

Problems of Administrative-Normative Provisions for The Safety and Quality of Goods, Works and Service

Primov Farhod Abdijabborovich

*Senior science researcher at Academy of Ministry of Internal Affairs of the Republic of Uzbekistan, Tashkent city
(Experience of Uzbekistan)*

Annotation: The article deals with the quality and safety of goods, labour and services in the conditions of market economy in Uzbekistan and the role of state in providing safety and quality of goods, labour and services. The author studies the ideas and methods of different specialists in providing safety and quality of goods, work and services. At the same time analyses the obligatory rules and regulations which are established in providing safety and quality of goods, work and services.

Key words: labour, service, market economy, civic-legal, safety, goods, entrepreneurship, labour, quality, requirements, realization, government, administrative-judicial norms.

In order to achieve good quality and safety of goods, labour and services in conditions of market economy, competition and normative (civil, administrative and criminal-legal) methods must be widely used and those means and methods have dialectic character.

Protecting consumers' rights has a wide meaning and it is defined not only by individual (civil) but also

public (criminal, administrative, procedural) legal norms¹. But each of them has their own role and significance in providing safety of goods, labour, and services. For instance, legal competition plays an important role in developing free market economy. It also benefits provision of the safety of the goods, labour, and services offered by competing subjects. Moreover, civic-legal methods also have positive impact in this regard. However, these methods are used when solving disagreement that arises in the process of realization of goods, labour, and services.

However, competition and civil-legal methods are not enough for the provision of safety and quality of goods, labour and services. The reason for that is that as a result of the illegal acts of subjects offering goods, labour and services targeted at getting more income by spending less finances and efforts, as well as their insufficient knowledge and skills in meeting safety

¹ *Богдан В.В.* Гражданско-правовое регулирование защиты прав потребителей в современной России: проблемы теории и практики: Автореф. дис. ... д-ра. юрид. наук. – Курск, 2015. – С. 11. (38 с.)

requirements in many cases may lead to producing goods, labour and services that do not meet safety and quality requirements. According to A.I Golubnichiy, subjects of entrepreneurship save expenses (expenses on provision of quality and safety of goods, work, and services) in order to make a balance between income and expenses but the government does not allow this.² Meanwhile, as a result of the work conducted by the government for human safety as the prior objective in the sphere of standardization and certification and protection of goods and services consumers' benefits there appears the need for the care and protection of consumers' rights, and consequently, the aim of material-jural norms is to prevent disorder and breach by state organs (authorized people) fulfilling their administrative competences in the sphere of individual producers (individuals). Therefore, certain obligatory rules and regulations are established in providing safety and quality of goods, work and services³.

Some authors state that requirements to goods, work and services (as well as entrepreneurship) is one way of regulation (administrative-legal) by the state. Particularly, S. E.

Ernazarov explains the methods of regulating economy by the state as "rules of the game", and one of the rules of that game is establishing standards, legally protecting consumers' rights, and participating in controlling quality of goods⁴. He also insists on one of the important tasks of the state is not only strengthening production of goods, but also adopting laws controlling that they are appropriate to the demand of consumers⁵.

The state influences in imperative-dynamic way permanently in the direction of providing safety and quality of goods, work, and services. Its administrative-judicial characteristics can be seen, firstly, in administrative-judicial norms for the safety and quality of goods, work, and services mentioned in certain legal documents, secondly, in the functions of executive government subjects connected with provision of safety and quality of goods, work, and services, thirdly, in the administrative measures taken against breaking norms and requirements for safety and quality of goods, work, and services.

The need for imperative (administrative) provision of safety and quality of goods, work, and services can be explained by the following two factors:

The first factor lies in the fact that realization of goods, work, and

² Голубничий А.И. Предпринимательская деятельность как объект правового регулирования: Автореф. дис. ... канд. юрид. наук. – Москва, 2006. – С. 15. (19 с.)

³ Лаврентьева М.С. Административно-правовое регулирование в сфере стандартизации и сертификации: Автореф. дис. ... канд. юрид. наук. – М., 2006. – С. 7.

⁴ Ернazarov С.Е. Бозор иқтисодиётига ўтиш шароитида давлатнинг иқтисодий вазифаларининг муаммолари: Иқтисод. фан. номз. ... дис. – Тошкент, 1995. – Б. 127.

⁵ Ўша манба. Б. 127.

services has mechanical influence on environment, ecology, human life and health, the order in society and safety. And in this process, the need for protecting individual and public benefit from negative (or damaging) influence of realization of goods, work, and services appears.

The second factor is the need for maximum appropriateness of goods, work, and services to consuming interests.

Administrative-judicial characteristics of providing safety and quality of goods, work, and services are the followings:

In administrative-judicial norms of safety and quality of goods, work, and services;

in functions of the executive government subjects connected with providing safety and quality of goods, work, and services;

in administrative responsibility for breaking norms and requirements on safety and quality of goods, work, and services.

Administrative-judicial norms required for the safety and quality of goods, work, and services. First of all, it should be emphasized that conceptual grounds for administrative-judicial norms required for the safety and quality of goods, work, and services were defined in the Constitution and Civil Codex of the Republic of Uzbekistan. The article 54 of the Constitution reads that the owner of property owns the property as wishes, using the property and spending it must be within the rights given by laws, must not damage environment, and must not

be against the interests of citizens, physical bodies and the state which are protected by laws. In addition, the 1st article of the Civil Codex reads that goods, services and finances can move freely in the whole territory of the Republic of Uzbekistan, but at the same time, it is stated that this free movement of goods and services can be limited if needed for provision of safety, protecting people's lives and health, following the legal documents.

The following laws of the Republic of Uzbekistan also define obligatory requirements, standards, norms, and regulations defining safety, quality and appropriateness of goods, work, and services: Laws on "Technical Regulation", "On protecting consumers' rights", "On quality and safety of food products", "On standardization", "On certification of products and services", "On Metrology", "On sanitary – epidemiological safety of the population", and a number of other legal documents. For instance, the law "On protecting consumers' rights" explains the content of the notion safety of goods (work, service). According to it, the safety of goods (work, services) means absence of threat to the life, health or property and environment of consumers from consuming, using, storing, transporting or utilizing goods or using the results of work or service.

The law "On quality and safety of food products" reads that the quality of food products means the complex of criteria defining consuming properties of food products and providing safety of life and health of people consuming

them, safety of food, accordingness of food products to sanitary, veterinary, fitosanotary norms and regulations.

L.Ch. Yevgenyeva states that quality and safety of goods has a triple characteristics that is connected with the interests of the participants of realizing goods. She thinks that:

for the citizens of a country quality and safety is the possibility to satisfy excellently their need for clothes, food, medical and housing services, education and free time organization;

for the producer of goods safety and quality means possibility to fulfill their work in a way which is useful for the society and profitable for them;

for the country, safety and quality is improving living standards of the population, healthy economy and safety and peace of the citizens, competability of national goods in the world arket, and competability of the country in the modern world⁶. However, we cannot approve of this approach of the author, it inflences negatively the formation of single criteria and requirements for goods, work, and services.

Functions of subjects of executive power in providing safety and quality of goods, work, and services. Subjects of certain executive organs of the government are allocated functions, competences, and rights to provide safety and quality of goods, work, and

services, and they function in the following two methods:

a) introducing requirements and regulations on safety and quality of goods, work, and services;

b) providing fulfillment of requirements and regulations in power on safety and quality of goods, work, and services.

According to the laws, state protection of consumers' rights is provided by the government and administrative organs, as well as courts. Besides, State committee on privatization, de-monopolization, and developing competition, Agency of standardization, metrology, and certification, Ministry of Healthcare, State committee of architecture and construction, State committee of environmental safety are the state organs that have been allocated with special competence on protecting consumers' rights.

As mentioned above, provision of safety and quality of goods, work, and services can also be conducted directly by licensing and giving permission. In that case, special competent bodies that license and provide documents with permission possess special competences on safety and quality of goods, work, and services.

Administrative responsibility for breaking norms and requirements on safety and quality of goods, work, and services.

In a number of articles of the Codex on Administrative Codex in act there are articles dealing with administrative responsibility for breaking norms and requirements on

⁶ *Евгеньевна Л. Ч.* Административно-правовое регулирование обеспечения безопасности и качества потребительских товаров: Автореф. дис. ... канд. юрид. наук. – Москва, 2005. – С. 9-37.

safety and quality of goods, work, and responsibility. Particularly, Article 53 of this Codex administrative responsibility is allocated for violating legal documents on the Law on sanitary, in Article 164 for violating rules on commerce or providing services, in Article 165 for conducting activity without licences or other documents giving permission, in Article 165¹- for producing, preparing, buying, storing, transporting or selling low quality or false medication or medical equipment of low quality in order to sell, Article 212- for violating standards, Article 214- for violating regulations of certification.

Chief State inspector of the Republic of Uzbekistan, chief state inspector of the Republic of Karapalksatan, regional, Tashkent city state inspectors and their vices who control standards and measure means are competent to investigate cases of administrative legal violation and appoint administrative punishment in the form of fines.

So, there is a whole system of administrative-legal provision of safety and quality of goods, work, and services in our country.

In democratic society with market economy the requirement for safety and quality of goods, work, and services increases. To this regard, S.A. Brizgalova when analyzing and forecasting gradual development of the relationships between producers and consumers in 1970-2000 states that the significance of certification in these relationships grows, and by 2000, certification had turned into the main

tool of the direct connector of the relationships between producers and consumers⁷.

This analytical conclusion of S.A. Brizgalova can be proved by the current state of the problem of food safety in the world that has turned into a serious issue.

Legal documents on quality, safety, and accordance of goods, work, and services must be systemized and re-adopted taking into account modern requirements. To this regard, D.I. Babayev states that it is required to adopt the new edition of the law “On protecting consumers’ rights” and to devote its 4th Chapter to the protection of consumers’ rights by the state and community⁸. We agree to this ideas of the author and to complete it, we would say that it is reasonable to define clearly in the new edition of this law all methods (administrative - judicial), and as one of them the functions, competences, and rights of competent organs or their officials in providing safety of goods, work, and services.

The Decree of the Cabinet of Minister of the Republic of Uzbekistan number 102 from April 25, 2016 “On further enhancement of measures realized in the sphere of healthy food consumption of the population of the Republic of Uzbekistan” also identifies

⁷ *Брызгалова С.А.* Сертификация продукции и систем качества в условиях перехода к рынку: Автореф. дис. ... канд. экон. наук. – Санкт-Петербург, 1993. – С. 10. (17 с.)

⁸ *Бабаев Д.И.* Истеъмолчи ҳуқуқлари ва уларни бузганлик учун фуқаролик-ҳуқуқий жавобгарлик муаммолари: Юрид. фан. .. номз. дис. – Тошкент, 2005. – Б. 154.

working out technical regulations and national standards for food products and food raw materials as one of the main means for the provision of healthy food consumption by the population of Uzbekistan. Moreover, it is planned to enhance the mechanisms of controlling the quality of food products and food raw materials produced in the territory of Uzbekistan and imported from abroad, strengthening the responsibility of producers that manufacture food products violating established requirements and falsifying them.

Only physical persons can be called for administrative responsibility for violation of standards, metrology and certification rules. However, in most cases standards, metrology and certification are violated by judicial persons dealing with manufacturing and therefore, they only have civil responsibility for that. To our mind, judicial persons must also be put to administrative responsibility for violating rules of standardizing, metrology, and certification in order to enhance means of administrative responsibility in this sphere. It is reasonable to develop the norms presupposing direct responsibility for realization of food products that do not meet norms and requirements on their safety and quality in the Codex on Administrative Responsibility.

With the development of science, technology and further integration new types of goods, work, and services are coming into the territory of our republic or appearing. As a result, it is required to renew norms, requirements and

regulations of their safety and quality regularly.

Norms and requirements on quality and safety of goods, work, and services are behind the current development rates. These norms and requirements, firstly, are unable to provide complex safety and quality of goods, work, and services, on the other hand, they are causing problems for effective realization of goods, work, and services. Due to this, it is necessary to implement the new generation of effective norms and requirements on quality and safety of goods, work, and services.

A particular attention must be paid to the health and safety of children when providing administrative-legal norms on safety and quality of goods, work, and services. Currently, various toys are being produced and imported into the country and not enough attention is being paid to whether they meet the norms of their quality and safety. Because of this, we should develop certain norms on preventing production, import, and realization of toys that are dangerous for children's life, health, and their spiritual-moral development.

Another important aspect of safety and quality of goods, work, and service which lacks administrative-legal provision is social safety of goods, work, and services. We have to admit that criteria and standards for social safety of goods, work, and services, as well as mechanisms providing them does not meet requirements. Meanwhile, social safety has acquired global significance in today's rapidly

developing processes. Globalization and integration are destroying spiritual values and norms of humanity that have developed for many centuries. Presently, goods, work, and services offered present spiritual threat due to their characteristics. Especially, children's toys, various audio and video materials, a range of services (for instance, tattooing, massage) present problems for spiritual safety.

Therefore, we have to develop new requirements and standards on spiritual safety of goods, work, and services, as well as administrative-legal grounds for their provision.

So, provision of safety and quality of goods, work, and services is one of the most important and unseparable task of a jural democratic state, free civil society, and here, reliable and stable way of achieving safety and good quality of goods, work, and services can be observed in administrative-legal norms.

Moreover, administrative-legal norms play an important role in realizing the functions of the state on provision of safety and quality of goods, work, and services.

Conclusion

In conclusion we can say that the state influences permanently in imperative-dynamic way in the direction of providing safety and quality of goods, work and services. Its administrative-judicial characteristics can be seen, firstly, in administrative-judicial norms for the safety and quality of goods, work and services mentioned in certain legal documents, secondly, in the functions of executive government subjects connected with provision of safety and quality of goods, work and services, thirdly, in the administrative measures taken against breaking norms and requirements for safety and quality of goods, work and services.

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