

## Procedural Forms of Application of Administrative Forcing Measures by Employees of Internal Affairs Authorities

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**ABSTRACT:** The procedure for applying measures of administrative coercion in the administrative activities of the internal affairs bodies has always been considered a topical issue. First of all, this is based on changes in recent years in the administrative procedural legislation and legislation on internal affairs bodies and the need to further improve the theory and practice in this area in connection with these updates.

Currently, it is customary to divide administrative coercion into three groups, based on the approaches recognized in theoretical views in this area: administrative warning, administrative restriction and administrative punishment. The application of these measures, in turn, is based on substantive and procedural law. In this regard, administrative procedural measures of coercion are also distinguished as separate measures of administrative coercion. The procedure for applying measures of administrative procedural coercion requires the provision of appropriate proceedings, including separate compulsory procedural actions.

**KEYWORD:** administrative law, administrative process, administrative coercion, administrative process, system of measures of administrative coercion, internal affairs bodies.

In recent years, experts in the field of administrative law have been paying great attention to the study of problems related to the procedure for applying administrative coercive measures by employees of internal affairs bodies. The urgency of studying this issue is determined by the changes taking place in the administrative-procedural legislation of our country and the ideas of scientists about the concept and structure of the administrative procedure, as well as the need to improve the legislation on administrative procedures and develop the theory.

According to the opinions and opinions of scholars in the field of administrative law, administrative enforcement measures include the following group of enforcement measures [4]:

- a) administrative preventive coercive measures;
- b) administrative restriction measures;
- c) administrative sanctions;
- d) administrative-procedural security measures [5].

The use of administrative coercive measures is understood as the procedure for implementing a specific method of compulsory influence specified in the sanction of a legal norm or the disposition of a legal norm.

Accordingly, the procedure for applying an administrative coercive measure can be procedural (application of sanctions) or procedural (implementation of dispositions).

The procedural form of applying an administrative penalty is the conduct of proceedings on an administrative offense. The specified procedure is an independent structural element of the administrative process (administrative procedure).

In the framework of this administrative proceeding, the measures for ensuring the conduct of cases of administrative offense, which are considered as measures of administrative-procedural provision of ascariat provided for in Chapter XXI of the Code of Administrative Responsibility of the Republic of Uzbekistan, are used. On the one hand, there is talk of mandatory procedural actions related to administrative offense proceedings, on the other hand, from the point of view of the procedure for applying these coercive measures, this procedure is considered procedural, because, as a rule, separate cases are not conducted to resolve the issue of their application, the law only applies this coercion determines taking into account the fact of the application of measures.

For a broader interpretation of our opinion, we found it necessary to analyze the opinions of our scientists on this issue. Of course, different opinions have been expressed in the legal literature about the procedure for the implementation of administrative preventive measures and administrative restrictive measures and the connection of these measures with the administrative process. In particular, the Russian scientist, prof. A.I. Kaplunov distinguishes proceedings on the application of administrative prevention and administrative restriction measures in the structure (structure) of the administrative process, which is not primarily considered an administrative punishment, but is a method of compulsory influence of administrative prevention and restriction measures specified in the sanction of the legal norm and their application. considered as a procedural form [3].

Some authors consider this procedure to be a procedural form of applying coercive measures, as well as special administrative restrictive measures (use of physical force, use of special tools and firearms) [5]. However, as it is rightly noted in the literature, in the norms defining the measures of administrative influence, describing the content of these coercive measures, the method of coercive influence is strengthened in the dispositions of these norms, and accordingly, the application of preventive measures is only in the procedural (substantive-legal) order, in the form of law enforcement documents of the administration, internal affairs it is carried out by the authorized official of the bodies by directly performing the actions specified in the legislation [6].

It is proposed to consider "Proceedings on the application of certain administrative preventive coercive measures" [7] as an independent administrative proceeding, which is a component of the administrative process, which is certainly a procedural form of the application of administrative preventive coercive measures, and cases of this category are considered in court. but not in accordance with the procedure established by the Code of Administrative Court Proceedings of the Republic of Uzbekistan, in particular:

cancellation of licenses and permits [1];

placement of minors in socio-legal assistance centers or specialized educational institutions according to the established procedure [2];

psychiatric examination of a person suffering from a mental illness and posing a direct danger to others without his consent or the consent of his legal representative [3].

The analysis shows that the application of compulsory measures of administrative prevention is expressed in the laws of several subjects. In particular, according to the Law of the Republic of Uzbekistan dated April 2, 2019 "On administrative control over certain categories of persons released from penal institutions" No.

O'RQ-532, the following administrative restrictions may be set against persons under control based on the decision of the court taking into account the nature of the committed act :

prohibition to be outside the place of residence at the specified time of the day;

prohibition to be in certain places;

prohibition of leaving the territory determined by the court without the permission of the internal affairs bodies;

to come to the internal affairs body (the base point of the internal affairs body) from one to four times a month for registration;

prohibiting the consumption of alcoholic beverages.

By its nature, this impact measure is a mandatory preventive measure, and the procedure for its implementation is not legally regulated. In this regard, it is appropriate that the procedural procedure for the application of these measures is expressed in the Code of Administrative Court Proceedings.

In order not to deviate from the subject of our research, we found it necessary not to dwell on this issue.

It can be seen that the differences in the procedural procedure for the application of these preventive measures are that administrative proceedings are based on the dispute between the parties to the process of applying the right to jurisdiction, and other judicial procedures include the types of "investigation" and "arbitration" jurisdictional process. At the same time, in both cases, the procedure for applying the listed preventive measures includes the pre-trial stages of the initiation of the case, in which the authorized official of the control body prepares the necessary procedural documents for submission to the court.

Pursuant to Article 122 of the Code of Administrative Court Proceedings, a court fine may be imposed on a person who is not present at a court session, which is a mandatory administrative procedural measure, although it is not specified in the Code as a separate norm.

At first glance, there is no reason to call these coercive measures administrative, because they are not used in public administration, but in the administration of justice, the decision to use them is made by the court to ensure the proceedings.

At the same time, from a formal legal point of view, these measures are used to ensure the administrative judicial process in the consideration of administrative cases. The reason why the case is called administrative is that according to Article 38 of the Criminal Code of Ukraine, the administrative body and its official participate as one of the parties. Pursuant to Article 40 of this Code, the applicant and the respondent are parties to administrative court proceedings. Applicants are citizens and legal entities who submit a request for the purpose of protecting their rights and interests protected by law or whose interests are presented with a request. The administrative bodies to which the application (complaint) is directed, self-management bodies of citizens and their officials are responsible.

As a general rule, procedural enforcement measures are not sanctions. These are auxiliary means of influence, which are determined by the disposition of legal norms and are used in the form of acts of application of individual rights, with the help of which tactical tasks of proceedings are solved.

A brief analysis of the procedure for the application of coercive measures provided for by administrative and administrative procedural legislation allows the following conclusions to be drawn.

First, the legislation on administrative proceedings requires a new approach not only to the concept and structure of the administrative process, but also to the branch types and system of administrative coercive measures.

Taking into account the changes in administrative procedural legislation, there is a reason to think about two types of sectoral coercion - administrative and administrative procedural types.

As mentioned, administrative coercion includes coercive measures in three groups: prevention, restriction and punishment. Administrative-procedural coercion is represented by administrative-procedural enforcement measures.

Secondly, the procedural form of applying measures of administrative responsibility is the conduct of administrative offense cases.

The procedural form of the application of administrative preventive measures, the method of its implementation is determined by the sanction of the legal norm defining it, the administrative proceedings on the application of certain coercive measures of administrative prevention related to the subject of administrative proceedings provided for in Article 3, Part 1 of the Criminal Procedure Code.

Administrative restriction measures, administrative-procedural security measures and administrative prevention are used as a method of mandatory influence provided for in the disposition of the legal norm.

At the same time, the procedures for applying measures of administrative procedural security are, in essence, integrally related to administrative procedural activity and are mandatory procedural actions that ensure appropriate proceedings.

## USED LITERATURE

1. Law No. O'RQ-701 of the Republic of Uzbekistan dated July 14, 2021 "On Licensing, Permitting and Notification Procedures" // National Legislative Information Base, July 15, 2021, No. 03/21/701/0674; 04/21/2022, No. 03/22/765/0332, 05/25/2022, No. 03/22/771/0448;
2. Law of the Republic of Uzbekistan dated September 29, 2010 "On prevention of delinquency and delinquency among minors" No. ORQ-263 // Collection of legal documents of the Republic of Uzbekistan, 2010, No. 39, Article 341;
3. Law of the Republic of Uzbekistan dated April 2, 2019 "On administrative control over certain categories of persons released from penal institutions" No. O'RQ-532 //National database of legal documents, 12.05.2021, 03/21/690/ No. 0452;
4. Administrative law. Textbook. - T. 2016. B.180.
5. Kaplunov A. I., Lebedeva O. O. Protsessualnye formy primeneniya mer administrativnogo prinujdeniya sotrudnikami pravookhranitelnyx organov // Ugolovno-ispolnitelnoe pravo. 2016. No. 3 (25). S. 14.; Administrativnoe pravo: uchebnik / pod ed. A. I. Kaplunova. M., 2011. 536 p.; Administrativnoe pravo: uchebnik / pod ed. M. S. Studenikinoy, L. L. Popova. M., 2016. 704 p.; Administrativno-procesusualnoe pravo: uchebnik / pod ed. A. I. Kaplunova. SPb., 2015. 376 p.
6. S. Murataev and others. Administrative law and procedure. - T.: TDYU publishing house, 2022. – B.392.; Lebedeva O. O. Primenenie otdelnyx prinuditelnyx mer administrativnogo preduprezhdeniya kak samostoyatelnoe administrativnoe proizvodstvo v strukture administrativnogo protsessa // Leningradskiy yuridicheskiy zurnal. 2015. No. 3. S. 203-210.;
7. Lebedeva O. O. O protsessualnom order of primeneniya prinuditelnyx mer administrativnogo preduprezhdeniya // Aktualnye problemy administrativnogo i administrativno-protsessualnogo prava: sb. St. po materialam ejegodnoy Vseros. nauch.-prakt. conf. (Sorokinskie chteniya), 25 times 2016 g.: v 3 t. / pod ed. Yu. E. Avrutina, A. I. Kaplunova. SPb., 2016. T. 1. S. 206-210.