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# SPECIFIC FEATURES OF AMENDMENT AND CANCELLATION OF ADMINISTRATIVE DOCUMENT AND THE NEED FOR ITS IMPROVEMENT

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***Abstract.*** *The article provides a scientific and theoretical analysis of the procedures for amending, cancelling and invalidating an administrative document based on the experience of foreign countries and the current law of the Republic of Uzbekistan. The existing problems in the legislation and relevant aspects of their solution are disclosed when amending, cancelling or invalidating an administrative document. The experience of foreign countries has shown that various ways of amending, cancelling and invalidating an administrative document exist and are effectively used. A clear definition of these mechanisms makes it possible to resolve such disputes through a single procedure. This will avoid unnecessary spending of time and money of citizens, as well as save the resources of the state. Based on the legislation of foreign countries, the legislation of the Republic of Uzbekistan has developed proposals for specifying mechanisms for resolving administrative disputes, amending, cancelling and invalidating an administrative document, improving the procedure for applying the principle of trust protection. The implementation of these proposals in practice will contribute to the elimination of legal gaps in legislation and the establishment of unified legal mechanisms.*

***Keywords:*** *administrative procedures, the principle of trust protection, administrative document, amending of an administrative document, cancellation of an administrative document or recognition as invalid.*

## MA'MURIY HUJJATNI O'ZGARTIRISH VA BEKOR QILISH TARTIBINING XUSUSIYATLARI HAMDA UNI TAKOMILLASHTIRISH ZARURATI

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***Annotatsiya.*** *Maqolada xorijiy davlatlar tajribasi hamda O'zbekiston Respublikasining "Ma'muriy tartib-taomillar to'g'risida"gi Qonuni asosida ma'muriy hujjatni o'zgartirish, bekor qilish va haqiqiy emas deb topish tartib-taomillari ilmiy-nazariy tahlil qilindi. Ma'muriy hujjatni o'zgartirish, bekor qilish yoki haqiqiy emas deb topishda qonunchilikdagi mavjud muammolar va hal qilishning dolzarb tomonlari ochib berildi. Xorijiy davlatlar tajribasi ma'muriy hujjatni o'zgartirish, bekor qilish va haqiqiy emas deb topishning turli usullari mavjudligi va samarali qo'llanib kelinayotganini ko'rsatdi. Ushbu mexanizmlarning aniq belgilanishi shu turdagi nizolarni yagona tartib orqali hal qilish imkonini beradi. Bu esa fuqarolarning ortiqcha vaqt va mablag' sarflashining oldini oladi, davlatning resurslari ham tejaladi. Xorijiy davlatlar qonunchiligidan kelib chiqib, O'zbekiston Respublikasi qonunchiligida ma'muriy nizolarni hal qilish, ma'muriy hujjatni o'zgartirish, bekor qilish va haqiqiy emas deb topish mexanizmlarini aniq belgilash, bunda ishonchni himoya qilish tamoyilini qo'llash*

*tartibini takomillashtirish bo'yicha takliflar ishlab chiqildi. Ushbu takliflarning amaliyotga joriy etilishi qonunchilikda huquqiy bo'shliqlarni bartaraf etish hamda yagona huquqiy mexanizmlar belgilanishiga xizmat qiladi.*

***Kalit so'zlar:*** *ma'muriy tartib-taomillar, ishonchni himoya qilish, ma'muriy hujjat, ma'muriy hujjatni o'zgartirish, ma'muriy hujjatni bekor qilish yoki haqiqiy emas deb topish.*

## ОСОБЕННОСТИ ПОРЯДКА ИЗМЕНЕНИЯ И ОТМЕНЫ АДМИНИСТРАТИВНОГО ДОКУМЕНТА И НЕОБХОДИМОСТЬ ЕГО СОВЕРШЕНСТВОВАНИЯ

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***Аннотация.*** *В статье приводится научно-теоретический анализ порядка внесения изменений, отмены и признания недействительным административного документа на основе опыта зарубежных стран и действующего законодательства Республики Узбекистан. Раскрываются существующие проблемы в законодательстве и актуальные аспекты их решения при изменении, отмене или признании недействительным административного документа. Опыт зарубежных стран показал, что существуют и эффективно используются различные способы изменения, отмены и признания административного документа недействительным. Четкое определение этих механизмов позволяет разрешать такие споры в рамках единой процедуры. Это позволяет избежать ненужной траты времени и денег граждан, а также сэкономить ресурсы государства. На основе анализа законодательства зарубежных стран разработаны предложения по уточнению механизмов разрешения административных споров, изменению, отмене и признанию недействительным административного документа, совершенствованию порядка применения принципа доверительной защиты в законодательстве Республики Узбекистан. Реализация этих предложений на практике будет способствовать устранению пробелов в законодательстве и созданию единых правовых механизмов.*

***Ключевые слова:*** *административные процедуры, принцип защиты доверия, административный документ, внесение изменений в административный документ, отмена административного документа или признание его недействительным.*

### Introduction

Effective administrative reforms play an important role in the development of every state. In turn, the improvement of administrative procedures plays a tremendous role in the development of public administration and the economy of the Republic of Uzbekistan.

The relevance of the research topic is that there are legal gaps in the process of regulating the relationship between the administrative body and individuals and legal entities in the field of administrative procedures, amendment, cancellation or invalidity of the administrative document in a single piece of legislation the grounds for finding that are not fully established and their mechanisms are not defined.

These cases show that there is no single practice (mechanism) for the adoption of administrative documents by administrative bodies that give rights or obligations to citizens and businesses.

Undoubtedly, administrative relations in Uzbekistan are one of the developing legal spheres. Therefore, one of the most pressing issues today is to improve the existing legislation and law enforcement practices, to determine their effective mechanisms for amending, cancelling or invalidating an administrative document.

At present, amendments, cancellations or invalidations of administrative documents are carried out in accordance with various legislative acts. This is a problem for both government agencies and citizens. Therefore, the experience of foreign countries shows the need to improve these processes. The problems presented demonstrate the importance of the dissertation topic.

*The purpose of the research* is to develop theoretical guidelines for making amendments, cancellation or invalidation of administrative documents and proposals for improving the legislation in the field of administrative procedures.

*The object of research* is the administrative-legal relationship of administrative bodies (bodies authorized to manage in the field of administrative and legal activities, including public administration bodies, local executive authorities, citizens' self-government bodies, as well as other organizations authorized to carry out these activities and specially formed commissions) in relation to citizens and legal entities in connection with the amendment, cancellation or invalidation of the administrative document adopted in the case.

**Materials and methodology**

The methodological basis of the research is the general scientific (analogy, analysis and synthesis, comparative-legal) and scientific methods of cognition. Comparative analysis in terms of specific legal research (study of foreign theories of formal legal, historical and administrative dispute resolution).

A special place in the study belongs to the comparative legal method, which identifies and compares its advantages and disadvantages, including shortcomings in the legal regulation of administrative procedures in Uzbekistan and abroad, identifies future development trends, taking into account the experience of foreign countries. allowed to develop proposals for improving the legislation.

The subject of research is effective mechanisms of resolution as a sign of the legislation of national and foreign countries regulating administrative procedures related to the amendment, cancellation or invalidation of an administrative document, relations in the field of administrative dispute resolution, the rule of law in administrative relations

The legal basis of the scientific article includes the Law of the Republic of Uzbekistan "On administrative procedures" and other normative legal acts. The analysis shows that there is a lack of scientific research in this area in Uzbekistan.

During the preparation of the scientific article were studied scientific articles of A.E. Avritun, Y.A. Popov, V.D. Sorokin, O.V. Chikalina, M.O. Yefremov, N.B. Malyavina, O.V. Lukonkina, O.A. Kuznesova, G.A. Trofimova, L.B. Khvan, Y. Pudelka and issues and recommendations stated in them.

The scientific article reveals the current aspects of solving existing problems in the legislation in the field of amending, cancelling or invalidating an administrative document. Establishing a single legal basis for amending, cancelling or invalidating administrative documents will allow for the effective resolution of such disputes.

Resolving administrative disputes in accordance with the law and making fair decisions will increase the confidence of individuals and legal entities in the state and administrative bodies, and guarantee the rights of individuals and legal entities established by the Constitution and laws.

**Research findings**

Ensuring the rights, freedoms and legitimate interests of citizens is considered one the main tasks of the legal state. To this end, systematic reforms are being carried out in our country to improve the communication of state bodies with the population, to ensure reliable protection of the rights and freedoms of citizens.

After all, Article 2 of the Constitution of the Republic of Uzbekistan stipulates the responsibility of state bodies and officials to society and citizens, according to Article 30, all state bodies, public associations and officials in the Republic of Uzbekistan shall provide citizens with the opportunity to get acquainted with documents, resolutions and other materials, relating to their rights and interests, according to Article 43, the state is guaranteed to ensure the rights and freedoms of citizens strengthened in the Constitution and laws.

The Legislation on administrative procedures plays an important role in ensuring the active participation of citizens in public administration and the rule of law in relations with administrative bodies, as well as in making fair administrative decisions by administrative bodies. Obviously, the issue of amending, cancelling and invalidating an administrative document is an important element of administrative procedures in the implementation of administrative relations.

This process is directly related to the specific legal assessment of the administrative document, that is, the actions of the administrative body that adopted it.

For example, if a person obtaining a permit violates the law in the implementation of this right, the grantor must cancel the administrative document, and if the grantor obtained the documents on the basis of forged documents, it must be declared invalid.

The administrative document may also amend over time depending on external circumstances (including amends in legislation). That is, a decision that is lawful and expedient at the time of its adoption may subsequently amend its substance, which in turn requires that the relevant document be reviewed by an administrative body or court and brought into line with the law.

Cancellation of an administrative document is one of the ways to invalidate its validity and legal force [1].

The main difference between administrative procedures in comparison with the criminal code is that the "negative administrative document" is not considered a punishment. After all, the repeal of a legal document is not an arbitrary process, but a strictly regulated and controlled mechanism, in the process of which abuse cannot be tolerated. These actions are public legal relationships that have legal consequences.

According to P. Kvosta, "a state document that can be amended at will is meaningless and useless" [2].

In particular, the principle of "protection of trust" should work in the process of amending, cancelling and invalidating an administrative document, and this is very important in making a fair decision.

*Let's look at the grounds for amending, cancelling and invalidating an administrative document in the current law and the legal gaps in it.*

Article 16 of the Law of the Republic of Uzbekistan *"On Administrative Procedures"* (hereinafter referred to as the Law) is strengthened *"the principle of protection of trust"*. According to this article, the trust in the administrative document of interested persons acting on conscience is protected by law. Administrative bodies are obliged to respect the legally expected results of the administrative practice arising from the persons concerned. The transformation of the administrative practice that has arisen must be justified by the interests of the public, have a common feature and be sustainable.

*Article 59 of this Law* sets out only the general grounds for cancellation, amendment or invalidation of an administrative act.

In particular, an administrative document may be cancelled or amended by an administrative body that has received an administrative document according to the application or administrative complaint of the interested person, by a higher


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administrative body, as well as by other bodies in cases provided by law.

The need to cancel or amend the administrative document is accepted by the administrative body in cases where amendments in the legislation, prevention of threats to the public interest, inconsistency of the administrative act with the law and in other cases provided by law has the right to cancel or amend the administrative document on its own initiative.

In cases where the trust of the interested person is to be protected, the issue of cancellation or amendment of the administrative act is considered in the judicial procedure.

If the interested person believes in the legal force of the administrative document, used the property obtained on the basis of the administrative document, entered into an agreement to dispose of his property or otherwise used the benefits and privileges specified in the administrative document, his trust must be protected.

According to the current law, an interested person's trust is not protected in the following cases:

– the interested person has not fulfilled the additional obligations related to the administrative document;

– the interested person has not purposefully used the funds, items or rights provided to him on the basis of an administrative document;

– if the interested person know about the illegality of the administrative document or does not know about it due to his own fault;

– if the administrative document is received as a result of deception, threats or otherwise abnormal influence on the administrative body;

– if the law requires the abolition of administrative document without taking into account the protection of the trust of interested persons.

In Article 59 of the Law, it is established that an illegal administrative document can be canceled with the power of withdrawal, by determining the exact moment of its cancellation or elimination. However, it is not established in what order the administrative document will be cancelled by the power of withdrawal.

It is established in the law that the administrative document, which is found to be not in accordance with the law, regardless of the trust of the interested person, can be cancelled by the administrative body if its preservation threatens public interests. However, it is not established what grounds are considered "threats to the public interest".

The law provides for compensation to the interested person for property damage caused or inevitable due to trust in the legal force of the administrative document. However, it is not specified in what order and by whom (administrative body or official) the property damage should be covered.

The law sets a very short norm for invalidating an administrative document and does not disclose its mechanisms. In particular, it is established that an administrative document may be declared invalid by a court in accordance with the procedure established by law.

This document is considered invalid if it is adopted with serious violations of the law of foreign countries and its adoption does not lead to fair consequences. However, the illegality of the document does not automatically lead to its cancellation.

An administrative dispute is a dispute between those who have administrative power and those who do not have equal power, and it is governed by the state-legal relationship (power and subordination). That is, in this relationship, on the one hand, the citizen (or legal entity) on the other hand to ensure, protect or restore the rights, freedoms and legitimate interests of the citizen (or legal entity), to impose

legal obligations on them, to bring them to justice in public administration related administrative body.

The weak point of the conflict in this process is individuals and legal entities, and the state must ensure their rights and legitimate interests quickly and fairly.

The legislation of the CIS (Commonwealth of Independent States) states stipulates 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 in a single document (law or Code) regulating administrative procedures.

The studied literature, the analysis of the legislation of foreign countries show that the bases of amendment, cancellation and invalidation of administrative documents are more extensive and clear than the Law of the Republic of Uzbekistan "On administrative procedures".

In particular, Article 44 of the *German Law* "On administrative procedures" (Verwaltungsverfahrensgesetz) sets out the grounds for invalidating an administrative document [3].

According to the Law, an administrative document is considered invalid if it contains a very significant error, which is clearly visible in the consideration of all the circumstances of the case, which must be taken into account. Also administrative document [3]:

– published in writing or electronically, but it is impossible to identify the administrative body that issued it;

– according to the legal norm, it can be submitted only by application, but this form is not enough;

– removed from its powers (by an unauthorized administrative body);

– if it is not possible to execute on factual grounds;

– if it's required to commit an offense that could be prosecuted or fined;

– if it violates good morals, the administrative document may additionally be declared invalid.

Article 44 also defines the circumstances in which an administrative document is considered invalid, including:

– non-compliance with the rules of territorial jurisdiction;

– the person excluded from the proceedings was present;

– the commission established in accordance with the rules of assistance has not made a decision on the issuance of an administrative document;

– if another administrative body does not provide the necessary assistance in the regulations.

Another important aspect of German law is that an administrative body can declare an administrative document invalid at any time on its own initiative. Also, if the applicant has a legitimate interest, the administrative document may be declared invalid on his application [3].

Article 48 of the law sets out the grounds for cancellation of an illegal administrative document, which may be cancelled in whole or in part by force of future occurrence or reversal. The article also specifies 5 cases in which the trust of an interested person is not protected. Articles 48 and 50 of the law clearly define the procedure for cancellation of an administrative document in separate articles. The law of the Republic of Uzbekistan does not disclose these relations.

Code of Administrative Procedure of the *Republic of Kazakhstan*, 2020 adopted on 29 June and entered into force on 1 July 2021. Previously, the Law on Administrative Procedures was in force [4].

Article 84 of the Code sets out the grounds for cancelling an illegal administrative document. According to this article, violation of the legislation on administrative procedures (if such an offense led or may lead to the adoption of an

incorrect administrative document) is the basis for finding the administrative document illegal [4].

Separately, clear grounds must be established for the cancellation of existing legal documents on an individual basis, which will ensure legal certainty in legal relations, minimizing the facts of arbitrary termination of their activities by public authorities.

According to the Code of Administrative Procedure of the Republic of Kazakhstan, an essentially valid administrative document cannot be declared illegal only on official grounds [4]. For comparison, these rules also exist in the law of the Republic of Uzbekistan.

According to the code, the principle of trust protection is not applied to the participant of the administrative procedure in the following cases [4].

– the legal document adopted by the administrative document is found to be contrary to the Constitution;

– if the intentional insecurity of the documents or information provided by the participant of administrative procedures is detected;

– if the administrative document is received by the participant of the administrative procedure as a result of a judgment or a court decision that has entered into force legally, as a result of committing illegal acts established by the decision of the prosecutor;

- if the administrative document may affect the interests of the state or the public, state security, or may have irreversible consequences for the life and health of the people.

(For comparison, Article 59 of the Law of the Republic of Uzbekistan also lists 5 cases in which the trust of an interested person is not protected).

Article 84 of the Code establishes the general rule that an administrative document shall be declared invalid from the moment it is accepted and from the moment it is declared illegal. However, the basis of finding out that it is not true is not more clearly defined in the expanded form.

Article 85 of the code establishes the basis for the cancellation of legal administrative document. According to this article, an administrative document adopted in accordance with the requirements of the legislation of the Republic of Kazakhstan and in accordance with them is valid. A legal administrative document may be cancelled in whole or in part. That is, a legal administrative document can be cancelled only in the following cases:

– the possibility of cancellation of an administrative document is provided by the laws of the Republic of Kazakhstan and the administrative document;

– if the administrative document is accepted on condition and this condition is not fulfilled or is not fulfilled properly.

The Code establishes that the damage caused as a result of the cancellation of an illegal administrative document, the right of trust shall be reimbursed to the participant of the administrative proceedings protected by the laws of the Republic of Kazakhstan in accordance with the civil legislation of the Republic of Kazakhstan. It is also advisable to reflect this rule in the Law of the Republic of Uzbekistan "On Administrative Procedures". This will eliminate the legal gap in the law on compensation for damages.

Article 67 of the Law of the *Republic of Azerbaijan* "On Administrative Proceedings" defines the grounds for cancellation of an illegal administrative document. According to this Law, an administrative document adopted by an administrative body as a result of violation or improper of legal norms or substantive legal norms on administrative proceedings is considered illegal [5].

An illegal administrative document may be cancelled by the administrative body that adopted it or by a higher administrative body or court.

If the interested person believes that its content and this trust is protected by law, as well as does not harm the rights or legally protected interests of other persons, the state or public interests, implies one-time or current monetary or property obligations to the interested person or such obligations it is determined that the cancellation of an unlawful administrative document is not allowed.

An interested person may not use the right of trust protection in the following cases:

– if the adoption of an administrative document is achieved through bribery, threat or deception;

– if the adoption of an administrative document is achieved by providing documents that reflect incorrect or distorted information;

– if he knew that the administrative document was illegal or did not know because of gross negligence.

Article 68 of this Law provides the grounds for cancellation of a legal administrative document, the cancellation of a legal administrative document eliminates the legal consequences arising from the date of its entry into force, Article 69 establishes the grounds for invalidation or cancellation of a separate part of the administrative document.

Article 65 of the law also defines the grounds for invalidating an administrative document. It is obvious that the Law of the Republic of Azerbaijan contains more detailed grounds for the abolition of illegal administrative acts, and it is expedient to include its norms in our national legislation.

The Law of the *Kyrgyz Republic* "On the Fundamentals of Administrative Activity and Administrative Procedures" (July 31, 2015) is based on the German legislation in the field of administrative procedures, Chapter 9 of which is devoted directly to the cancellation of administrative document.

In particular, Article 55 of the Law provides for the grounds for the cancellation of administrative document, Article 56 provides for the grounds for the cancellation of legal and illegal administrative document, and the Article 57 establishes other rules for the cancellation of administrative document [6].

However, the Law of the Kyrgyz Republic does not stipulate the grounds for cancellation of an administrative document in favor of or against an interested party, cancellation of an administrative document with the power of withdrawal or for the next period.

In my opinion, although the Law of the Kyrgyz Republic is also quite well written, the grounds for revocation of an administrative document in favor of or against an interested person are not fully explained.

Article 77 of the law of the *Republic of Armenia* "On the basis of management and administrative proceedings" provides grounds for cancellation of an administrative document. According to the Law, the basis for cancellation of an administrative document may be a violation of procedural norms [7].

Article 62 also provides grounds for invalidating an administrative document, Article 63 defines the consequences of invalidating an illegal administrative document. According to this, an illegal administrative document may be declared invalid by the administrative body or its higher body that adopted the document, as well as in court.

Article 64 of the law defines the consequences of invalidating an illegal administrative document. According to this, an illegal administrative document may also lose its legal force, from the date of the decision to declare it invalid or from the date of adoption of the administrative document (with power of withdrawal).

If a part of an illegal administrative document is found to be invalid, the


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consequences of the invalidation of the administrative document will be applied to the part of the administrative document that is found to be invalid.

The Law of the Republic of Armenia defines the grounds for cancellation and invalidation of an administrative document and their consequences in separate articles.

In the law of the Republic of Armenia, the grounds for the cancellation of the administrative document and the finding that it is invalid and their consequences are revealed in separate articles.

It should be noted that the law of the Republic of Armenia defines invalidation as "gross, obvious errors" and they are defined by law.

Similar criteria are also established in the law on administrative procedures of the Republics of Latvia [8], Estonia [9], Tajikistan [10], Georgia [11], Belarus [12]. Analysis shows that the grounds for repealing and invalidating an administrative document in the legislation of these countries should be implemented in our national legislation.

*In the UK,* issues of cancellation and finding it invalid are formulated and resolved within the framework of judicial practice in relation to a variety of circumstances.

*In France,* the entire system of administrative justice is largely non-judicial. This is because the administrative justice system has developed as a separate institution of public administration. Therefore, it is different from Germany and the United States. Control over the legality of the activities of administrative bodies in France is entrusted to the heads of ministries.

In France, the Council of State for Administrative Disputes was established and established by law in 1872 as the supreme body of administrative justice. In these aspects it is different from the administrative justice system of Germany. The code of Administrative Justice calls the State Council the Supreme Administrative Court. Administrative courts do not have constitutional status, but the French Constitutional Council has given a constitutional character to the principle of independence of administrative judges. Decisions of the State Council on Administrative Disputes are final and will not be discussed. The French Council of State has established general legal principles for administrative procedures.

In France Administrative courts of appeal were established in 1987. They consider appeals against decisions of administrative courts.

French administrative law, unlike a number of other branches of law, is not codified. It is organized by publishing more than 30 laws and other documents. Administrative documents are issued by the President, Government, ministries and departments, as well as local authorities (mayors, chairmen of regional and general councils, prefects, etc.).

For example, Japan's Law on Administrative Procedures only provides for appeals against decisions of administrative bodies [13], in the law of South Korea there are no rules that determine invalidity [14]. However, we believe that it should be clearly defined by the law in the field of administrative procedures.

According to the above, it is impossible to equate the illegality and invalidity of an administrative document by putting a "hyphen" between them. That is, the illegality of an administrative document does not mean that it will be cancelled.

According to L. Hwan, one of our local scientists, in the legislation of European countries it is possible to see the cancellation of the administrative act and the cancellation of the administrative act, which is more likely to be found to be invalid [15].

Simply put, making decisions on issues that are not provided by law or on issues that do not fall within their competence

leads to the fact that this decision is not valid. On the contrary, the adoption of decisions that are not in accordance with the law on matters within its competence, will lead to the amendment or cancellation of this decision.

Legislation of the studied foreign states in the field of administrative procedures The bases of amendment, cancellation and invalidation of the administrative act are in many respects the Law of the Republic of Uzbekistan "On administrative procedures" was found to differ from the Act.

The study showed that the basis of the legislation of foreign countries in the field of administrative procedures to be amended, cancelled and found to be invalid differs in many aspects from the law of the Republic of Uzbekistan "On administrative procedures".

In almost all CIS countries, the procedure for citizens to apply to state bodies, all procedural rules governing such relations, and the procedure for appealing against decisions of state bodies are defined in a single document regulating administrative procedures.

Administrative procedures represent the order of actions of the government in the process of public administration, which is regulated by normative legal documents, the purpose of which is to implement the material norms of administrative law [16].

**Conclusions**

Analysis of normative-legal documents of foreign countries in the field of administrative procedures showed that it is necessary to improve the legislation of the Republic of Uzbekistan on administrative procedures and to coordinate with the general progressive rules of foreign practice.

Based on the above, *it is necessary to make the following amendments and improve the law of the Republic of Uzbekistan "On administrative procedures"* in order to improve the principles of amendment, cancelling and finding invalid administrative documents, to ensure reliable protection of the rights of individuals and legal entities.

*First***,** the "principle of protection of trust" protects trust in an administrative document, not trust in administrative practice. Therefore, interested parties have the right to arise from the presumption of the correctness of decisions of administrative bodies. The error made by an administrative body should not cause undesirable consequences for the person concerned acting on conscience.

It is also necessary to establish that the trust in the written statements and official statements of the administrative bodies of the interested parties is also protected by law *(Based on the experiences of Azerbaijan and Latvian countries)*.

*Second,* the grounds for cancellation and amendment of an administrative document in accordance with the rules of trust protection, the circumstances in which the trust is compulsorily protected and the trust is not protected should be clearly disclosed in a separate article (Article of Trust Protection). Specially:

- to determine whether the administrative body should protect the trust of the interested person when the administrative act is cancelled to the detriment of the interested person after the expiration of the possibility of filing an administrative complaint and (or) litigation in court;

- the interested person has used the property received on the basis of the administrative act in trust with the legal force of the administrative act, entered into an agreement to dispose of his property, incurred expenses or otherwise used the benefits and privileges granted by the administrative act if so, to determine whether his trust should be protected.

*It is also necessary to specify that the trust of the interested person is not protected in the following cases:*

- the interested person has not fulfilled


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the additional obligations related to the administrative act;

- the interested person has not used the items (property, money, objects) or rights provided to him on the basis of an administrative act for the specified purpose;

- if the interested person knew or should have known about the illegality of the administrative act;

- the administrative act was adopted as a result of fraud, threat or other unlawful influence on the administrative body;

- if the protection of trust is prohibited by law or the possibility of cancellation is directly provided for in the administrative act itself.

If the retention of an illegal administrative act threatens the public interest or disproportionately discriminates against the legitimate interests of other interested persons, the administrative act may be cancelled to the detriment of the interested person, regardless of the protected trust.

In case of cancellation of an administrative act despite the protected trust, the interested person must be compensated for the actual damage caused or inevitable due to the trust in the legal force of the administrative act.

Compensation for actual damage should not exceed the amount of benefits that the interested person should receive, according to the content of the administrative act. A claim for compensation for property damage may be filed within one year from the date when the interested person is duly notified of the cancellation of the administrative act.

This term does not apply to the request of the owner or possessor to eliminate violations of his rights.

*Third,* pre-trial appeal against administrative documents, other documents of the administrative body and administrative actions is considered to be an obligatory condition for settling disputes over administrative acts, other documents of the administrative body and administrative actions (except in cases when it is necessary to take urgent measures of initial judicial protection to eliminate the threat to the rights of the interested person).

To determine whether the administrative body can review, cancel or amend the complaint against the administrative document adopted by it. In this case, it is advisable to immediately notify the person who filed the administrative complaint, as well as interested persons whose rights and legitimate interests are affected by the administrative act, of the decision. This institution is important in maintaining legal stability in society.

If the protection of trust is not an obstacle to cancellation, then the administrative body is not only entitled, but also obliged to cancel the illegal administrative act.

*Fourth,* in contrast to the current law, the grounds for invalidation of an administrative document should be divided into a separate article, and the cancellation and amendment of an administrative document should be improved (clarified), taking into account the following:

- after the termination of the administrative complaint and (or) the possibility of a dispute in court, the administrative document may be cancelled or amended in accordance with this law by the administrative body or the administrative body in the higher standing instance that received it;

- the administrative body may, on duty, cancel or amend the administrative act adopted by it in accordance with the requirements of the law or when it is found to be illegal (except in cases where the protection of trust prevents it);

- amendments in the administrative document are made by adopting it in the new edition;

- in case of amendment of the administrative document it is recognized as valid in the new edition from the

moment specified in the new edition of the administrative document, if such time is not specified, it is valid from the moment of entry into force of the new edition of the administrative document that the previous version of the administrative document loses its force;

- it should be noted that the administrative document can be cancelled or amended on the basis of a protest of the prosecutor or on the recommendation of the competent state body.

In this case, these sitiations regulate the cancellation or amending of administrative documents, which opportunity of filing an administrative complaint and disputing in court is over, that is, they're applied when the possibilities of administrative comlaint (1 month) and dispute by suing (2 month) expire.

*Fifth,* it is necessary to clearly specify the circumstances in which the administrative body itself can cancel or amend the received administrative document on its own initiative and include in it the following:

when there is a need to eliminate the threat to the public interest;

when there is an opportunity to improve the situation of an interested person without compromising the rights and legitimate interests of other interested parties or jeopardizing public interests.

*Sixth,* the introduction of a new institution stating that an administrative document can be cancelled or amended in favor of an interested party or to the detriment of an interested party. In this case, if the cancellation or amendment of the administrative act is made in favor of one interested party, but to the detriment of another interested party, the rules governing the cancellation or amendment of the administrative act to the detriment of the interested person should be applied.

*Seventh,* it is necessary to establish legal mechanisms for the cancellation or amendment of the administrative document for the next period or by power of withdrawal. Such:

- when the administrative document cancelling or amending the previously adopted administrative document is adopted, what part of the administrative document is being cancelled or amended by the administrative body and from when it becomes invalid;

- if the cancelled administrative document does not specify the time of its cancellation, the cancelled administrative act shall become invalid from the moment of come into force of the administrative act of its cancellation;

- when the administrative act is cancelled by the power of withdrawal, it is established by which administrative act the cancellation is carried out, from the moment of the expiration of the period specified in the same administrative act.

*Eighth, the issue of cancellation of a legal administrative document* should be specified in a separate article, which should include the following:

The legal administrative document may be further cancelled in favor of the interested person (except in cases prohibited by law), in case of elimination of the circumstances that served as a basis for the adoption of a legal administrative document, which led to the permanent restriction of the rights of the interested person, administrative body must cancel the administrative document at the request of the relevant interested person from the moment the circumstances cease to exist.

In the following cases, a legal administrative act may be cancelled to the detriment of the person concerned:

- in accordance with the requirements of the law or directly provided for in the administrative document itself;

- to prevent the public interest from being harmed as a result of subsequent actual or legal circumstances;


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- if there are additional obligations related to the administrative act and the interested person has not fulfilled them;

- the interested person has not used the property (property, money, objects) or the right granted to him on the basis of an administrative act for the specified purpose.

*Ninth,* the issue of cancellation of an illegal administrative document should be specified in a separate article, which includes:

- the illegal administrative document may be cancelled in favor of the interested person by the next period or by power of withdrawal;

- it is necessary to specify that the illegal administrative document can be canceled by the force of the coming period or withdrawal to the detriment of the person concerned. In this case, the document must be cancelled on the basis of the principle of legality.

*Tenth,* the current law does not provide *for the grounds for reconsideration of an administrative act*. Therefore, it is necessary to clearly define in the legislation the grounds for revision of an administrative document that has entered into force. In particular:

- when determining the circumstances that are not known or could not be known to the administrative proceedings participant who initiated the revision, significant for the case;

- when the actual or legal circumstances that are important for the case amend in favor of the applicant;

- when new evidence is discovered that could lead to a more profitable decision for the applicant;

- when it is determined that a witness who has influenced the consideration and resolution of the case has knowingly given false testimony, that the expert has given a false conclusion, and that the documents or material evidence have been falsified, as determined by a court judgment which has entered into force;

- criminal actions of the participants of the administrative proceedings or persons who facilitate the resolution of the administrative case, determined by the judgment of the court entered into legal force, affecting the consideration and resolution of the case;

- it is necessary to establish that the administrative document may be reconsidered in the event of cancellation of the decision of the court, administrative body or other state body, which served as the basis for the adoption of this administrative document.

The introduction of these important amendments and additions to the Law of the Republic of Uzbekistan "On administrative procedures" serves to establish a single legal framework, reliable protection of the rights of individuals and legal entities, increase public confidence in government agencies, save the population time and money, eliminate legal gaps in the law, reduce the workload of administrative bodies and courts.

These mechanisms will be universal feature for all administrative relations.

## REFERENCES

1. Yakhin F. Effect of administrative and legal acts. PhD thesis. Moscow, 2004, p. 20.

2. Kvosta P. The meaning and limits of the legal force of administrative acts in Austria, or "amazing consequences of legal force". *Yearbook of Public Law, 2018.* Principles of administrative procedures and administrative proceedings. Moscow, 2018, p. 128.

3. On administrative procedures. The Law of the Federal Republic of Germany. Collection of Legislative acts on Administrative Procedures, 2013, p. 173.

4. Administrative procedural and procedural Code of the Republic of Kazakhstan, 2020, June 29. Available at: https://adilet.zan.kz/rus/docs/K2000000350#z1428/.

5. On administrative proceedings. The Law of the Republic of Azerbaijan, 2005, October 21. Available at: http://base.spinform.ru/show_doc.fwx?rgn=13868/.

6. On the basics of administrative activities and administrative procedures. The Law of the Kyrgyz Republic, 2015, July 31. Available at: http://cbd.minjust.gov.kg/act/view/ru-ru/111254?cl=ru-ru/.

7. On the basics of administration and administrative proceedings. The Law of the Republic of Armenia, 2004, March 16. Available at: https://www.arlis.am/documentview.aspx?docid=61846/.

8. Administrative procedure. Law of Latvia, 2001, October 25. Available at: https://likumi.lv/ta/en/en/id/55567-administrative-procedure-law/.

9. Administrative procedure Act. Law of Estonia, 2001, June 6. Available at: https://www.riigiteataja.ee/en/eli/ee/Riigikogu/act/530102013037/consolide/.

10. On administrative procedures. Code of the Republic of Tajikistan, 2012, December 28. Available at: http://base.spinform.ru/show_doc.fwx?rgn=17361/.

11. General Administrative Code of Georgia, 1999, June 25. Available at: https://matsne.gov.ge/ru/document/view/16270?publication=37/.

12. On the basics of administrative procedures. The Law of the Republic of Belarus, 2008, October 28. Available at: https://kodeksy-by.com/zakon_rb_ob_osnovah_administrativnyh_protsedur.htm/.

13. Administrative Procedure Act. Law of Japan. Available at: http://www.japaneselawtranslation.go.jp/law/detail/?vm=04&id=85&lvm=02&re=02/.

14. Administrative Procedure Act. Law of South Korea, 1996, December 31, no. 5241. Available at: https://elaw.klri.re.kr/eng_service/lawView.do?hseq=335&lang=eng/.

15. Hwang L.B. Legal innovations in administrative justice in the countries of the European Union: possibilities of application in the countries of Central Asia. *Yearbook of Public Law, 2015*. Administrative Process. Moscow, 2015, pp. 108-109.

16. Efremov M.O. On administrative procedure as a form of realization of competence of public authorities in relations with private persons. PhD thesis. Moscow, 2005, pp. 15-16.


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