

## ABSTRACT

of the dissertation by Anvar Sapabekovich Omarov on the topic:  
"Police Activities in the Consideration of Administrative Offense Cases: Issues of  
Theory and Practice,"  
prepared for the degree of Doctor of Philosophy (PhD) in the educational program  
8D12301 – "Law Enforcement Activities"

**The relevance of the research topic** is determined by the issues surrounding the exercise of administrative jurisdictional powers by police officers who are authorized to consider cases of administrative offenses. Recently, the number of offense categories for which police officers review administrative cases has increased, requiring scientific evaluation of the effectiveness and justification of this stage of the administrative process.

The dissertation is devoted to the study of theoretical and practical problems of the stage of the administrative process related to the consideration of administrative offense cases by internal affairs officers (police). The content of the dissertation presents the author's own perspective on issues related to the nature and specific features of decision-making by police officers during the review of such cases.

The relevance of the topic is also confirmed by the priority areas of police activity outlined in programmatic documents: the *Concept for Ensuring Public Security in Partnership with the Community for 2024–2028* and the *Legal Policy Concept of the Republic of Kazakhstan until 2030*.

Surveys and interviews with police officers who are vested with jurisdictional powers to impose administrative penalties on problematic aspects of the application of such penalties have confirmed the need to improve this stage of administrative proceedings.

At the current stage of administrative and legal process reform, problems remain regarding the unsubstantiated increase in administrative fines and the lack of alternative types of administrative penalties. Police officers, when considering administrative cases, often fail to give due attention to the legal institution of aggravating and mitigating circumstances of administrative liability, as well as to identifying the motives and goals of the administrative offense.

The relevance of analyzing the simplified and expedited procedure for handling administrative offense cases lies in the fact that this institution is new to Kazakhstani legislation and is not without flaws. The simplified and expedited procedure in police administrative activities is not always applied to offenders, since the reduction of fines by 50% or 30% carries high corruption risks, and the legal grounds enable police officers to interpret this institution arbitrarily, at their own discretion.

In order to successfully adapt more effective mechanisms for resolving administrative offense cases by police officers into the legislation of the Republic of Kazakhstan, it is necessary to consider the positive experience of administrative procedural practices in other countries.

The lack of an independent comprehensive study on this topic in Kazakhstan at the present time has served as one of the grounds for choosing it as the subject of this research.

## Purpose and Objectives of the Research

The purpose of this dissertation research is a comprehensive analysis of the administrative process related to the consideration of administrative offense cases in order to reduce the level of legal violations in the administrative procedural activities of internal affairs bodies (police), as well as to develop key theoretical and practical directions for ensuring the effectiveness of the studied stage of the administrative process.

To achieve this purpose, the following specific research **objectives** have been accomplished:

- A retrospective analysis of the development of the studied public relations was conducted to determine the optimal scope of administrative penalties applied by the police;
- The main cases of legal violations in the activities of internal affairs bodies were identified, specifically at the stage of considering administrative offense cases;
- A legal characterization was provided for each type of administrative penalty applied by police officers;
- Conclusions were formulated and proposals were substantiated to improve the mechanism for ensuring legality in the application of administrative penalties by police officers;
- A comparative analysis of domestic and foreign legislation in the field of considering administrative offense cases by internal affairs officers (police) was conducted;
- The procedure for the implementation of expedited proceedings in administrative offense cases was analyzed;
- The institution of exemption from administrative responsibility and penalties by police officers was studied;
- **Problems were identified in holding individuals accountable who evade administrative penalties, and proposals for their resolution were formulated;**
- A study was conducted on the principles and methods of ensuring legality by police officers during the consideration of administrative offense cases;
- Measures taken by police officers during the consideration of administrative cases aimed at eliminating the causes and conditions contributing to the commission of offenses were reviewed.

– Methodology and Research Methods

The methodological tools selected for the research are traditional for legal studies and sufficient for obtaining reliable and objective theoretical knowledge, as they are based on a balanced combination of general scientific and specific scientific methods for analyzing social phenomena and processes. The methodological foundation of the research is comprised of fundamental humanistic ideas, the tradition of legal development, methods for improving the activities of internal

affairs bodies, as well as a set of scientific methods of cognition (comparative legal, concrete historical, sociological, and others), and scholarly works of individual researchers who have examined issues of the administrative process stage related to the consideration of administrative offense cases.

– In the course of preparing the dissertation, the author used numerous publications on administrative law and the administrative activities of internal affairs bodies; a large number of current legislative and subordinate normative legal acts were analyzed, along with legal literature from the Soviet period, Eastern European countries, and Central Asia. Published and draft legal acts of various statuses were studied, as well as monitoring reports from individual states that have specialized legislation concerning the administrative-procedural activities of the police.

– The system of specific scientific methods used in the dissertation research included: the retrospective method (in studying the dynamics of the development of codified administrative legislation from 1985 to the present); the comparative legal method (in studying and comparing the foreign legislation of Eastern European and Central Asian countries); the sociological method (for obtaining a reliable assessment of the studied stage of the administrative process and the corresponding system of social relations); the structural-functional method (in constructing a system of legal norms aimed at ensuring the offender's right to defense); the formal-logical method (for clarifying the norms of codified administrative legislation and improving the legislative drafting technique of administrative law); content analysis of theoretical sources, publications in the mass media, and accessible information and communication resources (when analyzing expert assessments of law enforcement practices in the consideration of administrative offense cases by internal affairs officers (police)).

– Particular attention was paid to a constructive and critical analysis of legal norms, academic presentations, and publications concerning the state of administrative-procedural activities of police officers vested with the authority to apply various administrative penalties and to release offenders from such penalties.

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### **Scientific Novelty of the Research**

The scientific novelty of the research lies in the fact that this dissertation, based on a comprehensive study of the main theoretical aspects of the process of considering administrative offense cases and the experience of its practical application, represents the first creative attempt at a comprehensive investigation of existing problems within the context of the capabilities of administrative law and the established system of activities of police officers authorized to impose administrative penalties. Particular novelty in the improvement of the studied social relations is also represented by the conditions for reorienting the activities of internal affairs bodies towards a service-oriented model of police operations.

A comprehensive theoretical development of all substantive and procedural aspects of the consideration of administrative offense cases has not yet been presented in the science of administrative law. Against the backdrop of the minimal intensity of academic publications on the declared topic, combined with the high dynamics of changes in Kazakhstani legislation, the scientific novelty of the research is evident.

**The novelty of the dissertation research is reflected in the following main points submitted for defense:**

1. The list of internal affairs (police) officers endowed with jurisdictional powers to consider administrative offense cases is vague. In particular, not all officials of internal affairs bodies with special ranks mentioned in paragraph 4 of part 2 of Article 685 of the Code of Administrative Offenses (CoAO) make decisions on imposing administrative penalties. It is necessary to define a specific

list of police officers and an exhaustive list of articles of the CoAO under which they are authorized to impose administrative penalties.

2. The broad involvement of citizens in the process of resolving administrative offense cases corresponds to the current tasks of the state policy of the Republic of Kazakhstan on transitioning to a service model of police work. It is possible to grant collegial public law enforcement formations the authority to independently consider administrative offense cases.

3. The sanctions in certain articles of the CoAO, which provide police officers with discretionary powers in applying administrative penalties, create a favorable environment for manifestations of corruption.

A revision of the norms of the Code of Administrative Offenses (CoAO) should be carried out in order to reduce administrative discretion, with the aim of eliminating risks of corruption and protecting the rights and legitimate interests of Kazakhstani citizens from arbitrary actions by public authorities during the exercise of jurisdictional powers by officials.

To minimize the misuse of discretionary powers by officials for personal gain, it is proposed to:

1. Remove the wording “or/without it”
  - from the sanctions of parts 1 and 2 of Article 464 of the CoAO,
  - from the sanction of part 2 of Article 470 of the CoAO.

2. Part 2 of Article 819 of the CoAO should be revised as follows:  
"2. The authority (official), taking into account the established circumstances specified in part one of this Article and the absence of aggravating circumstances, must reduce the amount of the administrative fine imposed on the person against whom the case of an administrative offense was initiated, calculated according to the first paragraph of part one of Article 44 of this Code, by no more than thirty percent of the total fine amount."

The regulatory resolution of the Supreme Court of the Republic of Kazakhstan should additionally clarify the legal provisions contained in part 1 of Article 819 of the CoAO.

4. Penalty interest (penya) as an effective measure of financial and legal liability should be legislatively established as a means of ensuring the proceedings in administrative offense cases. It is proposed to consider the use of penalty interest as a method for enforcing administrative fines. For this purpose, part one of Article 785 of the CoAO should be supplemented with subparagraph 12, as follows: "Penalty interest in cases of late payment of an administrative fine."

Chapter 40 of the CoAO should include a new Article 801-1 with the following proposed content:

#### **Article 801-1. Penalty Interest**

1. Penalty interest is a late payment charge levied for overdue administrative fines and is calculated at a rate of 0.5% of the outstanding amount for each day of delay, starting from the day following the due date for payment.

**2. The maximum amount of penalty interest may not exceed the amount of the imposed fine.**

The implementation of this new measure for ensuring proceedings in administrative offense cases in the form of penalty interest will contribute to increasing the collection rate of administrative fines.

Under the administrative law of the Republic of Kazakhstan, penalty interest cannot be regarded as an administrative sanction or a measure of administrative liability for unpaid fines, as it does not require the establishment of guilt and is of a safeguarding nature.

5. To improve the practice of applying the institution of exemption from administrative liability by police officers, it is proposed to:

1. Establish that the legal basis for terminating proceedings in a case where the offender cannot be identified should not be the expiration of the limitation period, but the failure to establish the person subject to administrative liability. Accordingly, part one of Article 741 of the CoAO should be supplemented with a paragraph of the following content: "if the offender could not be identified within 10 days from the date of the offense."

2. Based on the goals of reconciliation between the parties, the list of articles in part 1 of Article 64 of the CoAO should be expanded, since reconciliation can be applied to many substantive provisions of the Special Part of the CoAO if the offender has made amends or through active repentance has compensated the victim for material or moral damage or harm to health.

However, it should be stipulated that the provisions of Article 64 of the CoAO do not apply to persons who have committed administrative offenses in the sphere of domestic and family relations or based on household motives.

6. To ensure the principles of administrative activity in the consideration of administrative offense cases, it is proposed to:

1. Develop a departmental instruction for police officers of internal affairs bodies on the application of the Code of Administrative Offenses of the Republic of Kazakhstan, to ensure the principle of legality in the administrative procedural activities of law enforcement.

2. To implement the principle of ensuring citizens' rights to qualified legal assistance:

– Revise part 3 of Article 748 of the CoAO as follows:  
"3. A defense lawyer shall be admitted to participate in the case from the moment of initiation of the administrative offense case, as well as at any stage of the proceedings."

– Revise paragraph 2 of part 4 of Article 802 of the CoAO as follows:  
"In cases where an administrative offense is recorded by certified special automated control and measuring devices operating in automatic mode, the case shall be considered initiated from the moment proper notification is delivered."

Description of Key Research Findings. The most significant results achieved in the course of the research are as follows:

Result 1. The proposal to improve Article 685 of the Code of Administrative Offenses (CoAO) aims to systematize the jurisdictional powers of police officers engaged in public service, namely: district police inspectors, including those

handling juvenile affairs, patrol officers, duty units of district and city police departments, environmental and migration police. Moreover, the implementation of this proposal would eliminate the formal competence of internal affairs officers with special ranks to make decisions on imposing administrative penalties. The results of the scientific study “*Jurisdictional Powers of Internal Affairs Officers (Police) in the Consideration of Administrative Offense Cases*” have been integrated into the educational process of the Aktobe Law Institute of the Ministry of Internal Affairs of the Republic of Kazakhstan named after M. Bukenbaev and all other academies of the Ministry of Internal Affairs.

Result 2. At the current stage of administrative procedural development, the proposal to involve public organizations in the resolution of administrative offenses aligns with Kazakhstan's contemporary legal policy direction toward transitioning the police to a service-oriented model of providing law enforcement services to the public. This measure will also enhance public trust in the police. The dissertation materials were used in the preparation of proposals for the *Draft Concept of Public Security of the Republic of Kazakhstan for 2024–2028* and incorporated into the educational process of the Ministry of Internal Affairs academies.

Result 3. The implementation of this result is aimed at:

- reducing corruption risks in the activities of internal affairs (police) officials vested with the authority to impose administrative penalties;
- initiating a revision of all norms of the Special Part of the CoAO to reduce administrative discretion and eliminate risks of corruption while protecting the rights and legitimate interests of Kazakhstan's citizens from abuse by government authorities;
- improving Article 819 of the CoAO for its effective application in police administrative practice by allowing for a reduction of administrative fines by up to 30%;
- initiating clarification by a Regulatory Resolution of the Supreme Court of the Republic of Kazakhstan on the application of simplified and expedited procedures in administrative offense cases.

Result 4. The results of an express analysis of legislation and international experience in administrative offense proceedings allowed for the formulation of a new Article 801-1 of the CoAO “*Penalty Interest*”, aimed at increasing the collection rate of administrative fines. This legal mechanism targeting individuals who evade fine payment is intended to exert additional financial pressure on the offender, thereby encouraging timely payment. The results of the dissertation research have been reflected in the academic manual “*Jurisdictional Powers of Internal Affairs Officers (Police) in the Consideration of Administrative Offense Cases*”, which has been implemented in the practical activities of the Police Department of the Kostanay Region and is used for professional and in-service training sessions.

Result 5. The dissertation research materials on the subject of exemption from administrative responsibility and penalties by police officers were published in the *International Scientific Journal “Scientific Works”* of the Almaty Academy

of the Ministry of Internal Affairs of the Republic of Kazakhstan named after M. Yesbulatov and incorporated into the educational process of the Aktobe Law Institute of the Ministry of Internal Affairs of the Republic of Kazakhstan named after M. Bukenbaev and all Ministry of Internal Affairs academies.

Result 6. The implementation of the proposal is aimed at improving the stage of administrative proceedings concerning the mechanism for holding offenders administratively liable at the departmental level. A new instruction for police officers on the application of the CoAO will significantly streamline administrative enforcement practices within the internal affairs bodies. First, it will regulate the control procedures over administrative practices. Second, it will eliminate inconsistencies between departmental regulations and the CoAO articles defining police jurisdiction. Third, it will establish a clear algorithm of actions for officers who do not routinely handle administrative procedures. Fourth, the departmental instruction will resolve issues related to combining electronic and paper-based case management in administrative offense proceedings.

The evidence base for the theses defended in the dissertation includes the results of empirical research, in particular:

- A survey and interviews conducted with 785 officers of the administrative police and local police services of Kostanay and Akmola regions, as well as trainees of the Institute for Advanced Training and Professional Development representing all regions of Kazakhstan;
- A review and analysis of approximately 350 administrative offense cases;
- Statistical data from the Committee for Legal Statistics and Special Records of the Prosecutor General's Office, and the Committee of Administrative Police of the Ministry of Internal Affairs of the Republic of Kazakhstan regarding decisions made by internal affairs officers on administrative cases;
- Overviews and findings from the administrative practice of the Committee of Administrative Police of the Ministry of Internal Affairs.

### **Justification of the Novelty and Significance of the Obtained Results**

The scientific novelty of the dissertation research is characterized by the achievement of new, meaningful results. The degree of novelty in the author's findings and conclusions is defined by the original approach taken to the research problem.

Result 1 is novel, as it proposes a more pragmatic and effective approach to forming the list of internal affairs (police) officers authorized to exercise jurisdictional powers in administrative offense proceedings, based on a retrospective analysis of Kazakhstan's codified administrative legislation. This approach differs significantly from the existing regulatory framework.

Result 2 possesses the required degree of novelty. Drawing on the historical experience of earlier administrative legislation, which involved public collegial organizations and formations in jurisdictional processes, this proposal is now



aligned with the current goals of state policy in the Republic of Kazakhstan, particularly the transition to a service-oriented policing model. This innovation corresponds to conceptual changes in the jurisdictional powers of police officers, as it envisions their active collaboration with civil society in decisions related to administrative liability.

Result 3 is new and aimed at addressing a key priority of state legal policy—reducing the level of administrative discretion in the decision-making process for administrative offense cases. Due to the innovative nature of the proposed solutions, the mechanisms for simplified proceedings in administrative cases may serve as the foundation for drafting legislative and subordinate legal acts aimed at improving the jurisdictional powers of internal affairs (police) officers.

Result 4 demonstrates a high degree of novelty, as it substantiates for the first time the proposal to introduce a new procedural measure into the Code of Administrative Offenses—penalty interest (“penya”)—as a tool for improving the collection of administrative fines.

The establishment of a penalty interest mechanism as a measure to support the enforcement of administrative penalties offers several advantages:

- It encourages offenders to pay administrative fines on time;
- It contributes to increasing the revenue side of the state budget;
- Although not itself an administrative penalty, the penalty interest functions as a progressively increasing sanction;
- It has a preventive effect by deterring repeated or systematic administrative offenses.

Result 5 presents an innovative approach to the study of the legal institution of exemption from administrative liability and penalties. The conclusions are novel in that they offer, for the first time, constructive proposals:

- To establish a new legal basis for terminating administrative proceedings in cases where the offender subject to administrative liability could not be identified;
- To improve Article 741 of the CoAO by defining a time limit for terminating administrative prosecution when the offender remains unidentified;
- To expand the list of administrative offenses with a formal composition that should be terminated due to reconciliation between conflicting parties;
- To abolish reconciliation procedures in the context of family and domestic relations.

Result 6 is new, as it introduces a comprehensive set of proposals to amend and supplement the provisions of the CoAO, as well as to develop a new departmental document aimed at implementing the principles of administrative liability. This original, modern approach includes:

- The development of a departmental instruction for police officers on applying the CoAO of the Republic of Kazakhstan, to ensure the legality and other principles of administrative procedural activity by the internal affairs bodies;

- The implementation of the principle of ensuring the right of individuals charged with administrative offenses to qualified legal assistance, through the introduction of a new Part 3 to Article 748 of the CoAO;
- The improvement of the notification procedure for individuals whose offenses are recorded by certified automated control and measuring devices, thereby enabling them to obtain timely legal assistance from a lawyer (defense counsel).

### **Relevance of the Dissertation Topic to State Programs**

The topic of the dissertation addresses issues that align with the main priorities and key objectives outlined in programmatic and strategic documents that define the principal directions of state policy, including:

1. The Concept of Legal Policy of the Republic of Kazakhstan until 2030, approved by the Decree of the President of the Republic of Kazakhstan dated October 15, 2021, No. 674.
2. The Concept of Public Security in Partnership with Society for 2024–2028 (in the field of offense prevention), approved by Resolution of the Government of the Republic of Kazakhstan dated December 29, 2023, No. 1233.
3. The National Development Plan of the Republic of Kazakhstan until 2029, approved by the Decree of the President of the Republic of Kazakhstan dated July 30, 2024, No. 611.
4. The Development Plan of the Ministry of Internal Affairs of the Republic of Kazakhstan for 2023–2027, approved by Order of the Ministry of Internal Affairs of the Republic of Kazakhstan No. 1007 dated December 27, 2022.

### **Description of the PhD Candidate's Contribution to the Preparation of Each Publication**

The main results of the dissertation topic have been published in 11 works, including: 1 article in a foreign journal indexed in the Scopus database; 4 articles in journals recommended by the Committee for Quality Assurance in the Field of Science and Higher Education of the Ministry of Science and Higher Education of the Republic of Kazakhstan; 5 articles in the proceedings of international scientific and practical conferences. Additionally, one textbook was prepared within the framework of the dissertation research.

1. Improving Legal Compliance in Police Activities: Ensuring Sustainable Public Safety in Kazakhstan. *Journal of Lifestyle & SDGs Review* 2025. – Vol. 5, Issue. – P. 01-18. DOI: 10.47172/2965-730X.SDGsReview.v5.n01.pe 03780.
2. Legal Foundations of Summary Proceedings in Administrative Offense Cases. *International Scientific Journal "Ғылым-Наука"*, No. 2(73), Kostanay, 2022. – P. 84-90 (200 p.).
3. On the Powers of Police Officers Regarding the Release from Administrative Liability and Penalties for Individuals Committing Administrative Offenses. *International Scientific Journal "Uchonyye Trudy"*, No. 2(75), Almaty, 2023. – P. 17-25 (433 p.).

4. Improving the Mechanism for Conducting Summary Proceedings in Administrative Offense Cases. *International Scientific Journal "Ғылым-Наука"*, No. 2(77), Kostanay, 2023. – P. 128-133 (200 p.).
5. On Administrative Liability for Intentional Destruction or Damage of Property. *International Scientific Journal "Khabarshy-Vestnik"*, No. 3(81), Karaganda, 2023. – P. 187-192 (212 p.).
6. The Influence of Discretion on the Increase of Corruption Risks in the Process of Resolving Administrative Offense Cases. *Materials of the MNPC for Young Scientists, Master's Students, and Doctoral Candidates Dedicated to the 30th Anniversary of the Ministry of Internal Affairs of the Republic of Kazakhstan*, March 18, 2022. – Kostanay: Kostanay Academy of the Ministry of Internal Affairs of the Republic of Kazakhstan named after Sh. Kabyldaev, 2022. – P. 342-347 (483 p.).
7. On Improving the Administrative Jurisdictional Activity of the Police Precinct Inspectors in Juvenile Offense Cases. *Materials of the MNPC "Protection of Children's Rights: Police and Civil Society Cooperation"*, May 13-14, 2022. – Kostanay Academy of the Ministry of Internal Affairs of the Republic of Kazakhstan named after Sh. Kabyldaev, Kostanay, 2022. – P. 153-159 (476 p.).
8. On the Issuance of a Private Petition to Eliminate the Causes and Conditions Contributing to Offenses by Police Officers. *Materials of the MNPC "Organization and Activities of Internal Affairs Bodies at the Present Stage: Problems and Solutions"*, October 27, 2023. – Kostanay Academy of the Ministry of Internal Affairs of the Republic of Kazakhstan named after Sh. Kabyldaev, Kostanay, 2023. – P. 58-62 (600 p.).
9. Features of Police Officers Issuing Private Petitions to Eliminate the Causes and Conditions Contributing to Offenses. *Materials of the MNPC from December 14, 2023 "Justice, Stability, and Public Safety - The Key Guidelines for Building a Legal, Democratic, and Social State"*. Almaty: "Turans" University, 2023. – P. 161-166 (443 p.).
10. Features of Imposing Administrative Penalties by Police Officers for Violations of Migration Legislation. *Materials of the MNPC "Organization and Activities of Internal Affairs Bodies at the Present Stage: Problems and Solutions"*, October 24, 2024. – Kostanay: Kostanay Academy of the Ministry of Internal Affairs of the Republic of Kazakhstan named after Sh. Kabyldaev, 2024. – P. 48-52 (505 p.).
11. Jurisdictional Powers of Police Officers in Administrative Offense Cases. Kostanay Academy of the Ministry of Internal Affairs of the Republic of Kazakhstan named after Sh. Kabyldaev, Kostanay, 2023. – 96 p.