

Activities to address appeals of individuals and legal entities: regulation and some problems

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Introduction

The Constitution of the Republic of Uzbekistan among the most important rights and freedoms enshrined the right to appeal to the state authorities. Article 35 of the Constitution states: "Everyone has the right, either alone or in community with others, to submit applications, proposals and complaints to the competent state bodies, institutions and public representatives. Such applications, proposals and complaints shall be considered in the manner and within the terms established by law. «The right to appeal is an important constitutional and legal means of protection of the rights and freedoms of citizens, as well as the legitimate interests of legal persons, one of the institutional and legal guarantees for their protection.

In our society, always attaches great importance to the mood of the population and appeals to the authorities. Farabi fozil model city for the leaders of the state and the skills needed to manage on the basis of justice: justice, furnish to provide reasonable and fair both to work for justice to be¹. Giving citizens the right to appeal to the Emperor was enshrined in "the Code of Amir Temur" - the most important act of the centralized state on the territory of Uzbekistan. Amir Temur paid special attention to the study of attitudes in society, subjects to consider appeals to the officials.

The public authorities with their needs and socially significant issues annually treated thousands of individuals and legal entities. They all refer to an institution with the belief that their appeal will be carefully and fairly considered. In fact, the treatment is a kind of indicator of the needs, demands and moods of

people. Applications represent a major source of public expression, information about the life of the country - a kind of dialogue between society and the state. So, treatment can be regarded as an indicator of people's trust in government. And it is directly dependent on how effectively and quickly resolved as the common problems and challenges of each person addressed.

Each treatment is a specific natural or legal person with their needs, interests and needs. That is why it is very important to work with references of the competent officials, professionals with a sincere desire to help address. The flow of natural and legal persons in the different institutions reflects, on the one hand, their social activities, and on the other - certain negative developments, shortcomings in the work of state bodies, the gaps in the current legislation. So, for the period July 2013. - January 2014, the Single interactive state services portal (EPIGU), functioning under the auspices of the Cabinet of Ministers, was sent to more than 6000 applications. Traditionally, the leaders among the applications - questions about the work of state and economic management (1907 requests) and utilities (375). The most popular public authorities on the number of applications the Agency became "Uzarhiv" (519), MIA (420), the Ministry of Justice (342), and governor of Tashkent (324). In addition, active and Information service Single portal. During this time kolltsentr handled more than 1,000 telephone calls from the public².

In 2015 EPIGU received 376520 hits³. The most significant part of the complaints

² See.: Podrobno.uz data site. dated February 2, 2014 4:24

³ See data .: EPIGU official website, as of November 12, 2015 // www.gov.uz.

¹ Farobiy A.N. Fozil odamlar shahri. - T.: 1993. 159. P.

related to the protection or maintenance of the rights and freedoms and lawful interests of individuals and legal entities. Today, quite a large number of calls come in connection with the provision of free enterprise, especially after the adoption of the country's President Islam Karimov a number of legal instruments aimed at the protection and development of small business and private entrepreneurship.

Problems of physical and legal persons in Uzbekistan are not subjected unfortunately monographic study. Meanwhile, in Russia alone it was protected by more than ten theses on this subject¹. This gap needs to be filled. The need for scientific research indicated problems caused by increased democratic possibilities of realization of the constitutional right to treatment; significantly expand the adoption of the new law. In addition, the level of transparency, responsibility, including executive discipline to implement the requirements of the legislation of appeals is not high enough. The reasons for this situation include deficiencies in the organizational activity of the ministries, committees and departments, insecurity on their part to the

effective control of officials for the fulfillment of their legal requirements. Only by addressing these causes of the constitutional rule of law to apply to the state authorities turn into an effective element of protection system of rights, freedoms and lawful interests of individuals and legal entities.

1. Legal regulation of activity of state bodies to examine the physical and legal entities

The researchers note that "the legal treatment - distinctive, widespread and at the same time little studied phenomenon of modern legal reality"². The content of the constitutional right to appeal to the authorities of the State includes the following powers of his subjects:

- The right to a critical analysis of the activities of state bodies;
- The right to make recommendations to improve the work of state bodies and their officials;
- The right to initiate the adoption, repeal and amendment of legal acts;
- The right to demand assists public bodies in the implementation of specific rights and freedoms;
- The right to apply for protection (restoration) of their violated rights, freedoms and legal interests, as well as the rights, freedoms and lawful interests of other persons;
- The right to report violations becomes known to them the legitimacy of the state bodies and their officials.

Treatment of physical and legal entities represent a form of citizens' participation in governance, decision of government and public affairs, it is also a way to restore the violated rights. They are an important source of information useful in dealing with the public, economic and socio-cultural development, contain information about the processes occurring in society. The right to appeal acts as one of the most effective ways to eliminate possible violations of the law, one

¹ See Alistratov .: Y.N. The right of citizens to appeal to the state bodies of local self-government in the conditions of formation of a democratic rule of law in Russia: Author. dis ... cand. jurid. Sciences. - M., 1995; A. Dvorak The implementation of the constitutional right of citizens to appeal to the Russian Federation: Cand. dis ... cand. jurid. Sciences. - M., 2003; Mironov MA of citizens as a constitutional and legal institution: problems of realization: Cand. Dis ... Dr. jurid. Sciences. - M., 2002; Rudakova NA The constitutional right of citizens to appeal to the state bodies and local self-government: Cand. dis ... cand. jurid. Sciences. - M., 2002; Chashykov AV Subjects of the right to petition the Constitutional Court of the Russian Federation: problems of theory and practice. - Tomsk, 2007; Shtyrov EP The constitutional right of man and citizen to apply to international bodies for the protection of human rights and freedoms: Cand. dis ... cand. jurid. Sciences. - Saratov, 2007; Polievktov A.M. Problems of protection of citizens' rights lawyer when applying to the Constitutional Court: Cand. dis ... cand. jurid. Sciences. -M., 2007; Kharaj MF Constitutional and legal support of the Head of State Administration of the President of the Russian Federation in the field of accounting and analysis of citizens' complaints: dis ... cand. jurid. Sciences. - M., 2008.

² See Ablyakimov .: EA Legal appeal (general theoretical aspect) // Abstract. diss. PhD. jurid. Sciences. Nizhny Novgorod. 2008 S. 3.

of the means of preventing crime. Therefore, of particular relevance ratio associated with the implementation of the constitutional right of access, acquire in government. It is the public authorities are required to improve the mechanism of protection of rights and legitimate interests of individuals and legal entities, to develop and implement measures to realize the right to appeal to the authorities.

The government is focused on improving the quality and accessibility of public services related to the consideration of citizens' appeals to the optimization and efficiency of the mechanism of their consideration. The current legislation on the review of appeals of citizens is a system of norms, united around the law "On appeals of individuals and legal persons"¹. This law is the main piece of legislation governing the complex reception and consideration of appeals of individuals and legal entities. It should be noted that until recently, the country was a law "On citizens"². In 2014, Parliament passed a new law in fact, expanding its scope to include the subject of its regulation of appeals of legal entities, significantly improved the mechanism of regulation of relations in the field of physical and legal entities.

The former law has played a positive role in the development of legislation in this area. However, today it is necessary to evaluate the existing legislation is not with yesterday's position, and based on the requirements of the dynamic of legal regulation of social relations. The new law took into account the experience of legal regulation and enforcement practice of previous years, took into account the level of development of information and communication technologies. Clarity, clarity, specific laws - important indicators of the legal culture of society. Socio-political nature of this act is great, because it concerns the most

important form of public control over the state. "Today the Institute of Public and civil control becomes one of the most important elements to ensure effective feedback with the state of society, revealing the mindset of people, their attitude to reforms carried out in the country"³.

Taking into account the current requirements, in our opinion, the practice of public authorities to consider applications not yet fully meet the requirements of legislation. These activities have some disadvantages need to be improved, many important aspects of the procedure for filing and consideration of appeals, the execution made on the basis of the review of decisions and acts.

The Criminal Code and the Code of Administrative Responsibility made additions and changes, that legal means to ensure the responsibility and authority of the official in the implementation of the right to appeal⁴. The new law differentiated legal regimes of the three main types of applications from the perspective of responses of those or other specific bodies such treatment. In fact, the term "treatment" is a collective character. The law includes his proposal, statement and complaint (Article 5). Each species has its own peculiarities and hence their status, so the order of consideration is not the same.

Application - an appeal to the state bodies, their officials with a request for assistance in the implementation of their rights, freedoms and legitimate interests, provided by the Constitution or current legislation (for example, to receive benefits for any benefits, etc.). Offer - this kind of treatment, which is not connected with the violation of the rights or freedoms. This appeal, containing recommendations on improving the state and public activity. The proposal aims at improving the procedure of

¹ Bulletin of Oliy Majlis of Uzbekistan, 2014 y., № 6, art. 3.

² Bulletin of Oliy Majlis of Uzbekistan, 2003 y., № 1, art. 7

³ IA Karimov Concept of further deepening democratic reforms and formation of civil society in the country. The report of the joint session of the Legislative Chamber and Senate of Oliy Majlis of Uzbekistan 12 November 2010. - National word, 2010, on 13 November.

⁴ Collection of legislation of the Republic of Uzbekistan, 2014, number 50, Art. 588

organization and activity of state bodies, to improve the legal framework for public and social life, issues of economic, political, social, cultural and other spheres of activity of the state and society. Complaint - appeal concerning infringement actions (inaction) and decisions of legal or natural persons (officials, civil servants, etc.) right or legitimate interest.

The most important means to protect the rights, freedoms and legal interests of a complaint. It has a twofold meaning: through its filing person realizes granted him the right and requires redress. Abuse always contains information about the violation of rights of access or rights of specific persons. The right of petition is an absolute, unlimited and inalienable right. For the realization of this right does not need anyone's consent and especially publications management acts. The law only defines these types of applications. For example, the legislation of foreign states, as a rule, it includes the application, suggestions, complaints and petitions.¹

The right to appeal is not only citizens of the Republic of Uzbekistan and foreign citizens, persons without citizenship, various organizations, institutions and enterprises in order to protect their rights and interests, the rights and interests of its members. Citizens have the right to submit collective petitions. Such treatment appropriate in cases where the affected rights and interests of people. The analysis shows that, as a rule, the physical persons themselves file an appeal without resorting to the help of lawyers, not least because of the high cost of legal services.

The current law provides for the right to appeal in writing, orally or in electronic form (Art. 4). The correct approach to oral complaint provides maximum speed and the legitimacy of its resolution. According to simple questions it is much easier to apply it to an oral complaint and the official sometimes advisable to immediately try to give it back. The use of oral applications helps reduce the

time of their examination; eliminating the conversation and helps more quickly resolve the issue. Of course, not always and not on all the issues it is advisable to oral treatment. In these cases, you can submit a written or electronic circulation. And written and oral, and electronic references have the same force, so the form has a preferential treatment of legal values.

However, in any case, applications received should be recorded, as from that moment begins to flow Procedural time limit within which an appeal must be considered. Detailed recording when registering the received appeals is not a superfluous formality, paperwork is not difficult, but on the contrary, it organizes, enhances the attention of authorities to the citizen workers. Experience shows that the precise organization of office has contributed greatly to the rights and interests of persons who applied.

Receiving calls requires a certain organization of this process, the state of which reflects the ability of government agencies in a timely manner and respond to the requests and needs of individuals and legal entities. This is reinforced by the fact that the right to petition the obligation corresponds to the relevant authorities and officials to accept and consider the terms established in the law. Proposals are considered for up to one month, with the exception of the proposals, which require further study, as reported by the person who has made an offer. Statements allowed in a period of one month from the date of its receipt, and those that do not need to be tested - without delay but not later than 15 days from the date of receipt of the application. The law provides differentiated terms of consideration of this kind of applications: a) up to one month in the case that requires further study; b) without delay, but not later than 15 days from the date of receipt of the complaint, if there is no need for additional study and verification; c) in cases when the resolution of the complaint is necessary to conduct a special audit, to request additional materials, etc., complaints resolution timing may

¹ Hamaneva N.Y. Protection of citizens' rights in the sphere of the executive. - M., 1997. - p. 5.

exceptionally be extended, but not more than one month from the notification of the complainant (Article . 18, 19).

The precise definition of the various terms in the legislation relating to the work with references is an important factor influencing the state authorities, forcing the last in a timely manner to resolve related to the treatment of their competence. Observance of deadlines plays an extremely important role for tightening may lead to irreparable consequences, making it impossible to restore the legitimate rights and interests of the person addressed, as well as cause significant damage.

2. Some of the problems in the review activities of physical and legal entities

According to the law, an appeal must contain certain information: the name and address of the authority or official who is sent to treatment; presentation of the merits; surname, name, patronymic accesses; the name of the legal entity; address or place of residence data addressed; date, signature. This means that the anonymous treatments are not considered. However, the ban on the consideration of anonymous letters leaves open the question whether a person is protected enough from the persecution of the fair criticisms contained in the complaint. Unfortunately, the positive answer to this question is not yet possible. So, in our opinion, should be to consolidate the rule that anonymous signals about violations received by the law enforcement agencies should be checked (of course, subject to the rights and freedoms of checked). In fact, many law enforcement agencies already use this approach in their practice by organizing a so-called "hotlines".

Decision making is an important aspect of the whole process of considering the application, since the content of this document depends on whether the appeal is satisfied in full, in part or rejected altogether. The decision shall be based on all the materials and evidence in their entirety. It must contain logic and legal reasoning. The absence to date in the legislation clear legal regulation details

solutions greatly influences the improvement of the entire appeals procedure. In this regard, we consider that the ordering of legal regulation of this matter would strengthen the guarantees of the rule of law permits citizens' appeals.

The legislator puts the responsibility for examining the applications individually on officials of the institution of persons, companies, etc. Regardless of who was entrusted with handling test, the decision thereon shall be made imperious will of the head of the body which is legally vested with this right or responsible officer authorized by the relevant orders or instructions. The auxiliary unit is not entitled to decide on treatment. The decision may be made not only in writing but also orally, if the parties do not apply for a written version. However, it seems that this practice is quite reasonable when the written decision is given to the citizen in all cases of refusal to comply with his treatment in whole or in part, even if he does not insist on this. Of course, should be satisfied and the request of the person that he had received a written response, even in case of a positive response to his appeal. Unfortunately, today in the legislation such situations are not itemized in detail.

Another important point. Article 1 of the law states that its purpose "is to regulate the relations in the field of natural and legal persons in public authorities and public institutions". Why only the state? We believe that it is necessary to consider the question of extension of the Act not only on citizens petitions to state bodies, but also appeal to other institutions, companies and organizations, including non-governmental.

Great theoretical and practical interest is the possibility to worsen the position of a person as a result of a decision on his complaint, i.e. whether the superior court in its decision worsen the situation addressed faces compared to those that had been created by the contested administrative act. A negative answer to this question is based on the fact that it would be contrary to the very idea of the

complaint: no one would go if it threatens the deterioration of its situation. However, the practice provides many examples of situations in which the suffering person who filed the complaint. Apparently, it is necessary to consider the mechanism of the full protection of the rights and interests of the parties involved of its kind.

Appeal considered a solution that satisfies the requirement addressed person on it is accepted - if it had a complaint, we can say that justice has been restored, but only on paper. The solution should be implemented. About its performance should be judged mainly on whether the violation, whether the real right restored eliminated. This should be affected at the execution stage. It should be noted that current legislation within the timeframe for resolving complaints and includes the actual execution of the decision. However, in practice this is often not respected. In some cases, execution of the decision is delayed, thereby causing repeated complaints. Situations in life are very different, and establish a unified term of execution of decisions taken, apparently, difficult. Therefore, each decision is necessary to specify the exact timing of its execution, as well as the officials who are responsible for these periods.

Action taken by the request of the person, it can not satisfy. In this case, he has the right to appeal to the higher authorities or go to court. An important factor in the rule of law, the rights and interests of individuals and legal entities in the proceedings on the appeals is the formation of the responsible authority, which they are treated. The law in articles 27 and 28 defines the responsibilities of the accesses at the violation of the legislation in force in this area. Thus, the Criminal Code contains articles establishing liability for slander and insult. Moreover, in dealing with individuals, filed a complaint in order to slander, an important role is played by the provisions of the Civil Code, according to which the protection of the rights of the citizen

also covers the protection of the reputation of his name, civic honor.

Special mention should be the State's responsibility for violation of legislation on the consideration of citizens' appeals. Articles 26 and 27 fix the state's responsibility to the citizen, affirming everyone's right to state compensation for damage caused by unlawful actions (or inaction) of bodies of state power and their officials. However, not all questions of legal liability and enforcement officers solved properly. We must remember that for any failure to perform civil servants duties assigned to him to him disciplinary action should be applied. Officials should not only have a clear legal setup concerning their rights, but also to recognize and fulfill the obligations, as well as take responsibility for their actions. To achieve these objectives it is necessary to involve the whole complex of measures of responsibility.

To improve the effectiveness of the protection of the rights of individuals and legal entities are requested to include the level and quality of public authorities with references to the list of criteria for assessing their performance. The solution works with references of the problem must be comprehensive. Perhaps the need to develop a state program of work with the participation of all public authorities, within which to define clear goals and objectives, to identify a number of measures of organizational and legal nature to improve the mechanism of work with appeals based on analysis of existing practices and suggestions of experts.

The development of the law of the Cabinet of Ministers of March 31, 2015 adopted Resolution № 73 "On approval of the Model Regulations on the procedure of work with appeals of individuals and legal entities in the state bodies and public institutions," which ordered the ministries and agencies, the Council of Ministers of the Republic of Karakalpakstan, regions, cities and districts within a month to develop and approve regulations on the procedure of work with appeals of individuals and legal entities in

accordance with the approved this resolution Model Regulations.

Analysis of this act shows that it has not solved all the problems encountered in practice. In our opinion, in a position you can turn the following clarifications:

- Consideration of applications relating to the protection of children's rights, as well as proposals to prevent possible accidents and other emergencies begins immediately and must be completed not later than five days;

- Treatment, indicating numerous gross violations of the law, the systematic infringement of the rights of citizens and have not received the appropriate assessment of the state bodies and their officials, are subject to review, as a rule, on-site;

- The results of audits of public interest should be covered by the media;

- The consideration of repeated requests to them must be accompanied by a copy of the previous review;

- To review the objectivity and completeness of considering appeals of their bodies and officials can make the decision about bringing experts from other agencies and organizations.

Thus, the practice of working with references of physical and legal persons shows that there is a need to clarify the legal regulation of all stages of dealing with such appeals. It is necessary to provide the organizational and legal mechanism for dealing with complaints, which to the maximum extent would help clarify the objective truth, redress, satisfaction of the legitimate demands of individuals and legal entities. It is in this direction should be to improve legislation and law enforcement practice.

Conclusion

In the context of reforming the country, formation of civil society relations connected with realization of the right to appeal are of particular relevance. Right now, society needs all-round improvement of the procedural mechanisms by law protection of rights and interests of individuals and legal entities, the

development of a new system of relationships with government officials through a democratic procedure established by the order of treatment to public authorities.

Creating conditions for improving the provision of physical and legal persons legal assistance and protection, including by justice - an objective necessity of modern social life. In this connection it may be noted the need to develop project specific legislation governing these issues, and also - the law "On administrative procedures", which is necessary to fix common principles and procedures of administrative proceedings. The greatest number of disputes with the public authorities arises in the implementation of the executive branch of government within its competence.

Improved procedures for uniform consideration of applications will contribute to the consolidation of the order and exhaustive consideration of appeals. They will contribute to the complete openness, publicity, accessibility to public scrutiny of administrative actions affecting the interests of the citizens, will enable to set a reliable guarantee against administrative arbitrariness, warn officials an offense.

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