

SOME ASPECTS OF AMENDING AND CANCELING AN ADMINISTRATIVE DOCUMENT

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Abstract

The experience of foreign countries has shown that there are various methods for changing, canceling and invalidating an administrative document and that they are being effectively used. The clear definition of these mechanisms allows for the resolution of such disputes through a single procedure. This prevents unnecessary expenditure of time and money by citizens, and also saves state resources.

Keywords: Administrative procedures, administrative document, changing, canceling, invalidating an administrative document.

Introduction

Administrative relations in Uzbekistan are one of the developing legal areas. Therefore, improving the current legislation and law enforcement practice, as well as establishing effective mechanisms for amending, canceling or invalidating administrative documents, is becoming one of the current issues.

Currently, the amendment, cancellation or invalidation of an administrative document is carried out on the basis of various legislative acts. This creates difficulties for both state bodies and citizens. Therefore, the experience of foreign countries shows the need to improve these processes. The scientific article reveals the current aspects of solving existing problems in the legislation on the amendment, cancellation or invalidation of an administrative document. The establishment of a single legal basis for the amendment, cancellation or invalidation of administrative documents will allow for the effective resolution of such disputes.

The resolution of administrative disputes in accordance with the law and the adoption of fair decisions serve to increase the trust of individuals and legal entities in the state and administrative bodies, to guarantee the rights of individuals and legal entities established by the Constitution and laws. The Legislation on Administrative Procedures plays an important role in ensuring the active participation of citizens in state administration and the rule of law in relations with administrative bodies, and in the adoption of fair administrative decisions by administrative bodies. Undoubtedly, the issues of amending, canceling and invalidating an administrative document in the implementation of administrative relations are important elements of administrative procedures.

This process is carried out directly in connection with a specific legal assessment of the administrative document, that is, the actions of the administrative body that adopted it are also assessed. For example, if a person who has received a permit violates the law in exercising this



right, the granting authority must cancel the administrative document, and if the granting authority obtained the documents on the basis of forged documents, it must be declared invalid. Also, an administrative document may change over time depending on external circumstances (including amendments to legislative acts). That is, a decision that was legal and expedient at the time of its adoption may later change its essence, which in turn requires the relevant document to be reviewed by an administrative body or court and brought into line with the law.

Cancellation of an administrative act is one of the ways to lose its validity and legal force. In particular, an administrative act may be canceled or amended by the administrative body that adopted the administrative act, a higher administrative body, as well as by other bodies in cases provided for by law, upon the application or administrative complaint of an interested person. In cases where the need to cancel or amend an administrative act arises due to changes in legislation, prevention of a threat to public interests, detection of the inconsistency of an administrative act with the law, and in other cases provided for by law, the administrative body has the right to cancel or amend an administrative act it has adopted on its own initiative.

In cases where the trust of an interested person must be protected, the issue of annulment or amendment of an administrative act shall be considered in court. If an interested person, relying on the legal force of an administrative act, used property obtained on the basis of an administrative act, concluded a transaction to dispose of his property, or otherwise used the benefits and privileges established in an administrative act, his trust shall be protected. According to the current law, the trust of an interested person shall not be protected in the following cases:

- the interested person has not fulfilled his additional obligations related to an administrative act;
- the interested person has not used the funds, goods or rights provided to him on the basis of an administrative act for the intended purpose;
- the interested person knew about the illegality of the administrative act or did not know about it through his own fault;
- if the administrative act was adopted as a result of fraud, threats or other unlawful influence on the administrative body;
- if the law requires the cancellation of the administrative act without taking into account the protection of the trust of interested parties.

Article 59 of the Law stipulates that an unlawful administrative act may be revoked retroactively, by specifying the exact moment of its revocation or destruction. However, the procedure for retroactively revoking an administrative act is not specified. The Law stipulates that an administrative act that is found to be unlawful, regardless of the belief of the interested party, may be revoked by an administrative body if its retention threatens the public interest. However, it does not specify what grounds are considered to be “threats to the public interest.”

The law establishes that an interested person shall be compensated for property damage caused or inevitable due to reliance on the legal force of an administrative document. However, it does not specify in what manner and by whom (administrative body or official) the property damage shall be compensated. The law establishes a very brief norm on the recognition of an administrative document as invalid and does not disclose its mechanisms. In particular, it only establishes that an administrative document may be recognized as invalid by a court in accordance with the procedure established by law.



The legislation of foreign states stipulates that a document is considered invalid if it was adopted with serious violations of the law and its adoption does not lead to fair consequences. However, the illegality of a document does not automatically lead to its cancellation. In the legislative acts of the CIS countries, the procedure for citizens to appeal to state bodies, the procedural rules governing such appeals, and the procedure for appealing against decisions of state bodies are established in a single document (law or Code) regulating administrative procedures.

The researched literature and analysis of the legislation of foreign countries showed that the grounds for amending, canceling and invalidating administrative documents are more broadly and more clearly defined than in the Law of the Republic of Uzbekistan "On Administrative Procedures". In particular, the German Law "On Administrative Procedures" (Verwaltungsverfahrensgesetz) Article 44 establishes the grounds for declaring an administrative document invalid.

According to it, an administrative document is invalid if it contains a material error that is clearly visible when considering all the circumstances of the case that should be taken into account. An administrative document may also be invalid if:

- it was issued in written or electronic form, but it is impossible to identify the administrative body that issued it;
- if, in accordance with a legal norm, it can only be issued by submitting a document, but this form is not sufficient;
- if it was issued outside its powers (by an administrative body that does not have the authority);
- if it is impossible to execute on factual grounds;
- if it requires the commission of a violation of the law that is subject to criminal liability or a fine;
- if it violates good morals.

Article 44 also establishes the circumstances in which an administrative act is deemed invalid, including:

- if the rules on territorial competences have not been observed;
- if a person excluded from the process has participated;
- if the commission established in accordance with the rules on assistance has not adopted the decision provided for in the rules on the provision of assistance for the issuance of an administrative act;
- if another administrative body has not provided the assistance required by the rules.

Another important aspect of German law is that an administrative body may declare an administrative act invalid at any time on its own initiative. It may also be declared invalid upon the applicant's application if there are legitimate interests.

Article 48 of the Law establishes the grounds for the cancellation of an illegal administrative act, and an illegal administrative act may be canceled in whole or in part with retroactive effect, whether it arose in the future or not. This article also clearly states 5 cases in which the trust of the interested person is not protected. Articles 48 and 50 of the Law clearly define the procedures for the cancellation of an administrative act in separate articles. The Law of the Republic of Uzbekistan does not disclose these relations.

Analysis of regulatory legal acts of foreign countries in the field of administrative procedures showed the need to improve the legislation of the Republic of Uzbekistan on administrative procedures and bring it into line with the general progressive rules of foreign practice. Based on



the above, in order to improve the grounds for amending, canceling and declaring administrative documents invalid, and to ensure reliable protection of the rights of individuals and legal entities, it is necessary to introduce and improve the following amendments to the Law of the Republic of Uzbekistan "On Administrative Procedures".

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