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RESEARCH ARTICLE

LICENSING SYSTEM IN UZBEKISTAN

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Abstract

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INTRODUCTION

The reforms being carried out in our country with the aim of building a legal democratic state and free civil society based on market economy have been universally recognized today by world community as “Uzbek model”. In developing of the real sector of economics, more than 400 laws aimed at expansion and improvement of participation of the subjects of business, modernization and reforming of economy were adopted and they are now forming the legal basis of further liberalization and modernization of the economics of Uzbekistan.

Today in Uzbekistan several measures directed to the implementation of consistent and definite purposes concerning the security of free business, removal of unnecessary bureaucratic barriers, owing to the reduction of the licensing and authorization rules that don't meet the modern requirements, creation of favorable business environment, simplification of organization of business subjects and ensuring of these subjects' free work are being realized (Karimov, 2012).

Based upon the advanced experience of world countries, with the aim of developing small-scale business and private enterprise consistently the government is realizing the actions of administrative and legal regulation of the business activity and seeking after abolition of unnecessary rules and orders. Because most of the licensing requirements and the rules of granting permission do not correspond with the principles of market economy and the policy being carried out in this regard and often duplicate the other means of government regulations.

For this reason according to the requirements of market economy and international rules and standards, with the aim of radical improvement of business environment, creation of the most favorable conditions for the work of the subjects of business by means of removing all unnecessary bureaucratic barriers, reducing and simplifying the rules and orders of licensing and granting of permission, radical improvement of account system and the order of representation of accounts several laws, Presidential Decrees, enactments of the Cabinet of Ministers have recently been adopted and introduced into life. Among them there are the Presidential Decrees of the Republic of Uzbekistan “About the measures of fundamental reduction of statistic, taxation and financial accounts, licensable types of activity and licensing regulations and rules” issued July 16, 2012, “About the additional measures of creating of the most favorable business conditions for developing of small-scale business and private enterprise” issued August 24,

2012 and the enactment of the Cabinet of Ministers “About the measures of further expansion of freedom of business activity and reduction of bureaucratic barriers” issued August 25, 2012. On the basis of the above mentioned documents today in Uzbekistan more than 80 rules and orders of granting permission and licensing of more than 15 types of activities have been abolished (Karimov, 2012).

The above stated facts indicate that the legislative and executive bodies of the government pay particular attention to the problems of legal regulation of business activity including licensing of separate types of activity in the country.

In general license, licensing, licensee, canceling a license and other related questions are attracting the attentions of majority of people thanks to the specialists’ elucidation on mass media.

In international experience there is a practice of determination by the government of the rules and regulations of realization of a certain type of activity in the country. These rules and regulations provide for several purposes such as securing the government and society, maintenance of ecological equilibrium, ensuring of common weal, maintenance of peace and protection of citizens’ rights and freedoms. In this case the government by establishing the corresponding rules binds the realization of a certain type of activity to the permission officially obtained from the government – license.

In the Republic of Uzbekistan rules and orders related to licensing are regulated by the law of the Republic of Uzbekistan “About licensing of separate types of activity” adopted May 25, 2000. According to this law the licensing types of activities include the types of activity realization of which may cause damage to the rights, lawful interests, and health of citizens and public safety and those regulation of which cannot be carried out by other means except licensing.

Under Article 3 of the above mentioned law the license is a permission (right) given to a legal entity or a natural person to realize the type of activity being licensed under the strict observance of requirements and conditions of the license. And the licensing is an activity common to government bodies and persons wishing to obtain license, consisting of cumulative action connected with the processes of handing in the application for obtaining the license and its consideration, relicensing, suspension, termination and revocation of license.

In legal literature there are various and sometimes contradictory opinions on the problems of licensing. For instance according to L.B. Khvan the licensing is a legal order of the beginning and finishing of realization of a certain type of business activity which includes firstly recognition and determination by the government of the right, term and scope of realization of a certain type of economic activity, secondly establishment of the government control of the activity being carried out, thirdly existence of particular bases and order of termination and revocation of the activity and their being regulated (Khvan, 2007). Here the author also includes into the notion of licensing the control of realization of the licensed activity by the related bodies and revocation of license if the requirements are not followed.

In his turn E. Khadjiyev considers that the licensing is a peculiar mechanism of regulating of business activity according to which certain types of activity can be realized on the basis of the special permission – license given after fulfillment of the requirements established by the related bodies of the executive power (Khadjiyev, 2007). Professors B. Kasymov and H. Adilkariev define the licensing as a form of government control realized with the aim of guaranteeing the safety and defensive capacity of state, ensuring of the observance of citizens’ rights and freedoms and realization of their lawful interests (B. Kasymov and H. Adilkariev, 2010).

According to professor Y.A. Tikhomirov the licensing is a process of official approval (recognition) of the right of realization of a certain type of activity by a subject of economy in accordance with the established order and rules (Tikhomirov, 1998).

As a result of analyses of the given opinions we may ascertain that most of the authors see the licensing in the circle of administrative functions of executive bodies of state power, that the license is a certain official document and there is a certain order and rules of obtaining and revocation of license.

Summarizing the given statements we may give the following definition of the licensing: the licensing is an officially established order of granting permission by the authorized bodies that realize the licensing in accordance with legislative acts on the basis of legal entities’ or natural persons’ applications for realizing the licensing type of activity strictly observing the set of requirements and conditions prescribed in legislative acts as compulsory for the licensee when realizing the given type of activity.

Accordingly, the licensing is an administrative and legal method of having an influence on economic relations of the state and determines the peculiarity of the influence of administrative and legal norms on social and legal relations regulated by license. Therefore, the licensing is an institute of the subject of administrative law.

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