THE INSTITUTION OF CONFISCATION IN THE ADMINISTRATIVE LAW OF THE REPUBLIC OF UZBEKISTAN: LEGISLATIVE PROBLEMS AND PROSPECTS FOR IMPROVEMENT

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Abstract. This article provides an in-depth analysis of the legal nature and practical application of the institution of confiscation within the national legislation on administrative responsibility. It highlights the distinction between the seizure of items withdrawn from circulation and administrative confiscation, methodological gaps in maintaining judicial statistics, and institutional problems at the execution stage of the penalty. Based on a comparative study of foreign experience, scientific and practical proposals have been developed aiming at guaranteeing property rights, differentiating administrative sanctions, and improving interagency cooperation during the confiscation process.

Key words: administrative responsibility, confiscation penalty, items withdrawn from circulation, judicial statistics, property rights, administrative sanctions, law enforcement.

Pursuant to Article 27 of the Code of Administrative Responsibility of the Republic of Uzbekistan, confiscation constitutes the uncompensated, compulsory transfer of property into state ownership. This punitive measure is exclusively imposed by a district (city) criminal court.

Research findings indicate that, within the framework of national legislation, the legal institution of confiscation is predominantly oriented toward protective and preventive functions rather than acting merely as a penal sanction. Nevertheless, within the realm of administrative law, this institution continues to retain its traditional status as a penalty. Such a dichotomous regulatory approach constitutes a primary factor precipitating various practical impediments and legal conflicts in the application of the law.

Article 3.7 of the Code of Administrative Offences of the Russian Federation explicitly stipulates that the seizure from an offender's unlawful possession of items withdrawn from civil circulation, as well as the seizure of items subject to transfer into state ownership or destruction, does not constitute confiscation.[1]

The current Code of Administrative Responsibility of Uzbekistan lacks such a differentiating provision. Consequently, an internal statutory contradiction arises within Article 27 of the Code. On the one hand, the confiscation of items not constituting the private property of the offender is prohibited. On the other hand, the law sets forth an exception for items withdrawn from civil circulation. This creates the legal presumption that a penal sanction is levied against property not lawfully owned by the individual.

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[1] Code of Administrative Offences of the Russian Federation No. 195-FL of December 30, 2001, Art. 3.7. Available at: https://www.consultant.ru/document/cons_doc_LAW_34661/ (accessed: July 3, 2026).

Fundamentally, an item withdrawn from civil circulation cannot constitute an object of private ownership. Its transfer to the state domain inherently serves as a security measure rather than a penal sanction.

Consequently, we deem it expedient to introduce a distinct provision into Article 27 of the Code of Administrative Liability, stipulating that the seizure of items withdrawn from circulation from unlawful possession shall not constitute confiscation. This amendment will eliminate the logical contradiction within the statutory provision and ensure the objectivity of judicial statistical reporting.

Judicial statistical indicators are of paramount importance in evaluating the application practice of the penalty of confiscation. According to the statistical data of the Supreme Court of the Republic of Uzbekistan, the number of individuals subjected to administrative penalties nationwide has nearly doubled, rising from 269,026 in 2020 to 509,146 in 2025. During this period, the penalty of a fine was imposed upon 233,308 individuals in 2020 and 415,531 individuals in 2025. Conversely, a starkly different trend is observed in the dynamics of applying the penalty of item confiscation. This specific type of penalty was imposed on 15 individuals in 2020, 0 in 2021, 36 in 2022, 51 in 2023, 42 in 2024, and 107 individuals in 2025.[2]

Although the penalty of confiscation is prescribed in the sanctions of approximately 70 articles within the Special Part of the Code, the share of this measure within the overall structure of penalties remains exceedingly low.

This stark discrepancy between the statutory framework and enforcement practice can be attributed to the following factors:

The first factor pertains to the methodology of statistical record-keeping. In the sanctions of the Special Part of the Code of Administrative Liability, confiscation is predominantly prescribed as an ancillary penalty, typically formulated as “shall entail the imposition of a fine with the confiscation of the instruments of the offense.” Consequently, judicial statistics solely register the principal penalty imposed on an individual (such as a fine or administrative detention), whereas confiscation, applied as an ancillary measure, remains unaccounted for as a separate metric.

The second factor entails the challenge of demarcating substantive and procedural legal norms, as analyzed supra. In practice, illicit items, such as narcotics or illegal hunting firearms, are largely disposed of as physical evidence under procedural regulations. Formally, the administrative penalty of confiscation is not imposed with respect to such items.

Based on the foregoing, it can be concluded that the current judicial statistics fail to accurately reflect the actual scope of confiscation. This constitutes a severe institutional deficiency. From a theoretical and practical standpoint, it is impossible to evaluate the proportionality and the deterrent effect of a penalty when the prevalence of its application remains indeterminate.

[2] Judicial Statistics on Criminal Cases of the Supreme Court of the Republic of Uzbekistan: Data Compilations on the Results of 2021–2025 // Electronic source: https://sud.uz (accessed: 03.07.2026).

In this regard, we deem it expedient to introduce a mechanism within judicial statistical reporting frameworks to separately account for instances where confiscation is applied as a principal or an ancillary penalty. Furthermore, it is imperative to establish a practice of openly publishing such statistical data, disaggregated by geographic regions and specific articles of the Code.

A comparative analysis reveals several legal complexities pertaining to the imposition of the penalty of confiscation. Specifically, S.N. Keramova delineates four primary issues associated with the application of confiscation within Russian enforcement practice:

1. the preclusion of confiscation when the offender lacks title to the subject property. Consequently, the item is returned to its lawful owner, thereby allowing the offender to evade liability;

2. the impermissibility of subsequent confiscation due to protracted forensic examination procedures;

3. the discretionary power vested in enforcement authorities regarding the imposition of confiscation, which engenders disparate adjudicatory approaches to identical categories of offenses;

4. the legal distinction in specific statutory offenses (e.g., copyright infringement) whereby the seizure of counterfeit goods does not legally constitute confiscation. To remedy these deficiencies, the scholar advocates codifying a procedural mechanism to ascertain the legal grounds upon which the offender acquired the property subject to confiscation.[3]

Conversely, V.I. Salny examines the matter through the lens of constitutional law. He asserts that any restriction of property rights is permissible exclusively through court-ordered confiscation.[4] For instance, Resolution of the Constitutional Court of the Russian Federation No. 6-P, dated April 25, 2011, affirmed the impermissibility of confiscating an instrument of an offense from a non-owner. In the context of customs offenses, however, the confiscation of property from a non-owner is permissible strictly upon the concurrent fulfillment of three conditions:

1. the lawful transportation of the goods across the customs border;
2. the definitive identification of the parties involved in the legal relationship;
3. the absence of evasion by the property owner in fulfilling their obligations under national jurisdiction.

Furthermore, we deem it expedient to implement into national legislation the doctrinal proposal regarding the ascertainment of the source of the property subject to confiscation. Specifically, prior to the judicial imposition of the penalty of confiscation, verifying the offender's legal title to the subject property must be established as a mandatory procedural prerequisite. In instances where title to the item is unsubstantiated,

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[3] Keramova, S.N., "Certain specificities of imposing the administrative penalty in the form of confiscation of the instrument or subject of an administrative offense," *Zakon i Pravo* [Law and Right], no. 9, 2020, pp. 172–174.

[4] Salny, V.I., "Certain issues of property confiscation in the system of administrative penalties," *Innovatsionnaya Nauka* [Innovative Science], no. 4-2, 2023, pp. 101–103.

provided the item has not been withdrawn from civil circulation, the property must be returned to its lawful owner. Consequently, it is proposed that an enhanced fine be imposed upon the offender in lieu of the proprietary penalty. Otherwise, a distinct risk emerges within enforcement practice wherein the offender may entirely evade legal liability.

Divergences also exist between foreign and national practices concerning the statutory construction of sanctions. For instance, as S.N. Keramova asserts, vesting the application of confiscation within the discretionary purview of enforcement authorities engenders adverse consequences. Specifically, the disparate imposition of sanctions for identical categories of offenses by various agencies and public officials generates legal uncertainty and corruption-conducive factors.[5]

Under the legislation of Uzbekistan, this matter is governed by imperative norms. Given that the formulation “with confiscation” is strictly mandated within the sanctions of the Code of Administrative Liability, the adjudicator is strictly bound to impose the penalty of confiscation irrespective of the nature of the offense, the personal characteristics of the offender, or the value of the subject property.

In investigating this issue, the conceptual views of N.A. Ivankova regarding administrative penalties were adopted as a theoretical foundation. The author emphasizes the criticality of equity and the individualization of punishment in the imposition of penalties. In her view, rigidly mandated (non-alternative) sanctions frequently lack proportionality to the committed offense. Consequently, she advances the concept of employing specific indicators (coefficients) that evaluate mitigating and aggravating circumstances when determining the quantum of punishment.[6]

While this academic analysis is well-founded, the application of the proposed mathematical calculus model to the institution of confiscation is subject to specific legal constraints. A coefficient-based system may prove efficacious for quantifiable penalties, such as a fine. However, for a penalty type like confiscation, which is intrinsically contingent upon the nature and value of the subject property, a mathematical formula cannot fully ensure the principle of individualization.

Analytical findings suggest that the resolution to this issue lies in structuring sanctions upon the premise of differentiated imperativeness. Specifically, regarding items with restricted civil circulation or those posing a direct threat to public safety (such as narcotics, prohibited hunting firearms, and substandard pharmaceuticals), the measure of confiscation must retain its mandatory character. Conversely, within the sanctions of all remaining articles of the Code of Administrative Liability, it is expedient to prescribe this type of penalty as an alternative, formulated as “with or without confiscation.” In this context, the adjudicator must be granted discretionary authority based on the general

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[5] Keramova, S.N., "Certain specificities of imposing the administrative penalty in the form of confiscation of the instrument or subject of an administrative offense," *Zakon i Pravo* [Law and Right], no. 9, 2020, p. 173.

[6] Ivankova, N.A., "Problems of applying administrative penalties and ways to improve legislation," *Voprosy Rossiyskoy Yustitsii* [Issues of Russian Justice], no. 7, 2020, pp. 618–625.

principles of penalization. Such an approach will preclude various ambiguities within enforcement practice.

Issues arising at the post-adjudicatory enforcement stage necessitate a distinct analysis. E.E. Novichkova and S.I. Ivanova examined the organizational model for the execution of confiscation orders in the Russian Federation. The scholars observe that enforcement powers are fragmented among court bailiffs and other administrative agencies. Substantial regulatory lacunae exist, particularly concerning perishable goods. Officials of the agency that effected the seizure resolve the matter of the item's destruction prior to the issuance of a judicial decision. Consequently, by the time the confiscation order is transmitted to the enforcement officer, the subject property itself no longer exists, thereby excluding the enforcement service from the proceedings. To remedy this issue, the authors propose the implementation of an interagency coordination mechanism that ensures all participating entities maintain a vested interest in the ultimate outcome.[7]

Under national legislation, the disposition of confiscated property is governed by the Regulation approved by Resolution No. 200 of the Cabinet of Ministers, dated July 15, 2009.[8] However, this regulatory act fails to comprehensively encompass the legislative amendments introduced to the institution of confiscation between 2021 and 2022. Specifically, procedural safeguards pertaining to the pre-trial valuation of perishable goods, the retention of evidentiary samples, and the video recording of the proceedings must be codified at the statutory level. Furthermore, it is imperative to explicitly delineate the procedure for placing funds derived from the liquidation of such assets in escrow, pending a final judicial decision. Additionally, it is highly expedient to articulate the jurisdictional boundaries among the Bureau of Compulsory Enforcement, internal affairs bodies, customs authorities, and environmental agencies during the execution of confiscation within a unified statutory norm. Absent such measures, the aforementioned conflict of jurisdictions and the attendant risk of non-execution of judicial rulings may evolve into a systemic defect within national enforcement practice.

Broadly construed, to refine the legal institution of confiscation, it is imperative to introduce a statutory provision that distinguishes the seizure of items withdrawn from civil circulation from confiscation imposed as a penalty; to establish a mechanism for the discrete accounting of this penalty within judicial statistics; and to mandate the verification of legal title as a procedural prerequisite during the pre-trial phase. Furthermore, reclassifying confiscation into an alternative sanction for offenses posing no direct threat to public safety—thereby affording adjudicators the discretion to apply an individualized approach—alongside the explicit statutory codification of interagency coordination and jurisdictional boundaries among competent authorities at the enforcement stage, constitutes

[7] Novichkova, E.E., Ivanova, S.I., "Specificities of executing rulings on administrative offense cases regarding the confiscation of certain subjects of an administrative offense," // Electronic source: https://cyberleninka.ru/article/n/osobennosti-ispolneniya-postanovleniy-po-delam-ob-administrativnyh-pravonarusheniyah-o-konfiskatsii-nekotoryh-predmetov (accessed: 03.07.2026).

[8] Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 200, dated July 15, 2009, "On improving the procedure for the seizure, realization, or destruction of property subject to transfer into state revenue" // Electronic source: https://lex.uz/ru/docs/-1498826 (accessed: 03.07.2026).

the paramount solution for resolving extant contradictions and lacunae within the current legislative framework.