

DETERMINATION OF THE ADMINISTRATIVE LIABILITY OF LEGAL PERSONS IN THE LEGISLATION OF UZBEKISTAN

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Abstract— some issues of establishing administrative liability of legal entities in the current legislation at the stage of ongoing reforms in the judicial branch of the country has been analyzed from the theoretical and practical point of view. The authors express their attitude to these issues. The article provides a systematic analysis of the scientific views of scientists and specialists of foreign countries on the administrative responsibility of legal entities. It also provides suggestions and recommendations for improving the legislation in the field of establishing administrative liability of legal entities based on the requirements of foreign legislation and the needs of national legislation.

Index Terms legislation, jurisprudence, administrative responsibility, administrative and legal responsibility, legal entity, administrative responsibility of legal entities, administrative and legal measures of influence.

1 INTRODUCTION

The idea of development and adoption of the administrative code of the Republic of Uzbekistan in the new edition was first put forward by the President of our country [1]. Indeed, the norms of this code require a re-systematic analysis, their consideration from a critical point of view, adaptation of the norms and principles of the code to the life of society, as well as the enrichment of the code with new rules and requirements [2].

2 PROCEDURE FOR PAPER SUBMISSION

2.1 Review Stage

If we consider the example of article 23 of the code, established penalties for administrative offences only to individuals. However, in the social, economic and political life of the state and society involved not only individuals but also legal entities. In addition, there is also the necessary legal framework. In particular, article 35 [3] of the Constitution of the Republic of Uzbekistan and adopted on December 3, 2014 for No. 378 law of the Republic of Uzbekistan "on appeals of individuals and legal entities" [4] is a clear proof of this. We would like to note that in the exclusion of

some legal features, in legal relations, legal entities, as in other matters, and individuals participate as equal subjects. Therefore, we can conclude that having equal rights subjects should also have equal obligations [5].

In addition, about 10,000 public associations, political parties, non-governmental and non-profit organizations and other civil society institutions are currently operating in the Republic as legal entities [6]. On this basis, it is necessary to establish in the legislation the issues of administrative responsibility for the offenses of legal entities.

However, in the field of administrative law of national law, the issues of administrative responsibility of legal entities are not yet reflected. More precisely, in the field of administrative law of jurisprudence administrative responsibility of legal entities has not yet found its legal decision. In addition, quite a few thoughts on this issue were expressed in the national theory of legal science.

In this regard, scientists of the criminal law of our country noted that "the Commission of an act in which there are all signs of a crime under the criminal code, can serve as a basis for prosecution [7]" Also on this subject E. Hojiev implies – a manifestation of "responsibility" as a means to ensure the enforcement of the law.

According to this scientist concludes that in the current legislation on administrative responsibility, it is necessary to establish administrative responsibility of legal entities for violation of tax and financial legislation [8].

2.2 Minds

According to the General rule, the concept of an offence is a wrongful act committed by a mentally competent person against the requirements of the law. Such actions end up in their consequences inevitably lead to legal liability [9]. Means an administrative offence also gives rise to commensurate with the administrative responsibility.

According to A. A. Gogin – an offense is not only a violation of the law, but it also can cause a powerful blow to certain life situations. In particular, he notes that such an act is a socially harmful and illegal act. It can take place in various spheres of social life and is the result of the individual's desires and negligence [10].

According to Odilkoriev, legal responsibility is the application of state coercive measures against the offender on the basis of the sanctions provided for in the legal norms, in which the guilty person is deprived of certain (personal, property, organizational) rights [11].

From the above it appears that such components as the object and the objective side, the subject and the subjective side of the offense is necessary for all types of liability. This is also a basic requirement for administrative responsibility. If, in the committed act there is no one of these elements, then the persons who committed it is not possible to bring to justice. Therefore, speaking about the administrative responsibility of legal entities, we must understand that all of the above elements must be clearly reflected in their actions. Otherwise, it is not possible to bring to responsibility a legal entity.

Under the object of an administrative offense of a legal entity, it should be understood to damage certain rights and interests, violation of the mode of operation of certain organizations. On the one hand, it covers certain rights and interests, procedures and rules established in the state. To understand this in a strictly defined form and content is not true. Because the object of the offense may be

different [12].

The objective side of the offense of a legal entity is the appearance of the illegal action committed by it. Sometimes this may also be the result of inaction. Some legal scholars, side of the crime, we conclude that it consists of the following components:

- the impact expressed in action and inaction exerted to a particular object;
- socially dangerous consequence;
- causal relationship with the consequence of a certain action;
- place, time, method, conditions, means and instruments of the crime [13].

V. T. Batychko comes into the conclusion that the objective side of the administrative offense of a legal entity is the appearance of an administrative offense, which is reflected in the answers to the questions how, in what way, by what means, when and where the offense was committed [14].

The subject of an offence of a legal entity is a legal entity that has committed an illegal act without any exceptions.

3 END SECTIONS

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In addition, the definition of the subject is based on the fact of the Commission of an offense of a legal entity. The status of a legal entity as a subject is defined in article 39 of the civil code of the Republic of Uzbekistan [15]. In this regard, A. B. Panov claims that the legal entity that committed the offense is in fact the subject of the crime [16].

The most controversial issue in the offense of a legal entity is the fault of the legal entity. Because the guilt in the Commission of the offense is determined by the desires, internal experiences, mental and psycho-physiological attitude to the committed actions. This feature is peculiar only to individuals. The reason is that it is not possible to present the presence of such features in a legal entity.

Different scientists interpret this question in different ways. At the same time, if some scientists claim the guilt of an employee of a legal entity who committed an illegal act [17], others put forward the idea of responsibility of the head of a legal entity [18]. Another group of scientists expressed the idea that the responsibility of both the employee and the legal entity should be equally defined [19]. One of our domestic scientists-jurists E. Hajiev noted that the definition of administrative liability of legal persons is important in the improvement of the current Liabilities of the Republic of Uzbekistan [20]. At the same time, Berdiev concludes that it is necessary to determine precisely the legal basis for the criminalization and penalization of the actions of legal entities [21]. At the same time, we also do not deny the need to determine administrative liability in the current legislation. However, the definition of administrative liability of a legal entity, first, requires a full analysis and thorough, accurate justification of all elements of the offense committed by it. From this point of view, in our opinion the fault of the legal person in committing an administrative offence in the first place is expressed in the fulfillment of the legislative norms, in spite of the opportunity of its implementation. We want to say that a legal entity, having the ability to comply with the law in its activities violates the law, this fact is an important factor in determining the guilt of the legal entity. Another important party to

the fault of the legal entity is the illegal actions of bodies and officials of the legal entity.

4 CONCLUSION

In fact, bringing to justice a legal person for an administrative offense committed by him does not exempt from liability the guilty officials of the legal entity. Because, socially dangerous act is made by actions, desires and at will of officials of legal entity. However, another important issue requiring attention is that the person who committed this action does not have the authority to commit it. More precisely, failure to perform the functions assigned or their execution is not appropriate, as well as their execution in violation of the law does not exempt the person from liability. That is, the responsibility of the employee, who is entrusted with the functions of performing certain actions of officials at the same time, it reflects the form of intent of the legal entity.

Based on the above mentioned, we can summarize that the administrative liability of legal persons should be specified and a system of punishment should be developed for them. In General, the development of the legal framework for administrative responsibility of legal entities at the appropriate level in the current legislation and their implementation, first, will serve as an important factor in ensuring the rule of law in the activities of these entities. At the same time, it helps to fill existing gaps in the current legislation.

REFERENCES

- [1] Karimov I. A. Further strengthening of democratic reforms and formation of civil society – the main criterion of development of our country / - T.: Uzbekistan, 2011. Vol. 19. - B. 68-69.
- [2] Ikromov Sh. T., Ismoilov N. T ... Improvement of administrative legislation is an important direction of reforms in the judicial and legal sphere: materials of the Republican scientific and practical conference (November 29, 2012). - T.: Academy of the Ministry of internal Affairs of Uzbekistan, 2013. - B. 3-7.
- [3] Collection of legislative acts of the Republic of Uzbekistan. 2007, 15 number, article 152; 2008, 52 number, article 510; 2011, 16 number, article 159; 2014, 16 number, article 176.
- [4] Source: "Narodnoe Slovo", 2014, room 235 (6165); beyond the Republic of Uzbekistan, 2014, 49 number, article 578.
- [5] Note: in this case, the author is referring only to the administrative responsibility established for individuals, while noting that for legal

entities their responsibility should be determined, because they are equal subjects of legal relations.

- [6] Saidov A. H. national system of state support of civil society institutions: The experience of Uzbekistan // journal "Democratization and human rights", 2013, number 4, page 4-9.
- [7] Criminal law of the Republic of Uzbekistan. General part: an Album of drawings/ A. S. Yakubov, R. Kabulov, B. B. Matlubov, D. E. Paiziev, T. R. Kuchkarov. - T.: Academy of the Ministry of internal Affairs of the Republic of Uzbekistan, 2014. –B. 29.
- [8] Hojiev E. Tax legislation and the conceptual framework of the definition of financial liability for its violation. / Society and management, 2013. No. 3. - B. 59-68.
- [9] <https://ru.wikipedia.org>
- [10] Gogin A. A. General concept of offenses: problems of methodology, theory and practice. Cauldron.: 2011. Abstract of the dissertations. On competition of a scientific degree. Academic step.dock.Jus.sciences'. - P. 20-22.
- [11] Theory of state and law. Textbook. Edited by H. T. Edilgireev. - Vol.: Shark, 2009. - B. 539.
- [12] Our assertion.
- [13] Criminal law course. Common part. Volume 1: the Doctrine of crime / ed.F.Kuznetsova and
- [14] M. Tikovoi. - M.: 2002. - P. 222.
- [15] Batychko V. T. Administrative law. Lecture notes. Taganrog: TRTU, 2008, p. 56.
- [16] Collection of legislative acts of the Republic of Uzbekistan. 2015, 32 number, article 425; 33 number, article 439.
- [17] Panov A. B. Legal entity-the subject of administrative responsibility // administrative law and process. 2012. No. 6.
- [18] Bogdanov E. V. the Nature and responsibility of a legal entity // State and law. No. 10, 1997. P. 99. Ivanov L. Administrative responsibility of legal entities // Russian justice, № 3, March 2002.
- [19] Kuzmicheva G. A., Kalinina L. A. Administrative responsibility: Normative acts: a Training manual. - M., 2000. P. 146.
- [20] Ovcharova E. V. Material and legal problems of administrative responsibility of legal entities // State and law. No. 7. 1998. P.14. 11. Sorokin V. D. on the integrity of the Institute of administrative responsibility // Jurisprudence. 1999. No. 1. P. 49.
- [21] Hojiev E. T. legal and Administrative liability of legal persons: theory and practice.// Bulletin of Higher educational courses of the General Prosecutor's office of the Republic of Uzbekistan. - Vol.: 2015, №1. – B. 43.
- [22] Berdiev sh. Action of legal entities: the legal basis of its criminalization and penalization. // Right and duty. - Vol.: 2015.