

**THE COMPLAINT MECHANISM IN THE CRIMINAL PROCEDURAL LAW OF NATIONAL AND FOREIGN COUNTRIES**

<https://doi.org/10.5281/zenodo.14042196>

**Tursunov Sanjarbek Karimjon ogli**

*Head of the Namangan Regional Prosecutor's Office*

**Abstract.** *In this article, the criminal procedure code of the Republic of Uzbekistan and the complaint procedure in the criminal procedural legislation of foreign countries are comparatively analyzed. Also, in the article, the analysis was carried out regarding the conduct of individuals before the court and the procedure for appealing against the decisions and rulings issued by officials at the court stage, and the advantages of the legislation of advanced countries regarding the terms of consideration of complaints were researched.*

**Keywords:** *application, application, complaint, proposal, proceedings before the court, court stage, terms of consideration of appeals, human rights and freedoms, law, order, regulation.*

**INTRODUCTION**

It is known that in recent years in our country, great attention has been paid to communicating with the people in order to protect the rights and interests of citizens, to learn about their concerns, and to find solutions to problems and to please the people has become one of the most important tasks of our state policy.

In fact, as defined in our Basic Law - Constitution, the People are the only source of state power, and State bodies and officials are responsible to society and citizens [1].

Therefore, receiving appeals from individuals and legal entities, listening to them, studying their problems, and finding solutions are among the important tasks of civil servants. Citizens have the right to receive answers by applying to state bodies in the prescribed manner, and through this they find solutions to their problems, and at the same time, they directly participate in state management through their suggestions.

At this point, it should be said that if the state organizations and their officials require special knowledge and responsibility in working with appeals and responding to them, citizens should also have a certain level of legal awareness and culture.

**Material and methods**

In the research work, the problems arising in the above-mentioned practice related to the application of this framework , normative misunderstandings and the rules that should be taken into account when taking into account the interests of the victim are analyzed, at the same time, comparative legal analysis, statistical data data analysis, law

enforcement practice, and observation, generalization, induction, and deduction methods were used.

#### Research results and analysis

In the criminal procedural law of many foreign countries, the investigative body that carries out criminal prosecution at the pre-trial stages, a separate section that guarantees the mechanism of appeal to higher or controlling authorities against the actions and decisions of the investigator, investigator, prosecutor and court. and strengthened by chapters. For example, in the criminal procedural legislation of some CIS countries, namely: Section 5 of the Criminal Code of the Russian Federation[2] and Section 5 of the Criminal Code of the Republic of Belarus "Requests and Complaints" [3], Chapter 13 of the Criminal Code of the Republic of Kazakhstan "Petitions and complaints regarding actions and decisions of state bodies and officials conducting criminal proceedings" [4], Article 123 of the CPC of the Republic of Tajikistan[5], and Chapter 3 of the CPC of Moldova is called "Applications and complaints in criminal court proceedings"[6]. Also, while studying the positive and negative aspects of their criminal-procedural legislation by comparative analysis, it is appropriate to incorporate the appeal institution in a separate section and chapter in our national legislation and to develop the procedural procedure for their implementation. We believe that the registration of normative legislation in this way will lead to the establishment of our country as a highly legal state, like a developed state.

Unfortunately, our current criminal procedure code does not have a separate chapter or section dedicated to the institution of appeal. Only in a general manner, in Article 27 of the Criminal Procedure Code (CPC), this institution is strengthened only as a principle of the criminal process. In CPC, it is said that interested persons can appeal to the court about the decision to conduct certain investigative actions in the manner and within the time limit provided by the law, although the procedure and time limit for filing an appeal is not specified. Only Article 358 of the Civil Code states that complaints can be submitted to a superior in an administrative procedure. However, the court was not cited as a body that hears complaints, and the term and procedure for filing a complaint was not specified. However, this institution has a broad content, and it is not enough to regulate it within a separate article.

The criminal procedure legislation does not provide for the form of appeals, deadlines and procedure for appeals or review by interested parties regarding some decisions of state bodies and officials conducting criminal proceedings at the stages of the criminal process before the court . However, it was noted above in the Laws of the Republic of Uzbekistan "On appeals to the court against actions and decisions that violate the rights and freedoms of citizens" and "On appeals of natural and legal entities" Although the aspects did not cover the criminal process, concepts were given in a general manner.

Chapter 4 of the Criminal Procedure Code of the Republic of Uzbekistan defines the range of state bodies and officials responsible for conducting criminal proceedings: court

(judge); prosecutor; investigator, heads of investigation department, department, division, group and their deputy; the inquiry officer and the head of the inquiry body are indicated. Therefore, judging from the name of the proposed chapter, it led to the limitation of the range of state bodies and officials whose actions and decisions may be appealed by persons whose legal interests are affected. Therefore, in order to eliminate these shortcomings, 471 was proposed to CPC In our opinion, it would be appropriate to name the chapter "Appeals against the actions (inaction) and decisions of the state bodies and officials responsible for bringing the criminal case to court."

We believe that this will lead to the improvement of the main and important aspects of the institution of appeals to higher or controlling bodies over the actions and decisions of state bodies and officials responsible for conducting criminal proceedings at the pre-trial stages.

Complaint form and procedure. Even if the form of filing a complaint is not specified in the law, taking into account the lack of legal literacy, it is appropriate to include in the law the procedure of verbal complaints and, at the same time, the procedure of electronic complaints to higher-ranking or supervisory bodies, which is another novelty. The reason is that the advantages of the introduction of electronic document circulation are the introduction of the electronic document circulation system in our national legislation, which is of great importance in increasing the efficiency and speed of consideration of hundreds of thousands of cases reviewed by civil and commercial courts every year.

In today's conditions, in the age of the Internet and electronics, further development of the "Electronic Government" system is a priority. If filing a complaint in oral or electronic form is strengthened by law, we think that it can be the fastest and most convenient way to restore the interests of those whose rights have been violated. In practice, the complaint is mainly submitted in writing. In investigative practice, the participants of the criminal proceedings in the proceedings of the criminal case generally apply with a written application regarding the limitation of their rights and legal interests. The fact that there are no requirements for the form and type of the complaint allows you to complain freely. In this case, it is enough to indicate where the complaint is being sent, the name, surname, address of the complainant and record the content of the complaint. The oral complaint should be formalized in the report, introduced to the person who complained, his signature should be taken, registered and a copy should be given to the applicant.

Every high-ranking or supervisory official should investigate any form of complaint filed by citizens using their constitutional rights, determine the facts contained in it, and then make an opinion on whether the violation of the law actually occurred or not.

The evidence presented in the complaint must be reliable and reflect the incident objectively. Complaints made with the aim of achieving interests that are socially harmful or contrary to the law, as well as the rights of other citizens, cannot be satisfied. It should also be noted that in order for a complaint to be accepted for consideration, it is not

necessary to provide proof (reasons, in detail) of the alleged violation. The procedure for submitting a complaint to the prosecutor is defined in Articles 241, 258, 269, 338, 358, 374 of the Criminal Code and several other norms. The procedure for submitting a complaint to the court is provided for in Article 308 of the Civil Code and is limited only to the issue of making a monetary payment. Based on these ideas, the article entitled "Procedure and form of complaints in pre-trial proceedings" and the fourth part of this article "complaints can be submitted orally, in writing or electronically" to the CPC. Verbal complaints are recorded in the protocol and signed by the complainant. An electronic complaint must be in the form of an electronic document certified by an electronic digital signature and having other requisites of an electronic document that make it possible to identify it. It is appropriate to add documents confirming their authority to applications submitted through representatives of natural and legal entities.

The Criminal Procedure Code does not provide for a single clear procedure for appealing to the prosecutor and the court over the non-procedural actions and decisions of the officials conducting the criminal case: the investigator, the investigator, and the prosecutor. However, the right of every person to have their rights and freedoms protected by a court is guaranteed in our constitution. This has found its place as a constitutional requirement in the criminal procedural legislation of some foreign countries. For example, in Article 125 of the Criminal Code of the Russian Federation, it is established that the investigator, investigator and prosecutor have the right to appeal to the court in all cases in which they believe that the actions and inactions or decisions of a person have violated the constitutional rights and freedoms of a person [2]. The Russian criminal procedural legislation stipulates a step-by-step resolution of the complaint, that is, after obtaining the consent of the supervising prosecutor, and then filing a complaint with the court [7, 255-b]. Such dual control is unacceptable. The complainant should be given the freedom to submit the complaint to the prosecutor or to the court. Otherwise, "the reputation of the court will be lost, inconvenience will arise, it will be difficult to be under the protection of the court" [8, p. 24]. In our opinion, creating procedural convenience for subjects who have the right to complain is the main sign and duty of a democratic state. In order to ensure this in practice, as a constitutional requirement, we have developed a proposal to adopt Article 358 of the Civil Code in a new version [9, 459-b].

Deadlines for complaints. The procedure, mechanism and deadline for filing a complaint at court stages are clearly specified in the current CPC. The law does not describe in detail the procedure and time period for appeals against many investigative and procedural actions prior to the activity of the criminal trial court. For example, in the criminal-procedural legislation of many foreign countries, this issue takes three to five days. If the complaint is not filed within the specified period, then it will not be accepted for consideration [9, 459-b].

In the Criminal Code of the Russian Federation, there is no rule on when a complaint can be filed with the court. That is why some scholars in the literature say that the time

limit for filing a complaint should be less than the time allotted for the execution of this action, while others believe that the time limit for filing a complaint is incorrect, because a participant whose interests have been violated has the right to file a complaint with the court at any stage of the criminal process [ 10, p. 250]. We also support this opinion, because it is superfluous to search for reasons and grounds or take other measures to restore the period for filing a complaint. Participant who is dissatisfied with the resolution of the complaint filed by Kolaversa can appeal to the court and judicial bodies several times with this same complaint. However, setting the deadline for filing a complaint at the stages before the court is a limitation of the preliminary investigation period and the timely and correct execution of the preliminary investigation, the prosecution of an innocent person during the preliminary investigation, or the illegal detention or arrest, torture. and other wanton illegal or degrading treatment and the coercion of suspect and accused to give false testimony is very necessary to eliminate and prevent illegal actions and decisions in a timely manner. .

In Article 109 of the Criminal Code of the Republic of Kazakhstan, the period for filing a complaint is defined as one month [4], that is, a complaint must be submitted to the court within one month from the date of the decision, action or inaction . In our opinion, the period giving the right to appeal should start from the moment when the interested parties are informed about the decision or action (inaction) and not from the moment when the decision is issued and confirmed by the prosecutor. If the person interested in the decision is notified and does not file a complaint within the period specified by the law, it is concluded that the person informed about the decision agrees with it and the decision can be executed. The message is often sent by post. Unfortunately, the fact that the post office is not always able to deliver letters on time makes it difficult to calculate deadlines. In our opinion, it would be more correct to calculate the time limit for filing a complaint when the interested person was introduced to the decision to close the criminal case.

In the proposed article, it is noted that complaints about the actions (inaction) and decisions of the investigator and the investigator should be submitted to the prosecutor or the court, which supervises the compliance with the laws. But there is another case where it is provided that a complaint against the prosecutor's actions and decisions can be submitted to a higher prosecutor or to the court. In criminal procedural legislation, the procedure and time limit for complaints to higher or supervisory bodies at the stages before the court is stipulated in Article 241 of the Criminal Procedure Code clearly defined. Also, in this article, it is established that a complaint can be filed against the decision to apply a preventive measure to the prosecutor who is supervising the investigation, who has the right to cancel or change it. It was noted that the prosecutor must consider the complaint within three days after receiving it and inform the person who filed the complaint about his decision. However, in addition to this situation, the deadline for considering the complaint by the prosecutor at the pre-trial stage is not clearly defined.

In today's practice, in some cases, making an objective decision on a complaint requires performing a number of actions (interviewing with relevant persons, translating the complaint and its materials into Uzbek or the language in which the preliminary investigation is being conducted, writing some references and descriptions). (requires acquisition) that this situation takes more time than is specified in the law. of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" states: must inform the applicant about his decision" [11].

Address applications in accordance with the instructions of the Prosecutor General of the Republic of Uzbekistan "On the procedure for considering appeals of citizens and legal entities in the prosecutor's office of the Republic of Uzbekistan" dated December 10, 2004 No. 37 It is provided that the period of execution can be extended by one month by the Prosecutor General of the Republic of Uzbekistan, Deputy Prosecutor Generals, regional, city, district prosecutors and prosecutors equivalent to them, as an exception, and an appeal about this must be made. shall be notified to the person who made the request and to the body that supervised the appeal (paragraph 29) [12]. This procedure determines the general terms of citizens' complaints to the prosecutor's office. However, in our opinion, three and five-day time limits for the consideration of the complaint by the prosecutor's office, the same as the period for consideration by the court, should be set, if interviews with the relevant persons, translation of the complaint and its materials into the Uzbek language or the language in which the preliminary investigation is being conducted , if it is necessary to request some references and descriptions, it is advisable to extend the period for 10 days. This process ensures the legal interests of the participants and the speed and, in turn, the effectiveness of the preliminary investigation.

Particular attention should also be paid to the procedure for considering complaints, because complaints are considered and resolved by the prosecutor or his deputies in the prosecutor's office. In our opinion, when the court is considering complaints, in all cases, the judge should consider the complaint alone. Another point of contention is that there are different opinions on whether to hear a complaint in a closed or open court session. Some authors [13, pp. 100-101] express an opinion against the view that such cases should be heard in open court sessions. Some believe that the review of the complaint can be carried out both in an open court session and in a closed court session [14, p. 33]. In fact, the legislation requires that all persons involved in the case, in order not to disclose information about the crimes of persons under the age of eighteen, as well as information about the private life of citizens or information that degrades their honor and dignity. also, in cases where it is necessary to ensure the safety of their family members or close relatives, and other cases are also allowed to be considered in a closed court session after a court ruling [15, 33-34-page]. They believe that the right to decide whether the court session should be open or closed should be given to the judge according to the law [16, p. 100]. We agree with this last point.

Conclusion.

In the legal literature, some authors suggest that the materials to be presented to the court should be consolidated in the CPC [17, pp. 18-21]. Some people believe that it is not necessary [19, p. 168]. It is very difficult for us to predict which documents will be collected in relation to which case. For this reason, it is not appropriate to include or strengthen the norms in the CPC or any other legal norm, in which the names of materials are expressed in connection with such cases. If such a norm is included in the CPC, it may cause various misunderstandings in practice. The issue related to this is the Republic of Uzbekistan. It is appropriate to explain it in the decisions of the Plenum of the Supreme Court.

It can be concluded from the above that it is not important how or how many documents are collected in order to find a legal solution to the problem stated in the complaint. It is important that the rights and freedoms and legal interests of a person are legally resolved within a reasonable period of time, and the rights of those whose interests have been violated are restored in a timely manner, and the rights of persons whose interests have been violated by acting on the basis of the knowledge of the court, prosecutor's office, or special experts in various fields in compensating for the damage caused. We consider restoration as the most correct way.

#### REFERENCES:

1. Constitution of the Republic of Uzbekistan. – T., 2023. Electronic source: <https://lex.uz/docs/6445147> .
2. Criminal Code of the Russian Federation on December 18, 2001. No. 174-Φ3. Internet web address: <http://www.plyushkin.fromru.com>
3. Criminal Procedure Code of the Republic of Belarus dated July 16, 1999 No. 295-Z. URL: Internet web address: [http://online.zakon.kz/Document/?doc\\_id=30414958](http://online.zakon.kz/Document/?doc_id=30414958)
4. Criminal Code of the Republic of Kazakhstan on July 4, 2014. #231-V. URL: Internet web address: [http://online.zakon.kz/Document/?doc\\_id=31575852#sub\\_id=6740000](http://online.zakon.kz/Document/?doc_id=31575852#sub_id=6740000)
5. Criminal Code of the Republic of Tajikistan dated December 3, 2009 No. 564. URL: Internet web address: [http://www.ncpi.tj/ncpi\\_doc/qonun/ugolovni\\_kodeks.pdf](http://www.ncpi.tj/ncpi_doc/qonun/ugolovni_kodeks.pdf)
6. Criminal Code of the Republic of Moldova 14 times in 2003 No. 122-XV. URL: Internet web address: [http://base.spinform.ru/show\\_doc.fwx?rgn=3833](http://base.spinform.ru/show_doc.fwx?rgn=3833)
7. Criminal Code of the Russian Federation on December 18, 2001. No. 174-Φ3. Internet web address: <http://www.plyushkin.fromru.com>
8. Ugolovnyy process: uchebnik / collective author; pod ed. V.A. Lazarevoy. -M.: YustiTsIYa, 2015. -S. 255.
9. Mirza L.S. Dostup k provosudiyu v procese objalovaniya v sud deistvii i resheniy organov, vedushih rassledovanie. // Judge Rossiisky. -2004. - No. 2.-B. 24.
10. Ugolovnyi process: uchebnik dlya bakalariata uridicheskikh vuzov / O. I. Andreeva and dr.; pod ed. O. I. Andreeva, A. D. Nazarova, N. G. Stoyko and A. G. Tuzova. - Ros tov n/a; Phoenix, 2015. - 459 p.

11. Khimicheva O.V. Kontseptualnye osnovy protsessualnogo kontrolya inadzora na dosudebnykh stadiyax ugovnogo sudoproizvodstva.-M.: YuNITI-DANA Zakon s pravo, 2004. -B, 250.
12. Criminal Code of the Republic of Kazakhstan on July 4, 2014. No. 231 -V. URL: Internet web address: [http://www.base.zakon.kz/doc/lawyer/?doc\\_id=1013921](http://www.base.zakon.kz/doc/lawyer/?doc_id=1013921) .
13. The Law of the Republic of Uzbekistan "On the Prosecutor's Office" // Bulletin of the Oliy Majlis of the Republic of Uzbekistan 2001. No. 9-10, Article 168.
14. The instructions of the Prosecutor General of the Republic of Uzbekistan "On the procedure for considering appeals of citizens and legal entities in the prosecution bodies of the Republic of Uzbekistan" approved by the order No. 37 of December 10, 2004. Internet website: [www.genprok.gov.uz](http://www.genprok.gov.uz)
15. Criminal procedure (general part): textbook for students of law institutes and faculties (under the general editorship of Z.F. Inog'omjonova.). - Tashkent: TDYul, 2008. - B. 100-101.
16. Arslanaliev A. Objalovanie v sud resheni organov doznaniya, zadloiteley i prokurorov // Zakonnost. - Moscow, 2008. - No. 6. - S. 33.
17. Fayziev Sh.F. Criminal procedural law. General part. Study guide Questions and answers. - T.: TDYul, 2011. - P.33-34.
18. Galuzo V.N. Judiciary control of law enforcement and justification of soderjaniya pod strajei podozrevaemykh i obvinyaemykh na stadii predvaritelnogo rassledovaniya: Diss. ... sugar. walk science - M., 2005. - S. 100.
19. Ataniyazov JK, Expiration of the period of bringing to responsibility as a ground for exemption from criminal responsibility: problems and solutions // Review of legal sciences VOLUME 7 / ISSUE 3 / 2023 DOI: <https://dx.doi.org/10.51788/tsul.rols.2023.7.3./NHJW5249> T., - 2023 pp . 121-130 .