



Journal Homepage: - www.journalijar.com

INTERNATIONAL JOURNAL OF ADVANCED RESEARCH (IJAR)

Article DOI: 10.21474/IJAR01/12385

DOI URL: <http://dx.doi.org/10.21474/IJAR01/12385>



RESEARCH ARTICLE

ON THE QUESTION OF THE MAINTENANCE OF LEGALITY AND OFFICIAL DISCIPLINE IN THE ADMINISTRATIVE ACTIVITIES OF THE INTERNAL AFFAIRS OF UZBEKISTAN

Alisher Turayevich Berdiev

Head of the Investigation Department at the Office for Coordination of the Activities of the Internal Affairs
Directorate of the Sergeli District of Tashkent, Lieutenant Colonel.

Manuscript Info

Manuscript History

Received: 27 November 2020

Final Accepted: 30 December 2020

Published: January 2021

Key words:-

Legality, Service Discipline,
Administrative And Legal Activities,
Internal Affairs Bodies, Law
Enforcement Function, Public Order
Protection

Abstract

The article analyzes the current national legislation regulating the administrative and legal activities of the internal affairs bodies, provides the opinions of scientists who investigated the problems associated with the definition of legality and official discipline, examines their normative legal concept and features of the content in the administrative and legal activities of the internal affairs bodies.

Copy Right, IJAR, 2021,. All rights reserved.

Introduction:-

In the context of the intensive development of public relations in the law enforcement sphere, state structures responsible for peace and tranquility are assigned tasks related to the effectiveness of their law enforcement activities. Among them, a special place is occupied by the internal affairs bodies (hereinafter referred to as ATS), which are the most numerous and most mobile among other law enforcement structures. One of the priority directions of the functioning of the internal affairs bodies is administrative and legal activities, in the implementation of which they must strictly follow the letter of the law and observe it strictly, as well as comply with disciplinary orders. At the same time, the main purpose of their activities is to protect the rights, freedoms and legitimate interests of citizens, to protect them from administrative and criminal encroachments. In the Decree of the President of the Republic of Uzbekistan No. 5005 "On measures to radically improve the efficiency of the internal affairs bodies, strengthening their responsibility for ensuring public order, reliable protection of the rights, freedoms and legitimate interests of citizens", special attention is paid to the mechanism of compliance with the rule of law and official discipline in the law enforcement activities of the Internal Affairs Directorate. In particular, the decree notes that the republic has created an integral legal system to protect the rights, freedoms and legitimate interests of citizens, protect public order, ensure the safety of the individual, society and the state, prevent and prevent offenses, in which a special role is assigned to the internal affairs bodies¹.

There is a widespread understanding of legality as a principle or requirement of strict observance, execution of legal norms, or as a system of such requirements. In particular, the problems of implementing the principle of legality were pointed out by A.F. Efremov, who pointed out that "lawfulness exists insofar as law itself exists both as a social and as a purely legal phenomenon. The content of legality depends on the content of laws, the observance of which also means legality." This definition reflects the features of legality, emphasizes its special legal, normative and legal nature.

¹Collected Legislation of the Republic of Uzbekistan, 2017, No. 15, Art. 243

Corresponding Author:- Alisher Turayevich Berdiev

Address:- Head of the Investigation Department at the Office for Coordination of the Activities of the Internal Affairs Directorate of the Sergeli District of Tashkent, Lieutenant Colonel.

In the Constitution of Uzbekistan, where in Art. 14 directly states “The state builds its activities on the principles of social justice and legality in the interests of the well-being of individuals and society”. Thus, legality was consolidated as a constitutional principle of the activities of the state, its bodies, public organizations, officials and citizens.

The rule of law and official discipline is viewed as a stable legal regime that ensures universal, strict and unswerving execution, application and observance of legal norms and the protection of citizens, and in which all arbitrary actions are strictly suppressed. This definition also reflects a very essential feature of legality and discipline, since most participants in public relations knowingly and voluntarily comply with laws, disciplinary orders and other legal acts.

Therefore, the rule of law in the administrative and legal activities of the internal affairs bodies, becoming universal, is realized in a stable regime of its observance, which is transformed into an official discipline. Regarding the legality and official discipline in the administrative activities of the department of internal affairs of S.M. Selimanov, the categories of “legality” and “official discipline” are related as private and general, determining that the requirement of compliance with the law is the main, but still part of the requirements of official discipline².

Legality and service discipline in administrative and legal activities is based on legal consciousness and strict adherence to their instructions in the activities of police officers. But if in one case he attributes this property to the activity itself, in the other he shifts the emphasis to the sphere of ideology, speaks of the requirements for this activity. In another case, attention is paid to the result, when compliance with the law and disciplinary orders becomes a common property of all IAB actions.

Some authors consider the legality and official discipline of the internal affairs department in the implementation of administrative practice as a property not of activity, but of public relations. Legality and observance of discipline by them is defined as the state of social relations, compliance with their legal norms [4, c.5]³.

There are other definitions of legality and service discipline of the internal affairs department, which consider them as a method of administrative and legal activities of public order. This finds its expression in public relations related to the performance of the ATS of its duties through the publication and unswerving implementation of laws, disciplinary orders and other legal acts. Thus, the content of the concept of legality and service discipline is significantly expanded, since it includes the processes of rule-making and legal application. So, according to N.V. Pashkova «the observance of the rule of law by the employees of these bodies is also important because they are the active participants in lawmaking and law enforcement processes»[5]⁴.

Regarding the activities of the police of non-CIS countries to comply with the law in the administrative activities of V.A. Eirich drew attention to the preventive nature of the norms of German police legislation, noting that «all police measures restricting the rights and freedoms of a citizen are applied based on the likelihood of possible damage to protected legal benefits, without waiting for the moment when the offense reaches at least the stage of attempt. The main idea of police law is to make it physically impossible for a specific person to commit an offense». [6, c.3]⁵.

The analysis of the above definitions of legality and service discipline of the Internal Affairs Directorate indicates that they all reflect the real-life features and properties of these complex and multifaceted social phenomena. But on the other hand, each of these definitions has its own characteristics, which it is advisable to study for possible application in the administrative activities of the internal affairs bodies of Uzbekistan.

²Selimanova S.M. Administrative law. Textbook. Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan. - Tashkent, 2019. - p. 237.

³Kapustina I. Yu. Administrative and legal means of ensuring the legality and discipline of service in the internal affairs bodies: Author's abstract. dis. ... Cand. jurid. sciences. - SPb., 2009 - P.5.

⁴Pashkova N.V. Ensuring legality in the activities of internal affairs bodies: Author's abstract. dis. ... Cand. jurid. sciences. - M., 2006. - p. 4.

⁵Airikh V.A. Features of organizational, legal and financial support for the functioning of the Federal Republic of Germany police // Legal research. - 2015. - No. 5. - P. 1 - 23. DOI: 10.7256 / 2409-7136.2015.5.14679 URL: https://nbpublish.com/library_read_article.php?id=14679

In essence, the observance of the rule of law and official discipline in the administrative and legal activities of the Internal Affairs Directorate is a prerequisite for an optimal mechanism for protecting public order and, accordingly, protecting the rights and freedoms of citizens. Ensuring the rule of law and strict observance of discipline are a necessary condition, prerequisites and means for the ATS to fulfill the tasks assigned to them by the state.

Since 2016, since the adoption of the Law of the Republic of Uzbekistan "On Internal Affairs Bodies", which, based on the previous experience of the Internal Affairs Directorate, legislatively consolidated the legal status of this law enforcement structure and determined the principles of legality and discipline in the activities of its employees.

Thus, Article 6 of the Law of the Republic of Uzbekistan «On the Internal Affairs Bodies» explicitly states that «employees of the Internal Affairs Bodies in their activities are obliged to accurately observe and comply with the requirements of the Constitution of the Republic of Uzbekistan, this Law and other legislative acts». At the same time, the emphasis is made that any deviation from exact execution, compliance with the laws, whatever the motives it may be caused, is a violation of legality and official discipline, entails liability established by law.

In addition, the provision is fixed that, when carrying out administrative activities, police officers cannot, in order to justify their illegal actions (inaction) while performing their official duties, refer to the interests of the service, economic expediency, illegal demands, orders and orders of higher officials, or any or other circumstances that do not comply with the law.

Particularly highlighted are principles such as legality, unity, observance and respect for the rights, freedoms and legitimate interests of citizens, openness and transparency of the internal affairs bodies.

At the same time, the law sets out in detail the duties and rights of the internal affairs bodies, clearly stipulates the issues of their application of certain measures of coercion, as well as physical force, special means and firearms.

In essence, the adoption of the above law made it possible to create real legal guarantees for the activities of their employees to protect the rights, freedoms and legitimate interests of citizens, the constitutional regime, the fight against crime and crime, and the security of citizens, society and the state.

Regarding service discipline, it should be noted that in paragraph 2 of the Disciplinary Charter of the internal affairs bodies approved by Appendix No. 2 of the Decree of the President of the Republic of Uzbekistan dated November 29, 2017 No. PP-3413 «On measures to radically improve the procedure for working with personnel of the internal affairs bodies and the organization of their service» the definition of service discipline in the internal affairs bodies was given. At the same time, it was established that it is expressed in strict and unconditional observance by employees of the requirements of the Charter and is based on high consciousness and deep understanding by each employee of his official duty and personal responsibility for the assigned task. [7]⁶.

According to clause 3 of the aforementioned Disciplinary Charter, service discipline obliges each employee: to comply with the Constitution and laws of the Republic of Uzbekistan and other regulatory legal acts, strictly comply with the requirements of decisions of the Collegium of the Ministry of Internal Affairs of the Republic of Uzbekistan, orders, orders and instructions of the Minister of Internal Affairs of the Republic of Uzbekistan. The employee must be faithful to the oath and, of course, fulfill his official duty.

Legality and discipline is defined as a necessary condition for the activities of the internal affairs bodies, based on the current legislation, which regulates the law enforcement function, based on the conscious observance of administrative and legal duties by employees carrying out the protection of public order.

As already noted above, the legality in the administrative and legal activities of police officers is inextricably linked with the observance of official discipline, which is based on high consciousness and deep understanding of their

⁶See: Decree of the President of the Republic of Uzbekistan No. 3413 of November 29, 2017 "On measures to radically improve the procedure for working with personnel of internal affairs bodies and the organization of their service" // National database of legislation, November 30, 2017, No. 07/17 / 3413/0334; 01.06.2018, No. 06/18/5454/1290, 24.08.2018, No. 07/18/3919/1787, 02.11.2018, No. 06/18/5566/2153; 07.03.2019, No. 07/19/4229/2710, 30.05.2019, No. 07/19/4343/3206

official duty and personal responsibility for the assigned case. Each police officer is required to be faithful to the oath, of course, to fulfill his official duty and to follow the professional principle – «Serve the interests of the people». They must selflessly serve for the protection of the rights, freedoms and legitimate interests of citizens, property of individuals and legal entities, the constitutional order, ensuring the rule of law, security of the individual, society and the state, as well as the prevention and prevention of offenses, constantly improve their knowledge and professional skills, improve qualifications and legal culture.

Ensuring the rule of law and strict adherence to official discipline in the internal affairs bodies is an obligatory condition for professional activity. It is achieved by the formation of high spiritual, moral and business qualities in employees, a conscientious attitude to the performance of professional duty, and the personal responsibility of each employee for the performance of their administrative and legal duties.

In the performance of their official duties, observing the rule of law and official discipline, the police officers perform their main administrative duty - the protection of public order, which can be defined as legal order.

According to N.S. Kulikova, there is a logical connection between the categories «legality» and «law and order», since law and order is a certain result of both legal regulation and law enforcement. She notes that «legality is one of the characteristics of the rule of law, allowing us to assert that it is based on mutual observance by the main parties of public legal relations - state bodies and citizens - of normative provisions» [8, c.13]⁷.

In essence, the maintenance of public order by police officers is a kind of their administrative activities in the country and is an integral element of the latter, as a component of legality and official discipline in the activities of law enforcement agencies. This whole mechanism of observance of the rule of law and official discipline of police officers is based on the priority of the Constitution, the Code of Administrative Responsibility, laws and by-laws regulating the activities of the police.

It should be noted that the legality and official discipline in the administrative activities of the Internal Affairs Directorate can be considered as the allocation of legality and official discipline in the activities of the Internal Affairs Directorate in the implementation of their functions related to the prevention of offenses related to maintaining public order.

Based on the above provisions, it can be stated that the main condition for the effectiveness of work to strengthen the rule of law and official discipline in the administrative activities of the Internal Affairs Directorate is the conscious, based on strict observance and participation of all employees in it, their understanding of the importance of this work, their personal responsibility for its condition.

Summing up, it can be stated that ensuring the rule of law and observance of official discipline in the administrative and legal activities of employees of internal affairs bodies is one of the main conditions for their fulfillment of their tasks in protecting public order, peace, tranquility and safety of citizens. The internal affairs bodies, as a structure of the executive power, strictly observing the rule of law and official discipline, are being transformed into a truly socially oriented professional service, whose activities are aimed at unconditionally ensuring the rule of law and compliance with official discipline.

List Of References:-

1. Collected Legislation of the Republic of Uzbekistan, 2017, No. 15, Art. 243
2. Decree of the President of the Republic of Uzbekistan No. 3413 of November 29, 2017 "On measures to radically improve the procedure for working with personnel of internal affairs bodies and the organization of their service" // National database of legislation, November 30, 2017, No. 07/17 / 3413/0334; 01.06.2018, No. 06/18/5454/1290, 24.08.2018, No. 07/18/3919/1787, 02.11.2018, No. 06/18/5566/2153; 07.03.2019, No. 07/19/4229/2710, 30.05.2019, No. 07/19/4343/3206
3. Selimanova S.M. Administrative law. Textbook. Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan. - Tashkent, 2019 .- p. 237.

⁷Kulikova N.S. Legal regulation of ensuring the rule of law and discipline in the administrative activities of the police: Author's abstract. dis. ... Cand. jurid. sciences. - Krasnodar - 2016 .-- p. 13. (23 p.)

4. Kapustina I. Yu. Administrative and legal means of ensuring the legality and discipline of service in the internal affairs bodies: Author's abstract. dis. ... Cand. jurid. sciences. - SPb., 2009 - P.5.
5. Pashkova N.V. Ensuring legality in the activities of internal affairs bodies: Author's abstract. dis. ... Cand. jurid. sciences. - M., 2006 .- p. 4.
6. Airikh V.A. Features of organizational, legal and financial support for the functioning of the Federal Republic of Germany police // Legal research. - 2015. - No. 5. - P. 1 - 23. DOI: 10.7256 / 2409-7136.2015.5.14679
7. Kulikova N.S. Legal regulation of ensuring the rule of law and discipline in the administrative activities of the police: Author's abstract. dis. ... Cand. jurid. sciences. - Krasnodar - 2016 .-- p. 13. (23 p.).