



World Conference on Social Sciences, Law and Public Policy

Hosted Online from Toronto, Canada

Date: 26th February 2026

Website: <https://econferencia.com>

DISTINCTION BETWEEN NULLITY AND INVALIDITY OF ADMINISTRATIVE ACTS: A COMPARATIVE LEGAL ANALYSIS AND DIRECTIONS FOR LEGISLATIVE IMPROVEMENT

Normukhamedova Surayyokhon Bobir qizi.

Lecturer at Tashkent State University of Law

Department of Constitutional Law.

S.normukhamedova@gmail.com.

The legal regulation of administrative acts constitutes one of the central elements of public administration, as such acts serve as instruments through which public authorities create, modify, or terminate individual public-law relationships. Despite the fundamental role administrative acts play in ensuring lawful governance, the issue of their legal defects—particularly the distinction between nullity and invalidity—remains insufficiently developed in contemporary administrative law. This doctrinal uncertainty is especially evident in the legislation of the Republic of Uzbekistan, where the legal consequences of defective administrative acts are not clearly differentiated, thereby creating ambiguity in law enforcement practice and weakening legal certainty.

An administrative act, as defined in the Law of the Republic of Uzbekistan “On Administrative Procedures” (No. ZRU-457, 2018), represents a public-law decision aimed at regulating a specific individual case and producing direct legal consequences for particular persons. By its nature, it is an expression of state authority in a concrete situation and does not establish general legal norms but resolves an individual administrative matter. However, when such an act contains legal defects, the question arises whether it should be regarded as invalid (voidable) or null (void ab initio), and whether it is capable of producing legal consequences prior to its annulment.



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The distinction between nullity and invalidity lies primarily in the degree and nature of the defect. An invalid (voidable) administrative act is one that contains procedural or substantive irregularities but remains legally effective until it is formally annulled by a competent authority or court. In contrast, a null administrative act is characterized by a fundamental and manifest violation of legality that deprives it of legal force from the moment of its issuance. Its defect is so severe that it cannot be recognized as a lawful expression of public authority and therefore cannot generate legal consequences.

Such nullity may arise from the absence of competence, the impossibility of identifying the issuing authority, direct contradiction to constitutional principles or mandatory legal provisions, or objective impossibility of execution. In these situations, the problem does not concern mere procedural error or improper assessment of facts but rather a violation of the very foundations of lawful public power.

The issue becomes particularly significant in the context of administrative discretion. Discretion implies a legally permitted freedom of choice within the limits established by law; however, it does not authorize arbitrary action. A misuse or excessive exercise of discretion generally renders an act invalid and subject to annulment. Only when the authority acts outside the scope of its legally granted powers, thereby exceeding competence in a manifest and fundamental manner, can the act be considered null. Consequently, the differentiation between nullity and invalidity is directly linked to the assessment of the severity of the violation and the boundaries of administrative discretion.

Comparative legal analysis demonstrates that several jurisdictions, including Germany, Georgia, Kazakhstan, and the Czech Republic, explicitly distinguish between null and voidable administrative acts at the legislative level. These legal systems establish clear criteria for nullity and define its legal consequences, including restitution and liability. Such differentiation enhances legal certainty, strengthens



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judicial consistency, and reinforces the principle of the rule of law. In contrast, the legislation of the Republic of Uzbekistan does not provide an explicit doctrinal or statutory framework for null administrative acts, resulting in uncertainty regarding the legal status of annulled decisions and the fate of legal relationships arising from them. This ambiguity may undermine public confidence in administrative authorities and weaken the stability of public-law regulation.

In light of these considerations, it appears necessary to introduce into the national legislation an explicit legal category of a null administrative act, accompanied by a clearly defined and exhaustive list of grounds for nullity and a precise regulation of its legal consequences. Such reform would not only ensure greater protection of individual rights but also promote accountability of public authorities, clarify the limits of administrative discretion, and enhance overall legal certainty. The development of a coherent doctrine and legislative framework distinguishing nullity from invalidity thus represents an essential step in strengthening administrative legality and consolidating the rule of law in the Republic of Uzbekistan.