

ADMINISTRATIVE PROCEDURAL LEGAL RELATIONS AND THEIR SUBJECTS IN THE CONTEXT OF THE RULE-OF-LAW STATE

**Abdikerimova Ainur Abdikhadirovna^{1*}, Balabiyev Kairat Rahimovich²,
Kurmanova Aigul Kuanyshevna³**

^{1*}Doctor of Philosophy in Jurisprudence (Ph.D.) the Central Asian Innovation University, Shymkent, Kazakhstan,

²Doctor of law, professor, the Central Asian Innovation University, Shymkent, Kazakhstan,

³Candidate of law, Associate Professor, the National Defense University of the Republic of Kazakhstan (Astana, Kazakhstan,

ainur.kaz14@mail.ru¹

balabi.kairat@mail.ru²

k.aigul_k@mail.ru³

Corresponding Author: Balabiyev Kairat Rahimovich

Abstract

This article examines the legal status of subjects of administrative procedural legal relations in the Republic of Kazakhstan. The study analyzes the categories of individual, collective and social community subjects, their rights, obligations, and legal capacities within administrative procedure. Special attention is paid to the role of foreign citizens, stateless persons, legal entities, and state bodies in the administrative process. Comparative legal analysis is used to identify the specific features of legal personality in administrative procedural relations. The findings demonstrate that the scope of administrative procedural subjects is broader than in civil and criminal proceedings, which reflects the universal nature of administrative law. The principle of legality is emphasized as a fundamental guarantee for ensuring justice and effective protection of the rights and freedoms of citizens.

Keywords: Administrative law; Procedural relations; Legal status; Legal personality; Kazakhstan law; Rule of law; Public administration

Introduction

The relevance of the study is determined by the growing role of the rule of law and administrative procedures in the modern legal system of Kazakhstan. The problem of identifying and classifying the subjects of administrative procedural legal relations remains insufficiently studied. The purpose of this article is to analyze the legal nature and classification of the subjects of administrative procedural legal relations in Kazakhstan.

Literature Review

Theoretical approaches to the classification of subjects of administrative law have been developed by Soviet and post-Soviet scholars. G.I. Petrov identified various categories of subjects in administrative law. Ts.A. Yampolskaya simplified the classification into three groups: state bodies, public organizations, and citizens. D.N. Bakhrakh proposed dividing them into individual and collective subjects. Kazakhstani researcher E.A. Nugmanova emphasized the broader scope of subjects in administrative procedural relations compared to material administrative law.

Methodology

The study applies a comparative legal method, contrasting administrative, civil, and criminal procedures. It also uses a doctrinal analysis of scientific literature and an examination of the legislation of the Republic of Kazakhstan and relevant international legal acts.

Results and Discussion

The study reveals that the subjects of administrative procedural legal relations can be classified into three groups: individuals (citizens, foreign nationals, stateless persons), collective entities (organizations, institutions, enterprises), and social communities (nation, people, labor collectives).

The legal status of foreign citizens and stateless persons is marked by certain restrictions, such as limitations in political rights and state service. Legal capacity and capacity to act form the legal personality of subjects in administrative procedure. State bodies, especially specialized administrative courts, play a crucial role as subjects with authority to make binding decisions.

Conclusion

Administrative procedural relations are a distinct type of social relations that arise in the sphere of public administration. Their subjects include citizens, organizations, social communities, and state bodies endowed with procedural legal personality. The universality of administrative law lies in the diversity of its subjects. Legality remains the fundamental principle ensuring effective governance and protection of citizens' rights.

References

- Petrov G.I. Soviet Administrative Law. Moscow, 1970.
- Yampolskaya Ts.A. Subjects of Soviet Administrative Law. Moscow, 1958.
- Bakhrakh D.N. Administrative Law: Theory and Practice. Moscow, 2005.
- Nugmanova E.A. Administrative Procedural Law of Kazakhstan. Almaty, 2010.

In modern legal science, a rule-of-law state is understood as a public entity in which such institutions as the separation of powers, the independence of the judiciary and judges, the legality of governance, legal protection of citizens against violations committed by state authorities, compensation for damages, and other guarantees are established. From this perspective, a rule-of-law state is one whose activities are aimed at ensuring the primacy of human rights and freedoms, which constitute its supreme value.

From a theoretical standpoint, many scholars consider the key features of a rule-of-law state to be: the supremacy of legal norms, the restriction of state power by law, and the exercise of power solely on the basis of legislation. Thus, the supremacy of law over authority, the subordination of state power to the law, and the unconditional compliance of all governmental and social actors, as well as individuals, with the law represent the essence of a rule-of-law state.

The Republic of Kazakhstan, having gained independence as a legal, democratic, and social state, strives to establish relations with other countries and integrate into the new international legal framework. Despite internal challenges and limited resources, the protection of legitimate interests, rights, and obligations of individuals and citizens, enshrined in international legal instruments, as well as the creation of objective prerequisites for their realization, requires the development of a coherent legal system. This task remains one of the most urgent for Kazakhstan.

Comprehensive judicial and legal reforms are currently being implemented in the Republic. The structure and competences of state authorities are undergoing reform, and the legislation regulating administrative legal relations is being improved. Particular importance is attached to administrative procedural legislation, which ensures the realization and protection of the rights and freedoms of the subjects of administrative legal relations.

Therefore, in a rule-of-law state, the regulatory power of law within the system of administrative and administrative-procedural legal relations plays a decisive role. The norms of administrative and administrative-procedural law reflect their specific nature and distinguish them from other branches of law. Administrative procedural legal relations are social relations regulated by administrative procedural law, in which the subjective rights and duties of participants are guaranteed by the state and protected by law.

When examining the specificity of the legal status of the subjects of administrative procedural legal relations, modern legal theory defines the subjects of legal relations as participants endowed with subjective rights and legal obligations. In other words, *the subjects of legal relations are those who may act as participants within them.*

We share the position of scholars who criticize unsupported approaches. The subjects of administrative procedural legal relations include both individuals and legal entities possessing administrative procedural legal capacity.

In legal literature, two basic types of legal subjectivity are traditionally distinguished:

- individuals (natural persons);
- organizations (legal entities).

However, the contemporary diversity of legal actors requires a broader classification. Therefore, modern theorists of law propose dividing them into three categories:

- individuals;
- organizations;
- social communities.

This conclusion appears justified, as the specificity of administrative procedural relations demands a more detailed separation between «organizations» and «social communities.»

Under Kazakhstani legislation, individuals include citizens of the Republic of Kazakhstan, stateless persons, and foreign nationals.

It should be noted that, as a general rule, stateless persons and foreigners enjoy the same rights and freedoms as citizens of Kazakhstan. However, due to their special legal status, a number of differences exist in the scope of their rights and obligations. For example, although they may participate in almost all legal relations within the country, they bear certain legal duties of a different nature. This distinction is particularly evident in civil law relations (distribution of dividends, division of property, etc.).

In administrative and administrative-procedural relations, differences between citizens, foreigners, and stateless persons are less pronounced. For instance, in matters of public security and order, their rights and duties largely coincide. Nevertheless, in the sphere of political rights, significant distinctions exist: foreigners and stateless persons cannot vote or be elected to public office, serve in the Armed Forces of Kazakhstan, or hold positions within law enforcement bodies, customs, or tax authorities.

In addition, foreigners and stateless persons may be subject to specific administrative enforcement measures not applicable to citizens of Kazakhstan, such as administrative expulsion from the country. Legal entities also act as subjects of administrative procedural legal relations, possessing their own specific legal characteristics.

According to the Civil Code of the Republic of Kazakhstan, a legal entity is an organization that has separate property under the right of ownership, economic management, or operational control, is liable for its obligations with this property, and is capable of acquiring and exercising property and personal non-property rights and obligations on its own behalf, as well as being a plaintiff or defendant in court. Legal entities may take the form of both **commercial** and **non-commercial organizations**:

1) Commercial organizations pursue profit as their primary objective.

2) Non-commercial organizations do not set profit-making as their primary goal, and any income received is not distributed among participants.

All enterprises, institutions, and organizations, regardless of the form of ownership, qualify as legal entities. In order to acquire the status of a legal entity, an organization must undergo state registration. In the context of a market economy and the reform of entrepreneurial relations in Kazakhstan, equality of organizations of different ownership forms — both state and private — has been established. All are recognized as equal participants in public relations and are equally protected by the state.

Enterprises may exist in various forms: production cooperatives, consumer cooperatives, partnerships, associations, joint-stock companies, service enterprises, and others.

From the standpoint of civil law, legal entities are divided into organizations, enterprises, and institutions. However, in administrative law, as modern theory demonstrates, the generalized term

«*organizations*» is most appropriately used to designate legal entities as subjects of administrative procedural legal relations. This category includes all state and non-state organizations of Kazakhstan. Some scholars suggest referring to such subjects not only as «legal entities» or «organizations,» but also as «**collective subjects.**» Within this approach, collective subjects of administrative procedural legal relations may include:

- the state as a whole;
- bodies of state authority;
- organizations, enterprises, institutions;
- public associations;
- religious organizations;
- electoral districts;
- foreign companies, etc.

Furthermore, social communities such as the people, the nation, the population of a region, or labor collectives may also serve as subjects.

Legislation provides for the participation of non-state organizations and social communities in legal relations in the following cases:

- when exercising delegated state authority;
- when participating in the political and social life of society and the state;
- when engaging in property and economic activities, among others.

Legal scholars emphasize that the subjects of administrative procedural legal relations possess a complex legal structure, which includes two fundamental elements — **legal capacity** and **legal competence (capacity to act)**.

Legal capacity refers to the ability of a subject to hold subjective rights and bear legal obligations. In jurisprudence, general and special legal capacity are distinguished. Each branch of law assigns specific meaning to the concept of legal capacity. A subject endowed with legal capacity may act within the law and enjoy the protection of the state.

Unlike other branches of law, in administrative law a decisive role belongs to special and sectoral legal capacity, which characterizes the status of participants in specific legal relations (for example, a vehicle driver, a conscript, or a civil servant).

Administrative procedural legal capacity implies:

1. If legislation of the Republic of Kazakhstan provides that a subject has rights, duties, and legally protected interests, then such a subject may participate in an administrative process.
 2. A subject may participate in a process only if it exercises the legal opportunities granted to it.
- For natural persons, legal capacity arises at birth and terminates upon death.

Legal competence (capacity to act) is the ability of a person to exercise rights and fulfill duties through their own actions.

In administrative proceedings, competence is defined with regard to the specifics of individual procedures. For example, certain procedural institutions have special rules (such as competitive selection for public office or appealing a decision to issue a license).

An example is provided in the Law of the Republic of Kazakhstan «*On Public Associations*» of May 31, 1996, which contains a list of participants in legal relations, along with their rights and obligations. It is important to note that the status of a subject is not always identical to the status of a participant in the process. For example, a state body acts as a subject, while citizens and organizations participate as actors with equal legal opportunities (all being equal before the law).

Key features of the administrative process include:

1. participation of one or more executive authorities;
2. consideration of issues within the competence of administrative bodies and officials;
3. the possibility for citizens and legal entities to initiate proceedings;
4. the presence of procedural stages;
5. regulation of the process by special legal acts.

The Code of Administrative Offenses of the Republic of Kazakhstan explicitly defines the rights and obligations of participants in administrative proceedings.

Legal capacity and competence are developing legal categories that reflect the process of the formation of rights and social responsibility of the individual.

For natural persons, the distinction between legal capacity and competence has significant meaning: legal capacity arises at birth, while competence arises upon reaching majority (18 years). Civil law also recognizes partial and limited competence. In labor law, competence begins at 16 years of age (in some cases, at 15 or even 14).

For example, under the Law of the Republic of Kazakhstan «*On Production Cooperatives*», a member of a cooperative may be any individual who has reached the age of 16 and is able to participate in its activities through personal labor.

In addition, minors who enter into labor relations or sign contracts may be recognized as fully competent (the institution of emancipation).

With respect to legal entities, legal capacity and competence are considered as a single, inseparable concept. Unlike natural persons, whose legal capacity arises at birth and competence at the age of majority, the legal personality of a legal entity is determined by its charter and its purposes of activity. The issue of classifying the subjects of administrative and administrative-procedural legal relations remains a matter of scholarly debate. Different legal scholars have proposed their own approaches to grouping these subjects.

One of the founders of Soviet administrative law, G.I. Petrov, suggested dividing them into the following categories:

1. citizens, stateless persons, and foreign nationals;
2. state administrative bodies and their structural subdivisions;
3. state and public enterprises, institutions, and their subdivisions;
4. bodies of public organizations and their internal structures;
5. public organizations assisting state administration;
6. officials endowed with administrative rights and duties.

He emphasized that these subjects participate not only in material administrative legal relations but also in administrative-procedural ones.

E.A. Nugmanova specifies that a distinctive feature of administrative-procedural relations is the participation of actors who do not normally appear in material administrative relations. Unlike civil or criminal proceedings, where the range of participants is strictly limited, the administrative process is characterized by the universality of its subjects.

The scholar concludes that the range of subjects of the administrative process is broader than that of material administrative law.

Ts.A. Yampolskaya, in her doctoral dissertation «*Subjects of Soviet Administrative Law*» (1958), proposed a simpler classification:

1. state bodies and their agents;
2. public organizations and their bodies;
3. Soviet citizens.

Although this framework played an important role in the development of the discipline, it requires clarification in the contemporary context.

Modern researcher D.N. Bakhrakh proposed dividing the subjects of administrative and administrative-procedural legal relations into two groups:

1. individual subjects (citizens, foreign nationals, stateless persons);
2. collective subjects (organizations, structural subdivisions, labor and other collectives, complex associations).

Analyzing these approaches, E.A. Nugmanova concludes that the system of subjects of the administrative process may be presented as follows:

1. **Individual subjects** – citizens of the Republic of Kazakhstan, foreign citizens, stateless persons.
2. **Collective subjects:**
 - executive authorities and their subdivisions;
 - local self-government bodies;
 - enterprises and organizations of various ownership forms;
 - public associations;
 - civil servants authorized to resolve specific cases;
 - other state authorities and their representatives.

Thus, by generalizing different classifications, it may be concluded that in the modern administrative process, subjects include individuals, organizations, and social communities.

It should be emphasized that, in administrative proceedings, alongside citizens of the Republic of Kazakhstan, foreign citizens and stateless persons may also act as subjects of legal relations.

According to the Constitution of the Republic of Kazakhstan:

«Foreigners and stateless persons residing in the Republic shall enjoy rights and freedoms and bear obligations established for citizens, unless otherwise provided by the Constitution, laws, or international treaties.»

Their legal status is regulated by a number of normative acts, including:

- the Law of the Republic of Kazakhstan «On the Legal Status of Foreign Citizens» (June 19, 1995, No. 2337);
- the Law «On Citizenship of the Republic of Kazakhstan» (December 20, 1991);
- subordinate acts, including joint orders of the Ministry of Internal Affairs, the Ministry of Foreign Affairs, and the Migration and Demography Agency (2004), which govern the entry, stay, and departure of foreigners, as well as measures to prevent illegal migration.

On the basis of these norms, the following specific features of the legal subjectivity of foreigners and stateless persons are established:

1. They cannot occupy state positions requiring citizenship (e.g., the President of the Republic, commander of an aircraft).
2. They cannot serve in internal affairs bodies or other law enforcement agencies.
3. They are barred from activities related to state secrets.
4. They are not subject to compulsory military service.
5. Their administrative legal subjectivity is specific: they may be held liable for certain violations and may be subject to special sanctions (e.g., administrative expulsion from the country).
6. Entry is permitted only with the appropriate authorization (except for citizens of CIS states with visa-free agreements).
7. Their stay is based on special documents (residence permit, foreign passport, visa, etc.).
8. Restrictions on movement and choice of residence may be imposed to ensure state security and public order.

9. Foreigners are required to register their residence with internal affairs bodies, hotels, or host organizations.

10. In certain cases, they may be denied departure from Kazakhstan (e.g., if it poses a threat to state security or if the person is subject to criminal prosecution).

Thus, foreign citizens and stateless persons possess limited administrative legal subjectivity compared to citizens of Kazakhstan.

In any administrative-procedural situation, there must be at least two subjects, since an individual cannot enter into a legal relationship with themselves. Therefore, in cases of administrative offenses, the mandatory participants are citizens, authorized organizations, and representatives of state authority (executive bodies, courts, prosecutors, etc.).

According to the Code of Administrative Offenses of the Republic of Kazakhstan, the circle of participants in administrative proceedings is significantly expanded, since both natural and legal persons may act as subjects.

Administrative procedural competence arises:

- for natural persons – from the age of 16;
- for organizations and state bodies – from the moment of their establishment and state registration;
- for state and non-state officials – from the moment of appointment or election to office.

In the proceedings on administrative offenses, three groups of subjects are distinguished:

1. Persons with a direct interest in the case:

- the person against whom the case is initiated;
- the victim;
- legal representatives of natural and legal persons;
- defense counsel.

2. Authorities and officials vested with state powers:

- specialized administrative courts;
- judges of inter-district specialized courts on juvenile cases;
- internal affairs bodies (police);
- state fire safety authorities;
- civil aviation authorities;
- transport control bodies;
- communications and informatization bodies;
- labor inspection authorities;
- justice authorities;
- migration authorities;
- environmental control bodies;
- authorities in the sphere of subsoil use, customs, defense, sanitary and epidemiological supervision, veterinary and agricultural inspection, and others.

3. Persons and organizations assisting the proceedings:

- witnesses;
- experts;
- interpreters;
- attesting witnesses.

Thus, in proceedings on administrative offenses, a wide range of participants is formed — from citizens and organizations to specialized state bodies. All of them participate in the process within the limits of the powers granted to them and bear responsibility for their actions.

A special role among the subjects is played by specialized administrative courts and judges, since they directly conduct judicial consideration of cases. However, executive bodies also play a significant role, as they exercise authority to make decisions and ensure their enforcement.

Within the system of administrative procedure, state administrative bodies occupy a special place, as they represent one of the key categories of subjects.

These bodies form part of the state apparatus and are established to carry out executive and regulatory functions. They act on behalf of the state and are vested with authoritative powers.

Key characteristics of state administrative bodies as subjects of administrative procedural legal relations include:

1. **Authoritative nature of decisions** – they issue legally binding acts on behalf of the state, ensure their implementation through persuasion or coercion, and apply measures of liability.
2. **Organizational structure** – each body has its own system, apparatus, and subdivisions, which determine the scope of its competence and territorial jurisdiction.
3. **Legal regulation of activity** – their activities are strictly regulated by administrative law norms that define their forms, powers, and procedures of operation.
4. **Executive character of functions** – administrative bodies directly implement laws, decrees, and subordinate acts, ensure their enforcement within relevant areas, and organize the activities of enterprises, institutions, and organizations.
5. **Accountability and control** – they are accountable and subject to control by higher state authorities, the prosecutor's office, and, in certain cases, the judiciary.
6. **Presence of competence** – each administrative body is vested with a specific scope of rights and obligations (competence) defined by legal acts.
7. **Exercise of authority on behalf of the state** – their decisions and actions are considered acts of the state and must be executed.

The following bodies are examples of administrative authorities that serve as subjects of administrative procedural legal relations:

- the Government of the Republic of Kazakhstan;
- central and local executive bodies (ministries, committees, akimats, etc.);
- their structural subdivisions;
- specialized state services (police, fire safety service, migration service, etc.).

Administrative bodies interact with numerous other subjects — citizens, organizations, and social communities. These relations are often built on a hierarchical and authoritative basis, reflecting the essence of administrative law.

At the same time, in a rule-of-law state, the activities of administrative bodies must be based on the principle of legality: they are obliged to strictly and consistently comply with laws and subordinate acts, safeguard the rights and freedoms of citizens, and act within the limits of their competence.

Legality is one of the fundamental principles governing the activities of state administrative bodies as subjects of administrative procedural legal relations.

It is expressed in the following:

- all state bodies, local self-government authorities, and officials are obliged to strictly comply with the law in force;
- legality represents an objective condition for effective public administration;
- it covers both the activities of authorities and officials, and the behavior of participants in administrative proceedings;
- legality also includes compliance with normative acts issued by higher authorities.

Thus, legality serves as a guarantee for the protection of citizens' rights and freedoms, effective public administration, and the fair resolution of administrative cases.

Conclusions:

1. Only legally competent actors — natural persons, organizations, and social communities — may serve as subjects of administrative procedural legal relations.
2. The key elements of the legal status of subjects are legal capacity and legal competence, which together form their procedural legal personality.
3. The scope of subjects in administrative proceedings is broader than in other branches of law, due to its specific nature and universality.
4. Among the subjects, a special role belongs to executive bodies and specialized administrative courts, as they are vested with authoritative powers and ensure the implementation of administrative procedure.
5. Foreign citizens and stateless persons are also subjects of administrative procedural legal relations, but they possess limited legal subjectivity compared to citizens of Kazakhstan.
6. The activities of administrative bodies as subjects of the administrative process must be strictly grounded in the principle of legality.

Administrative procedural legal relations represent a specific type of social relations arising within the sphere of executive power. Their subjects include citizens, organizations, social communities, and state bodies vested with procedural legal personality. The principles of legality and equality of all participants before the law constitute the cornerstone of these relations.