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The Stages of Development of Consideration of Administrative and Legal Conflicts in the Order of the Court in the Republic of Uzbekistan

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Abstract

This scientific work provides information about the stages of development of consideration of administrative and legal conflicts in the order of the court in the Republic of Uzbekistan.

Keywords: *Administrative Disputes; Legal Conflicts; Continental Model; Commercial Courts; Anglo–Saxon Model; Independent Administrative Courts; European Paradigm; Administrative Entities*

Introduction

Administrative court procedures are a fundamental component of administrative law [1]. The establishment of administrative justice has been implemented in numerous countries. The French Council of State reports that approximately fifty countries worldwide possess an independent administrative justice system.

Specialized administrative courts have been instituted in 18 European nations, while specialized chambers of the Supreme Courts have been established in 12 nations. Disputes of this nature are handled by the Constitutional Court in 2 countries, while administrative justice is absent in 9 countries.

Two distinct models characterize the institution of administrative justice: the continental model and the Anglo–Saxon model. The continental or European (Romano–Germanic) paradigm is distinguished by the presence of dedicated courts that deal only with administrative problems. The presence of autonomous administrative justice is shown by their complete separation from the regular court system.

These specialist courts were first established in France and then expanded to several Western European countries, including Germany, Switzerland, and Austria. In Germany, the first autonomous administrative courts were founded around the end of the 19th century. However, the procedural code governing administrative court procedures was not enacted until the 1960s of the 20th century. During this period, each judge independently defined the procedure for reviewing administrative cases.

The administrative–judicial variation, often known as the “Romano–Germanic” system, is distinguished by the presence of distinct courts that specialize in resolving administrative problems. The

second type, known as the Anglo–Saxon model, is characterized by the extensive authority of general courts to handle administrative issues, and the lack of a dedicated administrative justice institution within the general court system (such as in the USA, Canada, and Australia) [2].

During the Soviet era, the administrative court's function was defined according to the notion of administrative justice. Nevertheless, it is important to acknowledge that this establishment of administrative justice has been consistently dismissed over an extended duration [3]. The primary factor behind the dismissal of administrative justice or administrative trial during the initial years of the Soviet era was the perception that this system was inherently associated with the bourgeois state [4]. The complaint system, which was overseen by the prosecutor, contributed to the advancement of the administrative trial throughout the Soviet era [5]. The Soviet scholars highlighted that the administrative trial serves a greater purpose than being a procedural–legal guarantee. It is primarily intended to address the material requirements of citizens [6]. Additionally, legal guarantees are also considered significant [7]. The presence of rights and obligations in administrative–legal relations has been acknowledged [8]. Conversely, the lack of explicit obligations might result [9] in the right being an illusion or fiction [10]. During the Soviet era, the administrative trial was regarded as a secondary matter, which was seen as incompatible with the Soviet system.

Upon our nation's attainment of independence, the Constitution of the Republic of Uzbekistan [11] was enacted as our primary legal framework, explicitly recognizing the paramount importance of human beings and their rights. In this regard, the judicial power, as an autonomous branch of the government, was entrusted with the crucial and esteemed responsibility of safeguarding the legal protection of individual rights, freedoms, and interests. The Constitution and comprehensive legislation derived from it, along with the idea of advancing democratic reforms and fostering civil society in our nation, have guaranteed the establishment and effective operation of governmental institutions, safeguarded the rights and liberties of citizens, protected various forms of ownership, and encouraged active citizen involvement in state governance [12].

To ensure the successful execution of this mission, extensive reforms have been undertaken in the judicial and legal domain, and these reforms are still being implemented methodically to this day. The state guarantees the sanctity of a person's life, freedom, honor, dignity, and other fundamental rights and liberties [13]. Administrative justice is a branch of administrative law that focuses on settling legal disputes between administrative entities and citizens [14]. In Uzbekistan, the development of administrative justice has advanced significantly with the establishment of administrative courts in recent years [15].

We believe it is justifiable to examine the progression of administrative issues resulting from public legal relationships in the courts during the post–independence era of Uzbekistan, which can be roughly categorized into three distinct phases.

The initial stage, spanning from 1991 to 1997, focused on establishing and enhancing the legislative framework pertaining to judicial law. Additionally, it entailed defining the jurisdiction of the courts in handling issues resulting from public legal relations. Specifically, our Constitution, which serves as the basis for our autonomy, was ratified, with Chapter XXII specifically addressing the judiciary of the Republic of Uzbekistan. Our Basic Law enhanced the judicial system [16].

Furthermore, within this timeframe, the Republic of Uzbekistan enacted two significant laws: "On the Constitutional Court of the Republic of Uzbekistan" on May 6, 1993, and "On Courts" on September 2, 1993. The duties and standing of the Constitutional Court [17], as well as the general jurisdiction and commercial courts, were delineated by these laws.

The establishment of economic courts marks a significant milestone in our country's history. Additionally, the adoption of the Economic Procedural Code of the Republic of Uzbekistan provides a

comprehensive framework for the management of court issues related to economic matters. As per the provisions outlined in Articles 12, 14 [18] of this Code and Article 1 [19] of the Civil Procedure Code, which underwent amendment on September 2, 1993, conflicts emerging from public legal relationships are adjudicated by either commercial or general jurisdiction courts, depending on the nature of the matter. Furthermore, the regulations outlined in Article 28 [20] of the Law of the Republic of Uzbekistan "On Local State Power" enacted on September 2, 1993, along with Article 12 of the CC [21], officially establish the entitlement of individuals to seek recourse in courts for conflicts resulting from public legal relationships.

The distinctive feature of this stage is the assurance of the right to seek recourse to the judiciary, which is separate from the executive authority, regarding non-regulatory obligatory papers issued by the executive authority. This system is a component of the state power in our sovereign Uzbekistan.

The second stage, spanning from 1997 to 2016, witnessed the implementation of extensive reforms in the domain of justice and law, leading to significant improvements in legislation. The adoption of the revised Civil and Economic procedural codes has provided some clarification on matters pertaining to judicial procedures. Specifically, the Civil Procedure Code [22] and Economic Procedure Code [23], which were implemented in 1997, included novel regulations that define the authority for handling this type of conflicts and the process for their examination. Likewise, the Tax Code of the Republic of Uzbekistan outlines the process for challenging the rulings and actions of tax officials in Article 11 [24].

Ultimately, between 1991 and 2016, encompassing both the initial and subsequent phases, the process of challenging the rulings of administrative bodies and the conduct of their officials in court was established and enhanced, with particular attention given to the distinctive characteristics of this type of litigation. During this time, the question of jurisdiction over disputes resulting from public legal relations was brought up due to the hearing of similar cases in several courts, such as economic and civil courts. The resolutions of the Plenum of the Supreme Court of the Republic of Uzbekistan and the Plenum of the Supreme Economic Court of the Republic of Uzbekistan were implemented as a legal resolution to address this matter. The jurisdiction of administrative–legal disputes was resolved by the fourth paragraph of paragraph 7 of decision No. 16/287, dated November 13, 2015, issued by the Plenum of the Supreme Court of the Republic of Uzbekistan and the Plenum of the Supreme Economic Court of the Republic of Uzbekistan [25]. This decision, titled "On some issues of the application by courts of the norms of procedural legislation related to the applicability of cases", definitively settled the contentious matter.

However, because administrative–legal problems at these phases were simultaneously handled by both economic and civil courts, there were variations in the way disputes on certain matters were addressed. In commercial courts, disputes concerning the nullification of judgments made by state entities are under the jurisdiction of the court. If a decision is deemed illegitimate, it is considered an unresolvable demand that cannot be settled by legal proceedings, resulting in the termination of the case. The basis for this perspective is from the usage of the term "inauthentic" rather than "illegal" in Article 12 of the Civil Code. In general jurisdiction courts, the requests to declare a decision unconstitutional and void are considered significant.

It is our belief that it is appropriate for the courts of general jurisdiction to handle the resolution of requests to declare a judgment or act as both invalid and illegal. Given their synonymous nature, both "inauthentic" and "illegal" imply that the contested document fails to comply with legal requirements or has been issued contravention of the law. This does not prevent the interested party from seeking recourse to the court by utilizing an alternative term for this word, without explicitly requesting the annulment of the disputed decision.

Another illustration of the disparity in resolving disputes between commercial and general jurisdiction courts is evident in the contrasting dates for court applications. Article 270 of the Civil Procedure Code sets a specific time frame for submitting a complaint to the court regarding

administrative-legal disputes. According to this article, individuals have six months to appeal to the court once they become aware that their rights have been infringed upon. Specifically, a designated timeframe has been created for resolving administrative legal conflicts. There is no specific timeframe for this particular type of activity in the Economic Procedure Code. As the procedural law does not explicitly state the time frame for filing court applications regarding disputes resulting from public legal relationships, the time limits established in subsection 5 of the Civil Code (general claim period) were adhered to. Paragraph 5.2 of the decision No. 298, dated June 17, 2016, by the Plenum of the Supreme Economic Court of the Republic of Uzbekistan clarifies that the time limit specified in the CC is used when declaring a document, issued by a state body, to be invalid and having legal consequences. This example demonstrates that commercial and general jurisdiction courts have utilized differing time restrictions for the same category of issues.

Therefore, it may be inferred that the establishment of specialized courts is necessary in cases where disputes emerge that demand specific expertise and procedural measures. In this scenario, the determination of which court has jurisdiction over these conflicts is crucial.

The third stage refers to the period from 2016 onwards. One notable feature of this stage is the introduction of specialized courts, administrative courts, and the implementation of a Code that outlines the procedural process for resolving legal disputes in court.

In 2017, significant projects were undertaken under the theme of "Human interests are paramount", as it was designated as the year of communication with the public and human concerns [26]. This stage is closely connected to the Decrees issued by President Shavkat Mirziyoyev on October 21, 2016 [27] and February 21, 2017 [28]. During this phase, revisions and supplements were implemented to the Constitution of the Republic of Uzbekistan, and administrative courts were incorporated into the judicial system of the Republic of Uzbekistan [29]. Furthermore, the establishment of administrative courts was place through the implementation of revisions and additions to the Law "On Courts", Civil Procedure Code, and Economic Procedure Code. These courts commenced their operations on June 1, 2017. Consequently, our country's judicial system has introduced entirely novel administrative courts.

The establishment of specialized courts and the allocation of cases between these courts and other branches of the judicial system necessitate specific expertise and procedural measures to address these issues. This is crucial for enhancing the competent resolution of specific cases and ensuring access to justice when the need arises. The establishment of administrative courts was founded on the principle that human rights and interests are considered the utmost importance in our nation. The primary objective is to safeguard the rights and interests of citizens (individuals) from any infringements of the law. Law No. 428 enacted on April 12, 2017, introduced amendments to Article 21 of the Civil Procedure Code, as well as additions to Article 31. The establishment of the procedure for hearing cases linked to administrative court procedures was based on the Civil Procedure Code, in line with the aforementioned adjustments and additions. The establishment of administrative courts on June 1, 2017 marked the initiation of a new phase in the handling of administrative court issues in our nation.

To summarize, the creation of administrative jurisdiction in our nation, which refers to courts specifically designed to handle issues related to public legal matters, was a significant accomplishment in the judicial reform efforts. The presence and operation of administrative tribunals in the country enhance economic appeal. Foreign investors place significant emphasis on legal stability. This encompasses an operational state apparatus and judiciary. The court's independence, its strict adherence to the law, and the existence of autonomous courts that scrutinize the legitimacy of administrative authorities' acts and actions enhance foreign investors' trust in the country.

Furthermore, governmental entities exert a beneficial influence on the enhancement of work quality. The performance of administrative entities will enhance when they obtain external directions. These directions are provided by impartial courts following a thorough examination of their case. In the

future, administrative bodies will adhere to the norms established by the courts. As a result, administrative agencies are unable to establish potentially advantageous conditions for specific groups or businesses. Consequently, potential instances of corruption also vanish. Therefore, the impact of courts on administrative entities will be of an instructive nature.

Furthermore, the state will experience an enhanced boost in residents' trust and faith. The trust of citizens in the government is reinforced when the judgments of governmental entities can be subject to scrutiny by impartial judicial institutions. The courts rectify erroneous decisions made by administrative entities. If the administrative body has made a correct choice, it will elucidate the legal circumstances to the citizen.

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