

ISSUES OF CONSIDERATION BY ADMINISTRATIVE COURTS OF APPLICATIONS (COMPLAINTS) AGAINST ADMINISTRATIVE ACTS OF ADMINISTRATIVE BODIES AND ACTIONS (INACTION) OF THEIR OFFICIALS

Rakhmonov Zafarjon Zayniddinovich

Head of the Center for Retraining and Advanced Training of Legal Personnel
under the Ministry of Justice of the Republic of Uzbekistan,

Doctor of Philosophy (PhD) in Law

E-mail: z.raxmanov95@gmail.com

Abstract

This article analyzes the theoretical and practical aspects of consideration by administrative courts of applications and complaints filed against administrative acts adopted by administrative bodies, as well as against actions (inaction) of their officials. The author раскрывает the legal nature of the concept of an administrative act, identifies its distinguishing features from other legal documents, and substantiates the importance of determining an administrative act for establishing judicial jurisdiction. In addition, based on national legislation and judicial practice, the article examines written, oral, electronic, and signal-based forms of administrative acts, as well as the concept of actions and inaction of officials. The study substantiates, from both theoretical and practical perspectives, that the presence or absence of an administrative act is a decisive factor for initiating proceedings in administrative courts.

Keywords: Administrative court, administrative act, administrative document, administrative body, official, action, inaction, administrative dispute, judicial jurisdiction, administrative proceedings, legal consequences.

In the consideration of disputes by administrative courts, the administrative act plays a crucial role, as it constitutes the primary subject of an administrative-legal dispute. Therefore, understanding the concept of an “administrative act” is of fundamental importance in the process of administrative judicial proceedings.

By identifying the distinguishing features of administrative acts from other documents, it becomes possible to determine which type of court jurisdiction applies to disputes arising from them. It should be noted that one of the essential conditions for determining the specific court jurisdiction of a dispute is the identification of its object. Distinguishing an administrative act from actions (inaction) and administrative procedural documents assists applicants in correctly formulating claims when applying to administrative courts and contributes to the substantive and lawful resolution of disputes.

According to the Code of Administrative Judicial Procedure of the Republic of Uzbekistan, administrative courts consider cases concerning disputes over the invalidation of decisions of administrative bodies and the recognition of actions (inaction) of their officials as unlawful. Claims for invalidation of documents that do not constitute administrative acts do not fall within the jurisdiction of administrative courts.

It should be emphasized that national legislation does not provide a precise definition of the term “administrative act.” Instead, the concept of an “administrative document” is used. In particular, Article 4 of the Law of the Republic of Uzbekistan “On Administrative Procedures” defines an administrative document as a measure of influence adopted by an administrative body aimed at the emergence, modification, or termination of public-law relations and producing specific legal consequences for individual natural or legal persons or for a group of persons determined by specific characteristics.

However, this definition does not fully reveal the substance of an administrative act. An administrative act should be understood not only as a document formally issued in writing by an administrative body (official), but also as mandatory instructions issued orally, electronically, or through signals (light, signs, sounds, etc.).

There is no unified approach to the concept of an administrative act among foreign and national legal scholars. In many CIS countries, administrative acts are referred to as “acts of public administration,” “legal acts of governance,” or “administrative documents.” Scholars such as H.T. Odilqoriev, Z.M. Islomov, and S.S. Alekseev analyze the concepts of law-application acts and administrative acts. According to J. Nematov, an administrative act should not be equated with a law-application act, as the former is adopted strictly within the framework of administrative procedures and is connected with administrative-legal relations.

Turkmen legal scholar Ya. Nuriyev notes that administrative documents are an essential means of implementing the goals and functions of administrative authority and represent the primary form of executive and administrative activity. They are decisions adopted by executive authorities in the daily and direct management of economic, social, cultural, administrative, and political spheres. Administrative documents express the will of the state, are adopted unilaterally based on authority, and lead to official legal consequences.

In the author’s view, an administrative act is any authoritative measure adopted by an administrative body, directed at external subjects, producing legal consequences, and having a specific (individual) character.

National legal scholars also identify similar characteristics of administrative acts. J. Nematov highlights five main features: adoption by an administrative body; direction toward external subjects; adoption based on authority; creation of legal consequences; and individual specificity. According to I. Lazarev, individual acts of administration affect the rights and obligations of subjects who are not part of the internal organizational structure of administrative bodies and regulate external relations with citizens and organizations.

M. Eshimbetov emphasizes that an administrative act must be adopted within public-law relations and possess all the aforementioned characteristics; the absence of any one of them excludes recognition as an administrative act. The views of these scholars are largely consistent and complementary.

Legislation generally requires administrative documents to be adopted in written form, unless otherwise specified by law. In certain cases, administrative documents may be adopted

through other forms, including the issuance of related documents or the performance of specific actions.

For example, under the Traffic Rules approved by Resolution No. 370 of the Cabinet of Ministers dated December 24, 2015, traffic lights and signals regulate traffic by issuing mandatory instructions through light signals. Similarly, traffic police officers may require drivers to stop vehicles using hand signals or loudspeakers. While the traffic rules themselves are normative acts, their application to specific situations and individuals constitutes administrative acts.

Likewise, aviation ground movement control signals established under the Aviation Rules of the Republic of Uzbekistan (UzR AQ-91) also represent administrative acts in signal form when applied to specific subjects.

Judicial practice demonstrates numerous disputes arising from decisions and actions of administrative bodies. When individuals or legal entities file applications or complaints, courts must first determine whether there exists an individual administrative act adopted by an administrative body that produces legal consequences for the applicant. If such an act exists, disputes should concern the legality of that act rather than auxiliary documents used in its preparation.

Documents such as notarial certificates of inheritance rights or cadastral certificates confirming ownership rights to real estate produce legal consequences and therefore fall within the jurisdiction of administrative courts when challenged.

Administrative courts also have jurisdiction over claims seeking recognition of actions or inaction of officials as unlawful. According to the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 24 of December 24, 2019, actions of administrative bodies and officials include legally significant orders that, even if not expressed in the form of a decision, violate or impede the exercise of rights and freedoms of interested persons.

Comparative examples also exist in national legislation. For instance, under the Regulation approved by Cabinet of Ministers Resolution No. 80 of February 21, 2022, failure of a licensing authority to issue or refuse a license within the prescribed period results in the applicant's right to engage in licensed activities, constituting a form of fictitious administrative act.

In accordance with Article 184 of the Code of Administrative Judicial Procedure, administrative courts consider cases concerning complaints against decisions, actions, and inaction of administrative bodies and officials. Therefore, accurate identification of administrative acts is of paramount importance. In the absence of an administrative act, claims for invalidation do not fall within the jurisdiction of administrative courts.

References:

1. Бахрах Д.Н., Хазанов С.Д. Формы и методы деятельности государственной администрации. Учебное пособие. – Екатеринбург, 1999. – С. 7. (Bakhrakh D.N., Khazanov S.D. Forms and methods of public administration activity. Tutorial. – Yekterenburg, 1999. – P. 7.)
2. Алексеев С.С. Общая теория права: учеб. – 2-е изд., - М: Проспект, 2009. - С. 406. (Alekseev S.S. General theory of law: studies. – 2nd ed., - Moscow: Prospectus, 2009. – P. 406.)

3. Нематов Ж.Н. Ўзбекистон Республикасида маъмурий процедуралар институтини такомиллаштириш. (киёсий-ҳуқуқий таҳлил), (монография) – Тошкент, 2018. 192-бет.
4. Нурьев Я. Административные акты в правовой системе Туркменистана. // Ежегодник публичного права 2016: Административный акт. – М.: Инфотропик Медиа, 2016. – С. 480. (Y.Nuryev. Administrative acts in the legal system of Turkmenistan. // Yearbook of Public Law 2016: Administrative Act. – М.: Infotropik Media, 2016. – P.480.)
5. Нематов Ж.Н. Ўзбекистон маъмурий процедуралар қонунчилиқ асосларининг таҳлили (маъмурий актни суд амалиётида қўллаш мисолида). // Ҳуқуқий тадқиқотлар журнали 2019. – Б. 65. (Nematov J. Analysis of the legislative bases of the administrative procedures of Uzbekistan (On example of application of the administrative act in judicial practice))
6. Лазарев И.М. административные процедуры в сфере взаимоотношений граждан и их организаций с органами исполнительной власти в Российской Федерации. Дисс. ...канд. юрид. наук. – М., 2002, - С, 172-173.
7. Эшимбетов М. Маъмурий органлар ва улар мансабдор шахсларининг қарорлари, ҳаракатлари, ҳаракатсизлиги юзасидан келиб чиқдиган низоларни судда қўриб чиқиш тартибини такомиллаштириш. Ю.ф.ф.д. докторлик диссертацияси. - Т. ТДЮУ. 45 бет.
8. Эшимбетов М. Маъмурий органлар ва улар мансабдор шахсларининг қарорлари, ҳаракатлари, ҳаракатсизлиги юзасидан келиб чиқдиган низоларни судда қўриб чиқиш тартибини такомиллаштириш. Ю.ф.ф.д. докторлик диссертацияси. - Т. ТДЮУ. 49 бет.
9. Ўзбекистон Республикаси Олий суди Пленумининг 2019 йил 24 декабрдаги “Маъмурий органлар ва улар мансабдор шахсларининг қарорлари, ҳаракатлари (ҳаракатсизлиги) устидан шикоят қилиш тўғрисидаги ишларни қўриб чиқиш бўйича суд амалиёти ҳақида”ги қарори, Маъмурий органлар ва улар мансабдор шахсларининг қарорлари, ҳаракатлари (ҳаракатсизлиги) устидан шикоят қилиш тўғрисидаги ишларни қўриб чиқиш бўйича суд амалиёти ҳақида
10. Ян Цийко. Основы законодательства об административных процедурах в Германии. // Ежегодник публичного права – 2014: «Административное право: сравнительно –правовые подходы». – М.: Инфотропик Медиа, 2014. – С. 366.