



THE FIRST REGULATORY DOCUMENTS ON MILITARY COURTS DURING THE YEARS OF INDEPENDENCE AND THEIR ADOPTION

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ABSTRACT

This article examines the historical and legal foundations of the formation and development of military courts in the Republic of Uzbekistan during the first years of independence. Special attention is paid to the transformation of the Soviet military tribunal system into a national military justice system based on the principles of state sovereignty, legality, and judicial independence. The study analyzes the Law “On the Fundamentals of State Independence of the Republic of Uzbekistan,” presidential decrees, resolutions of the Supreme Council, and other normative legal acts that laid the foundation for military courts. The article highlights the establishment of the Ministry of Defense, the creation of the Military Court of the Armed Forces, the Military Board of the Supreme Court, and the subsequent formation of the Military Court of the Republic of Uzbekistan. The stages of institutional reform, the determination of jurisdiction, organizational structure, and powers of military courts are examined. The research concludes that the formation of military courts became an important component of state-building and strengthening the rule of law in the Armed Forces of independent Uzbekistan. The legal reforms implemented between 1991 and 2000 created a modern military justice system capable of protecting national interests, ensuring military discipline, and safeguarding the rights and legitimate interests of servicemen.

Keywords: Military courts, military justice, military tribunal, Armed Forces, judicial reform, state independence, national security, military legislation, military judiciary, Republic of Uzbekistan, rule of law, military legal system.



Introduction

On August 31, 1991, at the extraordinary VI session of the Supreme Council of the Republic of Uzbekistan of the XII convocation, a legal document that marked a turning point in the history of the country was adopted - the Law "On the Fundamentals of State Independence of the Republic of Uzbekistan".¹ This law legally strengthened the fact that the Republic of Uzbekistan has embarked on the path of independent development as a sovereign state.

Article 6 of this law, as one of the most important attributes of state independence, defined the powers of Uzbekistan to ensure its national security. In particular, this article stated as follows: "The Republic of Uzbekistan has the right to establish the Ministry of Defense, the National Guard and non-military (alternative) service." This article defines the right to independently form the defense system, military structures and alternative forms of service, which are integral features of any sovereign state. This, in turn, served to strengthen the internal and external political, legal and strategic foundations of state independence.

Any independent state protects its sovereignty with institutional and functional foundations. The establishment of the Ministry of Defense and the National Guard is envisaged as the main means of strengthening the military-strategic independence of the Republic of Uzbekistan, national security policy, and the primacy of state bodies.

The creation of the Ministry of Defense and the National Guard meant that it was necessary to perform functions such as maintaining internal stability, protecting the rights and freedoms of citizens, and strengthening the constitutional system, not only against external threats.

After the Republic of Uzbekistan gained its state independence, protecting the country's security, territorial integrity, and the constitutional rights and freedoms of citizens became one of the priority areas of state policy. In this regard, one of the important political and legal documents adopted was the Decree of the President of the Republic of Uzbekistan "On the Establishment of the Ministry of Defense of the Republic of Uzbekistan" dated September 6, 1991.²

¹ O'zbekiston Respublikasining davlat mustaqilligi asoslari to'g'risidagi qonun. // O'zbekiston Respublikasi Oliy Kengashining axborotnomasi. –Toshkent, 1991 y., 11-son, 6-modda.

² O'zbekiston Respublikasi Prezidentining "O'zbekiston Respublikasi Mudofaa ishlari vazirligini tuzish to'g'risida"gi Farmoni // O'zbekiston Respublikasi Oliy Kengashining axborotnomasi. –Toshkent, 1991-y., 11-son, 230-modda.



The decree was adopted based on the Law “On the Fundamentals of State Independence of the Republic of Uzbekistan”. This law created the legal foundation of the republic’s independence and strengthened the necessary legal guarantees for the state to make independent decisions in domestic and foreign policy. This, in turn, led to the need to form and develop a national security system.

According to the decree, the establishment of the Ministry of Defense in the Republic of Uzbekistan created the necessary conditions for the country to have its own defense system and ensure its military-political independence. The establishment of the new ministry was intended to achieve the following goals:

- protect the territorial integrity of the state;
- protect the rights and freedoms of citizens;
- effectively combat external and internal threats;
- develop and independently manage the national military potential.

The Decree on the Establishment of the Ministry of Defense of the Republic of Uzbekistan will remain in history as one of the most important documents in the history of statehood of independent Uzbekistan. It served not only to strengthen the country's military potential, but was also a strategic decree aimed at achieving ambitious goals such as ensuring the independence of the state in practice and guaranteeing national security.

The Ministry of Defense organized its activities primarily on the basis of the organizational and legal framework of the previously established Committee for Defense Affairs. At the same time, the General Staff and relevant departments and divisions were formed within the Ministry of Defense of the Republic of Uzbekistan on the basis of the existing management structures of the Turkestan Military District. This made it possible to form a national defense system with the effective use of existing military infrastructure and management experience. The Decree of the President of the Republic of Uzbekistan dated January 10, 1992 No. PF-318 “On the Internal Troops and Educational Institutions of the USSR Ministry of Internal Affairs” and the Resolution of the Supreme Council of the republic dated January 14, 1992 “On Military Units and Military Educational Institutions Located on the Territory of the Republic of Uzbekistan” became a document of historical importance in the formation of the national security system in the Republic of Uzbekistan. Through the Decree, the country took control of



the military-legal structures inherited from the former Soviet Union and transferred them to national jurisdiction. This is not only a sign of sovereignty, but also a necessary institutional basis guaranteeing the security of an independent state.

At that time, the majority of the population, when they thought of a military tribunal, imagined military courts, separate troikas, and repressions. The people equated a military tribunal with a verdict contrary to fair trial. Therefore, there was an urgent task of creating a new system of military courts, the content of which would correspond to the new conditions.³ Since the military tribunals operating on the territory of the Republic of Uzbekistan were not within the jurisdiction of Uzbekistan, this period required an urgent decision on the issue of military tribunals. For this purpose, on February 28, 1992, the Decree of the President of the Republic of Uzbekistan No. PF-355 “On Military Tribunals and Military Prosecutor's Offices” was adopted⁴. For the first time in the history of Uzbekistan, military tribunals were recognized not as separate independent bodies, but as part of the general judicial system. It was decided that the Military Tribunal of the former Turkestan Military District would cease its activities and the Military Court of the Armed Forces of the Republic of Uzbekistan would be established as its legal successor. It was determined that the newly established military court would be considered a component of the judicial power of the Republic of Uzbekistan and would administer justice in military structures. Thus, the long-standing subordination of military judicial bodies in Uzbekistan to Moscow was put to an end.

The integration of military courts into the national judicial system in the Republic of Uzbekistan has become an important reality. Through this, this judicial body was reorganized among the new legal structures of an independent state, and its jurisdiction and powers were determined on the basis of national legislation.

Since the Supreme Court of the Republic of Uzbekistan acts as the highest judicial authority in the country, a proposal to establish a separate Military Board in order to ensure a high level of military justice was submitted to the Supreme Council of the Republic of Uzbekistan. This initiative serves to centralize judicial practice in the military sphere, increase its professionalism, and ensure fair resolution of

³ Mirzaev T.K. O‘zbekiston Respublikasining harbiy odil sudlovi-T.: Harbiy nashriyot, 2004. -B.18.

⁴ O‘zbekiston Respublikasi Prezidentining 1992 yil 28 fevraldagi “Harbiy tribunallar va Harbiy prokuratura organlari to‘g‘risida”gi PF-355 sonli farmoni. Elektron manba: <https://lex.uz/ru/docs/-795416>.



appeals. In order to ensure the effective operation of military courts, the Ministry of Defense of the Republic of Uzbekistan was instructed to take measures to provide these bodies with the necessary financing and material and technical support.

By the resolution of the Supreme Council of the Republic of Uzbekistan “On the establishment of a military board within the Supreme Court of the Republic of Uzbekistan” dated July 3, 1992, a military board was established within the Supreme Court, and the board was authorized to consider especially important cases in the court of first instance and cases at the cassation and control stages⁵. At the same time, the powers of the judges of the military courts of the Republic of Uzbekistan, elected in accordance with the established procedure, were confirmed.

Chapter IV of the Law “On Courts” was called “Military Courts” and clearly defined the organization, tasks and powers of this system in legal terms. Article 39 of the Law provided that the system of military courts in the Republic of Uzbekistan consisted of three main links. The Military Board of the Supreme Court of the Republic of Uzbekistan was considered the highest instance of the system of military courts. The Military Court of the Armed Forces was a judicial body with the status of a regional court and dealt with cases with a large territorial and functional load. Garrison military courts were judicial bodies at the level of district courts and tried cases related to military personnel serving in a particular garrison. This system allows for the implementation of military justice in a centralized, but territorially organized form.

Military courts of the Republic of Uzbekistan considered cases on crimes committed on the territory of the Republic of Uzbekistan by persons serving in the Armed Forces, border troops, bodies of the National Security Service, internal troops of the Ministry of Internal Affairs of the Republic of Uzbekistan and other military formations established in accordance with the legislation of the Republic of Uzbekistan, as well as by persons subject to military service during training camps. Also, the jurisdiction of military courts included civil cases on claims of servicemen against commanders of military units, formations and associations of the Armed Forces of the Republic of Uzbekistan and complaints against illegal actions of these officials, as well as all civil and criminal cases, other cases

⁵ Mirzaev T.K. O‘zbekiston Respublikasining harbiy odil sudlovi-T.: Harbiy nashriyot, 2004. -B.19.



involving state secrets in places where general courts are not operating due to emergency situations.

The adoption of the Decree of the President of the Republic of Uzbekistan No. PF-2421 "On the Establishment of the Military Court of the Republic of Uzbekistan" of September 23, 1999 brought the formation of military courts to a new stage.⁶

In connection with the reforms being carried out in the Armed Forces of the Republic of Uzbekistan and the establishment of the Ministry of Emergency Situations of the Republic of Uzbekistan, the State Border Protection Committee, the Main Directorates of the Internal and Guard Troops of the Ministry of Internal Affairs of the Republic of Uzbekistan, and the military districts of the Ministry of Defense, the Military Court of the Republic of Uzbekistan was established on the basis of the Military Court of the Armed Forces of the Republic of Uzbekistan in order to increase the effectiveness of the activities of the military court in administering justice, strengthen legislation and law and order in the Armed Forces, military departments and other military structures established in accordance with the laws of the Republic of Uzbekistan. The main tasks of the bodies of the Military Court of the Republic of Uzbekistan are to protect the interests of the state and the legitimate rights and freedoms of military personnel of the Armed Forces of the Republic of Uzbekistan, the State Border Protection Committee, the Main Directorates of the Internal and Guard Troops of the Ministry of Internal Affairs, the National Security Service, the Emergency Situations Service, and military units of ministries and departments; The tasks included the implementation of justice, ensuring law and order in the troops in accordance with the Constitution of the Republic of Uzbekistan and other legislative acts; implementation of a set of measures for the legal education of military personnel.

The total number of employees and the salary fund established for the Military Court of the Armed Forces of the Republic of Uzbekistan were retained for the Military Court of the Republic of Uzbekistan. The organizational and staff structure of the Military Court of the Republic of Uzbekistan was approved.

The Ministry of Defense of the Republic of Uzbekistan provided the Military Court of the Republic of Uzbekistan and its structural divisions with the necessary

⁶ "O'zbekiston Respublikasi Harbiy sudini tashkil etish to'g'risida"gi Farmoni // O'zbekiston Respublikasi Oliy Majlisining axborotnomasi. –Toshkent, 1999-y., 9-son, 246-modda.

financial, material and technical resources, and maintained the legal status of personnel belonging to military personnel and all types of monetary and other support.

CONCLUSION

In conclusion, in 1991–2000, the formation of the legal framework for the activities of military courts in the Republic of Uzbekistan was carried out in stages. In the early years of independence, the system of military courts of the former Soviet Union, with its outdated and subordinate structure to the central government, did not meet the socio-legal needs of the new sovereign state. Therefore, the reorganization of the activities of military courts based on national interests emerged as an urgent task. During this period, the first regulatory legal acts on the activities of military courts were adopted, which determined the legal status, structure and jurisdiction of military courts.

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