THE PROBLEMS OF COMPETENCE OF ADMINISTRATIVE COURTS OF UZBEKISTAN IN A SEPARATE CATEGORY OF CASES

Abstract. This article examines the development of administrative justice in the Republic of Uzbekistan as result of judicial reform in the country in 2017, and examines the issues of competence of administrative courts in a separate category of cases.

According to the Law of the Republic of Uzbekistan, dated April 12, 2017, administrative courts established were in the republic, which began their activities on July 1, 2017.

District (city) administrative courts created were at the level of the first judicial instance, and 14 administrative appeal courts created were at the level of the appellate instance: 12 of them in the regional centers of the Republic of Uzbekistan, 1 in the Republic of Karakalpakstan and 1 - in the capital of the Republic of Uzbekistan - the city of Tashkent.

As a cassation instance, a judicial board for administrative cases established in was the structure of the Supreme Court of the Republic of Uzbekistan.

As mentioned above, in 2017, a structural judicial reform carried was out in the Republic of Uzbekistan, because of which the courts of general jurisdiction were divided into civil courts and criminal courts, the status of economic courts of the republic was determined, and administrative courts were formed because of the reform.

In addition, the Supreme Court of the Republic of Uzbekistan was merged with the Supreme Economic Court of the Republic of Uzbekistan to form a single supreme judicial instance - the Supreme Court of the Republic of Uzbekistan, in the structure of which a Plenum, a Presidium and 4 judicial collegiums were created:
for civil cases, for criminal cases, for administrative cases and the for economic cases.

Because of the judicial reform, a number of legislative acts adopted were, namely: the Civil Procedure Code of the Republic of Uzbekistan dated 22.01.2018, the Economic Procedure Code of the Republic of Uzbekistan dated 24.01.2018 and the Code of the Republic of Uzbekistan on Administrative Court Procedure dated 25.01.2018. However, despite the formation of administrative courts in the Republic of Uzbekistan, a certain category of cases characterized by the nature of an administrative-public dispute are considered in civil courts of Uzbekistan or economic courts. This problem is subject to research in a scientific article.

**Keywords:** Uzbekistan, Karakalpakstan, judicial system, administrative court, category of cases.

**Problem statement.** In 2017, administrative courts established in were the Republic of Uzbekistan. In this regard adopted was the Code of the Republic of Uzbekistan on Administrative Court Procedure dated 25.01.2018.

However, a certain category of cases characterized by administrative and public disputes continues to be considered in the civil courts of the republic within the framework of the Civil Procedure Code of the Republic of Uzbekistan dated 22.01.2018 or in the economic courts of the republic within the framework of the Economic Procedural Code of the Republic of Uzbekistan dated 24.01.2018.

**Analysis of the latest research and publications.** The many Uzbek and international experts have been engaged in the development of administrative justice in Uzbekistan.

**The purpose of the article:** to study the category of cases on administrative and public disputes based on the analysis of the Civil Procedure Code of the Republic of Uzbekistan dated 22.01.2018, the Economic Procedural Code of the Republic of Uzbekistan dated 24.01.2018 and the Code of the Republic of Uzbekistan on Administrative Proceedings dated 25.01.2018

**Introduction.** An important step in the development of the administrative judiciary of the Republic of Uzbekistan was the adoption of the *Decree of the President of the Republic of Uzbekistan dated February 21, 2017 on the indigenous reform of the structure and efficiency of the judicial system of the Republic of Uzbekistan* [1].

According to paragraph 8 of the Decree of the President of the Republic of Uzbekistan, since 1 June 2017, the formation of administrative courts of the Republic of Karakalpakstan, regional administrative courts of the Republic of Uzbekistan, the city administrative court of Tashkent, as well as district (city) administrative courts, which were subordinated to the consideration of administrative disputes arising from public relations, as well as cases on administrative offenses.
According to annex 10.1 to the Decree of the President of the Republic of Uzbekistan dated February 21, 2017 [1] - 30 city and 169 district administrative courts were established at the level of 1 judicial instance in the Republic of Uzbekistan, district (city) administrative courts were established at the level of first judicial instance in the Republic of Uzbekistan, namely:

1) In the Republic of Karakalpakstan - 1 city administrative court (Nukus city) and 14 district administrative courts,

2) in the Andijan region of the Republic of Uzbekistan - 2 city administrative courts (the cities of Andijan and Khanabad), and 14 district administrative courts,

3) in the Bukhara region of the Republic of Uzbekistan - 2 city administrative courts (the cities of Bukhara and Kagan), as well as 11 district administrative courts,

4) in the Jizzakh region of the Republic of Uzbekistan - 1 city administrative court (the city of Jizzakh) and 12 district administrative courts,

5) in the Kashkadarya region of the Republic of Uzbekistan - 2 city administrative courts (the cities of Karshi and Shakhrisabz), as well as 13 district administrative courts,

6) in the Navoi region of the Republic of Uzbekistan - 2 city administrative courts (Navoi and Zarafshan cities), as well as 8 district administrative courts,

7) in Namangan region of the Republic of Uzbekistan - 1 city administrative court (Namangan city) and 11 district administrative courts,

8) in the Samarkand region of the Republic of Uzbekistan - 2 city administrative courts (cities - Samarkand and Kattakurgan), as well as 14 district administrative courts,

9) in the Sukhardarya region of the Republic of Uzbekistan - 1 city administrative court (Termez city) and 13 district administrative courts,

10) in the Syrdarya region of the Republic of Uzbekistan - 3 city administrative courts (cities - Gulistan, Shirin, Yangier), as well as 8 district administrative courts,

11) in the Tashkent region of the Republic of Uzbekistan - 7 city administrative courts (cities - Almalyk, Angren, Akhangaran, Bekabad, Nurafshon, Chirchik and Yangiyul), as well as 15 district administrative courts,

12) in the city of Tashkent of the Republic of Uzbekistan - 11 district administrative courts,

13) in the Ferghana region of the Republic of Uzbekistan - 4 city administrative courts (cities - Ferghana, Kokand, Kuvasai and Margilan), as well as 15 district administrative courts,

14) in the Khorezm region of the Republic of Uzbekistan - 2 city administrative courts (cities - Urgench and Khiva), as well as 10 district administrative courts.

Accordingly, 14 administrative appeal courts were established at the level of the second (appellate) judicial instance, that is, in all regional centers of the
Republic of Uzbekistan (cities - Andijan, Bukhara, Jizzakh, Navoi, Namangan, Samarkand, Termez, Gulistan, Tashkent, Fergana, Urgench and Karshi), the capital of the Republic of Karapalkastan (Nukus city), as well as the capital of the Republic of Uzbekistan - the city of Tashkent.

The next step in the development of the administrative justice system of Uzbekistan is the adoption of the law of the Republic of Uzbekistan dated April 12, 2017 on amendments and additions to the law of the Republic of Uzbekistan on courts and to the Code of Civil Procedure of the Republic of Uzbekistan and the Code of Economic Procedure of the Republic of Uzbekistan [2].

This law completely changed the judicial system of Uzbekistan.

According to article 1 of this law, the judicial system of the Republic of Uzbekistan consisted of:
- Constitutional Court of the Republic of Uzbekistan,
- Supreme Court of the Republic of Uzbekistan,
- military courts of the Republic of Uzbekistan,
- Civil Court of the Republic of Karakalpakstan,
- regional civil courts of the Republic of Uzbekistan,
- civil court of Tashkent city,
- Criminal Court of the Republic of Karakalpakstan,
- regional criminal courts of the Republic of Uzbekistan,
- criminal court of Tashkent city,
- Economic Court of the Republic of Karakalpakstan,
- regional economic courts of the Republic of Uzbekistan,
- economic court of Tashkent city,
- Administrative Court of the Republic of Karakalpakstan,
- regional administrative courts of the Republic of Uzbekistan,
- administrative court of Tashkent city,
- inter-district, district and local civil courts,
- regional and local criminal courts,
- inter-district, district and local economic courts,
- regional and local administrative courts.

In addition, the Supreme Court of the Republic of Uzbekistan consists of:
- Plenum of the Supreme Court of the Republic of Uzbekistan, Presidium of the Supreme Court of the Republic of Uzbekistan, Judicial Collegium for Criminal Cases, Judicial Collegium for Civil Cases, Judicial Collegium for Administrative Cases and Judicial Collegium for Economic Cases.

The Constitution of the Republic of Uzbekistan adopted on December 8, 1992 does not contain a norm establishing the right of citizens to appeal decisions, actions or inaction of state administration bodies to the court. However, article 19 of the Constitution states that citizens and the State mutually bound are by rights and
obligations, and no one can restrict the rights and freedoms of citizens without a court decision. Moreover, article 35 of the Constitution states that everyone has the right, both separately and jointly with other persons, to address applications, proposals and complaints to the competent State bodies, institutions or people's representatives. Applications, proposals and complaints considered in must be accordance with the procedure and within the time limits established by law [3].

However, the right of citizens to appeal decisions, actions or omissions of public administration bodies to the court regulated by is a large number of other regulatory legal acts of the Republic of Uzbekistan, including the Law of the Republic of Uzbekistan of December 3, 2014 on appeals of individuals and legal entities [4].

Uzbek scientist Sotiboldiev Zh. speaks in a broader sense. He believes that the normative legal acts of Uzbekistan containing norms on appealing decisions, actions or inaction of public administration bodies to the court are "an element of the development of administrative justice" [5].

However, I cannot agree with this opinion.

The normative legal acts of Uzbekistan, which speak about the right of citizens to appeal decisions, actions, and omissions of public administration bodies to the out, may be changed, or cancel altogether canceled.

In this case, with the amendment or cancellation of such a regulatory legal act, the right of citizens to appeal decisions, actions or omissions of public administration bodies to the court may be completely lost.

In this situation, I believe that it is necessary to enshrine in the Constitution of Uzbekistan the right of citizens to appeal decisions, actions or omissions of public administration bodies to the court. After all, the Constitution of the Republic of Uzbekistan has the highest legal force.

On September 8, 2017, the President of the Republic of Uzbekistan adopts a Decree approving the concept of administrative reform of the Republic of Uzbekistan. In this Decree it was noted that one of the important directions of administrative reform in the country just development of the Administrative Judiciary (paragraph 2a of the Decree) [6].

According to Uzbek scientist I. Kudryavtsev, after the adoption of this Decree, in order to increase the level of satisfaction of the population with the activities of state authorities, a lot of work done was to improve administrative procedures aimed at clearly regulating the legal relations of state bodies with individuals and legal entities [7, p. 66].

A significant step in the development of administrative justice in the Republic of Uzbekistan was the adoption on January 25, 2018 of the Code of the Republic of Uzbekistan on Administrative Court Procedure (abbreviated - C.A.C.P.) [8].

According to article 27 C.A.C.P., the Administrative Court of Uzbekistan resolves cases:
1) on challenging departmental regulatory legal acts,
2) on challenging decisions, actions (inaction) of local public authorities, public administration bodies, other organizations authorized to carry out administrative and legal activities, self-government bodies of citizens and their officials that do not comply with legislation and violate the rights and legally protected interests of citizens or legal entities,
3) on challenging the actions (decisions) of election commissions,
4) on challenging the refusal to perform a notarial act, registration of civil status records or actions (inaction) of a notary or an official of the civil status registration authority,
5) on appeal against refusal of state registration or evasion from state registration within the prescribed period,
6) on the referral of citizens without permanent residence to a rehabilitation center or an assistance center (section 24, art. 190-193 C.A.C.P.),
7) decisions, actions or omissions of enforcement bodies (art. 88.1 of the Law of the Republic of Uzbekistan of 29.08.2001 on the execution of judicial acts and acts of other bodies) [9],
8) on investment disputes between investors and administrative bodies, self-government bodies of citizens on decisions, actions (inaction) of their officials related to compliance with the terms of the investment agreement (art. 27.1 C.A.C.P.) [10];
9) on competition between legal entities, including foreign ones, economic management bodies, individual entrepreneurs and the antimonopoly authority, arising from relations in the field of competition in commodity and financial markets (art. 27.2 C.A.C.P.) [10].

In contrast, according to article 30 C.A.C.P. in cases of appeal against normative legal acts of the central state administration bodies of the Republic of Uzbekistan and appeal against decisions or actions of the Central Election Commission of the Republic of Uzbekistan Judicial College in administrative matters of the Supreme Court of Uzbekistan is competent judicial college in administrative matters of the Republic of Uzbekistan.

For example, the Civil Procedure Code of the Republic of Uzbekistan dated 22.01.2018 (abbreviated - C.P.C.) contains a category of causes related to administrative and public disputes [11].

This category of cases considered by is the civil courts of Uzbekistan.
This category of cases includes:
1) Cases of compulsory hospitalization of citizens in a psychiatric clinic (art. 293.1.5 C.P.C. and section 32 – art. 317-319 C.P.C.),
2) Cases of compulsory referral of citizens suffering from tuberculosis to a tuberculosis treatment clinic (art. 293.1.6 C.P.C. and section 33 – art. 320-323 C.P.C.).
In my opinion, this category of cases referred be can to the jurisdiction of administrative courts of Uzbekistan. When considering this category of cases, so-called subjective signs of a dispute appear. Namely, the institution of psychiatric care by sending to the court an application against a person for his compulsory treatment (care) or for his compulsory hospitalization to a psychiatric institution enters into a public relations with that citizen, because in relation to this from the Citizen can use the power of authority. In addition, the prosecutor also participates in such a dispute as a representative of the state.

For example, in Georgia, cases concerning the forcible transfer of persons to psychiatric institutions dealt with are in courts of general jurisdiction, but within the framework of judicial-administrative proceedings (art. 21.16-21.20 of the Code of Administrative Procedure of Georgia of 23.07.1999) [12].

In my opinion, this category of cases referred be can also to the jurisdiction of the administrative courts of Uzbekistan. Namely, the tuberculosis treatment facility when sending to the court an application against a person for compulsory hospitalization to the tuberculosis treatment facility and an application for extension of hospitalization in this facility enters into a public-law relationship with a citizen and in relation to this citizen can use imperious powers.

For example, in Georgia, cases concerning the forced referral of persons to a tuberculosis treatment facility dealt with are in courts of general jurisdiction, but within the framework of judicial-administrative proceedings (art. 21.51-21.56 of the Code of Administrative Procedure of Georgia of 23.07.1999) [12].

It noted be should that according to article 45.1.2 of the Law of the Republic of Uzbekistan of 28.07.2021 on courts - the military courts of Uzbekistan consider a category of cases on complaints against decisions of military authorities, actions (inaction) of military officials violating the rights and legitimate interests of military personnel [13].

I believe that this category of cases can attributed to be also the competence of the administrative courts of Uzbekistan, since such cases characterized by are the administrative and legal dispute.

For example, in Kyrgyzstan, military courts liquidated were in 2003 (art. 1.3 and art. 25.1.1 of the Law of the Republic of Kyrgyzstan on the Supreme Court of the Kyrgyz Republic and local courts) [14].

Accordingly, the category of cases on appeal against decisions of military administration bodies, actions (inaction) of military officials violating the rights and legitimate interests of military personnel first transferred was to the competence of civil courts.

However, on January 25, 2017, the Code on Administrative Proceedings adopted was in Kyrgyzstan, which defined the procedure for consideration in the
administrative courts of Kyrgyzstan of the category of cases on administrative and public disputes.

Accordingly, the category of cases on complaints against decisions of military administration bodies, actions (inaction) of military officials violating the rights and legitimate interests of military personnel became subordinate to the administrative courts of Kyrgyzstan (art. 1, art. 4, art. 15.1 and art. 16 of the Code) [15].

On January 24, 2018, a new Economic Procedural Code (abbreviated – E.P.C.) adopted in was Uzbekistan [16].

A number of cases characterized by administrative and public disputes, where one of the parties in the process is a public administration body, referred were to the competence of the economic courts of Uzbekistan, namely:

1) on the recognition of a non-enforceable executive or other document, according to which the recovery is carried out in an indisputable (non-acceptance) manner (art. 26.12 E.P.C.),
2) on the collection of fines from legal entities and citizens by regulatory authorities, if the law does not provide for an undisputed (non-acceptance) procedure for their collection (art. 26.13 E.P.C.),
3) on the return from the budget of funds written off in violation of the requirements of the legislation by regulatory authorities, in an undisputed (non-acceptance) procedure (art. 26.14 E.P.C.).

In my opinion, this category of cases attributed be should to the competence of the administrative courts of Uzbekistan, since this category of cases refers to administrative and public disputes, where one of the parties is a public administration body (a supervisory authority or a department for the enforcement of judicial decisions or decisions of public administration bodies).

For example, in Ukraine, a category of cases (on the recognition of non-enforceable enforcement, for which the recovery is carried out in an uncontested (non-acceptance) manner; on the recovery of fines from legal entities and citizens by regulatory authorities; as well as on the return from the budget of funds written off in violation of the requirements of legislation by regulatory authorities, in an uncontested (non-acceptance) manner) - considered by the administrative courts of Ukraine (art. 12 and art. 19 the Code of Administrative Court Procedure of Ukraine of 06.07.2005) [17].

It should be noted that with the adoption of the new Law on Courts in the Republic of Uzbekistan (as amended on July 28, 2021) [13], structural transformations have taken place in the judicial system of the republic.

According to articles 2 and 32 of this Law, the Civil Court of the Republic of Karakalpakstan, the Criminal Court of the Republic of Karakalpakstan for Criminal Cases and the Economic Court of the Republic of Karakalpakstan were merged into a single Court of the Republic of Karakalpakstan with the formation of the
presidium, the judicial board for civil cases, the judicial board for criminal cases and the judicial board for economic affairs as part of this court. 

In addition, the regional civil courts of the Republic of Uzbekistan, the regional criminal courts of the Republic of Uzbekistan and the regional economic courts of the Republic of Uzbekistan were merged into single regional courts of the Republic of Uzbekistan with the formation of the Presidium, the judicial collegium in civil cases, the judicial collegium in criminal cases and the judicial collegium in economic cases as part of this court.

Moreover, the Tashkent city civil court, the Tashkent city criminal court and the Tashkent city economic court into merged were a single Tashkent city court with the formation of the Presidium, the judicial collegium for civil cases, the judicial collegium for criminal cases and the judicial collegium for economic affairs as part of this court.

Thus, according to the new Law of the Republic of Uzbekistan on July 28, 2021 on courts, all city and district administrative courts liquidated were in the Republic of Uzbekistan, and 14 inter-district administrative courts created were in their place as courts of first instance [18]: 1) inter-district administrative court in the capital of the Republic of Karakalpakstan - the city of Nukus, 2) inter-district administrative court in the capital of the Republic of Uzbekistan - the city of Tashkent, 3) inter-district administrative court in the city of Andijan (for the Andijan region), 4) inter-district administrative court in the city Bukhara (for the Bukhara region), 5) inter-district administrative court in Sharov Rashidovskiy district center (for the Jizzakh region), 6) inter-district administrative court in Navoi (for Navoi region), 7) inter-district administrative court in Namangan city (for Namangan region), 8) inter-district administrative court in the city of Samarkand (for the Samarkand region), 9) inter-district administrative court in the city of Termez (for the Termez region), 10) inter-district administrative court in the city of Gulistan (for the Syrdarya region), 11) inter-district administrative court in the city of Nuravshan (for the Tashkent region), 12) inter-district administrative court in the city of Ferghana (for the Ferghana region), 13) inter-district administrative court in the city of Urgench (for the Khorezm region), 14) inter-district administrative court in the city of Karshi (for Kashkadarya region).

The composition of the Supreme Court of the Republic of Uzbekistan remained unchanged. The status of the Constitutional Court of the Republic of Uzbekistan and military courts remained unchanged (art. 2 and art. 19 of the Law) [13].

Conclusions.

1. In my opinion, the category of cases of forced hospitalization of citizens in a psychiatric institution attributed to be can the jurisdiction of the administrative courts of Uzbekistan, since the so-called subjective signs of a dispute appear when considering this category of cases. Namely, a psychiatric care
institution, by submitting to the court an application against a person for his compulsory treatment (care) or for his compulsory hospitalization in a psychiatric institution, enters into a public relationship with this citizen, since in relation to this citizen it can use authority in the form of preliminary compulsory hospitalization in a psychiatric institution. In addition, the prosecutor in this category of cases can also participate as a representative of the State.

2. In my opinion, the category of cases on the compulsory referral of citizens to an antituberculosis dispensary attributed to be can the jurisdiction of the administrative courts of Uzbekistan, since the so-called subjective signs of a dispute appear when considering this category of cases. Namely, an antituberculosis medical institution, when submitting to the court an application against a citizen for his compulsory hospitalization in an antituberculosis medical institution, as well as an application for an extension of the period of hospitalization in this institution, enters into public-legal relations with a citizen and may use authority in relation to this citizen.

3. It noted be should that in accordance with article 45.1.2 of the Law of the Republic of Uzbekistan of 28.07.2021 on courts - military courts of Uzbekistan consider a category of cases on complaints against decisions of military authorities, as well as actions (inaction) of military officials violating the rights and legitimate interests of military personnel [13]. I believe that this category of cases also be can attributed to the competence of the administrative courts of Uzbekistan, since such cases are characterized by the administrative and legal nature of the dispute.

4. In my opinion, the category of cases on the recognition of an enforcement or other document as unenforceable, according to which the recovery is carried out in an undisputed manner (art. 26.12 of the Economic Procedural Code of the Republic of Uzbekistan dated 24.01.2018), on the collection by regulatory authorities of fines from legal entities and citizens, if the law does not provide for an undisputed procedure for their recovery (art. 26.13 E.P.C.), as well as on the return from the budget of funds written off in violation of the requirements of the legislation by regulatory authorities, in an undisputed manner (art. 26.14 E.P.C.) should be attributed to the competence of the administrative courts of the Republic of Uzbekistan. This category of cases attributed be should to the competence of the administrative courts of Uzbekistan, since this category of cases refers to administrative and public disputes, where one of the parties is a public administration body (a supervisory authority or a department for the enforcement of judicial decisions or decisions of public administration bodies).

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