

TORT LIABILITY ISSUES FOR HARM CAUSED BY THE INTERNAL AFFAIRS BODIES

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ABSTRACT: Formation of legal norms for compensation for harm caused by state authorities, the participation of internal affairs bodies in tort relations as a state and legal entity, and its important aspects are covered in the article. The article also approves that the internal affairs bodies should act as a state body and as a legal entity, respectively, the state should be liable for harm caused by its activities as a state body, and that the internal affairs bodies should be responsible for harm caused by unrelated activities.

KEYWORDS: Obligations due to harm, tort liability, harm, compensation for harm, delinquent, victim.

INTRODUCTION

According to Article 44 of the Constitution of the Republic of Uzbekistan “Everyone shall be entitled to legally defend his rights and freedoms, and shall have the right to appeal any unlawful action of state bodies, officials and public associations”. [1].

The legislation regulating certain areas of the state’s activity represented by state bodies (officials of these bodies) contains provisions on property liability arising from the activities of these bodies. In this sense, the activities of the state represented by the internal affairs bodies

of the Republic of Uzbekistan did not go unnoticed. According to Part 2 of Article 46 of the Law of the Republic of Uzbekistan of September 16, 2016, No. LRU-407 “On Internal Affairs Bodies”, harm caused to individuals and legal entities by unlawful actions or inaction of an employee of the internal affairs body is subject to compensation by the internal affairs bodies at the expense of the extra-budgetary fund with the subsequent collection of this the amount from the guilty person [3].

In our national legislation, the tendency for the development of the institution of compensation for harm caused by state bodies, including the internal affairs bodies and their officials, coincides with the period when the country was part of the former Soviet Union. In particular, Article 56 of the Constitution of the former Uzbek SSR, adopted on April 19, 1978, states that “citizens of the Uzbek SSR have the right to compensation for harm caused by illegal actions of state and public organizations, as well as officials in the performance of their official duties” [4, P.18]. Academician Kh. Rakhmonkulov notes: “Article 481 of the Civil Code of the Uzbek SSR of 1963 has a provision on compensation for harm caused to citizens as a result of illegal actions of state governing bodies, public organizations and their officials in the performance of their official duties, but in practice, this norm is not applied, since the procedure (mechanism-) of compensation for damages is not clearly defined by law” [5, p. 100]. Of course, it should be noted that the Constitution of the former USSR, the Constitution of the former Uzbek SSR and the Civil Code provide for a formal form of compensation for property or material damage caused by state bodies and officials, but compensation for moral damage is not provided for by any legislation of that time. B. Khamrokulov, who expressed his attitude to the problem, argued that “... although the previous legislation of the USSR does not provide for moral damage as a type of liability, in the European Union this legal institution emerged at the

beginning of the twentieth century. The reason is that the law of the former USSR did not provide for compensation for moral damage” [6, p. 29].

THE MAIN FINDINGS AND RESULTS

As is known, the activities of the internal affairs bodies are expressed in actions related to the implementation of official tasks of employees. During the implementation of the tasks and functions specified in the laws, employees of the internal affairs bodies enter into the relationship with individuals and legal entities. Such relations can arise in various branches of law such as civil, administrative, criminal law. Especially, in the activities of the internal affairs bodies for the protection of public order and the fight against offenses, it becomes necessary to apply, in the manner prescribed by law, by the employees of the internal affairs bodies such measures as restricting the rights and freedoms of a person, the use of physical force, special means and firearms. Even if these measures are lawfully carried out by employees of the internal affairs bodies, sometimes there is a danger of causing harm to the tangible and intangible interests of citizens and legal entities. However, each state, giving its authorities powers of authority, must always guarantee the implementation of these powers in the prescribed manner and to the extent necessary. In addition, it should assume the elimination of the negative consequences arising as a result of these circumstances and the obligation to compensate for losses.

From this point of view, Articles 15, 990, 991 of the Civil Code of the Republic of Uzbekistan provide for the procedure for compensation for harm caused to individuals and legal entities as a result of illegal actions (inaction) of state bodies or officials of these bodies and the publication of an act of a state body that does not comply with the legislation, including as a result of illegal administrative and criminal procedure. In addition, the Criminal Code of the Republic of Uzbekistan and the Code of the Republic of Uzbekistan on Administrative

Responsibility also define criminal and administrative-legal methods of compensation for losses caused by state bodies and their officials.

So, even though the responsibility of the Republic of Uzbekistan for the actions (inaction) of employees of the internal affairs bodies comes as a result of violation by state bodies (and their officials) of the norms of public legislation (legislation on internal affairs bodies), which provide for the rights and obligations of state bodies and officials, it is of a civil nature.

In the legislation of many countries of the world, the institution of civil law “Obligations as a result of harm” is defined as universal rules for the protection of violated rights and legitimate interests of citizens.

Thus, one of the most important means of protecting the rights and interests of participants in civil turnover, aimed at ensuring the restoration of the property status of victims, including as a result of causing harm to property by arson, are obligations arising from the infliction of harm, which in turn form the institution of compensation for harm.

Obligations arising from harm are one of the oldest types of obligations: since the time of Roman law, they have been called tort obligations (from the Latin term *delictum* – misdemeanor, offense). In the legal literature, this institution is called differently: for example, the institution of compensation for harm, the institution of tort liability, the institution of civil liability, the institution of obligations arising from harm, etc.

Accordingly, the consistent result of a tort is a legal responsibility for its commission. The responsibility in civil law means the application to the offender coercive measures – sanctions that have a property content (compensation for harm, compensation for moral damage, etc.). However, civil liability can arise based on a violation of the contract, and therefore its

parameters are determined by the content of this private act of the parties, as well as based on an action violating the property and personal non-property of the victim.

Non-contractual obligations mediate relationships that are not characteristic of the normal course of life, i.e. abnormal property relations (for example, relations associated with damage or destruction of someone else's property by a person with whom the owner of this property did not agree on anything) [7, p. 182].

An entire chapter is devoted to compensation for harm in national legislation. The institution of obligations was formed as a result of compensation for harm under the Civil Code of the Republic of Uzbekistan ch. 57 [2].

Obligations due to the infliction of harm with the participation of the internal affairs bodies are a special type of tort. The Civil Code of the Republic of Uzbekistan does not explicitly state that the internal affairs bodies are the subject of a tort, but in Articles 15 and 990 of the Code as a state body and in Article 991 it can be understood that as a law enforcement body (bodies carrying out pre-investigation checks, bodies of inquiry, preliminary investigation in internal affairs bodies' system) are a responsible subject (delinquent). The internal affairs bodies also participate in tort relations as a legal entity (institution) (for example, as the owner of a source of increased danger, as an employer, etc.).

CONCLUSION

From the above, we can conclude that each country should have a system of full guarantees of the rights and interests of citizens, their personal and property rights. It is also necessary to unify the legal norms governing tort relations with the participation of the internal affairs bodies. The system of internal affairs bodies should have a rule that clearly defines the procedure for compensation by the state for damage caused by unlawful actions, pre-investigation, inquiry, preliminary investigation, as well as a clear mechanism for compensation

by the state for harm. The creation of a special state fund for compensation for damage caused by state bodies, including internal affairs bodies and officials, serves as a guarantee of timely and full compensation for damage.

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