



THE RIGHT OF CITIZENS TO APPEAL TO STATE BODIES: THE DOCTRINE OF CLASSICAL ROMAN JURISTS AND ITS RECEPTION IN THE LEGISLATION OF THE REPUBLIC OF UZBEKISTAN

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Article history:		Abstract:
Received:	26 th March 2026	The article examines the genesis of the right to appeal to state bodies as a legal category. A hypothesis is put forward and consistently tested, according to which the construction of a person's right to a meaningful, legally binding response to public authority was formed in the doctrine of classical Roman jurists of the II-III centuries. in the form of four interrelated elements: mandatory consideration of the appeal (Ulpian), reasoned response and prohibition of abuse of law (Papinian), procedural form of appeal (Gai) and guarantees of appeal (Yuli Pavel), and that these elements are functionally reproduced in the Law of the Republic of Uzbekistan " On Appeals of Individuals and Legal Entities" ZRU-445 dated September 11, 2017 Based on historical-legal and comparative-legal methods, each element of the hypothesis is verified according to the functional criterion of reception. It is established that reception is indirect, functional in nature and is complete in relation to the mandatory consideration, reasonableness of the response and deadlines, but partial – in relation to the suspension of the complaint. Proposals for improving the legislation are formulated that are commensurate with the results obtained; the limits of historical and legal analogy and limitations of the study are indicated.
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1. INTRODUCTION: PROBLEM STATEMENT, HYPOTHESIS, AND RESEARCH METHODOLOGY

The right of citizens to appeal to State bodies is traditionally considered as an institution of modern constitutionalism, while its historical and legal foundations remain fragmentary.

Roman studies has developed two main approaches to the question of reception of Roman law. The approach that prevails in Roman studies is that private law was mainly received, while the public legal institutions of Rome did not develop independently (F. Schultz et al.). In the Uzbek literature, the influence of Roman law on civil law institutions is similarly studied, while the institution of citizens' appeals is practically not considered as an object of historical and legal practice continuity. This makes it possible to state the existence of a research gap, filling which at the same time implies a critical reassessment of the thesis about the fundamental non-acceptability of Roman public law.

In this study, we hypothesize that the construction of a person's right to a meaningful and legally binding response from public authorities was formed in the works of classical Roman jurists of the II-III centuries.

in the form of four interrelated elements: mandatory consideration of the appeal (H1), reasoned response and prohibition of abuse of the right (H2), the procedural form of the appeal (H3), and guarantees of appeal (H4). It is assumed that these elements have received functional reproduction in the Law of the Republic of Uzbekistan "On Appeals of individuals and legal Entities" ZRU-445, while the identified differences can be explained by the peculiarities of the development of modern public administration.

The methodological basis of the research consists of historical-legal and comparative-legal methods. The source base is formed by the Digests of Justinian and the "Institutions" of Gaius. The criterion of reception is recognized as the functional correspondence of legal constructions, and not their textual coincidence.

2. MANDATORY CONSIDERATION OF THE APPEAL IN THE DOMITIUS ULPIAN DOCTRINE (VERIFICATION OF THE H1 ELEMENT)

2.1. From leniency to legal obligation: analysis of D. 1.16.9.4



Testing the first element of the hypothesis involves determining whether Ulpian considered the duty of an official to accept appeals as a manifestation of administrative ethics or as a legal obligation of public authorities. The answer to this question depends on whether the consideration of an appeal is subject to administrative discretion or a mandatory element of the public legal status of an official.

The key point is contained in the treatise *De officio proconsulis*: "*Praesides provinciarum facilem se praebere aditu querentium non dedignari debent...*" ("Provincial governors should be accessible to complainants and should not neglect those in need of protection"). At first glance, this fragment can be perceived as a moral instruction to an official, since the category *officium* in the Roman tradition also included an ethical component.

First, Ulpian uses the verb *debere*, which traditionally expresses a legal obligation rather than a moral recommendation. Equally significant is the use of the term *querentes*, which refers to persons who protect the violated interest, and not ordinary petitioners.

Secondly, the order under consideration is included in the system of duties of the governor, the violation of which could lead to a complaint against the official himself. Therefore, this is not an ethical wish, but a legally significant standard for the exercise of public power.

Third, according to D. V. Dozhdev, the treatise *De officio proconsulis* is a system of public-law duties of a magistrate. In this context, the requirement to accept appeals takes on a normative rather than moral meaning.

Consequently, the interpretation that Ulpian considers the obligation to accept appeals as an element of the public legal status of an official is more convincing. Thus, the right of appeal ceases to depend solely on the discretion of the bearer of power and acquires the characteristics of a legally secured claim.

From the point of view of the modern theory of law, a citizen's appeal is a legal fact that generates a corresponding duty of a state body. Thus, the restriction of administrative discretion is achieved not through a declaration of subjective right, but through the consolidation of a public legal obligation of an official.

2.2. Silence of the authorities as a violation of public duty

This construction is further developed in the treatise *De officio consularis*, where leaving an appeal unanswered is considered as a violation of the public duty of an official, which functionally corresponds to the later concept of *denegatio iustitiae*. Such a distinction is of

fundamental importance: if the absence of a response is only an actual omission, the applicant has no independent legal remedies; if it qualifies as a violation of a legal obligation, there is a basis for applying to a higher official.

Thus, a mechanism of instance control is formed, in which the proper consideration of appeals is provided not by the personal qualities of a particular magistrate, but by a system of public-legal accountability. This is how the institutional model of Ulpian differs from the model of administrative discretion. This understanding is consistent with the conclusion of I. A. Pokrovsky about the formation of a system of public-legal duties of officials in the era of the principate.

2.3. Limits of historical and legal analogy

At the same time, testing the hypothesis requires defining the boundaries of historical and legal analogy. Ulpian's teaching was formed in a society that did not know modern ideas about equality before the law and the universal nature of human rights. Despite the relatively wide availability of *libelli*, the practical implementation of the right of appeal largely depended on the applicant's social status. Consequently, the object of reception is not the social organization of Roman society, but the legal structure of the duty of an official to consider an appeal. In modern law, this construction is implemented on the basis of the constitutional principle of equality, and not the class organization of society.

Intermediate output. The analysis allows us to conclude that the first element of the hypothesis is confirmed. In the Ulpian doctrine, the obligation of public authorities to accept and consider appeals takes on the character of a legal obligation provided by a hierarchical accountability mechanism. At the same time, the universal nature of the right to appeal is the result of the subsequent development of public law and was not included in the classical Roman construction.

3. THE RIGHT TO A REASONED RESPONSE AND THE LIMITS OF APPEALS IN THE PRACTICE OF EMILIUS PAPINIAN (CHECKING THE H2 ELEMENT)

3.1. Rescript as a legal construct: state of sources and scientific discussion

Papinian was head of the chancellery *a libellis* under Septimius Severus, through which the emperor received appeals on the activities of provincial administration, judicial decisions and private law disputes. According to the observation of T. Honore, based on a stylistic analysis of the corpus of preserved rescripts, it is during this period that the responses of the Imperial



Chancellery acquire a more detailed motivational structure, including not only the final decision, but also its legal justification. At the same time, the method of attribution of individual rescripts, proposed by T.F. Millar, in particular, points out the significant role of the emperor himself in the preparation of final decisions, which does not allow us to establish with certainty the personal authorship of individual documents.

For the purposes of this study, this discussion is not of fundamental importance. The subject of the analysis is not the question of the authorship of specific rescripts, but the institutional practice of the chancellery *a libellis*, the existence of which and the evolution of the form of imperial responses in the scientific literature are not disputed. Therefore, the conclusions of T. Honoraе are used only in the part that does not depend on the disputed personal attribution.

The legal meaning of this evolution is to change the function of the rescript itself. A response containing a legal justification goes beyond the resolution of an individual case and becomes an interpretative guide for similar situations. In this sense, a reasoned rescript can be considered as one of the earliest institutional prerequisites for the formation of the principle of legal certainty, since it provides predictability of administrative practice. For the applicant, the reasonableness of the response has an independent legal meaning, allowing to distinguish the legitimate application of law from arbitrary administrative discretion.

3.2. Legal significance of appeals and the limits of exercising the right

The practice of the Imperial Chancellery shows that individual appeals performed not only a protective, but also a law-forming function: when resolving a specific dispute, the chancellery simultaneously formulated legal positions that served as a guide when considering similar appeals and ensured uniformity of law enforcement.

The casuistic nature of the formation of such legal positions ensured their practical applicability and largely explains the high level of development of classical Roman jurisprudence. Consequently, the institution of appeals performed not only a protective, but also a law-forming function.

Such significance of appeals required the establishment of safeguards against abuse of the relevant procedure. In Papinian's practice, the applicant's right to receive a legally relevant response was inextricably linked to the requirement of good faith. Since the rescript was based on circumstances reported by the applicant himself (*si preces veritate nituntur*), the concealment of material

facts (*obreptio*) or the reporting of false information (*subreptio*) deprived such a response of legal force and entailed adverse consequences for the applicant.

Thus, the second element of the hypothesis is confirmed: the obligation of the public authority to give a reasoned response corresponds to the applicant's obligation to use the application procedure in good faith. Consequently, the reasonableness of the response and the prohibition of abuse of the right form a single legal structure.

3.3. Limits of exercising the right to appeal

Papinian's practice makes it possible to distinguish two interrelated principles that complete the second element of the proposed hypothesis. The first principle concerns the interpretation of disputed legal prescriptions. If the norm is ambiguous, Papinian preferred its interpretation, which preserves the possibility of judicial or administrative protection of a person based on the categories *aequitas* and *humanitas* (cf. D. 50.17.56). This is not a modern presumption of the applicant's rightness, but a more general idea of the inadmissibility of imposing the consequences of legal uncertainty on a bona fide person. In functional terms, this approach is close to the modern principle of interpreting doubts in favor of the authorized person.

The second principle concerns the limits of the exercise of the right to appeal itself. Papinian distinguishes between good faith treatment and treatment aimed at misleading public authorities or causing harm to another person. In the latter case, the calumnia doctrine *was applied*, which excluded the provision of legal protection. This creates an early legal framework for restricting the unfair use of the appeal procedure, which is functionally comparable to the modern prohibition of abuse of law. It is significant that the determining value was attached not to the very fact of the failure of the appeal, but to the bad faith of the applicant's behavior, which was expressed in deliberate distortion of the circumstances of the case or abuse of the procedure provided.

Intermediate output. The analysis confirms the second element of the hypothesis. In the Papinian doctrine, the requirement of reasoned response and the restriction of unfair use of the appeal procedure are interrelated elements of a single legal structure. At the same time, the conclusion about the legal significance of appeals should be considered as the most likely interpretation of the institutional practice of the chancellery *a libellis*, independent of the discussion about the personal authorship of rescripts.



4. PROCEDURAL FORM AND GUARANTEES OF APPEAL: GAIUS AND JULIUS PAULUS (CHECKING ELEMENTS H3–H4)

4.1. Gai: the procedural form as a condition for exercising the right

Gaius "Institutions" occupy a special place among the monuments of classical Roman jurisprudence, since they have been preserved as an independent source and allow us to analyze legal constructions without the interpolation problems characteristic of Justinian's Digests.

To test the third element of the hypothesis, the analysis of procedural remedies is of fundamental importance (Gai. 4.1-4.10). In Gai's constructions, the possibility of implementing a material claim is directly related to the existence of a procedural form provided for by law. Thus, substantive law becomes of practical importance only if there is a procedural form provided for by law, which reflects the inseparable connection between substantive law and the process. This shows the idea of an indissoluble connection between substantive law and the procedural form, which remains important for modern legal theory.

This approach allows you to re-evaluate the requirements for processing requests. Formal details of the application are often considered as an administrative obstacle, but in the logic of Guy, it is the procedural form that makes it possible to consider the application on its merits. Without proper identification of the applicant, the subject of the request and the stated claim, the state body cannot make a legally justified decision. Consequently, the procedural form is not a restriction of the right to appeal, but a legal guarantee of its implementation.

At the same time, Guy's position allows us to determine the limits of this approach. Excessive formalization of the Roman process may have limited access to legal protection. Therefore, it is not the degree of formalization that is subject to reception, but the very principle of the need for a procedural form, which implies the obligation of a state body to help eliminate avoidable shortcomings of an appeal, and not to use them as grounds for refusing to consider it.

4.2. Yuli Pavel: guarantees of the right to appeal

In his treatise *De appellationibus*, Julius Paulus formulates the provisions that form the functional core of the institution of appeal. The absence of any of them significantly reduces the effectiveness of the protection procedure.

The first element is the time limit for filing a complaint (cf. D. 49.4). It provides a balance between the right to review a decision and the stability of legal relations,

excluding the indefinite revision of decisions that have entered into force.

The second element is the obligation to accept the complaint for consideration (cf. D. 49.5). Pavel proceeds from the inadmissibility of refusing to accept an appeal in the absence of grounds provided for by law. Thus, the obligation to accept a complaint is not related to the discretion of a particular magistrate, but to the competence of the public authority itself. Therefore, the right to appeal acquires the characteristics of a legally secured claim, and the review procedure becomes an element of a public-law defense mechanism.

The third element is the suspension of execution of the appealed decision. If enforcement continues regardless of the outcome of the complaint review, its satisfaction may be devoid of practical meaning. An analysis of the relevant passages shows that Paul considered suspension of execution as a general rule with exceptions due to public interests (cf. D. 49.7), aiming to ensure the real effectiveness of the appeal institution.

Intermediate output.. The third and fourth elements of the hypothesis are confirmed. In classical Roman jurisprudence, the procedural form of appeal and the guarantees of appeal were formed as interrelated legal structures.

5. COMPARATIVE LEGAL VERIFICATION: LAW OF THE REPUBLIC OF UZBEKISTAN NO. ZRU-445

5.1. The mechanism and criterion of reception: a controversy about direct borrowing and structural convergence

This study is based on the absence of a direct reception of Roman law in the Law of the Republic of Uzbekistan No. ZRU-445. Therefore, the subject of the analysis is the functional continuity of legal structures formed through the European continental tradition, Soviet administrative doctrine and modern legislation.

The criterion of reception is functional compliance: a norm is considered accepted if it solves the same legal problem by similar means. The probability of accidental structural convergence is significantly reduced when the coincidence covers a system of interrelated legal structures, rather than individual norms.

The comparison results show that most of the studied elements are reproduced functionally fully in the Law of the Republic of Uzbekistan No. ZRU-445. The closest correspondence was found in relation to the mandatory consideration of the appeal, the reasonableness of the response, the responsibility of officials and the prohibition of abuse of the right.



The comparison of elements H3 and H4 is of the greatest scientific interest. The requirements for the form of written and electronic appeals (Articles 6-8, 20 of the Law) functionally correspond to the GAI understanding of the procedural form as a condition for the implementation of the right. At the same time, the regulation of the suspensive effect of a complaint (Article 31) differs from the model reconstructed according to the treatise of Julius Paulus. If in the Roman construction the suspension of execution was a general rule with a limited number of exceptions, then the modern legislator has consolidated the discretionary power of the authorized body to decide on the suspension of execution in each specific case.

This difference reflects the need to take into account the balance between the protection of the applicant's rights and the continuity of public administration. At the same time, it indicates a partial transformation of the original human rights structure of the institution of treatment.

5.3. Limits of historical and legal analogy in the context of digitalization

The development of digital platforms for reviewing appeals, including the Virtual Reception of the President of the Republic of Uzbekistan and the unified system of electronic appeals, does not refute the conclusions of this study, but only defines the limits of historical and legal analogy. Modern digital procedures (admission, registration, distribution by competence and preparation of a reasoned response) functionally reproduce the basic design of the institute of appeal, reconstructed on the material of classical Roman jurisprudence.

At the same time, digitalization creates new legal problems that have no historical analogues: ensuring equal access to electronic services, protecting personal data, and defining acceptable limits for using algorithms when processing requests. Their solution cannot be deduced from Roman doctrine by historical analogy, since the corresponding social relations were absent in the ancient legal order.

Consequently, the results of the study apply only to the fundamental legal constructions of the institution of appeals: mandatory consideration, reasoned response, procedural form and guarantees of appeal. Technological methods of their implementation require independent legal regulation based on the constitutional principles of the digital state, rather than historical reception.

6. CONCLUSIONS

First. The analysis of primary sources has shown that all four elements of the construction of the right to appeal (H1–H4) are present in the doctrine of classical jurists of the II-III centuries. as legal, not ethical categories. A comparative legal review revealed functionally complete reproduction of elements H1 and H2, essentially reproducing element H3 and partially reproducing element H4 in the Law of the Republic of Uzbekistan No. ZRU-445. The conclusion about the law-forming function of appeals (clause 3.2) retains the character of a reasonable assumption and therefore is not included in the final verification of the hypothesis.

Second. The established continuity has the character of mediated functional reception. Although the convergent explanation of individual matches is not completely excluded, the systematic nature of the match makes reception the most economical explanation. Therefore, the thesis of F. Schultz about the fundamental non-receptivity of Roman public law in relation to the institution of appeals requires a significant revision: the logical and structural framework of the public-legal obligation was received, and not its historical social substrate.

The third. From the results of the comparison, *the following de lege ferenda sentences are derived*, which are commensurate with the revealed discrepancies:

- to fix in Law No. ZRU-445 the principle of interpretation of irremediable doubts in favor of the applicant as a normative expression of the presumption of his good faith;
- clearly define the criteria for the "knowingness" of false treatment solely through the direct intent of the applicant, thereby excluding extensive administrative discretion on the ground;
- consider the possibility of extending the suspension effect of the complaint in the direction approaching the general suspension of execution of the appealed action (decision), with exceptions strictly dictated by urgent public interests;
- to assess the feasibility of creating an open public register of legal explanations for standard categories of appeals as a functional analogue of rescript practice, which can inform the institute of the legal dimension and reduce the volume of repeated applications.

Fourth. Limitations of the study are the use of mostly translated editions of primary sources, the controversial attribution of individual rescripts to specific lawyers, and the probabilistic nature of the distinction between reception and convergence. In order to overcome these limitations, it is advisable to study in the future exactly how Roman law passed into the Law of the Republic of Uzbekistan No. ZRU-445. This will help to document the fact of borrowing legal institutions



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