

The modern state and stages of development of legislation in the field of public control over the activities of state authorities in the Republic of Uzbekistan

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Abstract: *In the article from a scientific and theoretical point of view, the current state and stages of the development of legislation in the field of public control over the activities of state power in the years of independence are analyzed. The article developed suggestions and recommendations for improving legislation in the field of public control.*

Key words: Legislation, Public Control, Citizens, Public Associations, Non-Governmental Organizations, Civil Self-Governance Bodies.

During the years of independence, the Institute for Public Control over the activities of state governing bodies has steadily improved. The process of improving the forms and methods of public control is constantly and consistently developing in line with progressive global trends. Issues of carrying out public control in the country are reflected in more than 40 regulatory

and legal documents, which contain more than 70 norms of public control¹.

Based on the peculiarities of the development of legislation on public control over the past period, we can divide it into three main stages:

The first stage is the period of formation and restoration of the legal framework for public control, covering the period 1991-2000.

For the first time since the adoption of the Constitution of the Republic of Uzbekistan, self-government bodies have gained constitutional status, the rights and freedoms and guarantees of citizens have been strengthened, and separate laws have incorporated elements of public control. In particular, the

¹Nazarkosimov S.I Role of public control over the use of alternative energy resources // Improvement of the legal framework for environmental protection in the Republic of Uzbekistan: Proceedings of the Republican Scientific and Practical Conference. - Tashkent: TSUL, 2014. - P. 168–169.

peculiarities and mechanisms of public control are reflected in the Constitution of the Republic of Uzbekistan and a number of legislative documents. For example, Article 2 of our constitution establishes that state bodies and officials are accountable to the society and citizens, and has served as an important legal framework for the functioning and development of this important democratic institution.

During this period, regulations related to public control were strengthened by laws in the social sphere, including the environment and food. For example, Article 31 of the Law on Nature Protection also provides that environmental control, including public environmental control, is regulated by legislation. Nevertheless, this Law provides for the powers of public associations working in the field of nature protection in their statutes, which are adopted in accordance with the laws of the Republic of Uzbekistan (Article 13) and at the initiative of public associations, at their own expense or on a

voluntary basis, an independent expert group of experts provides public environmental expertise (Article 27). Moreover, Article 28 of the Law on Protection of Atmospheric Air states that public control over the protection of atmospheric air is carried out in accordance with the law. Also, in accordance with Article 8 of the Law No. 483-I of August 30, 1997 "On food quality and safety", public associations carry out public control over the implementation of norms and rules for ensuring the quality and safety of food have the right to increase. As we have seen, these laws are limited to the registration of public control in accordance with the law.

A number of other laws enacted at this stage provide for public oversight as a form of participation of citizens' self-government bodies and citizens. For example, the Law "On Water and Water Use"² addresses the activities of water consumer associations, other non-profit

² Law of the Republic of Uzbekistan from May 6, 1993 of No. 837-XII "About use of water and water" // Bulletin of the Supreme Soviet of the Republic of Uzbekistan, 1993, No. 5, Art

organizations, in the implementation of measures for the rational use and protection of water and water bodies, as well as participation of citizens is limited to assisting state authorities in the implementation of measures for the rational use and protection of water and water bodies. In addition, it is provided that public authorities can take into consideration the proposals of water consumer associations, other non-governmental non-profit organizations, as well as citizens during these activities (Article 10). This does not allow the subjects of public control to carry out public control over the rational use and protection of water and water bodies. Therefore, it is advisable to revise Article 10 of the Law “On Water and Water Use” to include public oversight in it.

At the same time, a number of laws adopted during this period did not provide for public control at all. This list includes the laws “on citizens' health care”, “on mineral resources” and on other laws. For example, the Law on Subsoil stipulates state and industry

control over the use and protection of subsoil, and does not reflect public control. Taking into account the adoption of the Law "On Ecological Control" in 2013, it is advisable to supplement the Law on Subsoil with Article 50, to determine the possibility of public control.

Taking into account the priority directions of the state policy in the field of health, as well as taking into account the fact that this sphere is closely connected with the important constitutional rights of citizens, Article 61 of the Law of the Republic of Uzbekistan "On protection of public health" of August 29, 1996, which defines the powers of citizens to carry out public control over the activities of self-government bodies, public associations and public health authorities.

In addition, in accordance with Article 8 of the Law "On Trade Unions, their Rights and Activities", unions carry out public monitoring of employment status and compliance with employment legislation. Based on this, we can

conclude that unions are also subject to public scrutiny.

The Law on Protection of Journalism³ in 1997 also reinforced the right of journalists to exercise a form of public oversight, such as the "journalistic investigation". According to the law, a journalist has the right to collect and investigate information. A journalist may disseminate the results of his or her investigations through the media and voluntarily submit it to state authorities, citizens' self-government bodies, public associations, businesses, institutions, organizations and officials. Materials and documents obtained by the journalist during the investigation may not be seized or reviewed (Article 9).

It should be noted that the Law "On guarantees of activity of NGOs"⁴, adopted in the first stage, also needs serious improvement in connection with

improvement of the institute of public control in recent years. In particular, it is expedient to reflect in the law norms related to the guarantees of activities of non-governmental non-profit organizations in public control.

The second stage is the period of improving the legal framework for public control, covering 2001-2010, strengthening public control in certain areas, and expanding forms and methods of public control.

We can see that some of the laws passed during this period have the duty of citizens' self-government bodies and public associations to assist in the activities of state bodies. In particular, Article 9 of the Law "On the Protection and Use of Cultural Heritage"⁵ provides that local authorities engage civil self-government bodies and public associations in the protection, preservation, promotion and use of cultural heritage sites. Likewise, Article

³ Law of the Republic of Uzbekistan of April 24, 1997 # 402-I "On protection of journalistic activity"// Bulletin of the Supreme Assembly of the Republic of Uzbekistan, 1997, No 4-5, Article 110³

⁴ Law of the Republic of Uzbekistan from May 6, 1993 of No. 837-XII "On guarantees of activity of nongovernmental nonprofit organizations" // Bulletin of the Supreme Council of the Republic of Uzbekistan, 1993, No. 5, Art.

⁵ Law of the Republic of Uzbekistan No. 269-II of August 30, 2001 "On the protection and use of sites of cultural heritage"//Bulletin of the Supreme Assembly of the Republic of Uzbekistan, 2001, No 9-10, Article 180

8 of the Law “On the Protection and Use of Archaeological Heritage”⁶ provides that local governments engage voluntarily with citizens, NGOs, and citizens in the protection, preservation and promotion of archeological heritage sites. It is advisable to revise the above-mentioned laws based on the requirements of the Law “On Public Control”. After all, citizens' self-government bodies, NGOs and citizens should participate not only in this process, but also carry out public control over the activities of state bodies for the preservation and protection of these objects.

Article 19 of the Law "On the prevention of juvenile delinquency and delinquency"⁷ provides that citizens' self-government and non-governmental organizations cooperate with agencies

and agencies engaged in the prevention of juvenile delinquency and offenses within their competence.

The Town Planning Code of the Republic of Uzbekistan⁸ on April 4, 2002 also contains important provisions related to public control. In particular, it assures that the harmonization of public and state interests in urban planning is ensured by state authorities, citizens' self-government bodies and public associations (Article 4). In addition, one of the main requirements of urban planning is to provide conditions for citizens and public associations to participate in the discussion and decision-making in the field of urban planning (Article 6).

Adoption of the Law “On the Principles and Guarantees of Freedom of Information” on December 12, 2002 has also provided an important legal basis for public oversight in the country. After all, obtaining timely and objective

⁶ Law of the Republic of Uzbekistan "On protection and use of archaeological heritage sites" dated October 13, 2009 No ZRU-229// Collection of Laws of the Republic of Uzbekistan, 2009, No. 42, Article 448

⁷ Law of the Republic of Uzbekistan on September 29, 2010 No ZRU-263 "On the prevention of neglect and delinquency among minors" // Collection of legislation of the Republic of Uzbekistan, 2010, No. 39, Art.341

⁸ Town planning code of the Republic of Uzbekistan (04.04.2002) // Bulletin of the Supreme Assembly of the Republic of Uzbekistan, 2002, No. 4-5.Artc.63

information is a prerequisite for public oversight.

On August 29, 2003, the Law "On public funds"⁹ and "On guarantees of activity of non-government non-profit organizations"¹⁰ determined the legal status, guarantees of activities of civil society institutions, the procedure for its organization and state registration, rights and obligations. In particular, Article 5 of the Law on Guarantees of the Activity of Non-Governmental Non-Profit Organizations defines the freedom of their activities, under which NGOs may carry out any activity not prohibited by the legislation within the statutory goals of their statutes.

In a number of laws adopted during this period, the powers of citizens' self-government bodies and citizens in certain areas are stated in separate articles, and Thus, Articles 12-13 of the Law "On

Waste" set out the powers of citizens' self-government bodies and citizens in the area of waste management. According to this Article, citizens' self-government bodies carry out public control over the sanitary and ecological condition of waste disposal facilities.

At the same time, as a subject of public control, it is necessary to acknowledge the differences between civil self-governance bodies and the legal status of citizens. That is, as we have seen, when citizens' self-government bodies exercise independent public control as a control subject, citizens cannot act independently, but are limited to participation only. According to the Law "On Public Control" citizens should also be given the right to carry out public control over the sanitary and environmental status of waste disposal facilities.

It is also important to note that certain social laws, adopted during this period, do not provide public control. As given above, as well as taking into account the direct impact of public health, medicine,

⁹ Law of the Republic of Uzbekistan "On Public Funds" of August 29, 2003 No. 527-II // Bulletin of the Supreme Assembly of the Republic of Uzbekistan, 2003, No 9-10, Art.141

¹⁰ Law of the Republic of Uzbekistan from January 3, 2007 No ZRU-76 "About guarantees of activity of nongovernmental nonprofit organizations" // Collection of the legislation of the Republic of Uzbekistan, 2007, No. 1-2, Art.2

pharmaceuticals, road, power industry and museums, May 11, 2001 "On the protection of the population against tuberculosis", May 3, 2007 "On prevention of iodine deficiency diseases", "On the highways" of October 2, 2007, "On Museums" of September 12, 2008 "On Electricity" of September 30, 2009, "On Prevention of Micronutrient Deficiency among the Population" of June 7, 2010 and the Law on Drugs and Pharmaceutical Activities, dated January 4, 2016, to strengthen the institution of public control.

The third stage is the period of active improvement of the legal framework for public control, covering the period from 2011 to the present, the democratization and modernization of social life, the constitutional consolidation of public control and the strengthening of its institutional framework.

According to the amendments to the Constitution of the Republic of Uzbekistan, dated April 16, 2014, Article 32 of the Constitution provides for the development and improvement of public

control over the activities of state bodies as one of the main forms of citizens' participation in the management of public and state affairs. The Constitution also provides for the procedure for exercising public control over the activities of state bodies. Giving this institution a constitutional and legal status has brought this type of control to a qualitatively new level in our country and is an important step in the formation and development of a unique "Uzbek" model of public control. After all, public control is one of the main constitutional principles - the principle of democracy, as well as an important condition for ensuring direct participation of citizens in the management of public and state affairs. Public oversight is an important institution of democracy and local government, and it promotes the protection of the rights and lawful interests of citizens by exercising control over the activities of state authorities and governments.

Public control differs from other types of control as an important tool for

building a free civil society, as well as for effective cooperation between government and public organizations: this type of control is carried out by citizens, self-government bodies and other civil society institutions; it provides the rights, freedoms and legitimate interests of citizens; the main object of this control is the activity of public authorities; it combines the interests of citizens and civil society institutions and relies on public opinion and power.

To this end, over the past years in our country, special attention has been paid to ensuring citizens' participation in the management of public and state affairs, creating consistent mechanisms for exercising public control over the activities of executive power, and strengthening the functions of public control.

Today, effective mechanisms of public control over the activities of the executive power have been formed in the country. In particular, the Laws “On

Civil Self-Government Bodies”¹¹ and “On Environmental Control”¹² adopted in 2013, “On Transparency of the Activities of State Authorities and Governments”¹³ and “On Social Partnership”¹⁴ in 2014 the most important forms and methods of public control exercised by citizens' self-government bodies and other non-government non-profit organizations. In particular, the system of public environmental control introduced in our country is now widely used in environmental protection in the United States, Great Britain, Korea and Germany.

In this regard, we can see that the Law of the Republic of Uzbekistan “On

¹¹ Law of the Republic of Uzbekistan on 22.04.2013 No ZRU-350 “On the introduction of amendments and supplements to the Law of the Republic of Uzbekistan” On self-government bodies “// Collection of Laws of the Republic of Uzbekistan, 2013, № 17, Article 219

¹² Law of the Republic of Uzbekistan on 27.12.2013 No ZRU-363 “On environmental control”// Collection of Laws of the Republic of Uzbekistan, 2013, № 52, Article 688

¹³ The law of the Republic of Uzbekistan on May 5, 2014 of No ZRU-369 “About openness of activities of bodies of state authority and management”// Collection of Laws of the Republic of Uzbekistan, 2014, № 19, Article 209

¹⁴ Law of the Republic of Uzbekistan of September 25, 2014 No ZRU-376 “About social partnership”// Collection of Laws of the Republic of Uzbekistan, 2014, No. 39, Article 488

Ecological Control"¹⁵ has strengthened the legal status of the subjects of public ecological control. Thus, the powers of 12 citizens in the field of public ecological control of the bodies of self-government and non-government organizations and 7 public inspectors of the public ecological supervision are provided.

The law includes 4 forms of public environmental control: environmental conditions and changes in its economic or other activities, observance by legal entities and individuals of environmental legislation, monitoring the implementation of state environmental programs and other environmental programs, participation as observers in the implementation of state, departmental and industrial environmental control, hearing of reports of the heads of relevant public authorities and enterprises, institutions and organizations on the issues of environmental protection, sanitary

condition, improvement and landscaping of the territory, conduction of public ecological expertise, so there are 3 ways: to analyze and assess the state of rational use of the environment and natural resources, to study public opinion (Article 20).

One of the subjects of public control - the special law on self-government bodies - the Law "On civil self-government"¹⁶ (new edition) also contains important provisions related to public control. A separate article 16 of the Act deals with public oversight by the self-government bodies, It notes that public control by citizens' self-government bodies is carried out in three basic forms: the study of the implementation of laws and other legislative acts in the relevant territory, the appeal to state authorities for taking appropriate measures, and requests for public and social issues.

Ensure implementation of paragraph 44 of the State Program on implementation

¹⁵ Law of the Republic of Uzbekistan on 27.12.2013 No ZRU-363 "On environmental control"// Collection of Laws of the Republic of Uzbekistan, 2013, № 52, Article 688

¹⁶ Law of the Republic of Uzbekistan on April 22, 2013 of No.ZRU-350 "About self-government bodies" (new edition)// Collection of Laws of the Republic of Uzbekistan, 2013, № 17, Article 219

of the Strategy of Action on the five priority directions of development of the Republic of Uzbekistan in the Year of Dialogue with the People and Human Interests for 2017-2021, approved by the Decree of the President of the Republic of Uzbekistan dated February 7, 2017 № UP-4947¹⁷ and the Law "On Public Control"¹⁸, dated April 12, 2018, designed to further enhance the effectiveness of the democratic reforms and the current state of the formation of civil society in the country as an effective dialogue between the state and society brought a new level of work to create a systematic and effective legal mechanism for the control of public and civil society institutions over the implementation of the legislation by state and government bodies.

Adoption of this Law is important with the improvement of the legal mechanism

for exercising control over the activities of public authorities and civil society institutions. Specifically, the law defines the types, forms and subjects of public control, the subject of control, the mechanisms for its implementation, as well as the conditions of liability of officials for non-compliance with the current legislation in this area, which has allowed for more effective implementation of public control forms.

It should be noted that the practice of public control in our country today is based on the advanced experience of democratic countries, based on the features of the Uzbek model of development. In particular, the various forms of public control of the practice of foreign are widely used, such as public hearings, public examination of draft laws and regulations, and public accountability in our country.

The peculiarity of the law is that it specifies the right of public authorities to initiate public control. This norm should be initiated by the state body to carry out public oversight of civil society

¹⁷ Decree of the President of the Republic of Uzbekistan dated February 7, 2017 N UP-4947 "On the strategy of further development of the Republic of Uzbekistan"// Collection of Laws of the Republic of Uzbekistan, 2017, № 6, Article 70

¹⁸ Law of the Republic of Uzbekistan "On Public Control" dated April 12, 2018 No ZRU-474// National Database, 13/4/2018, No. 03/18/474/1062.



institutions with a view to improving its performance, external evaluation, as a result, it will improve its performance by acquiring additional information about some of the disadvantages in its work, issues that need to be addressed in its legal activities, and thereby enhancing the cooperation between state and civil society institutions.

To conclude, the adoption of an integral and systematic law on public control in our country is aimed at further improving existing forms of public control and introducing and developing new modern forms of public control, enhancing the effectiveness of government agencies and officials, and most importantly, further improvement of the mechanism of protection of legitimate interests.