



Specific Features Of Methods Of Administrative And Legal Regulation Of Business Activity

Ataev Shokir Quranboevich

Senior Lecturer, Department Of National Ideology, Fundamentals Of Spirituality And Legal Education, Urgench State University, Uzbekistan

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ABSTRACT

The article analyzes the differences between the methods of administrative and legal regulation of entrepreneurial activity and other methods of private legal regulation.

KEYWORDS

Entrepreneurial activity, state functions, methods, business entities, dispositive, autonomous, authoritarian, liberalization, antitrust, global crisis, public law, liberal, dynamics, bureaucratic, licensing, dispositive, imperative.

INTRODUCTION

It is known that entrepreneurial activity is regulated and managed by the state through various means. This situation is considered in the literature of general legal theory as the economic function[1] of the state, in the administrative-legal literature as the subject[2] of public administration by the executive authorities, and in the economic literature as

one of the main directions of state regulation of the economy[3].

The economic function of the state is to develop, manage and regulate the main directions of economic development, as well as to form the state budget, determine the strategy of economic development of society,

ensure the equality of various forms of property, support entrepreneurship[4].

The economic literature emphasizes that state regulation of the economy is carried out by economic, legal (administrative) and financial methods. For example, Q.Muftaydinov spoke about the regulation of the market economy by objective economic laws and legal and economic laws adopted by the country's parliament. In this regard[5], Beknazov directly, ie as economic methods, such as tax policy, redistribution of income and resources, pricing policy, state business, credit and financial mechanism, customs policy, etc. standardization, metrology, social policy[6]. S.N.Shishkin divides the economy into organizational, legal and economic forms of business and legal regulation by the state[7]. V.S.Belyx, in parallel with the above authors, divides the methods of state regulation of entrepreneurial activity into the following two main methods: hierarchical (administrative) and commodity-money (economic) methods[8]. S.P.Moroz, on the other hand, divides these methods into direct and indirect methods[9]. However, it should be noted that economic methods are also, in fact, carried out through the rule of law. Therefore, it is appropriate to call these methods conditionally "administrative-economic" methods.

Article 12 of the Economic Code of Ukraine stipulates that administrative and economic methods (government procurement, licensing, patenting and quotas, certification and standardization, application of norms and limits, price and tariff regulation, investment, tax and other incentives, subsidies, compensations, targeted innovations and subsidies) are provided without separation[10]. This situation can be observed in the legislation of other CIS countries. In particular, the Law of the Republic of

Azerbaijan "On Entrepreneurial Activity" provides for state support, regulation of business activities, implementation of special permits (licensing) in the field of entrepreneurial activity, protection of the rights and interests of business entities as methods of state regulation of entrepreneurial activity[11]. Article 81 of the Entrepreneurship Code of the Republic of Kazakhstan stipulates the requirements of the legislation on business entities, products and business processes as methods (forms) of state regulation of entrepreneurial activity. the order of state registration of subjects, permission or notification in the implementation of certain types of activities (labor activity), technical regulation, prices and tariffs by the state regulation, compulsory insurance of civil liability of business entities in accordance with the legislation, state control (control), protection of competition and restriction of monopolistic activities, state order, determination of liability of business entities and officials of state bodies in accordance with the legislation[12].

The normative establishment of imperative (administrative-legal) regulation of the economy (entrepreneurial activity) by the state can be considered as a positive experience. However, further improvement of this practice, the separation of these methods into administrative and administrative-economic methods will serve for the effective legal regulation of business activities.

Widely uses administrative-legal methods of legal regulation in the legal regulation and management of entrepreneurial activity by the state. In this regard, the F.A. Primov said, "The state has a public-legal impact on the economy based on common interests, such as defining and implementing a long-term strategy for economic development, protecting consumer rights, ensuring healthy

competition, maintaining public order and security. In this process, the methods of administrative and legal regulation will be used[13].

The above-mentioned economic function of the state is also fully realized by the methods of administrative public administration, administrative-legal regulation.

In addition to granting economic freedom to the subjects of market relations, the state establishes the rules that they must follow and, if necessary, takes mandatory measures to ensure the observance of these rules[14]¹.

In the explanatory dictionary of the Uzbek language, the word "method" means "the way to reveal something, to do something; style of movement, type of order[15]; way. X.H.Odilkoriev describes the method of legal regulation as a set of methods, tools and ways applied by law to the existing social relations in society[16]. The legal encyclopedia of Uzbekistan expresses the same opinion, describing the method of legal regulation as a method of influence of legal norms on social relations[17]. H.R.Rahmonkulov explains the method (ie, the method A.Sh.) as a set of legal methods in a particular social sphere, procedures and rules that represent the use of legal means, and the relationship based on the subordination of one party to the other is regulated[18].

Z.M.Islamov, on the other hand, defines legal regulation as a set of methods of legal influence on human behavior developed over a long period of human communication and divides it into the amrona command method or authoritarian method and dispositive or autonomous methods. », In the "inequality" of their status, in the relationship of authority

and subordination, which is characterized by the relationship between the owners of subjective rights and legal obligations. This method of regulation emphasizes the specificity of administrative, criminal, state law.[19]

The division of legal regulation into public and private legal methods originated in Roman law, is traditionally recognized today in the same sense, and is understood as one of the main criteria for the division of law into relevant areas, and in all relevant literature (authoritarian) regulation.

Based on the above, it can be said that administrative-legal regulation is a type of general legal regulation, and methods of administrative-legal regulation of business entities are methods of legal influence of an imperative nature used to regulate and manage business activities by the executive authorities.

F.A. According to Primov, the differences between the methods of administrative and legal regulation of entrepreneurial activity and other methods of private legal regulation are reflected in the following: 1) are characterized by mandatory administrative and legal norms; 2) does not allow the participants of the legal relationship to choose alternative options for their actions; 3) is carried out in the administrative activities of the executive authorities; 4) used by the state to realize the common interests of the state and society; 5) in case of non-compliance with the mandatory procedures and conditions to be followed by business entities, appropriate measures are taken against business entities or their other applications for state registration and permission are rejected[20]. However, it is not possible to fully agree with the opinion of this author. After all, another feature of the methods of administrative and legal

¹ Ernazarov S.E. Problems of economic functions of the state in the transition to a market economy: Economics. fan. nomz. ... dis. - Toshkent, 1995. - B. 61.

regulation of entrepreneurial activity is the direct or indirect impact on economic activity (production, services and works).

F.A. Primov points out the following as methods of administrative and legal regulation of entrepreneurial activity: 1) establishment of procedures for state registration; 2) establishment of licensing and permitting procedures; 3) authorization of the state or entities established by the state to own, service and conduct certain property; 4) control over the activities of business entities; 5) binding rules of trade and services; 6) tax, financial and other reports to be submitted; 7) compulsory collection of a certain amount of cash receipts; 8) antitrust measures; 9) binding administrative-legal agreements[21]. In our opinion, the mandatory collection of tax, financial and other reports and a certain amount of cash receipts, which should be submitted by this author, is not a method of administrative and legal regulation of business activities. Because the submission of tax, financial and other reports and the mandatory collection of a certain amount of cash receipts are the subject of financial law.

In addition to the state registration procedures, re-registration or deregistration, as well as the introduction of a special public-legal regime should be considered as a method of administrative and legal regulation of entrepreneurial activity.

Thus, the methods of administrative and legal regulation of entrepreneurial activity are:

state registration (including re-registration, deregistration);

establishment of licensing and permitting procedures;

to authorize only the state or state-designated entities to own, service and engage in certain property;

control over the activities of business entities;

binding rules of trade and services;

antitrust measures;

binding administrative-legal agreements;

introduction of a special public-legal regime.

It should be noted that the methods of administrative and legal regulation of entrepreneurial activity do not always have a purely administrative and legal nature. In particular, they may also have a complex legal character in certain cases. For example, state registration (including re-registration, deregistration) is also regulated by the norms of civil law and financial law.

Establishing state registration procedures. It should be noted that business entities operate in the system of socio-economic relations as subjects of such areas of law as civil law, economic law, financial law, customs law, labor law, administrative law. However, in all cases, a business entity must pass state registration in the prescribed manner to become a formal legal entity. The process of state registration of business entities is a rather complicated process, due to the diversity of business activities and the fact that it is carried out in parallel with the procedures for issuing permits for registration.

In the process of state registration of business entities, an administrative-legal relationship is established between the executive body and the future entrepreneur. In this case, the future entrepreneur must fulfill the conditions and procedures established by the state before the executive body of registration in order to obtain the status of an entrepreneur. Only then will it be registered with the state and acquire entrepreneurial status.

Establish licensing and permitting procedures. One of the most widely used methods of administrative and legal regulation of business entities is the licensing and permitting procedures. Licensing is essentially a form of state regulation of entrepreneurial activity, aimed at ensuring national security and national defense, protection of health and morals of citizens, their legitimate interests and rights[22].

Authorization only to the state or to entities designated by the state to own, service, and engage in certain property. Thus, according to Article 4 of the Law of the Republic of Uzbekistan "On denationalization and privatization" of November 19, 1991, objects that can not be privatized (funds of the state budget, foreign exchange reserves, state trust funds, the Central Bank, as well as gold reserves, money circulation) government agencies, enterprises and facilities engaged in mining, production, transportation, processing of radioactive substances, burial of radioactive waste, sale of uranium and other fissile materials, as well as products made of them, weapons and ammunition, protection vehicles, military equipment, spare parts, etc.), these objects can not be the property basis of entrepreneurial activity. The reason for the establishment of such legal rules is that the privatization of the above-mentioned facilities is not expedient. Because the state maintains and exercises its strategic management by owning these facilities.

Certain procedures and rules that must be followed and followed in the protection of consumer rights, protection of the natural environment and the provision of such common interests. Business entities shall establish certain mandatory rules and procedures to ensure the safety and appropriateness of the products and services produced by them and the work performed. Such provisions as "On Technical Regulation",

"On Standardization", "On Metrology", "On Certification of Products and Services", "On Consumer Protection", "On Food Quality and Safety" It is also stipulated in the Law "On sanitary and epidemiological well-being of the population" (this is discussed in more detail in the next paragraph).

Control over the activities of business entities. The activities of business entities are controlled by the state in the form of inspections to determine compliance with laws and other legislation governing their activities, including inspections, inspections, analysis of statistical information and other information and inspections of subordinate bodies. S.V.Drobyazko also described state control and supervision as a method of administrative-legal regulation of individual entrepreneurial activity[23], A.A.Spektor explains the state control (supervision) of entrepreneurship as a form of state regulation of the economy and a way to ensure the interests of the state, and divides it into control in the production of goods, control in the performance of work, control in the service sector[24]. In our opinion, control can also be classified into species on the basis of other criteria (by areas of activity, by implementing entities).

Mandatory trade and service rules. Rules of trade and services are divided into types on the basis of the following criteria:

- 1) according to the object of trade and services;
- 2) according to the time of sale and service;
- 3) on subjects engaged in trade and services.

Also, the rules of trade and services are directly divided into general rules of trade and services and special rules of trade and services.

Antitrust measures. In order to create equal opportunities and conditions for business entities, to protect them from unfair competition, economic concentration, discriminatory conditions and other similar violations of their equality, administrative procedures in the field of competition are established. S.N.Shishkin also argues that antitrust regulation is one of the main forms of state regulation of the economy[25]. In this regard, K.E.Mansurov's opinion is noteworthy: "The development of competition in the economy of our country, its legal regulation is one of the most pressing issues today. Measures aimed at ensuring control over the monopolization of the economy in the prevention of monopolistic activities, unfair competition of certain offenses are not enough for the development of entrepreneurship and effective operation of entities in a market economy. In this regard, the laws that provide and guarantee the right of entrepreneurs to competition, that is, the implementation of competition, are important[26].

Mandatory administrative-legal agreements. At the same time, business entities enter into binding agreements with the executive authorities in accordance with the legislation. For example, according to the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan "On measures to further develop and strengthen the over-the-counter foreign exchange market" No. 245 of June 24, 2000, administrative procedures for the compulsory sale of foreign currency proceeds are established for all business entities (hereinafter referred to as enterprises). In addition, Article 171 of the current CCrP provides for administrative liability for evasion of the mandatory sale of part of foreign exchange earnings in the manner and amounts prescribed by law.

Introduction of a special public-legal regime. The introduction of a special legal regime on such issues as public order and safety in emergencies, epidemics, pandemics and similar cases, the rights and freedoms of citizens, the interests of the state and society, the provision of a favorable sanitary and epidemiological environment and public health implies regulation. For example, in accordance with the Decree of the President of the Republic of Uzbekistan dated January 29, 2020 No. F-5537 "On the establishment of a special commission to prepare a program of measures to prevent the introduction and spread of a new type of coronavirus in the Republic of Uzbekistan" A special republican commission has been set up to prepare a program of measures to be taken. On the basis of the decisions of this commission, a special public-legal regime has been introduced in the country.

CONCLUSION

Thus, the methods of administrative and legal regulation play an important role in the legal regulation of entrepreneurial activity, and they serve to represent the public interest in the economy.

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