ADMINISTRATIVE JUSTICE IN FOREIGN COUNTRIES

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Abstract: This article highlights the organizational and legal mechanism of administrative justice aimed at resolving public-law disputes, as well as the forms of administrative justice bodies and the functioning mechanism of administrative judicial proceedings and their significance in the experience of foreign countries.

Keywords: justice, parties, administrative courts, forms of proceedings, administrative justice.

The term “justice” originates from the Latin word “justitia,” meaning fairness and legality. According to legal terminology dictionaries, it is interpreted as a term referring to judicial institutions that administer justice in their activities.

Administrative justice is a system for reviewing and resolving public-law disputes arising in administrative-legal relations between individuals and legal entities, and public administration bodies and officials.

The main purpose of administrative justice is to resolve administrative-legal disputes between citizens and state bodies and officials, and to ensure justice and legality.

It should be emphasized that ensuring full protection of citizens’ rights and interests in public administration is of great importance. This is because, in any state, management relations necessarily involve, on the one hand, a state body (or its official) and, on the other hand, a citizen (or legal entities). In such management relations, the

will of the state is primarily expressed; therefore, if a dispute arises between the two subjects, resolving it through legal means corresponds to democratic requirements.

When considering issues related to the implementation of administrative justice, it is impossible not to focus on how this institution is organized in foreign countries and how it is manifested in practice.

If we look at the history of the development of administrative justice in the world, we can see that it has mainly developed in three forms:

1. General jurisdiction form

The essence of this system is that judicial control over the executive power is exercised by courts of general jurisdiction. Such a system exists in countries such as the United Kingdom, the United States, Australia, Canada, India, Belgium, Denmark, Norway, and Japan (including our republic).

In turn, the unified system is divided into two types. The first type includes Denmark, Norway, and Japan, where administrative justice is carried out only by general courts. In the United Kingdom, the United States, Canada, and New Zealand, in addition to general courts, special administrative tribunals have been established. The establishment of administrative tribunals is explained by the following circumstances: first, cases are resolved quickly and professionally by tribunals; second, fewer costs are required to ensure their operation.

At the same time, although administrative tribunals are not part of the judicial system, their activities are supervised by general courts.

2. Administrative (quasi-judicial) form of administrative justice

According to this system, administrative justice bodies are established within the system of executive authorities and are considered independent from judicial bodies. This system exists in countries such as France, Portugal, and Greece.

3. Specialized judicial form of administrative justice

These bodies are independent of both executive authorities and other judicial bodies. At the same time, they are full-fledged courts included in the unified judicial system of the state. They are also considered special bodies that resolve only

administrative-law disputes. In many European countries, in particular Germany, Austria, and Finland, a separate system of administrative courts operates.

Each system has its own specific procedural procedure for resolving administrative-law disputes. For example, in the French quasi-judicial system of administrative justice bodies, disputes are resolved using highly administrative-bureaucratic methods (cases are conducted in writing and in closed sessions). A similar procedure is characteristic of British administrative tribunals; however, decisions of administrative tribunals may be appealed to general courts under civil procedural rules.

If we analyze these systems of administrative justice, it is quite difficult to determine which one is preferable. This is because each of them has both advantages and disadvantages. The option of establishing specialized administrative courts is applied in many states. However, it should also be noted that although administrative courts are considered superior to general courts in terms of organizational structure and professional dispute resolution, due to the inquisitorial nature of procedures, the consideration of disputes in administrative courts is much slower compared to general courts.

General courts are able to adopt decisions obliging state bodies to perform certain actions, while administrative courts in many states do not have such powers. In addition, disputes regarding jurisdiction between specialized administrative courts and general courts are also common. Therefore, special institutions have been established to eliminate such situations.

The positive aspects of the quasi-judicial system of administrative justice bodies are mainly reflected in the low cost of their operation and the simplicity of proceedings. On the other hand, administrative tribunals consider cases under the influence of executive authorities. Moreover, the specialization of administrative tribunals in many areas of public administration leads to an increase in their number and, consequently, an increase in costs.

Along with the distinguishing features of the three systems, they also share common characteristics. These are as follows: first, all systems of administrative justice resolve administrative-law disputes; second, in all systems, specially

established or specialized bodies operate to resolve administrative-law disputes, and such disputes are resolved either by general courts or by specially established administrative courts; third, in each system, the consideration and resolution of administrative-law disputes are carried out in judicial procedural order. Depending on the relevant system, cases may be considered under civil procedural, administrative procedural, or administrative (quasi-judicial) procedures.

When examining the distinguishing features of judicial forms of justice, it is appropriate to pay special attention to their advantages. Each system is chosen by states in accordance with specific goals and interests and integrated into their system of power. In other countries, the introduction of administrative courts and their significant aspects have been studied and analyzed. I fully agree with these analyses and opinions.

Among the forms of judicial proceedings discussed above, the specialized judicial form differs from other forms of administrative justice by its complete independence from other branches of power. Based on personal analysis and available data, I consider the specialized judicial form to be the most well-structured, appropriate, and effective system among other forms of administrative justice.

As noted above, administrative justice provides confidence to citizens, that is, individuals and legal entities, in demanding justice on an equal footing with public administration bodies and their officials in administrative-law disputes. The independence of administrative justice bodies from other bodies logically corresponds to the purpose of administrative justice. This, in turn, truly demonstrates the state’s recognition and attention to the protection of citizens’ rights and freedoms. At the same time, it contributes to the development of effective state control over the activities of public administration bodies. In addition, the independence of administrative justice bodies from other state authorities leads public administration bodies and their officials to refrain from making unjustified decisions or committing actions (or inaction) that violate the rights of individuals and legal entities.

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