



Section 4. Sociology

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ISSUES RELATED TO THE RESTRICTIONS OF CITIZENS' RIGHTS AND FREEDOM IN ENSURING PUBLIC SECURITY IN THE NEW CONSTITUTION AND LAWS OF THE REPUBLIC OF UZBEKISTAN

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Abstract

This scientific article is dedicated to elaborate some aspects in the new edition of the Constitution of the Republic of Uzbekistan, namely about the restriction of the rights and freedom of citizens in the process of ensuring public order and public safety, the legal grounds for the application of restrictions, the constitutional Law of the Republic of Uzbekistan “On Emergency Situations”, Decree of the President of the Republic of Uzbekistan (the Presidential Decree No - 27) on “Public Law of the Republic of Uzbekistan, requirements of the Decree on the Concept of Security”, opinions expressed and comments of a number of legal scholars on the issues of restricting human rights and freedom in the process of ensuring public order and public safety.

Keywords: *the newly revised Constitution, restriction of human rights and freedom, legality and justification of restriction, concept of public safety, public order, public safety, mixed approach to restriction of human rights*

Introduction

Restriction of human and civil rights and freedom in terms of the freedom of every individual in society and the state is the most important component of the relationship between man and the state. The major philosophical problem of this relationship is the level and standard of human freedom, the basis and limits of coverage of this freedom by the state and society. One of the main

tasks of the constitution is to form and legislate a balance between the interests of the individual, society and the state, to establish the constitutional basis of individual freedom, which is “related to the specific characteristics and purpose of the constitutional right designed to protect human interests”, the state, its organs and is to protect against possible illegal interference by officials” (Baglay, 2004).

Results

Restriction of human rights and freedoms, especially personal rights and freedoms, in the process of ensuring public safety and public order, as well as the limits of such restrictions, is one of the complex and controversial issues of legal science and legal system not only for the Republic of Uzbekistan, CIS countries, but also for the entire world community.

Ensuring public safety and public order (guarding and protection) is the constant restriction of rights and freedom as well as interference with individual freedom of a person by state authorities, often with excessive abuse of their powers, and then with the misuse of the content of human rights. In its turn, this limits their freedom, and in some cases even completely denies them.

In the newly revised Constitution of the Republic of Uzbekistan, the term “restriction” is used most often in relation to human and civil rights and freedoms (Articles 21, 27, 28, 29, 31, 32, 33, 37. Constitution of the Republic of Uzbekistan in a new edition. - T. 20230).

The constitutional model of restricting individual rights and freedoms in the Republic of Uzbekistan provides for a mixed approach to the restriction of individual rights and freedom.

On the one hand, for the first time in the newly revised Constitution of Uzbekistan, a general rule providing for the possibility of limiting individual rights and freedoms was added (Part 3 of Article 21. Constitution of the Republic of Uzbekistan in a new edition. -T. 2023), on the other hand, the provisions of our Constitution take into account the interrelationship of certain restrictions with the corresponding rights and freedoms.

As it is stated in part 3 of Article 33 of the newly revised Constitution of the Republic of Uzbekistan, “restriction of the right to seek, receive and distribute information is permitted only in accordance with the law and only in order to protect the constitutional system, the health of the population, social morality, the rights and freedoms of other persons, public safety and public order. Furthermore, in the scope necessary to prevent the disclosure of state secrets or other secrets are protected by the law” (The Constitution of the Republic of Uzbekistan in a new edition. - T. 2023).

Currently, the government, as the leading subject of public security, is criticized for protecting abstract and non-specific things. Having mentioned that, experts and specialists attribute this to insufficient scientific research on this matter. Most of the studies were carried out within the framework of the analysis of the legal and organizational bases of the activities of the internal affairs bodies to ensure public safety, in which the concept of “public safety” was considered within broad legal norms, while the role of the National Guard bodies in ensuring public order and safety is now being studied by researchers.

In the “Concept of Public Security of the Republic of Uzbekistan” (Decree of the President of the Republic of Uzbekistan dated November 29, 2021 No. 27 “On approval of the public concept” National Database legislation, No. 06/21/27/1116; dated 01.12.2021., No. 06/24/10/0031), approved by the Decree of the President of the Republic of Uzbekistan (the Presidential Decree No-27 dated November 29, 2021, “public security” is defined in the following broad sense: public security – illegal aggression of society, social and ethnic conflicts, emergency is a state of protection from situations and other threats, which serves the sustainable development of society and ensures the realization of human rights, freedoms and legitimate interests”.

The Concept of Public Security of the Republic of Uzbekistan is an important document that determines the state policy in the field of public security, which is considered one of the main directions of national security, therefore, its scientific justification and modern formation, as well as demarcation with other similar legal phenomena and the establishment of certain relations, are important for research activities. This is considered to be of great importance both for law and for enforcement practice.

In the context of the transition of the country to a fundamentally new concept of security, the theoretical research of this issue is gaining new theoretical and practical significance. This is primarily due to significant changes in internal and external conditions for the development of our society and the entire country.

The actuality of scientific and practical problems in the field of public safety both in

normal conditions and in emergency situations arises for several reasons, in particular:

- state administration bodies notice the “need” for special measures to ensure public safety, which will allow effective implementation of the actions of authorized entities to ensure public safety, to apply restrictive measures against individuals and legal entities in a certain area;

- the number of objects and territories whose activity determines the need to ensure the appropriate level of security, in particular, public security, is increasing. Ensuring the appropriate level of safety of the population helps to create conditions for their stable operation;

- measures used by competent bodies to ensure public safety in emergency situations, these are the relevant administrative and legal measures used by the state. The emergency situation is always accompanied by the instability of social life, disruption of its usual rhythm, which in turn requires the use of these measures.

If we dwell on the analysis of the concept of “public safety”, it should be noted that many views on the definition of this legal category have been formed in scientific works today. The term “public safety” is widely used in various fields of scientific knowledge and in the practical activities of executive authorities, as well as law enforcement agencies, including the National Guard. However, despite its widespread use, unfortunately, today there is no unified approach to the definition of “public safety”. In this regard, it is appropriate to comprehensively analyze scientific literature and current legal documents to determine the meaning of the concept of “public safety”.

Today, the representatives of the Uzbek school of law have not expressed their opinions and comments on the process of forming their relationship to the definition of “public security”. The reason for this is that the concept of public security of the Republic of Uzbekistan has now been announced, and the first steps are being taken to form it. In this regard, we rely on the views of foreign legal scholars in interpreting such categories as “public security”, “restriction of citizens’ rights and freedoms” on this issue.

According to Popov and Ovsyanko (2010), public safety means the use of objects and

subjects that pose an increased risk to people and society as a whole, in the event of special conditions, natural disasters or other emergency situations of a social or man-made nature. Nature, legal, technical and other types are understood as a system of social relations that arise in accordance with norms (Popov and Ovsyanko, 2010).

According to Khamkhoev (2011), public safety is an integral part that includes social relations related to the prevention or elimination of threats to people’s lives and health, and their property.

In the context of the concept of “public security”, a separate group of scientists defines all the objects of its protection, that is, they believe that public security is a set of bodies and tools that ensure the prevention and elimination of threats to people’s lives and health, material wealth and the environment (Tumanov and Frizko, 1989).

According to researcher Boshamdzhieva (2013), public security includes the following institutions: Anti-Terrorism Institute; anti-extremism institute; Institute for Combating Criminal and Other Illegal Aggressions; anti-corruption institute; Institute for protecting the population from natural and man-made emergency situations; Institute for Combating Illegal Migration; institutions for ensuring certain types of public safety (fire, chemical, biological, nuclear, radiation, hydrometeorological, industrial and transport safety); Institute for the Development of International Cooperation in Ensuring Public Security; Environmental Security Institute; information security institute; Institute of Food Safety (Boshamdzhieva, 2013).

Ensuring public safety is necessarily regulated by a certain system of norms. This sign indicates that the protection of the population from illegal aggression and various threats is carried out on the basis of the rule of law. It should be noted that legal norms regulate a significant number of public relations in the field of public safety in emergency situations, in particular: it defines the rights and freedoms of a person and a citizen, the limits of the actions of citizens in the field of ensuring public safety, the restrictive temporary obligations of individuals and legal entities to perform certain actions aimed at ensuring public safety along with types of illegal

behavior. In other words, only legal norms determine a complete list of actions that encroach on public safety, both in normal life conditions and in emergency situations.

Finally, the existence of social relations that arise as a result of the implementation of the vital interests of the individual, society and the state include social benefits, constitutional order, public order, privacy, property and others.

Public order essentially means the whole system, the whole system of social relations, which is regulated, organized and supported by the state with social norms existing in a certain society (Yasenkov, 1986).

In a broad sense, public order includes a system (complex) of social relations arranged in a certain way: economic, political, cultural and moral. In this regard, it can be defined as a set of rules of behavior of individuals in society within the framework of the constitutional system (Kozyrina and Shtatinoy, 2003). V.V. Lazarev et al., (1967) point out that “public order is a certain quality of the system of social relations, which consists of the orderliness of social relations, the harmony and rhythm of social life, and the rights of the participants of public relations. This leads to the unhindered implementation of their obligations and the protection of their interests, public and personal peace” (Lazarev et al., 1967).

Korjanskiy (1980) states that public order in a broad sense is understood as a system of social relations that was created as a result of compliance with social norms (legal norms, ethics, customs, traditions, etc.), whose inviolability is guaranteed by the entire political system of the state (Korjanskiy, 1980). Therefore, the word “public order” in the broadest sense means the entire system of relations existing in society, developed in accordance with social norms, including legal norms and rules of society.

This sphere is a system of relations regulated by social norms that develop in public places in the process of communication between people in order to ensure an atmosphere of peace in the life of society, normal working and rest conditions, the activities of government bodies, local governments, enterprises and their associations, institutions, and public associations.

Discussions

Taking above-mentioned factors into account, in our opinion, the concept of public order is more broadly covered by the following definition: Public order is an order that arises and develops among people in public places, its legal implementation ensures compliance with personal and public safety, normal communication of people, protection of honor, dignity, life and health, law enforcement agencies, first of all, internal affairs agencies, which is a system of coordinated socio-legal public relations of the state and society, provided by the activities of the National Guard, the Prosecutor's Office, the State Security Service, the Ministry of Emergency Situations and other civil organizations.

According to part 3 of Article 21 of the Constitution of the Republic of Uzbekistan, in an emergency, the limitation of rights and freedom is to protect the constitutional system and ensure the safety of citizens. The constitutional law of the Republic of Uzbekistan dated 15.12.2021 No-737 “On the State of Emergency” (The Law of the Republic of Uzbekistan dated 12.16.2021). “On the state of emergency” (National Legislative Base, 12/16/2021, No.03/21/737/1163) defines the purpose of introducing a state of emergency (Article 4 – The Law of the Republic of Uzbekistan dated 12.16.2021. “On the state of emergency” (National Legislative Base, 12/16/2021, No. 03/21/737/1163) and the circumstances and procedure for introducing an emergency regime (Article 5 – The Law of the Republic of Uzbekistan dated 12.16.2021. “On the state of emergency” (National Legislative Base, 12/16/2021, No.03/21/737/1163). The goals of the introduction of this regime are to eliminate the circumstances that served as the basis for the introduction of the state of emergency, to ensure the safety of the citizens of the Republic of Uzbekistan and the protection of the constitutional system and territorial integrity of the Republic of Uzbekistan (Article 4 – The Law of the Republic of Uzbekistan dated 12.16.2021. “On the state of emergency” (National Legislative Base, 12/16/2021, No.03/21/737/1163).

Conclusions

In conclusion, by restricting certain rights and freedoms of a person, the State ensures

the preservation of other rights and freedoms that are more important and valuable for a person.

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