



DIFFERENTIATION OF NULLITY AND INVALIDITY OF ADMINISTRATIVE ACTS: COMPARATIVE LEGAL ANALYSIS AND DIRECTIONS IMPROVEMENT OF LEGISLATION

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Abstract

Legal acts of management are one of the fundamental stages in the implementation of management functions to solve existing problems and achieve goals. Legal acts, in general, contribute to the implementation of activities in various sectors - economic, customs, cultural, social, etc.

As we already know, legal acts of state bodies are very diverse in content and legal force.

With the help of acts of public administration, the necessary behavior of participants in administrative and legal relations is ensured, since they serve as the basis for the emergence of relevant legal relations. Acts of public administration contain prescriptions that are binding on citizens, state and non-governmental organizations and officials: their rights, duties, responsibilities. Acts of government are one of the most important means of legal education of citizens, one of the strongest means of legal propaganda.

The relevance and significance of the chosen topic lies in the fact that administrative acts are one of the sources of administrative law. At the same time, the institution of administrative acts is a relatively "new field" for study. Since there is a large number of scientific works related to the institution of administrative acts, a more in-depth analysis, namely cases of declaring



administrative acts invalid or null and void, has not been properly studied. For this reason, the importance of the institution of administrative acts is increasing.

Keywords: Invalidity, nullity, repeal, discretionary powers, defectiveness, contestability, presumption of legality.

Introduction

According to Article 4 of the Law of the Republic of Uzbekistan "On Administrative Procedures NoZRU-457 dated 08.01.2018", (hereinafter referred to as ZAP), *an administrative act* is a measure of influence aimed at establishing, changing or terminating public legal relations and giving rise to certain legal consequences for individual individuals or legal entities or a group of persons distinguished by certain individual characteristics.

That is, like other acts of management, administrative acts contribute to the emergence, change or termination of public legal relations. In our opinion, this refers to the consequences of an individually specific nature. It is the emergence of certain legal relations. But one of the primary features of an administrative act from other acts of management is the fact that a legal act of management is an expression of the will of the subject of law, which generates legal consequences. At the same time, an administrative act does not establish legal norms, but, on the contrary, resolves a specific administrative situation.

The classical definition of the concept of an administrative act was given by O. Mayer, where the act is described as one of the usual decisions of government bodies.

What is the need to study the "nullity of an administrative act"?

I.I. Evtikhiev noted that "in administrative law and administrative practice, the question of the conditions for the validity or invalidity of acts is still not sufficiently developed." [1. Evtikheyev A.O. Legal Force of Acts of Administration. pp. 40-43]

S.A. Yampolskaya stressed that the issues of invalidity and challenging of illegal administrative acts are not clearly regulated by law and are poorly developed by legal science.



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The picture remained unchanged. In modern administrative law, the issues of invalidity and nullity of administrative acts are also not sufficiently covered, there is no clear distinction between what is invalid and what is a void administrative act. In our opinion, this circumstance significantly slows down the development of legal regulation in this area and leads to the fact that administrative law still does not have a developed institution of invalidity/nullity of legal acts of public administration.

When considering the question of the origin of an administrative act, scholars usually refer to Roman law, where it was prescribed that there are two types of nullity: civil nullity, which begins automatically by virtue of the law, and, in addition, from this point of view, there is praetorian nullity, which requires the initiation of judicial proceedings and can only enter into force by a court decision. Nullity under Roman law was too complicated due to the fact that the Romans used more than 30 terms to uncover the legal consequences of nullity. However, in general, this concept is not applicable to modern legislation in the light of the distinction between civil and administrative law. [2. Marcel Planiol "Treatise on the Civil Law", part 1, No. 328.]

Ozhegov S.I. gives the following characteristics of "insignificance", he determines that insignificance has the character of extreme insufficiency, insignificance, emptiness¹.

A large legal dictionary has established that nullity is something that does not meet the mandatory requirements of the law, which are obviously illegal in the interests of the rule of law and morality².

In turn, the invalidity of administrative acts refers to the ability (or inability) of legal acts and transactions to cause legal consequences that are desired by the persons who committed them. The validity of legal acts in this sense depends, first of all, on compliance with the provisions of the objective law regarding the legal capacity of persons.

As a rule, the theory of administrative law in the Republic of Uzbekistan studies legally impeccable administrative acts. The invalidity of administrative legal acts, as a rule, was considered as one of the frequent problems of a more general

¹ Ozhegov S.I., Svedova N.Y. Explanatory Dictionary of the Russian Language. Az Publishing House, 1992

² The Great Legal Dictionary edited by I. Sukharev, V.E. Krutskikh: Norma, 2000



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issue of legal requirements for acts, more precisely, the problem of non-compliance with these requirements.

Very often, the invalidity of administrative acts is identified with null and void administrative acts. Although, in our opinion, there is still a very significant difference between them. It is one thing when the adopted administrative acts violate the rules of procedure. Another thing is when the adopted administrative acts do not meet the requirements of the law, the adopted knowingly illegal foundations of constitutionality, law and order, morality.

Of course, it is impossible to deny the fact that a null and void act is invalid. Such actions include actions that can in no way be taken by the competent authorities in connection with violations of the requirements of the law, but invalidity and nullity are in no way identical concepts.

The issues of dividing acts into void and voidable have been of concern to scientists for a long time and cause a large number of disputes. The fact that there is no fully developed doctrine of the invalidity of acts, about cases when an act is void or voidable, was spoken about both in the early and in the 50s, 60s of the last century³.

N. G. Salishcheva points to the connection between violations of "general or special requirements imposed on a normative act" and the possibility of declaring the act null and void. "Depending on the extent to which this or that requirement of legality is violated," the author writes, the question of the fate of the normative act is decided⁴. N. G. Salishcheva admits only one defect that can serve as a basis for recognizing the nullity of the act – exceeding the competence, exceeding the scope of the management body beyond the scope of its rights and obligations.

Reality remains unchanged, in the opinion of A.V. Shukhareva, invalid (contestable) acts require proof in court, void ones do not. Their nullity is so obvious that it does not cause any discussions about their legality.⁵

³ See: Evtikhiev A.O. Legal Force of Acts of Administration. Lublin, 1911. P.215; Zhdanov A.A. O dejstvitel'nosti aktov gosudarstvennogo upravleniya [On the reality of acts of state administration] // Pravovedenie, 1964, No 1.

⁴ N. G. Salishcheva. Normative Acts of Soviet Public Administration. Abstract of the dissertation. Moscow, Izd. VIYUN, 1954, p.

⁵ A.V. Shukhareva "The Institute of Invalidity of Legal Acts in Russian Law: Statement of a Scientific Problem - <https://cyberleninka.ru/article/n/institut-nedeystvitel'nosti-yuridicheskikh-aktov-v-rossiyskom-prave-postanovka-nauchnoy-problemy/viewer>



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Along with the term "void (defective) act" and in the same meaning, A. Angelov and P. Steinov use the term "vicious act" as an act that has defects. Consequently, the concept of "vicious", "defective" act covers only acts that violate the requirements of reality (legality). Along with "vicious acts", this work distinguishes "incorrect, inexpedient acts" that do not meet the requirements of efficiency, usefulness, timeliness, efficiency, and sufficiency⁶.

In other words, a void administrative act is an act that, due to its illegality, cannot and does not entail legal consequences: it does not establish rights, obligations, and, accordingly, does not have liability for non-performance. Its nullity is so obvious that it is not subject to implementation (for example, it contains an order to commit illegal actions).

The nullity of an administrative act is manifested in the fact that:

- a void act cannot be the basis for registration of the relevant legal relations;
- there are no grounds for applying sanctions for its implementation;
- it cannot be invoked in disputes before the government or the courts.

A void act does not require a search for evidence of it - they are indisputable (for example, competence is grossly violated, there are no legal grounds for its adoption).⁷

For example, if the document contains provisions that contradict the constitutional order and public order, if there are provisions that violate the rights and legitimate interests of citizens, then it is obvious that this act will be null and void.

For example. As an example of an invalid administrative act, the following circumstance can be cited. On January 27, 2021, the court invalidated the decisions of the khokim of the capital on the seizure of 6 hectares of land at the intersection of Ahmad Donish and Amir Temur streets in the Yunusabad district, where the buildings and structures of 65 entrepreneurs (Universam) are located. The Ministry of Justice reported that in two months, the department received 2,586 appeals about the violation of rights to real estate. The department found that the construction sites were destroyed without their preliminary assessment,

⁶ See: Angelov A., Steinov P. Decree. cit., p.304

⁷ Alekhin A.P., Karmolbtsky A.A., Kozlov Yu.M. Administrative Law of the Russian Federation. M., 2001.



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that is, without specifying their cost. During the demolition, the payment of compensation in the amount of over 600 billion soums was determined. I wonder how the value of the property was determined without a preliminary assessment? At the same time, the presence of debts of almost 300 billion soums for the payment of compensation in the city of Tashkent, Tashkent, Fergana, Kashkadarya and Namangan regions for demolished residential and non-residential facilities was revealed. Instead of land plots withdrawn for state and public needs, 359.2 hectares of land were allocated in other places. [8. The court canceled the decisions on the seizure of the land under the "Universam" <https://www.gazeta.uz.>]

In other words, the department had to prove that the property of the persons living at that time was demolished without prior assessment. In turn, the khokimiyat had to prove the legality of the demolition.

As an example of an insignificant administrative act, in our opinion, we can cite the following: in 2.5 years, 3.1 billion soums (\$330 thousand) were illegally spent in budgetary institutions of Uzbekistan as part of the payment of maternity benefits to men, local media reported with reference to the newspaper "Pravo" under the Prosecutor General's Office of the republic.

According to the publication, in budgetary organizations in some regions, there were cases of forgery of documents in the name of men who received maternity benefits. For example, an economist at the Jizzakh Regional Dermatovenerologic Dispensary was paid 2.1 million soums (\$222), and a security guard at school No. 20 in Jizzakh was paid 900,000 soums (about \$100). [In Jizzakh, men received maternity benefits. <https://centralasia.media/news:1572623>] We don't know what is more interesting, the fact that the security guard received much less maternity benefits than the economist, or the fact that jurisprudence enters into polemics with Mother Nature.

That is, in this case, an argument is simply inappropriate. The nullity of this act is already obvious and cannot be proved.

Undoubtedly, the adopted administrative acts have been canceled. However, the status of the adopted administrative acts remained unclear. Are they invalid? Or, on the contrary, they contain the criteria of a void administrative act. The



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legislator has not defined the fine line between invalid and void administrative acts. According to available data, in 2022, a total of 1339 decisions of khokims were canceled in our republic. [9. The Supreme Court of the Republic of Uzbekistan. Court statistics. <https://stat.sud.uz/>] The status, again, of repealed administrative acts is not clear. What is the reason for this? Why can the decisions of local government bodies, whose activities are based on the letter and spirit of the law, be declared invalid or null and void? What can this inevitably lead to? This can lead to the undermining of the authority of public administration. In turn, the undermining will lead to citizens ignoring the decisions and acts of administrative bodies. Is this what our advanced state strives for?

In our opinion, the question arises quite obviously: in which countries is the nullity of an administrative act fixed at the regulatory level?

For example, according to Article 60 of the General Administrative Code of Georgia, an administrative legal act is considered null and void from the moment of issuance if:

- a) it is impossible to identify the body that issued the act;
- b) it is issued by an unauthorized body or an unauthorized person;
- c) its execution is impossible due to factual reasons;
- d) its execution will entail the commission of a criminal or administrative offense⁸.

At the same time, Article 601 contains norms when an administrative act is declared invalid. In other words, the General Administrative Code of Georgia differentiates administrative acts as null and void. The legislator of Georgia does not equate the terms *Insignificance* and *Invalidity*.

The Federal Republic of Germany (hereinafter referred to as the Federal Republic of Germany) follows the same path. According to Article 49 of the German Administrative Act Act, if an administrative act is repealed or repealed with retroactive effect, or if it becomes *invalid* and *void* as a result of a condition that renders it invalid and void, any payments or contributions that have already been made must be returned. written administrative act⁹.

⁸ General Administrative Code of Georgia - <https://matsne.gov.ge/ru/document/view/16270?publication=32>

⁹ Administrative Procedure Act (Verwaltungsverfahrensgesetz, VwVfG) <https://germanlawarchive.iuscomp.org/?p=289>



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The Republic of Kazakhstan completely rejects the concept of "invalid act". Article 92 of the Administrative Procedural Code of the Republic of Kazakhstan contains the concept of "void administrative act" and provides cases when an act is recognized as such¹⁰.

In other words, we clearly see that the recognition of administrative acts as null and void is quite possible at the legislative level. There is an opinion that it is extremely difficult to distinguish between the invalidity and nullity of administrative acts. Thus, there are many approaches and criteria for determining them as such.

In general, the concept of "nullity of an administrative act" deserves special attention. As mentioned above, a void administrative act cannot give rise to any legal consequences. Its insignificance is so obvious that it does not raise any doubts and does not require proof of its insignificance. However, as practice shows, on the basis of a void administrative act, other acts are adopted, the rights and obligations of interested persons and administrative bodies arise, the same acts are applied by the executive authorities and are enforced by the same administrative bodies. In other words, all acts without exception can give rise to legal consequences.

We propose the introduction of the following criteria for the classification of invalid and void administrative acts. These are:

1. Impossibility of establishing the body that issued the administrative act.

Why is this criterion necessary? Imagine, on a double notebook sheet you have an act adopted by an administrative body without the proper signature of an official of the administrative body authorized to adopt this act. What will be its legal consequences? The proposed repeal of this act is due not only to the fact that it is enclosed on a double notebook sheet, but also to the fact that it is impossible to establish who issued this act. If there is no authorized body, accordingly, there are no rights and obligations "on the other side of the barricade", that is, for interested parties. The need for this criterion is connected, first of all, with the obviousness that all

¹⁰ Administrative Procedural Code of the Republic of Kazakhstan - <http://www.adilet.gov.kz/ru/articles/administrativnyy-procedurno-processualnyy-kodeks-respubliki-kazahstan>



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administrative acts must be adopted by authorized bodies. Imagine a situation where a lawyer's license is issued by the Civil Registry Office or the registration of an NGO (non-governmental non-profit organization) is carried out by the Legislative Chamber. If we theoretically assume that such administrative acts will still be adopted, then it will be impossible to talk about them

2. We consider it necessary to establish the status of the act to be repealed. Either it is invalid or it is null and void.

3. The adopted administrative act contains a call to commit illegal actions or other offenses. The need for this criterion is due to the fact that in a number of cases it becomes obvious not only the illegality, but also the absurdity of the acts adopted by administrative bodies, which is caused, in our opinion, by a negligent and irresponsible attitude not only to citizens, but also to the reputation of the administrative body, the representative of which the official is undoubtedly a representative.

For example, according to Greek administrative law, invalid/void administrative acts are distinguished as follows:

- Initially invalid administrative act
- Void administrative act
- Acts to be repealed

Attention should be paid to the fact that Greek law distinguishes an invalid administrative act as well as a void one. The legislator does not equate two non-identical concepts. The legislator establishes a distinction between invalid/void acts. At the same time, in the legislation of the Republic of Uzbekistan, an invalid act is subject to mandatory repeal. The Republic of Uzbekistan, unlike Greek legislation, does not see the need to enshrine at the normative level a "null and void administrative act".

With regard to this theoretical difference in procedural activity, no definitive conclusions have yet been reached; From time to time, the above concepts are used in different ways and are therefore misleading.

Initially invalid acts or non-existent acts are issued by a legal entity or an individual who is not an authorized official. Here we are talking about the illegal use of the powers of an official, since this person does not represent the subject of administration and, therefore, the acts committed by him do not have



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"sovereign power". For example, the establishment of taxes by the police, marriage in court. In this case, the act is initially invalidated, despite the fact that the issuing authority has significant powers in the system of state bodies.

It is extremely difficult to distinguish between an invalid/invalid act and a humiliating act. The difficulty is due to the fact that in the case of wallpaper, defects are established in the same way. A minor administrative act, although it was issued by an administrative body, but in violation of important legal rules and regulations, although the mentioned shortcomings may relate to formal procedural or substantive rules. The author establishes that the invalidity / invalidity of an administrative act arises due to the mistake of an official. This act has no legal consequences. On the contrary, an administrative act to be repealed is an act that is defective and therefore can be repealed. In such a case, the act shall remain in force until it is annulled.

In the Czech Republic, administrative acts with defects in content or form are divided into:

- negligible
- invalid, voidable.

The analysis allows us to assert that the problem of differentiation between void and invalid administrative acts is not only a theoretical, but also a significant practical task of modern administrative law. The lack of a clear regulatory consolidation of the criteria of nullity in the legislation of the Republic of Uzbekistan leads to uncertainty of the legal consequences of defective administrative acts, complicates judicial practice and reduces the level of legal certainty in the field of public administration.

A void administrative act differs from an invalid (contestable) act in its legal nature in the degree and nature of the violation committed. If an invalid act remains in force until it is repealed by a competent authority or a court, the void act, by virtue of its gross and obvious illegality, is not capable of producing legal effects from the moment of its issuance. Its defect is fundamental: it is associated either with the lack of competence of the body, or with the impossibility of identifying the subject that issued the act, or with direct contradiction to the law and constitutional principles, or with the objective impossibility of execution. In such cases, we are not talking about a procedural error or an incorrect assessment



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of circumstances, but about a violation of the foundations of the legality of public authority.

In this context, the problem of exercising discretionary powers is of particular importance. Discretion implies the freedom of discretion of the administrative body within the law, but its exercise cannot exceed the scope of the competence granted. Violation of the limits of discretion, as a rule, forms the basis for declaring the act invalid, but only in cases of gross and obvious overstepping the limits of powers can lead to its nullity. Consequently, the distinction between nullity and invalidity is directly related to the assessment of the nature of the violation and the degree of deviation from the principle of legality.

Comparative legal analysis shows that the legislation of a number of states — Germany, Georgia, Kazakhstan, the Czech Republic — makes a regulatory distinction between void and voidable administrative acts, which contributes to strengthening legal certainty and the formation of stable judicial practice. In these legal systems, nullity is directly enshrined in law and is accompanied by a clear definition of its legal consequences, including issues of restitution and liability.

In the absence of similar regulation in national legislation, a situation arises in which repealed administrative acts do not receive an unambiguous legal qualification. This gives rise to uncertainty about the fate of the legal relations that have arisen on their basis, the possibility of applying sanctions and the scope of responsibility of officials.

In this regard, it seems appropriate to legislate in the Law of the Republic of Uzbekistan "On Administrative Procedures" an independent category of void administrative acts, with the definition of an exhaustive list of grounds for its recognition as such and the establishment of the legal consequences of nullity. Such a legislative decision will ensure a balance between the stability of administrative acts and the need to protect the rights and legitimate interests of citizens, strengthen the control over the exercise of discretionary powers and increase the level of legality in the activity of public administration bodies.

Thus, the formation of a clear doctrine and normative construction of the nullity of an administrative act in national law is an important stage in the development



of administrative and legal regulation and strengthening the principle of the rule of law in the Republic of Uzbekistan.

References

1. Evtikhiev A.O. Legal Force of Acts of Administration. Lublin, 1911. – 215 p.
2. Zhdanov A.A. O dejstvitel'nosti aktov gosudarstvennogo upravleniya [On the Reality of Acts of State Administration]. – 1964. – № 1.
3. Salishcheva N.G. Normative Acts of Soviet State Administration: Avtoref. Diss. ... – Moscow: VIYUN, 1954.
4. Alekhin A.P., Karmolitsky A.A., Kozlov Yu.M. Administrative Law of the Russian Federation. Moscow, 2001.
5. Shukhareva A.V. Institute of Invalidity of Legal Acts in Russian Law: Statement of a Scientific Problem // Cyberleninka. – URL: <https://cyberleninka.ru>
6. Angelov A., Steinov P. Theory of administrative acts.
7. Planiol M. Treatise on the Civil Law. – Part 1. – No. 328.
8. Ozhegov S.I., Shvedova N.Y. Explanatory Dictionary of the Russian Language. Moscow, Az Publ., 1992.
9. Big Legal Dictionary / Ed. by Sukharev I., Krutskikh V.E. – M.: Norma, 2000.
10. Law of the Republic of Uzbekistan "On Administrative Procedures" No ZRU-457 dated 08.01.2018.
11. The Supreme Court of the Republic of Uzbekistan. Statistics of Judicial Activity. – URL: <https://stat.sud.uz/>
12. The court canceled the decisions on the seizure of land under the "Universam" // Gazeta.uz. – URL: <https://www.gazeta.uz/>
13. In Jizzakh, men received maternity benefits // CentralAsia.media. – URL: <https://centralasia.media/>
14. General Administrative Code of Georgia. – URL: <https://matsne.gov.ge/> Administrative Procedure Act (VwVfG) – Administrative Procedure Act (Germany).
15. Federal Law Gazette I p. 2418, 11 December 2008.
16. Administrative Procedural Code of the Republic of Kazakhstan.
17. Stolyarova I.N. Principles of Administrative Procedures and Administration. Legal Proceedings. – M.: Инфотропик, 2018.