of-internal-affairs-bodies-to-ensure-law-and-order-in-Russia.pdf).
14. Resolution of the President of the Republic of Uzbekistan No. PP-2883 dated April 12, 2017, "On organizational measures to further improve the activities of internal affairs bodies" // <https://lex.uz/acts/3165013#3165365>.
15. Decree of the President of the Republic of Uzbekistan No. UP-27 dated November 29, 2021 "On approval of the Concept of Public Security of the Republic of Uzbekistan and measures for its implementation" // <https://lex.uz/uz/docs/5749291#5749827>.
16. Mukhamedov U.Kh. Prospects for creating a people-oriented internal affairs system in Uzbekistan: Monograph. - T.: Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan, - 2020. – P. 13.
17. <https://lex.uz/docs/97664>.

