PROBLEMS OF IMPROVING THE INSTITUTE OF EXPERTISE IN THE ADMINISTRATIVE (SUBSTANTIVE) LEGISLATION OF THE REPUBLIC OF ARMENIA

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Abstract. Expert activity plays a significant role in supporting the resolution of administrative disputes and combating administrative offenses. As a specific form of social activity, the letter is based on both substantive and procedural legal foundations. While the Administrative Procedure Code of the Republic of Armenia provides detailed regulation of relations regarding expert activity, the sources of substantive legislation contain some gaps and regulatory shortcomings.

The results of the author's research show that the substantive legislation does not regulate the relations regarding the adoption of the resolution on the appointment of an expert examination, the requirements for the form and content of the resolution, the procedure for referring research objects to an expert institution or an individual expert, the mandatory cases of appointment of an expert examination, the types of expert examinations, the requirements for the form and content of an expert's conclusion. In addition, substantive legislation does not regulate the procedure for examining an expert's conclusion, selecting objects for examination, preparing samples for comparative research, prohibiting the transfer of examinations to other experts, or warning experts of criminal liability for issuing false conclusions.

Based on the identified deficiencies, the article proposes a set of recommendations aimed at improving the regulation of the institute of expertise in administrative (substantive) law.

Keywords: expertise, expert, administrative (substantive) legislation, problems of improvement.

Introduction.

The foundations of expert activity in the administrative legislation of the Republic of Armenia are diverse, including sources of substantive (administrative) law and procedural law (administrative proceedings). The results of this study confirm that the Administrative Procedure Code of the Republic of Armenia (adopted on December 05, 2013) has long regulated in detail the issues related to the institute of expertise. However, the sources of substantive law have certain gaps and regulatory shortcomings.

It should be noted that the purpose of this research is to study the legal regulations of the institute of expertise in administrative (substantive) legislation, and the task is to present proposals aimed at correcting the identified gaps.

The methodological basis of this research is system-structural analysis, as well as formal-legal, logical methods.

Basic Research.

Problems of regulations of the institute of expertise in administrative (substantive) legislation.

The administrative procedure for proving is optimal, i.e. the most effective and expedient for solving the tasks of administrative-jurisdictional law enforcement activities. This procedure ensures the correctness of the decisions taken, their public recognition and the proper educational effect. The evidence in the process of administrative cases is regulated by relevant legal norms, which provide for the use of only legally prescribed sources of information, a mandatory procedure for obtaining and recording information by authorized persons, a strictly defined form, etc.[1]

It is known that one of the important functions of facilitating the resolution of administrative disputes (cases) and combating administrative offenses is performed by expert activity. Naturally, as a unique type of social activity, the latter has a material and procedural legal basis.

As noted above, the Administrative Procedure Code of the Republic of Armenia has long regulated in detail the issues related to expertises. Thus, the relations regarding the appointment of an expert examination (Article 37), participation in the expertise of relevant subjects of legal proceedings (Article 38), the procedure for conducting an expertise (Article 39), and the requirements for an expert conclusion (Article 40) are regulated.

However, the sources of substantive law have certain gaps and regulatory shortcomings. First of all, we are talking about the Law of the Republic of Armenia "On the Basics of Administration and Administrative Process" (adopted on February 18, 2004). The significance of this law is enormous. The fact is that this law regulates all administrative activities of republican executive authorities, territorial government bodies, local self–government bodies and other entities that administer (in particular, the administrative process), which often requires the appointment and conduct of examinations both within the framework of law enactment and law enforcement processes. Despite the above, some provisions of this fundamental source of substantive law concerning the issue of expertise have regulatory shortcomings. In particular:

1. The issue of the appointment of an expertise is not regulated in detail.

The law mentions only the possibility of appointing an examination if it is necessary to investigate the factual circumstances of the case (Article 45, Part 1). Obviously, the relations regarding the adoption of a resolution on the appointment of an expertise, the requirements for the form and content of the resolution, and the procedure for sending research objects to an expert institution or an expert are not regulated.

2. The types of expertise are not provided.

It is possible that an expert's conclusion is not sufficiently clear or does not address all the questions that have been asked, as well as if there is a suspicion about the reliability or validity of the conclusion, or if, among other things, it is necessary to conduct simultaneous research using various fields of knowledge, etc. For such cases, regulation of the relevant types of expertise (additional, etc.) should be provided.

The law only indirectly mentions the possibility of appointing an additional expertise (Article 36, Part 2) if there are necessary reasons to clarify the factual circumstances of the case.

3. The legal characterization of the expert opinion is not provided.

The law only provides for the following wording: "The expert gives a conclusion as a result of his research" (Article 45, Part 2). Thus, there are no requirements for the form and content of the expert's conclusion, the procedure for examining the conclusion is not regulated, etc.

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[1] Vasiliev F.P., Theory of Evidence in the Administrative Process. Proof Process. Concept and Content of Evidentiary Process //https://cyberleninka.ru/article/n/teoriya-dokazatelstv-v-administrativnom-protsesse-protsess-dokazyvaniya-ponyatie-i-soderzhanie-protsessa-dokazyvaniya (Accessed on December 10, 2025).

4. The status of the expert is not regulated.

The law mentions only the obligation of an expert to provide additional explanations about the conclusion at the request of the authorized body and the participants in the process (Article 45, Part 4). Thus, the concept, basic rights and obligations of an expert are not provided for.

The next problematic regulatory legal act on the issue under discussion is the Code of Administrative Offences of the Republic of Armenia (adopted on June 15, 1985). The results of the research indicate the presence of the following gaps in the said Code regarding the institute of expertise. So:

1. There is no detailed regulation of the procedure for the appointment of expertise.

The only norm superficially regulating the procedure for appointing an expertise in cases of administrative offenses is the provision of Part 1 of Article 272 (Expert) of the said Code, which provides for the following: "In cases where there is a need to apply special knowledge, an expert is appointed by the body (official) in charge of the administrative offense case."[2].

It should be noted that the wording of this article has a significant drawback, which is the subjectivity of the decision taken by the body (official) on the need to apply special knowledge in each specific case. In other words, the relevant authority decides whether or not to appoint an expert examination in this particular case. There is a situation of legal uncertainty, especially since some facts can only be established by conducting mandatory expert research, for example, the fact that a person consumes a narcotic drug or psychotropic substance[3].

2. As in the previous case, there is no regulation providing for the types of expertises, the basis and procedure for their appointment.

3. There are no regulations on the following issues:

- selection of objects to be sent for examination,
- preparation of samples for comparative research,
- selection of expert research,
- selection of an expert in the relevant field,
- making a determination on the appointment of an expert examination,
- execution of the determination[4].

4. The status of an expert is not adequately regulated.

Part 2 of Article 272 of the Code provides only for the obligation of an expert to appear when summoned by an authorized body (official) and give an objective conclusion on the issues raised. The legislator ignored the regulation of such a duty as the immediate notification of the body (official) appointing the examination about the impossibility of conducting an examination in cases where the research to solve the issues goes beyond its competence (specialty).

The material obtained as a result of the performed research allowed us to conclude that in parallel with the above, it should also be noted that:

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[2] Israelyan G. V., Some Problems of Regulating the Legal Foundations of Expert Activity in the Republic of Armenia // Theory and Practice of Forensic Expertise in Modern Conditions: Proceedings of the X International Scientific and Practical Conference Dedicated to 20th Anniversary of the Institute of Forensic Expertise of Kutafin Moscow State Law University (MGUA). Moscow: RG-Press, 2025. pp. 105-107.

[3] Israelyan G. V., Legal Problems of Appointment of an Expertise in the Republic of Armenia to Establish the Fact of a Person's Consumption of Narcotic and Psychotropic Substances // National and International Trends and Prospects for the Development of Forensic Expertise: Collection of Reports of the Scientific and Practical Conference with International Participation, Nizhny Novgorod, May 14-15, 2025 Nizhny Novgorod: UNN, 2025, pp. 153-154.

[4] Retz D. S., Application of Criminalistic Methods in Administrative Proceedings // Bulletin of Moscow State University after N. A. Nekrasov, Vol. 3, 2015. p. 194, Israelyan G. V., Some Problems of Regulating the Legal Foundations of Expert Activity in the Republic of Armenia // Theory and Practice of Forensic Expertise in Modern Conditions: Proceedings of the X International Scientific and Practical Conference Dedicated to the 20th Anniversary of the Institute of Forensic Expertise of Kutafin Moscow State Law University (MGUA). Moscow: RG-Press, 2025, pp. 105-107.

- there is no prohibition on delegating the production of expertise, which is assigned to a specific expert,

- the procedure for warning an expert about criminal liability for giving a false conclusion is not regulated. By the way, Article 504 of the Criminal Code of the Republic of Armenia provides for liability for giving a false conclusion not only in criminal and civil cases, but also in administrative cases[5].

Ways to solve the problems of regulations of the institute of expertise in administrative (substantive) legislation.

In order to eliminate the above-mentioned gaps, taking into account the research carried out, it is proposed to amend the Law of the Republic of Armenia "On the Basics of Administration and the Administrative Process":

1. to regulate in detail the procedure for appointing an expertise (questions about the adoption of a resolution on the appointment of an expertise, requirements for the form and content of the resolution, etc.),

2. to provide for the types of expertise (additional, repeated, commission, complex), the grounds and procedure for their appointment,

3. to work out a detailed legal description of the expert's conclusion, which, among other things, provides for the requirements for the form and content of the expert's conclusion, the procedure for its study, etc.,

4. regulate the status of the expert.

In addition to the concept and other provisions on the expert, the following problematic practical issues should also be regulated:

- provide for the expert's obligation to immediately notify the body (official) appointing the examination of the impossibility of conducting an examination in cases where research to solve the questions raised is beyond the scope of his competence (specialty),

- to fix the prohibition of delegating the production of the expertise that is assigned to a specific expert,

- provide for the procedure for warning an expert about criminal liability for giving a false conclusion[6].

The provision of the above-mentioned regulations will not only improve the institute of expertise, but also will enable to avoid overloading the text of the law. For example, the regulation of the expert status in the law "On Fundamentals of Administration and Administrative Process" will make it possible to relieve duplicate norms in the Code of Administrative Offences of the Republic of Armenia.

The Code of Administrative Offences of the Republic of Armenia requires:

- to establish a detailed legal description of the expert's conclusion, including the requirements for the form and content of the specified type of evidence, the procedure for its examination, etc.,

- to regulate in detail the procedure for the appointment of expertise, including introducing a rule containing mandatory cases of appointment of expertise, which can be implemented by providing for a certain range of facts that may be established only by a specific type of evidence,

- regulate the selection of objects to be sent for examination, the preparation of samples for comparative research (if necessary, identification research), the selection of expert research and/or an expert in the relevant field, and the execution of definitions (referral of research objects to an expert institution or expert).

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[5] Տե՛ս Israelyan G. V., Problems of Improving the Institute of Expertise in the Code of the Republic of Armenia on Administrative Offenses // O'zbekiston sud ekspertizasi. Vol. 2 (17), 2025, p. 34.

[6] In the same place.

Conclusion.

The main results of this study can be summarized as follows:

1. The institution of expertise in the administrative (substantive) legislation of the Republic of Armenia needs to be improved, since:

1) the relations regarding the adoption of a resolution on the appointment of an expertise, the requirements for the form and content of the resolution, the procedure for sending research objects to an expert institution or an expert, and the mandatory cases of appointment of an expertise are not regulated.,

2) there are no regulations on types of expertise,

3) the requirements for the form and content of the expert's conclusion and the procedure for its investigation have not been regulated,

4) the concept, basic rights and duties of an expert are not regulated,

5) there are no regulations on the selection of objects sent for examination, the preparation of samples for comparative research, the selection of expert research, the selection of an expert in the relevant field, the issuance of a ruling on the appointment of an examination, and the execution of a ruling,

6) there is no prohibition against delegating the production of expertise, which is assigned to a specific expert,

7) the procedure for warning an expert about criminal liability for giving a false conclusion is not regulated.

2. In order to solve these problems, we consider it necessary:

1) regulate in detail the procedure for appointing an expertise, including introducing a rule containing mandatory cases of appointment of an expertise,

2) provide for the types of expertise (additional, repeated, commission, complex), the grounds and procedure for their appointment,

3) to work out a detailed legal description of the expert's conclusion,

4) regulate the status of an expert,

5) regulate the selection of objects to be sent for examination, the preparation of samples for comparative research (if necessary, identification research), the selection of an expert study and/or an expert in the relevant field, and the execution of definitions (referral of research objects to an expert institution or expert).

ПРОБЛЕМЫ СОВЕРШЕНСТВОВАНИЯ ИНСТИТУТА ЭКСПЕРТИЗЫ В АДМИНИСТРАТИВНОМ (МАТЕРИАЛЬНОМ) ЗАКОНОДАТЕЛЬСТВЕ РЕСПУБЛИКИ АРМЕНИЯ

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Аннотация. Экспертная деятельность выполняет важную функцию в содействии разрешению административных споров (дел) и борьбе с административными правонарушениями. Естественно, как уникальный вид социальной деятельности, последняя имеет материальную и процессуальную правовые основы. Если Административный процессуальный кодекс Республики Армения детально регламентирует вопросы, касающиеся экспертиз, то источники материального права имеют определенные пробелы и недостатки регламентирования.

Результаты исследования автора показывают, что в материальном законодательстве отношения, связанные с принятием постановления о назначении экспертизы, требованиями, предъявляемым к форме и содержанию постановления, порядком направления в экспертное учреждение или эксперту объектов исследования не урегулированы, не предусмотрены обязательные случаи назначения экспертизы, виды экспертиз, не урегулированы требования, предъявляемые к форме и содержанию заключения эксперта, не предусмотрен порядок его исследования, не регламентировано понятие, основные права и обязанности эксперта, отсутствуют регламентации по вопросам подбора направляемых на экспертизу объектов, подготовки образцов для сравнительного исследования, выбора эксперта по соответствующему направлению, не предусмотрен запрет перепоручения производства экспертизы, которая поручена конкретному эксперту, не регламентирован порядок предупреждения эксперта об уголовной ответственности за дачу ложного заключения.

Учитывая проблемы регламентирования института экспертизы в административном (материальном) законодательстве, автором представлены соответствующие предложения для их решения.

Ключевые слова: экспертиза, эксперт, административное (материальное) законодательство, проблемы совершенствования.

ՓՈՐՁԱՔՆՆՈՒԹՅԱՆ ԻՆՍՏԻՏՈՒՏԻ ԿԱՏԱՐԵԼԱԳՈՐԾՄԱՆ ԽՆԴԻՐՆԵՐԸ ՀԱՅԱՍՏԱՆԻ ՀԱՆՐԱՊԵՏՈՒԹՅԱՆ ՎԱՐՉԱԿԱՆ (ՆՅՈՒԹԱԿԱՆ) ՕՐԵՆՍԴՐՈՒԹՅՈՒՆՈՒՄ

ԻՍՐԱՅԵԼՅԱՆ ԳԵՎՈՐԳ
իրավաբանական գիտությունների դոկտոր, դոցենտ,
ՀՀ ԳԱԱ փորձաքննությունների ազգային բյուրոյի
քրեաբանության կիրառական հիմնախնդիրների
գիտահետազոտական կենտրոնի պետ,
Եվրասիա միջազգային համալսարանի
իրավագիտության, քաղաքագիտության և
միջազգային հարաբերությունների ամբիոնի դասախոս

Ամփոփագիր. Վարչական վեճերի (գործերի) լուծմանը և վարչական իրավախախտումների դեմ պայքարին աջակցելու հարցում կարևոր գործառույթ է կատարում փորձագիտական գործունեությունը: Բնական է, որպես սոցիալական գործունեության յուրահատուկ տեսակ՝ այն ունի նյութական և դատավարական իրավական հիմքեր: Եթե Հայաստանի Հանրապետության վարչական դատավարության օրենսգիրքը մանրամասն է կարգավորում փորձաքննությանն առնչվող հարաբերությունները, ապա նյութական իրավունքի աղբյուրներում առկա են բացեր և կարգավորման թերություններ: Հեղինակի կատարած հետազոտության արդյունքները վկայում են, որ նյութական օրենսդրությունը չի կարգավորում փորձաքննության նշանակման մասին որոշման ընդունման, որոշման ձևին և բովանդակությանը ներկայացվող պահանջները, հետազոտության օբյեկտները փորձագիտական հաստատություն կամ փորձագետին ուղարկելու կարգը, փորձաքննության նշանակման պարտադիր դեպքերը, չի նախատեսում փորձաքննության տեսակները, չի սահմանում փորձագետի եզրակացության ձևին և բովանդակությանը ներկայացվող պահանջները, դրա հետազոտման կարգը, չի կանոնակարգում փորձաքննության ուղարկելու համար օբյեկտների ընտրության, համեմատական հետազոտության համար նմուշների նախապատրաստության կարգը, չի նախատեսում փորձաքննության իրականացումն այլ փորձագետի փոխանցելու արգելքը, կեղծ եզրակացություն տալու համար սահմանված քրեական պատասխանատվության մասին նախազգուշացնելու կարգը:

Հաշվի առնելով վարչական (նյութական) օրենսդրությունում փորձաքննության ինստիտուտի կանոնակարգման վերը շարադրված խնդիրները՝ հեղինակը ձևակերպել է դրանց լուծման համապատասխան առաջարկություններ:

Հիմնաբառեր. փորձաքննություն, փորձագետ, վարչական (նյութական) օրենսդրություն, կատարելագործման խնդիրներ:

References

1. Israelyan G. V., Some Problems of Regulating the Legal Foundations of Expert Activity in the Republic of Armenia // Theory and Practice of Forensic Expertise in Modern Conditions: Proceedings of the X International Scientific and Practical Conference Dedicated to the 20th Anniversary of the Institute of Forensic Expertise of Kutafin Moscow State Law University (MGUA). Moscow: RG-Press, 2025, pp. 105-107.

2. Israelyan G. V., Legal Problems of Appointment of an Expertise in the Republic of Armenia to Establish the Fact of a Person's Consumption of Narcotic and Psychotropic Substances // National and International Trends and Prospects for the Development of Forensic Expertise: Collection of Reports of the Scientific and Practical Conference with International Participation, Nizhny Novgorod, May 14-15, 2025 Nizhny Novgorod: UNN, 2025, pp. 152-156.

3. Israelyan G. V., Problems of Improving the Institute of Expertise in the Code of the Republic of Armenia on Administrative Offenses // O'zbekiston sud ekspertizasi. Vol. 2 (17), 2025, pp. 31-36.

4. Retz D. S., Application of Criminalistic Methods in Administrative Proceedings // Bulletin of Moscow State University after N. A. Nekrasov, Vol. 3, 2015, pp. 191-195.

5. Vasiliev F.P., Theory of Evidence in the Administrative Process. Proof Process. Concept and Content of Evidentiary process // https://cyberleninka.ru/article/n/teoriya-dokazatelstv-v-administrativnom-protsesse-protsess-dokazyvaniya-ponyatie-i-soderzhanie-protsessa-dokazyvaniya.

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