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Administrative Regulation – Is A Legal Measure Determining The Mechanisms Of Law Enforcement

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ABSTRACT

The article analyzes the concept, content, classification of administrative regulations, the scientific views of foreign and domestic law scholars on the mechanisms of administrative regulation, as well as their role in the legal support of internal affairs bodies. Moreover, the author develops proposals and recommendations for the introduction and enforcement of administrative regulations.

KEYWORDS

Law, Execution Of Law Enforcement, Regulation, Administrative Regulation, Internal-Organizational Regulation, Foreign Cooperation Regulation, Administrative-Regulatory Regulations, Administrative-Protective Regulations, Mixed Administrative Regulations, Public Services, Administrative Procedures, The Concept Of Administrative Reform, Normative-Legal Documents, Legal Support Of The Activities Of Internal Affairs Bodies.

INTRODUCTION

It is obvious that the institution of administrative regulations is an important means of legal regulation of public administration. According to the researches, administrative regulations fully regulate the activities of state servants, ensure the

transparency of the executive branch, reduce corruption and its causes, as well as optimize their activities and increase their efficiency [1]. The analysis shows that the concept of administrative regulation is given differently in the studied sources. In particular,

“administrative regulation on the performance of state functions is a mandatory procedure for actions (decisions) of the executive body, its structural units and officials to exercise their powers in the performance of state functions” [2], “Administrative regulation is an official document regulating the provision of services to citizens and organizations by government agencies” [3], “regulation - determines the order of work of government agencies and organizations, as well as the procedure for administrative procedures by government agencies and organizations” [4].

In our view, it is expedient to clearly define the powers, rights and liabilities of the bodies authorized to implement and issue administrative regulations, its responsible employees, the possible forms of internal interaction of different authorities at all stages of the decision-making process.

The following features are regarded in connection with the administrative regulations: firstly, the legislation defines administrative procedures as an executive document, aimed at regulating their application, in particular, regulates relations related to the provision of public services to individuals and legal entities; secondly, it should reflect not the material norms, but the norms of administrative procedures, including the order, timing and sequence of implementation of public services, a sample of documents; thirdly, it should not refer to other normative legal acts, except for references to laws [5].

MATERIALS AND METHODS

The studies show that the introduction of administrative regulations in the system of

internal affairs bodies: a) it allows full implementation of norms of law, as well as rules that are an integral part of the norms in public life; b) it clearly defines the principles, forms and methods of law enforcement, the main stages, the tasks, functions and powers of the subjects implementing it; c) it allows individuals and legal entities to monitor compliance with the procedures for consideration of their appeals; d) this ensures openness and transparency in the activities of internal affairs bodies and exercise public control.

It can be observed that the influence of administrative regulation as a mechanism for the implementation of legal norms in foreign countries is high [6]. In Russian scientific publications, administrative regulations are mainly divided into two groups: on the one hand, internal regulations of the executive authority [7]; on the other hand, administrative functions and public regulations for the provision of public services [8].

RESULTS AND DISCUSSION

The administrative regulations of the executive authorities are classified as follows in the researches [9]:

- a) According to the purpose of administrative regulations: 1) regulations on cooperation of executive authorities; 2) internal organizational regulations of executive authorities; 3) regulations on administrative and public functions;
- b) According to the principle of the federal state: 1) administrative regulations of the system of executive authorities; 2) administrative regulations of the subjects of executive authorities;

c) Depending on the administrative competence of the executive authorities:

1) Administrative regulations of ministries; administrative regulations of the civil service; administrative regulations of agencies;

d) Depending on the purpose of the administrative and legal functions assigned to the executive authorities: 1) administrative and regulatory regulations; 2) administrative-protective regulations; 3) mixed administrative regulations;

e) Depending on the administrative-public functions assigned to executive authorities, subjects responsible for their implementation: 1) regulations of performance of administrative and public functions on appeals of individuals and legal entities - administrative regulations of rendering of the state services; 2) administrative regulations for the performance of public-administrative functions related to the decision or appeal of state bodies, local self-governing bodies, extra-budgetary funds; 3) administrative-service (within the organization and system) regulations of the executive authorities.

The scope and subject of legal regulation of laws on administrative procedures differentiate considerably from country to country. In some countries (Switzerland, Germany) administrative procedures apply only to individual administrative documents, while in others (USA, France) they also regulate the stages of preparation and adoption of normative legal acts.

Some administrative issues may not be covered by general legislation on administrative procedures. In many countries, especially in Germany, the institution of administrative procedures does not apply to internal organizational procedures, as its task is primarily aimed at strengthening the participation of citizens in decision-making management.

According to the Finnish Law “On Administrative procedures and rules” of 2003, the internal rules of the administration do not apply to the execution of military orders, court proceedings, pre-trial investigations, police investigations and enforcement measures.

The provisions of the law on administrative procedures do not apply to actions related to national defense, foreign trade, taxation in Hungary.

It should be highlighted that in all countries, administrative regulations are related to the development of decisions affecting the rights and legitimate interests of citizens [10].

Researches show that in the era of globalization, not only the institution of administrative regulations, but also different approaches to defining the scope, content and methods of its legal regulation have been formed. In particular:

a) Many Western European countries with a stable tradition of bureaucratic regulation (especially Austria, Germany, Spain) have resorted to the method of detailed regulation, systematization and codification of administrative procedures.

b) Depending on the subject and scope of the administrative procedure, many states: adopt regulations; adoption of individual

legal documents; public services. In some countries, administrative procedures are classified according to the areas of activity of administrative authorities: administrative procedures in the field of economics, the conduct of disciplinary proceedings, etc.

- c) The law establishes the following procedures in the Republic of Kazakhstan:

decision-making and execution by state bodies and officials in the implementation of state functions and service obligations; organization of the state apparatus; consideration of applications of citizens for the exercise of their rights; procedures for protecting the rights and legitimate interests of citizens; decision making in the field of economics [11].

- d) The Anglo-Saxon countries, on the other hand, only define the general principles of administrative procedures and require the state apparatus to act fairly, thereby strengthening the principles of natural justice and supplementing them with special guarantees.
- e) Guarantees of a fair administrative process in New Zealand include: 1) giving the person concerned the opportunity to provide relevant information; 2) provide an opportunity for the person to give their explanations and comments before the decision is made; 3) prevention or resolution of conflicts of interest; d) independence in the consideration of the case and decision-making; 4) obligation to act without delay [12].

It should be outlined that France is one of the brightest representatives of the codified legal countries, refusing to codify administrative procedures on “the principle of legal security,

high level of protection of citizens` rights, simplification of staff and simplification of control over the rule of law” [13].

The French State Council defined the administrative procedures as impartiality, non-retroactivity of administrative documents, the possibility of complaining about the abuse of power, the right to judicial protection, the right to appeal to a higher authority.

The Belarusian state establishes the principle of priority of citizens` rights and freedoms over administrative procedures. This approach is rejected in some foreign countries, because they believe that the function of administrative procedures is to achieve a balance between the interests of the public and the individual, rather than setting priorities. In this regard, the Latvian Law on administrative procedure provides for the principles of respect for individual rights and procedural justice.

In this regard, our national legislation, in particular the Law of the Republic of Uzbekistan “On Administrative procedures” (January 8, 2018) [14] provides for the rule of law in relations with administrative bodies, ensuring the rights and legitimate interests of individuals and legal entities.

In addition, the law stipulates that the legislation establishing special administrative procedures should not worsen the situation of individuals and legal entities as a rule.

It should be noted that this law clearly defines the areas of application and non-application of its norms. According to it:

- 1) The norm applies to administrative and legal activities of administrative authorities in relation to interested persons, including

licensing, permitting, registration procedures, other procedures related to the provision of public services, as well as other administrative and legal activities in accordance with the legislation;

- 2) The norm does not apply to relations arising in the field of other activities related to the application of measures, litigation, proceedings on administrative offenses; preparation and adoption of normative legal acts, collection of taxes and other obligatory payments, civil service, referendums, elections, defense, public security and law enforcement, as well as operational search activities, interrogations, preliminary investigations, criminal coercion.
- 3) The legislation on appeals of individuals and legal entities shall not apply to relations within the scope of this Law.

As a final rule of the Law of the Republic of Uzbekistan “On Administrative procedures”, unless otherwise provided by law, the specifics of the activities of administrative bodies on the resolution of administrative cases, the adoption of administrative and procedural documents, the execution of administrative documents, as well as the approval by the Cabinet of Ministers of the Republic of Uzbekistan of administrative regulations on the consideration of administrative complaints, taking into account the specifics of the activities of administrative bodies.

CONCLUSION

The analysis shows that currently 34 public services provided by internal affairs bodies are provided in the traditional way, 7 through the Single interactive public services portal and 5 types of services through the Public service

centers. Only 2 of these public services, including administrative regulations for the provision of public information on the provision of information on convictions and address information, have been approved [15].

The results of the research show that there is a need for administrative regulations, along with laws governing the relationship of administrative authorities in the field of internal and external activities, aimed at their effective implementation.

In conclusion, it should be noted that, first of all, the development of administrative regulations, which provide a mechanism for law enforcement, in which management serves to determine the scope of decision-making powers, the procedure for its implementation; secondly, the introduction of an administrative regulation or a corresponding norm in the Law of the Republic of Uzbekistan “On regulatory legal acts”; thirdly, the creation of an electronic system for the implementation of administrative regulations; lastly, the establishment of special training for the organization and enforcement of laws in the system of internal affairs bodies will serve to increase the effectiveness of law enforcement in the future.

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