

Essence and Elements of the Participant Composition in Administrative Legal Proceedings

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Abstract

This article addresses issues related to administrative legal proceedings, focusing on the legal status of parties - the applicant and the respondent. Special attention is given to the procedural capacity and legal capacity of parties in the context of administrative processes. The article also examines existing problems in administrative legal proceedings, emphasizing the significance of the pro bono concept in ensuring access to justice. It highlights the experience of legal decisions in the field of administrative legal proceedings and their impact on the further development of this area. Another important aspect of the article is the analysis of proposals for improving legislation aimed at enhancing the efficiency of the administrative legal process and ensuring broader citizen access to justice.

Keywords: Administrative legal proceedings, legal status of parties - applicant and respondent, procedural capacity and legal capacity of parties, problems, pro bono, legal decisions, legislation improvement.

Introduction

The issue of safeguarding citizens' rights and freedoms against unlawful actions by state entities and their officials remains consistently relevant. It is crucial to protect the interests of the "weaker" party, whether citizens or organizations, to maintain a balance in administrative legal relations where authoritative powers are concentrated within a single participant, namely a state entity.

The principal regulatory document overseeing administrative legal proceedings is the Code of the Republic of Uzbekistan on Administrative Legal Proceedings. Enforced since April 1, 2018, this code represents the initial codified normative legal document in our country's history, encompassing all procedural norms governing relations in administrative legal proceedings. This necessitates an in-depth study of the code's provisions and the formulation of new approaches grounded not only in theoretical concepts but also in the practical application of administrative legal proceedings.

Despite the recent introduction of the administrative legal proceedings system, practical challenges have arisen due to legislative deficiencies in this domain, coupled with the imperfect theoretical formulation of fundamental rules governing administrative legal proceedings. Issues related to legislation, theory, and practice may indicate uncertainties in determining the legal status of parties involved in administrative claims.

Presently, administrative legal proceedings are actively and effectively being integrated into legal practice. For instance, in 2021, the Republic considered 15,143 public disputes, with 52% (7,876) being resolved satisfactorily. In 2022, 15,344 public disputes were deliberated, and 49% (7,458) were successfully resolved¹.

Despite the concentration of authoritative powers, these statistical indicators primarily reflect the satisfaction of claims. The examined dispute within the realm of administrative legal proceedings stands out as a means of ensuring the protection of the interests of those who often find themselves in disadvantageous positions – citizens, entrepreneurs, and legal entities.

Guided by legislative sources on administrative legal proceedings, it is crucial to highlight Article 55 of the Constitution of the Republic of Uzbekistan. This article guarantees everyone the right to defend their rights and freedoms through the court, as well as to appeal against unlawful decisions, actions, and inaction of state bodies and other organizations, including their officials².

By the Decree of the President of the Republic of Uzbekistan dated July 24, 2020, UP-6034 "On Additional Measures to Further Improve the Activities of Courts and Enhance Judicial Efficiency," additional measures were approved to enhance the functioning of courts and increase the efficiency of justice. As part of this decree, the establishment of inter-district administrative courts in the Republic of Karakalpakstan, regions, and Tashkent was envisaged.³

Let's examine the foreign experience. The Administrative Court in Serbia was established in 2010 and has jurisdiction over administrative judicial procedures. The Administrative Court addresses the legality of final administrative acts in accordance with the Law on Administrative Disputes (2009). According to the law, an administrative dispute is a special form of judicial control over the legality of final administrative acts. The main parties involved are the plaintiff, defendant (the authority issuing the administrative act), and interested parties.

The plaintiff must possess active procedural legitimacy, and only authorized individuals with a direct interest can file a lawsuit. The defendant is the authority that issued the contested administrative act. Interested parties are individuals directly affected by the annulment of the act. Interested parties participate on the side of the defendant if their interests are identical to those of the defendant. The article refers to the legal positions of the Administrative Court and the Supreme Court of Cassation, providing examples of articles and court decisions.⁴

In administrative courts, expanding the scope of judicial control is defined as the primary goal achieved through the improvement of the complaint review system filed against decisions made by public officials. The implementation of the "single window" principle in the judicial system is aimed at receiving and directing applications to the competent court to ensure the resolution of all legal consequences within the framework of a specific case⁵.

¹ <https://stat.sud.uz/file/2023/06.11>

² The Constitution of the Republic of Uzbekistan. // National Database of Legislative data, 05/01/2023.,03/23/837/0241.

³ Decree of the President of the Republic of Uzbekistan dated July 24, 2020 UP-6034 "On additional measures to further improve the activities of courts and increase the effectiveness of justice". // National Database of Legislation, 07/24/2020, No. 06/20/6034/1103.

⁴ Katić, Ana. (2022). Parties in administrative disputes. //Facta Universitatis, Series: Law and Politics. 033. 10.22190/FULP2201033K. <https://doi.org/10.22190/fulp2201033k>

⁵ Decree of the President of the Republic of Uzbekistan, dated 01/28/2022 No. UP-60 "On the development strategy of new Uzbekistan for 2022-2026". National Database of Legislation, 01/29/2022, No. 06/22/60/0082, 03/18/2022, No. 06/22/89/0227.

The consideration of an administrative case is not possible without involving various participants, each of whom, in accordance with their procedural status, possesses specific rights and responsibilities. They may influence the dynamics of administrative legal proceedings. Thus, the participants in administrative legal proceedings represent individuals involved in procedural relationships arising during the examination and resolution of cases in the field of administrative law.

In an administrative case, the parties are individuals whose material and legal disputes become the subject of judicial consideration. Article 40 of the Code of Administrative Legal Proceedings of the Republic of Uzbekistan (hereinafter referred to as CALP) defines the applicant and respondent as parties participating in judicial proceedings. This article outlines the powers, rights, and obligations of the parties, enabling the determination of their legal status and understanding the essence of the parties⁶.

The legal status of individuals participating in a case is primarily determined by their legal interest in the outcomes of the administrative case. Additionally, these individuals have the opportunity to actively engage in administrative legal proceedings to protect their rights and lawful interests. They have the right to actively participate in the court's consideration of all substantive and procedural legal issues related to the case. Individuals involved in the case can influence the development of the judicial administrative process, express and justify their positions during court hearings on all issues that arise during the process, including the filing of complaints.

According to the legal status of individuals participating in the case and considering their interest in the case outcomes in procedural legislation, they are endowed with a broad range of rights and responsibilities. According to Article 39 of the Code of Administrative Legal Proceedings of the Republic of Uzbekistan, they have the right to:

Examine the case materials, make extracts, and take copies.

Raise challenges.

Present evidence and familiarize themselves with the evidence of other participants.

Participate in the examination of evidence.

Pose questions to other participants.

File motions, including the requisition of evidence.

Review the minutes of hearings, audio and video recordings.

Provide explanations orally and in writing.

Present their arguments on all issues of the case.

Object to motions and arguments of other participants.

Appeal (protest) judicial acts and exercise other procedural rights.

Participants in a case also have the right to submit statements, motions, and other documents in electronic form, providing information in the form of electronic documents. They are entitled to receive copies of court acts, notifications, and documents in electronic form, signed by the judge with an electronic digital signature.

There are three main characteristics of a party in an administrative case:

1. The party can only be a subject of rights. The demand of an administrative plaintiff must always be directed towards a specific subject; an object cannot be a party in an administrative case.

⁶ The Code of the Republic of Uzbekistan on Administrative Proceedings. //National Database of Legislation, 26.01.2018, No. 02/18/APK/0627, 12.10.2018, No. 03/18/496/2043.

2. The subject must have procedural capacity. Procedural capacity is not a characteristic of being a party (a minor or any other legally incapacitated person can be a party).

3. The subject must be interested in a specific resolution of the material-legal dispute. This interest can be direct (e.g., challenging a public act addressed to a specific subject) or arise from the fact that a specific subject is endowed with authoritative (public) powers, the exercise of which is related to the disputed public legal relationship. The current legislation uses different terms to denote parties in an administrative case: in the code - "applicant" and "respondent."

It is important to note that individuals participating in a case are obligated to conscientiously exercise their procedural rights. Unfair actions, such as filing baseless administrative claims or systematically obstructing case proceedings, may have consequences according to the Code of Administrative Legal Proceedings of the Republic of Uzbekistan. Individuals involved in a case also bear procedural responsibilities established by law and imposed by the court. Failure to fulfill these obligations may lead to corresponding consequences as provided by the legislation.

An applicant is an individual who applies to the court to protect their public rights, freedoms, and lawful interests. According to the current procedural legislation, "applicants" also include entities who apply to fulfill control or other public functions imposed on them, such as prosecutors, government bodies, and other individuals when the law grants them the right to appeal to the court to protect the rights and interests of citizens and legal entities, society, and the state (see Article 127 of the Code of Administrative Legal Proceedings).

The respondent is an individual to whom a material-legal claim is presented in a judicial procedure within the framework of a dispute arising from administrative or other public legal relationships. Typically, someone becomes a respondent based on the indication in an administrative lawsuit. Thus, the status of the respondent is established at the beginning of the judicial process. However, a person can also be recognized as a respondent at the stage of consideration of the case by the court of first instance for other reasons. According to Article 42 of the Code of Administrative Legal Proceedings (CALP), if the participation of another person as a respondent is mandatory or if the consideration of the administrative case is impossible without their involvement, the court has the right to involve this person in the case as the corresponding respondent. Additionally, if the court determines that the claim is not directed at the person who should respond to the application (complaint), the court, with the applicant's consent, may allow the replacement of an improper respondent with an appropriate one. If the applicant does not agree to the replacement of the respondent by another person, the court, with the applicant's consent, may involve this person as a second respondent.

Despite the establishment of the legal framework for the administrative legal proceedings system, there are challenges in determining the legal status of the parties. In particular, issues regarding the implementation of the principles of impartiality and equality, as well as *pro bono* legal assistance, especially legal assistance for individuals in need of social protection, and the integration of legal aid systems through information systems, persist. The legislation on administrative legal proceedings requires further theoretical development based on modern judicial practices.

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