THE USA JOURNALS
THE AMERICAN JOURNAL OF POLITICAL SCIENCE LAW AND CRIMINOLOGY (ISSN- 2693-0803)
VOLUME 06 ISSUE12

PUBLISHED DATE: - 30-12-2024
DOI: - https://doi.org/10.37547/tajpslc/Volume06Issue12-11 **PAGE NO.: - 58-65**

RESEARCH ARTICLE **Open Access**

PROSPECTS FOR IMPROVING THE LEGISLATION ON ADMINISTRATIVE COURT PROCEEDINGS: LEGAL STATUS OF THE PARTIES

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Abstract
This article discusses the prospects for improving the legislation on administrative court proceedings: legal status of the parties. Abuse of procedural rights leads to going beyond the scope of exercising the right, and as a result, to an unfair result for the opposing party in terms of resolving the case correctly, in a timely manner, and ensuring equality of the parties. In this case, for any party to any administrative process, of course, it may seem that their rights have been violated in some sense, but abuse of procedural rights can generally lead to a violation of the rights of the opposing party.

KEYWORDS: Legislation, right, opposing party, timely manner, procedural rights, legal status.

INTRODUCTION

At the current stage of the country's development, the successful implementation of large-scale reforms and the achievement of the goals of the Development Strategy of New Uzbekistan for 2022-2026 require the rule of law in relations with administrative bodies, ensuring the rights and legitimate interests of citizens and business entities, and establishing effective judicial control over the activities of state bodies and officials.

Article 55 of the Constitution of the Republic of Uzbekistan guarantees everyone the right to judicial protection of their rights and freedoms, and to appeal to the court against unlawful decisions, actions and inaction of state bodies and other organizations, as well as their officials.

Administrative courts were established on June 1, 2017 in order to ensure reliable judicial protection of the rights, freedoms, and legitimate interests of citizens and business entities, to implement the constitutional norm for the implementation of administrative court proceedings, as well as to increase the legal culture of the population.

RESULTS

It was determined that the primary task of administrative courts is to ensure the rule of law in the relations of citizens and business entities with state bodies, as well as to effectively protect their rights and legitimate interests.

In 2017–2023, administrative courts reviewed 98,861 applications (complaints), of which 59,475, or 60.2 percent, were satisfied, restoring the violated rights of citizens and legal entities.

The Code of Administrative Judicial Procedure of the Republic of Uzbekistan, adopted in 2018, played an important role in ensuring the rule of law in relations with administrative bodies, protecting the violated or disputed rights, freedoms, and legitimate interests of citizens and legal entities, and created a solid legal foundation for the development of administrative justice in the country.

The Development Strategy of New Uzbekistan for 2022–2026 envisages, as one of the main goals of transforming the principles of justice and the rule of law into the most basic and necessary conditions for development in our country, the establishment of effective judicial control over the activities of state bodies and officials, and the expansion of the scope of application of judicial control by improving the system of considering complaints against decisions of officials in administrative courts.

Paragraph 5 of the Action Program for the Implementation of the Short-Term Strategy for Bringing the Judicial System to a Qualitatively New Level for 2023–2026, approved by the Decree of the President of the Republic of Uzbekistan No. PF-11 dated January 16, 2023, stipulates the development of a Concept for Improving Administrative Judicial Proceedings in order to improve administrative judicial proceedings based on a critical analysis of law enforcement practice and taking into account advanced foreign experience.

The "Uzbekistan – 2030" strategy also sets out tasks for establishing effective judicial control over the activities of state bodies and officials and further developing the administrative justice system.

It should be emphasized that the current version of the Code of Administrative Judicial Procedure demonstrates that it does not adequately meet the requirements of establishing effective judicial control over the activities of state bodies and officials, ensuring full and reliable protection of the violated rights of citizens and business entities, and international standards in the field of administrative justice.

From this point of view, based on certain problems arising in the practice of applying law related to the legal status of the parties in the legislation of administrative court proceedings, we believe that it is necessary to focus on the following issues.

First of all, Paragraph 25 of the Action Plan for 2024 on Ensuring the Rule of Law and Organizing Public Administration in the Service of the People of the Strategy "Uzbekistan – 2030", approved by the Decree of the President of the Republic of Uzbekistan No. PF-37 dated February 21, 2024, provides for the establishment of measures to ensure the personal participation of persons participating in the case (respondents) in court sessions, as a rule, in order to ensure the rule of law in relations with administrative bodies and guarantee the protection of the rights of citizens or entrepreneurs.

In judicial practice, there are problems in ensuring the participation of responsible officials even in cases where it is necessary for a comprehensive, complete and correct resolution of the case, which has a negative impact on making a legal and fair decision. Therefore, it is necessary to introduce into procedural legislation a provision requiring the mandatory participation of an official of the state body whose decision (action) is being appealed or his (her) representative in the court session.

Article 47 of the Civil Code of the Republic of Uzbekistan stipulates that state bodies and other persons may file applications to protect the rights and legally protected interests of citizens and legal entities, and that the said bodies and persons who file applications shall exercise all the rights of the applicant and assume his/her obligations.

Based on the meaning of this article, state bodies and other persons submit applications for the purpose of protecting the rights and legally protected interests of citizens and legal entities, and exercise all the rights of the applicant and assume his/her obligations.

However, in judicial practice, in very many cases, state bodies and other persons, in order to protect the rights and legally protected interests of citizens and legal entities, apply to administrative courts

without directly participating in court sessions and apply for the case to be considered in their absence.

During the study, when statistical data on the participation of state bodies and other persons in cases in administrative courts during 2023 and the first quarter of 2024 were studied, it was found that in more than 50 percent of cases, state bodies and other persons submitted applications to the court to protect the rights and interests of the applicant, but did not participate in the court hearings themselves.

This shows that some state bodies (prosecutors' offices, justice departments, regional branches of the Chamber of Commerce and Industry, etc.) are taking advantage of the privilege granted to them by law, namely exemption from paying state duty, and are coming to court without first submitting an application to the court.

Article 3 of the Law of the Republic of Uzbekistan "On the Chamber of Commerce and Industry of the Republic of Uzbekistan" states that the Chamber of Commerce and Industry of the Republic of Uzbekistan is responsible for ensuring favorable legal, economic and social conditions for the implementation of entrepreneurial initiatives, developing mutually beneficial partnerships between the business community and state authorities and management bodies, other bodies and organizations, strengthening guarantees for the protection of the rights and legitimate interests of business entities, it was established with the aim of comprehensively assisting in improving the business and investment climate, and supporting the foreign economic activities of business entities with all measures. Article 21 provides for the submission of claims to courts without paying state fees, mainly in the interests of the members of the chamber, and for appealing against decisions of state and economic management bodies, local government bodies, and actions (inaction) of their officials.

Article 10 of the Law of the Republic of Uzbekistan "On State Duty" provides that the Chamber of Commerce and Industry of the Republic of Uzbekistan and its territorial departments are exempted from paying state duty on applications filed in the interests of members of the chamber against decisions, actions (inaction) of state bodies, other bodies authorized to carry out administrative and legal activities, self-government bodies of citizens, their officials.

In some cases, the Chamber of Commerce and Industry of the Republic of Uzbekistan and its regional departments filed applications with the court only in their name, without defending the rights and interests of the applicant in court, and instead requesting that the case be considered without their participation.

Taking into account the above, it would be appropriate to stipulate in Article 47 of the CACPR that the participation of state bodies and other persons is mandatory in cases provided for by law or when the court finds it necessary to participate in the case, as well as in cases initiated on the basis of applications from state bodies and other persons.

Secondly, The Law "On Administrative Procedures" establishes the procedures to be followed by the administrative bodies in the adoption of an administrative document. Although Article 59 of the Law stipulates that "if an interested person, relying on the legal force of an administrative act, has used property obtained on the basis of an administrative act, entered into a transaction to dispose of his/her property, or otherwise used the benefits and privileges established in the administrative act, his trust must be protected," mechanisms for protecting the trust of interested persons in an administrative act have not been developed and there are problems with their application in practice. It is also worth noting that the provisions of this Law are not fully implemented in practice. Although, according to it, the interested person must be compensated for property damage caused or inevitable due to trust in the legal force of an administrative act.

According to statistics, out of a total of 636 cases considered under this article of the above-mentioned Law in 2022–2023, 265 of them were rejected. This shows that Article 59 of the aforementioned Law limits the opportunities for interested parties who have acted in good faith to protect their rights.

For this reason, it is necessary to introduce the principle of "trustee protection" of the persons who believe in the legal force of the document of the state body as a principle directly applicable to the operation of the administrative court.

Thirdly, In order to participate as an applicant in administrative court proceedings, the applicant must first have procedural rights and legal capacity. The procedural rights and obligations of persons participating in the case are based on the principles of the Constitution of the Republic of Uzbekistan and the legislation on administrative judicial proceedings and are implemented in compliance with them. The existence of the right to apply to the court is a constitutional guarantee and ensures the protection of citizens by the courts.

When hearing cases in administrative courts, the judge must first verify that the applicant has procedural rights and legal capacity.

If the applicant does not have legal capacity, the application shall be returned in accordance with Article 134 of the Code of Administrative Court Procedure, or if the application has been accepted for processing, the application shall be dismissed in accordance with Article 105 of the Code of Administrative Court Procedure.

Article 99 of the Code of Administrative Court Procedure stipulates that the court must suspend proceedings in the event of the death of a citizen who is a participant in the case, if the conflicting legal relations allow for legal succession, or if the citizen who is a participant in the case loses his legal capacity.

In order for the administrative courts to resume proceedings in this case, it is necessary to determine the legal successor of the person participating in the case, to appoint a representative for the incapacitated person.

Article 43 of the Code of Administrative Court Procedure defines the concept of procedural legal succession, which stipulates that in the event of the withdrawal of one of the parties from a legal relationship established by a dispute or a judicial act (in the event of reorganization of a legal entity, death of a citizen, and other cases of change of persons in obligations), the court shall replace this party with his legal successor.

In this case, the courts will have to determine whether the case allows for procedural legal succession or not, based on the importance of the case.

Article 27 of the Code of Administrative Court Procedure lists the cases to be decided by administrative courts, and all these cases do not allow legal succession.

For example, cases regarding pension awards or suspension of a lawyer's license do not allow for legal succession and are considered individual cases.

The above studies were conducted only on the competence to act when the applicant is an individual.

In addition, legal entities and individual entrepreneurs acquire procedural legal capacity from the moment of state registration, and procedural legal capacity ceases in connection with the liquidation of a legal entity, its removal from the state register, or the suspension or expiration of the individual entrepreneur's license. Procedural legal capacity is confirmed by constituent documents, a certificate of state registration, an extract from the state register of legal entities, and if the party to the proceedings is a foreign legal entity, by documents confirming its status. The general basis for participation in administrative court proceedings for all persons participating in the case is procedural capacity. If we analyze separately the legal capacity and legal capacity in conducting administrative court cases, the issue of procedural legal capacity of the persons participating in the case also occupies a special place. Procedural capacity is the ability to acquire procedural rights and duties through one's own actions.

A legal entity shall have civil legal capacity in accordance with the objectives of its activity provided for in its founding documents. Its legal capacity comes into existence from the moment of its creation and ends from the moment of completion of its liquidation.

The special legal capacity of a legal entity is

determined by its charter, regulations or legislation. A legal entity may engage in certain types of activities, the list of which is established in the legislative act, only on the basis of a special permit (license).

It is very common for farmers or peasant farms to apply as applicants to administrative courts. When considering cases in this category, courts will have to pay attention to whether or not legal succession is allowed by farmers or peasant farms.

Article 21 of the Law of the Republic of Uzbekistan "On Farming" states that the property of a farm is inherited in accordance with the legislation. It is stated that heirs who continue to operate the farm are exempt from paying state duty for the issuance of a certificate of the right to inheritance.

In addition, Article 4 of the Law of the Republic of Uzbekistan "On Dehqan Farming" states that a citizen of the Republic of Uzbekistan who has reached the age of eighteen, is legally capable, and has been granted a land plot for running a dehqan farm on the basis of a life-long inheritance or lease (secondary lease) or a stateless person permanently residing in the territory of the Republic of Uzbekistan may be the head of a dehqan farm.

The head of a dehqan farm acts on behalf of the dehqan farm without a power of attorney, including representing the interests of the dehqan farm in relations with legal entities and individuals and concluding contracts on behalf of the dehqan farm.

In the event of a temporary loss of working capacity or a long-term absence of the head of a dekhkan farm (conscription into military service, admission to a higher educational institution for full-time education, election to elective positions, etc.), he has the right to delegate the authority to perform his duties to one of the members of this farm.

In the event of the death of the head of the dehqan farm, a new head of the dehqan farm is determined by mutual agreement between the members of the dehqan farm. In this case, the right of lifelong ownership of the land plot, which is inherited, is transferred to the new head of the dehqan farm by inheritance, and the corresponding amendments are made to the lease (secondary lease) agreement for land plots leased (secondary lease) for the management of the dehqan farm.

When the head of the dehkan farm reaches retirement age or completely loses his ability to work, as well as when he is called up for military service, enters a higher education institution for full-time education, or is elected to elective positions, a new head of the dehkan farm may be appointed upon the proposal of the head of the dehkan farm and upon mutual agreement between the members of the dehkan farm, who shall be granted the right of lifelong inheritance of the land plot, and in the case of land plots leased (secondary lease) for the management of the dehkan farm, the relevant amendments shall be made to the lease (secondary lease) agreement regarding the new head of the dehkan farm.

Article 131 of the Code of Administrative Court Procedure of the Republic of Uzbekistan states that, unless otherwise provided by this Code, the judge shall individually decide on the issue of accepting the application (complaint) for proceedings, refusing to accept it, returning it, or transferring it to another court according to its jurisdiction, no later than five days from the date of receipt of the application (complaint) by the court.

However, in judicial practice, the five-day period for deciding whether to accept or reject an application is considered too short.

Because, according to Article 140 of the Civil Procedure Code of the Republic of Uzbekistan, the judge, when preparing the case for trial, shall perform the following actions no later than five days from the date of receipt of the application (complaint):

1) considers the issue of involving another defendant or a third party to participate in the case;

2) informs interested persons about the conduct of the case;

3) informs persons participating in the case about their rights to participate in the court session via videoconference;

4) suggests persons participating in the case, other organizations, and their officials to take certain

actions, including providing documents and information that are important for resolving the dispute;

5) summons witnesses;

6) considers the issue of appointing an expert examination;

7) assists the parties in obtaining the necessary evidence, and requests it at the request of the parties;

8) resolves issues of taking preliminary protective measures and securing evidence at the request of the parties;

9) considers issues of joining the case by other persons, consolidation of cases into a single proceeding or separation of the claims filed into separate proceedings, and holding a mobile court session;

10) explains to the persons participating in the case their procedural rights and obligations;

11) takes measures to reconcile the parties.

The judge also takes other actions aimed at ensuring the correct and timely resolution of the case.

In order to ensure the implementation of the requirements of Article 140 of the Code, it would be appropriate to carry out the preliminary hearing stage in the administrative courts in order to ensure that the cases are considered in the courts in a high-quality manner and that the court decisions are legally valid.

At this stage, the applicant's requirements are clarified, shortcomings in the application are indicated, the necessary evidence is proposed to prove the stated requirements, the right to withdraw the application is explained, and in the event of the application being withdrawn, the issues of refunding the paid state fee are resolved.

The introduction of the institution of a preliminary hearing in administrative courts will also serve to ensure the inherent rights of citizens related to filing a complaint. It would be advisable for the courts to pay special attention to the issues of determining the procedural legal capacity of the applicant and involving him as a legal successor in the consideration of the case.

Although Article 39 of the Code of Administrative Procedure mentions the rights and obligations of the parties, it only indicates the rights of the parties, but does not fully reflect their powers.

The administrative legislation of many foreign countries (for example, the Procedural Code of Ukraine) specifies the obligations of the participants in the proceedings, which stipulate that the participant in the proceedings must exercise his rights in good faith, that the court shall not allow the participants in the proceedings or their representatives or advisers to abuse their rights, delay the proceedings or mislead the court, and that a court fine shall be imposed on a participant in the proceedings who intentionally interferes with the proper, prompt and economical consideration of the case.

Therefore, it would be appropriate to specify the above obligations of the parties along with their rights in Article 39 of the Code of Administrative Procedure of the Republic of Uzbekistan.

This, in turn, prevents abuse of procedural rights by the parties, ensures that court hearings are not unnecessarily prolonged, and most importantly, that the rights of other participants in the legal process are not violated.

In addition, in judicial practice, cases such as submitting unfounded, incorrectly drafted lawsuits, complaints, fabricated motions to request evidence, appoint an expert examination, and unfounded motions to challenge a judge in order to deliberately prolong the trial are widespread in judicial proceedings.

Abuse of procedural rights leads to going beyond the scope of exercising the right, and as a result, to an unfair result for the opposing party in terms of resolving the case correctly, in a timely manner, and ensuring equality of the parties. In this case, for any party to any administrative process, of course, it may seem that their rights have been violated in some sense, but abuse of procedural rights can generally lead to a violation of the rights of the opposing party.

CONCLUSION

Today, it will be necessary for the courts to define the limits of the abuse of rights and to develop legal norms regarding the application of court fines to the persons who abuse the rights.

Also, in Article 39 of the Code of Administrative Procedure, the applicant has procedural rights such as presenting evidence and participating in the examination of evidence.

However, there are no procedural norms regarding the legal assessment of electronic evidence by the courts, although scientific definitions of the concept of evidence have been developed in the administrative procedural law, but conceptual views on the concept of electronic evidence and the procedural aspects of their use have not been developed in this field of law.

Therefore, legislation on administrative proceedings stipulates that the applicant submitting electronic evidence must indicate in what circumstances relevant to the case it can be determined with electronic evidence, and when submitting a petition to request electronic evidence, indicate which electronic evidence it is and state the grounds for the electronic evidence being in the possession of a specific person, it would be appropriate to introduce provisions that electronic evidence requested by the court from state bodies, legal entities or citizens may be sent directly to the court, that the court may also issue a letter of request to the applicant who has filed a petition to request electronic evidence, granting the right to receive electronic evidence for submission to the court, and that parties, legal entities and individuals may submit electronic evidence on physical electronic storage devices (flash drives, disks, mobile phones, etc.) or using information and telecommunication means.

In general, improving the legislation on administrative court proceedings is of great importance today. In particular, it is important to clearly define the legal status of the parties in administrative court proceedings, paying attention to the specific nature of administrative court proceedings in this regard.

REFERENCES

1. Administrative proceedings: Workshop: Textbook / Edited by V.V. Yarkov, K.A. Malyushin. – Moscow: Statut, 2016.

2. Code of the Republic of Uzbekistan on Administrative Judicial Procedure // National Database of Legislative Documents, 12.10.2018, No. 03/18/496/2043 (lex.uz)

3. Civil Procedure Code of the Republic of Uzbekistan // National Database of Legislative Documents, 26.12.2023 й 03/23/887/0972-сон(lex.uz)

4. Economic Procedural Code of the Republic of Uzbekistan // National Database of Legislative Documents, 27.12.2023 й.03/23/888/0976-сон(lex.uz)

5. Law of the Republic of Uzbekistan "On the Prosecutor's Office", // National Database of Legislative Documents, No. 257-2 of 29.08.2001 (lex.uz)

6. Madrahimova G. The issue of fair use of procedural rights in conducting administrative court cases// Journal of Eastern history, politics and law, DOI: https://doi.org/10.37547/supsci-ojhpl-04-07-07., 2024 ISSN 2181-2780

7. Rec 2005 (63) / https://www.venice.coe.int/

8. WebForms/pages/?p=01_Presentation&lang=RU

9. Shayzakov Sh. Organizational and legal basis of prosecutor's participation in administrative court proceedings// 2021.

10. Madrahimova G. Some aspects of the applicant's legal status as a participant in administrative court proceedings// Journal of Eastern history, politics and law, DOI: https://doi.org/10.37547/supsci-ojhpl-04-10-11., 2024 ISSN 2181-2780

11. Paragraph 52 of the State Program on the Implementation of the Strategy of Actions in Five Priority Areas of Development of the Republic of Uzbekistan in 2017-2021 in the "Year of Development of Science, Education and the Digital Economy", adopted by the Decree of the President of the Republic of Uzbekistan No. 5953 dated 02.03.2020.

[electronic library], accessed 10.08.2021. https://lex.uz/docs/4751561

12. Decree of the President of the Republic of Uzbekistan No. PF-5019 dated April 18, 2017 "On strengthening the role of prosecutor's offices in implementing socio-economic reforms, modernizing the country, and ensuring reliable protection of human rights and freedoms" / Collection of Legislation of the Republic of Uzbekistan, 2017, No. 17, Article 285.

13. Mikhailova E.V. Legal status of the parties in civil proceedings of the Russian Federation. Abstract of diss... Cand. of Law. – Samara, 2004. – 26 p.