



STAGES OF LEGISLATION DEVELOPMENT REGARDING COURT REVIEW OF DISPUTES REGARDING THE ACTIONS (DECISIONS) OF ELECTION COMMISSIONS

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ABSTRACT

According to the legislation of Uzbekistan, the electoral rights of citizens are guaranteed and this guarantee can be implemented in two ways. These are administrative and judicial protection. Protection of citizens' electoral rights in court, more precisely in administrative court, is aimed at restoring rights violated as a result of illegal actions and decisions of election commissions. The procedure for hearing cases in court regarding the actions (decisions) of the election commission has a history of effective development. In this article, the development of the court consideration of disputes over the actions (decisions) of election commissions is analyzed by periods, their specific features are justified, and noteworthy aspects for its further development are proposed.

One of the main characteristics of a democratic legal state is the existence of electoral rights for its citizens based on the principles of legality and justice and the guarantee of a mechanism for their reliable protection. One way to ensure such a right is to appeal against illegal actions (decisions) of the election commission, through which citizens will have the opportunity to restore their violated electoral rights. In our national legislation, there are two different ways to restore electoral rights: administrative (appeal to a higher authority) and judicial.

Court consideration of disputes over actions or decisions that violate the rights of citizens, including voting rights, can be divided into the following main stages.

Court cases involving judgments or actions that infringe individuals' rights, particularly the right to vote, can be broken down into the following primary phases. We can consider the Soviet era to be the initial phase.

The colonial authority controlled the elections that were held for the courts during this time¹. The qazi and biy seats may be filled by anybody the colonial government pleased, despite the fact that the "Regulations" of the government required that these positions be filled by a candidate chosen by the electorate. Muhammad Aminkhoja-Mukimi, one of the

¹ S.Tillaboyev, A.Zamonov. O'zbekiston tarixi (XIX asrning ikkinchi yarmi — XX asr boshlari): Mas'ul muharrir: D.A. Alimova. – T.: «Sharq», 2019. – P 54.



most significant writers of Uzbek national literature during the final quarter of the 19th and the beginning of the 20th centuries, also makes reference to this in his comic book "Saylov." The project demonstrates the flimsy nature of the "elections" conducted under the direction of colonial tsarist officials.

A system of judicial protection for people's electoral rights was established with the introduction of the USSR Constitution in 1936. The wrong way the voter list was compiled, for instance, gave citizens the opportunity to appeal to the court.

The procedure for judicial protection of election rights underwent additional change after the 1977 Constitution was adopted. Citizens now have two courtroom settings where they can defend these rights (first instance and cassation instance).

If we focus on the following phase, we can speak about the time frame that spanned the independence of the Republic of Uzbekistan and the June 1, 2017, implementation of administrative courts. Several election-related legislative acts are currently in effect, and this time period is distinguished by the introduction of a defined process for filing a judicial appeal against the unlawful actions (decisions) of the election commission. Every citizen in the Republic of Uzbekistan is guaranteed the right to legal protection of his electoral rights, as well as the opportunity to file a court appeal against the improper actions of election commissions, state entities, officials, and public associations, in particular under Article 20 of the law titled "On Guarantees of Citizens' Voting Rights."

The process for filing an appeal to the court against the actions or decisions of the election commission is generally set forth

in the same manner in election laws, and its content is as follows: "Within ten days of the decision being made, the election commission's decisions may be appealed to the higher election commission or the court. After the Central Election Commission's judgment, you have ten days to appeal to the Supreme Court. If there are fewer than six days to the election, complaints shall be taken into account right away within three days of receipt." The Law "On Appealing to the Court against Actions and Decisions Violating the Rights and Freedoms of Citizens" (in effect from August 30, 1995 to November 18, 2018) was put into effect during this time. On the basis of the Supreme Court Plenum's decision "On the practice of hearing complaints in courts against actions and judgments that infringe the rights and freedoms of citizens"² only this statute was further clarified, and the following provision is quoted in paragraph 5 of that decision:

"5. In accordance with the aforementioned law, those who hold positions permanently or temporarily related to the performance of organizational management and administrative-economic obligations in state bodies, self-government bodies, enterprises, institutions, and organizations regardless of the form of ownership, cooperatives, public organizations, and associations, or are specifically authorized to perform such obligations, can appeal to the court against the action."

According to this standard, officials who work either permanently or temporarily for other businesses, institutions, organizations, or groups also

² <https://lex.uz/docs/1442041?ONDATE=19.07.1996>



have the right to challenge decisions and actions that infringe citizens' rights and freedoms in court. It is acknowledged that election commissions are likewise subject to criticism. After all, election commissions are bodies that exercise organizational management authority in permanent and temporary election processes.

A distinctive feature of this period from the following periods is the issue of jurisdiction of such disputes, which until June 1, 2017, were heard by civil courts.

The issue of jurisdiction over such conflicts, which up until June 1, 2017, were heard by civil courts, distinguishes this period from the ones that followed it.

Administrative courts started operating locally on June 1, 2017, following President Shavkat Mirziyoyev's proclamation No. 4966 on February 21, 2017, "On steps to fundamentally enhance the structure of the Republic of Uzbekistan's judicial system and raise the effectiveness of its actions." This can be considered the third occasion that the activities (decisions) of election commissions have been subject to judicial review. Due to the fact that it has been established that issues involving the electoral commission's activities or conclusions are related to administrative courts rather than civil courts as of this time, and such cases are included in the category of disputes arising from public-legal relations³.

The hearing process for disputes arising from the actions (decisions) of the electoral commission was governed by independent legislation as of April 1, 2018, with the introduction of the Code of Conduct of Administrative Court

Proceedings. It is appropriate to view this as the next stage of court consideration of disputes relating to the actions (decisions) of election commissions, even though the practical significance of this is that the consideration of administrative cases by courts is not based on the civil procedural law, but is instead regulated by a separate procedural law on conducting administrative cases. It isn't. Because the requirements are nearly identical to the prior legislation, even if the procedural process for resolving such conflicts is governed by distinct legislation. The court must submit complaints against the actions (decisions) of the election commission no later than three days after the date of the complaint, according to the Code of Civil Procedure (Article 272) and the Code of Administrative Court Proceedings (Article 242), both of which are in effect until April 1, 2018. that if there are less than six days until the election, it should be considered right away; the court should consider the complaint after summoning the applicant, the representative of the relevant election commission, and the prosecutor; if the complaint involves another citizen instead of the applicant, it should also involve that citizen; their absence does not prevent the case from being considered and as soon as the court's decision is issued it is set to be submitted immediately to the relevant election commission and to the applicant. In the fourth stage, we can include the adoption of the law No. ORQ-670 dated February 8, 2021.

It is true that a new Election Code was adopted on June 25, 2019, and that election laws were codified. However, in this instance, disagreements over the actions and judgments of election commissions followed the same pattern as

³ <https://lex.uz/mobileact/1442041>



under the previous legislation, i.e., the following rule was in effect during both times: "A superior may file an appeal against the election commissions' rulings with the election commission or with the court within ten days of the adoption of these decisions. Within 10 days following the Central Election Commission's ruling, an appeal may be filed with the Supreme Court. Within three days of receipt and at least six days before the election, complaints must be reviewed right away. The right to personally participate in the complaint review is granted to the complainant."

The administrative process for contesting the decisions of the election commission, i.e., the appeal to the higher election commission, was abolished on February 8, 2021, and the window for filing an appeal to the court was shortened with the adoption of the Law "On Amendments and Additions to the Election Code of the Republic of Uzbekistan." According to the law as it stands right now, an appeal of an election commission judgment can only be made to the court within five days of the decision being made. Based on the final report issued by the Bureau for Democratic Institutions and Human Rights (DIIHB) about the parliamentary elections on December 22, 2019, we believe that this method complies with international standards. According to this report: "... this could lead to long-lasting disputes about the legitimacy of the election and the results. It is necessary to consider the issue of reducing the period of complaints in accordance with international model practices."

Due to the two options for appealing district election commission and precinct election commission rulings (court or

higher election commission), there is confusion, courts and commissions are overburdened with frequent appeals, and punishments and verdicts are unjust and inconsistent.

The two-way appeal mechanism needs to be updated to avoid the potential of repetitive appeals, inconsistent decisions, and contradicting penalties⁴.

To sum up, even if the process for hearing appeals of the electoral commission's acts (decisions) during these times has a history of successful development, it is noteworthy that some of the factors mentioned above weren't taken into account. In this situation, it will be reasonable to draw on foreign nations' experience. J. Nematov also stated that the Code of Administrative Court Proceedings should be improved in regards to voting-related issues, and that foreign experience should be sufficiently taken into consideration when enhancing the process for reviewing petitions (complaints) about violations of citizens' voting rights⁵. It is argued that this is simply one component of preserving or restoring citizens' right to vote because the legislation of many nations has provided a clear system for the mechanism of judicial cases addressing the actions (decisions) of election commissions. For instance, Chapter 24 of the Russian Federation's Code of Administrative Court Proceedings, Articles 273-279 of the Ukraine's Code of

⁴ Republic of Uzbekistan, Parliamentary Elections (December 22, 2019) Final Report of the Election Observation Mission. URL: www.osce.org/odihr

⁵ Nematov J. O'zbekistonda fuqarolarning saylov huquqlari buzilganligi to'g'risidagi ariza (shikoyat)larni ko'rib chiqish tartibi (Procedure for consideration of petitions (complaints) about the violation of the electoral rights of citizens in Uzbekistan). YURISPRUDENSIYA. 2021, No. 2. P 14-23.



Administrative Court Proceedings, and Chapter 25 of the Republic of Kazakhstan's Administrative Procedural Code all lay out the legal procedures for defending citizens' rights to vote and participate in referendums. The types of petitioners, the steps and conditions for filing and hearing appeals in court, the ruling, and other matters pertaining to court proceedings are all outlined in depth.

All of this indicates the necessity of further enhancing the process for adjudicating public disputes arising from citizen rights in relation to elections, adjusting electoral legislation to international standards by drawing on the expertise of other nations, and thereby filling any gaps in our domestic legislation.

References:

1. S.Tillaboyev, A.Zamonov. O'zbekiston tarixi (XIX asrning ikkinchi yarmi — XX asr boshlari): Mas'ul muharrir: D.A. Alimova. – T.: «Sharq», 2019. – 160 bet. 54-6er
2. The decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On the practice of hearing complaints in courts against actions and decisions that violate the rights and freedoms of citizens" (Oliy sud Plenumining "Fuqarolarning huquqlari va erkinliklarini buzadigan xatti-harakatlar va qarorlar ustidan keltirilgan shikoyatlarni sudlarda ko'rish amaliyoti to'g'risida"gi qarori)
3. URL: <https://lex.uz/docs/1442041?ONDATE=19.07.1996>
4. Article 2 of the Law of the Republic of Uzbekistan "On Courts" dated 12.04.2017 "On Amendments and Additions to the Civil Procedural and Economic Procedural Codes of the Republic of Uzbekistan" Law No.428 (Oliy sud Plenumining "Fuqarolarning huquqlari va erkinliklarini buzadigan xatti-harakatlar va qarorlar ustidan keltirilgan shikoyatlarni sudlarda ko'rish amaliyoti to'g'risida"gi qarori)
5. URL: <https://lex.uz/mobileact/1442041>
6. Republic of Uzbekistan, Parliamentary Elections (December 22, 2019) Final Report of the Election Observation Mission (Ўзбекистон Республикаси, Парламент сайловлари (2019 йил 22 декабрь) юзасидан ДИИХБ Сайловни кузатиш бўйича миссиясининг якуний ҳисоботи)
7. URL: www.osce.org/odihr
8. Nematov J. O'zbekistonda fuqarolarning saylov huquqlari buzilganligi to'g'risidagi ariza (shikoyat)larni ko'rib chiqish tartibi (Procedure for consideration of petitions (complaints) about the violation of the electoral rights of citizens in Uzbekistan). YURISPRUDENSIYA. 2021, No. 2. P 14-23.
9. Yusupov S. LEGAL REGULATION OF PARLIAMENTARY CONTROL OVER THE STATE BUDGET //International Scientific and Current Research Conferences. – 2021. – С. 159-163.
10. Yusupov S. SOME ISSUES OF PARLIAMENTARY CONTROL OVER THE STATE BUDGET IN THE CONSTITUTION LEGAL ORDER //International Scientific and Current Research Conferences. – 2021. – С. 107-110.
11. Sardorbek Y. ANALYSIS OF PROBLEMS IN THE PROCESS OF PARLIAMENTARY CONSIDERATION OF BUDGET EXECUTION REPORTS IN UZBEKISTAN //Berlin Studies Transnational Journal of Science and Humanities. – 2021. – Т. 1. – №. 1.4 Legal sciences.



12. Юсупов С. Б. COVID-19 ПАНДЕМИЯСИ ДАВРИДА ДАВЛАТ БЮДЖЕТИ УСТИДАН ПАРЛАМЕНТ НАЗОРАТИНИ АМАЛГА ОШИРИШНИНГ ТАШКИЛИЙ-ҲУҚУҚИЙ АСОСЛАРИ //ЮРИСПРУДЕНЦИЯ. – 2021. – Т. 2. – №. 1.
13. Bakhodirovich Y. S. International Legal Bases of Parliamentary Control Over the State Budget: On the Example of Inter-Parliamentary Institutions //International Journal of Development and Public Policy. – 2021. – Т. 1. – №. 6. – С. 130-134.
14. Юсупов С. Б. ДАВЛАТ БЮДЖЕТИ УСТИДАН ПАРЛАМЕНТ НАЗОРАТИ ФАОЛИЯТИНИ ТАКОМИЛЛАШТИРИШНИНГ УСТУВОР ЙЎНАЛИШЛАРИ //ЖУРНАЛ ПРАВОВЫХ ИССЛЕДОВАНИЙ. – 2021. – №. SPECIAL 3.
15. Sardorbek Y. ANALYSIS OF PROBLEMS IN THE PROCESS OF PARLIAMENTARY CONSIDERATION OF BUDGET EXECUTION REPORTS IN UZBEKISTAN //Berlin Studies Transnational Journal of Science and Humanities. – 2021. – Т. 1. – №. 1.4 Legal sciences.
16. Goziev, K. (2021, December). PRINCIPLES OF TAX LEGISLATION. In International Scientific and Current Research Conferences (pp. 9-12).
17. Goziev, K. (2021, November). DEMOCRATIZATION OF STATE POWER AND GOVERNANCE IS AN IMPORTANT CONDITION FOR THE PRINCIPLE OF SEPARATION OF POWERS. In International Scientific and Current Research Conferences (pp. 124-132).
18. Жураев, А. Н. (2021). REPRESENTATIVE INSTITUTE FOR THE PROTECTION OF THE RIGHTS AND LEGAL INTERESTS OF BUSINESS ENTITIES IN ENSURING THE RULE OF LAW. ЖУРНАЛ ПРАВОВЫХ ИССЛЕДОВАНИЙ, (SPECIAL 1).
19. Жураева, А. Б. (2020). PRIOR RIGHTS IN TRADEMARK IN UZBEKISTAN, CHINA AND GERMANY COMPARATIVE STUDY. ЮРИСПРУДЕНЦИЯ, 1(1).
20. Akhrorov, A. (2021). ENVIRONMENTAL CONTROL OF PUBLIC ADMINISTRATION BODIES IN THE REPUBLIC OF UZBEKISTAN.
21. Khudoyberganova, M. . (2021). THE ROLE OF PUBLIC ADMINISTRATION IN THE DEVELOPMENT OF PHARMACEUTICAL SECTOR IN THE REPUBLIC OF UZBEKISTAN. INTERNATIONAL SCIENTIFIC AND CURRENT RESEARCH CONFERENCES, 1(1), 147-152. Retrieved from <https://usajournalshub.com/conferences/index.php/iscrc/article/view/200>
22. Исаева, Ф. Б. (2021). ДАВЛАТ ХИЗМАТЧИСИНИ АТТЕСТАЦИЯДАН ЎТКАЗИШ ВА УНИНГ ҲУҚУҚИЙ ОҚИБАТЛАРИ. ЖУРНАЛ ПРАВОВЫХ ИССЛЕДОВАНИЙ, (SPECIAL 1).
23. Farida Isaeva. (2021). LEGAL BASIS FOR EVALUATING AND CERTIFYING THE ACTIVITIES OF A CIVIL SERVANT. International Scientific and Current Research Conferences, 1(01), 100-106. Retrieved from <http://orientalpublication.com/index.php/iscrc/article/view/161>
24. Mavjuda, X., & Asgarov, M. (2022). AHOLINI DORI VOSITALARI VA TIBBIYOT BUYUMLARI BILAN TA'MINLASHDA DAVLAT BOSHQARUVINING ROLI. Involta Scientific Journal, 1(4), 83-106.
25. Исаева Фарида (2020). Роль Конституции в реформировании государственной службы в Республике Узбекистан и создании ее правовой основы. Review of law sciences, 1 (Спецвыпуск), 33-39. doi: 10.24412/2181-919X-2020-1-33-39
26. Khumoyun, S. (2021) "CONCEPT AND PURPOSES OF HUMAN RESOURCE MANAGEMENT IN THE ASPECT OF LABOR LAW: CONCEPT AND PURPOSES OF HUMAN



RESOURCE MANAGEMENT IN THE ASPECT OF LABOR LAW”, TSUL Legal Report International electronic scientific journal, 2(1), pp. 118-126. Available at: <https://www.legalreport.tsul.uz/index.php/journal/article/view/52> (Accessed: 2November2021).

27. Feruza Salixova. (2021). THE ROLE OF INFORMATION AND COMMUNICATION TECHNOLOGIES IN CUSTOMS. International Scientific and Current Research Conferences, 1(01), 118-123. Retrieved from <http://orientalpublication.com/index.php/iscrc/article/view/165>

28. Салихова, Ф. Т. (2021). БОЖХОНА НАЗОРАТИНИ АМАЛГА ОШИРИШДА КОНТРАФАКТ ТОВАРЛАРНИ АНИҚЛАШ МАСАЛАЛАРИ. ЖУРНАЛ ПРАВОВЫХ ИССЛЕДОВАНИЙ, (SPECIAL 1)

29. Soyipov, K. (2021). ORGANIZATIONAL AND LEGAL ASPECTS OF THE REDUCTION OF STATE GOVERNANCE IN THE ECONOMIC SPHERE. In Multidiscipline Proceedings of Digital Fashion Conference (Vol. 1, No. 2).

30. Khumoyun, S. (2021). CONCEPT AND PURPOSES OF HUMAN RESOURCE MANAGEMENT IN THE ASPECT OF LABOR LAW: CONCEPT AND PURPOSES OF HUMAN RESOURCE MANAGEMENT IN THE ASPECT OF LABOR LAW. TSUL Legal Report International electronic scientific journal, 2(1), 118-126.

31. Ниязова, Н., Ардатова, Е., & Сойипов, Х. (2021). Обучение языкам как основа развития юридической науки и образования. Общество и инновации, 2(2), 137-143.

32. Juraeva, A. (2021, November). STATE RESPONSIBILITY FOR COVID-19 IS CHINA LIABLE. In International Scientific and Current Research Conferences (pp. 151-158). Жураева, А. Б. (2020). PRIOR RIGHTS IN TRADEMARK IN UZBEKISTAN, CHINA AND GERMANY COMPARATIVE STUDY. ЮРИСПРУДЕНЦИЯ, 1(1).

33. Ахроров, А. (2021). ТЕНДЕНЦИИ УПРОЩЕНИЯ ПРОЦЕДУР ЛИЦЕНЗИРОВАНИЯ И РАЗРЕШЕНИЯ В РЕСПУБЛИКЕ УЗБЕКИСТАН. Збірник наукових праць SCIENTIA.

34. Akhrorov, A. (2021, April). ENVIRONMENTAL CONTROL OF PUBLIC ADMINISTRATION BODIES IN THE REPUBLIC OF UZBEKISTAN. In International Scientific and Current Research Conferences.

35. Abduvaliev, M. (2020). Invalidity of agreements in civil law-an analysis of the experience of Uzbekistan and Japan. TSUL Legal Report International electronic scientific journal, 1(1).

36. Maksudjon, A. (2020). DEVELOPING NORM CREATIVITY IN THE PROCESS OF ENSURING THE RULE OF LAW IN THE REPUBLIC OF UZBEKISTAN. Review of law sciences, 1(Спецвыпуск).

37. Maksudjon, A. (2020). CONSTITUTIONAL CONCEPTS OF THE RIGHT TO FREEDOM OF MOVEMENT FROM ONE PLACE TO ANOTHER AND LEGAL RESTRICTIONS (EXAMPLE OF REGISTRATION SYSTEM). Review of law sciences, (4), 6-9.

38. Ғозиев, К. (2022). ОЛИЙ ТАЪЛИМНИ ТАШКИЛ ҚИЛИШ БЎЙИЧА АЙРИМ РИВОЖЛАНГАН ДАВЛАТЛАР ТАЖРИБАСИ. Involta Scientific Journal, 1(4), 3-15.

39. Газиев, К. (2022). Ўзбекистонда олий таълим муассасаларини бошқариш ва ташкил этишининг ҳуқуқий жиҳатлари. Общество и инновации, 3(6/S), 131-155.



40. Goziev, K. (2022). THE ESSENCE OF THE LAW ON BANK SECRET OF THE REPUBLIC OF UZBEKISTAN. *World Bulletin of Management and Law*, 12, 70-72.
41. Paraхatovna, A. E. (2022). РОЛЬ ТИПОВЫХ ПРАВИЛ ПОВЕДЕНИЯ ГОСУДАРСТВЕННЫХ СЛУЖАЩИХ ПРИ БОРЬБЕ С КОРРУПЦИЕЙ. *Conferencea*, 188-190.
42. Авезова, Э. П. (2022). ТЕОРЕТИЧЕСКИЙ АНАЛИЗ ВИДОВ И ФОРМ КОРРУПЦИОННЫХ ПРОЯВЛЕНИЙ НА ГОСУДАРСТВЕННОЙ СЛУЖБЕ. *SIYOSATSHUNOSLIK, HUQUQ VA XALQARO MUNOSABATLAR JURNALI*, 1(6), 91-94.
43. Авезова, Э. П. (2022). ТЕОРЕТИЧЕСКИЙ АНАЛИЗ ВИДОВ И ФОРМ КОРРУПЦИОННЫХ ПРОЯВЛЕНИЙ НА ГОСУДАРСТВЕННОЙ СЛУЖБЕ. *SIYOSATSHUNOSLIK, HUQUQ VA XALQARO MUNOSABATLAR JURNALI*, 1(6), 91-94.
44. Авезова, Э. П. (2022). ТЕОРЕТИЧЕСКИЙ АНАЛИЗ ВИДОВ И ФОРМ КОРРУПЦИОННЫХ ПРОЯВЛЕНИЙ НА ГОСУДАРСТВЕННОЙ СЛУЖБЕ. *SIYOSATSHUNOSLIK, HUQUQ VA XALQARO MUNOSABATLAR JURNALI*, 1(6), 91-94.
45. Ражабова, К. Қ. (2022). САЙЛОВ КОМИССИЯЛАРИ, УЛАРНИНГ ХАТТИ-ҲАРАКАТЛАРИ (ҚАРОРЛАРИ) ТУШУНЧАСИ ВА ЎЗИГА ХОС ХУСУСИЯТЛАРИ.
46. Ражабова, Карима Қахрамоновна (2022). САЙЛОВ КОМИССИЯЛАРИНИНГ ХАТТИ-ҲАРАКАТЛАРИ (ҚАРОРЛАРИ) ЮЗАСИДАН НИЗОЛАШИШ ТЎҒРИСИДАГИ ИШЛАРНИ СУДДА КЎРИШНИНГ ЎЗИГА ХОС ХУСУСИЯТЛАР. *Oriental renaissance: Innovative, educational, natural and social sciences*, 2 (Special Issue 23), 556-563. doi: 10.24412/2181-1784-2022-23-556-563