TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI ILMIY DARAJALAR BERUVCHI DSc.07/30.12.2019.Yu.22.02 RAQAMLI ILMIY KENGASH

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

SAIDAZIMOV YUSUF SODIQ O‘G‘LI

MA’MURIY HUJJATNI O‘ZGARTIRISH, BEKOR QILISH VA HAQIQIY EMAS DEB TOPISHNING HUQUQIY ASOSLARINI TAKOMILLASHTIRISH

12.00.02. – Konstitutsiyaviy huquq. Ma’muriy huquq.
Moliya va bojxona huquqi

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KIRISH (Falsafa doktori (PhD) dissertatsiya annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyoda zamonaviy davlat boshqaruvining eng oqilona modellarini rivojlantirish, davlat xizmatlari koʻrsatish tartib-taomillarini optimallashtirish va soddalashtirishni taʼminlaydigan davlat boshqaruvining innovatsion shakllarini joriy etishga alohida eʼtibor berilmoqda. Maʼmuriy-huquqiy faoliyatda toʻliq avtomatlashtirilgan tizimdan tortib raqamli texnologiyalarni qoʻllash mexanizmlarini joriy qilishgacha dolzarb ahamiyat kasb etmoqda. Birlashgan Millatlar Tashkiloti tomonidan raqamli elektron hukumat soʻrovi asosida yigirma yildan ortiq vaqt davomida yuritib kelinayotgan tadqiqotlar reytingida hamda Elektron hukumat rivojlanish indeksida (E-Government Development Index, EGDI)[1] Oʻzbekiston Respublikasi 2024-yil dunyoda 63-oʻrinni egallaganligini qayd etish lozim[2]. Shundan kelib chiqqan holda maʼmuriy hujjatlarni qabul qilishda elektron avtomatik tizimga bosqichma-bosqich oʻtish orqali raqamli texnologiyalarni qoʻllash tizimini keng joriy etish zarurati yuzaga chiqmoqda.

Jahonda ommaviy-huquqiy nizolarni hal qilishda ochiqlik va shaffoflikni taʼminlash, nizolashuvchi taraflarning huquqiy maqomini belgilash, respublika ijro etuvchi hokimiyat organlarining qarorlari, harakati (harakatsizligi) ustidan sud nazoratini amalga oshirish masalalari yuzasidan qator ilmiy tadqiqotlar amalga oshirilmoqda, jumladan, maʼmuriy organ qarorlari, harakati (harakatsizligi) ustidan maʼmuriy tartibda va sud tartibida shikoyat qilish hamda mazkur jarayondagi ishtirokchilarning huquq va majburiyatlarini belgilash, dalillar tasnifini aniqlash, sohaga zamonaviy axborot texnologiyalarini keng joriy qilishga muhim ilmiy-amaliy ahamiyat kasb etadigan tadqiqot yoʻnalishi sifatida alohida eʼtibor qaratilmoqda. Bu borada maʼmuriy tartib-taomillar prinsiplarining tatbiq etilishini takomillashtirish, manfaatdor shaxsni tinglash, respublika ijro etuvchi hokimiyat organlari tomonidan maʼmuriy tartib-taomillarning barcha ishtirokchilari muayyan holat boʻyicha maʼmuriy-huquqiy tartibga solishni belgilab olishi kabi maʼmuriy tartib-taomillarning huquqiy asoslarini takomillashtirishga oid tadqiqotlar alohida ahamiyat kasb etmoqda.

Soʻnggi yillarda mamlakatimizda zamonaviy davlat boshqaruvi (public administration) joriy etilishiga, Oʻzbekiston Respublikasida maʼmuriy islohotlar konsepsiyasi hamda Oʻzbekiston Respublikasida maʼmuriy islohotlar oʻtkazish boʻyicha chora-tadbirlar dasturi loyihalarini ishlab chiqish vazifalaridan kelib chiqib davlat boshqaruvida samaradorlikni oshirish, qabul qilinayotgan hujjatlar har tomonlama qonuniy, adolatli, asoslangan boʻlishi lozimligi kabi muhim vazifalar belgilab berilmoqda. Shunga qaramay, mazkur yoʻnalishda bir qator muammolar dolzarbligicha qolmoqda. Jumladan, maʼmuriy hujjatlarni qabul qilish, oʻzgartirish yoki bekor qilishda manfaatdor shaxslar fikri tinglanmasligi, huquqiy va faktik asoslarga yetarlicha eʼtibor berilmasligi, maʼmuriy hujjatni bekor qilish, oʻzgartirish, haqiqiy emas deb topishning aniq tartib-taomili yoʻqligi, manfaatdor shaxsning ishonchi suisteʼmol qilinishi kabi holatlar hamon uchramoqda. Maʼmuriy hujjat yuzasidan

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[1] https://publicadministration.un.org/egovkb/en-us/Reports/UN-E-Government-Survey-20224

[2] The World Justice Project Rule of Law Index® 2020 // https://worldjusticeproject.org /sites/defaul t/files /documents/ WJP-ROLI-2020-Online_0.pdf

nizolashishda, ma'muriy hujjatni qayta ko'rib chiqishda, manfaatdor shaxslarning huquq va erkinliklari, qonuniy manfaatlari yetarli ta'minlanmayotgani, ma'muriy hujjatni faqat sud tartibida bekor qilish mexanizmlarining hali-hanuz ishlab chiqilmagani mazkur sohada tadqiqot olib borish zaruratini vujudga keltirmoqda.

Tadqiqot ishi yuqoridagi muammolarni ma'lum darajada bartaraf etishi bilan birga O'zbekiston Respublikasining "Ma'muriy tartib-taomillar to'g'risida"gi (2018-yil), "Litsenziyalash, ruxsat berish va xabardor qilish tartib-taomillari to'g'risida"gi (2021-yil), "Yer uchastkalarini kompensatsiya evaziga jamoat ehtiyojlari uchun olib qo'yish tartib-taomillari to'g'risida"gi (2022-yil) Qonunlari; O'zbekiston Respublikasi Prezidentining "O'zbekiston Respublikasida Ma'muriy islohotlar konsepsiyasini tasdiqlash to'g'risida"gi PF–5185-son (2017-yil), "2017–2021-yillarda O'zbekiston Respublikasini rivojlantirishning beshta ustuvor yo'nalishi bo'yicha Harakatlar strategiyasi to'g'risida"gi PF–4947-son (2017-yil), "2022 — 2026-yillarga mo'ljallangan yangi O'zbekistonning taraqqiyot strategiyasi to'g'risida"gi PF–60-son (2022-yil), "O'zbekiston – 2030" strategiyasi to'g'risida"gi PF–158-son (2023-yil), "O'zbekiston – 2030" strategiyasini "Yoshlar va biznesni qo'llab-quvvatlash yili"da amalga oshirishga oid davlat dasturi to'g'risida"gi PF–37-son (2024-yil) Farmonlari hamda sohaga oid boshqa qonun hujjatlarining ijrosi ta'minlanishiga muayyan darajada xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo'nalishlariga mosligi. Mazkur tadqiqot ishi respublika fan va texnologiyalari rivojlanishining I. "Demokratik va huquqiy jamiyatni ma'naviy-axloqiy va madaniy rivojlantirish, innovatsion iqtisodiyotni shakllantirish" ustuvor yo'nalishi doirasida bajarilgan.

Muammoning o'rganilganlik darajasi. Ma'muriy hujjatni o'zgartirish, bekor qilish va haqiqiy emas deb topishning huquqiy asoslarini takomillashtirish masalalari huquqshunos olimlar tomonidan muayyan darajada tadqiq etilgan bo'lib, mavjud tahlillar asosan umumiy yondashuvga asoslangan.

O'zbekistonlik huquqshunos olimlardan davlat boshqaruvi, ma'muriy islohotlarning ayrim jihatlari, boshqaruvning huquqiy aktlari ilmiy-nazariy asoslari, ma'muriy hujjatning ayrim jihatlari Axmedshayeva M.A., Alimov X.R., Artikov D.R., Egamberdiyev A.U., Eshimbetov M.U. Islomov Z.M., Nematov J.N., Odilqoriyev X.T., Otaxonov F.H, Ro'zmetov X.I., Saidov A.X., Say.I., Toshkulov J.U., Tulteyev I.T., Yusupov S.B., Yakubov Sh.U., Xakimov R.R., Xusanov O.T., Hojiyev E.T., Xusanova M.A., Xayitov X.X., Xamedov I.A., Xvan L.B., Xakimov G'.T.lar[3] tomonidan tadqiq etilgan. J.N. Nematov tomonidan ma'muriy akt ma'muriy huquqning markaziy instituti sifatidagi o'rni qiyosiy-huquqiy jihatdan o'rganilgan.

Xorijiy mamlakatlarda ma'muriy hujjatni o'zgartirish, bekor qilish va haqiqiy emas deb topish bilan bog'liq ishlar bo'yicha, individual ma'muriy-huquqiy aktlarning ahamiyati va ayrim jihatlari: Caluwe R.De., Fusser K., Hengstschläger J., Kahl V., Maer O., Manssen G., Mauer H., Pudelka Y.,

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[3] Mazkur olimlarning ilmiy ishlari foydalanilgan adabiyotlar qismida to'liq keltirilgan.

Philipp F., Ruffert M., Syamon R., Sikou Y., Vatari T., Yamada X., Shvarts B., Weber M.[4] kabi olimlar tomonidan o‘rganilgan.

MDH mamlakatlarida Alekseyev S.S., Baxrax D.N., Davidov K.K, Gvozdeva A.A, Kozlov A.A, Lazarev I.M., Maxina S.N., Morozova O.V., Poroxov Y.V., Starilov Y.N., Tixomirov Y.N., Volkov A.M., Yefremov M.O.[5] va boshqa olimlar tomonidan ma’muriy akt, davlat boshqaruvining individual aktlarining ba’zi muammolari o‘rganilgan.

Shunga qaramasdan, ma’muriy hujjatni o‘zgartirish, bekor qilish va haqiqiy emas deb topishning huquqiy asoslarini takomillashtirish masalasi ma’muriy huquq nuqtayi nazaridan, xorijiy davlatlarning ijobiy tajribasini tahlil qilgan holda O‘zbekiston Respublikasining qonunchiligini takomillashtirish nuqtayi nazaridan tadqiqot ishi sifatida o‘rganilmagan.

Dissertatsiya tadqiqotining dissertatsiya bajarilgan oliy ta’lim yoki ilmiy-tadqiqot muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog‘liqligi. Tadqiqot Toshkent davlat yuridik universiteti ilmiy-tadqiqot ishlari rejasining “Demokratik islohotlarni chuqurlashtirish sharoitida davlat boshqaruvini yanada erkinlashtirishning asosiy yo‘nalishlari” mavzusidagi fundamental loyihasi doirasida bajarilgan.

Tadqiqotning maqsadi O‘zbekiston Respublikasida ma’muriy hujjatni o‘zgartirish, bekor qilish va haqiqiy emas deb topishning huquqiy asoslarini tartibga solishning ilmiy-nazariy, amaliy va qonunchilik muammolarini tizimli o‘rganish asosida taklif va tavsiyalar ishlab chiqishdan iborat.

Tadqiqotning vazifalari:

ma’muriy huquqning markaziy instituti hisoblangan “ma’muriy hujjat” tushunchasiga ilmiy asoslantirilgan ta’rif ishlab chiqish, “ma’muriy hujjat” deganda nafaqat yozma shaklda qabul qilingan hujjat tushunilishi, balki ma’muriy organ yoki uning mansabdor shaxslari tomonidan “ma’muriy hujjat” og‘zaki, belgi, signal, yorug‘lik ishoralari orqali ham qabul qilinishi yoki ifodalanishi mumkinligini tahlil qilish;

ma’muriy ish yuritishning asosiy nizo predmetlari bo‘lgan “ma’muriy hujjat” va “xatti-harakat” tushunchasi va ularning bir-biridan farqlovchi belgilarini tahlil qilish;

ma’muriy hujjatning normativ-huquqiy hujjatdan, protsessual hujjatdan va ichki idoraviy hujjatlardan farq qilishi, ma’muriy hujjat qabul qilinishi natijasida yuzaga kelishi mumkin bo‘lgan ehtimoliy oqibatlarni hamda uning tartibga solish maqsadlariga erishilishini aniqlash va baholashga qaratilgan chora-tadbirlar majmui sifatidagi yuridik tavsifini asoslash;

ma’muriy sud ishlarini yuritishda “Ma’muriy organ” tushunchasi tahlil qilinib qanday holatlarda boshqa shaxslar, tashkilotlar va maxsus tuzilgan komissiyalar “ma’muriy organ” maqomiga ega bo‘lishini tahlil qilish;

qonuniy va noqonuniy ma’muriy hujjatni bekor qilish mexanizmlari bir-biridan farq qilishini tahlil qilish;

[4] Mazkur olimlarning ilmiy ishlari foydalanilgan adabiyotlar qismida to‘liq keltirilgan.
[5] Mazkur olimlarning ilmiy ishlari foydalanilgan adabiyotlar qismida to‘liq keltirilgan.

ma'muriy hujjatni manfaatdor shaxs foydasiga bekor qilish mexanizmi oddiy, manfaatdor shaxs zarariga bekor qilish mexanizmi murakkab ekanligini tahlil qilish;

qonunga zid tarzda qabul qilingan bo'lsa-da, manfaatdor shaxsning aybi bo'lmasa, uning ishonchini himoya qilish shartligi tartib-taomillarini tahlil qilish;

ma'muriy tartib-taomillar prinsiplari, xususan, tinglash jarayoni, manfaatdor shaxsning ishonchini himoya qilish, diskretsion vakolatni qo'llashning qonuniyligi qoidalarini ilmiy-nazariy jihatdan tadqiq etish;

ma'muriy hujjatni o'zgartirish, bekor qilish va haqiqiy emas deb topishning huquqiy asoslarini o'rganish orqali qonunchilikdagi muammolarni aniqlash va qonunchilikni takomillashtirish bo'yicha takliflar ishlab chiqish;

O'zbekistonda ma'muriy tartib-taomillar to'g'risidagi qonunchilikni yanada takomillashtirish yo'nalishlari va amaliyotda qo'llash istiqbollarini tahlil qilish, uni amaliyotga tatbiq etishda yuzaga kelishi mumkin bo'lgan ayrim muammolarning oldini olish borasida ilmiy asoslantirilgan takliflar ishlab chiqishdan iborat.

Tadqiqotning obyekti sifatida O'zbekistonda ma'muriy tartib-taomillarning huquqiy asoslarini takomillashtirish bilan bog'liq ijtimoiy-huquqiy munosabatlar, jumladan, ma'muriy hujjatni qabul qilish, o'zgartirish, bekor qilish va haqiqiy emas deb topish bilan bog'liq huquqiy munosabatlar tizimi olingan.

Tadqiqotning predmetini O'zbekistonda ma'muriy hujjatni o'zgartirish bekor qilish va haqiqiy emas deb topishning tashkiliy-huquqiy asoslarini tartibga soluvchi normativ-huquqiy hujjatlar, huquqni qo'llash amaliyoti, xorijiy mamlakatlar qonunchiligi va amaliyoti hamda ma'muriy huquqda mavjud bo'lgan konseptual yondashuvlar, ilmiy-nazariy qarashlar va huquqiy kategoriyalar tashkil etadi.

Tadqiqotning usullari. Tadqiqot olib borishda tarixiy, tizimli, mantiqiy (analiz, sintez), qiyosiy-huquqiy, statistik, induksiya va deduksiya, ijtimoiy so'rovlar o'tkazish kabi usullardan foydalanildi.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

yer uchastkalarini kompensatsiya evaziga jamoat ehtiyojlari uchun olib qo'yishga asos bo'ladigan maqsadlar qonunda aniq belgilanishi, bunda yer uchastkalarining har qanday boshqa maqsadlarda olib qo'yilishini jamoat ehtiyojlari uchun olib qo'yish sifatida talqin etish taqiqlanishi lozimligi asoslantirib berilgan;

yer uchastkalarini olib qo'yish bo'yicha tashabbusni rad etish asoslari sifatida yer uchastkasini olib qo'yish bo'yicha tashabbus ushbu qonunda aniq belgilangan talablarga muvofiq bo'lmaganda hamda xalq deputatlari mahalliy kengashlari huzuridagi kuzatuv kengashining yozma roziligi mavjud bo'lmagan hollarni qonunchilikda aks ettirish lozimligi asoslantirilgan;

yer uchastkalarini jamoat ehtiyojlari uchun olib qo'yish va ko'chmas mulk obyektlarini buzish to'g'risidagi qarorlar qonunga xilof deb topilgan taqdirda jismoniy va yuridik shaxslarga yetkazilgan zarar o'rni, birinchi navbatda, markazlashtirilgan jamg'armalarning mablag'lari hisobidan qoplanib, keyinchalik ushbu mablag'lar aybdor shaxslardan regress tartibida undirilishi kerakligi asoslab berilgan;

franshizing shartnomasini davlat ro'yxatidan o'tkazishni rad etishda kompleks mutlaq huquqlarning muvofiq bo'lmagan huquq egalari (huquqdan foydalanuvchilar) tomonidan murojaat qilingani asos bo'lishi lozimligi asoslantirilgan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

ma'muriy hujjatning haqiqiyligi yoki haqiqiy emasligini keltirib chiqaradigan holatlar, ma'muriy hujjatni bekor qilish va o'zgartirish talablariga doir ma'muriy tartib-taomillar qoidalarini takomillashtirishga oid takliflar ishlab chiqilgan;

ma'muriy hujjatni o'zgartirish, bekor qilish va haqiqiy emas deb topish tartibini takomillashtirish yuzasidan normativ-huquqiy hujjatlarni takomillashtirishga oid takliflar ishlab chiqilgan;

"ma'muriy hujjat" termini "ma'muriy akt" sifatida qo'llanishi asoslab berilgan hamda qonunchilikka tegishli takliflar tayyorlangan;

"ma'muriy akt" tushunchasiga mualliflik ta'rifi ishlab chiqilgan;

"ma'muriy organ" tushunchasiga mualliflik ta'rifi ishlab chiqilgan hamda qonunchilikka tegishli taklif ishlab chiqilgan;

ma'muriy aktni o'zgartirish, bekor qilish va haqiqiy emas deb topishda ma'muriy aktni turlarga ajratish zarurati asoslab berilgan;

O'zbekiston Respublikasining "Ma'muriy tartib-taomillar to'g'risidagi Qonuniga o'zgartish va qo'shimchalar kiritish to'g'risida"gi qonun loyihasi ishlab chiqilgan.

Tadqiqot natijalarining ishonchliligi. Dissertatsiya natijalari milliy qonunchilik hujjatlari, rivojlangan davlatlar tajribasi va huquqni qo'llash amaliyoti tadqiq qilinib, respublika ijro etuvchi hokimiyat organlari xodimlari va keng jamoatchilik orasida ijtimoiy so'rovlar o'tkazilib, statistik ma'lumotlarni tahlil qilish natijalari umumlashtirilib, tegishli hujjatlar orqali rasmiylashtirildi hamda olingan xulosa, taklif va tavsiyalar aprobatsiyadan o'tkazilib, ularning natijalari yetakchi milliy va xorijiy nashrlarda e'lon qilindi, vakolatli tuzilmalar tomonidan tasdiqlandi va amaliyotga tatbiq qilindi.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqot natijalarining ilmiy ahamiyati undagi ilmiy-nazariy xulosalar, taklif va tavsiyalardan kelgusi ilmiy faoliyatda, qonun ijodkorligida, qonunni qo'llash amaliyotida, soliq qonunchiligi normalarini sharhlashda, milliy qonunchilikni takomillashtirish hamda Ma'muriy huquq, Moliya huquqi va Biznes huquqi fanlarini ilmiy-nazariy jihatdan boyitishga xizmat qiladi. Tadqiqot natijalaridan yangi ilmiy tadqiqotlar olib borishda foydalanish mumkin.

Tadqiqot natijalarining amaliy ahamiyati qonun ijodkorligi faoliyatida, xususan, normativ-huquqiy hujjatlar tayyorlash hamda ularga o'zgartirish va qo'shimchalar kiritish jarayonida, qonunni qo'llash amaliyotini takomillashtirishda hamda oliy yuridik ta'lim muassasalarida Ma'muriy huquq, Soliq huquqi, Moliya huquqi va Davlat xizmati fanlarini o'qitishda xizmat qiladi.

Tadqiqot natijalarining joriy qilinishi. "Ma'muriy hujjatni o'zgartirish, bekor qilish va haqiqiy emas deb topishning huquqiy asoslarini takomillashtirish" mavzusidagi tadqiqot bo'yicha olingan ilmiy natijalardan quyidagilarda foydalanilgan:

yer uchastkalarini kompensatsiya evaziga jamoat ehtiyojlari uchun olib qo'yishga asos bo'ladigan maqsadlar qonunchilikda aniq belgilanishi, bunda yer uchastkalarining har qanday boshqa maqsadlarda olib qo'yilishini jamoat ehtiyojlari uchun olib qo'yish sifatida talqin etish taqiqlanishi lozimligi haqidagi

taklifdan O‘zbekiston Respublikasining 2022-yil 29-iyundagi “Yer uchastkalarini kompensatsiya evaziga jamoat ehtiyojlari uchun olib qo‘yish tartib-taomillari to‘g‘risida”gi O‘RQ–781-son Qonunining 4-moddasi ikkinchi qismini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutining 2024-yil 10-maydagi 3/08-74-son dalolatnomasi). Mazkur taklifning amaliyotga joriy etilishi yer uchastkalarini kompensatsiya evaziga jamoat ehtiyojlari uchun olib qo‘yish to‘g‘risidagi ma’muriy hujjatlarni qabul qilishning mezonlarini aniqlashga xizmat qilgan;

yer uchastkalarini olib qo‘yish bo‘yicha tashabbusni rad etish asoslari sifatida yer uchastkasini olib qo‘yish bo‘yicha tashabbus ushbu qonunda aniq belgilangan talablarga muvofiq bo‘lmaganda hamda xalq deputatlari mahalliy kengashlari huzuridagi kuzatuv kengashining yozma roziligi mavjud bo‘lmagan hollarni qonunchilikda aks ettirish haqidagi taklifdan O‘zbekiston Respublikasining 2022-yil 29-iyundagi “Yer uchastkalarini kompensatsiya evaziga jamoat ehtiyojlari uchun olib qo‘yish tartib-taomillari to‘g‘risida”gi O‘RQ–781-son Qonunining 18-moddasi birinchi qismi birinchi va oltinchi xatboshilarini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutining 2024-yil 10-maydagi 3/08-74-son dalolatnomasi). Mazkur taklifning amaliyotga joriy etilishi ma’muriy hujjatni qabul qilish va bekor qilishda tinglash va manfaatdor shaxsni xabardor qilish hamda ishonchni himoya qilish prinsiplarini ta’minlashga xizmat qilgan;

Qoraqalpog‘iston Respublikasi Jo‘qorg‘i Kengesining, mahalliy Kengashning yer uchastkalarini jamoat ehtiyojlari uchun olib qo‘yish va ko‘chmas mulk obyektlarini buzish to‘g‘risidagi qarorlari qonunga xilof deb topilgan taqdirda jismoniy va yuridik shaxslarga yetkazilgan zararlarning o‘rni, birinchi navbatda, markazlashtirilgan jamg‘armalarning mablag‘lari hisobidan qoplanib, keyinchalik ushbu mablag‘lar aybdor shaxslardan regress tartibida undirilishi kerakligi haqidagi taklifdan O‘zbekiston Respublikasining 2022-yil 29-iyundagi “Yer uchastkalarini kompensatsiya evaziga jamoat ehtiyojlari uchun olib qo‘yish tartib-taomillari to‘g‘risida”gi O‘RQ–781-son Qonunining 38-moddasini shakllantirishda foydalanilgan (O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasi huzuridagi Parlament tadqiqotlari institutining 2024-yil 10-maydagi 3/08-74-son dalolatnomasi). Mazkur taklifning amaliyotga joriy etilishi ma’muriy hujjatni qabul qilish, bekor qilish va haqiqiy emas deb topishda manfaatdor shaxsning ishonchini himoya qilishni ta’minlashga xizmat qilgan;

franshizing shartnomasini davlat ro‘yxatidan o‘tkazishni rad etishda kompleks mutlaq huquqlarning muvofiq bo‘lmagan huquq egalari (huquqdan foydalanuvchilar) tomonidan murojaat qilingani asos bo‘lishi lozimligiga oid taklifdan O‘zbekiston Respublikasi Vazirlar Mahkamasining 2022-yil 24-iyundagi 346-son qarori bilan tasdiqlangan Kompleks tadbirkorlik litsenziyasi (franshizing) shartnomalarini davlat ro‘yxatidan o‘tkazish bo‘yicha davlat xizmatini ko‘rsatishning Ma’muriy reglamentining 15-bandi kichik xatboshisini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Vazirlar Mahkamasining Yuridik ta’minlash boshqarmasining 2022-yil 18-dekabrdagi 12/21-100-son

dalolatnomasi). Mazkur taklifning amaliyotga joriy etilishi ma'muriy tartib-taomillar prinsiplariga muvofiq qonunchilikning qo'llanishi, ma'muriy organlar tomonidan qaror qabul qilishda tartib-taomillarga rioya qilinishini kuchaytirishga xizmat qilgan.

Tadqiqot natijalarining aprobatsiyasi. Mazkur tadqiqot natijalari 4 ta ilmiy anjumanda, jumladan, 2 ta xalqaro va 2 ta respublika ilmiy-amaliy anjumanlarida muhokamadan o'tkazilgan.

Tadqiqot natijalarining e'lon qilinganligi. Tadqiqot natijasi bo'yicha jami 14 ta ilmiy ish, jumladan, 2 ta monografiya, dissertatsiyaning asosiy natijalarini chop etish tavsiya etilgan OAK nashrlarida 10 ta ilmiy maqola (4 ta xorijiy nashrlarda) chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Ilmiy tadqiqot ishi kirish, 9 paragrafni o'z ichiga olgan uch bob, xulosa, foydalanilgan adabiyotlar ro'yxati va ilova qismlaridan iborat bo'lib, uning hajmi 155 betni tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **Kirish** (falsafa doktori (PhD) dissertatsiyasining annotatsiyasi) qismida tadqiqot mavzusining dolzarbligi va zarurati, respublika fan va texnologiyalari rivojlanishining ustuvor yo'nalishlariga bog'liqligi, mavzu bo'yicha xorijiy ilmiy tadqiqotlar sharhi, muammoning o'rganilganlik darajasi, mavzuning dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy tadqiqot ishlari bilan aloqasi, uning maqsad va vazifalari, obyekti va predmeti, usullari, ilmiy yangiligi va amaliy natijasi, tadqiqot natijalarining ishonchliligi, ilmiy va amaliy ahamiyati, amaliyotga joriy qilinishi, aprobatsiyasi, tadqiqot natijalarining e'lon qilinganligi, dissertatsiyaning hajmi va tuzilishi haqida ma'lumotlar keltirilgan.

Dissertatsiyaning birinchi bobi **"Ma'muriy hujjatning nazariy-huquqiy asoslari**" deb nomlanib, ma'muriy hujjat tushunchasi, belgilari, ma'muriy hujjat turlari va o'ziga xos xususiyatlari, ma'muriy hujjatning shakli va kuchga kirishi kabi masalalar tahlil qilingan.

Tadqiqotchi ma'muriy hujjat tushunchasini tahlil qilishda ko'plab olimlarning (Axmedshayeva M., Artikov D., Alekseyev S., Baxrax D., Egamberdiyev A., Flipp F., Hakimov R., Hamedov I., A.Li., Long M., Martini M., Mayer O., Nematov J., Odilqoriyev X., Say I., Tixomirov Y., Vasilev R., Vlasov V., Volkov M., Xvan L., Xojiyev E., Xakimov G'.) fikrlaridan foydalanib, ular bilan munozaraga kirishgan.

Dissertant tomonidan ma'muriy ish yuritish hamda ma'muriy huquqning markaziy instituti hisoblangan "ma'muriy hujjat" tushunchasiga ilmiy asoslantirilgan ta'rif ishlab chiqilib, "ma'muriy hujjat" deganda nafaqat yozma shaklda qabul qilingan hujjat tushunilishi, balki ma'muriy organ yoki uning mansabdor shaxslari tomonidan "ma'muriy hujjat" og'zaki, belgi, signal, yorug'lik ishoralari orqali ham qabul qilinishi yoki ifodalanishi mumkinligi asoslantirilgan. Shundan kelib chiqib qonunchilikda berilgan "ma'muriy hujjat" shakliga og'zaki, belgili, imo-ishora, signallar, yorug'lik ishoralari orqali ham qabul qilinishi mumkinligi asoslantirilgan.

Dissertant tomonidan ma’muriy hujjat belgilari tahlil qilinib, ma’muriy hujjat tushunchasiga quyidagi mualliflik ta’rifi berilgan:

“Ma’muriy akt – ma’muriy organning ommaviy huquqiy munosabatlarini yuzaga keltirishga, o‘zgartirishga yoki tugatishga qaratilgan hamda ayrim jismoniy yoki yuridik shaxslar uchun, yoxud individual belgilariga ko‘ra ajratiladigan shaxslar guruhi uchun, muayyan huquqiy oqibatlar keltirib chiqaruvchi tashqi yo‘naltirilgan har qanday hokimiyat ta’sir chorasi”.

Ma’muriy ish yuritishning asosiy nizo predmetlari bo‘lgan “ma’muriy hujjat” va “xatti-harakat” tushunchasi va ularning bir-biridan farqlovchi belgilari asoslab berilgan.

Ma’muriy sud ishlarini yuritishda “Ma’muriy organ” tushunchasi tahlil qilinib, qanday holatlarda boshqa shaxslar, tashkilotlar va maxsus tuzilgan komissiyalar “ma’muriy organ” maqomiga ega bo‘lishi asoslantirilgan.

Tadqiqotchi tomonidan Ma’muriy huquq fani bo‘yicha o‘quv adabiyotlarida ma’muriy hujjatlarni o‘rganish ma’muriy qonunchilik bilan bog‘lab tahlil qilish maqsadga muvofiqligi asoslantirib berilgan. Ma’muriy hujjat tushunchasi Germaniya, AQSh, Fransiya va Yaponiyadagi ma’muriy qonunchilik asosida o‘rganilib, tahlil qilingan. Jumladan, Germaniyada ma’muriy hujjatlarga o‘xshash bo‘lgan “Verwaltungsakt” (ma’muriy akt), Fransiyada “la decision executoire” mavjud bo‘lib, qonunchilikda ma’muriy huquqning markaziy elementi hisoblanadi.

Ma’muriy hujjatning normativ-huquqiy hujjatlardan, idoraviy normativ-hujjatlardan, protsessual hujjat va ma’muriy harakatlardan farqli jihatlari tahlil qilinib, uning o‘ziga xos xususiyatlari ochib berilgan.

Dissertant tomonidan ma’muriy hujjatning turlari va o‘ziga xos xususiyatlarini ko‘plab olimlar (Brakoni C., Erbgut V., Fusser K., Hengstschläger J., Kahl V., Mayer O., Manssen G., Mauer H., Nematov J., Pudelka Y., Philipp F., Ruffert M., Sikou Y., Xaurio M., Yamada X., Shvarts B., Weber M.) fikrlari asosida tahlil qilinib, milliy qonunchilik asosida yoritib berilgan hamda qonunchilikdagi ma’muriy hujjat termini o‘zida belgilangan xususiyatlarni to‘liq ochib bera olmasligi tahlil qilinib, ma’muriy hujjat huquqiy toifa o‘laroq ma’muriy akt sifatida talqin qilinishi lozimligi asoslab berilgan.

Amalga oshirilgan tahlillar natijasida tadqiqotchi tomonidan ma’muriy hujjat ustidan nizolashishda ularning turlari muhimligini hisobga olgan holda qonunchilikka “oraliq ma’muriy akt”, “qulay ma’muriy akt”, “noqulay (og‘ir) ma’muriy akt”, “qonuniy ma’muriy akt”, “noqonuniy ma’muriy akt” terminlarini kiritishni taklif etgan.

Ma’muriy hujjatning kuchga kirishida adresatni xabardor qilish muhim ahamiyat kasb etishi asoslantirilib, xabardor qilish tartibini takomillashtirish, ma’muriy aktni “ommaviy e’lon qilish” tartib-taomillarini qonunchilikka kiritishni taklif etgan.

Dissertant tomonidan ma’muriy hujjat va ma’muriy harakat bir-biridan farq qilishi lozimligi tahlil qilinib, ma’muriy akt tegishli vakolatli ma’muriy organlar, ularning mansabdor shaxslari tomonidan ma’muriy-huquqiy munosabatlarning boshqa subyektlariga nisbatan ma’lum qonuniy ahamiyatga ega bo‘lgan (ma’muriy-huquqiy) harakatlarni sodir etishlari uchun faktik va huquqiy asos bo‘lib xizmat qilishi mumkinligi asoslab berilgan. Ma’muriy harakatlar qabul

qilingan, ma'muriy aktning haqiqiyligini, ushbu aktda mavjud bo'lgan vakolatli qarorning ijrosini ta'minlash maqsadida amalga oshirilishi tahlil qilingan.

Dissertatsiyaning ikkinchi bobi **"Ma'muriy hujjatni o'zgartirish, bekor qilish va yuridik kuchini tugatish tartib-taomillari"** deb nomlanib, ma'muriy hujjatni o'zgartirish, bekor qilish va yuridik kuchini tugatish tushunchasi va turlari, ma'muriy hujjatlarning noqonuniyligi asoslari, ma'muriy hujjatning amal qilishini huquqiy tugatish usullari va tartib-taomillari tahlil qilinib, milliy qonunchilikni takomillashtirish borasida takliflar ilgari surilgan.

Ma'muriy hujjatni o'zgartirish, bekor qilish, huquqiy kuchini yo'qotishi tartib-taomillari, ma'muriy tartibda shikoyat qilish va ma'muriy hujjatni bekor qilish borasida turli munozarali fikrlar mavjud bo'lib, MDH, Yevropa va O'rta Osiyo davlatlari (misol uchun, Avstriya, AQSh, Fransiya, Germaniya, Gruziya, Litva, Ozarbayjon, Qirg'iziston, Rossiya, Tojikiston, Turkmaniston)ning ma'muriy tartib-taomillar to'g'risidagi qonunlarida ushbu masalalar ham ma'muriy tartib-taomillar to'g'risidagi qonunlarda tartibga solinganini ko'rish mumkin. Huquqshunos olimlarning ilmiy qarashlari hamda rivojlangan xorijiy davlatlarning tartib-taomillar sohasidagi qonun hujjatlarini tahlil qilish natijasida "Ma'muriy tartib-taomillar to'g'risida"gi Qonunning 59-moddasi ma'muriy hujjatni o'zgartirishning aniq konseptual qoidalarini to'liq yoritib bera olmasligi asoslab berilgan.

Dissertant tomonidan ma'muriy hujjatni o'zgartirishning huquqiy oqibatlari tahlil qilinib, ma'muriy hujjatning mazmunan o'zgarishiga olib keladigan o'zgartirish hamda ma'muriy hujjat mazmuniga ta'sir qilmaydigan tarzda o'zgartirishga ajratib o'rganish lozimligi taklif etilgan. Dissertantning fikricha, ma'muriy hujjatlarni o'zgartirish mexanizmlarini to'g'ri qo'llash, noqonuniy ma'muriy hujjatlarni qabul qilishning oldini olish bilan birga noqonuniy ma'muriy hujjatni qonunchilikka muvofiqlashtirish imkonini ham beradi.

Dissertant ma'muriy hujjatni o'zgartirish, bekor qilish va yuridik kuchini tugatish tartib-taomillarini tahlil qilishda Avstriya, AQSh, Fransiya, Germaniya, Gruziya, Rossiya, Ozarbayjon va Yaponiya tajribasi asosida ma'muriy hujjatning qonuniyligini tekshirishda, manfaatdor shaxsning ishonchini himoya qilish tartib-taomillari yoritib bergan. Shuningdek, ma'muriy hujjatni o'zgartirish va bekor qilishning o'ziga xos xususiyatlari yoritib bergan. Ma'muriy hujjatni bekor qilish tartib-taomillari, ma'muriy hujjatni amaliyotda yuridik jihatdan tugatishning usullari va yuridik oqibatlari tahlil qilingan. O'z navbatida, xorijiy mamlakatlar ma'muriy qonunchiligida ma'muriy hujjat qonuniyligini tekshirishda Konstitutsiyaning prinsiplari to'g'ridan to'g'ri qo'llanishi tahlil qilingan. Tahlillar natijasidan kelib chiqib, "Ma'muriy tartib-taomillar to'g'risida"gi Qonunning 59-moddasiga o'zgartirish kiritish bo'yicha taklif ishlab chiqilgan.

Ma'muriy organlar va ular mansabdor shaxslarining qarorlari, harakatlari (harakatsizligi) ustidan shikoyat qilish to'g'risidagi ishlarni ko'rib chiqishda ma'muriy hujjatning qonuniyligini tekshirish doirasida sud amaliyotini takomillashtirish bo'yicha bir qator takliflar ilgari surilgan. Jumladan, ma'muriy organlar va ular mansabdor shaxslarining qarorlari, harakatlari (harakatsizligi) ustidan shikoyat qilish to'g'risidagi ishlarni ma'muriy sudlar tomonidan ko'rib chiqish tarkibida ma'muriy hujjatni qo'llamaslik huquqidan foydalanishi mumkin

emasligi taklif etilgan. Mazkur taklif Avstriya va Germaniya ma'muriy sud ish yurituvi qonunchiligi asosida asoslantirib berilgan.

Tadqiqotchi tomonidan milliy qonunchiligimiz va huquqni qo'llash amaliyotidan kelib chiqqan holda, ma'muriy organ va sud tomonidan ma'muriy hujjatning qonuniyligini tekshirishning o'ziga xos xususiyatlari va turlari tahlil qilingan. Jumladan, sud tomonidan ma'muriy hujjatning qonuniyligini ko'rib chiqish modelini, obyektiv va subyektiv turlarga ajratish kerakligi asoslab berilgan.

Dissertatsiyaning uchinchi bobi "**Ma'muriy hujjatni o'zgartirish, bekor qilish va haqiqiy emas deb topishning huquqiy mexanizmlarini takomillashtirish masalalari"** deb nomlanib, ma'muriy hujjatni o'zgartirish va bekor qilish tartib-taomillarini takomillashtirish, ma'muriy hujjatni sud tomonidan haqiqiy emas deb topishning huquqiy mexanizmlarini takomillashtirish, ma'muriy hujjatni o'zgartirish, bekor qilish va haqiqiy emas deb topishni amaliyotda qo'llashning huquqiy masalalarini takomillashtirishga bag'ishlangan.

Tahlillar shuni ko'rsatdiki, AQSh, Avstriya, Germaniya, Gruziya davlatlarida ma'muriy tartib-taomillarning nazariy-huquqiy asoslari keng yoritilgan. Tadqiqot predmetidan kelib chiqib, Avstriya, Germaniya, Gruziya va Yaponiya davlatlari qonunchiligining nisbatan batafsil tartibga solingan jihati sifatida ma'muriy hujjatni bekor qilish va haqiqiy emas deb topishda ma'muriy tartib-taomillar prinsiplari, tinglash jarayoni, mutanosiblik, manfaatdor shaxsning ustunligi, mazmunan qamrab olish va ma'muriy hujjatni qabul qilishning huquqiy tavsifiga doir normativ-huquqiy hujjatlar va ilmiy qarashlar tahlil qilingan. Fransiya qonunchiligidagi ex tunc va ex nunc prinsipining mazmun-mohiyati, Avstriya, Gruziya qonunchiligidagi tinglash jarayoni hamda Germaniya qonunchiligidagi ma'muriy hujjatni qabul qilish, bekor qilish va haqiqiy emasligini huquqiy tavsiflashga oid ijobiy tajriba O'zbekiston qonun hujjatlarini takomillashtirishda foydalanish nuqtayi nazaridan tahlil qilindi.

Mazkur bob doirasida ma'muriy hujjatni sud tomonidan haqiqiy emas deb topishning huquqiy mexanizmlarini takomillashtirishda (Artikov D., Barczak T., Bachsho I., Davidov K., Eisenberg E., Haurand G., Hatje A., Hamedov I., Hartley T., Lewalle R., Maurer H., Nematov J., Tixomirov Y., Xakimov G'., Christian D.)ning va Germaniya, Fransiya, Rossiya davlatlari tajribasi tahlil qilinib, qonuniylikni tekshirishning shakliy, haqiqiy (mazmun-mohiyati yuzasidan) va ma'muriy ixtiyoriylik (diskretsion vakolat)ni qo'llash qonuniyligi kabi shartlarga ajratish lozimligi asoslab berilgan. Germaniyaning "Ma'muriy tartib-taomillar to'g'risida"gi qonuni Ikkinchi jahon urushidan keyingi davrda yuzaga kelgan ma'muriy organlar faoliyatini iloji boricha batafsil tartibga solish zaruratidan kelib chiqib yaratilgan. Shuning uchun ham ma'muriy tartib-taomillarning asosiy qoidalari, jumladan, ma'muriy hujjatni qabul qilish va uning haqiqiyligiga oid qoidalar qonunda to'liq tartibga solingan.

Ma'muriy ish yuritishda va ma'muriy sud ishlarini yuritishda "ma'muriy hujjat"ni "bekor qilish" va "haqiqiy emas deb topish" bir-biridan farq qilishi tahlil qilingan. Bu ikki tushunchaning huquqiy oqibatlari turlicha bo'lishi, "ma'muriy hujjat"ni "bekor qilish"ning tasnifi va oqibatlari asoslantirilgan.

Dissertant tomonidan ma'muriy hujjat yuzasidan nizolashish to'g'risidagi ishning xususiyatidan kelib chiqib, sud amaliyotini takomillashtirish bo'yicha taklif berilgan. Jumladan, sudlar tomonidan subyektiv modeldan keng holda ishning ko'rib chiqilishi

maqsadga muvofiq sanaladi. Bu modelda sud ma’muriy organdan o‘z ish yurituvida mavjud bo‘lgan ma’muriy ishning samarali hal etilishini ta’minlash maqsadida quyidagilarni talab qilib olishi shart:

- ma’muriy hujjatni qabul qilgan organning mazkur hujjat yuzasidan yuridik xizmat bo‘limining xulosasi;
- ma’muriy hujjatni qabul qilgan organning hujjatni qabul qilishning maqsadga muvofiqligini asoslashdan iborat bo‘lgan tushuntirish xati;
- ma’muriy hujjatni qabul qilgan organning ma’muriy hujjatning qabul qilinganligi borasidagi xabarnomaning adresatga yetkazilganligi;
- agar hujjat kollegial organ tomonidan qabul qilingan bo‘lsa, ma’muriy hujjatni qabul qilgan kollegial organ yig‘ilishining bayonnomasi;
- ekspertlarning xulosalari;
- mutaxassislarning maslahatlari (tushuntirishlari);
- guvohlarning ko‘rsatuvlari;
- ishda ishtirok etuvchi shaxslarning tushuntirishlari.

Shu bilan birga, tadqiqotchi tomonidan Ma’muriy sud ishlarini yuritish to‘g‘risidagi kodeksning 23-bobini “Ma’muriy organlarning, ular mansabdor shaxslarining ma’muriy aktlari, harakatlari (harakatsizligi) ustidan shikoyat qilish to‘g‘risidagi ishlarni yuritish” deb o‘zgartirish bo‘yicha taklif ishlab chiqilgan.

Tadqiqotchi tomonidan ma’muriy hujjatni sud tomonidan bekor qilish mexanizmlarini ishlab chiqish yuzasidan ilmiy tahlillar keltirilgan bo‘lib, Ma’muriy sud ishlarini yuritish to‘g‘risidagi kodeksni “Ma’muriy organlarning ma’muriy aktlarini bekor qilish to‘g‘risidagi ishlarni yuritish” deb nomlanuvchi 23^1-bob bilan to‘ldirish taklifi berilgan.

Dissertant ma’muriy hujjatni o‘zgartirish, bekor qilish va haqiqiy emas deb topishning huquqiy asoslarini takomillashtirish masalalarini tahlil qilgan holda sohaga oid ilmiy tadqiqot ishlarini rivojlantirish, o‘quv jarayoni va qonunchilik asoslarini takomillashtirish masalalarini ham tahlil qilgan.

Tadqiqot ishi doirasida o‘tkazilgan so‘rovnoma natijasiga ko‘ra, “Siz ma’muriy hujjatni o‘zgartirish, bekor qilish va haqiqiy emas deb topishda ishonchingiz himoya qilinishi kerakligidan xabardormisiz?” degan savolga so‘rovnomada qatnashgan respondentlarning qariyb 70 %i “yo‘q” deb javob bergani sababli fuqarolar o‘rtasida mazkur tartibotni keng tushuntirish uchun respublika ijro etuvchi hokimiyat organlari bilan qonunchilikni qo‘llash yuzasidan seminarlar, bukletlar, videoroliklar qilish va targ‘ibot ishlarini olib borish muhim ekanligi asoslantirilgan.

Ma’muriy hujjatni o‘zgartirish, bekor qilish va haqiqiy emas deb topishga oid qonunchilikni takomillashtirish istiqbollari sifatida “O‘zbekiston Respublikasining Ma’muriy tartib-taomillar to‘g‘risida”gi Qonuniga o‘zgartirish va qo‘shimchalar kiritish to‘g‘risida”gi hamda “O‘zbekiston Respublikasining Ma’muriy sud ishlarini yuritish to‘g‘risidagi kodeksiga o‘zgartirish va qo‘shimchalar kiritish to‘g‘risida”gi qonun loyihalarini ishlab chiqish, O‘zbekiston Respublikasi Oliy sudi va Adliya vazirligi hamkorligini takomillashtirish, ma’muriy organlar va sudyalar uchun ma’muriy hujjatlarni o‘zgartirish, bekor qilish va haqiqiy emas deb topish to‘g‘risidagi ishlarning moddiy va protsessual xususiyatlarini o‘rganishga qaratilgan maxsus kurs tashkil etish bo‘yicha takliflar ilgari surilgan.

XULOSA

Amalga oshirilgan tadqiqot natijasida quyidagi ilmiy-nazariy xulosalar, qonun hujjatlarini takomillashtirishga doir takliflar va huquqni qo‘llash amaliyotini rivojlantirishga qaratilgan tavsiyalar ilgari surildi:

I.Ilmiy-nazariy xulosalar:

1. “Ma’muriy hujjat” va “ma’muriy akt” tushunchalari farqi yoritilib, “ma’muriy akt” atamasidan foydalanish tavsiya etildi. Jumladan, “ma’muriy akt” nafaqat yozma shaklda, balki og‘zaki, belgilar, ishoralar orqali va elektron shaklda ham bo‘lishi, ifodalanishi mumkinligi asoslantirildi.

2. “Ma’muriy akt ma’muriy organning ommaviy huquqiy munosabatlarni yuzaga keltirishga, o‘zgartirishga yoki tugatishga qaratilgan hamda ayrim jismoniy yoki yuridik shaxslar uchun yoxud individual belgilariga ko‘ra ajratiladigan shaxslar guruhi uchun, muayyan huquqiy oqibatlar keltirib chiqaruvchi tashqi yo‘naltirilgan har qanday hokimiyat ta’sir chorasi”.

3. Oraliq ma’muriy akt — qoida tariqasida, ma’muriy-huquqiy faoliyat doirasida, ya’ni ma’muriy organlar tomonida o‘z yurisdiksiyasidagi alohida huquqiy ishlarni izchil, bosqichma-bosqich hal etish jarayonida qabul qilinadigan ma’muriy akt.

4. Ma’muriy aktni haqiqiy emas deb topish bilan birga uni bekor qilish talabining ham ma’muriy sud sudloviga taalluqli ekanligi asoslantirildi.

5. Ma’muriy harakat ma’muriy-huquqiy faoliyatning mustaqil huquqiy shaklidir. Ma’muriy harakat, garchi unda buyruq bo‘lmasa ham, manfaatdor tomonlar uchun qonuniy ahamiyatga ega oqibatlarga olib keladi. Shuning uchun ma’muriy shikoyat predmetida unga alohida o‘rin beriladi. Biroq bu yerda “Ma’muriy tartib-taomillar to‘g‘risida”gi Qonunning joriy nashri konseptual noaniqlikka imkon beradi. Gap shundaki, ma’muriy hujjatni qabul qilishni rad etish ma’muriy harakat emas, balki ma’muriy hujjatdir, chunki u noqulay xususiyatga ega. Ma’muriy hujjatni o‘z vaqtida qabul qilmaslikni ham noqulay ma’muriy hujjat deb hisoblash to‘g‘riroqdir. Ma’muriy aktning o‘z-o‘zidan haqiqiy emasligini tasdiqlash ham yoki ma’muriy yoxud boshqa vakolatli organ tomonidan uning haqiqiy emas deb tan olinishi ma’muriy harakat hisoblanadi.

6. Qonuniy chiqarilgan ma’muriy akt yo‘naltirilgan shaxs (adresat)ga yetkazilib, qonuniy kuchga kirganidan so‘ng qandaydir sabab va asoslarga ko‘ra bekor qilinishi qonuniy ma’muriy hujjatni bekor qilish deb nomlanishi, huquqqa zid ma’muriy hujjat shaxsga yetkazilgan va qonuniy kuchga kirganidan so‘ng uni noqonuniyligi sababidan bekor qilish noqonuniy ma’muriy hujjatni bekor qilish deb nomlanishi asoslantirib berildi.

7. Noqonuniy ma’muriy aktni bekor qilishda manfaatdor shaxsning aybi bo‘lmasa ma’muriy hujjatni bekor qilish oqibatida manfaatdor shaxsning ma’muriy hujjatga bo‘lgan qonuniy ishonchi asosida unga ma’lum bir zarar kelib chiqqan hollarda ma’muriy organ mutanosiblik va ishonchning himoya qilinishi prinsiplari asosida: a) zararni qoplab berishi yoki b) ma’muriy hujjatni bekor qilish natijasida manfaatdor shaxs ko‘radigan zarar jamiyat manfaatlariga yetkaziladigan zarardan

oshib ketgan taqdirda jamiyat manfaatlariga tahdid solayotgan hollardan tashqari, uning ishonchini himoya qilishi mumkinligi asoslantirib berildi.

8. Ma’muriy aktning noqonuniyligi manfaatdor shaxsning aybi bilan yuzaga kelgan hollarda uning ishonchini himoya qilish talab etilmasligi va ma’muriy hujjat ma’muriy organ tomonidan bekor qilinishi mumkinligi asoslantirildi.

9. Ma’muriy akt qonuniy deb hisoblanishi uchun rasmiy huquqiy (protsessual huquqiy) va moddiy-huquqiy talablarga javob berishi lozimligi asoslantirildi.

10. Ma’muriy organ xizmat burchiga ko‘ra qonun talabidan kelib chiqib yoki o‘zi qabul qilgan ma’muriy aktning qonuniy emasligi aniqlanganda uni bekor qilishi (o‘zgartirishi) shart, bundan ishonchni himoya qilish to‘sqinlik qilgan holatlar yoki tegishli vakolati bo‘lmagan holatlar mustasno.

II. Normativ-huquqiy hujjatlarni takomillashtirishga oid taklif va tavsiyalar:

11. O‘zbekiston Respublikasining “Ma’muriy tartib-taomillar to‘g‘risida”gi Qonuni 4-moddasi birinchi qismi to‘rtinchi xatboshini quyidagi tahrirda bayon etish taklif etiladi:

“ma’muriy organlar — ma’muriy-huquqiy faoliyat sohasida ma’muriy boshqaruv vakolati berilgan organlar, shu jumladan, respublika ijro etuvchi hokimiyat organlari, mahalliy ijro etuvchi hokimiyat organlari, fuqarolarning o‘zini o‘zi boshqarish organlari, shuningdek, ushbu faoliyatni amalga oshirishga vakolatli bo‘lgan boshqa shaxslar, tashkilotlar va maxsus tuzilgan komissiyalar”.

12. O‘zbekiston Respublikasining “Ma’muriy tartib-taomillar to‘g‘risida”gi Qonuni 4-moddasi birinchi qismi yettinchi xatboshisini quyidagi tahrirda bayon etish taklif etiladi:

“Ma’muriy akt ma’muriy organning ommaviy huquqiy munosabatlarni yuzaga keltirishga, o‘zgartirishga yoki tugatishga qaratilgan hamda ayrim jismoniy yoki yuridik shaxslar uchun yoxud individual belgilariga ko‘ra ajratiladigan shaxslar guruhi uchun muayyan huquqiy oqibatlar keltirib chiqaruvchi tashqi yo‘naltirilgan har qanday hokimiyat ta’sir chorasi”.

13. O‘zbekiston Respublikasining “Ma’muriy tartib-taomillar to‘g‘risida”gi Qonuni 52-moddasi birinchi qismini quyidagi tahrirda bayon qilish taklif etiladi:

“ma’muriy akt yozma yoki elektron shaklda qabul qilinishi mumkin. Qonunchilikda ma’muriy akt boshqa shaklda, shu jumladan, og‘zaki, belgilar, imo-ishoralar va signallar, tasdiqlovchi hujjat berish yoki muayyan harakatlarni bajarish orqali, shuningdek, avtomatik vositalar yordamida qabul qilinishi mumkinligi hollari nazarda tutilishi mumkin”.

14. O‘zbekiston Respublikasi “Ma’muriy tartib-taomillar to‘g‘risida”gi Qonuni 55-moddasi birinchi qismini quyidagi tahrirda bayon qilish taklif etiladi:

“Agarda ma’muriy aktning o‘zida boshqacha muddat belgilanmagan bo‘lsa, ma’muriy akt adresat tegishli tartibda xabardor qilingan paytdan e’tiboran kuchga kiradi. Uchinchi shaxslar ma’muriy akt haqida o‘z vaqtida xabardor qilinishi shart”.

15. O‘zbekiston Respublikasining “Ma’muriy tartib-taomillar to‘g‘risida”gi Qonuniga “manfaatdor shaxs ma’muriy organning akti yoki ular mansabdor shaxslarining harakatlari (harakatsizligi) ustidan sudga ariza (shikoyat) bilan

murojaat qilishga, manfaatdor shaxs ma'muriy akt yoki ular mansabdor shaxslarining harakatlari (harakatsizligi) ustidan yuqori turuvchi ma'muriy organga shikoyat berilib, u qanoatlantirilmasdan qoldirilgan bo'lsa, yo'l qo'yilishi mumkin", – degan yangi norma kiritish tavsiya etildi.

16. O'zbekiston Respublikasining "Ma'muriy tartib-taomillar to'g'risida"gi Qonuni 59-moddasini quyidagicha o'zgartirish taklif etiladi:

"59-modda. Ma'muriy aktning haqiqiy emasligi.

"Ma'muriy akt, agar u o'z-o'zidan haqiqiy bo'lmagan yoki vakolatli organ yoxud sud tomonidan haqiqiy emas deb topilganda, haqiqiy emas deb hisoblanadi.

Ma'muriy akt quyidagi hollarda o'z-o'zidan haqiqiy emas deb hisoblanadi:

ma'muriy aktni qabul qilgan ma'muriy organni aniqlashning imkoni mavjud bo'lmasa;

adresat noma'lum bo'lsa yoki adresat amalda mavjud bo'lmasa, yoxud adresatni aniqlashning imkoni yo'q bo'lsa;

muayyan shaklda qabul qilinishi shart bo'lgan ma'muriy aktning shu shaklga rioya qilmasdan qabul qilinganligi;

ma'muriy akt obyektiv tarzda amalga oshirishning imkoni bo'lmagan harakatlarni sodir etishni talab qilsa.

O'z-o'zidan haqiqiy bo'lmagan ma'muriy akt hech qanday yuridik kuchga ega bo'lmaydi va u qabul qilingan paytdan e'tiboran uni rasmiy haqiqiy emas deb topish zaruratisiz hech qanday huquqiy oqibatlar keltirib chiqarmaydi.

O'z-o'zidan haqiqiy bo'lmagan ma'muriy aktni qabul qilgan ma'muriy organ yoki yuqori turuvchi ma'muriy organ ma'muriy aktning o'z-o'zidan haqiqiy emasligini aniqlaganda uning o'z-o'zidan haqiqiy emasligini o'z tashabbusi bilan yoki manfaatdor shaxsning arizasiga ko'ra tasdiqlashi shart.

Manfaatdor shaxsning arizasiga ko'ra quyidagi hollarda ma'muriy akt uni qabul qilgan ma'muriy organ yoki yuqori turuvchi ma'muriy organ yoxud boshqa vakolatli organ tomonidan haqiqiy emas deb topilishi lozim:

ma'muriy aktning mazmuni noaniq yoki bir-biriga zid bo'lsa;

ma'muriy akt tegishli vakolatlarga ega bo'lmagan ma'muriy organ tomonidan qabul qilingan bo'lsa;

ushbu Qonunda nazarda tutilgan diskretsion vakolat talabni buzgan holda keng doiradagi manfaatdor shaxslarga yuborilgan bo'lsa.

Ma'muriy aktning haqiqiy emas deb topilishi ma'muriy akt qabul qilingan paytdan e'tiboran o'z kuchini yo'qotishga olib keladi.

Manfaatdor shaxsning ma'muriy aktning o'z-o'zidan haqiqiy emasligini tasdiqlash yoki uni haqiqiy emas deb topish to'g'risidagi arizasi besh ish kuni ichida ko'rib chiqilishi shart".

17. O'zbekiston Respublikasining "Ma'muriy tartib-taomillar to'g'risida"gi Qonunini 59^1-modda "Ma'muriy aktni o'zgartirish va bekor qilish" bilan to'ldirish taklif etiladi:

"Qonuniy kuchga kirgan ma'muriy akt ushbu Qonunda nazarda tutilgan tartibda manfaatdor shaxsning arizasi yoki ma'muriy organning tashabbusi bilan ma'muriy organ tomonidan, yoki sud tomonidan bekor qilinishi yoxud o'zgartirilishi mumkin.

Ma’muriy organ tashabbusi bilan ma’muriy aktni bekor qilishda manfaatdor shaxsning ishonchini inobatga olishi shart.

Ma’muriy organ o‘zi qabul qilgan ma’muriy aktni quyidagi hollarda o‘z tashabbusi bilan bekor qilishga yoki o‘zgartirishga haqli:

ommaviy manfaatlarga tahdidni bartaraf etish zarurati bo‘lganda;

boshqa manfaatdor shaxslarning huquq va qonuniy manfaatlariga putur yetkazmagan yoki jamoat manfaatlarini xavf-xatarga qo‘ymagan holda manfaatdor shaxsning holatini yaxshilash imkoniyati paydo bo‘lganda.

Ma’muriy aktni prokurorning protesti yoki vakolatli davlat organining taqdimnomasi orqali o‘zgartirish yoki bekor qilish ushbu Qonunning prinsiplarida nazarda tutilgan qoidalarga rioya qilinishi shart.

Ma’muriy aktni o‘zgartirish yoki bekor qilish Qonunda nazarda tutilgan qoidalarga muvofiq manfaatdor shaxsning foydasiga yoki manfaatdor shaxsning zarariga amalga oshirilishi mumkin. Agar ma’muriy aktni o‘zgartirish yoki bekor qilish bitta manfaatdor shaxsning foydasiga ammo boshqa manfaatdor shaxsning zarariga amalga oshirilsa, ma’muriy aktni manfaatdor shaxsning zarariga o‘zgartirishni yoki bekor qilishni tartibga soladigan normalar qo‘llanadi.

Ma’muriy aktni o‘zgartirish yoki bekor qilish ushbu Qonunda nazarda tutilgan cheklovlarga rioya qilgan holda kelgusida yoki orqaga qaytish kuchi bilan amalga oshirilishi mumkin.

18. O‘zbekiston Respublikasining “Ma’muriy tartib-taomillar to‘g‘risida”gi Qonunini 59^2-modda “Qonuniy ma’muriy aktni bekor qilish” bilan to‘ldirish taklif etiladi:

“Qonuniy ma’muriy aktni kelgusida manfaatdor shaxs foydasiga bekor qilish mumkin, bundan ma’muriy aktni bekor qilish qonun bilan taqiqlangan holatlar mustasno.

Qonuniy ma’muriy akt manfaatdor shaxs zarariga bekor qilinishi mumkin emas, bundan quyidagi hollar mustasno:

qonun talablariga muvofiq yoki, agar bunday imkoniyat ma’muriy aktning o‘zida to‘g‘ridan to‘g‘ri nazarda tutilgan bo‘lsa;

agar keyinchalik o‘zgargan haqiqiy va huquqiy holatlar oqibatida ommaviy manfaatlarga ziyon yetkazilishiga yo‘l qo‘yilmaslik uchun ma’muriy aktni bekor qilish zarur bo‘lsa;

agar ma’muriy akt bilan qo‘shimcha majburiyatlar bog‘liq bo‘lsa va manfaatdor shaxs ularni bajarmagan bo‘lsa;

agar manfaatdor shaxs unga ma’muriy akt asosida berilgan ashyolardan (mol-mulkdan, pul mablag‘laridan) yoki huquqdan belgilangan maqsadlarda foydalanmagan bo‘lsa.

Qonuniy ma’muriy akt ushbu modda ikkinchi qismi uchinchi va to‘rtinchi xatboshlarida nazarda tutilgan hollarda manfaatdor shaxsning zarariga orqaga qaytish kuchi bilan bekor qilinishi mumkin”.

19. O‘zbekiston Respublikasining “Ma’muriy tartib-taomillar to‘g‘risida”gi Qonunini 59^3-modda “Noqonuniy ma’muriy aktni bekor qilish” bilan to‘ldirish taklif etiladi:

“Noqonuniy ma’muriy akt manfaatdor shaxs foydasiga kelgusida yoki orqaga qaytish kuchi bilan bekor qilinishi mumkin.

Noqonuniy ma’muriy akt manfaatdor shaxs zarariga kelgusida yoki orqaga qaytish kuchi bilan bekor qilinishi mumkin, bundan ishonchni himoya qilishni bekor qilish uchun monelik qiladigan hollar mustasno.

20. O‘zbekiston Respublikasining “Ma’muriy tartib-taomillar to‘g‘risida”gi Qonuniga qonunchilik hujjatlarida ma’muriy aktlar faqat sud tartibida bekor qilinadigan holatlarni kiritish taklif etiladi.

21. O‘zbekiston Respublikasining “Ma’muriy tartib-taomillar to‘g‘risida”gi Qonunini quyidagi moddalar: 59^4-modda “Ishonchni himoya qilish tartib-taomili”, 59^5-modda “Ma’muriy aktni bekor qilish tartib-taomillari” bilan to‘ldirish taklif etiladi.

22. 124^1-modda. Ommaviy tarzda xabardor qilish. Sud jarayoni haqida ommaviy axborot vositalari orqali xabardor qilish mumkin. Ma’muriy ishda ishtirok etuvchi shaxslarning soni 50 dan ortiq bo‘lsa yoki sud nizoning sudda ko‘rilishi aynan qaysi shaxslarning huquq va manfaatlariga daxl qilishini aniqlash imkoniga ega bo‘lmasa, u holda sud ishni ommaviy ish yuritishga o‘tkazishga haqli.

Bunda ishning ko‘rilishi o‘zlarining huquqlari va qonuniy manfaatlariga daxl qiluvchi shaxslar ushbu moddaning to‘rtinchi qismiga muvofiq tegishli xabar e’lon qilingan kundan boshlab o‘n ish kuni ichida ularni ishga jalb etish haqida ariza bilan sudga murojaat etishi mumkin. Sud murojaat etgan shaxsning arizasiga asosan uning ish bo‘yicha manfaatdor shaxs ekanligi holatini o‘rganib, uni ishga jalb etish masalasini hal etadi va bu haqda ajrim chiqaradi.

Sud, arizachi va nizolashilayotgan ma’muriy aktni chiqargan (qabul qilgan) shaxs (javobgar)ni, ishni ko‘rish vaqti va joyi haqida ushbu Kodeksning 124-moddasida belgilangan tartibda xabardor etadi.

Davlat sirlari bilan bog‘liq ishlar ommaviy ish yuritishga o‘tkazilishiga yo‘l qo‘yilmaydi. Agar ushbu holat sudning ommaviy ish yuritishga o‘tkazish haqidagi ajrimi chiqqandan keyin aniqlansa, sud ajrimni bekor qilib, ishni yopiq sud majlisida o‘tkazish haqida ajrim chiqaradi”.

23. Ma’muriy sud ishlarini yuritish to‘g‘risidagi kodeksning 23-bobini “Ma’muriy organlar va ular mansabdor shaxslarining ma’muriy aktlari, harakatlari (harakatsizligi) ustidan shikoyat qilish to‘g‘risidagi ishlarni yuritish” deb nomlash taklif qilindi.

24. Ma’muriy sud ishlarini yuritish to‘g‘risidagi kodeksning 184-, 185-, 186-, 187-, 188-, 189-moddalaridagi “Ma’muriy organlarning va fuqarolar o‘zini o‘zi boshqarish organlarining, ular mansabdor shaxslarining qarorlari, harakatlari (harakatsizligi)” birikmasini “Ma’muriy organlar va ular mansabdor shaxslarining ma’muriy aktlari, harakatlari (harakatsizligi)” birikmasiga o‘zgartirish taklif etiladi.

25. Ma’muriy sud ishlarini yuritish to‘g‘risidagi kodeksning 189-moddasi ikkinchi qismidagi “hamda arizachining huquqlari va qonun bilan qo‘riqlanadigan manfaatlarini buzayotganligini” degan so‘zlardan keyin “yoki buzilishi mumkinligini” degan so‘zlar bilan to‘ldirish taklif etildi.

26. Ma’muriy sud ishlarini yuritish to‘g‘risidagi kodeksga quyidagi mazmundagi yangi moddani kiritish taklif etiladi:

“189[1]-modda. Ma’muriy organlar va ular mansabdor shaxslarining ma’muriy aktlari, harakatlari (harakatsizligi) ustidan shikoyat qilish to‘g‘risidagi ish yuritishni tugatish

Agar sud ushbu Kodeksning 108-moddasida nazarda tutilgan asoslar mavjudligini aniqlasa, sud ma’muriy organlar va ular mansabdor shaxslarining ma’muriy aktlari, harakatlari (harakatsizligi) ustidan shikoyat qilish to‘g‘risida ish yuritishni tugatadi.

Sud, shuningdek, ma’muriy organlar va ular mansabdor shaxslarining ma’muriy aktlari, harakatlari (harakatsizligi) ustidan shikoyat qilish to‘g‘risidagi ma’muriy ish bo‘yicha ish yuritishni quyidagi hollarda tugatish huquqiga ega:

1) nizolashilayotgan ma’muriy organning, ular mansabdor shaxslarining ma’muriy aktlari, harakatlari (harakatsizligi) arizachining huquqlari, erkinliklari va qonuniy manfaatlariga ta’sir qilishni to‘xtatsa;

2) arizachi o‘z da’vosidan voz kechsa va sud tomonidan uni qabul qilishga to‘sqinlik qiladigan jamoat manfaatlari yo‘q bo‘lsa.

Sud arizadan voz kechishni, agar bu qonunchilikka zid bo‘lsa yoki boshqa shaxslarning huquqlari va qonun bilan qo‘riqlanadigan manfaatlarini buzsa, qabul qilmaydi.

27. Ma’muriy sud ishlarini yuritish to‘g‘risidagi kodeksga “Ma’muriy organlarning ma’muriy aktlarini bekor qilish to‘g‘risidagi ishlarni yuritish” deb nomlanuvchi 23[1]-bobni kiritish lozim.

III. Huquqni qo‘llash amaliyotini takomillashtirishga oid taklif va tavsiyalar

28. O‘zbekiston Respublikasi Oliy sudi Plenumining 24.12.2019-yildagi 24-son “Ma’muriy organlar va ular mansabdor shaxslarining qarorlari, harakatlari (harakatsizligi) ustidan shikoyat qilish to‘g‘risidagi ishlarni ko‘rib chiqish bo‘yicha sud amaliyoti haqida”gi qarorini quyidagicha “Ma’muriy organlar va ular mansabdor shaxslarining ma’muriy aktlari, harakatlari (harakatsizligi) ustidan shikoyat qilish to‘g‘risidagi ishlarni ko‘rib chiqish bo‘yicha sud amaliyoti haqida” deb o‘zgartirish taklif etiladi.

29. O‘zbekiston Respublikasi Oliy sudi Plenumining 24.12.2019-yildagi 24-son qarori ikkinchi bandini quyidagicha o‘zgartirish lozim:

Ma’muriy organlar deganda, respublika ijro etuvchi hokimiyat organlari (O‘zbekiston Respublikasi Prezidentining 25.01.2023-yildagi PF-14-son Farmoni bilan tasdiqlangan “Respublika ijro etuvchi hokimiyat organlari faoliyatini samarali yo‘lga qo‘yishga doir birinchi navbatdagi tashkiliy chora-tadbirlar to‘g‘risida” ko‘rsatilgan respublika ijro etuvchi hokimiyat organlari — vazirliklar, qo‘mitalar, agentliklar va inspeksiyalar va ularning hududiy organlari, joylardagi ijro hokimiyati organlari), fuqarolarning o‘zini o‘zi boshqarish organlari, shuningdek, ma’muriy-boshqaruv vakolati berilgan boshqa shaxslar, tashkilotlar va maxsus tashkil etilgan komissiyalar tushuniladi.

30. O‘zbekiston Respublikasi Oliy sudi Plenumining 24.12.2019-yildagi 24-son qarori birinchi bandini quyidagicha o‘zgartirish lozim:

O‘zbekiston Respublikasi Konstitutsiyasining 55-moddasi va O‘zbekiston Respublikasining Ma’muriy sud ishlarini yuritish to‘g‘risidagi kodeksi 4-moddasiga muvofiq, manfaatdor shaxs, qonunda nazarda tutilgan hollarda esa, prokuror, shuningdek, boshqa shaxslar huquqlari va manfaatlarini himoya qilishga vakolatli ayrim fuqarolar va davlat organlari ma’muriy organ ma’muriy aktini haqiqiy emas va uning mansabdor shaxsi harakatini (harakatsizligini) qonunga xilof deb topish to‘g‘risidagi ariza (shikoyat) bilan, basharti bu ma’muriy akt, harakat (harakatsizlik) tufayli uning:

huquqlari va qonun bilan qo‘riqlanadigan manfaatlari buzilgan;

huquqlari, erkinliklarini amalga oshirish va qonuniy manfaatlarini amalga oshirishda to‘sqinlik yaratilgan;

zimmasiga qonunga xilof ravishda biror-bir majburiyat yuklatilgan;

u yoki bu sohadagi faoliyatini amalga oshirish uchun boshqa to‘sqinlik yaratilgan deb hisoblasa, sudga murojaat qilishga haqli.

31. O‘zbekiston Respublikasi Oliy sudi Plenumining 24.12.2019-yildagi 24-son qarorida keltirilgan “ma’muriy organ qarori” so‘zini “ma’muriy akti” bilan almashtirish taklif etiladi.

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AT TASHKENT STATE UNIVERSITY OF LAW

TASHKENT STATE UNIVERSITY OF LAW

SAIDAZIMOV YUSUF SODIQ UGLI

IMPROVEMENT OF THE LEGAL BASIS OF AMENDING, CANCELING AND INVALIDATING AN ADMINISTRATIVE ACT

12.00.02. – Constitutsional law. Administrative law.
Finance and Customs law

Abstract of doctoral (PhD) dissertation
on legal sciences

Tashkent – 2025

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The defense of the dissertation will be held on April 12, 2025 at 10:00 at the Session of the Scientific Council No. DSc.07/30.12.2019.Yu.22.02 at Tashkent State University of Law (Address: 100047, Sayilgoh Street 35, Tashkent city. Phone: (99871) 233-66-36; Fax: (99871) 233-37-48; e-mail: info@tsul.uz).

The doctoral dissertation (PhD) is available at the Information Resource Center of Tashkent State University of Law (registered under No 1357), (Address: 100047, Sayilgoh Street 35, Tashkent city. Phone: (99871) 233-66-36; Fax: (99871) 233-37-48; e-mail: info@tsul.uz).

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INTRODUCTION (Abstract of the Doctor of Philosophy (PhD) dissertation)

Relevance and necessity of the dissertation theme. In the world, special attention is paid to the development of the most reasonable models of modern public administration, and the introduction of innovative forms of public administration that ensure the optimization and simplification of procedures for the provision of public services. In administrative legal activity, the implementation of mechanisms from a fully automated system to the application of digital technologies is becoming increasingly important. It should be noted that in the rating of research conducted by the United Nations for more than twenty years based on a digital e-government survey, as well as in the E-Government Development Index (EGDI)[6], the Republic of Uzbekistan ranked 63rd in the world in 2024[7]. Based on this, there is a need to widely implement a system of applying digital technologies by gradually transitioning to an electronic automated system in the adoption of administrative documents.

In the world, a number of scientific studies are being conducted on ensuring openness and transparency in the resolution of public law disputes, determining the legal status of the disputing parties, exercising judicial control over decisions, and actions (inaction) of republican executive authorities, including appealing decisions, and actions (inaction) of administrative bodies in administrative and judicial proceedings, as well as determining the rights and obligations of participants in this process, determining the classification of evidence, and widely implementing modern information technologies in this area. In this regard, research on improving the legal basis of administrative procedures, such as improving the application of the principles of administrative procedures, hearing an interested party, and determining the administrative-legal regulation by the executive authorities of the republic for a specific case by all participants in administrative procedures, is of particular importance.

In recent years, based on the tasks of introducing modern public administration in our country, developing the draft Concept of Administrative Reform in the Republic of Uzbekistan, and the Program of Measures for Conducting Administrative Reform in the Republic of Uzbekistan, such important tasks as improving the effectiveness of public administration have been defined; the documents adopted must be comprehensively legal, fair, and well-founded. Nevertheless, a number of problems in this area remain relevant. In particular, there are still cases where, when adopting, amending, or canceling administrative acts, the opinions of interested parties are not heard, the legal and factual grounds are not sufficiently addressed, and there is a lack of a clear procedure for canceling, amending, and invalidating administrative acts, as well as abuse of the trust of interested parties. The insufficient provision of the rights, freedoms, and legitimate interests of interested parties when challenging an administrative act,

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[6] https://publicadministration.un.org/egovkb/en-us/Reports/UN-E-Government-Survey-20224

[7] The World Justice Project Rule of Law Index® 2020 // https://worldjusticeproject.org /sites/defaul t/files /documents/ WJP-ROLI-2020-Online_0.pdf

reviewing an administrative act, and the lack of developed mechanisms for canceling an administrative act only in court create the need to conduct research in this area.

The research, along with the elimination of the above-mentioned problems to a certain extent, serves to a certain extent the implementation of the Decrees of the Republic of Uzbekistan "On Administrative Procedures" (2018), "On Licensing, Permitting and Notification Procedures" (2021), "On Procedures for the Expropriation of Land Plots for Public Needs with Compensation" (2022); Presidential Decrees of the Republic of Uzbekistan No. UP-5185 "On Approving the Concept of Administrative Reform in the Republic of Uzbekistan" (2017), No. UP-4947 "On the Action Strategy for the Further Development of the Republic of Uzbekistan" (2017), Presidential Decree No. UP-60 "On the Development Strategy of New Uzbekistan for 2022-2026" (2022), Presidential Decree No. UP-158 "On the Strategy "Uzbekistan – 2030" (2023), Presidential Decree No. UP-37 "On the State Program for the Implementation of the Strategy "Uzbekistan – 2030" in the "Year of Supporting Youth and Business" (2024) and other legislative acts in this area.

Correspondence of the research to the priorities of the development of science and technology of the republic. This research work was carried out in accordance with the priority direction of the development of science and technology of the republic I. "Spiritual, moral, and cultural development of a democratic and legal society, and formation of an innovative economy."

The degree to which the problem has been studied. Issues of improving the legal basis for amending, canceling, and invalidating an administrative act have been studied to a certain extent by legal scholars, and the existing analyses are mainly based on a general approach.

Among Uzbek legal scholars, some aspects of public administration, administrative reforms, scientific and theoretical foundations of legal acts of administration, and some aspects of administrative documents were studied by M.A. Akhmedshayeva, Kh.R. Alimov, D.R. Artikov, A.U. Egamberdiyev, M.U. Eshimbetov, Z.M. Islamov, Zh.N. Nematov, Kh.T. Odilkoriev, F.Kh. Otakhonov, Kh.I. Ruzmetov, A.Kh. Saidov, S.I. Say, Zh.U. Toshkulov, I.T. Tulteev, S.B. Yusupov, Sh.U. Yakubov, R.R. Khakimov, O.T. Khusanov, E.T. Khodzhiev, M.A. Khusanova, Kh.Kh. Khaitov, I.A. Khamedov, L.B. Khvan, and G.T. Khakimov[8]. J.N. Nematov studied the role of the administrative act as the central institution of administrative law from a comparative legal point of view.

In foreign countries, the significance and some aspects of individual administrative legal acts related to the amendment, cancellation, and invalidation of administrative acts have been studied by scholars such as R. De Caluwe, K. Fusser, J. Hengstschläger, V. Kahl, O. Mayer, G. Manssen, H. Mauer, Y. Pudelka, F. Philipp, M. Ruffert, R. Syamon, Y. Sikou, T. Vatari, X. Yamada, B. Shvarts, and M. Weber[9].

[8] The research works of these and other scientists are listed in the reference list of the dissertation.
[9] The research works of these and other scientists are listed in the reference list of the dissertation.

In the CIS countries, some problems of the administrative act, individual acts of state administration, were studied by S.S. Alekseev, D.N. Bakhrakh, K. Davidov, A.A. Gvozdeva, A.A. Kozlov, I.M. Lazarev, S.N. Makhina, O.V. Morozova, Y.V. Porokhov, Y.N. Starilov, Y.N. Tikhomirov, A.M. Volkov, M.O. Yefremov[10], and other scientists.

Nevertheless, the issue of improving the legal basis for changing, canceling, and invalidating an administrative act has not been studied as a research work from the perspective of administrative law from the point of view of improving the legislation of the Republic of Uzbekistan based on the analysis of the positive experience of foreign countries.

The relatedness of the research to the research plans of the scientific organization or educational institution where the dissertation was completed. The research was carried out within the framework of the fundamental project of the research plan of Tashkent State University of Law on the topic “Main directions of further liberalization of public administration in the context of deepening democratic reforms.”

The aim of the research is to develop proposals and recommendations based on a systematic study of scientific-theoretical, practical, and legislative problems of regulating the legal basis for amending, canceling, and invalidating an administrative document in the Republic of Uzbekistan.

The research objectives are to:

develop a scientifically based definition of the concept of “administrative document,” which is the central institution of administrative law; analyze the fact that “administrative document” is understood not only as a document adopted in writing, but can also be adopted or expressed by an administrative body or its officials through verbal, sign, signal, and light signals;

analyze the concepts of “administrative document” and “action,” which are the main objects of dispute in administrative proceedings, and their distinguishing features;

justify the legal characteristic of an administrative document as a set of measures aimed at identifying and assessing the difference between an administrative document and a normative legal document, a procedural document, and internal departmental documents; the possible consequences that may arise as a result of the adoption of an administrative document; and the achievement of its regulatory goals;

analyze the concept of “administrative body” in administrative proceedings and analyze in what cases other persons, organizations, and specially created commissions acquire the status of “administrative body”;

analyze the differences between the mechanisms for reversal of a legal and illegal administrative document;

analyze whether the mechanism for reversal of an administrative document in favor of an interested party is simple and the mechanism for reversal in favor of an interested party is complex;

[10] The research works of these and other scientists are listed in the reference list of the dissertation.

analyze procedures for the mandatory protection of the trust of an interested person, even if it was done illegally in the absence of his/her fault;

scientifically and theoretically study the principles of administrative procedures, in particular, the hearing process, the rules for protecting the trust of an interested person, and the legality of the use of discretionary authority;

identify problems in legislation and develop proposals for improving legislation by studying the legal basis for changing, canceling, and invalidating an administrative document;

The purpose of the research is to analyze the directions for further improvement of legislation on administrative procedures in Uzbekistan and the prospects for its practical application and to develop scientifically based proposals for the prevention of some problems that may arise during its implementation.

The object of the research is the socio-legal relations associated with the improvement of the legal framework of administrative procedures in Uzbekistan, including the system of legal relations related to the adoption, amendment, cancellation, and invalidation of an administrative act.

The subject of the research is normative legal acts regulating the organizational and legal basis for the amendment, cancellation, and invalidation of an administrative act in Uzbekistan, law enforcement practice, legislation and practice of foreign countries, as well as conceptual approaches, scientific and theoretical views, and legal categories existing in administrative law.

Research methods. Methods such as historical, systemic, logical (analysis, synthesis), comparative legal, statistical, induction and deduction, and conducting social surveys were used.

These methods combined will allow for a thorough, multi-faceted analysis of the legal framework governing administrative documents in Uzbekistan and its alignment with international standards.

The scientific novelty of the research is following:

it is justified that the law should clearly define the purposes that are the basis for the seizure of land plots for public needs with compensation, while it is prohibited to interpret the seizure of land plots for any other purpose as seizure for public needs;

the necessity of reflecting in the legislation the cases of non-compliance of the initiative for the seizure of a land plot with the requirements clearly defined by this law, as well as the absence of written consent of the supervisory board under the local councils of people's deputies, as grounds for refusing the initiative for the seizure of land plots, is substantiated;

in the event that decisions on the seizure of land plots for public needs and the demolition of real estate objects are recognized as illegal, it is justified that the damage caused to individuals and legal entities should be compensated, first of all, from the funds of centralized funds, with subsequent recovery of these funds from the guilty persons in the order of recourse;

the grounds for refusal of state registration of a franchising agreement should be the application of the complex of exclusive rights by non-compliant rights holders (rights users).

Practical results of the research are as follows:

proposals have been developed for improving the rules of administrative procedures regarding the circumstances giving rise to the validity or invalidity of an administrative document, the requirements for cancellation and amendment of an administrative document;

proposals have been developed for improving normative legal documents and procedures related to amending, canceling, and invalidating administrative documents;

the use of the term “administrative document” as “administrative act” is substantiated, and relevant proposals for legislation have been prepared;

the author’s definition of the concept of “administrative act” has been developed;

an author’s definition of the concept of “administrative body” has been developed, and a corresponding proposal for legislation has been developed;

the necessity of dividing administrative acts into types when changing, canceling, and invalidating administrative acts is substantiated;

a draft law “On Amendments and Additions to the Law of the Republic of Uzbekistan “On Administrative Procedures” has been developed.

The reliability of the research results. The results of the dissertation were studied by national legislative acts, the experience of developed countries, and law enforcement practice; social surveys were conducted among employees of executive authorities of the republic and the general public; the results of the analysis of statistical data were summarized and formalized by appropriate documents; and the obtained conclusions, proposals, and recommendations were tested; their results were published in leading national and foreign publications, approved by competent structures, and implemented in practice.

The scientific and practical significance of the research results.

The scientific significance of the research results lies in the fact that the scientific and theoretical conclusions, proposals, and recommendations contained in it can be used in future scientific activities, lawmaking, law enforcement practice, interpretation of the norms of tax legislation, and improvement of national legislation, as well as the scientific and theoretical enrichment of the disciplines of Administrative Law, Financial Law and Business Law. The research results can be used in conducting new scientific research.

The practical significance of the research results lies in legislative activity, in particular, in the process of preparing normative legal acts and making amendments and additions to them, in improving the practice of law enforcement, as well as in teaching the disciplines of Administrative Law, Tax Law, Financial Law and Public Service in higher legal educational institutions.

The implementation of the research results. The scientific results obtained in the research on the topic “Improving the legal basis for amending, canceling and invalidating an administrative document” were used in the following:

The proposal that the purposes that are the basis for the seizure of land plots for public needs in exchange for compensation should be clearly defined in the legislation, while it should be prohibited to interpret the seizure of land plots for

any other purpose as the seizure for public needs was used in the development of the second part of Article 4 of the Law of the Republic of Uzbekistan dated June 29, 2022 No. LRU-781 “On procedures for the seizure of land plots for public needs in exchange for compensation” (Act of the Institute of Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan dated May 10, 2024 No. 3/08-74). The implementation of this proposal served to determine the criteria for the adoption of administrative documents on the seizure of land plots for public needs in exchange for compensation;

The proposal to reflect in the legislation the cases of non-compliance of the initiative for the seizure of a land plot with the requirements clearly defined by this law, as well as the absence of written consent of the supervisory board under the local councils of people’s deputies, as grounds for refusing the initiative for the seizure of land plots, was used in the development of the first and sixth paragraphs of the first part of Article 18 of the Law of the Republic of Uzbekistan dated June 29, 2022 No. LRU-781 “On procedures for the seizure of land plots for public needs in exchange for compensation” (Act of the Institute of Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan dated May 10, 2024 No. 3/08-74). The implementation of this proposal served to ensure the principles of listening and informing the interested party and protecting trust when adopting and canceling an administrative document;

In the event that the decisions of the Jokargy Kenges of the Republic of Karakalpakstan, local Councils on the seizure of land plots for public needs and the demolition of real estate objects are recognized as illegal, the proposal that the damage caused to individuals and legal entities should be compensated, first of all, at the expense of centralized funds, with subsequent recovery of these funds from the guilty persons in the order of recourse was used in the formation of Article 38 of the Law of the Republic of Uzbekistan dated June 29, 2022 No. LRU-781 “On procedures for the seizure of land plots for public needs in exchange for compensation” (Act of the Institute of Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan dated May 10, 2024 No. 3/08-74). The implementation of this proposal served to ensure the protection of the trust of the interested party in the adoption, cancellation, and invalidation of the administrative document;

The proposal that the basis for refusal of state registration of a franchise agreement should be the application of the complex of exclusive rights by non-compliant rights holders (rights users) was used in the development of subparagraph of paragraph 15 of the Administrative Regulations for the provision of public services for state registration of complex entrepreneurial license (franchising) agreements, approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated June 24, 2022 No. 346 (Act of the Department of Legal Support of the Cabinet of Ministers of the Republic of Uzbekistan dated December 18, 2022 No. 12/21-100). The implementation of this proposal served to strengthen the application of legislation in accordance with the principles of administrative procedures and compliance with procedures when making decisions by administrative bodies.

Approbation of the research results. The results of this research were discussed at 4 scientific conferences, including 2 international and 2 national scientific-practical conferences.

Publication of the research results. A total of 14 scientific works have been published on the research results, including 2 monographs and 10 scientific articles (4 in foreign publications) in publications recommended by the Higher Attestation Commission for the publication of the main results of the dissertation.

The structure and volume of the dissertation. The dissertation consists of of an introduction, three chapters involving 9 paragraphs, a conclusion, a list of references and appendices. The volume of the dissertation is 155 pages.

THE MAIN CONTENT OF THE DISSERTATION

The **Introduction** of the dissertation (abstract of the Doctor of Philosophy (PhD) dissertation) presents information on the relevance and necessity of the research topic, its correspondence with the priority areas of science and technology development of the republic, a review of foreign scientific research on the topic, the degree of study of the problem, the relatedness of the topic with the research plans of the higher educational institution where the dissertation was carried out, its aims and objectives, object and subject, methods, scientific novelty and practical results, reliability of research results, scientific and practical significance, implementation into practice, approval, publication of research results, volume and structure of the dissertation.

The first chapter of the dissertation, titled **"The Theoretical and Legal Foundations of the Administrative Document,"** analyzes issues such as the concept of an administrative document, its characteristics, types and features of an administrative document, the form and entry into force of an administrative document.

When analyzing the concept of an administrative document, the researcher used the opinions of many scientists (Akhmedshaeva M., Artikov D., Alekseev S., Bakhrakh D., Egamberdiev A., Filipp F., Khakimov R., Khamedov I., A.Li., Long M., Martini M., Mayer O., Nematov J., Odilkoriev Kh., Say I., Tikhomirov Y., Vasiliev R., Vlasov V., Volkov M., Khvan L., Khojiev E., Khakimov G.) and engaged in discussion with them.

The researcher has developed a scientifically grounded definition of the concept of an "administrative document," which is considered a central institution of administrative proceedings and administrative law. It is substantiated that an "administrative document" should not be understood solely as a written document but can also be issued or expressed by an administrative body or its officials in oral form, symbols, signals, or light indications. Based on this, it is substantiated that the form of the "administrative document" given in the legislation can also be adopted through oral, sign, gesture, signal, light signals.

The researcher analyzed the features of an administrative document and gave the following author's definition of the concept of an administrative document:

"An administrative act is any measure of influence of an administrative body aimed at creating, changing, or terminating public legal relations and causing certain

legal consequences for individuals or legal entities, or for a group of persons distinguished by individual characteristics."

The concepts of "administrative document" and "action," which are the main subjects of administrative proceedings, and their distinguishing features are substantiated.

The concept of "administrative body" in administrative proceedings is analyzed, and in what cases other persons, organizations, and specially created commissions acquire the status of an "administrative body" is substantiated.

The researcher substantiated the expediency of analyzing the study of administrative documents in the educational literature on the subject of Administrative Law in connection with administrative legislation. The concept of an administrative document was studied and analyzed based on the administrative legislation of Germany, the USA, France, and Japan. In particular, in Germany there is a "Verwaltungsakt" (administrative act), similar to administrative documents, in France there is a "la decision executoire," which is the central element of administrative law in legislation.

The differences between the administrative document from normative legal documents, departmental normative documents, procedural documents and administrative actions were analyzed, and its specific features were revealed.

The researcher analyzed the types and specific features of administrative documents based on the opinions of many scientists (Brakoni C., Erbgut V., Fusser K., Hengstschläger J., Kahl V., Mayer O., Manssen G., Mauer H., Nematov J., Pudelka Y., Philipp F., Ruffert M., Sikou Y., Xaurio M., Yamada X., Shvarts B., Weber M.), highlighted them on the basis of national legislation, and also analyzed that the term "administrative document" in the legislation cannot fully reveal the features defined in it. And it is substantiated that the administrative document should be interpreted as an administrative act as a legal category.

As a result of the analysis, the researcher proposed to introduce the terms "interim administrative act," "favorable administrative act," "unfavorable (severe) administrative act," "legal administrative act," "illegal administrative act" into the legislation, taking into account the importance of their types in a dispute regarding an administrative act.

The importance of notifying the addressee during the entry into force of an administrative act is substantiated, and it is proposed to improve the notification procedure, to introduce into the legislation the procedure for "public publication" of the administrative act.

The researcher analyzed that an administrative act and an administrative action should differ from each other, and substantiated that an administrative act can serve as a factual and legal basis for the relevant authorized administrative bodies and their officials to perform certain legally significant (administrative-legal) actions in relation to other subjects of administrative-legal relations. The implementation of administrative actions was analyzed in order to ensure the validity of the adopted administrative act and the execution of the authorized decision contained in this act.

In the second chapter of the dissertation, entitled **"Procedures for Amending, Canceling, and Terminating the Legal Force of an Administrative Document,"** the concept and types of amending, canceling, and terminating the legal force of an administrative document, the grounds for the illegality of administrative documents, the methods and procedures for the legal termination of an administrative document were analyzed, and proposals for improving national legislation were put forward.

There are various controversial opinions regarding the procedures for amending, canceling, and invalidating an administrative document, administrative complaints, and the cancellation of an administrative document, and it can be seen that these issues are also regulated in the laws on administrative procedures of the CIS, European, and Central Asian countries (for example, Austria, the USA, France, Germany, Georgia, Lithuania, Azerbaijan, Kyrgyzstan, Russia, Tajikistan, and Turkmenistan). As a result of the analysis of the scientific views of legal scholars and the legislation of developed foreign countries in the field of procedures, it is substantiated that Article 59 of the Law "On Administrative Procedures" cannot fully reflect the specific conceptual provisions for amending an administrative document.

The researcher analyzed the legal consequences of amending an administrative document and proposed that it is necessary to study the changes that lead to changes in the content of the administrative document, as well as changes that do not affect the content of the administrative document. In the opinion of the researcher, the correct application of the mechanisms for amending administrative documents, along with the prevention of the adoption of illegal administrative documents, also makes it possible to bring an illegal administrative document into compliance with legislation.

In analyzing the procedures for amending, canceling, and terminating the legal force of an administrative document, the researcher examines the procedures for protecting the trust of an interested person when verifying the legality of an administrative document based on the experience of Austria, the USA, France, Germany, Georgia, Russia, Azerbaijan and Japan. The specific features of amending and canceling an administrative document are also highlighted. The procedures for canceling an administrative document, methods of legally terminating an administrative document in practice and legal consequences are analyzed. In turn, the direct application of the principles of the Constitution in verifying the legality of an administrative document in the administrative legislation of foreign countries is analyzed. Based on the results of the analysis, a proposal has been developed to amend Article 59 of the Law "On Administrative Procedures."

A number of proposals have been put forward to improve judicial practice within the framework of verifying the legality of an administrative document when considering cases on appealing decisions, actions (inaction) of administrative bodies and their officials. In particular, it is proposed that administrative courts cannot exercise the right not to apply an administrative document as part of the consideration of cases on appealing decisions, actions (inaction) of administrative bodies and their officials. This proposal is based on the legislation of Austria and Germany on administrative proceedings.

Based on our national legislation and law enforcement practice, the researcher analyzed the features and types of verification of the legality of an administrative document by an administrative body and a court. In particular, he substantiated the need to divide the model of verification of the legality of an administrative document by a court into objective and subjective types.

The third chapter of the dissertation, titled **"Issues of Improving the Legal Mechanisms for Amending, Canceling, and Invalidating Administrative Document,"** is dedicated to enhancing the procedures for amending and canceling administrative documents, improving the legal mechanisms for judicial invalidation of administrative documents, and refining the legal aspects of applying these processes in practice.

The analysis showed that the theoretical and legal foundations of administrative procedures are widely covered in the USA, Austria, Germany, and Georgia. Based on the subject of the research, as a relatively detailed regulated aspect of the legislation of Austria, Germany, Georgia, and Japan, normative legal documents and scientific views on the principles of administrative procedures in the event of cancellation and invalidation of an administrative document, the process of hearing, proportionality, priority of the interested party, the content coverage, and the legal characteristics of the adoption of an administrative document were analyzed. The content of the principle of ex tunc and ex nunc in French legislation, the process of hearing in Austrian and Georgian legislation, as well as the positive experience of legal qualification of the adoption, cancellation, and invalidation of an administrative document in German legislation, were analyzed from the point of view of their use in improving Uzbek legislation.

Within the framework of this chapter, the experience of improving the legal mechanisms for recognizing an administrative document as invalid by a court (Artikov D., Barczak T., Bachsho I., Davydov K., Eisenberg E., Haurand G., Hatje A., Hamedov I., Hartley T., Lewalle R., Maurer H., Nematov J., Tikhomirov Y., Khakimov G., Christian D.) and the experience of Germany, France, and Russia is analyzed, and the necessity of dividing the verification of legality into such conditions as formal, actual (in terms of content) and legality of the application of administrative discretion (discretionary authority) is substantiated. The German Law "On Administrative Procedures" was created based on the need for the most detailed regulation of the activities of administrative bodies that arose in the post-World War II period. Therefore, the main provisions of administrative procedures, including the adoption of an administrative document and its validity, are fully regulated by law.

The difference between "cancellation" and "declaration of invalidity" of an "administrative document" in administrative proceedings and administrative court proceedings is analyzed. The legal consequences of these two concepts are different, and the classification and consequences of "cancellation" of an "administrative document" are justified.

The researcher, based on the nature of the case concerning the dispute over an administrative document, made a proposal to improve judicial practice. In particular, it is advisable for the courts to consider the case broadly from the subjective model. In

this model, the court must require the administrative body to provide the following to ensure effective resolution of the administrative case under its consideration:

- an opinion from the legal department of the body that adopted the administrative document regarding the document;
- an explanatory letter from the body that adopted the administrative document justifying the advisability of adopting the document;
- notification of the body that adopted the administrative document, the addressee, about receipt of the administrative document;
- if the document was adopted by a collegial body, the minutes of the meeting of the collegial body that adopted the administrative document;
- expert opinions;
- consultations (explanations) of specialists;
- testimony of witness;
- explanations of persons participating in the case.

At the same time, the researcher developed a proposal to amend Chapter 23 of the Code of Administrative Proceedings to “Proceedings on Appealing Administrative Acts, Actions (Inaction) of Administrative Bodies, and Their Officials.”

The researcher provides scientific analysis on the development of mechanisms for the cancellation of an administrative documents by the court, and proposes to supplement the Code of Administrative Proceedings with Chapter 23^1 entitled “Proceedings on the Cancellation of Administrative Acts of Administrative Bodies.”

Analyzing the issues of improving the legal basis for amending, canceling, and invalidating an administrative document, the researcher also analyzed the development of scientific research in this area, the educational process, and the improvement of the legislative framework.

According to the results of a survey conducted within the research, almost 70% of respondents answered “no” to the question *“Are you aware that your trust must be protected when amending, canceling, or invalidating an administrative document?”,* which substantiates the importance of conducting seminars, booklets, videos, and advocacy work with the executive authorities of the republic on the application of legislation in order to widely explain this procedure among citizens.

As prospects for improving the legislation on the amendment, cancellation and invalidation of an administrative document, proposals have been put forward for the development of draft laws “On Amendments and Additions to the Law of the Republic of Uzbekistan “On Administrative Procedures” and “On Amendments and Additions to the Code of the Republic of Uzbekistan on Administrative Proceedings,” improving the cooperation between the Supreme Court and the Ministry of Justice of the Republic of Uzbekistan, organizing a special course for administrative bodies and judges aimed at studying the material and procedural features of cases on the amendment, cancellation and invalidation of administrative documents.

CONCLUSION

As a result of the conducted research, the following scientific and theoretical conclusions, proposals for improving legislation, and recommendations aimed at developing law enforcement practice were put forward:

I. Scientific and theoretical conclusions:

1. The difference between the concepts of “administrative document” and “administrative act” was clarified and it was recommended to use the term “administrative act”. In particular, it was justified that the “administrative act” can be expressed not only in written form, but also orally, through signs, gestures, and in electronic form.

2. “An administrative act is any externally directed measure of power influence of an administrative body aimed at establishing, amending, or terminating public legal relations and causing certain legal consequences for individuals or legal entities or for a group of individuals distinguished by their individual characteristics.”

3. An interim administrative act is, as a rule, an administrative act adopted within the framework of administrative and legal activity, that is, in the process of consistent, phased resolution by administrative bodies of individual legal cases under their jurisdiction.

4. It has been substantiated that, along with recognizing the administrative act as invalid, the requirement for its cancellation also applies to the jurisdiction of the administrative court proceedings.

5. An administrative act is an independent legal form of administrative-legal activity. An administrative act, even if it does not contain an order, entails legally significant consequences for interested parties. Therefore, it is given a special place in the subject of an administrative complaint. However, here the current edition of the Law “On Administrative Procedures” allows for conceptual ambiguity. The fact is that the refusal to accept an administrative document is not an administrative act, but an administrative document, since it has an inconvenient nature. It is more correct to consider the failure to accept an administrative document in a timely manner as an inconvenient administrative document. Both the confirmation of the invalidity of an administrative act itself and its recognition by an administrative or other authorized body as invalid are administrative acts.

6. It has been substantiated that the cancellation of a legally issued administrative act after its delivery to the person (addressee) and entry into legal force for any reason and grounds is called the cancellation of a legal administrative document, and the cancellation of an unlawful administrative document after its delivery to the person and entry into legal force due to its illegality is called the cancellation of an unlawful administrative document.

7. It has been substantiated that in the absence of the fault of the interested party in the cancellation of the illegal administrative document, in cases where, as a result of the cancellation of the administrative document, a certain damage is caused to the interested party on the basis of his legal trust in the administrative document, the administrative body, based on the principles of proportionality and

protection of trust, can: a) compensate for the damage or b) protect the trust of the interested party in cases where the damage caused as a result of the cancellation of the administrative act exceeds the damage caused to the interests of society, except in cases where it threatens the interests of society.

8. It has been substantiated that in cases where the illegality of an administrative act arises through the fault of an interested person, it is not necessary to protect their trust, and the administrative act can be canceled by the administrative body.

9. It has been substantiated that for an administrative act to be considered legal, it must meet official legal (procedural legal) and substantive legal requirements.

10. An administrative body, by virtue of its official duty, is obliged, based on the requirements of the law or upon establishing the illegality of the administrative act adopted by it, to cancel (amend) it, except in cases of obstruction of the protection of the trust or the absence of appropriate authority.

II. Proposals and recommendations regarding the improvement of normative legal documents:

11. It is proposed to amend the fourth paragraph of part one of Article 4 of the Law of the Republic of Uzbekistan "On Administrative Procedures" as follows:

"administrative bodies - bodies authorized to administer in the sphere of administrative and legal activity, including republican executive authorities, local executive authorities, bodies of citizens' self-government, as well as other persons, organizations and specially created commissions authorized to carry out this activity."

12. It is proposed to amend the seventh paragraph of part one of Article 4 of the Law of the Republic of Uzbekistan "On Administrative Procedures" as follows:

"An administrative act is any externally directed measure of power influence of an administrative body aimed at establishing, amending or terminating public legal relations and entailing certain legal consequences for individuals or legal entities or for a group of persons distinguished by their individual characteristics."

13. It is proposed to amend the first part of Article 52 of the Law of the Republic of Uzbekistan "On Administrative Procedures" as follows:

"an administrative act may be adopted in written or in electronic form. The legislation may provide for cases in which an administrative act may be adopted in another form, including verbally, by means of signs, gestures and signals, by issuing a confirming document or by performing certain actions, as well as by automated means."

14. It is proposed to amend the first part of Article 55 of the Law of the Republic of Uzbekistan "On Administrative Procedures" as follows:

"Unless a different period is established in the administrative act itself, the administrative act shall enter into force from the moment the addressee is notified in the appropriate manner. Third parties must be notified of the administrative act in a timely manner."

15. It is recommended to introduce a new provision into the Law of the Republic of Uzbekistan "On Administrative Procedures" stating that "an interested

party has the right to file a complaint with the court against an act of an administrative body or the actions (inaction) of its officials, if the interested party filed a complaint against an administrative act or the actions (inaction) of its officials with a higher administrative body and the complaint was left unsatisfied."

16. It is proposed to amend Article 59 of the Law of the Republic of Uzbekistan "On Administrative Procedures" as follows:

"Article 59. Invalidity of an administrative act.

"An administrative act is considered invalid if it is invalid on its own or if it is declared invalid by an authorized body or a court.

An administrative act is considered invalid in the following cases:

if it is not possible to determine the administrative body that adopted the administrative act;

if the addressee is unknown, or if the addressee does not exist in practice, or if it is not possible to determine the addressee;

the adoption of an administrative act, which must be adopted in a certain form, without following this form;

if the administrative act requires actions that are objectively impossible to perform.

An administrative act that is invalid by itself will not have any legal force and will not cause any legal consequences without the need to find it officially invalid from the moment of its adoption.

When the administrative body that adopted the invalid administrative act or the higher administrative body determines that the administrative act is invalid by itself, it shall declare its invalidity on its own initiative. with or according to the application of the interested person.

According to the application of an interested person, in the following cases, an administrative act must be declared invalid by the administrative body that adopted it, or by a higher administrative body or other authorized body:

if the content of the administrative act is unclear or contradictory;

if the administrative act was adopted by an administrative body that does not have the appropriate powers;

if the discretionary authority provided for in this law is sent to a wide range of interested parties in violation of the requirement.

The invalidity of an administrative act causes the administrative act to lose its validity from the moment of its adoption.

The application of an interested person to confirm the invalidity of the administrative act itself or to declare it invalid must be considered within five working days."

17. It is proposed to supplement Article 59^1 of the Law of the Republic of Uzbekistan "On Administrative Procedures" with "Amendment and Cancellation of Administrative Acts":

"An administrative act that has entered into legal force may be cancelled or amended by an administrative body or a court upon an application by an interested party or on the initiative of an administrative body in the manner prescribed by this law."

When canceling an administrative act on its own initiative, the administrative body is obliged to take into account the trust of the interested party.

An administrative body has the right to cancel or amend an administrative act adopted by it on its own initiative in the following cases:

when this is necessary to eliminate a threat to public interests;

when an opportunity arises to improve the situation of an interested party without violating the rights and legitimate interests of other interested parties and without creating a threat to public interests.

An administrative act may be amended or cancelled upon a protest by a prosecutor or a submission by an authorized state body in compliance with the rules stipulated by the principles of this law.

An administrative act may be amended or cancelled in favor of an interested party or to the detriment of an interested party in accordance with the rules stipulated by the law. If the change or cancellation of an administrative act is carried out in favor of one interested party, but to the detriment of another interested party, then the rules governing the change or cancellation of an administrative act to the detriment of the interested party shall apply. The change or cancellation of an administrative act may be carried out in the future or retroactively, taking into account the restrictions provided for by this law.

18. It is proposed to supplement Article 59^2 of the Law of the Republic of Uzbekistan "On Administrative Procedures" with "Cancellation of a Legal Administrative Act":

"A legal administrative act may be repealed in the future in favor of the interested party, except for cases where the repeal of an administrative act is prohibited by law." An administrative legal act may not be repealed to the detriment of the interests of the interested party, except for the following cases:

in accordance with the requirements of the law or if such a possibility is expressly provided for in the administrative act itself;

if the repeal of an administrative act is necessary in order to prevent harm to public interests due to factual and legal circumstances that have subsequently changed;

if an administrative act imposes additional obligations on the interested party and they have not been fulfilled;

if the interested party has not used the things (property, money) or rights granted to it on the basis of the administrative act for the specified purposes.

An administrative legal act may be repealed retroactively to the detriment of the interests of the interested party in the cases provided for in paragraphs three and four of part two of this article."

19. It is proposed to supplement Article 59^3 of the Law of the Republic of Uzbekistan "On Administrative Procedures" with "Cancellation of an Illegal Administrative Act":

"An illegal administrative act may be cancelled in favor of the interested party both in the future and retroactively. An illegal administrative act may be cancelled to the detriment of the interests of the interested party with future or retroactive

effect, except in cases where the protection of trust prevents the cancellation of the act."

20. It is proposed to introduce into the Law of the Republic of Uzbekistan "On Administrative Procedures" cases when administrative acts are canceled only in court.

21. It is proposed to supplement the Law of the Republic of Uzbekistan "On Administrative Procedures" with the following articles: Article 59^4 "Procedures for the Protection of Trust," Article 59^5 "Procedures for the Cancellation of an Administrative Act."

22. Article 124^1. Public notification. It is possible to inform about the trial through the mass media. If the number of persons participating in the case in an administrative case exceeds 50 or the court does not have the opportunity to determine whose rights and interests the consideration of the dispute in court affects, then the court has the right to transfer the case to public proceedings.

In this case, persons whose rights and legitimate interests are affected by the consideration of the case may apply to the court with an application for involvement in the case within ten working days from the date of publication of the relevant notice in accordance with part four of this article. Based on the application of the applicant, the court, having studied the fact that he is an interested party in the case, decides on the issue of involving him in the case and issues a ruling on this.

The court shall notify the applicant and the person who issued (adopted) the disputed administrative act (the defendant) of the time and place of the consideration of the case in the manner prescribed by Article 124 of this Code.

Transfer of cases related to state secrets to public proceedings is not permitted. If this circumstance is established after the issuance of the court's ruling on the transfer of the case to public proceedings, the court shall overturn the ruling and issue a ruling on the transfer of the case to a closed court session.

23. It is proposed to name Chapter 23 of the Code of Administrative Proceedings "Proceedings on Appealing Administrative Acts, Actions (Inaction) of Administrative Bodies and Their Officials."

24. It is proposed to change the combination "Decisions, Actions (Inaction) of Administrative Bodies and Bodies of Citizen Self-Government, Their Officials" in Articles 184, 185, 186, 187, 188, 189 of the Code of Administrative Proceedings to the combination "Administrative Acts, Actions (Inaction) of Administrative Bodies and Their Officials."

25. It is proposed to supplement part two of Article 189 of the Code of Administrative Proceedings after the words "and violates the rights and legally protected interests of the applicant" with the words "or may be violated."

26. It is proposed to introduce a new article in the Code of Administrative Proceedings with the following content:

"Article 189^1. Termination of proceedings on appealing administrative acts, actions (inaction) of administrative bodies and their officials

If the court establishes the presence of grounds provided for in Article 108 of this Code, the court terminates the proceedings on appealing administrative acts, actions (inaction) of administrative bodies and their officials."

The court also has the right to terminate proceedings in an administrative case on appealing administrative acts, actions (inaction) of administrative bodies and their officials in the following cases:

1) the administrative acts, actions (inaction) of the disputed administrative body, their officials cease to affect the rights, freedoms and legitimate interests of the applicant;

2) the applicant has withdrawn his claim and there are no public interests that prevent the court from accepting it.

The court does not accept the withdrawal of the application if it contradicts the legislation or violates the rights and legally protected interests of other persons.

27. It is necessary to include Chapter 23^1 in the Code of Administrative Proceedings, entitled "Proceedings in Cases on the Cancellation of Administrative Acts of Administrative Bodies."

III. Proposals and recommendations for improving law enforcement practice

28. It is proposed to amend the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated December 24, 2019 No. 24 "on judicial practice in the consideration of cases on appealing decisions, actions (inaction) of administrative bodies and their officials" as follows: "On Judicial Practice in the Consideration of Cases on Appealing Administrative Acts, Actions (Inaction) of Administrative Bodies and Their Officials."

29. Paragraph two of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated December 24, 2019 No. 24 should be amended as follows:

Administrative bodies are understood to be republican executive authorities (the specified republican executive authorities - ministries, committees, agencies and inspectorates and their territorial bodies, local executive authorities, approved by the Decree of the President of the Republic of Uzbekistan dated January 25, 2023 No. UP-14 "On Priority Organizational Measures for the Effective Establishment of the Activities of Republican Executive Authorities"), bodies of citizen self-government, as well as other persons, organizations and specially created commissions endowed with administrative and managerial powers.

30. The first paragraph of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 24 dated 24.12.2019 should be amended as follows:

In accordance with Article 55 of the Constitution of the Republic of Uzbekistan and Article 4 of the Code of Administrative Judicial Procedure of the Republic of Uzbekistan, an interested person, in cases provided for by law, the prosecutor, as well as certain citizens and state bodies authorized to protect the rights and interests of other persons, may file an application (complaint) to declare an administrative act of an administrative body invalid and the action (inaction) of its official unlawful, provided that due to this administrative act, action (inaction) his:

rights and interests protected by law have been violated;

an obstacle has been created in the exercise of his rights, freedoms and legitimate interests;

an obligation has been imposed on him unlawfully;

If he believes that another obstacle has been created to carry out his activities in this or that area, he has the right to apply to the court.

31. In the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated December 24, 2019, No. 24, it is proposed to replace the word “decision of the administrative body” with “administrative act.”

НАУЧНОЙ СОВЕТ DSc.07/30.12.2019.Yu.22.02 ПО ПРИСУЖДЕНИЮ УЧЁНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ

ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ УНИВЕРСИТЕТ

САИДАЗИМОВ ЮСУФ СОДИК УГЛИ

СОВЕРШЕНСТВОВАНИЕ ПРАВОВЫХ ОСНОВ ИЗМЕНЕНИЯ, ОТМЕНЫ И ПРИЗНАНИЯ НЕДЕЙСТВИТЕЛЬНЫМ АДМИНИСТРАТИВНОГО АКТА

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АВТОРЕФЕРАТ
диссертации доктора философии по юридическим наукам (PhD)

Ташкент – 2025

Тема диссертации доктора философии (PhD) зарегистрирована в Высшей аттестационное комиссии при Министерстве высшего образования, науки и инноваций Республики Узбекистан за номером B2024.2.PhD/Yu1417.

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ВВЕДЕНИЕ (аннотация диссертации доктора философии (PhD))

Целью исследования является разработка предложений и рекомендаций на основе системного изучения научно-теоретических, практических и законодательных проблем регулирования правовых основ изменения, отмены и признания недействительным административного акта в Республике Узбекистан.

Предметом исследования составляют нормативно-правовые акты, регулирующие организационно-правовые основы изменения, отмены и признания недействительным административного акта в Узбекистане, правоприменительная практика, законодательство и практика зарубежных стран, а также концептуальные подходы, научно-теоретические взгляды и правовые категории, существующие в административном праве.

Научная новизна исследования заключается в следующем:

цели, которые могут служить основанием для изъятия земельных участков для общественных нужд с выплатой компенсации, должны быть четко определены в законодательстве. При этом необходимо запретить трактовать изъятие земельных участков для любых иных целей как изъятие в интересах общества;

основания для отклонения инициативы по изъятию земельного участка должны быть четко установлены в законодательстве, включая случаи, когда инициатива по изъятию не соответствует явно установленным требованиям данного закона, а также в случаях, когда отсутствует письменное согласие наблюдательного совета при местных советах народных депутатов;

в случае, если решения об изъятии земельных участков для общественных нужд и сносе объектов недвижимости признаны незаконными, ущерб, причиненный физическим и юридическим лицам, должен в первую очередь покрываться за счет средств централизованных фондов, а затем эти средства должны быть взысканы с виновных лиц в порядке регресса;

в случае отклонения регистрации договора франчайзинга, основанием для этого должно быть обращение владельцев соответствующих комплексных абсолютных прав (пользователей прав), не согласующихся с условиями договора.

Внедрение результатов исследования. Научные результаты, полученные в ходе исследования по теме «Совершенствование правовых основ изменения, отмены и признания административного документа недействительным», были использованы:

предложение о том, что цели, которые могут служить основанием для изъятия земельных участков для общественных нужд с компенсацией, должны быть четко определены в законодательстве, и что изъятие земельных участков для любых иных целей не должно трактоваться как изъятие для общественных нужд, было использовано при разработке части второй статьи 4 Закона Республики Узбекистан «О порядке изъятия земельных участков для общественных нужд с компенсацией» от 29 июня 2022 года, № ЗРУ-781 (в соответствии с актом № 3/08-74, выданным 10 мая 2024 года

Институтом парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан). Внедрение данного предложения в практику послужит определению конкретных критериев для принятия административных документов об изъятии земельных участков для общественных нужд с предоставлением компенсации;

предложение о том, что основания для отклонения инициативы по изъятию земельного участка должны включать случаи, когда инициатива не соответствует явно установленным требованиям данного закона, а также случаи, когда отсутствует письменное согласие наблюдательного совета при местных советах народных депутатов, было учтено при разработке первой части статьи 18 Закона Республики Узбекистан «О порядке изъятия земельных участков для общественных нужд с компенсацией» от 29 июня 2022 года, № ЗРУ-781, а также первых и шестых пунктов заголовка. Это предложение было взято во внимание в соответствии с актом № 3/08-74, выданным 10 мая 2024 года Институтом парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан. Внедрение данного предложения в практику обеспечит возможность заслушивания при принятии и отмене административного акта, информирования заинтересованного лица, а также будет способствовать надёжной защите;

предложение о том, что в случае признания решений Верховного Совета Республики Каракалпакстан и местных Советов, касающихся изъятия земельных участков для общественных нужд и сноса объектов недвижимости, противоречащими закону, убытки, понесенные физическими и юридическими лицами, должны быть возмещены в первую очередь за счет средств централизованных фондов, а затем эти средства должны быть взысканы с виновных лиц в порядке регресса, было учтено при разработке статьи 38 Закона Республики Узбекистан «О порядке изъятия земельных участков для общественных нужд с компенсацией» от 29 июня 2022 года, № ЗРУ-781. Это предложение было учтено в соответствии с актом № 3/08-74, выданным 10 мая 2024 года Институтом парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан. Реализация данного предложения обеспечит надёжную защиту заинтересованного лица при принятии, отмене и признании недействительным административного акта;

предложение о том, что отказ в государственной регистрации франшизингового контракта должен быть основан на обращении владельцев комплексных абсолютных прав, не соответствующих этим правам, было учтено при разработке пункта 15 мелким заголовком Административного регламента по предоставлению государственной услуги по регистрации контрактов комплексной предпринимательской лицензии (франшиза), утвержденного Постановлением Кабинета Министров Республики Узбекистан от 24 июня 2022 года, № 346. Этот регламент был разработан в соответствии с актом № 12/21-100, выданным Управлением юридического обеспечения Кабинета Министров Республики Узбекистан 18 декабря

2022 года. Внедрение этих предложений в практику послужит применению законодательства в соответствии с принципами административных процедур, усилению соблюдения процедур при принятии решений административными органами.

Структура и объём диссертации. Научно-практическая работа состоит из введения, трёх глав, включающих в себя 9 параграфов, заключения, списка использованной литературы и приложений. Объём диссертации составляет 155 страниц.

E’LON QILINGAN ISHLAR RO‘YXATI
СПИСОК ОПУБЛИКОВАННЫХ РАБОТ
LIST OF PUBLISHED WORKS

I bo‘lim (I part; I часть)

1. Saidazimov Y.S. Ma’muriy hujjatning nazariy-huquqiy tahlili. – 2021. – 4-son. –19–24-b. (12.00.00). – URL: https://review.tsul.uz/.
2. Saidazimov Y.S. Ma’muriy aktni o‘zgartirish va bekor qilishning o‘ziga xos xususiyatlari: taklif va muammolar // Yuridik fanlar axborotnomasi. – 2022. – 1-son. –5–12-b. (12.00.00). – URL: https://review.tsul.uz/.
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7. Saidazimov Y.S. Analysis of the concept adminstrative document, adminstrative action // International Conference on multidisciplinary research. Hosted from Singapore. pp. 111–113.
8. Saidazimov Y.S. The obligation to prove in administrative courts is under the responsibility of the administrative body and the official who accepted it // Conferences. – USA, 9.2021. – Nowember 10. pp. 92–94.
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10. Saidazimov Y.S. Ma’muriy tartib-taomillar to‘g‘risidagi qonunning prinsipllarini qo‘llash zarurati // Zamonaviy dunyoda innovatsion tadqiqotlar: Nazariya va amaliyot nomli ilmiy, masofaviy, onlayn konferensiya maqolalar to‘plami. – T., 2024 – 72–74-b.

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