

Internal Affairs Bodies as Subjects of Tort Relations: Theoretical and Legal Analysis

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ABSTRACT

In this scientific article, the characteristics of internal affairs bodies as subjects of delict relations were studied, their participation in these relations as a state body and legal entity, as well as the issues of delict liability from the point of view of civil law were studied in a holistic (complex) way, and the legal documents regulating these relations were scientifically analyzed and their scientifically based conclusions, proposals and recommendations on improvement were developed.

KEYWORDS: *internal affairs bodies, subject, tort relation, state, legal entity.*

Delict liability has special features as a form of civil liability . The following characteristics of moral responsibility were determined in the research work [1]:

first of all delict liability is a property-related measure used for the purpose of compensating the victim and restoring the previous property status (compensation);

secondly, the main function of delict liability is transferred to the victim the damage is to be compensated in full;

thirdly, it is not always required to have the category of "guilt" as part of the grounds that create delict liability. The perpetrator of the damage is considered guilty until he proves that he is innocent , that is, the presumption of guilt is applied to the delinquent;

Fourth, delict liability measures damage of the carrier it is also used in compensation for damages caused to the victim as a result of legal actions;

fifthly, delict liability applies not only to the person who caused the damage , but also to the persons who are responsible for his actions or have the obligation to control his actions possible;

sixth, national in our legislation, when satisfying the victim's claim for damages, the court delict liability measures (damage compensation method) it is assumed that the victim's wishes are taken into account when choosing.

In the civil legislation, "compensation" is defined as a measure of liability on the one hand (Chapter 57 of the Civil Code), and on the other hand as a method of protection of civil rights (Article 11 of the Civil Code). However, it was justified that it cannot be placed in a primary or secondary position according to its function, it is used as a measure of responsibility for the delinquent, and as a way to protect the rights of the victim. Because delict obligations are not directly aimed at prohibiting this or that behavior, but primarily encourage the delinquent to perform a certain action for the benefit of the victim. Accordingly , the author delict stated that it is not a punishment measure, but a way to protect the rights of the victim.

The categories of "obligation" and "responsibility" were studied in the research work, and it was justified that "obligation" as a legal category refers more to contractual liability relations, and "responsibility" refers to delict obligation relations. Accordingly, it is proposed to describe the chapter 57 of the Civil Code of the Republic of Uzbekistan entitled "Obligations arising from

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damage" in the form of "Responsibilities arising from damage".

In the study, the legal practice of the police organizations of the USA, Brazil, the Philippines, Germany and other developed European countries regarding compensation for the damage caused to the victims was studied, and proposals were developed for the implementation of the perfect mechanisms that have proven themselves in the international practice into the national legislation.

According to the general rule of the institution of obligations arising from damage, the obligation to pay the damage is imposed on the person who caused the damage (delinquent). However, damage by internal affairs bodies is a special type of tort, which has its own characteristics. To be more specific, our national legislation defines the cases where the obligation to compensate the damage caused by the internal affairs bodies is not always on them, but directly on the state. However, the legislation does not specify in which cases the obligation to compensate the damage is assigned to the internal affairs bodies and in which cases to the state. This may lead to situations where the court wrongly assigns the obligation to pay damages to the internal affairs bodies or the state when considering these disputes.

The author thoroughly studied this issue and analyzed the norms of the national law on the subject, and concluded that the obligation to compensate for the damage caused by the illegal use of administrative, criminal-legal and procedural actions by the internal affairs bodies is the responsibility of the state, the adoption of a document that is not in accordance with the law, and the illegal actions of officials. Justified that it is legally correct to impose the obligation to compensate the damage caused as a result of (inaction) to the internal affairs bodies.

The author points out that, along with the principle of "prime delict", a number of special rules are also applied in bringing responsibility for the damage caused, and they are treated as separate delicts; notes that the necessary basis for compensation for damage caused by internal affairs bodies is damage, because if an illegal act is committed by internal affairs bodies, but no damage is caused, the issue of delict liability does not arise. At the same time, the author claims in court that the damage was caused while the internal affairs bodies were exercising their powers, that it was caused by the illegal action (inaction) of the internal affairs bodies (employees), and that it was causally related to the illegal action (inaction) of the internal affairs bodies (employees), explained that it is necessary to prove that it was caused by the fault of the internal affairs bodies (employees), and only after that it is possible to draw a conclusion on the issue of compensation for the damage caused by the internal affairs bodies.

The victim (individual or legal entity) who demanded compensation for the damage caused by the internal affairs bodies must prove the amount (amount) of the damage caused to him and that the decisions of the internal affairs bodies or the actions (inaction) of the officials should be found illegal by the court. It was justified that cases such as acquittal and his rehabilitation should be accepted as evidence that does not require proof.

Articles 15, 990 and 991 of the Civil Code were studied in detail, and it was concluded that internal affairs bodies participate as a delinquent party either in the capacity of "state body" or "legal entity" in delict relations. Based on this, the researcher emphasizes that it is necessary to distinguish between the delict responsibility of internal affairs bodies as a state body and a legal entity. The author justifies that the delict responsibility of the internal affairs bodies as a subject of public law is expressed in compensation for the damage caused in the cases provided for in Articles 15, 990, 991 of the Civil Code, and that this obligation is not imposed on the internal affairs bodies, but on the state.

The opinions of civil scientists that the state should compensate not for any damage caused by the internal affairs bodies, but only for the damage caused as a result of illegal actions (inaction) defined by the law, were studied. The author says that it is impossible to define in advance in the laws the

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complete list of illegal actions that can be committed by state bodies or officials. Accordingly, it was justified that even if the above-mentioned list of illegal actions is not defined in advance by the law, the state will cover the damage caused, and the necessary condition for this is that there is a causal connection between the damage caused and the illegal action (inaction) and that the damage is a consequence of the exercise of the powers of the authorities.

The civil legal status of state bodies is not specified in the civil legislation of Uzbekistan. In court practice, the application of delict liability to internal affairs bodies with a complex structural structure in the system of state bodies causes some difficulties. For example, various problems in the recovery of property damage that arise in the activity of internal affairs bodies as a legal entity (when internal affairs bodies do not fulfill contractual obligations, cause damage with vehicles or other excessive sources of risk) there is a high probability that the damage will not be covered. In these situations, the researcher provides a legal justification for the fact that in order to compensate for the damage, the levy can be focused on the funds or property of the internal affairs bodies found in the economic activity.

In the research work, the delict responsibility of internal affairs bodies was analyzed based on its status as a state body (structure) and a legal entity, and its specific aspects were highlighted. also the participation of internal affairs bodies in delict relations in such a manner was studied, and its specific aspects were revealed. As a result, when they participate as a state body (structure), the damage caused to citizens or legal entities will be covered from the state budget in any case, if they participate as a legal entity, the responsibility cannot be assigned to the state, in such a case, the damage will be their property or money. it was justified that it should be covered from the account.

The delict liability of internal affairs bodies as a subject of public law arises due to the damage caused by them in connection with the implementation of power and management activities, while the delict liability as a subject of private law arises due to the damage caused by excessive risk sources that belong to them on the basis of the right of economic management and operational management. came to the conclusion that it will come out.

In addition, the delict liability of the internal affairs bodies as a subject of private law is studied on the grounds established in Article 989 of the Civil Code, in which the damage caused by the employees of the internal affairs bodies, even if they were caused during the service, should not be related to the powers of the authorities (for example, the internal affairs bodies damage caused by an employee to another person during work) and therefore, in such a situation, the internal affairs bodies as a legal entity are justified in delict responsibility.

According to the author, the emergence of delict relations with the participation of internal affairs bodies in the national civil law is related to their establishment as a legal entity. Of course, internal affairs bodies did not function in their current legal status during the entire period of historical development , but they existed in one form or another at different stages of development. In the past, criminal relations with the participation of internal affairs bodies were not formed as an independent legal institution, but the rules for their regulation can be found in written legal sources. The initial norms expressing the participation of internal affairs bodies as a delinquent party in civil law obligations were narrowly defined in Article 481 of the Civil Code of Uzbekistan adopted on March 23, 1963.

Noting that the rules of the former Union did not respond to the civil legal principles of independent Uzbekistan based on the market economy, in particular, the introduction of the principle that "the state is not responsible for the obligations of a legal entity created by itself" into the civil legislation and its application to social life, the state (internal affairs) bodies in relation to obligations emphasizes the need for recognition as an independent entity. Accordingly, the Civil Code (mm. 15, 990, 991), implemented on March 1, 1997, for the first time indicates that the legal bases of delict

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liability of state (internal affairs) bodies are defined.

notes that today every country has made certain progress in the field of human rights and freedoms, and at the same time, it has also defined the legal basis for influencing these rights to one degree or another in its legislation. Accordingly, in order to maintain public order and ensure public safety, the internal affairs bodies are empowered to make binding decisions or apply legal measures. Of course, in these processes, unpleasant situations may occur, such as restrictions on the rights and interests of citizens and legal entities, or damage to them in one way or another.

Today, in order to reduce and prevent such negative consequences, all countries have established one or another procedure for complaining about the decisions, actions (inaction) of state bodies and officials, and for compensating the damage caused by such actions. But until now __ In this regard, no country has created a single, universally recognized legal mechanism. Nevertheless, some developed countries have made some progress in this area.

The declaration "On Basic Principles of Justice for Victims of Crime and Abuse of Power", adopted by the UN on November 29, 1985, recommended national and international standards for effective protection of the rights of victims of crime and abuse of power. For this purpose, the researcher believes that the ratification of this international document by Uzbekistan is appropriate.

The relevant legislation and legal experience of the CIS member states, the USA, European countries and other developed foreign countries were studied. According to the research analysis, it was found that there are specific positive aspects of the legal regulation of relations related to damage caused by state (internal affairs) bodies in the legislation of the studied countries. In particular, it can be seen that in the Russian Federation, compensation for damage caused by state bodies and their officials is strengthened at the level of the constitution [2], and in Ukraine [3] and the Republic of Northern Cyprus [4], such relations are legally regulated on the basis of a separate law.

In other countries, for example, in Turkey, compensation for damage caused by the police is based on public and private legislation, that is, the responsibility of the employer for damage caused by his employee, but the tort law of England, unlike that of France and Germany, did not provide legal responsibility for damage caused by the decisions of the state authorities. but it can be observed that this damage is compensated voluntarily (*ex gratia*) and is not based on legal responsibility, but only on moral duty.

According to the legislation of the Republic of Uzbekistan, delict relations with the participation of internal affairs bodies, more precisely, their delict liability is defined on the basis of the Civil Code (mm. 15, 990, 991). However, the author says that this relationship is a mixed legal relationship regulated by the norms of public and private law, because the delict responsibility of the internal affairs bodies is also defined in the administrative, criminal, criminal-procedural legislation of the state. Of course, it is necessary to take into account that the regulation of one type of social relations by different areas of law causes various problems in the practice of law enforcement. Based on this, in the dissertation, the necessity of adopting the law of the Republic of Uzbekistan "On the procedure for payment of damages caused by the illegal actions of the bodies conducting pre-investigation, inquiry, preliminary investigation, prosecution bodies and courts" was justified and its draft was developed.

The content of Articles 15, 990, 991 of the Civil Code was analyzed. As a result, the damage caused by the illegal application of administrative and criminal-procedural legal norms by the internal affairs bodies (Article 991 of the Criminal Code) - the adoption of a document that is not in accordance with the law directly by the state, by the internal affairs bodies, as well as the illegal actions of their officials (it was determined that the damage caused as a result of inaction) (Article 15, 990 of the Civil Code) should be carried out at the expense of the state body's extra-budgetary funds. The author believes that two different procedures for compensating damages caused by internal affairs bodies as

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a state body in the legislation make it difficult to fully ensure the principle of "main delict" (timely and full compensation of damages caused to the victim).

Because, if the internal affairs bodies do not have extra-budgetary funds, or if they do not have enough funds to fully compensate the damage, the damage may remain uncompensated or not fully compensated. In the dissertation, taking into account these circumstances and the legal experience of developed countries, it was justified that the damage caused by internal affairs bodies as a state body should be compensated directly from the State budget of the Republic of Uzbekistan, not from their extra-budgetary funds.

The norm of the Civil Code that "by the decision of the court, damages may be imposed on officials who are guilty of damages" (FK 15, 991 -mm.) was analyzed, and the opinions of legal scholars were studied in this regard. As a result, it was concluded that the state should always guarantee the correct and legal implementation of the powers given to its bodies and officials and undertake the obligation to compensate for the damage caused as a result. In this matter, the author justifies that the obligation to compensate the damage should always be carried out by the state, and in cases where the guilt of the official in causing the damage is proven by the court, it is necessary to introduce a mechanism that ensures the recovery of the paid damage in the recourse procedure.

of the Civil Code, it can be understood that the responsibility is assigned not to the state, but to the state bodies, the bodies that carry out the pre-investigation, investigation, preliminary investigation, prosecutor's office and the court. Therefore, in order to ensure that their name is consistent with the content, Article 15 - "Compensation for damage caused by state bodies and self-government bodies of citizens", Article 990 - "Damage caused by state bodies, self-government bodies of citizens, as well as their officials" compensation for damages", and to change Article 991 to "compensation for damages caused due to illegal actions (inaction) of officials of these bodies, as well as illegal actions (inaction) of bodies conducting pre-investigation investigations, investigations, preliminary investigations, prosecutor's offices and courts" justified to be logically correct.

In conclusion, as one of the practical suggestions, the right to recover damages of a citizen injured or damaged as a result of the illegal activity of investigative bodies, investigation, preliminary investigation, prosecutor's office and court before his death is transferred to his heirs after his death in Article 991 of the Civil Code. believes that its introduction will ensure the unification of the legislation in this field.

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