

ADMINISTRATIVE AND LEGAL REGULATION OF ENTREPRENEURIAL ACTIVITY IN THE REPUBLIC OF UZBEKISTAN

Kalimbetov Yernazar

Independent researcher of KSU named after Berdakh

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Abstract. *The article analyzes the civil rights of entrepreneurs of the Republic of Uzbekistan. Particular attention is paid to the rights of entrepreneurs under the Civil Code of the Republic of Uzbekistan and their administrative and legal regulation.*

Keywords: *civil rights of entrepreneurs, administrative and legal regulation of entrepreneurial activity.*

The administrative and legal regulation of entrepreneurial activity in the Republic of Uzbekistan aims to ensure and protect public interests, such as the defense and security of the state, the rights and freedoms of man and citizen, the interests of socially vulnerable segments of the population, environmental protection. Without state intervention in the economy and entrepreneurial activity, it is impossible to guarantee the rights and freedoms of man and citizen, enshrined in the Constitution of Uzbekistan. The Constitution of the Republic of Uzbekistan in articles 65, 66, 67 establishes that “the basis of the economy of Uzbekistan, aimed at improving the welfare of citizens, is property in its various forms. The state creates conditions for the development of market relations and fair competition, guarantees freedom of economic activity, entrepreneurship and labor, taking into account the priority of consumer rights. In the Republic of Uzbekistan, equality and legal protection of all forms of ownership are ensured. Private property is inviolable. The owner cannot be deprived of his property except in cases and in the manner prescribed by law, and on the basis of a court decision. The owner, at his own discretion, owns, uses and disposes of the property belonging to him. The use of property must not cause damage to the environment, violate the rights and legitimate interests of other persons, society and the state.

The state provides a favorable investment and business climate. Entrepreneurs, in accordance with the law, have the right to carry out any activity and independently choose its direction.

On the territory of the Republic of Uzbekistan, the unity of the economic space, the free movement of goods, services, labor resources and financial resources are guaranteed.

Entrepreneurial activity, being organized by individuals and organizations pursuing the goal of systematic profit, significantly affects the interests of the whole society, whose members act as direct consumers of goods, works and services sold by entrepreneurs and are interested in the safety of such consumption.

This circumstance determines the specifics of the means and methods:

influence of the state on the sphere of business relations, which expressed, on the one hand, in the establishment of the principle of freedom entrepreneurship (everything is allowed, except for what is expressly prohibited), manifestation of an independent, risky initiative, and on the other hand, in the definition of prohibitions and restrictions in the exercise of civil rights in the field of

entrepreneurial activity. A conscious approach to the combination of such means allows us to talk about the creation of a special regulation procedure.

entrepreneurial activity, the purpose of which is to optimize balance of private and public interests. The need to harmonize private and public interests, achieve the given vectors of economic development and leveling negative factors in the process of exercising the right to engage in entrepreneurial activities and related civil rights led to the activity of the state in this area and its functions in order to streamline the social relations that arise in this area.

In this regard, a significant part of the legal means of influencing civil rights in the field of entrepreneurship belongs to the administrative-legal, thus forming the administrative-legal procedure for the implementation of entrepreneurial activity. So, V.D. Melgunov, depending on the types of administrative regulation, identifies: 1) regimes of legalization of entrepreneurial activity, in which the researcher includes issues of legal regulation of state registration of entities and objects in the field of entrepreneurship; 2) ensuring the safety of business activities for citizens, society and the state, which is associated with some especially significant types of public safety (industrial, environmental, fire, etc.), and licensing certain types of business activities; 3) protection of the rights of business entities, ensured through the establishment of administrative and legal regimes for the protection of competition, protection of business rights in insolvency (bankruptcy), as well as protection of the rights of economic entities in the financial markets; 4) tax, customs and tariff regulation, mediated by the issues of establishing the tax burden of business entities, rules for the import and export of goods, customs operations, as well as pricing principles; 5) state protectionism, covering issues of economic, organizational and legal support provided by the state for the development of entrepreneurship.

Such a classification is based on a broad understanding of the list of administrative methods of influencing social relations in the field of entrepreneurship. For example, the last two of these types of administrative and legal regulation of entrepreneurial activity can be attributed either to administrative (state support, tariff regulation), or permissive (for example, export and import of goods, customs policy) method of ensuring the exercise of rights.

Mandatory legal fact serving as the basis for the implementation the right to engage in entrepreneurial activity and related civil rights, is a non-normative legal act (decision (instruction) or action) of the authorized executive body or other public administration bodies, through the adoption (commitment) of which the performance of one or another state function is ensured. This thesis is also confirmed by the system of rights of citizens and organizations in the field of entrepreneurial activity.

According to civil law, an individual entrepreneur is understood as a person engaged in entrepreneurial activities without forming a legal entity, registered as an individual entrepreneur (paragraph 1 of Article 24 of the Civil Code of the Republic of Uzbekistan). In accordance with paragraph 1 of Article 39 of the Civil Code of the Republic of Uzbekistan, a legal entity is an organization that has separate property and is liable for its obligations, can acquire and exercise civil rights and fulfill civil obligations on its own behalf, be a plaintiff and defendant in court. The legal capacity of a legal entity arises from the moment of state registration in the Unified State Register of Legal Entities in one of the organizational and legal forms provided for by law. Thus, entrepreneurial activity is carried out by persons registered in the manner prescribed by law as entities authorized to conduct the specified activity.

In the theory of business law, there is an opinion that connects with the fact of state registration the emergence of the subjective right itself and to engage in entrepreneurship. Meanwhile, in relation to legal entities, taking into account Article 39 of the Civil Code of the Republic of Uzbekistan, it must be recognized that as a result of state registration, a legal entity acquires legal capacity - the ability to have subjective rights and legal obligations (becomes a subject of law). For citizens, the right to engage in entrepreneurial activity is one of the elements of general legal capacity, without being transformed into a subjective right. Thus, citizens on the basis of state registration acquire the status of an individual entrepreneur. In this case, the right to engage in entrepreneurial activity as an element of legal capacity acquires, in a broad sense, a target, "special" character.

The absence of registration of a person engaged in entrepreneurial activity does not deprive such activity of the character of entrepreneurial activity, but at the same time serves as a basis for recognizing it as illegal. Determining the sectoral affiliation of the institution of state registration of business entities (legal entities and individual entrepreneurs), V.P. Emelyantsev rightly noted that this institution belongs to the branch of administrative law and does not contain civil law norms; in fact, making an entry in the state register, being a very significant legal fact, has only civil legal significance, since from the moment an entry is made in the register for economic turnover, a new subject of law is "born".

At the same time, for certain types of legal entities, a special - permissive - procedure for their creation is provided, within the framework of which the conclusion of the executive authority on the formation of an economic entity serves as another legal fact in a complex legal structure. To ensure a healthy competitive environment, a system for assessing the impact of state aid on competition is being introduced. The Law "On Competition" 2023 defines the directions of state policy to protect competition, prevent and suppress anti-competitive actions, ensure freedom of economic activity and free movement of goods within the country, create conditions for the effective functioning of commodity and financial markets. In addition, the law introduces such new concepts as antimonopoly compliance, digital platform. According to the new criteria for determining the dominant position, natural monopolies will be included in this category.

The antimonopoly, competition legislation of Uzbekistan provides the legal framework for the prevention, restriction and suppression of monopolistic activities and unfair competition. In essence, antimonopoly/competition law aims to ensure conditions for the effective functioning of competitive relations in commodity and financial markets. Most of the norms of antimonopoly legislation are fixed in the Law of the Republic of Uzbekistan "On Competition". The law applies to the actions of business entities, individuals, government bodies and local government bodies that lead or may lead to restriction of competition in the commodity and financial markets of the Republic of Uzbekistan, committed on the territory of Uzbekistan and abroad. Most of the powers in accordance with the Competition Law are transferred to the State Committee of the Republic of Uzbekistan for the promotion of privatized enterprises and the development of competition. In particular, this body is empowered to give prior consent to mergers and acquisitions, as well as to conduct investigations in case of violation of antitrust/competition laws.

The need to issue a special administrative act also takes place in the administrative procedure for creating a legal entity. Thus, state unitary enterprises can be created in exceptional cases only by decision of the Cabinet of Ministers of the Republic of Uzbekistan. The constituent

document of a state enterprise is the charter approved by the founder and registered with the relevant state bodies in the manner prescribed by law.

At the same time, regardless of who authorized the creation of a collective economic entity, the general rule that a legal entity is created from the moment an entry is made in the state register is valid. According to Art. 44 of the Civil Code of the Republic of Uzbekistan - A legal entity is subject to state registration in the manner determined by law. State registration data are included in the unified state register of legal entities, open to the public. Violation of the procedure established by law for the formation of a legal entity or inconsistency of its constituent documents with the law entails a denial of state registration of a legal entity. Refusal to register legal entities for which a notification procedure for state registration is established shall be carried out in accordance with the law. Refusal to register on the grounds of inexpediency of creating a legal entity is not allowed. Thus, the act of state registration legitimizes the legal status of the subject as an entrepreneur, providing the latter with the opportunity to acquire, and in some cases “receive from above” other civil law statuses in business relations and exercise civil rights that can only be exercised by business entities.

The current legislation regulates in a special way the issues of granting economic entities special civil legal status, which is due to the need to establish mandatory rules for doing business in certain commodity markets, where the absence of such rules may adversely affect the interests of end consumers, lead to harmful socio-economic consequences. Undoubtedly, the sphere of energy supply is socially significant, which is the basis for the functioning of the economy and life support. In order to effectively and uninterruptedly provide the population and enterprises with energy resources, the state, through the establishment of special civil law statuses, has identified a number of economic entities for which the implementation of this activity is mandatory, regardless of the presence or absence of an economic effect in the form of profit. Since the implementation of activities in this area is quite costly, economically unprofitable for an entrepreneur, public authorities provide for the adoption of financial measures to support entrepreneurship (for example, setting economically justified tariffs, compensating for shortfalls in income, providing subsidies, etc.). The Law of the Republic of Uzbekistan, LRU- No. 225 dated September 30, 2009 “On the electric power industry”, in Article 4 defines the main directions of the state policy in the field of the electric power industry: ensuring the electric power security of the Republic of Uzbekistan; ensuring the safe and reliable functioning of the unified electric power system, meeting the needs of consumers in electric energy; ensuring equal access of consumers to territorial electric networks; introduction of market principles and mechanisms into the system of management and economic relations for the production, transmission and sale of electric energy, and others. This law provides for both civil law and administrative methods of regulation (Article 10) Thermal power plants, combined heat and power plants, as well as power plants using renewable energy sources connected to a single electric power system, may be in state or private ownership. Hydroelectric power plants connected to the unified electric power system are owned by the state. This law provides for a single purchaser of electricity, which is a subdivision of a specially authorized body in the field of electricity, which has the right to conclude contracts with enterprises for the production of electricity for the purchase of electricity; for the sale of electrical energy to enterprises of territorial electrical networks; for the transmission of electrical energy from enterprises for the production of electrical energy to enterprises of territorial electrical

networks, and also monitors the efficiency of production and transmission of electrical energy in a single electric power system.

The given examples show that the acquisition by an economic entity of special civil law statuses in the economic sphere is mediated by the need for the competent administrative public body to make an individual administrative decision in the form of a permit or order.

The next civil right in the field of entrepreneurial activity, the implementation of which requires the imperious assistance of administrative and public bodies, is the right to exercise certain types of business activities subject to licensing. The Law of the Republic of Uzbekistan "On Licensing, Permitting and Notifying Procedures" regulates relations in the field of licensing, permitting and notification procedures.

The concept of business licensing is defined in Article 3 as a set of measures related to the process of filing, accepting and considering an application for a license, issuing, extending, suspending, renewing and terminating a license, as well as canceling, reissuing and revoking a license. However, the determining factor in the licensing process is the granting to entrepreneurs of the right to carry out legally established types of entrepreneurial activity, which is formalized by the issuance of a special permit (license). Other listed types of administrative actions of authorized public bodies (reissuance of licenses, extension of the validity of licenses, implementation of license control etc.) are a consequence of the issuance of a license to the entrepreneur.

The license is issued in the form of a document (paper or electronic) special permission for the right to exercise a legal entity or an individual entrepreneur of a specific type of activity (performance of work, provision of services constituting a licensed type of activity for the implementation of which in the territory of the Republic of Uzbekistan requires a license.

Accordingly, the license acts as an act of legitimation of activity of economic entity, on the basis of which his right to engage in a licensed type of activity arises. Application No. 1 to the Law of the Republic of Uzbekistan "On Licensing, Permitting and Notification Procedures" defines the types of activities for which a license is required and the types of activities (actions) for which obtaining documents of a permitting nature are required.

Licenses from authorized state bodies are required for activities in the field of providing non-state educational services, training and retraining of drivers of motor vehicles and urban electric transport. for carrying out activities for the preservation of immovable objects of material cultural heritage for carrying out concert and entertainment activities, for advocacy, for the right to engage in private notarial activities, for carrying out tourism activities, for carrying out activities in the field of circulation of crypto-assets, for insurance activities of insurers and insurance brokers, for the production of food and technical ethyl alcohol, alcoholic products, for activities in the wholesale trade of alcoholic products, for activities in the production of tobacco products, for refining activities, for the right to carry out banking activities, for the activities of credit bureaus and others, in total 50 types.

According to Appendix No. 2 to the Law of the Republic of Uzbekistan "On Licensing, Permitting and Notification Procedures", there are types of activities (actions) for which permits are required, such as: permission for the transportation of heavy and bulky cargo, with the exception of radioactive waste of low and medium activity, by road, permission to re-equip motor vehicles, permission to exit rolling stock on public railway tracks, approval of a project for the construction and reconstruction of railway access roads, as well as devices designed for loading,

unloading and cleaning wagons and containers, construction and reconstruction of railway sidings, as well as devices designed for loading, unloading and cleaning wagons and containers., permission to carry out activities that may pose a threat to flight safety and others, a total of 121 types.

In addition to these types, Appendix No. 3 to the Law of the Republic of Uzbekistan “On Licensing, Permitting and Notification Procedures” provides for the types of activities carried out in order to notify authorized bodies: on the beginning or termination of activities for the manufacture of jewelry from precious metals and precious stones, as well as other products , on the beginning or termination of work with precious metals and precious stones, notification of the beginning or termination of activities for the sale of jewelry and other products from precious metals and precious stones, on the beginning or termination of the activity of an investment consultant, notification of the beginning or termination of the activities of a pawnshop, notification on the import of foreign and (or) national currency in cash, on the opening or closing of a bank branch or banking services office, on the reorganization of a payment organization (merger, accession, division, separation, transformation, notification of an electronic money issuer about the start or termination of activities for the issuance of electronic money , on the opening or closing of a branch of a microfinance organization, on the opening or closing of a branch of a pawnshop, on the beginning or termination of out-of-school educational activities and others, comprising 33 types.

The property basis of economic activity, of course, is the right of ownership⁵⁵, including property rights, which allows the entrepreneur, as the owner of property, to determine the nature and direction of the use of property by his authority and in his interest, be liable for its obligations. The essential importance of the right to own property for business entities is noted by G.A. Hajiyev.

When the owner exercises his absolute property rights, an administrative element is “introduced” - an act of state registration of rights to real estate, through which the owner of the property receives recognition and confirmation from the state of origin, change, transfer, termination of the right to real estate or restriction of such a right, encumbrance of property.

In accordance with Article 18 of the Land Code of the Republic of Uzbekistan, the right of ownership of legal entities and individuals to land plots arises in the manner prescribed by law during the privatization of non-agricultural land plots.

A special group of civil rights of business entities are exclusive rights to the results of intellectual activity and to means of individualization, regulated by the norms of chapters 59 - 65 of the Civil Code of the Republic of Uzbekistan on intellectual property.

The rights of the author in Uzbekistan are certified by a certificate of their registration. According to the norms established by law, the exclusive right to the result of intellectual activity or to a means of individualization is recognized and protected subject to state registration of such a result or such means. The current legislation provides for the need for state registration of an invention, utility model, industrial design, selection achievement, company name, trademark and service mark, geographical indication, appellation of origin. Legally significant for such objects of intellectual property is the need to reflect them in the appropriate register, which has legal force (mandatory state registration). The object of intellectual property receives legal protection upon its official recognition by the authorized body after passing through a special expert procedure and making a decision on the protection of the object.

Conclusions. An analysis of the norms on entrepreneurial activity reveals practically intersectoral regulation of this activity. Taking into account the multi-sectoral nature of the system of law in the Republic of Uzbekistan and the lack of division into public and private law, it should be noted that despite the difference in the subjects of regulation of these branches of law, administrative and legal institutions include rules of law that establish the possibility of applying administrative and imperious laws to civil law subjects. methods, i.e., property relations experience the power-administrative and imperative-regulatory potential of administrative and legal regulation, and administrative law should be considered as one of the guarantees for the implementation of civil law norms.

The participation of the state in legal relations related to the regulation of business activities should be significant, but strictly regulated by law. The administrative-legal regime in the field of entrepreneurial activity includes the following components:

firstly, the norms that determine the competence of entities exercising administrative and legal regulation, as well as the features of the legal status of persons engaged in entrepreneurial activities;

secondly, the norms that are implemented in the rights and obligations of entities that carry out regulation and entities engaged in entrepreneurial activities;

thirdly, the rules providing for the responsibility of the entity exercising administrative and legal regulation, or its official, as well as the rules providing for the responsibility of a person engaged in entrepreneurial activities, or an official of this entity for violation of regime rules.

In addition, the structure of the administrative-legal regime includes norms that establish the right and procedure for appealing against the actions (inaction) of the entities that regulate in this area, and their officials (administrative and judicial), if they impede the implementation of legitimate business activities.

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