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The system of administrative legislation of the Republic of Uzbekistan: theory and practice

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ABSTRACT

Based on the study of the norms of administrative law, the opinions of domestic and foreign scientists, the article analyzes the system of administrative legislation during the period of reforms being carried out in the Republic of Uzbekistan, studies the relationship between public administration and state power, and also identifies the prospects for its development.

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Ўзбекистон Республикасида маъмурий жавобгарликка оид қонунчилик тизими: назария ва амалиёт

Калит сўзлар:
Маъмурий ҳуқуқ
Тизим
Ижро ҳокимияти
Суд-ҳуқуқ тизимини ислоҳ қилиш
Давлат бошқаруви
Фуқароларнинг ҳуқуқлари.

АННОТАЦИЯ

Мақолада маъмурий ҳуқуқ нормалари, миллий ва хориж олимлар фикрларини таҳлил қилиш асосида Ўзбекистон Республикасида амалга оширилаётган ислоҳотлар даврида маъмурий қонунчилик тизими таҳлил қилинган, давлат бошқаруви ва давлат ҳокимиятининг ўзаро мутаносиблиги ўрганилган ҳамда унинг ривожланиши истиқболлари белгиланган.

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Система административного законодательства Республики Узбекистан: теория и практика

Ключевые слова:
Административное право
Система
Исполнительная власть
Реформирование судебно-правовой системы
Государственное управление
Права граждан.

АННОТАЦИЯ

В статье на основе изучения норм административного права, мнений отечественных и зарубежных ученых проанализирована система административного законодательства в период осуществляемых в Республике Узбекистан реформ, изучено соотношение государственного управления и государственной власти, а также определены перспективы ее развития.

INTRODUCTION

The cardinal reforms carried out in the Republic of Uzbekistan have created conditions for the further development of social relations, strengthening guarantees for the protection of universal human values, primarily the protection of the individual, her life, freedom, honor, dignity and other inalienable rights.

The transition to new principles of organizing state power and the implementation of the system of separation of powers in accordance with the Constitution and the establishment of the principles of checks and balances in state governance have significantly changed the legal system of the Republic of Uzbekistan. These changes primarily affected administrative law as a branch serving the most dynamic relations in society - relations associated with the activities of the executive branch.

The strategy of actions for the further development of the Republic of Uzbekistan in 2017-2021 has identified five priority areas providing for the improvement of state and social construction; ensuring the rule of law and further reforming the judicial and legal system; development and liberalization of the economy; development of the social sphere; ensuring security, interethnic harmony and religious tolerance, implementing a balanced, mutually beneficial and constructive foreign policy [5]. So, at the forefront of the large-scale reforms carried out in the country is the person, the priority of his protection of rights, freedoms and legitimate interests. As the President of the Republic of Uzbekistan noted, «... Every decision concerning the life of the country, we make on the basis of direct dialogue with the people, taking into account the opinions of the public. The cornerstone of our activity is the principle «It is not the people who serve the state bodies, but the state bodies must serve the people» [4].

RESULTS AND ITS DISCUSSION

With the adoption of the Constitution of the Republic of Uzbekistan, the prevailing concept of the relationship between state administration and state power was radically changed. The implementation of the system of separation of powers in the life of the state and society has served to the emergence and development of many new theories in the field of administrative law. The principles and foundations of administrative law were changed, new sub-sectors of administrative law (financial, customs, land, budget law, etc.) began to expand.

Administrative legislation as an independent branch of Uzbekistan's legislation is a set of legal acts regulating public relations in the field of public administration. The variety

of forms of management activity is the main factor determining the volume and ramifications of administrative legislation. The norms of this legislation determine the status of all executive bodies, establish the procedure for the creation, reorganization and abolition of governing bodies, organizations and institutions.

That is why, from the very first years of state independence, close attention was paid to the reform of administrative legislation. Thus, the opinions of many foreign scientists are confirmed, Matilda Dimovskaya (UNDP Resident Representative in the Republic of Uzbekistan) noted that «all reforms are very welcome and meet international standards of a democratic judicial system, and in some cases they can serve as an example for other countries. Hans-Ulrich Im (Acting OSCE Project Coordinator in Uzbekistan) notes that «in recent years, Uzbekistan has made a significant contribution to the democratization of its legal framework through ongoing reforms,» Gary Robbins (Director of the USAID Country Office in Uzbekistan) assesses the ongoing judicial - legal reforms: «Summing up a brief summary of the reforms in the reform of the judicial system, it can be noted that the current state of the legal framework ensuring the implementation of judicial reform allows us to say that the country has achieved serious results in conceptual areas that meet the requirements of the rule of law»[2].

Administrative legislation secures many rights of citizens, establishes uniform rules for the activities of organizations, the behavior of officials and citizens (licensing, trade, environmental protection, sanitary rules, traffic safety rules, etc.), provides for administrative liability for violation of these rules, as well as the procedure for the implementation of sanctions for administrative offenses.

The norms of administrative legislation regulate social relations arising in various spheres of the state's life (economic, socio-cultural, administrative-political). At the same time, since the norms of other branches of legislation operate in these areas, the distinction between them is mainly based on the subject and method of legal regulation.

During the years of independence, the norms of the administrative legislation of Uzbekistan have been significantly updated and this is natural, since the economic functions of the state, the system and functions of government bodies at all levels have changed radically. At the same time, it has not yet been possible to achieve an accurate legal and operational decoding of such concepts as «establishment», «management», «regulation», «coordination», «delineation» and some others, which should be expressed in the appropriate volumes and nature of the powers of the authorities, in different forms of legislative acts, methods of regulation. It is necessary to agree with the opinions of domestic scientists I.A. Khamedov regarding the fact that some problems that give rise to low efficiency in the performance of state functions, such as the inclusion of redundant functions in the competence of public authorities and management, uncertainty of performance indicators of the performance of state functions, the lack of clear mechanisms of operational internal control of administrative activities. In turn, Li A.A. believes that the activities of government bodies also shows that it is impossible to provide for uniform administrative procedures governing the relationship of officials [1].

The study of the legislation regulating the public-legal activity of state administration bodies showed the need for further improvement of the administrative legislation of the Republic of Uzbekistan. Thus, the Concept of Administrative Reform has become the backbone in the system of administrative legislation, regulating the system of public administration and local executive authorities.

In accordance with the Concept of Administrative Reform in the Republic of Uzbekistan, the main directions and tasks of the administrative reform are to improve the institutional and organizational and legal foundations of the activities of executive bodies, to specify the tasks (functions, powers), mechanisms for their implementation and areas of responsibility of executive bodies, to improve coordination and interaction, further reduction of the administrative impact on economic sectors and the expansion of market management mechanisms, improvement of the mechanisms of the vertical management system and interaction of executive authorities, the introduction of modern forms of strategic planning, innovative ideas, developments and technologies into the public administration system, formation of an effective system of professional civil service, introduction of effective anti-corruption mechanisms in the system of executive authorities [6].

The economic functions of the state continue to change, the system and functions of executive authorities at all levels. There is a process of decentralization and transfer of functions from governing bodies directly to business entities. In accordance with the Strategy of Actions for the Further Development of the Republic of Uzbekistan in 2017-2021, one of the directions is to reform the system of public administration and civil service through the decentralization of public administration [5].

Another feature of administrative legislation is that it is not only one of the most extensive, but also the most flexible. An illustrative example of this is the impact on administrative legislation and its system of various organizational changes. Thus, the transition to the sectoral principle of management entailed changes in administrative legislation, an increase in the proportion of norms adopted by central government bodies. This is quite understandable, because in the conditions of differentiation of management and expansion of the operational functions of local bodies, it was necessary to ensure the unity of leadership on basic issues. It causes changes in administrative legislation and a different ratio of management methods. The wider application of economic methods is manifested in a relative decrease in the total number of administrative norms.

The existing variety of branches of management implies the need to differentiate the norms of administrative law, and the unity of the content of management activities requires a group of norms common to all areas of public administration, regardless of their industry or functional specifics. It is on the basis of the principle of unity and differentiation in the system of administrative law that the General and Special parts are traditionally distinguished.

Of course, such a grouping of administrative law norms is consolidated and logically presupposes its subsequent concretization, which is possible by combining interrelated norms in sub-branches and legal institutions, taking into account the specifics of the object of regulation. The object can be, for example, an industry or a field of activity.

General and sectoral institutions of administrative law are in constant dynamics. Outwardly, this process finds its expression in the development of administrative legislation, which, being the “second dimension of law”, the form of its existence, is influenced by the branch of law both in terms of volume and content, and in terms of its structure. Therefore, in the system of administrative legislation, two parts are also visibly distinguished - General and Special. The first unites regulations and prescriptions that are valid throughout the entire state administration and are of general importance for the entire administration system. This includes normative acts and regulations governing the

legal status of subjects of management, the passage of public service in the state apparatus, ways to strengthen the rule of law in management activities, the use of measures of administrative coercion, etc.

A special part of administrative legislation contains regulations and prescriptions that reflect the specifics of social relations in specific areas and branches of management. The norms of this part do not go beyond the scope or branch of management. A special part of the administrative legislation includes:

1) legislation on the management of sectors of the economy (industry, construction, agriculture and water management, housing and communal services, transport);

2) legislation on management in the field of social and cultural construction (health care, physical culture and sports, culture, education);

3) legislation on management in the field of administrative and political construction (defense, national security, public order, foreign policy);

4) legislation on the organization of intersectoral management (standardization and measurement, statistics, meteorology, nature conservation).

Modern administrative law, as a legal branch and the corresponding area of national legislation, is undergoing a period of intensive development, in the process of which the subject of legal regulation is being clarified, almost all of its institutions and the system itself are being reformed. The science of administrative law is trying to generalize the ongoing changes, formulate new provisions, substantiate and propose directions for further reform. For example, the Code of the Republic of Uzbekistan on Administrative Procedure adopted on January 25, 2018 regulates the procedure for carrying out administrative proceedings when considering and resolving administrative cases on the protection of violated or disputed rights, freedoms and legitimate interests of citizens and legal entities [3].

Realizing the particular complexity of reforming modern administrative law and changing its structure, it should be recognized that it will take many years of research, administrative-political and legislative work before administrative law is given a new look and it will have a new structure adequate to the level of development of modern administrative and other branches of public law and functions of public administration; transformation in the system of executive power, in its structure and methods of activity; establishing (or delimiting) the competence of its bodies.

CONCLUSIONS

The study of scientific literature shows that many interesting and important scientific works are devoted to the problems of reforming administrative law, among which new ideas and proposals on the subject and system of modern administrative law can be singled out.

At the current stage of development of national statehood and cardinal reforms carried out in the system of public administration, among the main problems of administrative law, the following can be distinguished:

1) the subject of administrative law and the construction of its system;

2) the system of administrative and management sciences;

3) organization and functioning of the executive branch of state power: structural problems of the organization of the system of executive power;

4) protection of the rights and freedoms of citizens and individuals; strengthening of judicial control over the executive branch (administrative justice);

5) legislative regulation of the civil service;

6) forms and methods of activity of executive authorities (legal acts of management and administrative contracts);

7) administrative and jurisdictional activities of state bodies;

8) development of legislation on administrative procedure.

These areas of administrative law determine the advisability of holding a discussion about new approaches to determining the system, essence and structure of administrative law.

Thus, the modern science of administrative law faces new challenges related to the emergence and development of advanced theories of administrative justice, administrative legal regimes, administrative procedural process, etc.

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