



## Issues of Improving Law Enforcement Process in The Context Of “Digital Law”

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**Abstract.** The article analyzes the process of law enforcement in the context of the formation of “digital law”, law enforcement acts and their specific features. There are also proposals to improve the law enforcement process, in particular, the legal framework for the adoption of law enforcement acts in electronic form and the legal and technical rules of their registration. In detail, the article includes all aspects of law enforcement process such as the importance of law enforcement process in Uzbekistan, law enforcement as a specific form of application of law, stages of law enforcement process, the concept of law enforcement acts, classification of law enforcement acts, suggestions and recommendation to develop digital law enforcement process. Most importantly, the author gives special definition of the process of law enforcement, as well as that the topic is discussed with the examples of scientists and scholars of this sector.

In the discussion of stages of law enforcement, the author compares the approaches of various scientist, as a result puts forward own opinions and views in this regard.

In the chapter of concept of law enforcement act, the author finds out specific features of law enforcement acts. These special features containing followings, such as issuance by the competent authorities or officials, strict individualization of acts, state support, application to a case. In the next chapter the author discussed the classification of law enforcement acts. Various ideas of scholars are analyzed and the authorship approach is put forward. In the recommendations part the author analyzes the role of law enforcement acts in the implementation of the law and their characteristics in the context of the formation of “digital law”.

**Keywords:** “digital law”, law enforcement, law enforcement process, stages of law enforcement, acts of law enforcement, types of law enforcement, digitalization of law, law enforcement entities, law enforcement acts. .

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### The importance of the issue

In the current period of state and society transformation, the formation of “digital law” and “digital economy” is becoming increasingly important. It is known that the ideas of “digital state”, “digital law” and “digital economy” were first expressed in the works of Spanish sociologist Manuel Castels in the late twentieth century. Later, these ideas were further developed by other scholars and began to find expression in direct practice. Developed countries of the world are making great strides in this direction. Over the past four years, the Republic of Uzbekistan has been carrying out radical reforms in various spheres of state and public life, including the formation of “e-government” and “digital law”. A number of legislative acts have been adopted in this direction. In particular, the Law “On e-Government”, the Decree of the President of the Republic of Uzbekistan “On Action Strategy for further development of the Republic of Uzbekistan”, “On measures to radically reform the national system of public services”, “Innovation of the Republic of Uzbekistan in 2019-2021” “On approval of development strategy”, “On additional measures for the introduction of digital economy, e-government and information systems in public administration of the Republic of Uzbekistan”, “On approval of the “Digital Uzbekistan – 2030” strategy and measures for its implementation” as well as resolutions “On the organization of the Agency for Public Services under the Ministry of Justice of the Republic of Uzbekistan” and “On measures to further improve the infrastructure of the “digital economy” and “e-government”. The law and other normative legal acts adopted in this direction serve as an important legal basis for the formation of “e-government”, “digital law” and the improvement of law enforcement processes in our country.

It is well known that without the effective regulation of law, it is impossible to achieve the improvement of law enforcement and legal practice in society.

A special form of law enforcement is the application of law, that is, its application to practice. The importance of normative legal acts adopted in the country is reflected in their effective implementation by the competent authorities.

Through the adoption of law enforcement acts, the legislation is directly applied to specific social relations and a particular right or freedom of persons, or a particular legal situation is resolved. As a result, law enforcement acts individually address issues of legal significance arising in various spheres of life and activity of citizens, the rights and obligations are exercised and disputes are resolved. Accordingly, the analysis of law enforcement issues, which is a specific form of law enforcement in society, has scientific and practical significance.

### **Law enforcement is a specific form of application of law**

It will have practical significance for the society only if the legislation is fully implemented in public life. Although law has an intangible form, it is implemented and materialized in the activities, behavior, actions of people and citizens, as well as in their use of material and spiritual values.

It is known that different views on the implementation of the law are expressed in the literature. For example, one of the scholars who philosophically substantiated the theory of the rule of law, I. Kant, put forward the following views on law enforcement: "Law enforcement requires its universality will lose its inevitability. Only the original and primary owner of the obligation, the state, can enforce law. There is also the fact that state gives life to the law and justifies its strict imperative requirements" [1].

Lawyer Z. Islamov said about law enforcement: "Law enforcement is to act in accordance with the will expressed in law. It can be seen both as a process and as a result" [2].

It should be noted that law enforcement is an important form of application of law. Therefore, a detailed study of law enforcement issues is one of the most pressing issues facing lawyers today.

The application of rule of law is an activity aimed at the implementation of the rule of law by the competent state body or officials by issuing individual specific instructions (decisions, orders, decrees) for certain legal situations.

Law enforcement is reflected in the legal mechanism of legal regulation as a judicial activity carried out by state bodies and officials in order to make special decisions aimed at the emergence, amend and termination of certain relations.

In modern jurisprudence, when the problems of law enforcement are scientifically discussed, it is recognized that this process requires the intervention and participation of the competent state body.

According to lawyer M. Akhmedshaeva "the process of law enforcement is a state activity aimed at resolving a certain legal issue by applying the rule of law to life situations in the manner prescribed by law, by the relevant state bodies and officials" [3].

Some jurists believe that it is impossible to define the application of law without studying the methodological problems of the application of the law and solving the problem of understanding law. In particular, according to the lawyer Yu.A. Tikhomirov, "an important and necessary condition for the formation of a general concept of law enforcement is to solve the problem of the concept of law, and it is illogical to understand its essence without defining the object (law)" [4].

Lawyer N. Voplenko expressed the following views on the application of law: "It is the administrative organizational activity of the competent state bodies and officials to consider and resolve legal cases through the issuance of individual legal instructions in accordance with applicable law and for its implementation" [5]. In our opinion, summarizing the above considerations, it is possible to point out the following signs of law enforcement activity:

- a) the application of the law is an administrative activity in which special bodies participate;
- b) law enforcement is related to regulation;
- c) individual instructions are always issued as a result of the application of law;
- g) this activity will be procedurally regulated;
- d) law enforcement activities have an intellectual and creative content;
- e) special reasons will be necessary for the occurrence of law enforcement activities.

Scholar V. Leushin also pointed out similar features of law enforcement:

"(A) The exercise of public authority by public authorities or officials;

b) has an individual character;

c) aimed at determining the specific legal consequences – subjective rights and obligations and responsibilities;

g) shall follow procedural forms established by law;

d) the process of law enforcement ends directly with individual legal decision-making.

Recognizing these features of law enforcement, he proposed the following definition: "law enforcement is the administrative activity of the competent authorities and officials to prepare and make individual decisions to resolve a legal case on the basis of legal facts and specific legal norms" [6].

Thus, the main features of law enforcement are as follows:

- 1) established by bodies or officials authorized to exercise law in public authorities;

- 2) has an individual character;
- 3) will be aimed at establishing certain legal consequences, i.e. subjective rights and legal obligations, liability;
- 4) has a specially established procedural form;
- 5) issue a special legal document of an individual nature.

Law enforcement is one of the main forms of implementation of the requirements of legal norms. Law enforcement activities become necessary in cases where the intervention of an authorized body or official is required for the full implementation of the rule of law. Law enforcement activities are characterized as an administrative nature. In it, the decision is manifested as a product of the will of the relevant body.

The requirement of legality in the process of law enforcement implies that the law enforcement agency must, of course, be based on law in resolving a particular situation. At the same time, this requirement means that the established procedure for reviewing the case to be resolved must be fully and strictly followed.

One of the requirements for the law enforcement process is that it shall be justified. This requirement means that, first, all the facts and circumstances relevant to the case must be identified; second, the facts identified must be carefully examined and evaluated objectively and found to be credible; third, all unproven and questionable facts must be rejected.

Since legal norms have a general nature, it does not always correspond to this or that situation in the most optimal way, because it is impossible for the legislation to cover all life situations and their individual aspects. Therefore, legal norms specify the boundaries and scope of the action, within which it is possible to take into account aspects of the specific life situation of law enforcement.

In this regard, it is important to be able to find a clear solution and decision that best suits the individual situation. This means that the law enforcement agency, in full compliance with the law, can make the most appropriate, expedient decision within the rule of law in resolving a specific legal situation.

The requirement of justice has a special place among the requirements for law enforcement. Because social justice constitutes the essence and social function of this law. Justice in the process of law enforcement is the belief of the person applying the decision from the point of view of the individual, society and the state, the applicant and others, the conformity of the decision to morality, justice and universal values.

Summarizing the views on law enforcement, it should be noted that law enforcement is a special form of application of law and has a number of specific features. The following are its important features:

- 1) application of the right is carried out by authorized bodies. Law enforcement entities conduct their actions in strict procedural order;
- 2) objectification of the results of law enforcement activities is reflected in official legal acts – law enforcement acts;
- 3) the principle of state-legal regulation of social relations is the basis of law enforcement.

Let us now turn to the stages of the law enforcement process.

### **Stages of law enforcement process**

Law enforcement process is a state activity aimed at resolving a certain issue of legal significance in the procedural order established by law, by the relevant competent state bodies and officials, through the application of the rule of law to life situations.

According to the lawyer Ya. Kazankov, the process of law enforcement is divided into several stages: the process of law enforcement externally (including the process of consideration of a legal case by a law enforcement officer, which includes a number of stages) and internal (logical thinking activity in the analysis of the case by law enforcement) ) can be viewed”[7].

In our opinion, the law enforcement process includes the following stages:

- 1) study and establish the factual aspect of legal case, which should be regulated by law;
- 2) selection of legal norm corresponding to the considered legal case;
- 3) determination and interpretation of the content of the legal norm corresponding to the considered legal case;
- 4) issuance of an act aimed at the application of the selected legal norm on the issue under consideration;
- 5) to take measures to ensure its implementation after the issuance of a law enforcement act;
- 6) check the actual implementation of the law enforcement act and establish control over it.

In the first stage, i.e. the stage of studying and establishing the factual aspect of the legal case, which should be regulated by legal norms, the facts and evidence of legal significance directly related to the case are collected.

The second step in the law enforcement process is to select the legal norm that best suits the legal case under consideration. The most important task is to find a legal norm that suits this legal situation. Often in practice, in addition to the law, you have to work with secondary legislation. This, in turn, requires that the secondary legislation change frequently and that the issue be studied very carefully.

At the next stage, the content of the legal norm corresponding to the legal case under consideration is determined and interpreted. At this stage, the cases presented in the hypothesis and disposition should be thoroughly analyzed.

The fourth stage of the law enforcement process is the application of the chosen a legal norm on the subject, i.e. the decision-making and adoption of the relevant law enforcement acts. The content of such a decision shall be determined depending on the facts of the case.

There are two aspects to business decision making:

decision-making is a mental activity that is expressed in the evaluation of the evidence gathered and in a definitive legal description. As a result, there are subjective rights or obligations of legal significance for the parties in a legal case.

The resolution of the case is an act of legal significance – a law enforcement act, which reflects the results of the work carried out to resolve the above legal case, the legal consequences for the parties. Law enforcement acts will play an important role in the regulatory mechanism.

But at the same time, law enforcement is not a simple process and therefore causes certain problems in legal practitioners. For example, according to a sociological survey conducted in Russia a few years ago, a total of 798 lawyers (including 109 judges, 106 prosecutors, who took part in the survey) were asked, “Which issues are the most difficult to enforce?”

Of the 137 investigators, 103 lawyers, 111 lawyers, 115 notaries, and 119 bailiffs, 28.1 percent gave priority to interpreting the law and analyzing the content of law enforcement norms.

18.3 per cent of respondents considered that it is important to make a decision. 17.6 per cent of lawyers considered that it is important to study and evaluate the state of the case. 16.6 per cent of respondents admitted that monitoring the decision process and its implementation was more important. The rest of the respondents pointed out that other stages of the law enforcement process are important” [8].

It is also clear from the above example that the issue of law enforcement requires sufficient theoretical knowledge and practical experience from the competent authorities applying it.

Thus, in the process of law enforcement, which is an important form of complex and responsible process, such as the implementation of the law, the existing legal norms are applied to a specific legally significant situation, resulting in the adoption of a law enforcement act.

In the final stages of the law enforcement process, measures are taken to ensure the implementation of law enforcement act and to monitor its implementation in practice.

### **The concept of law enforcement acts**

The influence of state is reflected in law enforcement acts, which is binding on certain subjects of law and arises as a will of the authorities.

The person guilty of non-compliance with the requirements of this act shall be liable in the appropriate manner. In the process of law enforcement, the regulation of social relations in society takes place directly, that is, the legal regulation is completed. Law enforcement acts conclude this process.

Law enforcement acts are a complex legal reality that reflects the socio-economic goals of a society.

According to lawyer R.Palekha, “law enforcement acts are documents of law enforcement subjects that reflect real-life situations and their legal qualifications. The law enforcement act is a mandatory component of law enforcement activities, which reflects the results of the final stage of the process” [9].

Thus, a law enforcement act is a legal document issued by an authorized body or official based on legal facts and legal norms, which determines the rights, obligations and the level of their legal responsibility of certain persons in a legal case.

It is clear from the above definitions that the law enforcement act is executed not by any subject, but by state bodies and officials established by law and having special powers. It should be noted that the law enforcement documents are aimed at a specific legal entity. The application of the law means the application of the rules enshrined in the norms of law to a specific situation. In this case, the rights and

obligations of a particular legal entity are specified or the scope of responsibility of the legal entity is determined.

As a logical conclusion of the law enforcement process, the law enforcement acts are adopted by the relevant state bodies and officials to address an issue of specific legal significance. It is known that citizens apply to the competent authorities on many issues in social life, and they, in turn, resolve this issue, come to the appropriate decision and issue a law enforcement act.

In this regard, it should be noted that law enforcement acts are adopted on a wide range of issues. In particular, citizens apply to the competent state authorities on issues such as pensions, private entrepreneurship, land acquisition. It is clear from this example that the solution of these issues requires the competent participation and decision of special subjects, i.e. a state body or official.

Based on the above considerations, the following specific features of law enforcement acts can be identified:

- issued by the competent authorities and officials;
- strict individualization of acts, their orientation to a particular person and situation;
- state support;
- application to a situation.

When talking about law enforcement acts, it is necessary to mention the requirements for them. Such requirements include “any law enforcement act shall be substantiated in all respects, the rule of law shall be followed in the adoption of the law enforcement act, the principle of expediency shall be followed in the adoption of the law enforcement act” [10]. Therefore, special attention should be paid to the fact that the adoption of law enforcement acts meets the requirements of the principles of reasonableness, legality and expediency.

### **Classification of law enforcement acts**

Due to the great diversity of content and form of law enforcement documents, it is appropriate to acknowledge that their various classifications are cited in the literature.

Russian lawyer L.Morozova cited the following classification of law enforcement acts:

“1. Law enforcement acts according to the nature of the regulation of social relations. Executive (law-determining) acts confirm the emergence of specific rights and obligations of the subjects related to legal behavior. Law enforcement acts are issued for prophylactic purposes or as a result of an offense. For example, acts of the investigation, court, prosecutor’s office.

2. According to the subjects of law enforcement are divided into acts of the head of state, acts of government and acts of public administration.

3. Decrees, orders of the President, etc., which do not have a normative character in accordance with the form.

4. According to the method of adoption, acts are divided into collegial and individual.

5. Acts of law enforcement are divided into main and auxiliary acts according to their legal significance. The basics usually include court decisions, judgments, the social security authority’s decision to award a pension, and so on. Auxiliary acts may include a statement of inspection of the scene, a confrontation, a court decision appointing a medical examination, and a seizure of property to secure the claim.

6. According to the method of expression of the decision to apply the law, the acts are divided into:

a) acts – documents;

b) acts – actions (for example, expulsion of a witness from the courtroom);

c) acts – signs (road signs, designation of the restricted area).

It should be noted that the act - the movement of a traffic police officer at the intersection with the action of a special beacon (jet) can have legal significance for passengers and vehicles. In the scientific literature, such law enforcement acts are also referred to as concubine acts.

Such documents have the same legal significance and legal consequences as a written application law. Failure to comply with them may result in disciplinary, administrative, material and criminal liability, respectively. It should be noted that the different classifications of law enforcement documents help to fully understand their content and essence.

7. Depending on the period of validity, the acts may be one-time (in one case) acts (for example, a fine imposed by a supervisor for ticketless travel on public transport) and long-term acts (for example, payment of a fixed pension, court decision) [11].

At the same time, according to the nature of the impact of law enforcement acts on social relations: regulatory, normative and protective law enforcement acts can be divided. Law enforcement acts of a regulatory nature ensure the implementation of the disposition of regulatory norms and establish or approve the rights or obligations of the parties.

Law enforcement acts are also classified according to the subjects who received them:



- 1) acts of state bodies;
- 2) acts of public associations.

Acts of state bodies, in turn, can be divided into the following types: acts of public administration, individual acts of the legislature, individual acts of ministries, state committees and other central bodies, individual acts of enterprises, institutions and organizations, documents of judicial authorities, acts of prosecutors, notarial documents, etc.

Depending on the importance of law enforcement acts can be divided into auxiliary and basic law enforcement acts. For example, a court's decision in a particular criminal case is one of the main acts, and a court's decision to appoint an expert examination is a document of additional law.

Thus, the law enforcement acts are very diverse in their content and cover the main part of the important relations between the subjects of law.

In the context of the formation of "digital law", new information technologies have also had an impact on law enforcement processes. In today's era of advanced information technology, it is advisable to use them extensively in the adoption and publication of law enforcement documents. In particular, the widespread use of digital signatures in the exchange of documents, the use of QR-codes, as well as the transfer of documents from paper to electronic form, shows the importance of using these advanced methods and tools in law enforcement processes.

### **Suggestions and recommendations**

As a result of the analysis of the role of law enforcement acts in the implementation of the law and their characteristics in the context of the formation of "digital law", it is essential to cite from Manuel Castells who is founder of terms such as "digital society", "digital law".

Manuel Castells argues that the first historical steps of informational societies seem to characterize them by the pre-eminence of identity as their organizing principle [12].

We note the lack of research on these issues in modern jurisprudence, and consider the following suggestions and recommendations:

first, in the current era of globalization, new technologies and information, it is expedient to increase research aimed at in-depth scientific research of law enforcement processes;

secondly, the publication of monographs and scientific articles describing the problems of law enforcement, law enforcement acts and their classification, taking into account the current trends in the development of law in the countries where Romano-Germanic and Anglo-Saxon law is in force;

thirdly, given the wide range of competent law enforcement entities, it is necessary to establish public control over the compliance of law enforcement acts issued by them with the principle of the rule of law. Because the control of the competent state bodies in this matter is not perfect. The establishment of public control in this direction will ensure full compliance with the principles of the rule of law in the adoption of law enforcement acts aimed at ensuring the rights and freedoms of citizens.

### **Conclusion**

Based on the above considerations, it can be concluded that in the context of the formation of "digital law", as long as the law is established or approved by the state, it must be applied in public life. Law enforcement is important in the implementation of law, in improving the legal practice. Thus, the role of law in society, its social value, as a result, is reflected in the law enforcement acts, that is, a specific issue is legally resolved through the application of a specific rule of law to legal cases, and thus the ultimate goal of law – human rights in society. and freedoms are guaranteed, and justice and stability are established.

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