TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI ILMIY DARAJALAR BERUVCHI DSc.07/30.12.2019.Yu.22.02 RAQAMLI ILMIY KENGASH

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

JO‘RAYEV DILMUROT MUXTOROVICH

MA’MURIY VA OMMAVIY HUQUQIY NIZOLARNI HAL ETISHNING MUQOBIL USULI SIFATIDA KELISHUV BITIMI

12.00.02. – Konstitutsiyaviy huquq. Ma’muriy huquq.
Moliya va bojxona huquqi

Yuridik fanlar bo‘yicha falsafa doktori (PhD) dissertatsiyasi AVTOREFERATI

Toshkent – 2024

UDK: 347.15 (102)

Falsafa doktori (PhD) dissertatsiyasi avtoreferati mundarijasi

Оглавление автореферата диссертации доктора философии (PhD)

Contents of the abstract of the dissertation of the Doctor of Philosophy (PhD)

Falsafa doktori (PhD) dissertatsiyasi mavzusi O‘zbekiston Respublikasi Oliy ta’lim, fan va innovatsiyalar vazirligi huzuridagi Oliy attestatsiya komissiyasida B2022.2.PhD/Yu720-raqam bilan ro‘yxatga olingan.

Doktorlik dissertatsiyasi Toshkent davlat yuridik universitetida bajarilgan.

Dissertatsiya avtoreferati uch tilda (o‘zbek, ingliz, rus (rezyume)) Ilmiy kengashning veb-sahifasida (https://tsul.uz/uz/fan/avtoreferatlar) va “ZiyoNET” Axborot ta’lim portalida (www.ziyonet.uz) joylashtirilgan.

Ilmiy rahbar:	**Musayev Bekzod Tursunboyevich** yuridik fanlar doktori, professor
Rasmiy opponentlar:	**Ro‘zmetov Xayrulla Ibadullayevich** yuridik fanlar doktori, dotsent
	Javliyev Nurali Bahodirovich yuridik fanlar nomzodi, dotsent
Yetakchi tashkilot:	**O‘zbekiston Respublikasi Sudyalar oliy kengashi huzuridagi Sudyalar oliy maktabi**

Dissertatsiya himoyasi Toshkent davlat yuridik universiteti huzuridagi Ilmiy darajalar beruvchi DSc.07/30.12.2019.Yu.22.02 raqamli Ilmiy kengashning 2024-yil 14-dekabr soat 14:00 dagi majlisida bo‘lib o‘tadi (Manzil: 100047, Toshkent shahar, Sayilgoh ko‘chasi, 35-uy. Tel.: (99871) 233-66-36; faks: (99871) 233-37-48, e-mail: info@tsul.uz).

Dissertatsiya bilan Toshkent davlat yuridik universiteti Axborot-resurs markazida tanishish mumkin (1258-raqami bilan ro‘yxatga olingan). (Manzil: 100047, Toshkent shahar, Sayilgoh ko‘chasi, 35-uy. Tel.: (99871) 233-66-36).

Dissertatsiya avtoreferati 2024-yil 02-dekabrda tarqatildi.

(2024-yil 02-dekabrdagi 17-raqamli reyestr bayonnomasi).

R.R.Xakimov
Ilmiy darajalar beruvchi Ilmiy kengash raisi, yuridik fanlar doktori, professor

F.B.Maxmudov
Ilmiy darajalar beruvchi Ilmiy kengash kotibi, yuridik fanlar bo‘yicha falsafa doktori (PhD), dotsent

I.R.Bekov
Ilmiy darajalar beruvchi Ilmiy kengash huzuridagi Ilmiy seminar raisi, yuridik fanlar doktori, professor

TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI ILMIY DARAJALAR BERUVCHI DSc.07/30.12.2019.Yu.22.02 RAQAMLI ILMIY KENGASH

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

JO‘RAYEV DILMUROT MUXTOROVICH

MA’MURIY VA OMMAVIY HUQUQIY NIZOLARNI HAL ETISHNING MUQOBIL USULI SIFATIDA KELISHUV BITIMI

12.00.02. – Konstitutsiyaviy huquq. Ma’muriy huquq.
Moliya va bojxona huquqi

Yuridik fanlar bo‘yicha falsafa doktori (PhD) dissertatsiyasi AVTOREFERATI

Toshkent – 2024

KIRISH (DISSERTATSIYA ANNOTATSIYASI)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyoda sud tizimida ma’muriy sudlarning roli jismoniy yoki yuridik shaxslarning huquqlari va qonuniy manfaatlari ma’muriyat tomonidan buzilishining oldini olish, g‘ayriqonuniy qarorlar, harakatlar (harakatsizlik) ustidan davlat nazoratini o‘rnatish orqali fuqarolarning huquq va manfaatlarini himoya qilishda namoyon bo‘ladi. Ayniqsa, nizolarni hal qilishning muqobil usuli sifatida kelishuv jarayoni keng qo‘llanilishi natijasida 60-80 foiz nizolar o‘zaro kelishuv orqali hal qilinishi, demokratik institut sifatida namoyon bo‘ladi[1]. Shu sababli fuqarolar va tadbirkorlik subyektlarining buzilgan huquqlarini tiklashda sudlarning, ayniqsa, ma’muriy sudlarning o‘rnini kuchaytirish, ularni fuqaro va tadbirkorlarning haqiqiy himoyachisiga aylantirish zarur hisoblanadi.

Jahonda sud nizolarini, xususan, ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni muqobil usullarda hal etishga katta e’tibor qaratilib, bu orqali sud yukini kamaytirishga, taraflar o‘rtasidagi nizoni yustitsiyada uzoq vaqt ko‘rilishini cheklashga, taraflar o‘rtasida nizoli huquqiy munosabatlar davomli mavjud bo‘lishining oldini olishga, nizoda taraflar o‘rtasida o‘zaro yon berishlarga erishib ularda hamkorlik munosabatlarini saqlab qolishga, sudda ko‘riladigan nizolarning katta qismini kelishuv instansiyalarida hal etishga alohida urg‘u beriladi.

Mamlakatimizda olib borilayotgan keng ko‘lamli islohotlar inson bilan davlat organlarining o‘zaro munosabatlarida yuzaga keladigan qonunchilikdagi barcha ziddiyatlar va noaniqliklar inson foydasiga talqin etilishi konstitutsiyaviy normasiga asoslangan bo‘lib, ushbu islohotlar “ma’muriy sudlarning birinchi navbatdagi vazifasi fuqarolar va tadbirkorlik subyektlarining davlat organlari bilan munosabatlarida qonun ustuvorligini ta’minlash bilan bir qatorda ular huquqlari va qonuniy manfaatlarini samarali himoya qilish” [2] orqali ma’muriy sud ishlarini yuritishni xalqaro standartlardan kelib chiqqan holda takomillashtirishga qaratilgan. Bundan tashqari, “Yangi O‘zbekistonning taraqqiyot strategiyasi”ning 15-maqsadi sifatida nizolarni hal etishning muqobil usullaridan keng foydalanish uchun zarur tashkiliy-huquqiy shart-sharoitlarni yaratish, kelishuv institutini qo‘llash doirasini yanada kengaytirish[3] belgilangan bo‘lsa, O‘zbekiston Respublikasi Prezidentining 2022-yil 29-yanvardagi PQ–107-son qarori 2-bandining beshinchi xatboshisida ommaviy-huquqiy munosabatlardan kelib chiqadigan ishlar bo‘yicha taraflar o‘rtasida kelishuvga erishish mexanizmlarini joriy qilish belgilangandi. Shuningdek, O‘zbekiston Respublikasi Prezidentining 2023-yil 11-sentabrdagi “O‘zbekiston-2030” strategiyasi to‘g‘risi”da PF-158-son Farmonida 2030-yilgacha erishiladigan

---

[1] Rosenberg J. D. In defense of mediation //Ariz. L. Rev. – 2023. – T. 33. – C. 467.

[2] O‘zbekiston Respublikasi Prezidentining 2022-yil 29-yanvardagi “Davlat organlari bilan munosabatlarda fuqarolar va tadbirkorlik sub’ektlari huquqlarining samarali himoya etilishini ta’minlash hamda aholining sudlarga bo‘lgan ishonchini yanada oshirish chora-tadbirlari to‘g‘risida” PQ-107-son Qarori // Qonunchilik ma’lumotlari milliy bazasi, 29.01.2022 y., 07/22/107/0083-son

[3] O‘zbekiston Respublikasi Prezidentining 2022-yil 28-yanvardagi PF–60-son «2022 — 2026 yillarga mo‘ljallangan Yangi O‘zbekistonning taraqqiyot strategiyasi to‘g‘risida»gi Farmoni. // Qonunchilik ma’lumotlari milliy bazasi, 29.01.2022 y., 06/22/60/0082-son

maqsadlarning samaradorlik ko‘rsatkichlaridan biri sifatida sudga qadar bosqichda nizolarni hal qilish samaradorligini 50 foizga oshirish, sudga qadar hal etilishi mumkin bo‘lgan nizolar yuzasidan sudlarga kelib tushadigan ishlar sonini 50 foizga kamaytirish vazifasi belgilangan[4]. Ushbu vazifalar sohada ilmiy tadqiqot o‘tkazish zaruratini oldimizga qo‘yadi.

O‘zbekiston Respublikasi Prezidentining “Sud-huquq tizimini yanada isloh qilish, fuqarolarning huquq va erkinliklarini ishonchli himoya qilish kafolatlarini kuchaytirish chora-tadbirlari to‘g‘risida”gi PF 4850-son (2016) Farmoni, “O‘zbekiston Respublikasi sud tizimi tuzilmasini tubdan takomillashtirish va faoliyati samaradorligini oshirish chora-tadbirlari to‘g‘risida”gi PF 4966-son (2017) Farmoni, O‘zbekiston Respublikasining Ma’muriy sud ishlarini yuritish to‘g‘risidagi kodeksi (2018), O‘zbekiston Respublikasi Prezidentining “Nizolarni muqobil hal etishning mexanizmlarini yanada takomillashtirish chora-tadbirlari to‘g‘risida”gi PQ-4754-son (2020) Qarori, O‘zbekiston Respublikasi Prezidentining “Yangi O‘zbekiston ma’muriy islohotlarini amalga oshirish chora-tadbirlari to‘g‘risida”gi PF-269-sonli (2022) Farmoni, O‘zbekiston Respublikasi Prezidentining “Yangi O‘zbekiston ma’muriy islohotlari doirasida respublika ijro etuvchi hokimiyat organlari faoliyatini samarali tashkil etish chora-tadbirlari to‘g‘risida”gi PQ-447-son (2022) Qarori, O‘zbekiston Respublikasining “Davlat organlari bilan munosabatlarda fuqarolar va tadbirkorlik subyektlari huquqlarining samarali himoya qilinishini ta’minlash bo‘yicha qo‘shimcha choralar ko‘rilishi munosabati bilan O‘zbekiston Respublikasining ayrim qonun hujjatlariga o‘zgartish va qo‘shimchalar kiritish to‘g‘risida”gi O‘RQ-833-son (2023) Qonuni va mavzuga oid boshqa normativ-huquqiy hujjatlarda belgilangan vazifalarni amalga oshirishga ushbu dissertatsiya muayyan darajada xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo‘nalishlariga mosligi. Mazkur tadqiqot respublika fan va texnologiyalar rivojlanishining I. “Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, ma’naviy-ma’rifiy rivojlantirishda innovatsion g‘oyalar tizimini shakllantirish va ularni amalga oshirish yo‘llari” ustuvor yo‘nalishiga mos keladi.

Muammoning o‘rganilganlik darajasi. Dissertatsiya O‘zbekistonda Ma’muriy va ommaviy huquqiy nizolarni hal etishning muqobil usullari va kelishuv bitimiga bag‘ishlangan dastlabki kompleks tadqiqot ishi hisoblanadi.

Mazkur mavzuning ayrim jihatlarini ilmiy tadqiqot obekti sifatida E.Xojiyev, T.Xojiyev (Ma’muriy huquq), J.Nematov (O‘zbekiston respublikasida ma’muriy protseduralar institutini takomillashtirish qiyosiy-huquqiy tahlil, Ma’muriy sud ishlarini yuritishda sudga taalluqlilikning ayrim huquqiy muammolari, Ma’muriy huquq) S.A.Murataev, B.T.Musaev, D.R.Artikov (Ma’muriy huquq va protsess), Sh.Bakayev (O‘zbekiston Respublikasida ma’muriy sudlar faoliyatining tashkiliy-huquqiy asoslarini takomillashtirish) K.S.Avezov (Iqtisodiy protsesda taraflarning

[4] O‘zbekiston Respublikasi Prezidentining 2023-yil 11-sentabrdagi “O‘zbekiston-2030” strategiyasi to‘g‘risi”da PF-158-son Farmoni // Qonunchilik ma’lumotlari milliy bazasi, 12.09.2023 y., 06/23/158/0694-son; 29.12.2023 y., 06/23/214/0984-son

huquqiy maqomini takomillashtirish), S.A.Maripova (Fuqarolik protsessida mediatsiyani qo‘llash: qiyosiy huquqiy tahlil), Sh.Masadikov (O‘zbekiston Respublikasida mediatsiyaning mohiyati va uni huquqiy tartibga solish muammolari), H.T.Odilqoriev (O‘zbekiston davlati va jamiyati innovatsion rivojlanishning huquqiy jihatlari), Sh.T.Ikramov, I.A.Xamedov (ma’muriy huquq) ilmiy ishlarida o‘rganilgan.

Shu bilan birga xorijiy mamlakatlarda ma’muriy va ommaviy huquqiy munosabatlarda kelib chiqadigan nizolarni muqobil usullarda hal etishning ayrim jihatlari T.K.Primak, M.Alexina, G.V.Sevastyanov, R.Paund, Ye.A.Borisova, T.V.Xudoykina, I.Reshetnikova, Yu.Kolyasnikova, S.I.Kalashnikova, O.O.Juravleva, Ye.I.Nosireva, O.Pavlova, M.Ye.Mednikova, Yu.A.Tixomirov, Yu.A.Tixomirov, S.F.Afanasev, A.I.Xersonsev, E.Carrol, K.Mackie, A.N.Kuzbagarov, Max-Jürgen, V.V.Yarkov, D.L.Davidenko, D.Abushenko, N.A Gromoshina, Ye.S.Ganicheva, P.V.Donsov, N.A.Baxshieva, Yorg Pudelka, A.K.Soloveva, V.V.Sajina, N.G.Salisheva, F.S.Maxdiev, N.A.Tunina, B.L.Dufourcq, S.Vigouroux, F.Mallol, G.Kalfleche, A.A.Solovev, D.Costa, J.B.Racine, M.Mercier, Me Granjon, V.Kulikov, K.Pavel, S.N.Maxina, E.N.Klyushina, V.A.Razgildeev, D.Esplin, V.Bondy, M.Doyle, F.Steffek, A.Balthasar, M.V.Arakelova, A.V.Belousov, P.N.Biryukov, V.A.Abolonin, P.V.Donsov, L.Jacobs, A.D.Sydelnikov, N.G.Kiper, E.B.Luparev, M.S.Pavlova va boshqa olimlar tomonidan tadqiq etilgan[5].

Shunga qaramasdan, ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni muqobil usullar orqali sudda hal etish va kelishuv bitimi masalasi ma’muriy huquq nuqtayi nazaridan, xorijiy davlatlarning ijobiy tajribasini tahlil qilgan holda O‘zbekiston Respublikasining qonunchiligini takomillashtirish yuzasidan tadqiqot ishi sifatida o‘rganilmagan.

Dissertatsiya tadqiqotining dissertatsiya bajarilgan oliy ta’lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog‘liqligi. Tadqiqot Toshkent davlat yuridik universiteti ilmiy-tadqiqot ishlari rejasining “Demokratik islohotlarni chuqurlashtirish sharoitida davlat boshqaruvini yanada erkinlashtirishning asosiy yo‘nalishlari” mavzusidagi fundamental loyihasi (2017-2021 yy.) doirasida bajarilgan.

Tadqiqotning maqsadi Ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni sudda muqobil usulda hal etishni kengaytirish va kelishuv bitimi tuzish bo‘yicha ilmiy asoslangan taklif va tavsiyalarni ishlab chiqishdan iborat.

Tadqiqotning vazifalari:

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni sudda muqobil usullarda hal etish yuzasidan kelishuv institutining rivojlanishi va uning ahamiyatini ko‘rsatib berish;

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizo tushunchasi va uning konseptual asoslarini tahlil qilish;

[5] Mazkur olimlarning ilmiy ishlari dissertatsiya ishining foydalanilgan adabiyotlar ro‘yxatida berilgan.

kelishuv tartib-taomili tushunchasi, huquqiy tabiati, nazariy huquqiy asoslarini yoritib berish;

O‘zbekiston Respublikasi qonunchiligiga ko‘ra, nizolarni sudda hal etishda kelishuv tartib-taomillarini va kelishuv bitimini qo‘llashning amaliy-nazariy asoslarini tahlil qilish orqali sohadagi muammolarni aniqlash;

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni kelishuv tartib-taomillari va kelishuv bitimi orqali hal etish yuzasidan xorijiy tajribani o‘rganish;

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni kelishuv tartib-taomillari va kelishuv bitimi orqali hal etishga ta’sir etuvchi sudlovga taalluqlilik, ma’muriy shartnoma, dastlabki eshitish, dastlabki qaror tushunchalarini xorijiy tajriba asosida tahlil qilish;

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni hal etishda kelishuv tartib-taomillarini va kelishuv bitimini qo‘llash istiqbollari yuzasidan milliy qonunchilikni tahlil qilish;

ma’muriy nizolarni sudda hal etishda kelishuv tartib-taomillarini va kelishuv bitimini qo‘llash imkoniyatini qonunchilik va sud amaliyoti tahlilidan kelib chiqib o‘rganish hamda milliy qonunchiligimizni rivojlantirish yuzasidan taklif va tavsiyalarni ishlab chiqish.

Tadqiqotning obekti nizoli huquqiy munosabatlarga nisbatan muqobil usulni qo‘llash va kelishuv bitimi tuzish bilan bog‘liq ma’muriy va ommaviy huquqiy munosabatlar tizimi hisoblanadi.

Tadqiqotning predmeti O‘zbekistonda ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni sudda muqobil usulda hal etish va kelishuv bitimi tuzish bilan bog‘liq normativ-huquqiy hujjatlar, huquqni qo‘llash amaliyoti, xorijiy mamlakatlar qonunchiligi va tajribasi, yuridik fanda mavjud konseptual yondashuvlar, ilmiy-nazariy qarashlar tashkil etadi.

Tadqiqotning usullari. Tadqiqot olib borish jarayonida qiyosiy-huquqiy tadqiqot, empirik tadqiqot, mantiqiy, tahliliy, tarixiy, ilmiy manbalarni kompleks tadqiq etish, sotsiologik, statistik ma’lumotlar tahlili kabi usullardan foydalanildi.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni sudda hal etishda kelishuv bitimi tuzishni joriy qilish lozimligi asoslantirilgan;

kelishuv bitimining shakli va mazmuniga qo‘yiladigan talablar ishlab chiqilib, unga ko‘ra kelishuv bitimi yozma shaklda tuzilishi, bitim bo‘yicha majburiyatlarning bajarilishi taraflarni bir-biriga yoki boshqa voqealarga, harakatlarga bog’liq qilib qo‘yishi mumkin emasligi asoslab berilgan;

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni sudda hal etishda kelishuv bitimini tasdiqlash to‘g‘risidagi masalani ko‘rib chiqish jarayonida sud tomonida uning qonunchilikka, uchinchi shaxslarning manfaatlariga zid emasligi aniqlanishi lozimligi asoslangan;

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolar bo‘yicha tuzilgan kelishuv bitimini sud tomonidan rad etish asoslari ishlab chiqilgan, jumladan, bitim ishtirokchisi sanalgan javobgarda ma‘muriy ixtiyoriylik bo‘lmasa,

bitim shartli tuzilgan bo‘lsa kelishuv bitimini tasdiqlash sud tomonidan rad etilishi lozimligi asoslantirilgan;

agar ma’muriy sudning ayni bir shaxslar o‘rtasidagi, ayni bir predmet to‘g‘risidagi va ayni bir asoslar bo‘yicha nizo yuzasidan qabul qilingan, qonuniy kuchga kirgan hal qiluv qarori yoki ish yuritishni tugatish haqidagi ajrimi yoxud kelishuv bitimini tasdiqlash to‘g‘risidagi ajrimi mavjud bo‘lsa, sudya arizani (shikoyatni) ish yuritishga qabul qilishni rad etishi lozimligi asoslab berilgan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni sudda hal etishda kelishuv tartib-taomillarini qo‘llash mumkinligi asoslantirilgan;

nizolarni hal etishning muqobil usullaridan ma’muriy nizolarni hal etishda foydalanish ham moddiy, ham ma’naviy jihatdan samarali hisoblanishi, nizo ishtirokchilari, qolaversa davlat boshqaruvi uchun ham foydali sanalishi, nizolarni muqobil usullarda hal etish nizolarni sud muhokamasida hal etishdan ko‘ra samaraliroq ekanligi va bu nizolarning batamom yakun topishi uchun xizmat qilishi asoslantirilgan;

sudda nizolarni muqobil usulda hal etishda kelishuv tartib-taomillari bilan shug‘ullanadigan alohida tayyorgarlikka, tajribaga ega sudya-mediator (vositachi), alohida olib boriladigan sud mediatsiyasi jarayonini joriy qilish istiqbolli natijalarini ta’minlovchi omil ekanligi asoslantirilgan;

nizolarni sudda kelishuv tartib-taomillarini qo‘llash orqali hal etishga oid qonunchilikni tarmoq yuridik fanlari doirasida amaliy va nazariy jihatdan umumlashtirish lozimligi asoslantirilgan;

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni muqobil usulda hal etishda kelishuv tartib-taomillarini ma’lum me’yoriy cheklovlarni o‘rnatgan holda amalga oshirish mumkinligi asoslantirilgan;

ma’muriy nizolarni muqobil usullarda hal etishda kelishuv tartib-taomillarini qo‘llash uchun vositachini erkin tanlash, jarayonlarini erkin tashkillashtirish davlat moliya tizimiga zarar keltirishi mumkinligi, shu sababli ma’muriy nizolarda kelishtirish protsedurasini amaliyotga joriy etishda faqatgina ma’muriy nizolarni muqobil usulda hal etish jarayonlarini belgilagan vositachi (mediator, sudya-mediator)lar tomonidan, alohida tartiblarda olib borilishi lozimligi asoslantirilgan;

nizolarni sudda muqobil usulda hal etishda dastlabki eshitish bosqichi, dastlabki ma’muriy akt qabul qilish masalasi muhim ekanligi asoslantirilgan;

O‘zbekiston Respublikasining “Mediatsiya to‘g‘risida”gi qonunini ma’muriy nizolarni hal etishda ham qo‘llash bo‘yicha taklif ishlab chiqilgan;

O‘zbekiston Respublikasi MSIYutKning kelishuv bitimini tuzishga oid normalarini takomillashtirish, o‘zgartirish va qo‘shimchalar kiritish yuzasidan taklif va tavsiyalar ishlab chiqilgan;

nizolarni sudda hal etishda alohida olib boriladigan sud mediatsiyasi protsedurasini tashkil etish, sudda kelishtiruv jarayonlari bilan shug‘ullanadigan alohida sudya mediator, vositachi lavozimini joriy etish yuzasidan taklif va tavsiyalar ishlab chiqilgan;

Tadqiqot natijalarining ishonchliligi. Tadqiqot natijasida xorijiy va milliy qonunchilik normalari, rivojlangan davlatlar tajribasi, huquqni qo‘llash amaliyoti o‘rganildi. Ijtimoiy so‘rov o‘tkazildi. Statistik ma’lumotlarni tahlil qilish natijalari umumlashtirildi va bu bo‘yicha tegishli hujjatlar olindi. Tadqiqot ishi doirasida ishlab chiqilgan taklif va tavsiyalar aprobatsiyadan o‘tkazilib, ularning natijalari yetakchi milliy va xorijiy nashrlarda e’lon qilindi hamda vakolatli tuzilmalar tomonidan tasdiqlandi va amaliyotga joriy qilindi.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqot natijalarining ilmiy ahamiyati undagi ilmiy-nazariy xulosalar, taklif va tavsiyalardan Ma’muriy huquq, Fuqarolik huquqi, Iqtisodiy huquq sohalarida tadqiqot ishlarini olib borishda, “Davlat va huquq nazariyasi”, “Ma’muriy huquq”, “Ma’muriy sud ish yurituvi”, “Konstitutsiyaviy huquq” kabi fanlarni o‘qitish jarayonida hamda metodik tavsiyalar tayyorlashda foydalanish mumkin.

Tadqiqotning amaliy ahamiyati ma’muriy nizolarni sudda muqobil usulda hal etish amaliyotini keng joriy etishga qaratilgan qator qoida va amaliy tavsiyalarni ishlab chiqilganligida ifodalanadi hamda uning natijalaridan sohaga oid qonun hujjatlarini takomillashtirishda, sudlar tomonidan ma’muriy nizolarni hal etishda kelishuv tartib-taomillarini qo‘llash amaliyotida foydalanish mumkin.

Tadqiqot natijalarining joriy qilinishi. Tadqiqot ishi bo‘yicha olingan ilmiy natijalar quyidagilarda foydalanilgan:

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni sudda hal etishda kelishuv bitimi tuzishni joriy qilish lozimligi haqidagi taklifdan O‘zbekiston Respublikasi MSIYutKning 126^{1}-moddasi birinchi qismini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Oliy majlisi Qonunchilik palatasining korrupsiyaga qarshi kurashish va sud-huquq masalalari qo‘mitasining 2023 yil 13 iyunda 04/2-10/2149-son bilan qayd etilgan dalolatnomasi). Ushbu takliflarning amalga oshirilishi qonunchilikda ma’muriy nizolarni muqobil usulda hal etish imkoni va amaliyotining vujudga kelishiga xizmat qilgan;

kelishuv bitimining shakli va mazmuni yuzasidan kelishuv bitimi yozma shaklda tuzilishi, uni tuzgan shaxslar tomonidan imzolanishi, bitim bo‘yicha majburiyatlarning bajarilishi, taraflarni bir-biriga yoki boshqa voqealarga, harakatlarga bog’liq qilib qo‘yishi mumkin emasligi, bitimda sud xarajatlarini taqsimlash to‘g‘risidagi shart mavjud bo‘lmasa, bu masala bitimni tasdiqlash chog‘ida hal etilishi lozimligi haqidagi taklifdan O‘zbekiston Respublikasi MSIYutKning 126^{2}-moddasini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Oliy majlisi Qonunchilik palatasining korrupsiyaga qarshi kurashish va sud-huquq masalalari qo‘mitasining 2023-yil 13-iyunda 04/2-10/2149-son bilan qayd etilgan dalolatnomasi). Ushbu takliflarning amalga oshirilishi qonunchilikda ma’muriy nizolarni muqobil usulda hal etish imkoni va amaliyotining vujudga kelishiga xizmat qilgan;

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni sudda hal etishda kelishuv bitimini tasdiqlash to‘g‘risidagi masalani ko‘rib chiqish yuzasidan kelishuv bitimi ishni ko‘rayotgan sud tomonidan taraflar ishtirokida tasdiqlanishi, kelishuv bitimini tasdiqlash jarayonida sud tomonidan uning

qonunchilikka, uchinchi shaxslarning manfaatlariga zid emasligi aniqlanishi, kelishuv bitimini tasdiqlashda ish yuritishdan tugatilishi va bu haqda sud ajrim chiqarishi lozimligi haqidagi taklifdan O‘zbekiston Respublikasi MSIYutKning 126^3-moddasini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Oliy sudining 2023 yil 29 maydagi 1-197-23 sonli ma’lumotnomasi). Ushbu taklifning amalga oshirilishi normativ hujjatlarda ma’muriy nizolarni muqobil usulda hal etish imkonining vujudga kelishiga xizmat qilgan.

ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni sudda hal etishda kelishuv bitimini tasdiqlashni rad etish yuzasidan kelishuv bitimining shartlari qonunchilikka zid bo‘lsa, bitim shartlari uchinchi shaxslarning huquqlari va qonuniy manfaatlariga daxl qilsa, hamda ushbu uchinchi shaxslarning kelishuv bo‘yicha roziligi bo‘lmasa, javobgarda ma‘muriy ixtiyoriylik bo‘lmasa, bitim shartli tuzilgan bo‘lsa, kelishuv bitimini tasdiqlash rad etilishi lozimligi haqidagi taklifdan O‘zbekiston Respublikasi MSIYutKning 126^5-moddasini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Oliy majlisi Qonunchilik palatasining korrupsiyaga qarshi kurashish va sud-huquq masalalari qo‘mitasining 2023-yil 13-iyunda 04/2-10/2149-son bilan qayd etilgan dalolatnomasi). Ushbu takliflarning amalga oshirilishi qonunchilikda ma’muriy nizolarni muqobil usulda hal etish imkoni va amaliyotining vujudga kelishiga xizmat qilgan;

agar ma’muriy sudning ayni bir shaxslar o‘rtasidagi, ayni bir predmet to‘g‘risidagi va ayni bir asoslar bo‘yicha nizo yuzasidan qabul qilingan, qonuniy kuchga kirgan hal qiluv qarori yoki ish yuritishni tugatish haqidagi ajrimi yoxud kelishuv bitimini tasdiqlash to‘g‘risidagi ajrimi mavjud bo‘lsa, sudya arizani (shikoyatni) ish yuritishga qabul qilishni rad etishi lozimligi haqidagi taklifdan O‘zbekiston Respublikasi MSIYutKning 133-modda birinchi qismining 2-bandini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Oliy majlisi Qonunchilik palatasining korrupsiyaga qarshi kurashish va sud-huquq masalalari qo‘mitasining 2023 yil 13 iyunda 04/2-10/2149-son bilan qayd etilgan dalolatnomasi). Ushbu takliflarning amalga oshirilishi qonunchilikda ma’muriy nizolarni muqobil usulda hal etish imkoni va amaliyotining vujudga kelishiga xizmat qilgan.

Tadqiqot natijalarining aprobatsiyasi. Tadqiqot natijalari 4 ta ilmiy anjumanda, jumladan 2 ta xalqaro va 2 ta respublika ilmiy-amaliy anjumanlarida sinovdan o‘tgan.

Tadqiqot natijalarining e’lon qilinganligi. Dissertatsiya mavzusi bo‘yicha jami 17 ta ilmiy ish, shu jumladan, dissertatsiyaning asosiy ilmiy natijalarini chop etish tavsiya etilgan OAK nashrlarida 7 ta maqola (4 tasi respublika va 3 tasi xorijiy nashrlarda) chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiyaning tarkibi kirish, uchta bob, xulosa, foydalanilgan adabiyotlar ro‘yxati va ilovadan iborat. Dissertatsiyaning umumiy hajmi 156 betni tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirish** qismida mavzuning dolzarbligi va zarurligi, tadqiqotning respublika fan-texnika va texnologiyalarni rivojlantirishning asosiy ustuvor yo‘nalishlariga muvofiqligi, muammoning o‘rganilganlik darajasi, dissertatsiya ishining oliy ta’lim muassasasining ilmiy-tadqiqot ish rejasi bilan o‘zaro bog‘liqligi, tadqiqotning maqsad va vazifalari, obyekti va predmeti, metodlari, ilmiy yangiligi va tadqiqotning amaliy natijalari, ushbu natijalarning ishonchliligi, tadqiqotning ilmiy va amaliy ahamiyati, joriy qilinishi, approbatsiyasi hamda natijalarining e’lon qilinganligi, dissertatsiyaning hajmi va tuzilishi kabi masalalar yoritilgan.

Dissertatsiyaning birinchi bobi **“Ma’muriy nizolarni sudda kelishuv tartib – taomili orqali hal etish ahamiyati va rivojlanishi”** deb nomlanib, ushbu bobda ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizo tushunchasi, ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni hal etishning muqobil usullari, kelishuv tartib-taomilining asosiy tushunchalari, huquqiy tabiati va nazariy-huquqiy asoslari o‘rganildi.

Tixomirov Yu.A., Andreeva I. S., Guliga A. V., Illarionova T. I., Tixomirov Yu. A., S.F.Afanasyev, Davidenko D. L. Yorg Pudelka, Xersonsev A.I., Carroll E., Mackie K., David R., Joffre-Spinozi K., Kuzbagarov A.N., Prof. Dr Max-Jürgen Seibert, Dr Matthias Keller, Sevastyanov G. V., sыplenkova A. V. Yarkov V. V., D.Jo‘raev, Shershenevich G.F., Kuzbagarov A.N., Xudoykina T.V., Voskobitova L. A. Sitnikova O. V., Klechkin A. A. Latuxina K., Odilqoriev X., Ganibaeva Sh. Kudryashov A. A. Zaxaryaщeva I. Yu., Nosыreva Ye. I., Pavlushina A.A., Alexina M. Primak T.K., Yanchenko I.L., Fedorov M.V., Xojiyev E., Xojiyev T., Nematov J., Murataev S.A., Musaev B.T., Artikov D.R., Shtendr M., Melnik R.S., Sevastyanov G.V., Paund R., Borisovoy Ye.A., Kurbatov V. I., Xudoykina T.V., Maripova S.A., Reshetnikova I., Kalashnikova S.I., Kotlyarov V.V., Nosireva Ye. I., Madvaliev M., Rojkova M.A. Kleandrov M.I., Pavlova O., Mednikova M.Ye., Avezov S.K., Abushenko D., Gromoshina N.A., Ganicheva Y. S. kabi olimlarning asarlarini o‘rganish asosida dissertatsiyaning mazkur bobida ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni yustitsiyada hal etishda qo‘llaniladigan muqobil usullar, kelishuv tartib-taomili tushunchasi, fuqarolik, iqtisodiy va ma’muriy sudlarining amalda nizolarni muqobil usulda hal etish tajribasi kabi masalalar tahlil qilingan va huquqiy amaliyotda va fanda nizolarni hal etishning muzokara, mediatsiya, hakamlik (arbitraj), xalqaro tijorat arbitraji, sud tomonidan yarashtirish, nizolarni hal etishning sudgacha bo‘lgan tartibi va ombudsman kabi usullari mavjudligi, nizolarni hal etishning muqobil usullari sifatida keltirilgan ushbu ro‘yxat tugal emasligi va uni qonunchilik taqiqlamagan usullarda istagancha kengaytirish mumkinligi haqida va boshqa xulosalarga kelingan. Hamda quyidagi tushunchalar doirasida o‘rganishlar olib borilgan.

“Kelishuv”, “kelishtirish jarayoni”, kelishuv tartib- taomili huquqiy voqelikning deyarli bir xil hodisasini aks ettiradigan ixtisoslashgan shaxslar, tashkilotlar ko‘magida nizo taraflarining roziligiga erishish jarayonidir.

Instrumental nuqtai-nazardan kelishuv, muzokara, vositachilik va dastlabki eshitish jarayonlarini o‘z ichiga olgan murosaga kelish tartib-qoidalarining to‘plamidir.

“Kelishuv jarayoni” va “kelishuv tartibi” tushunchalari kelishuv bitimining dinamik jihatini ifodalaydi. Kelishuv jarayoni – nizolashayotgan tomonlarning va boshqa shaxslarning (sudya-mediatorlar, mediatorlar, yarashtirish komissiyalari, kvazisud organlarining) kelishuvga erishish bo‘yicha qonun bilan tartibga solinadigan, harakatlari majmuidir[6]. Bunda ushbu jarayon uchinchi shaxslarning (mediator, sudya-mediator, vositachi) ko‘magida yoki bunday shaxslar ko‘magisiz nizoli vaziyat ko‘rib chiqiladi.

Shu bilan birga kelishtirish jarayonlari har qanday nizoni hal qilishda murosaga kelish harakatlari tizimini qamrab olishi va kelishuv jarayoni tushunchasi bilan parallel qo‘llanilishi aniqlangan.

Huquqiy nizolarda kelishuv tartib-taomillarni qo‘llash natijalariga ko‘ra, kelishuv bitimi, ariza berish to‘g‘risidagi bitim, kelishuv tartib-taomillari protsedurasini o‘tkazish to‘g‘risidagi bitim, mehnat nizosida jamoaviy ishni hal qilish natijalari bo‘yicha kelishuv bitimi tuzish mumkin. Amalda “kelishuv” bitimining turli nomlanishdagi ko‘rinishlari ham mavjud bo‘lib, ularning nomlanishi ko‘rib chiqilayotgan nizoning mohiyatiga, nizolarni hal qiluvchiga va nizo taraflariga qarab o‘zgarishi mumkinligi yoritilgan.

Hamda qonunchilikda kelishuv, bir tomondan amaldagi qonun hujjatlarida nazarda tutilgan turli tartib qoidalarini birlashtirgan murakkab tarmoqlararo huquqiy institut sifatida, ikkinchi tomondan nizoli ijtimoiy munosabatlarga ta’sir ko‘rsatishning psixologik va huquqiy elementlarini o‘z ichiga olgan maxsus usuli sifatida ko‘rib chiqilishi mumkinligi, huquqda murosaga kelish muammosi asosan tarmoq yuridik fanlari pozitsiyasidan kelib chiqqan holda ishlab chiqilgan va nazariy umumlashtirishlarni talab qilishi bayon qilingan.

Dissertatsiyaning ikkinchi bobi **“Xorijiy tajribada ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni kelishuv tartib-taomillari orqali sudda hal etish protsedurasi tahlili”**ga bag‘ishlangan bo‘lib, mazkur bobda ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni sudda hal etishda qo‘llaniladigan sud mediatsiyasining o‘rni va uning o‘ziga xos xususiyatlari, ma’muriy nizolarni sudda kelishuv tartib-taomillari orqali hal etishda qo‘llaniladigan cheklovlar tahlili, ma’muriy nizolarni sudda kelishuv tartib-taomillari orqali hal etish protsedurasi tahlili rivojlangan xorijiy davlatlarning qonunchiligi va amaliyotidan kelib chiqib o‘rganildi.

Xorijiy mamlakatlarning ushbu sohadagi amaliyotini o‘rganishda roman-german va anglo-sakson huquq tizimi mamlakatlari doirasida teng ravishda Germaniya, Fransiya, Rossiya, AQSH, Buyuk-Britaniya va Kanada mamlakatlarining qonunchilik tajribasi o’rganildi.

O‘rganish davomida ushbu mamlakatlarning sud tizimi doirasida olib boriladigan sud mediatsiyasining ahamiyati o’rganilib jamiyatda o‘z nufuziga ega bo‘lgan sud

[6] Павлушина А. А. Теория юридического процесса: итоги, проблемы, перспективы развития. – 2005. С. 150-160.

hokimiyati tomonidan nizolarni hal etishning kelishuv shakli (mediatsiya)ni qo‘llab quvvatlanishi, u sud tomonidan sud muhokamasi qatorida nizolarni hal etishning alohida bir protsessual shakli sifatida qo‘llanishi jamiyatda nizolashuvchilar o‘rtasida mediatsiya-kelishuv jarayonlarining rivojlanishiga sabab bo‘lishi, sudda nizolarni muqobil usulda ko‘rib chiqadigan alohida protsessual jarayon - sud mediatsiyasini sud amaliyotida joriy qilish lozimligi, shuningdek, sud mediatsiyasini sud tomonidan nizolarni hal etishning sud muhokamasidan alohida olib boriladigan bir shakli sifatida qarash lozimligi haqida xulosaga kelindi.

Hamda ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni sudda muqobil usulda kelishuv orqali hal etishda xorijiy amaliyotda mavjud cheklovlar o‘rganilib, ularning o‘ziga xos ahamiyati tahlil qilingan va yuqorida ko‘rib chiqilgan biror-bir xorijiy mamlakatlar tajribasida uchinchi shaxslarning huquqlari va qonuniy manfaatlariga daxldor bo‘lgan shartlarni nazarda tutadigan ishlar bo‘yicha kelishuv bitimining tuzilishiga yo‘l qo‘yilmasligi belgilanmaganligi, balki kelishuv uchinchi shaxs manfaatlariga zid bo‘lmasligi belgilanganligi haqida xulosaga kelingan va qonunchlikka takliflar berilgan.

Bundan tashqari bob doirasida o’rganilgan Germaniya, Fransiya, Rossiya, AQSH, Buyuk-Britaniya va Kanada mamlakatlarining sud amaliyoti va qonunchiligida ma’muriy nizolarni sudda muqobil usulda, kelishuv tartib-taomillari orqali hal etishning protsessual jihati o‘rganilgan va ularni mamlakatimiz qonunchiligiga implementatsiya qilish yuzasidan takliflar berilgan.

Dissertatsiyaning uchinchi bobi **“Ma’muriy va ommaviy-huquqiy munosabatlardan kelib chiqadigan nizolarni sudda hal etishda kelishuv tartib-taomillarini qo‘llash istiqbollari”** deb nomlandi. Ushbu bobda O‘zbekiston Respublikasi qonunchiligiga ko‘ra nizolarni sudda hal etishda kelishuv tartib-taomillarini qo‘llashning amaliy-nazariy asoslari, O‘zbekiston Respublikasi qonunchiligi bo‘yicha ma’muriy nizolarni sudda muqobil hal etish yuzasidan muammolar va takliflar hamda qonunchilik sud amaliyoti bo‘yicha yurtimizda ma’muriy nizolarni sudda hal etishda kelishuv tartib-taomillarini qo‘llash imkoniyatlarining amaliy jihatlari va istiqbolli tahlili bayon qilingan.

Tadqiqot natijalariga ko‘ra, ma’muriy, qolaversa, iqtisodiy va fuqarolik nizolarni sudda hal etishda sudya tomonidan taraflarni kelishtirish bo‘yicha qilinadigan harakatlarni aniqlashtiradigan protsessual qoidalarni, kelishuv bitimi sud tomonidan tasdiqlanguniga qadar, sudya va sud tomonidan olib boriladigan protsessual harakatlarni ya’ni sud muhokamasi, sud muhokamasidan keyin yoki sud muhokamasiga qadar sud tomonidan taraflarning kelishuviga ko‘maklashish yuzasidan olib boriladigan protsessual qoidalarni ishlab chiqish lozimligi, kelishuv tartib-taomillari orqali hal etishda taraflarni murosaga keltirish protsessini olib boradigan alohida sudyalar korpusini shakllantirish, milliy qonunchiligimizda nizolarni sudda ko‘rishda kelishuv tartib-taomillarini qo‘llashga oid bo‘lgan qoidalarni bir qonunchilik tarkibida rivojlantirish, umumlashtirish va soha qonunchiligida ularni qo‘llashga oid xos qoidalarni belgilash hamda umumiy qoidalar bo‘yicha boshqa qonunchilikka havola qilish amaliyotni joriy qilish lozimligi haqida xulosaga kelingan.

Hamda nizolarni sudda ko‘rishda ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarning kelishuv protsedurasini qo‘llash mumkin bo‘lgan toifasida ekanligini aniqlash, shuningdek, ushbu nizo bo‘yicha nizoli holatni hal etishda ma’muriy organga ixtiyoriylik berilganligini aniqlash, nizo predmeti bo‘yicha kelishuv shartlari uchinchi shaxslarning manfaatlarini nazarda tutmaslik sharti bilan kelishuv tartib-taomillarini qo‘llash mumkinligi, shuningdek, qonunda uchinchi shaxslarning huquqlari va qonuniy manfaatlariga daxldor bo‘lgan shartlarni nazarda tutadigan ishlar bo‘yicha kelishuv bitimi ularning roziligi bilan amalga oshirish mumkinligi bayon qilingan.

Dissertatsiya doirasida o‘rganilgan statistik ma’lumotlar bugungi kunda sudda nizolarni muqobil usullarda hal etishni kengaytirish ushbu sohada ko‘p yillik tajribaga va samaradorlikka ega bo’lgan xorijiy mamlakatlarning tajribasini o’rganish va ularning tajribasidan milliy qonunchiligimizni rivojlantirishda foydalanish zarurligini ko’rsatadi.

Dissertatsiya natijalariga ko’ra yurtimizda nizolarni sudda hal etishda kelishuv bitimini qo‘llash sohasida olib borilayotgan ishlarning samarasizligi ham aynan sud ichida olib boriladigan kelishuv tartib-taomillarini (sud mediatsiyasini) joriy qilish bilan bevosita bog’liqligi, ma’muriy qolaversa fuqarolik va iqtisodiy nizolarni ham muqobil hal etishda, kelishuv institutini rivojlantirishda sud hokimiyatining ko‘magi, qo’llab quvvatlashi zarurligi asoslantirilgan.

XULOSA

«Ma’muriy va ommaviy huquqiy nizolarni hal etishning muqobil usullari va kelishuv bitim» mavzusidagi tadqiqot ishi natijasida quyidagi ilmiy-nazariy va amaliy takliflar hamda xulosalar ishlab chiqildi:

I. Ilmiy-nazariy taklif va xulosalar:

1. Ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarning nazariy-huquqiy jihatdan quyidagi toifalarini alohida ko‘rsatish taklif etildi:

a) ma’muriy huquqiy faoliyat bilan birga bevosita mehnatga yoki ta’limga yoxud boshqa ma’muriy shartnomalarga oid masalalar bilan bog’liq holda uchraydigan sof bo’lmagan aralash ma’muriy huquqiy munosabatlar doirasidagi nizolar;

b) faqatgina ma’muriy huquqiy faoliyat bilan bog‘liq bo‘lib, qonunchilikda belgilangan xos (reglament, nizom, yo‘riqnoma va b.) yoki umumiy ma’muriy tartib-taomillar asosida vujudga keladigan sof ma’muriy huquqiy munosabatlar doirasidagi nizolar.

2. Ma‘muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolar deganda - bir tarafda ma’muriy huquqiy faoliyatni amalga oshirishga vakolatli bo’lgan davlat boshqaruvi organlari, fuqarolarning o‘zini o‘zi boshqarish organlari, shuningdek, ushbu faoliyatni amalga oshirishga vakolatli bo‘lgan boshqa tashkilotlar va maxsus tuzilgan komissiyalar yoxud ularning mansabdor shaxslari va ikkinchi tarafda esa manfaatdor shaxs sifatida ma’muriy huquqiy faoliyatda ma’muriy hujjat yoki ma’muriy harakat qaratilgan shaxs, shuningdek, huquqlari va qonuniy manfaatlari ma’muriy hujjatga yoki ma’muriy harakatga daxldor bo‘lgan

yoxud daxldor bo‘lishi mumkin bo‘lgan shaxslar o’rtasida yuzaga keladigan nizoli huquqiy munosabatlar tushunilishi taklif etildi.

3. Huquqiy amaliyotda va fanda nizolarni muqobil usullarda hal etishning sudgacha bo‘lgan tartib, muzokara, mediatsiya, hakamlik (arbitraj), xalqaro tijorat arbitraji, kelishtirish, yordam berish, vositachilik, faktlarni aniqlash, kichik sud muhokamalari (dastlabki sud muhokamalari, mediatsiya protsessi), arbitraj va ombudsman kabi usullari mavjud. Nizolarni hal etishning muqobil usullari sifatida keltirilgan ushbu ro‘yxat tugal emas va uni qonunchilik taqiqlamagan usullarda istagancha kengaytirish mumkin.

4. Istiqbolli natijalari umid qilingan nizolar bo‘yicha qonunchilik hujjatlarida muqobil hal etish usuli sifatida muzokaralarni qo‘llashni sudgacha majburiyligini aniq belgilab qo‘yish mumkinligi asoslantirildi.

5. Sudda nizolarni muqobil usullarda hal etishda kelishuv tartib-taomillari bilan shug‘ullanadigan alohida tayorgarlikka, tajribaga ega sudya-mediator (vositachi), alohida olib boriladigan sud mediatsiyasi jarayonini jarayonning istiqbolli natijalarini ta’minlovchi omil ekanligi asoslantirildi.

6. Tomonlardan biri ma’muriy organ bo‘lgan shartnomaviy-huquqiy munosabatlar ma’muriy huquq fanining o‘rganish predmetidir. Nizoli huquqiy munosabatlarda ma’muriy shartnoma tushunchasini rivojlantirish ma’muriy nizolarda kelishuv tartib-taomillarini qo‘llashni, nizolarning sudlovga taalluqliligi masalasini oydinlashtirishni osonlashtiradi.

7. Nizolarni hal etishning muqobil usullaridan ma’muriy nizolarni hal etishda foydalanish ham moddiy, ham ma’naviy jihatdan samarali hisoblanadi va nizo ishtirokchilari, qolaversa, davlat boshqaruvi uchun ham foydali sanaladi. Nizolarni muqobil usullarda hal etish nizolarni sudda hal etishdan ko‘ra samaraliroq va nizolarning butkul yakun topishi uchun xizmat qiladi

8. Kelishuv tartib-taomillari amaldagi qonun hujjatlarida nazarda tutilgan turli kelishuv tartib qoidalarini birlashtirgan murakkab tarmoqlararo huquqiy institut bo‘lib, nizoli ijtimoiy munosabatlarga ta’sir ko‘rsatishning psixologik va huquqiy elementlarni o‘z ichiga olgan maxsus protsessual jarayondir. Shu sababli ham sudda nizolarni hal etishda muqobil usullarni qo‘llash alohida protseduralarda olib boriladi.

9. Fan nuqtayi-nazaridan huquqiy nizolarda kelishuv tartib-taomillarni qo‘llash natijalariga ko‘ra, kelishuv bitimi, ariza berish to‘g‘risidagi bitim, mediatsiya protsedurasini o‘tkazish to‘g‘risidagi bitim, hakamlik bitimi, mehnat nizosida jamoaviy ishni hal qilish natijalari bo‘yicha kelishuv bitimi tuzish mumkin. Amalda “kelishuv” bitimlarining boshqa turlari ham mavjud bo‘lib, ularning nomlanishi ko‘rib chiqilayotgan nizoning mohiyatiga, nizolarni hal qiluvchiga va nizo taraflariga qarab o‘zgarishi mumkin.

10. Huquqda murosaga kelish muammosi, asosan, tarmoq yuridik fanlari pozitsiyasidan kelib chiqqan holda ishlab chiqilgan. Uni rivojlantirish qonunchilikda, tarmoq yuridik fanlarida amaliy va nazariy umumlashtirishlarni talab qiladi. Shu sababli ham O‘zbekiston Respublikasida ma’muriy, fuqarolik va iqtisodiy sudlar amaliyotida nizolarni muqobil usullarda hal etishga oid bo‘lgan bir

birini takrorlovchi umumiy qoidalarni bir qonunchilik doirasida umumlashtirish lozim. Bu nizolarni muqobil usullarda hal etishga oid qonunchilik rivojiga ta’sir ko‘rsatadi.

11. Ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarni muqobil usullarda hal etishda kelishuv tartib-taomillarini ma’lum me’yoriy cheklovlarni o‘rnatgan holda amalga oshirish mumkin. Kelishuv tartib-taomillarini qo‘llashda bunday xos cheklovlarni o‘rnatmaslik amaliy muammolarni keltirib chiqarishi mumkin. Ammo Ushbu cheklovlar tufayli nizolarni muqobil hal etishdan butkul voz kechish huquqiy rivojlanishga to‘siq bo‘ladi.

12. Ma’muriy nizolarni muqobil usullarda hal etishda kelishuv tartib-taomillarini qo‘llash uchun vositachini erkin tanlash, jarayonlarini erkin tashkillashtirish davlat moliya tizimiga zarar keltirishi mumkin. Shu sababli ma’muriy nizolarda kelishtirish protsedurasini amaliyotga joriy etishda faqatgina ma’muriy nizolarni muqobil usullarda hal etish jarayonlarini belgilagan vositachi (mediator, sudya-mediator)lar tomonidan alohida tartiblarda olib borilishi lozimligi asoslantirildi.

13. Ma’muriy organ va adresat o‘rtasidagi munosabatlarda yuzaga keladigan nizolarda muqobil usullarni qo‘llashning tabiiy rivojlanish muhiti topilmasligi sababli ushbu toifadagi nizolarda alohida qoidalarni ishlab chiqish talab etiladi.

14. Amaliyotda bir nizo turida qonunchilik kelishuvni taqiqlagan bo‘lsa-da, nizo sudda ko‘rilguniga qadar taraflar o‘rnatilgan tartiblarga moslasha olsalar, sud kelishuvga yo‘l qo‘yishi mumkinligi asoslantirildi.

15. Taraflar o‘rtasida kelishuvga erishilganda sudga qo‘yilgan asosiy talablarga bog‘liq bo‘lgan o‘zaro kelishilgan boshqa qo‘shimcha talablar ham kelishuv bitimida aks ettirilishi mumkin.

16. Dastlabki ma’muriy aktni qabul qilish deganda bir masalani hal etishda kompleks tarzda qismlarga bo‘lib komissiyalarda qabul qilinadigan ma’muriy aktlarni tushunmaslik kerak. Chunki bir yakuniy qaror qabul qilish uchun komissiyalarda yoki turli ma’muriy organlarda o‘z vakolati doirasida qabul qilinadigan ma’muriy aktlar xuddi bir ma’muriy aktning qismlari hisoblanadi. Bunda bir ma’muriy aktni qabul qilish uchun zarur bo‘lgan boshqa ma’muriy aktni qabul qilish dastlabki ma’muriy akt emas. Dastlabki ma’muriy akt adresat uchun bo‘lg‘usi huquqiy holatlarni ko‘rsatib beruvchi kelajakda yuzaga keladigan nizoli holatlar haqida xabar beruvchi asosiy bo‘lmagan ma’muriy aktdir. U adresat va ma’muriy organ uchun qonuniy buzilishlarni tuzatishni, kelgusi pozitsiyalarni belgilashni oldindan ko‘rsatib beruvchi xususiyatga egadir.

17. Huquq fanida ma’muriy shartnoma tushunchasini alohida o‘rganish, uning huquqiy tabiatini keng yoritish tavsiya etiladi va nizolarning sudlovga taalluqliligini ajratishda nizolarning xususiy shartnomalardan yoki ma’muriy shartnomalardan yuzaga kelganligiga e’tibor qaratish lozim bo‘ladi.

18. Ma’muriy, qolaversa, iqtisodiy va fuqarolik nizolarni sudda hal etishda sudya tomonidan taraflarni kelishtirish bo‘yicha qilinadigan harakatlarni aniqlashtiradigan protsessual qoidalarni, kelishuv bitimi sud tomonidan tasdiqlanguniga qadar, sudya va sud tomonidan olib boriladigan protsessual

harakatlarni, ya’ni sud muhokamasi, sud muhokamasidan keyin yoki sud muhokamasiga qadar sud tomonidan taraflarning kelishuviga ko‘maklashish yuzasidan olib boriladigan alohida protsessual qoidalarni ishlab chiqmaslik nizolarni muqobil usullarda hal etilishini qiyinlashtiradi;

19. Nizolarni sudda ko‘rishda ma’muriy va ommaviy huquqiy munosabatlardan kelib chiqadigan nizolarning kelishuv protsedurasini qo‘llash mumkin bo‘lgan toifasida ekanligini aniqlash, shuningdek, ushbu nizo bo‘yicha nizoli holatni hal etishda ma’muriy organga ixtiyoriylik berilganligini aniqlash, nizo predmeti bo‘yicha kelishuv shartlari uchinchi shaxslarning manfaatlarini nazarda tutmaslik sharti bilan kelishuv tartib-taomillarini qo‘llash mumkin.

II. Normativ-huquqiy hujjatlarni takomillashtirishga oid taklif va tavsiyalar:

20. O‘zbekiston Respublikasining 2018-yil 3-iyuldagi “Mediatsiya to‘g‘risida”gi O‘RQ-482-son qonunning 3-modasiga ushbu qonunning qo‘llanish sohalari qatoriga “ma’muriy nizolar ham kiritilishi” mazmunidagi qo‘shimchani kiritish;

21. O‘zbekiston Respublikasining MSIYutKning 126^1-moddasining oltinchi qismining “uchinchi shaxslarning huquqlari va qonuniy manfaatlariga daxldor bo‘lgan shartlarni nazarda tutadigan ishlar bo‘yicha kelishuv bitimining tuzilishiga yo‘l qo‘yilmaydi” jumlasini “uchinchi shaxslarning huquqlari va qonuniy manfaatlariga daxldor bo‘lgan shartlarni nazarda tutadigan ishlar bo‘yicha agar uchinchi shaxslar bunga rozi bo‘lmasa, kelishuv bitimining tuzilishiga yo‘l qo‘yilmaydi” tarzida o‘zgartirish;

22. O‘zbekiston Respublikasining MSIYutKning 126^3-moddasini “kelishtiruv jarayonlari ishni mazmunan hal etmaydigan mustaqil sudya-mediator tomonidan alohida yopiq protsessda olib boriladi” mazmundagi qism bilan to‘ldirish;

23. O‘zbekiston Respublikasining MSIYutKning 126^3-moddasini “ish kelishuv jarayoniga olingandan so‘ng u alohida sudya-mediator tomonidan o‘zaro tenglik, xolislik, maxfiylik prinsiplari asosida olib boriladi” mazmundagi qism bilan to‘ldirish;

24. O‘zbekiston Respublikasining MSIYutKning 126^3-moddasini “sudya-mediator mediatsiya protsessida taraflarga eng maqbul usullarda bir-birlariga yon berish orqali nizoni hal etishda kelishuvga erishishlariga ko‘maklashadi” mazmundagi qism bilan to‘ldirish;

25. O‘zbekiston Respublikasining MSIYutKning 126^3-moddasini “kelishuv jarayonlari haqidagi ma’lumotlarni sudya mediator oshkor qilishga haqli emas. Bundan kelishuv jarayonlarining yakuniy natijasi haqida asosiy sudyaga ma’lumot taqdim etish mustasno” mazmundagi qism bilan to‘ldirish;

26. O‘zbekiston Respublikasining MSIYutKning 126^3-moddasini “kelishtiruv jarayonlari yakuni bo‘yicha kelishuv bitimi tuziladi kelishtiruv jarayonlari muvaffaqiyatsiz yakun topsa, ish asosiy sudyaga mazmunan hal etish uchun qaytariladi” mazmundagi qism bilan to‘ldirish;

27. O‘zbekiston Respublikasining MSIYutKning 140-moddasining birinchi qismini “agar sudya lozim topsa, taraflarni tegishli tartibda dastlabki eshitish

bosqichiga chaqiradi va nizo mazmunini, ariza predmetini, manfaatdor shaxslar doirasini, taraflar o‘rtasida kelishuv tartib-taomillarini qo‘llash imkoniyatini, vakilning vakolatini va ushbu moddaning 1-12 bandlarida belgilangan harakatlarni bajaradi” mazmunidagi 1^1-band bilan to‘ldirish;

28. O‘zbekiston Respublikasining MSIYutKning 140-moddasining birinchi qismi 11-bandini “taraflarni kelishtirish choralarini ko‘rib, agar taraflar o‘rtasidagi nizoda kelishuvni qo‘llash imkoni mavjud deb hisoblasa, taraflarning roziligi bilan, agar taraflar o‘rtasidagi nizoda kelishuvni qo‘llash imkoni yuqori deb hisoblasa, o‘z ixtiyoriga ko‘ra majburiy ravishda ishni kelishtiruv jarayonlariga oladi va uni sudya-mediatorga yuborib, ish yuritishni to‘xtatadi” tahririda bayon etish;

29. O‘zbekiston Respublikasining MSIYutKning 140-moddasining birinchi qismini “uchinchi shaxslar bilan bog‘liq bo‘lmagan, qonunchilik bilan kelishuv tartib-taomillarini qo‘llash taqiqlanmagan, ikki taraf o‘rtasidagi nizolar sudya tomonidan majburiy tartibda kelishuv tartib-taomillarini qo‘llash bosqichiga yuboriladi” mazmundagi 12-band bilan to‘ldirish;

30. O‘zbekiston Respublikasi MSIYutKning 62-moddasining ikkinchi qismini shartnoma bo‘yicha vakillik qiluvchining “kelishuv bitimini tuzish huquqi” vakolat beruvchi tomonidan berilgan ishonchnomada maxsus ko‘rsatilgan bo‘lishi kerak mazmunidagi jumla bilan to‘ldirish taklif etiladi.

SCIENTIFIC COUNCIL No. DSc. 07/30.12.2019.Yu.22.02 FOR AWARDING OF THE SCIENTIFIC DEGREES AT TASHKENT STATE UNIVERSITY OF LAW

TASHKENT STATE UNIVERSITY OF LAW

JURAEV DILMUROT MUKHTOROVICH

SETTLEMENT AGREEMENT AS AN ALTERNATIVE METHOD OF RESOLVING ADMINISTRATIVE AND PUBLIC LEGAL DISPUTES

12.00.02. – Constitutional law. Administrative law.
Financial and customs law

Doctoral (PhD) dissertation abstract on legal sciences

Tashkent – 2024

The theme of the doctoral dissertation (PhD) was registered at the Supreme Attestation Commission under Ministry of higher education, science and innovations of the Republic of Uzbekistan number No. B2022.2.PhD/Yu720.

The dissertation is prepared at Tashkent State University of Law.

The abstract of the dissertation is posted in three languages (Uzbek, English, Russian (summary)) on the website of the Scientific Council (https://tsul.uz/uz/fan/avtoreferatlar) and Information educational portal «ZiyoNET» (www.ziyonet.uz).

Scientific Supervisor:	**Musaev Bekzod Tursunboevich** Doctor of Science in Law, Professor
Official opponents:	**Ruzmetov Xayrulla Ibadullaevich** Doctor of Science in Law, Associate Professor
	Javliev Nurali Bahodirovich Candidate of legal sciences, Associate Professor
The leading organization:	Supreme school of judges under the Supreme Judicial Council of the Republic of Uzbekistan

The defense of the dissertation will be held on December 14, 2024 at 14:00 at the Session of the Scientific Council DSs.07/30.12.2019.Yu.22.02 at the Tashkent State University of Law (Address: 100047, Sayilgokh street, 35. Tashkent city. Phone: (99871) 233-66-36; Fax: (99871) 233-37-48; e-mail: info@tsul.uz).

The doctoral dissertation is available at the Information Resource Center of Tashkent State University of Law (registered under No.1258), (Address 100047, Amir Temur street, 35. Tashkent city. Phone: (99871) 233-66-36).

The abstract of the dissertation distributed on December 02, 2024.

(Registry protocol No.17 on December 02, 2024).

R.R.Khakimov
Chairman of the Scientific Council for awarding scientific degrees, Doctor of Science in Law, Professor

F.B.Makhmudov
Secretary of the Scientific Council for awarding scientific degrees, Doctor of Philosophy (PhD) in Legal Sciences, Associate Professor

I.R.Bekov
Chairman of the Scientific Seminar under the Scientific Council for awarding scientific degrees, Doctor of Science in Law, Professor

INTRODUCTION (abstract of PhD thesis)

The actuality and relevance of the dissertation theme. The role of administrative courts in the global judicial system is manifested in protecting the rights and interests of citizens by preventing violations of the rights and legitimate interests of individuals or legal entities by the administration, and by establishing state control over illegal decisions, actions (or inaction). This serves to safeguard the rights and interests of citizens against administrative overreach. Especially as a result of the widespread use of the settlement process as an alternative method for resolving disputes, 60-80 percent of disputes are resolved through mutual agreement, manifesting as a democratic institution[7]. Therefore, it is necessary to strengthen the role of courts, especially administrative courts, in restoring the violated rights of citizens and business entities, turning them into real defenders of citizens and entrepreneurs.

In the world, great attention is paid to the resolution of judicial disputes, in particular, disputes arising from administrative and public legal relations, through alternative methods, thereby reducing the burden of the court, limiting the long-term consideration of the dispute between the parties in justice, preventing the prolonged existence of conflicting legal relations between the parties, maintaining cooperative relations between the parties in the dispute by achieving mutual concessions, and special emphasis is placed on resolving the majority of disputes considered in court in settlement instances.

The large-scale reforms being implemented in our country are based on the constitutional principle that all contradictions and ambiguities in legislation arising from the relationship between individuals and state bodies should be interpreted in favor of the individual. These reforms aim to improve administrative court proceedings in line with international standards by "ensuring the rule of law in relations between citizens and business entities with state bodies, while also effectively protecting their rights and legitimate interests"[8]. The primary task of administrative courts is to safeguard the rights and legitimate interests of citizens and business entities in their interactions with state bodies. In addition, the 15th goal of the "Development Strategy of New Uzbekistan" is to create the necessary organizational and legal conditions for the widespread use of alternative methods of conflict resolution and further expand the scope of application of the institution of settlement[9]. The fifth section of paragraph 2 of the Resolution of the President of the Republic of Uzbekistan, on January 29, 2022, No. RP–107 established the introduction of mechanisms for reaching an agreement between the parties on matters arising from public legal relations. In addition, in the Decree of the President of the Republic of Uzbekistan "On the Strategy of Uzbekistan-2030" on September

[7] Rosenberg J. D. In defense of mediation //Ariz. L. Rev. – 2023. – T. 33. – C. 467.

[8] Resolution of the President of the Republic of Uzbekistan No. PQ-107 dated January 29, 2022 'On measures to ensure effective protection of rights of citizens and business entities in relations with state bodies and further increase public confidence in courts' // National Database of Legislation, 29.01.2022, No. 07/22/107/0083

[9] Decree of the President of the Republic of Uzbekistan No. UP-60 dated January 28, 2022 'On Development Strategy of New Uzbekistan for 2022-2026' // National Database of Legislation, 29.01.2022, No. 06/22/60/0082

11, 2023, No. DP–158, one of the performance indicators for the goals to be achieved by 2030 is the task of increasing the efficiency of dispute resolution at the pre-trial stage by 50%, and reducing the number of cases brought to courts on disputes that can be resolved before trial by 50%[10]. These tasks pose the necessity for scientific research in this area.

This dissertation will to a certain extent serve the implementation of the tasks set out in Decree of the President of the Republic of Uzbekistan "On measures to further reform the judicial system, strengthen guarantees for reliable protection of citizens' rights and freedoms", No. DP–4850 (2016), "On measures to radically improve the structure of the judicial system of the Republic of Uzbekistan and increase the efficiency of its activities", No. DP–4966 (2017), Code of the Republic of Uzbekistan on Administrative Court Proceedings (2018), "On measures to implement administrative reforms of New Uzbekistan" No. DP–269 (2022), Resolution of the President of the Republic of Uzbekistan "On measures to further improve mechanisms for alternative dispute resolution" No. RP–4754 (2020), No. "On measures for the effective organization of the activities of the executive authorities of the republic within the basis of the Law of the Republic of Uzbekistan" RP–447 (2022), "On amendments and additions to certain legislative acts of the Republic of Uzbekistan in connection with the adoption of additional measures to ensure the effective protection of the rights of citizens and business entities in relations with state bodies" No. LRU–833 (2023) and other ruleative normative-legal acts related to the research topic.

The dependence of the research on the priority areas of development of science and technologies in the country. This research corresponds to the priority direction of the republic's science and technology development I. "Formation of a system of innovative ideas and ways to implement them in the social, legal, economic, cultural, spiritual and educational development of an information society and a democratic state".

The extent of the research of the research problem. The dissertation is the first comprehensive research work dedicated to alternative methods of resolving administrative and public law disputes and settlement agreements in Uzbekistan.

Some aspects of this research theme were considered as objects of scientific research by E.Khojiyev, T.Khojiyev (Administrative Law), J. Nematov (Comparative legal analysis of improving the institute of administrative procedures in the Republic of Uzbekistan, some legal problems of court jurisdiction in administrative court proceedings, Administrative Law), S.A. Murataev, B.T. Musaev, D.R. Artikov (Administrative Law and Procedure), Sh. Bakaev (Improving the organizational and legal basis of the activities of administrative courts in the Republic of Uzbekistan), K.S. Avezov (Improving the legal status of the parties in the economic process), S.A. Maripova (Application of mediation in civil proceedings: comparative legal analysis), Sh. Masadikov (The essence of mediation in the Republic of Uzbekistan and problems of its legal regulation), H.T. Odilqoriev

[10] Decree of the President of the Republic of Uzbekistan No. UP-158 dated September 11, 2023 'On the Strategy Uzbekistan-2030' // National Database of Legislation, 12.09.2023, No. 06/23/158/0694; 29.12.2023, No. 06/23/214/0984

(Legal aspects of innovative development of the state and society of Uzbekistan), Studied in the scientific works of Sh.T. Ikramov, I.A. Khamedov (administrative law).

Meantime, some aspects of alternative dispute resolution in foreign countries in administrative and public legal relations are researched by T.K. Primak, M. Alexina, G.V. Sevastyanov, R. Pound, Ye.A. Borisova, T.V. Khudoykina, I. Reshetnikova, Yu. Kolyasnikova, S.I. Kalashnikova, O.O. Zhuravleva, Ye.I. Nosireva, O. Pavlova, M. Ye. Mednikova, Yu.A. Tikhomirov, Yu.A. Tikhomirov, S.F. Afanasev, A.I. Khersonsev, E. Carrol, K. Mackie, A.N. Kuzbagarov, Max-Jürgen, V.V. Yarkov, D.L. Davidenko, D. Abushenko, N.A Gromoshina, Ye.S. Ganicheva, P.V. Donsov, N.A. Bakhshieva, Yorg Pudelka, A.K. Soloveva, V.V. Sajina, N.G. Salisheva, F.S. Makhdiev, N.A. Tunina, B.L. Dufourcq, S. Vigouroux, F. Mallol, G. Kalfleche, A.A. Solovev, D. Costa, J.B. Racine, M. Mercier, Me Granjon, V. Kulikov, K. Pavel, S.N. Makhina, E.N. Klyushina, V. A. Razgildeev, D. Esplin, V. Bondy, M. Doyle, F. Steffek, A. Balthasar, M. V. Arakelova, A.V. Belousov, P. N. Biryukov, V. A. Abolonin, P. V. Donsov, L. Jacobs, A.D. Sydelnikov, N. G. Kiper, E. B. Luparev, M. S. Pavlova and other scientists[11].

However, the issue of alternative methods of resolving disputes arising from administrative and public legal relations in court and the issue of settlement agreements has not been studied from the perspective of administrative law, as a research work on improving the legislation of the Republic of Uzbekistan, analyzing the positive experience of foreign countries.

Relation of the dissertation's theme to the scientific-research work of higher education institution where it was implemented. The research was carried out within the basis of the fundamental project of the scientific research plan of Tashkent State University of Law, entitled "Main directions for further liberalizing state governance in the context of deepening democratic reforms"(2017-2021).

The aim of the research. It involves developing scientifically grounded proposals and recommendations for expanding the resolution of disputes arising from administrative and public legal relations through alternative methods in court and the conclusion of settlement agreements.

The tasks of the research are to:

demonstrate the development and significance of the institute of agreement in resolving disputes arising from administrative and public legal relations through alternative methods in court;

analyze the notion of disputes arising from administrative and public legal relations and its conceptual basis;

explain the notion of the negotiation procedure, its legal nature, and theoretical legal basis;

analyze the practical and theoretical basis of applying negotiation procedures and settlement agreements in resolving disputes in court to identify the issues in the sphere, according to the legislation of the Republic of Uzbekistan;

[11] The scientific works of these scholars are listed in the bibliography of the dissertation.

research foreign experience in resolving disputes arising from administrative and public legal relations through negotiation procedures and settlement agreements;

analyze the notions of judicial relevance, administrative contracts, preliminary hearings, and preliminary decisions, which influence the resolution of disputes arising from administrative and public legal relations through negotiation procedures and settlement agreements, based on foreign experience;

analyze the prospects of applying negotiation procedures and settlement agreements in resolving disputes arising from administrative and public legal relations under national legislation;

research the possibility of applying negotiation procedures and settlement agreements in resolving administrative disputes in court, based on an analysis of legislation and judicial practice, and developing proposals and recommendations for the development of national legislation.

The object of the research is the system of administrative and public law relations related to the application of alternative methods for dispute resolution and the conclusion of settlement agreements in relation to disputed legal relationships.

The subject of the research. In Uzbekistan, the ruleative legal acts, law enforcement practices, legislation and experience of foreign countries, conceptual approaches in legal science, and scientific-theoretical views related to resolving disputes arising from administrative and public law relations in court through alternative methods and the conclusion of settlement agreements are considered.

Research methods. During the research process, methods such as comparative-legal research, empirical research, logical, analytical, historical, complex research of scientific sources, and analysis of sociological and statistical data were used.

Scientific novelty of the research is as follows:

it is justified that the necessity of introducing a settlement agreement in the court resolution of disputes arising from administrative and public legal relations;

it is justified that the requirements for the form and content of a settlement agreement are developed, according to which the settlement agreement must be concluded in writing and the fulfillment of obligations under the agreement cannot make the parties dependent on each other or other events or actions;

it is justified that the necessity of determining whether the settlement agreement contradicts the legislation or the interests of third parties when considering the issue of approving the settlement agreement in the court resolution of disputes arising from administrative and public legal relations;

it is justified that the grounds for the court’s rejection of a settlement agreement concluded in disputes arising from administrative and public legal relations are developed, in particular, the court’s rejection of the settlement agreement if the defendant, who is a participant in the agreement, does not have administrative discretion, if the agreement is concluded conditionally;

it is justified that the judge must refuse to accept the application (complaint) for proceedings if there is a legally effective decision or ruling of an administrative court on the termination of proceedings or a ruling on the approval of a settlement

agreement, adopted on a dispute between the same persons, on the same subject and on the same grounds.

Practical results of the research include as follows:

it is justified that settlement procedures can be applied to resolve disputes arising from administrative and public relations in court;

it is argued that the use of alternative dispute resolution methods in resolving administrative disputes is considered effective both materially and morally, considered beneficial for the parties to the dispute, as well as for state administration, that alternative dispute resolution methods are more effective than resolving disputes in court proceedings, and that this serves to complete the resolution of disputes;

it is justified that the introduction of a separate judicial mediation process with special training, an experienced judge-mediator (mediator), who deals with settlement procedures, is a factor that ensures promising results in the alternative dispute resolution process in court;

it is justified that the legislation on the settlement of disputes through the application of settlement procedures in court should be practically and theoretically generalized within the basis of industry legal sciences;

it is justified that settlement procedures can be implemented in an alternative way when resolving disputes arising from administrative and public relations with certain ruleative restrictions;

it is justified that the free choice of a mediator and the free organization of its processes for the application of settlement procedures in alternative methods of resolving administrative disputes may harm the state financial system, therefore, when implementing the settlement procedure in administrative disputes, it should be carried out in separate procedures only by mediators (mediators, judge-mediators) who have established the processes for resolving administrative disputes in alternative methods;

it is justified that the preliminary hearing stage and the issue of adopting a preliminary administrative act are important in the alternative method of resolving disputes in court;

it is developed that to apply the Law of the Republic of Uzbekistan “On Mediation” to the resolution of administrative disputes;

it is developed that proposals and recommendations to improve, amend and add to the rules of the Civil Code of the Republic of Uzbekistan on the conclusion of a settlement agreement;

it is developed that proposals and recommendations on the organization of a separate judicial mediation procedure for resolving disputes in court and the introduction of a separate judge-mediator position engaged in court mediation processes;

Reliability of research results. As a result of the research, the rules of foreign and national legislation, the experience of developed countries and law enforcement practice were studied. A social survey was conducted. The results of the statistical data analysis were summarized and relevant acts were obtained. The proposals and recommendations developed within the basis of the research were tested, their

results were published in leading national and foreign publications, approved by authorized bodies and implemented in practice.

The scientific and practical significance of the results of the research. The scientific significance of the research is that the scientific and theoretical conclusions, proposals and recommendations contained in them can be used in conducting research in the spheres of Administrative law, Civil law, Economic law, in the teaching of subjects such as “Theory of state and law”, “Administrative law”, “Administrative court procedure”, “Constitutional law” and in the preparation of methodological recommendations.

The practical significance of the research is expressed in the development of a number of rules and practical recommendations aimed at the widespread introduction of the practice of alternative dispute resolution in court and its results can be used in improving relevant legislation and in the practice of applying settlement procedures in resolving administrative disputes by courts.

Implementation of the research results. The scientific results obtained in the research work have been applied as follows:

the proposal on the necessity to introduce a settlement agreement in the court resolution of disputes arising from administrative and public legal relations has been applied in the development of Part 1 of Article 126^1 of the Administrative Procedural Code of the Republic of Uzbekistan (Reference of the Committee on Combating Corruption and Judicial and Legal Issues of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan on June 13, 2023 No. 04/2-10/2149). The implementation of these proposals contributed to the emergence of the possibility and practice of alternative methods of resolving administrative disputes in the legislation;

the proposal that the form and content of the settlement agreement should be concluded in writing, signed by the persons who concluded it that the fulfillment of obligations under the agreement cannot make the parties dependent on each other or on other events or actions and this issue should be resolved when approving the agreement if the agreement does not contain a condition on the distribution of court costs has been applied in the development of Article 126^2 of the the Administrative Procedural Code of the Republic of Uzbekistan (Reference of the Committee on Combating Corruption and Judicial and Legal Issues of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan on June 13, 2023 No. 04/2-10/2149). The implementation of these proposals contributed to the emergence of the possibility and practice of alternative methods of resolving administrative disputes in the legislation;

the proposal that the settlement agreement should be approved by the court hearing the case in the presence of the parties in the court’s consideration of the issue of approving the settlement agreement in the resolution of disputes arising from administrative and public legal relations that during the approval of the settlement agreement the court should determine that it does not contradict the legislation or the interests of third parties, the proceedings should be terminated upon approval of the settlement agreement and the court should issue a ruling on this matter has been applied in the development of Article 126^3 of the Administrative Procedural Code

the Republic of Uzbekistan (Reference of the Supreme Court of the Republic of Uzbekistan on May 29, 2023 No. 1-197-23). The implementation of this proposal served to create the possibility of alternative methods of resolving administrative disputes in ruleative acts.

the proposal that the approval of a settlement agreement should be refused in court when resolving disputes arising from administrative and public legal relations, if the terms of the settlement agreement contradict the law, if the terms of the settlement agreement infringe on the rights and legitimate interests of third parties, and if there is no consent of these third parties to the agreement, if the defendant does not have administrative discretion and if the agreement is concluded conditionall has been applied in the development of Article 126^5 of the Administrative Procedural Code of the Republic of Uzbekistan (Reference of the Committee on Combating Corruption and Judicial and Legal Issues of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan on June 13, 2023, No. 04/2-10/2149). The implementation of these proposals contributed to the emergence of the possibility and practice of alternative methods of resolving administrative disputes in the legislation;

the proposal that the judge should refuse to accept the application (complaint) for proceedings if there is a legally binding decision of the administrative court on a dispute between the same persons, on the same subject and on the same grounds, or a ruling on termination of proceedings, or a ruling on approval of a settlement agreement, has been applied in the development of paragraph 2 of part one of Article 133 of the Administrative Procedural Code of the Republic of Uzbekistan (Reference of the Committee on Combating Corruption and Judicial and Legal Issues of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan on June 13, 2023 No. 04/2-10/2149). The implementation of these proposals contributed to the emergence of the possibility and practice of alternative methods of resolving administrative disputes in the legislation.

Approbation of the results of the research. The results of this research have been shared at 4 scientific conferences, including 2 international and 2 republican scientific and practical conferences.

Publication of the research results. According to the results of this research, a total of 17 scientific works on the research theme, including 7 articles (4 in republican and 3 in foreign publications) were published in the publications recommended by the Higher Attestation Commission under the Ministry of Higher Education, Science and Innovation of the Republic of Uzbekistan to publish the main scientific results of the dissertation.

The structure and volume of the dissertation. The content of the dissertation consists of an introduction, three chapters, a conclusion, a list of references and appendices. The volume of the dissertation is 156 pages.

THE MAIN CONTENT OF THE DISSERTATION

The **introduction** of the dissertation includes the relevance and necessity of the research theme, the relevance of the research to the main priorities of the national science and technology development, the review of foreign scientific research on the subject, the level of researching the problem, the relation of the dissertation theme to the scientific research work of higher education institution where the dissertation is written, the aim and tasks, object and subject, methods, scientific novelty and results of the research, reliability of the research results, scientific and practical significance of the research results, their implementation, the approbation, announcement of the results, structure and the volume of the dissertation.

The first chapter of the dissertation is entitled "The Importance and Development of Resolving Administrative Disputes in Court through the Settlement Procedure". This chapter examines the notion of a dispute arising from administrative and public legal relations, alternative methods of resolving disputes arising from administrative and public legal relations, the basic notions, legal nature, and theoretical and legal basis of the settlement procedure.

According to the research of the works of scientists such as Tixomirov Yu.A., Andreeva I. S., Guliga A. V., Illarionova T. I., Tikhomirov Yu. A., S.F.Afanasyev, Davidenko D. L. Yorg Pudelka, Khersonsev A.I., Carroll E., Mackie K., David R., Joffre-Spinozi K., Kuzbagarov A.N., Prof. Dr Max-Jürgen Seibert, Dr Matthias Keller, Sevastyanov G. V., Siplenkova A. V. Yarkov V. V., D.Juraev, Shershenevich G.F., Kuzbagarov A.N., Khudoykina T.V., Voskobitova L. A. Sitnikova O. V., Klechkin A. A. Latukhina K., Odilqoriev X., Ganibaeva Sh. Kudryashov A. A. Zakharyasheva I. Yu., Nosыreva Ye. I., Pavlushina A.A., Alexina M. Primak T.K., Yanchenko I.L., Fedorov M.V., Xojiyev E., Xojiyev T., Nematov J., Murataev S.A., Musaev B.T., Artikov D.R., Shtendr M., Melnik R.S., Sevastyanov G.V., Paund R., Borisovoy Ye.A., Kurbatov V. I., Khudoykina T.V., Maripova S.A., Reshetnikova I., Kalashnikova S.I., Kotlyarov V.V., Nosireva Ye. I., Madvaliev M., Rojkova M.A. Kleandrov M.I., Pavlova O., Mednikova M.Ye., Avezov S.K., Abushenko D., Gromoshina N.A., Ganicheva Ye. S anf others analyze issues such as alternative methods used in the judicial resolution of disputes arising from administrative and public legal relations, the notion of settlement procedure, the experience of civil, economic and administrative courts in resolving disputes in alternative ways and concludes that in legal practice and science there are methods of resolving disputes such as negotiation, mediation, arbitration, international commercial arbitration, court settlement, pre-trial dispute resolution and ombudsman, that this list of alternative methods of resolving disputes is not exhaustive and that it can be expanded as desired in methods not prohibited by law, and other conclusions are drawn, and studies are conducted within the basis of the following notions.

"Agreement", "settlement process", "settlement procedure" – a process of reaching an agreement between the parties to the dispute with the support of specialized individuals and organizations, reflecting almost the same phenomenon of legal reality.

From an instrumental perspective, it is a set of settlement procedures that include negotiation, mediation and preliminary hearing processes.

The notions of "agreement process" and "agreement procedure" express the dynamic aspect of a settlement agreement. The agreement process is a set of legally regulated actions of the disputing parties and other persons (mediators, mediators, settlement commissions, quasi-judicial bodies) to reach an agreement. In this process, the dispute is considered with or without the assistance of third parties (mediator, judge-mediator, intermediary).

Meantime, it was determined that settlement processes encompass a system of compromise efforts in resolving any dispute and are used in parallel with the notion of a settlement process.

According to the results of the application of settlement procedures in legal disputes, a settlement agreement, an agreement on filing an application, an agreement on conducting a settlement procedure, and a settlement agreement on the results of resolving a collective labor dispute can be concluded. In practice, there are also manifestations of a "settlement" agreement with different names, and it is clarified that their names may change depending on the nature of the dispute under consideration, the dispute resolution body and the parties to the dispute.

It is also stated that compromise in law can be considered, on the one hand, as a complex interdisciplinary legal institution that combines various procedural rules provided for in current legislation, and on the other hand, as a special method of influencing conflicting social relations, including psychological and legal elements. The problem of compromise in law is developed mainly from the position of sectoral legal sciences and requires theoretical generalizations.

The second chapter of the dissertation is entitled to "**Analysis of the procedure for resolving disputes arising from administrative and public legal relations in court through settlement procedures in foreign experience"**. This chapter examines that the role and specific features of judicial mediation in resolving disputes arising from administrative and public legal relations in court, the analysis of the restrictions applied in resolving administrative disputes in court through amicable procedures and the analysis of the procedure for resolving administrative disputes in court through amicable procedures based on the legislation and practice of developed foreign countries.

In researching the practice of foreign countries in this area, the legislative experience of Germany, France, Russia, the USA, Great Britain and Canada was studied equally within the basis of the countries of the Roman-Germanic and Anglo-Saxon legal systems.

During the research, the importance of judicial mediation within the judicial system of these countries was studied and it was concluded that the support of the consensual form of dispute resolution (mediation) by the judiciary, which has its own authority in society and its use by the court as a separate procedural form of dispute resolution along with court proceedings, will lead to the development of mediation-consensual processes between disputants in society, and that a separate procedural process for considering disputes in court in an alternative way - judicial mediation - should be introduced in judicial practice and that judicial mediation should be considered as a form of dispute resolution conducted by the court separately from court proceedings.

In addition, the existing restrictions in foreign practice in resolving disputes arising from administrative and public legal relations through an alternative method of settlement in court were studied, their specific significance was analyzed and it was concluded that the experience of any of the foreign countries considered above did not establish the inadmissibility of concluding a settlement agreement in cases that provide for conditions affecting the rights and legitimate interests of third parties, but rather that the agreement should not conflict with the interests of a third party, and proposals were made for legislation.

In addition, the chapter examines that the procedural aspects of resolving administrative disputes in court through alternative methods, through settlement procedures, in the judicial practice and legislation of Germany, France, Russia, the USA, Great Britain and Canada, and makes proposals for their implementation in the legislation of our country.

The third chapter of the dissertation is entitled "**Prospects for the application of settlement procedures in the court resolution of disputes arising from administrative and public legal relations**". This chapter describes thst the practical and theoretical basis of the application of settlement procedures in the court resolution of disputes under the legislation of the Republic of Uzbekistan, problems and proposals for alternative resolution of administrative disputes in court under the legislation of the Republic of Uzbekistan and practical aspects and prospective analysis of the possibilities of applying settlement procedures in the court resolution of administrative disputes in our country according to legal and judicial practice.

According to the results of the research, it was concluded that it is necessary to develop procedural rules that specify the actions taken by the judge to reconcile the parties in the resolution of administrative, as well as economic and civil disputes in court, the procedural rules that specify the actions taken by the judge and the court before the settlement agreement is approved by the court, that is, the court hearing, the court hearing after the trial or before the trial, the procedural rules that are taken to facilitate the agreement of the parties, the formation of a separate body of judges who will conduct the process of reconciling the parties in the resolution through settlement procedures, the development and generalization of the rules on the application of settlement procedures in our national legislation in the context of a single legislation, and the establishment of specific rules on their application in sectoral legislation, as well as the introduction of the practice of referring to other legislation according to general rules.

It also states that when considering disputes in court, disputes arising from administrative and public legal relations are in the category of disputes that can be subject to the settlement procedure, as well as whether the administrative body is given discretion in resolving the dispute in this dispute, the settlement procedures can be applied provided that the terms of the agreement on the subject of the dispute do not take into account the interests of third parties and that a settlement agreement can be implemented with the consent of third parties in cases where the law provides for conditions affecting the rights and legitimate interests of third parties.

The statistical data studied within the basis of the dissertation indicate that today, in order to expand the use of alternative dispute resolution methods in court, it is necessary to research the experience of foreign countries that have many years of experience and

efficiency in this area and use their experience in the development of our national legislation.

According to the results of the dissertation, it is justified that the ineffectiveness of the work carried out in our country in the sphere of applying settlement agreements in court is directly related to the introduction of settlement procedures (judicial mediation) within the court, and that the support and assistance of the judiciary is necessary in the development of the institution of settlement, as well as in the alternative resolution of administrative, civil and economic disputes.

CONCLUSION

As a result of the research work on the theme "Settlement agreement as an alternative method of resolving administrative and public legal disputes" the following scientific-theoretical and practical proposals and conclusions were developed:

I. Scientific and theoretical suggestions and conclusions

1. The following categories of disputes arising from administrative and public legal relations have been proposed to be highlighted from a theoretical and legal perspective:

a) disputes within the scope of pure mixed administrative legal relations which arise in connection with administrative legal activities and are directly related to labor, education or other administrative contracts;

b) disputes within the scope of pure administrative legal relations which are solely related to administrative legal activities and arise based on specific (such as regulations, rules, instructions, etc.) or general administrative procedures established by law.

2. It is proposed that disputes arising from administrative and public legal relations be understood as legal conflicts between two parties. On one side, there are state administrative bodies, self-governing bodies of citizens and other organizations or specially established commissions, as well as their officials who are authorized to carry out administrative legal activities. On the other side, there are individuals whose rights and legal interests are affected or may be affected by an administrative act or action, or those who are directly targeted by such administrative measures.

3. In legal practice and theory, there are various alternative methods for resolving disputes prior to litigation, including negotiation, mediation, arbitration, international commercial arbitration, settlement, assistance, facilitation, fact-finding, small claims proceedings (initial court hearings, mediation processes), arbitration, and the office of the ombudsman. The list of alternative dispute resolution methods provided is not exhaustive and may be expanded to include any methods not prohibited by law.

4. It has been justified that it is possible to clearly establish the mandatory use of negotiations as an alternative dispute resolution method prior to litigation for disputes with anticipated positive outcomes, as outlined in legislative acts.

5. When resolving disputes in court by alternative methods, it is justified that a judge-mediator (mediator) with special training, experience in settlement

procedures, and a separate judicial mediation process are factors that ensure the prospective results of the process.

6. Contractual and legal relations, one of which is an administrative body, are the subject of research in administrative law. The development of the notion of an administrative contract in disputed legal relations facilitates the application of settlement procedures in administrative disputes, clarifying the issue of the jurisdiction of disputes.

7. The use of alternative dispute resolution methods in resolving administrative disputes is effective both materially and morally and is beneficial for the parties to the dispute, as well as for state administration. Resolving disputes through alternative methods is more effective than resolving disputes in court and serves for a complete resolution of disputes.

8. The settlement procedures are a complex interdisciplinary legal institution that integrates various settlement rules provided by current legal acts. They represent a special procedural process that includes both psychological and legal elements in influencing disputed social relations. For this reason, the application of alternative dispute resolution methods in court is carried out through distinct procedures.

9. From a theoretical perspective, in legal disputes, the application of settlement procedures can lead to various agreements, such as settlement agreements, application agreements, mediation agreements, arbitration agreements, and collective agreements in labor disputes. In practice, there are other types of "settlement" agreements and their names may vary depending on the nature of the dispute, the dispute resolver and the parties involved in the dispute.

10. The issue of reaching a compromise in law has primarily been developed from the standpoint of sectoral legal sciences. Its further development requires practical and theoretical generalizations within legislation and sectoral legal studies. Therefore, in the judicial practice of administrative, civil and economic courts in the Republic of Uzbekistan, it is necessary to consolidate the repetitive general rules regarding the resolution of disputes through alternative methods within a single legislative basis. This will have an impact on the development of legislation related to the resolution of disputes through alternative methods.

11. The disputes arising from administrative and public legal relations can be resolved through alternative methods by applying settlement procedures with certain ruleative limitations. Failure to establish such specific limitations when applying settlement procedures may lead to practical issues. However, these limitations, if overly restrictive, could prevent the use of alternative dispute resolution methods altogether, thereby hindering legal development.

12. The free selection of a mediator and the unrestricted organization of processes in the application of settlement procedures to resolve administrative disputes may harm the state financial system. Therefore, it has been justified that in the implementation of the settlement procedure for administrative disputes, the process should only be conducted by mediators (mediators, judge-mediators) who are authorized to handle alternative dispute resolution processes for administrative disputes, in accordance with specific regulations.

13. Due to the absence of a natural development environment for the application of alternative methods in disputes between administrative bodies and addressees, it is necessary to develop specific rules for disputes of this category.

14. In practice, although legislation may prohibit an agreement in a particular type of dispute, it has been justified that if the parties are able to adapt to the established procedures before the dispute is heard in court, the court may allow the agreement.

15. When an agreement is reached between the parties, other mutually agreed additional requirements, related to the main demands submitted to the court, shall also be reflected in the settlement agreement.

16. The notion "adoption of the initial administrative act" shall not be understood as referring to administrative acts that are adopted in a fragmented manner within committees, as part of a complex process to resolve a particular issue. This is because administrative acts adopted within committees or various administrative bodies, within their respective areas of authority, are considered parts of a single administrative act for the purpose of making a final decision. In this context, the adoption of another administrative act necessary for the adoption of a single administrative act is not considered the initial administrative act. The initial administrative act is a non-final administrative act that informs the addressee about future legal situations and potential disputes. It serves as a preliminary act that indicates the necessity for correcting legal violations and setting future positions for both the addressee and the administrative body.

17. In legal studies, it is recommended to separately examine the notion of an administrative contract and provide a comprehensive analysis of its legal nature. When distinguishing between disputes related to judicial review, attention should be paid to whether the dispute arises from private contracts or administrative contracts.

18. The lack of procedural rules that clarify the actions taken by the judge to facilitate settlement between the parties in administrative, economic, and civil disputes complicates the resolution of disputes through alternative methods. Specifically, the absence of such rules, which would govern the procedural actions by the judge and the court before the settlement agreement is approved by the court such as during the court hearing, after the hearing, or before the hearing to assist the parties in reaching an agreement hinders the effective use of alternative dispute resolution methods.

19. It is necessary to determine whether disputes arising from administrative and public legal relations fall under the category where the settlement procedure can be applied during litigation. In addition, it should be clarified whether the administrative body has been granted discretion in resolving the dispute. The application of settlement procedures in such disputes is possible, provided that the terms of the settlement do not take into account the interests of third parties.

II. Suggestions and recommendations for further improving the ruleative legal base:

20. It is proposed to amend Article 3 of the Law of the Republic of Uzbekistan "On Mediation" (On July 3, 2018, No. LRU–482) to include a provision on "administrative disputes" to the areas of application of this law;

21. It is proposed to amend the sixth part of Article 126^1 of the Administrative Procedural Code of the Republic of Uzbekistan, to amend the phrase "the conclusion of a settlement agreement is not allowed in cases involving conditions that affect the rights and legitimate interests of third parties" to "the conclusion of a settlement agreement is not allowed in cases involving conditions that affect the rights and legitimate interests of third parties, unless the third parties consent to it";

22. It is proposed to amend Article 126^3 of the Administrative Procedural Code of the Republic of Uzbekistan by adding the following provision: "The settlement process shall be conducted by an independent judge-mediator in a separate closed process, without resolving the substance of the case";

23. It is proposed to amend Article 126^3 of the Administrative Procedural Code of the Republic of Uzbekistan by adding the following provision: "After the case is taken up for settlement, it shall be conducted by an independent judge-mediator based on the principles of equality, impartiality, and confidentiality";

24. It is proposed to amend Article 126^3 of the Administrative Procedural Code of the Republic of Uzbekistan by adding the following provision: "The judge-mediator assists the parties in reaching an agreement by supporting them in resolving the dispute through mutual concessions, using the most suitable methods in the mediation process";

25. It is proposed to amend Article 126^3 of the Administrative Procedural Code of the Republic of Uzbekistan by adding the following provision: "The judge-mediator is not entitled to disclose information about the settlement process, except for providing the presiding judge with information about the final outcome of the settlement process";

26. It is proposed to amend Article 126^3 of the Administrative Procedural Code of the Republic of Uzbekistan to include the following provision: "A settlement agreement shall be concluded upon the completion of the settlement process. If the settlement process ends unsuccessfully, the case shall be returned to the main judge for substantive resolution."

27. It is proposed to supplement the first part of Article 140 of the Administrative Procedural Code of the Republic of Uzbekistan with paragraph 11 with the following provision: "if the judge considers it necessary, the parties are summoned to the preliminary hearing in the appropriate manner and perform the content of the dispute, the subject of the application, the circle of interested parties, the possibility of applying amicable procedures between the parties, the powers of the representative and the actions specified in paragraphs 1-12 of this article";

28. It is proposed to amend paragraph 11 of the first part of Article 140 of the Administrative Procedural Code of the Republic of Uzbekistan as follows: "Considering the measures for settlement, if the parties believe that the application of a settlement is possible in the dispute, with the consent of the parties and if the parties consider the possibility of applying settlement procedures to be higher, the judge may, at their discretion, compel the case to undergo settlement proceedings and send it to the judge-mediator, thereby suspending the proceedings";

29. It is proposed to amend the first part of Article 140 of the Administrative Procedural Code of the Republic of Uzbekistan by adding the following paragraph

12: “Disputes between two parties that do not involve third parties and where the application of settlement procedures is not prohibited by law shall be referred by the judge to the mandatory stage of applying settlement procedures”;

30. It is proposed to amend the second part of Article 62 of the Administrative Procedural Code of the Republic of Uzbekistan by adding the following sentence: “The representative’s authority to conclude a settlement agreement should be specifically stated in the power of attorney issued by the authorizing party”.

НАУЧНЫЙ СОВЕТ DSc.07/30.12.2019.Yu.22.02 ПО ПРИСУЖДЕНИЮ УЧЕНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ

ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ УНИВЕРСИТЕТ

ЖУРАЕВ ДИЛМУРОТ МУХТОРОВИЧ

СОГЛАШЕНИЕ КАК АЛЬТЕРНАТИВНЫЙ СПОСОБ РАЗРЕШЕНИЯ АДМИНИСТРАТИВНЫХ И ПУБЛИЧНО-ПРАВОВЫХ СПОРОВ

12.00.02 – Конституционное право. Административное право. Финансовое и таможенное право.

АВТОРЕФЕРАТ
диссертации доктора философии (PhD) юридическим наукам

Ташкент – 2024

Тема диссертации доктора философии (PhD) зарегистрирована Высшей аттестационной комиссией при Министерстве высшего образования, науки и инноваций Республики Узбекистан под номером B2022.2.PhD/Yu720.

Диссертация выполнена в Ташкентском государственном юридическом университете.

Автореферат диссертации размещен на трех языках (узбекском, английском, русском (резюме)) на веб-странице Научного совета (https://tsul.uz/uz/fan/avtoreferatlar) и информационно-образовательном портале «ZiyoNET» (www.ziyonet.uz).

Научный руководитель:	**Мусаев Бекзод Турсунбоевич** доктор юридических наук, профессор
Официальные оппоненты:	**Рузметов Хайрулла Ибадуллаевич** доктор юридических наук, доцент
	Жавлиев Нурали Баходирович кандидат юридических наук, доцент
Ведущая организация:	**Высшей школы судей при Высшем судейском совете Республики Узбекистан**

Защита диссертации состоится «14» декабря 2024 года в 14:00 часов на заседании Научного совета DSc.07/30.12.2019.Yu.22.02 по присуждению ученых степеней при Ташкентском государственном юридическом университете (Адрес: 100047, г. Ташкент, ул. Сайилгох, 35. Тел.: (99871) 233-66-36; факс: (99871) 233-37-48, e-mail: info@tsul.uz).

С диссертацией можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрирована № 1258). (Адрес: 100047, г. Ташкент, ул. Сайилгох, 35. Тел.: (99871) 233-66-36).

Автореферат диссертации разослан «02» декабря 2024 г.
(протокол реестра № 17 от «02» декабря 2024 г.)

Р.Р.Хакимов
Председатель Научного совета по присуждению ученой степени, доктор юридических наук, профессор

Ф.Б.Махмудов
Секретарь Научного совета по присуждению ученой степени, доктор философии права (PhD), доцент

И.Р. Беков
Председатель научного семинара при Научном совете по присуждению ученой степени, доктор юридических наук, профессор

ВВЕДЕНИЕ (Аннотация диссертации доктора философии (PhD)

Цель исследования разработка научно обоснованных предложений и рекомендаций по широкому внедрению альтернативных способов разрешения споров, возникающих из административных и общественных правоотношений, в судебном порядке и заключения мирового соглашения.

Объектом исследования является система конфликтных правоотношений, возникающих из административных и общественных правоотношений, связанных с применением альтернативных методов и заключением мирового соглашения в суде.

Научная новизна исследования заключается в следующем:

обосновано введение заключения мирового соглашения при разрешении споров, возникающих из административных и общественных правоотношений, в суде;

разработаны требования к форме и содержанию мирового соглашения, согласно которым обосновано, что мировое соглашение должно быть составлено в письменной форме, что исполнение обязательств по соглашению не может поставить стороны в зависимость друг от друга или от другие события и действия;

он основан на том, что в процессе рассмотрения вопроса об утверждении мирового соглашения в судебном порядке разрешения споров, возникающих из административных и общественных правоотношений, судом должно быть установлено, что оно не противоречит закону и интересы третьих лиц;

разработаны основания для отклонения мирового соглашения, заключенного судом, по спорам, возникающим из административных и общественных правоотношений, в том числе в случае отсутствия у ответчика, являющегося стороной соглашения, административного усмотрения, если соглашение заключено условно, суд откажет в утверждении мирового соглашения, это обоснованно;

если решение административного суда о прекращении производства по делу или мировое соглашение, принятое по спору между теми же лицами, о том же предмете и по тем же основаниям, вступило в законную силу, при наличии определения о По делу судья должен отказаться от принятия заявления (жалобы) к производству.

Внедрение результатов исследований. Научные результаты научно-исследовательской работы были использованы:

предложение о необходимости введения мирового соглашения при разрешении споров, возникающих из административных и общественных правоотношений в суде, было использовано при разработке части первой статьи 126^1 КоАС Республики Узбекистан (акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательная палата Олий мажлиса Республика Узбекистана зарегистрированных 13 июня 2023 года под номерами 04/2-10/2149). Реализация этих предложений послужила созданию возможности и практики альтернативного разрешения административных споров в законодательстве;

по форме и содержанию мирового соглашения мировое соглашение должно быть составлено в письменной форме, подписано лицами, его составившими, исполнение обязательств по договору не может ставить стороны в зависимость друг от друга или других событий и действий, распределение судебных издержек в договоре правильное, если это не предусмотрено, то предложение о том, что этот вопрос должен быть решен при одобрении сделки, было использовано при разработке статьи 126^2 КоАС Республики Узбекистан. (акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательная палата Олий мажлиса Республика Узбекистана зарегистрированных 13 июня 2023 года под номерами 04/2-10/2149). Реализация этих предложений послужила созданию возможности и практики альтернативного разрешения административных споров в законодательстве;

в связи с рассмотрением вопроса об утверждении мирового соглашения в судебном порядке разрешения споров, возникающих из административных и общественных правоотношений, утверждение мирового соглашения судом, рассматривающим дело, с участием сторон, находится в стадии утверждения мирового соглашения судом, его соответствие законодательству, третьим лицам Предложение определить, что это не противоречит интересам сторон, прекратить производство по утверждению мирового соглашения и предложить суду вынести определение об этом было использовано при разработке статьи 126^3 КоАС Республики Узбекистан. (справка Верховного суда Республики Узбекистан от 29 мая 2023 года № 1-197-23.) Реализация данного предложения послужила созданию возможности решать административные споры альтернативным способом в нормативных документах.

при разрешении споров в суде, возникающих из административных и общественных правоотношений, в связи с отказом в подтверждении мирового соглашения, если условия мирового соглашения противоречат закону, если условия мирового соглашения противоречат правам и законным интересам третьих лиц. сторон, а в случае несогласия этих третьих лиц с соглашением, при разработке статьи 126^5 было использовано предложение об отклонении утверждения мирового соглашения при отсутствии у ответчика административного усмотрения, если соглашение было заключено условно. КоАС Республики Узбекистан (акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательная палата Олий мажлиса Республика Узбекистана зарегистрированных 13 июня 2023 года под номерами 04/2-10/2149). Реализация этих предложений послужила созданию возможности и практики альтернативного разрешения административных споров в законодательстве если в административном суде имеется дело между теми же лицами, о том же предмете и по тем же основаниям.

Использовано при разработке пункта 2 части первой статьи 133 КоАС которое отказывается судьей в принятии заявления (жалобы) к производству, если имеется вступившее в законную силу принятое по спору между теми же лицами, о том же предмете и по тем же основаниям решение или определение

суда о прекращении производства по делу либо определение об утверждении мирового соглашения (Постановление Комитета по борьбе с коррупцией и вопросам судебной власти Законодательной палаты Олий Мажлиса Республики Узбекистан от 13 июня 2023 года за № 04/2-10/2149). Реализация этих предложений послужила созданию возможности и практики альтернативного разрешения административных споров в законодательстве.

Структура и объем диссертации. Научная работа состоит из введения, трех глав, заключения, списка использованной литературы и приложений. Объем диссертации составляет 156 страницы.

E’LON QILINGAN ISHLAR RO‘YXATI
СПИСОК ОПУБЛИКОВАННЫХ РАБОТ
LIST OF PUBLISHED WORKS

I bo‘lim (I част; I part)

1. Жўраев Д. Маъмурий ва оммавий низоларда келишув битимини қўллаш юзасидан жаҳон тажрибаси // “Одиллик мезони” илмий амалий ҳуқуқий журнал №12/2022 (12.00.00)

2. Жўраев Д. Франция қонунчилигида маъмурий низоларни муқобил усулларда ҳал этиш // “Одиллик мезони” илмий-амалий, ҳуқуқий журнал №6/2023 (12.00.00)

3. Жўраев Д. Низоларни судда ҳал этишда келишув тартиб-таомилларини қўллаш // “Одил судлов” ҳуқуқий, илмий-амалий нашр №9/2023 (12.00.00)

4. D.Juraev. Analysis of the new legislation of the Republic of Uzbekistan on alternative resolution of disputes arising from administrative and public legal relations // “Одил судлов” ҳуқуқий, илмий-амалий электрон журнал №9/2023 (12.00.00)

5. Жўраев Д.М. Маъмурий ва оммавий ҳуқуқий муносабатлардан келиб чиқадиган низоларни судда ҳал этишда келишув тартиб-таомилларини қўллашга таъсир қилувчи айрим масалалар // “Ижтимоий-гуманитар фанларнинг долзарб муаммолари” Science Problems - электрон журнал №10(3)-2023 (12.00.00)

6. D.Juraev. Маъмурий ва оммавий ҳуқуқий муносабатлардан келиб чиқадиган низоларнинг судловга тааллуқлилиги юзасидан айрим муаммолар ва ечимлар // “Жамият ва инновациялар – inScience” - электрон журнал №12/2021 (12.00.00)

7. Жўраев Д. Маъмурий судларга мурожаат қилиш муддатлари ва хорижий амалиёт // “Одил судлов” ҳуқуқий, илмий-амалий электрон журнал №6/2023 (12.00.00)

8. Жўраев Д. Маъмурий суд ишларини юритишга оид суд ҳужжатлари // “Одил судлов” ҳуқуқий, илмий-амалий нашр №7/2023 (12.00.00)

9. Juraev D.M. Келишув тартиб-таомили тушунчаси, ҳуқуқий табиати ва назарий-ҳуқуқий асосларини маъмурий низоларни ҳал этишда қўллаш юзасидан таҳлил қилиш // “Новости образования: иследование в XXI веке” международный научный журнал №9(100), часть 1, апрель, 2023 г.

II bo‘lim (II chast; II part)

10. Juraev D.M. Согласно законадательству Республики Узбекистан проводится теоретико-сравнительный анализ применения мировых соглашений при разришении гражданских и хозяйственных споров в судебном порядке // “Innovation in the modern education system” international scientific online conference, part 30 collections of scientific works, USA Washington 25.05.2023 y. (136-146 c.)

11. Juraev D.M. Analysis of the new legislation of the Republic of Uzbekistan on alternative resolution of disputes arising from administrative and public legal relations // “Intellectual education technological solutions and innovative digital tools” international scientific online conference, part 18 collections of scientific works, Netherlands Amsterdam 03.06.2023 y. (53-58 p.)

12. Жўраев Д.М. Ўзбекистон Республикасида маъмурий ва оммавий ҳуқуқий муносабатлардан келиб чиқадиган низоларни судда ҳал этишда келишув тартиб-таомилларини қўллаш имкониятларининг истиқболли таҳлили // “inScience” Узбекистан-2030: наука, образование и экаономика в развитии, научная конференция, 15.10.2023 г. (45-51 с.)

13. Juraev D.M. Маъмурий ва оммавий-ҳуқуқий муносабатлардан келиб чиқадиган низоларни муқобил усулларда ҳал этиш юзасидан Бюк Британия тажрибаси таҳлили // “Ilm-fan va innovatsiya” илмий-амалий конфиренция тўплами 24.05.2023 й. (121-127 б.)

14. Juraev D.M. Маъмурий ва оммавий-ҳуқуқий муносабатлардан келиб чиқадиган низоларни муқобил усулларда ҳал этиш юзасидан Бюк Британия тажрибаси таҳлили // “Ilm-fan va innovatsiya” илмий-амалий конфиренция тўплами 24.05.2023 й. (128-132 б.)

15. Жўраев Д.М. Солиқ низоларини судгача ва судда ҳал этишда муқобил усуллардан фойдаланиш юзасидан хорижий тажриба таҳлили // “Актуальние вопросы административного судопроизводства в Республике Узбекистан” материалы международной конференции, 18.06.2021 г. (345-360 б.)

16. Жураев Д.М. Согласно законодательству Республики Узбекистан проводится теоретикосравнительный анализ применения мировых соглашений при разрешении гражданских и хозяйственных споров в судебном порядке // “Актуальные проблемы и пути их решения в сфере судебно-правовой системы Республики Узбекистан” материалы международной конференции, Узбекистан Термиз, 2024 г. (118-130 б.)

Avtoreferat O‘zbekiston Respublikasi Toshkent davlat yuridik universitetining “Yuridik fanlar Axborotnomasi” jurnali tahririyatida tahrirdan o‘tkazilib, o‘zbek, ingliz va rus tillaridagi matnlar o‘zaro muvofiqlashtirildi.

Bosishga ruxsat etildi: 02.12.2024
Bichimi: 60x84 1/8 “Times New Roman”
garniturada raqamli bosma usulda bosildi.
Shartli bosma tabog‘i 3. Adadi: 100. Buyurtma: № 38

100060, Toshkent, Ya. G’ulomov ko‘chasi, 74.
Tel.: +998 90 9722279, www.tiraj.uz

“TOP IMAGE MEDIA”
bosmaxonasida chop etildi.