

THE ASPECTS OF THE DEVELOPMENT OF ADMINISTRATIVE JUSTICE IN THE REPUBLIC OF TAJIKISTAN AFTER 1991



Flag of Tajikistan (1)



National Emblem of Tajikistan (2)

The purpose of the scientific article is to study the problems of the development of administrative justice in the Republic of Tajikistan after 1991. Despite the fact that in this country the Code of Administrative Procedures was adopted in 2007, which determines the procedure for the preparation, adoption and execution of administrative legal acts, consideration of administrative applications and complaints, the implementation of proceedings on administrative procedures in court, the interaction of administrative bodies, some part of the cases characterized by administrative and public disputes is considered within the framework of the Civil Procedure Code of the Republic of Tajikistan dated January 5, 2008, as well as within the framework the Code of Economic Procedure of the Republic of Tajikistan dated January 5, 2008. The article gives advice on the harmonization of legislation in the field of consideration of administrative and public disputes. In addition, in order to improve the judicial system of Tajikistan, it is proposed to create administrative courts in the Republic of Khatlon Region, Sogdian Region, Gorno-Badakhshan Autonomous Region, the capital – Dushanbe, as well as in the economic courts of these regions. Alternatively, at the first stage, it is essential to create judicial chambers for administrative cases in the courts of these regions, as well as for administrative cases in the Supreme Court of the Republic of Tajikistan and the Supreme Economic Court of the Republic of Tajikistan.

Key words: Tajikistan, Constitution, judicial system, administrative justice, Code of the Republic of Tajikistan on Administrative Procedures (2007), Code of Civil Procedure of the Republic of Tajikistan (2008), Code of Economic Procedure of the Republic of Tajikistan (2008).

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1. Introduction

In Tajikistan, the administrative judiciary is at the stage of its formation. Disputes arising from administrative and legal relations are heard by courts of general jurisdiction, commercial courts and military courts according to their jurisdiction.

On November 6, 1994, the Constitution of the Republic of Tajikistan was adopted by a general referendum (3). According to article 9 of the Constitution of the Republic of Tajikistan, state power is exercised through its division into legislative, executive and judicial.

In accordance with article 84.2 of the Constitution of the Republic of Tajikistan, judicial authority in the country is exercised by:

- Constitutional Tribunal of the Republic of Tajikistan,
- Supreme Court of the Republic of Tajikistan,
- Supreme Economic Court of the Republic of Tajikistan,
- Military Courts,
- Court of the Gorno-Badakhshan Autonomous Region,
- Court of the Sogdinsky Region,
- Court of the Khatlon Region,
- Court of the capital city of Dushanbe,
- Local Courts of general jurisdiction,
- Economic Court of the Gorno-Badakhshan Autonomous Region,
- Economic Court of the Sogdinsky Region,
- Economic Court of the Chatlon Region,
- Economic Court of the capital city of Dushanbe.

However, the Constitution of the Republic of Tajikistan did not indicate the possibility of establishing specialized courts in the country, such as: administrative, minor, family, financial, and other courts. On the other hand, in accordance with article 84.3 of the Constitution of the Republic of Tajikistan, it is indicated that the procedure for the establishment, organization and operation of courts is determined by the Constitutional Law.

In my opinion, this provision gives a preliminary possibility for the establishment of specialized courts in the country, since the norms of the Constitution of the Republic of Tajikistan do not prohibit the establishment of specialized

courts. It would be worthwhile to send a response request to the Constitutional Court of the Republic of Tajikistan in order to translate article 84.3 of the constitution of the Republic of Tajikistan.

2. Article's main body

On the other hand, the adoption of the new *Constitutional Law of the Republic of Tajikistan as of July 26, 2014 on the courts of the Republic of Tajikistan* did not allow establishing specialized courts in the country (article 3.3 of the Law) (4).

It should be noted that the structure of the Supreme Court of the Republic of Tajikistan, as well as the structure of the Court of the Sogdinsky Region, the Court of the Khatlon Region, the Court of the Gorno-Badakhshan Autonomous Region and the Court of the capital city – Dushanbe, lacks judicial colleges for administrative matters (articles 23.3 and 70.3 of the law).

In accordance with article 46.3 of the law, the structure of the Supreme Economic Court of the Republic of Tajikistan consists of the Plenum of the court, the Presidium of the court, the judicial college for economic affairs, and the apparatus of the court.

On the other hand, the program of judicial and legal reform of the Republic of Tajikistan, approved by the *Decree of the President of the Republic of Tajikistan as of 23 June 2007* (5), provided for the establishment of the higher economic Court of the Republic of Tajikistan, as well as the Economic court of the Sogdinsky Region, the Economic Court of the Khatlon Region, the Court of the Gorno-Badakhshan Autonomous Region and the Court of the capital city – Dushanbe, – the specialized judicial colleges in administrative matters.

It should be noted that the Constitution of the Republic of Tajikistan does not contain norms on the right of citizens to appeal decisions, actions or inaction of state administration bodies to the court. In addition, the Constitution of the Republic of Tajikistan makes no mention of administrative jurisdiction. However, these most important material and legal bases of administrative jurisdiction are contained in normative legal acts, codes and legislation of the Republic of Tajikistan to which the constitution of the Republic of Tajikistan refers.

The American scientist George Frank points out that conflict management can be carried out by the parties to the conflict themselves, or by a third party. Such a party is the court, which manages the conflict on a professional basis. The main function of the court is “to make specific decisions on specific disputes in order to carry out their proper settlement and prevent clashes that may cause social division” (6).

As indicated in article 16 of the *law of the Republic of Tajikistan as of 23 July 2016 on the applications of citizens and legal entities* (7), citizens and legal entities have the right to appeal decisions, actions or inaction of a state administration body to the parent state administration body or to the court, as well as citizens and legal entities have the right to demand compensation for damage caused by a state administration body.

A similar standard was contained in article 8 of the *Law of the Republic of Tajikistan as of 14 December 1996 on citizens' appeals* (8).

In the courts of general jurisdiction of the Republic of Tajikistan, cases arising from disputes of administrative and legal nature considered meet the *Code of Administrative Procedures of the Republic of Tajikistan of 5 March 2007* (C. A. P. of the R. Td.) (9) and the *Code of Civil Procedure of the Republic of Tajikistan of 5 January 2008* (C. C. P. of the R. Td.) (10). In contrast, in the economic courts of the Republic of Tajikistan, they meet the requirements of the *Code of Economic Procedures of the Republic of Tajikistan of 5 January 2008* (C. E. P. of the R. Td.) (11).

The Code of the Republic of Tajikistan on Administrative Procedures as of March 5, 2007 defines the procedure for the preparation, adoption and execution of administrative legal acts, consideration of administrative applications and complaints, implementation of proceedings on administrative procedures in court, interaction of administrative bodies (article 1 C. A. P. of the R. Td.).

As follows from the norm of article 3 of the C. A. P., the Code applies to the activities of administrative bodies, but it does not apply to the activities of the following state bodies: Majlisi Milli (Upper House of Parliament) and Majlisi Namoyandagon Majlisi Oli of the Republic Tajikistan (Lower House of Parliament);

President of the Republic of Tajikistan; Government of the Republic of Tajikistan;

Courts of the Republic of Tajikistan; Bodies of the Prosecutor's Office of the Republic of Tajikistan.

According to article 50 of the C. A. P., the state administration body of the Republic of Tajikistan decides to issue an administrative act within 15 days after the registration of the application (if this act does not affect the interests of third parties and if another period for consideration of the application is not provided for by the legislation of the Republic of Tajikistan). However, an administrative act must be issued no later than one month after the registration of the application.

It should be noted that the regulatory legal act is issued within 2 months after the filing of the party's petition, but no later than 3 months after the registration of the application.

A party to administrative proceedings has the right to appeal decisions, actions or inaction of a state administration body to the state administration body within 1 month from the date of entry into force of the act of the state administration body or from the date of taking action (manifestation of inaction) by the state administration body. At the same time, the party has the right to address a complaint or lawsuit directly to the court. The state administration body is obliged to consider the administrative complaint and make an appropriate decision within a month. However, the term of consideration of an administrative complaint may be extended for no more than a month (articles 89.1, 90.2, 90.3, 94.1, 97.1, 97.4 C. A. P. of the R. Td.).

According to article 125.3 of the C. A. P., a claim for the recognition of an administrative legal act as invalid or for the recognition of an administrative legal act as invalid must be brought to court within 6 months after familiarization with the administrative legal act or the decision of the state administration body.

It should be noted that in the proceedings on administrative procedures, the parties enjoy the rights and obligations provided for by the Civil Procedure Code of the Republic of Tajikistan (art. 116 C. A. P. of the R. Td.).

According to article 115.2 C. P. A. of the R. Td. the subject of a dispute about administrative procedures in court may be:

1) compliance of the administrative-legal act with the laws of the Republic of Tajikistan, decrees of the President of the Republic of Tajikistan and resolutions of the Government of the Republic;

2) the obligation of the administrative body to compensate for damages;

3) the obligation of the administrative body to adopt an administrative act or to perform any other action under an administrative procedure.

For this purpose, the party may refer to the court:

– an administrative claim to invalidate an act of a state administration body (art. 125 C. A. P. of the R. Td.),

– an administrative claim on the obligation of a state administration body to issue a decision or act (art. 126 of the C. A. P. of the R. Td.),

– an administrative claim for a state administration body to take appropriate action (art. 127 C. A. P. of the R. Td.),

– an administrative claim for recognition of a legal or legal relationship by a state administration body (art. 128 C. A. P. of the R. Td.).

Despite the fact that in the Republic of Tajikistan the Code of Administrative Procedures, which regulates the procedure for conducting proceedings on administrative procedures in court, was adopted in 2007, part of the cases arising from public legal relations is considered by the court in civil proceedings (articles 249, 250.1 C. P. C. of the R. Td.), namely:

– on applications for contesting decisions and actions (inaction) of public authorities, local governments, officials and civil servants (Chapter 24, articles 254–258 C. P. C. of the R. Td.);

– on applications for the protection of the electoral rights of citizens of the Republic of Tajikistan or the right to participate in a referendum (Chapter 25, articles 259–263 C. P. C. of the R. Td.);

– other cases arising from public legal relations and referred by law to the jurisdiction of courts of general jurisdiction.

The general time limit for appealing to a court of a decision, action or act of a state administration body is 3 months from the day when the party became aware of the infringement of its rights (art. 256.1 C. P. C. of the R. Td.).

As art. 260.1 C. P. C. of the R. Td. shows, complaints about violation of the electoral legislation of the Republic of Tajikistan may be brought to the court within 40 days before the election days. On the other hand, complaints against decisions of election commissions or the Central Election Commission of the Republic of Tajikistan may be brought to court within 10 days from the date of the adoption of the relevant decision by the election commission. The complaint is examined by the court within

3 days, and if there are more than 6 days left to the Election Day – immediately (art. 260.2–260.4 C. P. C. of the R. Td.).

It is worth mentioning that the Code of Civil Procedure of the Republic of Tajikistan as of 5 January 2008 contains chapter 2.4 designated as “*Separate Procedure*” in which the following category of cases was indicated:

- on compulsory hospitalization of citizens to treatment and psychiatric institutions (§ 35, articles 307–311 C. P. C. of the R. Td.);
- on compulsory placement of people suffering from tuberculosis in treatment facilities (§ 35.1, articles 311.1–311.3 C. P. C. of the R. Td.);
- on introducing changes and supplements to civil status records (§ 36, articles 312–314 C. P. C. of the R. Td.);
- on appealing against notarial activities or refusing to perform notarial activities (§ 37, articles 315–317 C. P. C. of the R. Td.).

On the other hand, the indicated category of cases was not referred to cases of the nature of administrative and public disputes, which in my opinion is not right, because when considering applications for compulsory hospitalization of citizens to psychiatric institutions, applications for compulsory martyrdom of people suffering from tuberculosis to medical institutions, complaints about refusal of the civil status authority to introduce changes and supplements to the civil status records of a citizen and complaints about notarial activities or refusals to perform notarial activities – there is a mandatory dispute with the so-called *subjective sign*, consisting in the fact that one of the participants in the dispute is a state or quasi-state body state (for example: state health organization, civil registry, notary).

It should be noted that in some countries of the former USSR, complaints about the actions of a notary or refusal to perform notarial actions were classified as administrative and public disputes.

Despite the fact that in the Republic of Belarus, there are no administrative courts in this country, as well as the Code on Administrative Proceedings, the category of cases on appeal of notarial actions was assigned to the category of cases of administrative and public disputes. This category of cases is considered in accordance with the *Civil Procedure Code of the Republic of Belarus of 11.01.1999* in courts of general jurisdiction (art. 335.4 and § 5 – art. 351–352 of the Code) (12).

As for Turkmenistan, despite the fact that there are no administrative courts in this country, as well as the Code on Administrative Proceedings, the category of cases on appeal of notarial actions was classified as cases of administrative and public disputes. This category of cases is considered in accordance with the *Civil Procedure Code of the Republic of Turkmenistan dated 18.08.2015* in courts of general jurisdiction (art. 272.4 and section 28 – art. 292–294 of the Code) (13).

In Kyrgyzstan, the category of cases on appeal of notarial actions is considered in accordance with the *Code on Administrative Proceedings as of 25.01.2017* in administrative courts (articles 209–211 of the Code) (14).

In Uzbekistan, the category of cases on appeal of notarial actions is considered in accordance with the *Code on Administrative Proceedings as of 25.01.2018* in administrative courts (article 27.1 of the Code) (15).

As for the category of cases challenging the decision, action or inaction of the civil registration authorities, as indicated by Gamburg I. – when deciding on the nature of the legal relations underlying the category of dispute under examination, it should be borne in mind that the body of state registration of acts of civil status is a state body (a subject of power) carrying out state registration of acts of civil status. Thus, it follows that the state registration of acts of civil status is of public nature, since a person, sending an application (request) to such a body, enters into public relations with the state through an authorized state body (16).

For example, in Ukraine, the principles of delimitation of the jurisdiction of administrative courts from other types of jurisdiction were covered in the *Resolution of the Plenum of the Supreme Administrative Court of Ukraine as of May 20, 2013 № 8 on certain issues of administrative courts, which states that the decisive argument for referring a dispute to the jurisdiction of administrative courts is not dispute* – that is, the managerial (managerial) activities of the subject of the powers of authority. The criterion for the qualification of disputes arising from the refusal of the civil registration authority to the jurisdiction of administrative courts is the nature of the legal relationship underlying such a dispute (§ 4 of the Resolution of the Plenum) (17). For example, in Georgia, cases relating to the compulsory referral of persons to psychiatric institutions or to tuberculosis institutions are heard in courts of general jurisdiction, but under administrative court proceedings (art. 21.16–21.20 and art. 21.51–21.56 of the *Code of Administrative Procedure of Georgia of 23 July 1999*) (18).

An analysis of the *Code of Civil Procedure of the Republic of Tajikistan as of 5 January 2008* and the *Code of Administrative Procedures of the Republic of Tajikistan as of 5 March 2007* shows a certain conflict. Pursuant to art. 250.3 of the Code of Civil Procedure (10), when examining a case arising from administrative and legal relations, the standards regarding the recognition of an action, counterclaim, security measures and a settlement in the case are not applied. However, in accordance with the availability of the principle set out in art. 116 of the Code of Administrative Procedures (9), a state administration body has the right to settle the case in court or, in general, to refuse its claim.

As Zaitsev I. rightly believes, a citizen in administrative court proceedings has the opportunity to refuse his claim, change the basis or subject of the claim, and even the amount of compensation. On the other hand, the defendant (state administration body or official) may recognize the claim, make substantive and procedural reservations, and take advantage of the possibility of bringing a counterclaim (19).

Complaints of soldiers and citizens holding temporary military meetings against decisions, actions or inactivity of military management bodies and military officials

are examined by the military courts of the Republic of Tajikistan, and in the appellate instance by the judicial board for military matters of the Supreme Court of the Republic of Tajikistan (art. 58.4, 62.1 of the *Constitutional Law of the Republic of Tajikistan of July 26, 2014 on the Courts of the Republic of Tajikistan* (4)).

As for economic proceedings, before the dispute to be referred to a commercial court, a pre-trial dispute settlement procedure is required in an organ of state administration (art. 128.1 of the *Code of Economic Procedure of the Republic of Tajikistan of January 5, 2008*) (11). Pursuant to art. 28 C. E. P. of the R. Td., the economic court examines disputes arising from administrative and legal relations in the following categories of cases:

- to challenge non-normative acts of state administration bodies, as well as decisions, actions or inactivity of state administration bodies, when they violate the applicant's rights in the sphere of entrepreneurship or economic activity;
- for the payment of compulsory fees or fines by citizens or enterprises, if the legislation does not provide for a different procedure for collecting these fees;
- on the return from the budget of funds collected indisputably in violation of legal provisions or normative legal acts;
- other matters of an administrative and legal nature, if, by virtue of the law, their consideration is within the competence of an economic court.

In turn, according to art. 33.2 C. E. P. of the R. Td., the Supreme Economic Court of the Republic of Tajikistan—as a court of first instance—considers cases of challenging non-normative legal acts of the government of the Republic of Tajikistan, which are inconsistent with the legislation of the Republic of Tajikistan and violate the rights of citizens in the sphere of entrepreneurial or economic activity. Complaints about challenging non-normative legal acts, as well as decisions, actions or inaction of state administration bodies in the sphere of entrepreneurship or economic activity may be sent to the Economic Court within 3 months from the date when the party learned of the violation of its rights (art. 188.3 C. E. P. of the R. Td.).

According to article 159 of the *Tax Code of the Republic of Tajikistan dated December 23, 2021* (20), the taxpayer has the right to appeal against decisions and acts of tax authorities, actions or inaction of their employees to a higher tax authority and (or) to the court. A complaint against the act of a tax audit, the calculation of the amount of tax, fines and interest, as well as other decisions of the tax authority may be filed within 30 calendar days from the date the taxpayer receives the decision of the tax authority. The tax authority considers the taxpayer's complaint, makes a decision on it and officially (in writing or electronically) notifies the applicant within a period not exceeding 30 calendar days from the date the complaint was received by the tax authority.

3. Conclusions

1) The Constitution of the Republic of Tajikistan as of 6 November 1994 did not specify the possibility of establishing specialized courts in the country, such as administrative, juvenile, family, financial and other matters. On the other hand,

article 84.3 of the constitution states that the procedure for the establishment, organization and operation of the courts is to determine by constitutional law.

In my opinion, this provision may provide a preliminary opportunity for the establishment of specialized courts in the republic, since the provisions of the constitution of Tajikistan do not prohibit the possibility of their creation. To this end, I would like to send a reply to the Constitutional Court of the Republic of Tajikistan in order to translate the norm of article 84.3 of the *Constitution of the Republic of Tajikistan*, namely, there is a legal possibility to create specialized courts in the republic according to the *Constitutional Law of 26 July 2014 on the Courts of the Republic of Tajikistan*.

2) On July 26, 2014, a new *Constitutional Law of the Republic of Tajikistan on the Courts of the Republic of Tajikistan* (4) was adopted in Tajikistan. According to the norm of article 3.3 of this law, the establishment of extraordinary courts, as well as courts not provided for by the law, was prohibited in the country. A similar norm was contained in the previous *Constitutional Law of the Republic of Tajikistan of August 6, 2001 on the Courts of the Republic of Tajikistan* (21). This means that at the present stage of development of the judicial system in Tajikistan, the establishment of specialized courts (e. g., administrative courts) in the republic is impossible without introducing appropriate amendments to the indicated act, as well as amendments to the norm of art. 84.3 of the Constitution of the Republic of Tajikistan of 1994.

In my opinion, in order to develop the judiciary in the Republic of Tajikistan, it is crucial to establish administrative courts in the republic: the Court of the Khatlon Region, Court of the Sogdian Region, Court of the Gorno-Badakhshan Autonomous Region, Court of the capital city Dushanbe.

However, at the first stage, judicial colleges for administrative matters may be established. Court colleges in administrative cases may be established as the first instance at the Court of the Khatlon Region, Court of the Sogdian Region, Court of the Gorno-Badakhshan Autonomous Region, Court of the capital city Dushanbe, as well as the Economic Court of the Court of the Khatlon Region, the Economic Court of the Sogdian Region, the Economic Court Gorno-Badakhshan Autonomous Region and the Economic Court of the capital city – Dushanbe. A court college for administrative matters in the Supreme Court of the Republic of Tajikistan and the Supreme Economic Court of the Republic of Tajikistan established may be as a second instance – of appeal instance. The Presidium of the Supreme Court of the Republic of Tajikistan or the Presidium of the Supreme Economic Court of the Republic of Tajikistan may act as a cassation instance for the examination of administrative cases. In addition, I would introduce the specialization of judges in courts of general jurisdiction and commercial courts in the field of examining administrative cases.

3) An analysis of the *Code of Civil Procedure of the Republic of Tajikistan of 5 January 2008* and the *Code of Administrative Procedures of the Republic*

of Tajikistan of 5 March 2007 shows a certain conflict. Pursuant to art. 250.3 of the Code of Civil Procedure (10), when examining a case arising from administrative and legal relations, the standards regarding the recognition of an action, counterclaim, security measures and a settlement in the case are not applied. However, in accordance with the availability of the principle set out in art. 116 of the Code of Administrative Procedures (9), a state administration body has the right to settle the case in court or, in general, to refuse its claim.

In my opinion, in order to develop the administrative judiciary in the Republic of Tajikistan, it is necessary to exclude from the *Code of Civil Procedure of the Republic of Tajikistan of January 5, 2008* (10) and the *Code of Economic Procedure of the Republic of Tajikistan of January 5, 2008* (11), all cases concerning administrative and legal disputes and include this category of cases to the *Code on Administrative Procedures of the Republic of Tajikistan of March 5, 2007* (9), and to define for these cases the exclusive competence of administrative courts or judicial colleges for administrative matters:

1) Cases heard in courts of general jurisdiction:

1.1) on appealing against decisions, actions or inactivity of a state administration body, local government bodies and officials (§ 24, art. 254–258 C. C. P. of the R. Td.),

1.2) matters related to the election process (§ 25, art. 259–263 of the C. C. P. of the R. Td.),

1.3) cases of compulsory hospitalization of citizens to treatment and psychiatric institutions (§ 35, art. 307–311 C. C. P. of the R. Td.),

1.4) cases of compulsory admission of people suffering from tuberculosis to treatment facilities (§ 35.1, art. 311.1–311.3 C. C. P. of the R. Td.),

1.5) on introducing changes and supplements to civil status records (§ 36, art. 312–314 C. C. P. of the R. Td.),

1.6) on appealing against notarial activities or refusing to perform notarial activities (§ 37, art. 315–317 C. C. P. of the R. Td.);

2) Cases heard by military courts pursuant to art. 62.1–62.2 *Constitutional Law of the Republic of Tajikistan No. 1084 dated 26.07.2014 “On Courts of the Republic of Tajikistan”* (4):

2.1) on appealing against the decisions, actions or inactivity of military management and military officials by soldiers and persons holding temporary military meetings.

3) Cases heard by economic courts:

3.1) on appealing against non-normative acts of state administration bodies, as well as decisions, actions or inactivity of state administration bodies, if these files, decisions, actions or inaction violate the rights of applicants in the sphere of entrepreneurship or business activity (art. 187–191 C. E. P. of the R. Td.),

3.2) on collecting compulsory fees or fines from citizens or enterprises, if the legislation does not provide for a different procedure for collecting these fees (art. 28.1–28.2, 192–196 of the C. E. P. of the R. Td.),

3.3) on the return from the budget of funds withdrawn from the bank account of citizens or enterprises in an indisputable manner in violation of legal provisions or normative acts of law (art. 28.1–28.3 C. E. P. of the R. Td.).

4) I believe that to develop the administrative judiciary in the Republic of Tajikistan, the deadlines for appealing to a court of decisions, actions or inactivity of state administration bodies should be unified. For example, a petition to invalidate an act of a state administration body filed may be within 6 months from the date on which such act enters into force (art. 125 C. A. P. of the R. Td. (9). On the other hand, a complaint against the decision, actions or inaction of a state administration body, local government bodies or officials may be submitted within 3 months (art. 254 and 256.1 of the C. C. P. of the R. Td. (10).

In my opinion, the only time limit should be set for bringing complaints to the court against the decision, actions or inaction of a state administration body, as well as for bringing claims to the court regarding the invalidation of an act of a state administration body, adoption by a state administration body of an act, taking actions by a state administration body, and also recognition by a state administration body of a law or legal relationship (art. 125–128 C. A. P. of the R. Td.). In my opinion, such a deadline should be set as 6 months.

5) According to article 35 of the *Code of Administrative Procedures of the Republic of Tajikistan* (9), the parties to administrative procedures may be an administrative body, an individual or a legal entity. In my opinion, the norm of this article needs expanded to be, namely, to determine that a prosecutor can be a party in an administrative process in state administration bodies or in court. However, the participation of the prosecutor should be regulated strictly. I think participation of the prosecutor should be mandatory to protect the rights and legitimate interests of persons who independently cannot defend their interests in court (disabled persons, elderly people, children, mothers of many children).

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АСПЕКТИ РОЗВИТКУ АДМІНІСТРАТИВНОЇ ЮСТИЦІЇ В РЕСПУБЛІЦІ ТАДЖИКИСТАН ПІСЛЯ 1991 РОКУ

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Метою наукової статті є дослідження проблем розвитку адміністративної юстиції Республіка Таджикистан після 1991 року. Незважаючи на ту обставину, що в цій країні в 2007 році було прийнято Кодекс про Адміністративні Процедури визначальний порядок підготовки, прийняття та виконання адміністративно-правових актів, розгляду адміністративних заяв та скарг, здійснення провадження про адміністративні процедури в суді, взаємодії адміністративних органів – деяка ж частина справ, що характеризується адміністративно-публічними суперечками, розглядається в рамках Цивільного процесуального кодексу Республіки Таджикистан від 5 січня 2008 року, а також у рамках Економічного процесуального кодексу Республіки Таджикистан від 5 січня 2008 року. У статті подаються поради щодо гармонізації законодавства у сфері розгляду адміністративно-публічних суперечок. Крім того, з метою удосконалення судової системи Таджикистану пропонується створити в цій республіці адміністративні суди Хатлонської області, Соглійської області, Гірничо-Бадахшанської автономної області, столиці – Душанбе, а також в економічних судах цих регіонів. Або ж на першому етапі створити судові колегії з адміністративних справ у судах названих регіонів, а також створити судові колегії з адміністративних справ у Верховному Суді Республіки Таджикистан та Вищому Господарському Суді Республіки Таджикистан.

Ключові слова: Таджикистан, Конституція, судова система, адміністративна юстиція, Кодекс Республіки Таджикистан про адміністративні процедури (2007), Цивільний процесуальний кодекс Республіки Таджикистан (2008), Економічний процесуальний кодекс Республіки Таджикистан (2008).