



Some Thoughts On The Essence, Problems And Solution Of The Administrative-Procedural Activity Of Strongholds Of The Internal Affairs Organs

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ABSTRACT

This article clarifies the essence and expression of the activity of strongholds of internal affairs organs, analyses the existent problems in this field and proposes some solutions to these issues.

KEYWORDS

Administrative-procedural activity, strongholds of the internal affairs organs, administrative offence, administrative responsibility, crime prevention inspectors, conduction on administrative offences.

INTRODUCTION

As a result of large-scale reforms implemented in the internal affairs organs of the country over the past years, the strongholds of internal affairs organs and the activities of prevention inspectors in each makhalla have been established. This allowed citizens and legal entities to protect their rights and immediately address them in case of violations.

In accordance with the requirements of the current legislation, as well as the content and procedure for consideration of applications from individuals and legal entities to the strongholds of internal affairs organs: 1) the procedure for consideration is established by the Law of the Republic of Uzbekistan “On appeals of individuals and legal entities”; 2)

appeals on administrative liability, established by the civil procedure, criminal-procedural, criminal-executive, economic procedure legislation and other laws [1, p. 5].

Appeals of individuals and legal entities to the strongholds of the internal affairs organs within the framework of the Code of Administrative Responsibility of the Republic of Uzbekistan shall be resolved within the framework of administrative-procedural activities and appropriate administrative-legal measures shall be taken for this purpose.

In legal sources, administrative-legal measures are divided into two: measures of persuasion and administrative coercion, accordingly, measures of administrative coercion are divided into three: administrative prevention, administrative restriction and administrative sanctions[2, p. 89].

The subjects of the strongholds of internal affairs organs, including crime prevention inspectors, patrol-post service and traffic safety service patrols in their service activity check documents, administrative control, prohibition (restriction) of movement of vehicles and passengers, inspection of persons and objects, administrative preventive measures such as seizure of documents; administrative restraint measures such as administrative detention, detention of a vehicle, disqualification from driving, use of physical force, special means and firearms; imposes a fine administrative penalty[3, p. 33].

In some legal references, administrative-procedural measures are included in the list of administrative coercive measures[4, p. 153].

Administrative-jurisdictional process is an important component of administrative-procedural activity and is the procedural form of implementation of norms on administrative responsibility[5, p. 141]. Law scholar Mayle A. D.

emphasizes that the activity of internal affairs organs (police) in a state governed by the rule of law is twofold: administrative and jurisdictional, and has a legal status as a special subject of administrative jurisdiction[6, p. 122]. According to the Article 22 of the Code of Administrative Responsibility of the Republic of Uzbekistan, state bodies and officials authorized to conduct proceedings on administrative offenses shall educate the offender in the spirit of observance and respect for the law, and aims to prevent the commission of new offenses by the offender or other persons. Crime prevention inspectors also carry out administrative-jurisdictional actions for this purpose within their activity.

Administrative liability is a special type of legal liability, defined by legal scholars as the application of administrative penalties by the authorized state bodies and officials to the person who committed the administrative offense, regulated by the norms of administrative law[7, p. 225]. By ensuring administrative liability and the inevitability of punishment, first of all, offenses are effectively prevented; secondly, spirit of obedience to the law is formed in citizens; and thirdly, the principles of justice and equality before the law are provided[8, p. 20].

Measures to ensure the conduct of proceedings on administrative offenses - is special administrative-legal coercive measures[9, p. 11] taken to create the necessary conditions for bringing the offender to administrative responsibility, administrative detention of persons prosecuted in accordance with the Articles 284-292 of the Code of Administrative responsibility of the Republic of Uzbekistan; measures such as personal search, inspection of items, seizure of items and documents, removal from driving a vehicle, and inspection to determine the state of intoxication may be applied. The measures

set out in these norms are built on legal and procedural relationships according to their type and nature[10, p. 62].

Proper handling of administrative offenses serves to ensure social justice and legality, a comprehensive understanding of the situation, timely and quality decision-making and enforcement, study and elimination of the causes of offenses, educating citizens in the spirit of the Constitution and laws-obedient[11, p. 345]. One of the important principles in this process is speed, and every case should be resolved as soon as possible. Prompt response to any offense, timely application of sanctions is of great educational importance for the perpetrator and those around him.

According to the Article 248 of the Code of Administrative Responsibility of the Republic of Uzbekistan, Articles 561, 122, 123, 127 (in the part on inadvertent audible alarm), Article 161 (in relation to citizens), the first part of the Article 187, Articles 192, 221, The powers of proceedings on administrative offenses provided for in the first part of Article 223, Articles 2231, 2232, 2233, the first part of the Article 224 are given to the crime prevention inspectors of strongholds of internal affairs organs.

Analysis of the activities of crime prevention inspectors in administrative practice shows that in recent years, 65.0% of detected administrative offenses in the Republic of Uzbekistan were directly punished by crime prevention inspectors, and 35.0% were sent to other bodies for legal action.

Today, along with the efforts in the administrative and procedural activities of the strongholds of internal affairs organs, there are some problems. One of the most pressing issues in this area is the study and analysis of these problems, as well as the development of

scientifically based proposals to further improve its activity[12].

In our opinion, in order to further improve the administrative and procedural activities of the strongholds of internal affairs organs, the followings are proposed:

Firstly, in the practice of internal affairs organs are required to identify and disclose all types of administrative offenses in the service area, but their reporting on offenses that are not within their jurisdiction is not enshrined in the Code of Administrative Responsibility of the Republic of Uzbekistan.

For example, crime prevention inspector does not have the authority to draw up a report on violation of sanitary legislation established by the Article 53 of the Code of Administrative responsibility, which is defined in the service area. This creates problems in identifying administrative offenses that negatively affect the criminogenic situation in the region and ensuring the inevitability of liability.

In addition, the Article 280 of the Code of Administrative Responsibility of the Republic of Uzbekistan stipulates that an authorized official of the relevant body, which is responsible for verifying and (or) monitoring compliance with the rules of administrative liability, draws up a report on an administrative offense. It is ambiguous that whether many bodies and officials have the right to inspect and (or) monitor compliance with such rules.

This leads to the fact that in practice, cases of administrative offenses committed by these bodies and officials are considered illegal by oversight bodies.

Therefore, the Article 280 of the Code of Administrative Responsibility of the Republic of Uzbekistan should clearly define the list of state bodies and officials authorized to draw up a report on an administrative offense and

clearly define the types of offenses (norms) on which these authorized entities are entitled. This article also obliges territorial crime prevention inspectors of internal affairs bodies to draw up and review protocols on violations of public order, which are within the competence of other state bodies and officials.

This, on the one hand, serves to prevent various interpretations that occur in the practice of assessment of facts of administrative offenses, on the other hand, to ensure the effectiveness of the activities of the competent authorities in this regard.

Secondly, in today's law enforcement practice, in accordance with the requirements of the Article 21 of the Code of Administrative responsibility of the Republic of Uzbekistan, in cases where the offense is insignificant, the court may release the offender from administrative liability and issue a "warning" is considered.

To this, another body or official reviewing the case on administrative offenses, including the crime prevention inspector, concludes that the administrative offense is insignificant, the Article 308¹ of the Code of Administrative responsibility sends to court in the prescribed manner. However, the fact that the legal status of this measure is not clearly defined in the administrative legislation has led to various controversies in practice.

In particular, the Article 32 of the Code of Administrative responsibility of the Republic of Uzbekistan stipulates that "the aggravating circumstance of person subject to an administrative sanction for another year is an aggravating circumstance" and it still remains questionable whether it can be assessed as an aggravating circumstance provided for in the norm of a special section of the code (e.g., the Article 223, paragraph 2).

This is due to the fact that the Code of Administrative responsibility provides for repeated "administrative offense" by the person previously released from liability, who was previously "warned", and there is no legal basis to consider it as repeated administrative offense or first-time offense[13, p. 213].

In this case, of course, the law enforcement agencies have no right to consider the act as an aggravating circumstance, as it is not provided by law.

Studying the administrative legislation of foreign countries on this issue, the followings are analyzed that Moldova (Article 32)[14], Russia (Article 3.4)[15], Azerbaijan (Article 23)[16], Belarus (Article 62)[17], Ukraine (Article 24)[18], Kazakhstan (Article 47)[19], Kyrgyzstan (Article 27)[20], Turkmenistan (Article 41)[21], Tajikistan (Article 36) [22] the measure is included in the penal system.

Therefore, in our opinion, it is expedient to include in the Article 23 (Types of administrative penalties) the type of administrative penalty "warning", the application of this experience in our national system, ie, the Code of Administrative Responsibility of the Republic of Uzbekistan.

At the current stage of reform in the field of administrative legislation, it is important to make a comprehensive analysis of the existing problems and draw conclusions to find solutions, to develop sound proposals on the practice of applying the rules of administrative responsibility[23, p. 82.]. We believe that the consideration of these proposals and recommendations will allow to solve existing problems in the future in the administrative and procedural activities of the strongholds of internal affairs organs, increase its effectiveness and, as a result, ensure the inevitability of punishment and prevention of offenses.

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