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## DISTINCTIVE FEATURES OF THE REVIEW OF JUDICIAL ACTS AS AN IMPORTANT GUARANTEE OF ENSURING THE RIGHTS OF PERSONS PARTICIPATING IN A CASE IN ADMINISTRATIVE COURT PROCEEDINGS

**Boltaev Asliddin Azimovich**

Independent researcher

Law Enforcement Academy

**Abstract.** This paper analyses the legal nature of the institution of the review of judicial acts in ensuring the rights and legitimate interests of persons participating in a case, together with its place and significance as a system comprising the appellate, cassation and supervisory (revision) stages. On the basis of the norms of national legislation, the paper examines the operating mechanism of this institution and reveals its role within the system of procedural guarantees. Particular attention is devoted to the questions of ensuring the lawfulness and well-foundedness of judicial practice through the review of lower-court decisions, and the distinctive features of the mechanisms for reviewing judicial acts in the administrative court systems of foreign States are examined on the basis of a comparative-legal analysis. The respects in which these mechanisms are similar to, and differ from, national legislation are also revealed.

**Keywords.** Administrative court proceedings, persons participating in a case, review of judicial acts, appellate instance, cassation instance, supervisory (revision) procedure, judicial oversight, the principle of lawfulness, the administration of justice, comparative-legal analysis.

In administrative court proceedings, one of the important guarantees of ensuring the rights and obligations of the persons participating in a case is the institution of the review of judicial acts. Although the rights and obligations of the parties are established in legislation, there must be an effective mechanism of oversight to ensure that they are actually secured and that the courts comply with these requirements. This oversight function is performed by the institutions for reviewing cases in the appellate, cassation and supervisory (revision) procedures.

The establishment of the rights and obligations of the persons participating in a case in the legislation on administrative court proceedings does not in itself mean that their rights and interests are fully reflected; what is also of importance is the courts' compliance with them. For this, a clearly structured institution of oversight is of considerable importance. Under the legislation in force, this matter is given effect through the institution of the review of judicial acts.

In administrative court proceedings, ensuring effective procedural oversight of the activities of the courts of first instance is of considerable importance for protecting the rights and legitimate interests of the persons participating in a case. This oversight is carried out mainly through the institution of the review of judicial acts. The principal task of this institution is not merely to set aside or vary the decisions of lower courts, but to



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verify that the norms of legislation have been correctly applied in the proceedings, that the procedural rules have been observed, and that the rights of the persons participating in the case have been fully ensured.

Under the national legislation in force, the system for reviewing judicial acts is structured as a three-tier structure comprising the appellate instance, the cassation instance, and review under the supervisory (revision) procedure. Each of these stages has its own procedural functions, enabling the lawfulness and well-foundedness of court decisions to be verified at differing levels. In particular, the appellate-instance court has the power to review both the factual circumstances established by the court of first instance and its legal conclusions, and it re-examines the case fully on the merits. The cassation instance, by contrast, is aimed mainly at verifying whether the norms of law have been correctly applied, and is directed at identifying legal errors rather than at re-assessing factual circumstances. Review under the supervisory (revision) procedure, in turn, ordinarily manifests itself as an extraordinary oversight mechanism aimed at eliminating serious legal errors committed in court decisions.

From this standpoint, the institution of the review of judicial acts is an important legal mechanism that serves not only as a means of ensuring the administration of justice, but also to shape lawfulness and a uniform practice of applying the law within the judicial system. Through this institution, the higher-instance courts carry out systematic oversight of the activities of the lower courts, eliminate procedural errors, and achieve reliable protection of the rights of the persons participating in a case.

From a comparative-legal standpoint, many foreign States likewise have a similar multi-tier system of oversight that simultaneously performs the tasks of ensuring the stability of court decisions and of establishing effective oversight of their lawfulness.

The legal systems of foreign States provide for either two-tier (Austria, Bulgaria, Cyprus, the Czech Republic, Finland, Croatia, Italy, Lithuania, Luxembourg, the Netherlands, Poland, Slovenia) or three-tier (Germany, Denmark, Estonia, Spain, France, Greece, Hungary, Ireland, Latvia, Norway, Portugal, Sweden) court instances for judicial oversight in the field of administrative law [1]. In order to understand the essence of this internal procedural system more deeply, it is of considerable importance to undertake a comparative analysis of how it has taken shape in the legal systems of various States. In particular, the experience of foreign States shows that, while administrative judicial oversight is carried out in various countries through a two- or three-tier system of instances, in certain cases a simplified single-tier model is also applied; yet even in such systems there exist alternative and extraordinary procedural mechanisms for reviewing decisions.

The principal task of the higher-instance courts is to verify the lawfulness and well-foundedness of the decisions adopted by the courts of first instance. Under the legislation of Uzbekistan, the persons participating in a case, as well as persons in respect of whose rights and obligations a decision has been adopted but who were not joined to the case, also have the right to lodge a complaint. This serves to ensure persons' constitutional right to judicial protection.



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In the practice of foreign countries, the right to lodge a complaint is interpreted broadly and liberally. For example, in the German legal system not only the principal parties to a case, but also third persons who participated in the case, are deemed to have the right to lodge an appeal where they consider that their rights and legitimate interests have been violated [2]. In the practice of some States there is an even broader approach, whereby even the party that prevailed in the case has the opportunity to apply to a higher-instance court if it does not agree with the legal reasoning or motivation in the court's decision [3]. These circumstances show that the powers of the higher-instance courts are not confined to verifying the outcome of the court's decision, but also encompass such aspects as its legal grounds, the assessment of the evidence, and the correct application of the norms of law.

In exercising the right to lodge a complaint, the requirements as to the form and content of the complaint are also of considerable importance. Under national legislation, the complaint must indicate the name of the court, information about the parties, the particulars of the decision being challenged, the grounds on which the decision is considered to be incorrect, and the documents enclosed. In foreign States, formal conditions similar to these requirements are likewise established, and they serve the effective consideration of the complaint.

The analyses show that Uzbekistan is among the States that, at the appellate and cassation stages, afford the opportunity to review both the legal and the factual aspects of a case. The appellate-instance court may verify new evidence, establish new facts, and re-assess the decision of the court of first instance in full. This expands the opportunity to protect the rights of the parties fully.

At the same time, the content of proceedings under the supervisory (revision) procedure is somewhat different: at this stage, what is verified is mainly whether the norms of law have been correctly applied and whether the procedural requirements have been observed. That is, at this stage it is not new evidence or facts but questions of the application of the law that are analysed. In this respect, it can be seen that the legislation of Uzbekistan contains two distinct models for considering a case at the higher instances—one based on legal-and-factual review and the other on legal review alone.

In the experience of foreign States, a procedure of obtaining special leave to apply to the higher-instance courts is also widely used. Such a mechanism is aimed at protecting the higher courts from an excessive caseload and at directing them towards considering legal questions of general significance. In some States, the substantial legal significance of the case, or the need to ensure a uniform approach in judicial practice, is established as the principal criterion for admitting a complaint [4]. The essence of this mechanism is not to restrict the simple right to complain, but to perform the function of a procedural filter directed at the rational organisation of the judicial system. That is, not every decision is automatically afforded the opportunity to proceed to a higher court; rather, only cases of a certain legal significance are advanced to the higher tier.

The first important purpose of this approach is to protect the higher-instance courts from an excessive caseload. If every case were automatically to proceed to appeal or

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cassation, excessive pressure would arise within the judicial system and attention to important cases would diminish. For this reason, through the “leave procedure”, only the necessary cases are selected.

The second aspect is ensuring uniformity in judicial practice. That is, the higher courts deal only with cases of particular significance, in which the norms of law may be interpreted differently or in which there is a need to create a precedent. This ensures stability and certainty in the application of the law. Thirdly, in this system the “right to complain” manifests itself not as an absolute right but as a conditional one. That is, in order to complain it is not sufficient merely to express dissatisfaction; rather, the legal significance of the case, the existence of a new legal question, or the existence of an inconsistency in practice must be adduced as a ground [5].

In the system for reviewing court decisions, the institution of representation in court is also of particular importance. In the majority of European States, participation through an advocate is mandatory in the higher-instance courts. This serves to conduct legal disputes at a professional level, to prevent procedural errors, and to ensure the effectiveness of the proceedings. In the legislation of Uzbekistan, by contrast, participation through a representative is a right. However, taking into account the legal complexity of cases at the higher instances, it would be expedient to make the participation of an advocate mandatory.

In conclusion, the distinctive features of the review of judicial acts as an important guarantee of ensuring the rights of the persons participating in a case in administrative court proceedings consist in the fact that this institution manifests itself as a refined procedural mechanism aimed at effectively restoring the violated rights and legitimate interests of persons. Through this institution, the necessary legal conditions are created for eliminating the legal and procedural errors that may be committed by the courts of first instance, for verifying all the circumstances of the case fully, impartially and comprehensively, and for adopting just and well-founded court decisions. At the same time, through the stages of the review of judicial acts (appellate, cassation and supervisory/revision), an effective system of oversight of the lawfulness and well-foundedness of a case is formed.

The results of the comparative-legal analysis show that, in the administrative court systems of various States, the higher-instance courts not only perform an oversight function, but also carry out the tasks of applying the norms of law uniformly, ensuring stability in judicial practice, and strengthening legal certainty. From this standpoint, it is of pressing importance, in national legislation, further to clarify the powers of the higher-instance courts and to improve the scope of their powers on the basis of modern standards. Likewise, simplifying the mechanisms of complaint, optimising procedural obstacles, and improving the time limits and procedures for considering complaints will further expand the opportunities to make use of judicial protection. In addition, strengthening professional representation in the higher-instance courts—in particular, effectively establishing the participation of advocates—will serve to enhance the quality of the proceedings. As a result, reforms in this direction will serve to enhance the effectiveness of judicial



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protection, to ensure the lawfulness, stability and reliability of court decisions, and further to strengthen the principles of administrative justice.

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