



# THE PROTECTION OF THE ACCUSED'S RIGHTS THROUGH THE INSTITUTION OF PETITIONS AND COMPLAINTS

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Article history:	Abstract:
<b>Received:</b> 28 <sup>th</sup> November 2024 <b>Accepted:</b> 20 <sup>th</sup> December 2024	The article examines the institute of filing petitions and complaints in the criminal process of the Republic of Uzbekistan as an important legal mechanism for protecting the rights of defendants. The prosecutorial role of the accused, his rights and obligations, as well as the importance of filing petitions and complaints at the pre-trial stage are investigated. Particular attention is paid to the defender's role in the implementation of the accused's procedural rights and their influence on the course of the investigation. The possibility of the accused's active participation in the collection and verification of evidence, as well as in appealing against the decisions and actions of law enforcement agencies is considered. The use of these institutions to ensure legality, objectivity, and justice in criminal proceedings is analyzed.
<b>Keywords:</b> Criminal process, defendant, defense counsel, defendant rights, pre-trial stage, petition, complaint, evidence, protection of rights, the Code of Civil Procedure of the Republic of Uzbekistan	

The institute of filing petitions and complaints in criminal proceedings is a legal tool for protecting participants in criminal proceedings, among whom the accused can be separately noted.

Overall, the criminal process of the Republic of Uzbekistan consists of two main stages of justice, namely: pre-trial and judicial stages of criminal proceedings. The boundaries of this scientific work are determined by the study of the protection of the rights of participants in the criminal process by using the institution of filing petitions and complaints at the pre-trial stage.

First of all, an accused is a person against whom a decision has been made to involve him in the case as an accused in accordance with the procedure established by this Code<sup>1</sup>.

The procedural determination highlights the main element, which is expressed in the issuance of a decision to be involved in the case as an accused. This implies that a person becomes accused only after a formal decision of the competent authority or court. It also emphasizes the procedural nature, namely, that the status of the accused is not static, but related to participation in the criminal case. This means that a person acquires the status of a defendant during the process and in accordance with the law.

The reference to the "attraction order" indicates the need to comply with formal procedures and court decisions. This guarantees the legitimacy and compliance with the procedural norms when determining the status of the accused. According to

the second part of Article 46 of the Criminal Procedure Code, the accused has the right to: know what he is accused of; receive a telephone call or a report to a lawyer or a close relative about his arrest and place of residence; have a lawyer and meet with him in private without limiting the number and duration of meetings, except for the cases provided for in the second part of Article 230 of this Code; file petitions and present evidence; give evidence on the charges against him and any other circumstances of the case or refuse to give evidence and be notified that his testimony; to be acquainted with all the materials of the case after the completion of the preliminary investigation or preliminary investigation and to write out the necessary information from it, to make copies of the materials and documents at their own expense or to fix in any other form the information contained in them, using technical means; to object to the termination of the criminal case by the investigator, the investigator or the prosecutor and to demand that a judicial proceeding be held; to participate in the preliminary hearing of the case by the court, to participate in the court sessions on cases of reconciliation<sup>2</sup>.

It should be noted that the rights of the accused include the application of petitions and appeals against the actions and decisions of the investigator, prosecutor and court, which emphasizes the provision of realization of their rights by filing petitions or appeals.

It should also be noted that the defense counsel's participation in the criminal process becomes an integral part of the process, as they enjoy a wide range of rights

<sup>1</sup> Уголовно-процессуальный кодекс Республики Узбекистан. <https://lex.uz/docs/111463#186045>

<sup>2</sup> Уголовно-процессуальный кодекс Республики Узбекистан. <https://lex.uz/docs/111463#186045>



to protect the accused. In addition, defenders carry out their activities based on their professional knowledge and experience.

According to Article 53 of the Criminal Procedure Code, a defense attorney has the right to: know what is suspected or accused of the person whose interests he is protecting; participate in the case upon presentation of his/her lawyer's certificate and presentation of a warrant certifying his/her authority to conduct a specific case; participate in the interrogation of the suspect, attendance at the indictment of the person and participate in the interrogation of the accused, as well as in other investigative actions conducted with their participation, and ask questions to the suspect, to be acquainted with the documents of the procedural actions carried out with the participation of a suspect or accused, and after the completion of the preliminary investigation or preliminary investigation - with all the materials of the case and to extract from it the necessary information, to make copies of materials and documents at their own expense or to fix in other form the information contained in them with the help of technical means; to be acquainted in the manner prescribed by law with the minutes of the court session and information constituting state secrets, commercial and other secrets; to be acquainted with the minutes of the court session and give comments on it; know about the complaints, protests brought on the case and raise objections against them; participate in the sessions of the court of appeal, cassation and review<sup>3</sup>.

Therefore, defendants can petition and appeal against the actions (inaction) and decisions of the investigators, investigators, prosecutors and the court to protect the rights of the accused by influencing the course of the investigation.

It should also be noted that complaints can be filed against any decision or inaction of the investigator, the investigator at the pre-trial stage of the criminal process, which emphasizes the breadth of this institution.

Petitions and complaints allow the defense to make proposals and objections regarding the progress of the investigation. The accused has the opportunity to influence the process of gathering evidence and the direction of the case.

Ensuring the protection of the rights of the accused can be carried out by filing various requests based on the specifics of the situation. Thus, for example, the accused may file a motion for an additional or repeated examination, a motion to attach a subject or document

to the case as evidence, a motion to change the preventive measure, for example, to replace the arrest with a non-exit subscription or house arrest. This may be due to a change in the circumstances of the case or a disproportionate measure applied, etc.

The filing of petitions allows the accused to actively participate in the process, rather than passively awaiting the actions of law enforcement agencies. The accused can actively influence the process, offer their own alternative options, and object to the measures and decisions taken by the prosecution.

Defendants' petitions are often aimed at obtaining access to the investigation materials, as well as at excluding unacceptable evidence. This allows the accused to more effectively control the evidence presented against him and object to their use.

In addition, the accused may petition for additional examinations or interrogation of witnesses. This contributes to ensuring the objectivity and completeness of the investigation, as well as providing the accused with the opportunity to present their counterarguments. Thus, the accused supplements the evidence base of the criminal case in his favor, namely, with evidence that excludes the person's guilt or mitigates his condition.

The application of a motion to terminate the investigation, if the accused has legal grounds to do so, provides an opportunity to influence the decision on whether the case should be brought to trial. If the investigation reveals that there are insufficient grounds for filing a criminal case and not all mandatory requirements

It should also be noted that in practice, the defense tactics are usually implemented by a lawyer participating in a criminal case as a defense attorney, as he has professional experience and legal knowledge in the proper use of petitions and complaints for the correct and appropriate use of petitions and complaints. A defense attorney is obliged to: use all means and methods provided for by law to clarify the circumstances that refute suspicion or accusation or mitigate liability, and provide the suspect, accused or defendant with the necessary legal assistance; not to obstruct the establishment of the truth by destroying, falsifying evidence, persuading witnesses and other illegal actions; observe order during the investigation of the case and during the court session.

The right to exercise procedural rights by filing petitions and complaints in criminal proceedings also belongs to "all means and methods provided for by law."

<sup>3</sup> Уголовно-процессуальный кодекс Республики Узбекистан. <https://lex.uz/docs/111463#186045>



The institution of proof, which is the foundation of the criminal case, plays an important role. In other words, proof at the pre-trial stage of the criminal process is the process of collecting and presenting evidence before the initiation of a criminal case and its submission to the court. This stage plays a key role in establishing the facts and circumstances of the crime, as well as in making a decision to initiate a criminal case.

According to Article 85 of the Criminal Procedure Code, proof consists of gathering, verifying, and evaluating evidence in order to establish the truth about circumstances that are significant for the legal, reasonable, and fair resolution of a case<sup>4</sup>.

According to Article 86 of the Criminal Procedure Code, the subjects of proof are the investigator, the prosecutor, and the court, i.e., these persons have the right to collect, verify, and evaluate information that may be of a evidentiary nature.

Paragraph 2 of Article 87 of the Criminal Procedure Code states that a defense attorney is entitled to collect and present evidence related to a criminal case, which must be attached to the materials of the criminal case, as well as subject to mandatory assessment during pre-trial investigation, inquiry, preliminary investigation and consideration of the criminal case in court. These evidence can be collected by: conducting a survey of persons who possess the information relevant to the case and obtaining written explanations with their consent; sending a request and obtaining information, characteristics, explanations and other documents from state and other bodies, as well as enterprises, institutions and organizations<sup>5</sup>.

The defender, as a participant in the process, has the right to actively participate in the collection of evidence, which will be considered at all stages of the criminal case, starting with the pre-trial investigation and ending with the consideration of the case in court.

The identified methods of collecting evidence, such as questioning those who have information and obtaining written explanations with their consent, as well as sending requests and receiving documents from various bodies and organizations, reflect the multifaceted approaches available to a defense attorney to ensure the full and objective protection of his or her interests.

These mechanisms not only allow for the active participation of the defense attorney in the process of gathering evidence, but also emphasize the principle of proportionality and balance between the parties in the criminal process. At the same time, the necessity of mandatory assessment of the collected evidence at

different stages of the criminal process guarantees its reliability and compliance with the norms of justice, which contributes to ensuring fair trial.

As a result of the collected evidence, the defense attorney submits a request to attach the information to the criminal case materials. Thus, a defense attorney can use the institute of filing petitions and complaints as one of the most effective ways to protect the rights of the accused, as the investigation, as a rule, will be based on the prosecution point of view and will focus more on gathering evidence of an accusatory nature.

#### **REFERENCES:**

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