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THE CONCEPT OF A COLLECTIVE COMPLAINT IN ADMINISTRATIVE COURT PROCEEDINGS AND ITS DISTINCTIVE FEATURES

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Abstract. This paper analyses the legal nature, concept and distinctive features of the institution of the collective complaint in administrative court proceedings. It examines the significance of the collective complaint in protecting the rights and legitimate interests of citizens and legal entities before the administrative courts, the respects in which it differs from procedural joinder, and the grounds for its application. The paper further undertakes a comparative-legal analysis of the norms of the administrative procedural legislation in force, national judicial practice, and foreign-State experience in the legal regulation of the institution of the collective complaint. On the basis of the findings, the author formulates scholarly conclusions and legislative-development proposals directed at the effective introduction of the institution of the collective complaint in administrative court proceedings and at improving its procedural mechanisms.

Keywords. Administrative court proceedings, collective complaint, administrative dispute, applicant, respondent, public-law relations, collective interest, opt-in model, opt-out model, judicial protection, comparative-legal analysis, administrative procedural legislation, judicial practice.

In administrative court proceedings, the analysis of the forms in which several applicants and respondents may participate is of considerable importance in determining the legal status of the persons taking part in the case. In modern administrative procedural law, these relations are regulated not only through the traditional institution of joinder of parties, but also by means of the collective-complaint (class action) mechanism.

The fact that the Concept for Improving the Legislation on Administrative Court Proceedings, approved by Resolution of the President of the Republic of Uzbekistan No. PQ-33 of 30 January 2025, sets the task of introducing a procedure for filing collective applications with the administrative courts demonstrates the relevance of this institution for the national legal system.

Pursuant to Article 41 of the Code on Administrative Court Proceedings (CACP) in force, a claim may be brought jointly by several applicants or against several respondents. In such cases, each participant takes part in the proceedings independently and exercises its rights and obligations independently. This rule reflects the existence of the institution of joinder of parties in administrative court proceedings.

However, the institution of the collective complaint differs substantially from joinder of parties in its legal nature and functions. Whereas in joinder of parties the circle of participants is determined in advance, in a collective complaint the circle of persons whose rights have been violated may be indeterminate or broad in scope. In this respect,



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the collective complaint manifests itself as a procedural mechanism aimed at protecting the interests not of specified persons but of a wide group of persons in a similar legal situation.

The history of the institution of the collective complaint traces back to representative actions in English law. Its modern model took shape in the United States Federal Rules of Civil Procedure adopted in 1938. The institution was subsequently transposed into the legal systems of European States, the countries of Latin America, and certain Asian States [1].

At present, collective complaints are widely used in such areas as the protection of consumer rights, environmental protection, mass violations in the construction sector, antimonopoly relations, and the protection of the rights of financial-market participants. For example, the proceedings brought against the Volkswagen group, and the collective claims considered in the United Kingdom against Mastercard, have vividly demonstrated the practical significance of this institution [2].

Although the legal literature offers various definitions of the collective complaint, their common content is grounded in the idea of judicial protection of the shared legal interests of a group of persons. An analysis of the scholarly sources shows that the collective complaint is characterised by the following features:

- the existence of a group of persons whose rights have been violated;
- the commonality of the subject matter and grounds of the dispute;
- the unity of the respondent;
- the uniformity of the method of protecting the rights;
- the existence of a representative who conducts the case on behalf of the group.

One of the important features of collective complaints is the manner in which the composition of participants is formed. In foreign States, two principal models are applied in this regard.

The first model is the “*opt-in*” (entry) model, under which a person must specifically express consent in order to participate in the proceedings [3]. The “*opt-in*” model is one of the most widespread forms of the institution of the collective complaint. Its essence is that, in order to take part in a collective complaint, a person whose rights have been violated must specifically express his or her will. In other words, a person is not automatically recognised as a member of the group, but joins it by submitting a corresponding application to the court or to the group representative.

The principal advantage of this model lies in safeguarding the procedural independence of the person, since each person independently decides the question of whether or not to participate in the collective complaint. This guarantees the person’s right freely to choose the manner of protecting his or her rights and interests, and makes it possible to give informed consent to the application of the court’s decision to him or her. At the same time, the “*opt-in*” model makes it possible to define precisely the circle of participants in the proceedings. As a result, the court precisely determines the actual participants in the case, their legal status, and the scope of their claims. This is of



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considerable importance from the standpoint of ensuring the enforcement of the court's decision and of exercising procedural rights.

For this reason, in many States—particularly in legal systems where the institution of the collective complaint is newly being introduced—the “*opt-in*” model is regarded as the most appropriate means of ensuring legal certainty and procedural guarantees. In the author's view, when the institution of the collective complaint is introduced in Uzbekistan as well, it would be expedient to apply precisely this model at the outset, since, while ensuring the person's right to make use of judicial protection on the basis of the principle of voluntariness, it makes it possible to develop the practice of considering collective complaints in a phased manner.

The second model is the “*opt-out*” (exit) model, under which all persons meeting the established criteria are automatically deemed members of the group and acquire the right to exit only if they do not wish to participate [4]. The “*opt-out*” model is a distinctive form of the institution of the collective complaint, in which persons whose rights have been violated are not required to give separate consent in order to join the group. If a person meets the criteria established by law or by the court, he or she is automatically deemed a member of the group, and the results of the collective complaint apply to that person as well. In such a case, only if a person does not wish to participate in the collective proceedings must he or she express the intention to exit within the established period [5].

The principal advantage of this model is explained by its high degree of coverage, since the majority of persons whose rights have been violated in the same manner may have no information about the collective complaint. The “*opt-out*” model, by automatically including such persons within the group, expands the possibility of protecting their rights. As a result, the court's decision applies to a broader circle of persons, and the social effectiveness of the collective complaint increases.

However, the “*opt-out*” model also gives rise to certain procedural problems. In particular, some persons may be unaware that they have been recognised as participants in the collective complaint. This gives rise to contentious situations from the standpoint of the person's procedural autonomy and right to take part in the proceedings. Likewise, the arising of legal consequences for persons who did not participate in the case or did not express their position is criticised by some scholars.

For this reason, many European States apply this model with caution or confine it to particular areas. In the legal system of the United States, by contrast, the “*opt-out*” model is regarded as the principal element of the classic collective-complaint mechanism and is widely used. In the legal systems of many European States and the Russian Federation, it is precisely the “*opt-in*” model that is observed to be applied. This approach ensures the person's right to take part in the proceedings on the basis of the principle of voluntariness.

One of the important elements of the institution of the collective complaint is the mechanism of representation. The person acting on behalf of the group carries out all procedural acts, takes part in the proceedings, submits evidence, and has the right to appeal against decisions. At the same time, the other members of the group retain such rights as familiarising themselves with the case materials and attending court hearings.



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The scholarly literature contains differing approaches to the procedural nature of collective complaints. Some scholars regard this institution as a complicated form of joinder of parties, while others consider it an independent procedural institution. In the author's view, the collective complaint is not a simple variety of joinder of parties, but an independent procedural mechanism aimed at protecting the interests of numerous persons whose rights have been violated [6].

In the field of administrative court proceedings, collective complaints are of particular importance for cases connected with challenging normative legal acts, since such acts are, as a rule, applied not to a specific person but to a wide circle of subjects. For this reason, the outcome of a dispute initiated by one person also affects the legal situation of other persons.

An analysis of foreign-State experience shows that the institution of the collective complaint serves to reduce the caseload of the administrative courts, to resolve similar disputes within a single case, and to shape a uniform practice of court decisions. The institution likewise serves to strengthen public oversight of the activities of State bodies and to expand citizens' access to judicial protection.

On the basis of the research findings, the following author's definition of the collective administrative complaint may be proposed:

A collective administrative complaint is a procedural claim brought before a court against a single respondent on a single legal ground and a common subject matter of dispute by persons who are participants in administrative or other public-law relations, for the purpose of protecting the rights and legitimate interests of an indeterminate or numerous group of persons.

In the author's view, the introduction of the institution of the collective complaint in Uzbekistan could be especially effective in the following areas:

- urban-planning and construction relations;
- the protection of environmental rights;
- disputes connected with the expropriation of land plots;
- violations in the field of utility services;
- complaints concerning the activities of monopoly organisations;
- cases challenging normative legal acts.

In conclusion, the institution of the collective complaint is a modern procedural institution directly connected with the legal status of the persons participating in administrative court proceedings. It differs from traditional joinder of parties by the indeterminacy of the circle of participants, the existence of a mechanism of representation, and its orientation towards protecting broad collective interests. For this reason, the phased introduction of this institution into national administrative procedural legislation will serve to enhance the effectiveness of the judicial protection of citizens' rights.

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