

The Evolution and Doctrinal Basis of Court Proceedings in Disputes Over State Registration and Data Transfer Refusals

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Abstract

This article explores the legal framework surrounding disputes related to state registration and the refusal to transfer data. It traces the historical development of court proceedings in this area, highlighting significant legal doctrines and principles that have shaped current practices. The author analyzes relevant case law, statutory provisions, and administrative regulations, providing a comprehensive overview of how courts interpret and adjudicate these disputes. Additionally, the article addresses the implications of evolving technology and data protection laws on the judicial process, offering insights into potential reforms and future directions for legal practice in this domain.

Keywords: Court proceedings, state registration, data transfer refusals, legal framework, dispute resolution, historical development, statutory provisions, administrative regulations, data protection laws.

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1. Introduction

The right of every citizen to judicial protection of their rights and freedoms and, in this regard, the right to appeal decisions and actions (or inaction) of state bodies in court is a guarantee of all other constitutional rights and freedoms that are not limited by this right. The state is obligated to ensure the full exercise of the right to judicial protection, which must be fair, competent, and effective. The right to appeal any legal act in court, with the exception of those within the exclusive jurisdiction of the Constitutional Court, is ensured through review under civil procedure and administrative procedure legislation, as well as other legislative acts.

Judicial review is a type of state oversight that, like other

forms of public oversight, can be considered a management function characterized by a system of monitoring and verifying the entity's activities in accordance with the adopted decision; it identifies and corrects the effects of the subject's influence on the entity, as well as any deviations.

These provisions of constitutional doctrine are generally recognized in legal literature and law enforcement practice. On this basis, legislation provides for the possibility of appealing the decisions, actions, and inactions of the registration authority in court and administrative court.

The appeal stage in the state register of rights to real estate and transactions concluded thereon is optional, and

the transition of the registration of rights to real estate to this stage depends on the will of the rights holder or interested party, and on their exercise of the right to judicial protection of their subjective rights, legitimate interests, and guaranteed freedoms. In the real estate rights registration system, notaries and registrars of real estate rights and transactions perform the function of protecting the inalienable rights of citizens and the legally protected interests of legal entities.

Registration legislation is procedural rather than substantive. Therefore, most disputes are considered by the courts not as claims, but as complaints against the actions of government agencies. Plaintiffs, applicants, and courts often misinterpret the procedural status of the registering authority.

An interested party may appeal in court or an administrative court a refusal to register a right to real estate or a related transaction, as well as a refusal by a cadastral authority to register it. An interested party has the right to appeal not only a refusal to register a right to real estate or a related transaction, but also a refusal to accept documents, suspension of state registration, and other actions by a cadastral authority that violate the rights and freedoms of citizens. Judicial review of cases related to the state registration of rights to real estate and transactions concluded thereon is a form of oversight over the activities of registration authorities and their officials (registrars of rights). After a corresponding court decision has been issued, the registrar of rights has no right to refuse to register the right established by such decision.

Challenging a registered right, as provided for by national legislation (regardless of the terminological expression of this idea), is one of the methods of protecting civil rights. However, the Civil Code, which defines the list of methods of such protection, does not directly mention challenging the right, although there are references to such seemingly similar methods of protection as recognition of the right; restoration of the situation that existed before the violation of the right and limitation of actions that violate the right or create a threat of its violation; recognition of the contested transaction as invalid and application of the consequences of its invalidity; application of the consequences of invalidity of a transaction that is in itself invalid; invalidation of a document of a state body or local government body. Each of these methods is manifested independently.

Essentially, three options can be considered: challenging a transaction on the basis of a registered right (including application of the consequences of invalidity of a transaction that is in itself invalid); a demand that the registration authority declare the document invalid; Due to the incompleteness of the list of methods of protection in the Civil Code and the fact that other methods provided by law are permitted, "based on the literal text of the laws on litigation over registered rights, it should be considered as another method. However, it is not a fact that such a dispute can arise as an independent method of protecting rights. A dispute over a registered right cannot be considered a method of protecting a subjective civil right unless the person has their own material and legal claims to this property or rights of the same type to this property. The person disputing the right must have not a simple interest (for example, a demand to apply the consequences of the invalidity of a transaction that is itself invalid), but a qualified interest, which is expressed in the plaintiff's demand for recognition of a right identical to the disputed right. For example, a registered property right to property belonging to its tenant cannot be objected to, since the tenant's rights to the property, even taking into account all its material and legal components, are rights of a different order than the rights of the owner. The initiation of a dispute should not be aimed at invalidating a registered right or registered action, but rather at proving the grounds for invalidating the transaction or the illegality of the administrative act that served as the basis for registering the right, while simultaneously asserting by the plaintiff a right identical to the registered right as their own. In practice, the established procedure for considering cases arising from public law relations sometimes considers not only complaints against the actions of registration authorities, but also applications to invalidate the state registration of an executed right or transaction, and even applications to invalidate certificates of state registration of rights. As established by law, a registered right or registered transaction in real estate that is not a certificate of state registration of the right or transaction may be challenged in court, but not in a court of law. Such cases should be considered in the same way as disputes over rights or disputes over the invalidation of a transaction. It is unreasonable to impose the obligation of registering a transaction (transfer of rights to another person) on the registration authority, since such action is a state enforcement measure that can be applied in the event of a violation of the law, for example, in the case of an unjustified refusal to register a right. The correctness of

state registration of rights.

According to Petrova, legal entities and individual entrepreneurs can appeal to the Arbitration Court the refusal to provide information on registered rights, the refusal to correct a technical error, the violation of registration deadlines, and other actions and decisions [1].

The registrar of rights has the right, on behalf of the state, to approve legal documents recognizing and confirming the creation, termination, encumbrance, and restriction of rights to real estate. Refusal to conduct state registration or evasion of state registration by the relevant authority may only be appealed in court. Neither the head of the registration authority nor the executive body in the system of state registration of rights to real estate and related transactions have the right to amend or overturn the decisions of the registrar of rights. Furthermore, the registration authority itself is not authorized to revoke registration documents issued by it, even if violations are subsequently discovered at any stage of registration (for example, if errors made during the legal review of documents submitted for registration are discovered after the entry has been made in the register).

In general, in support of this position, A.A. Makovskaya argues that state registration of rights to real estate differs from non-regulatory documents of state bodies in content, form, and legal significance. A state registration document is characterized by the absence of all the features inherent in non-regulatory documents of state bodies. Firstly, as a document recognizing and confirming rights and transactions, a state registration document does not contain any authoritative, mandatory instructions addressed to the parties to civil transactions, whose rights are recognized only through this registration. Secondly, state registration itself does not give rise to any civil rights or obligations with respect to real estate. State registration determines the time of the emergence of property rights with respect to newly created real estate or the transfer of rights to such property, but has no decisive significance, since it is not considered the basis for the emergence or transfer of property rights. Thirdly, according to the law, registration serves only as evidence of the existence of the registered right. Based on these considerations, A.A. Makovskaya concludes that challenging the validity of state registration in court essentially means challenging the right of a person to real estate registered on the basis of this act, or a transaction concluded using it, that is,

challenging the act of state registration of rights to real estate is impossible [2].

According to the law, state registration of rights to real estate and transactions concluded thereon is a legal act of state recognition and confirmation of the creation, limitation (encumbrance), transfer to another person, or termination of rights to real estate. A recognition document cannot be invalidated by a court, since recognition has a subjective legal element and has already occurred as a legal reality. The court can only change the objective legal basis for registration proceedings, that is, invalidate (not apply) a regulatory document or invalidate the factual basis for state registration of rights to real estate (a transaction, administrative act, etc.). In this case, registration is re-registered based on the court's decision on the new objective legal basis, but without compromising the registrar's internal trust, which is used to evaluate the submitted documents and decide whether to register or refuse to register rights to real estate.

We have already noted that legal relations arising between the state registration authority and applicants are public in nature and are governed by the rules governing the process of reviewing applications for registration from interested parties by the state authority. Thus, the authority registering rights to real estate and transactions concluded thereon is a subject of legal activity. The legal activity (or registration activity) of authorities in the system of state registration of rights to real estate and related transactions can be defined as the activity of state authorities registering rights to real estate and related transactions, regulated by the rules of a special legal institution, aimed at recognizing and confirming the emergence, limitation (encumbrance), transfer, or termination of rights to real estate, established, firstly, in the interests of the state, and, secondly, to protect the property rights of individuals and legal entities. It should be clarified that legal activity in the system of state registration of rights to real estate and related transactions is carried out by the cadastral service and its territorial departments. It should be emphasized that the objective relationships between the concepts of "registration activity", "legal activity", and "social activity" represent philosophical categories such as individuality, privacy, and generality. Like these philosophical categories, the categories of legal theory we are considering are also formed in the process of developing practical cognitive activity and characterize the stages of their cognition. Theoretical analysis of these

relationships and their reconstruction using concepts are important not only for theory but also for practice. Secondly, when working with individual objects in specific conditions, knowledge of the general laws applicable to these objects is guided by a tendency and takes into account the characteristics determined by specific conditions.

Registration activity fulfills all the fundamental functions of legal activity – economic, political, and social. According to the generally accepted classification of legal activity, registration activity should be classified as registration and licensing activities, depending on the transaction. However, its preventive function cannot be ignored, as it is aimed at preventing violations in the real estate sector. Given the nature of changes occurring in the legal sphere, this is undoubtedly a lawmaking activity, since state registration leads to the emergence of subjective property rights.

We have already noted that legal activity has a procedural form. The registration process, in turn, is an activity aimed at recognizing and confirming the emergence, limitation (encumbrance), transfer, or termination of rights to real estate through the registration of rights regulated by the rules of a special procedural institution.

State registration can be carried out: 1) upon the application of an interested party, for example, when registering real estate transactions; 2) based on the official authority of the state registrar of rights (without filing such an application), for example, when registering a mortgage arising from a deed or law. Accordingly, the following are grounds for initiating the registration process: 1) the filing by an interested party of an application for state registration of rights to real estate, related transactions, or prohibitions (restrictions) on registered rights (and other documents required for state registration); 2) the receipt by the cadastral authority of documents serving as the basis for state registration, for example, a court decision on a real estate deed. Such information must be:

- 1) reliable;
- 2) sufficient to identify the real estate.

In this regard, the German administrative law system is distinguished by its developed and systematic approach in this area. In German practice, cases of refusal or failure to perform state registration are considered a significant category of administrative disputes, and citizens are

guaranteed extensive judicial protection. In particular, the Administrative Procedure Code (Verwaltungsgerichtsordnung – VwGO) [3] provides mechanisms for appealing refusal decisions, requesting forced registration, and challenging administrative inaction in court, all of which are aimed at effectively protecting citizens' rights. In this regard, an analysis of the specifics of disputes arising from refusal of state registration, based on German experience, both highlights the effectiveness of administrative judicial protection and provides an important scientific and practical basis for improving national legislation. A comparative study of the legal nature of this institution, the scope of judicial review, and the responsibilities of administrative bodies is one of the current areas of development in modern administrative law.

In the German administrative law system, state registration is viewed not only as a technical procedure involving the entry of information into a register, but also as a means of recognizing a specific legal status of an individual and providing them with legal guarantees. Therefore, a refusal of state registration is not simply an administrative act, but a legal phenomenon that hinders a citizen or legal entity from exercising their rights and legitimate interests. For example, while a refusal to register a legal entity limits its ability to commence business activities, the failure to register a right to real estate negatively impacts the owner's right to full disposal of this property. This is a striking example of an unfavorable administrative act studied by German scholars. German lawyer Markus Engert noted that the essence of the principle of the rule of law is manifested in judicial review of the activities of state bodies. This means that decisions made by administrative bodies, including decisions to refuse state registration, must be subject to comprehensive judicial review. Otherwise, the mechanism for effective control over the activities of administrative bodies may be weakened, and the legal protection of citizens may be insufficiently ensured [4].

The above analysis demonstrates that administrative decisions, along with actions and inactions, demonstrate the importance of the principles of efficiency and legal certainty in the activities of administrative bodies. In modern administrative law, not only unlawful decisions but also unjustified inaction are recognized as a violation of individual rights. Therefore, German legislation has created the possibility of independently appealing administrative inaction in court, which is an important guarantee of the effective protection of citizens' rights. In

our opinion, this approach is also relevant for Uzbekistan. In practice, in some cases, an unjustified delay in decision-making by administrative bodies can have more negative consequences for individual rights than a refusal. Therefore, strengthening judicial oversight of inaction by government agencies, introducing effective mechanisms for enforcing decision-making deadlines, and increasing the accountability of officials are important areas for improving the administrative justice system.

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