



THEORETICAL AND METHODOLOGICAL FOUNDATIONS AND HISTORICAL DEVELOPMENT OF THE HANDLING OF APPEALS IN NATIONAL HUMAN RIGHTS INSTITUTIONS

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Article history:	Abstract:
Received: 26 th December 2023 Accepted: 20 th January 2024 Published: 28 th February 2024	The article shows the stages of development of citizens' right to appeal in the Republic of Uzbekistan, information about national human rights institutions and their powers to consider appeals, the legal status and development of national institutions, an analysis of the work carried out by the National Center of the Republic of Uzbekistan for Human Rights in the field of appeals in 2023.

Keywords: right of appeal, Constitution, national human rights institutions, United Nations, Vienna Conference, People's Reception, Virtual Reception, Children's rights, Entrepreneurs' rights, courts, protection

Handling public appeals is one of the most important issues facing the State in the Republic of Uzbekistan, as in all other countries.

If we consider the stage of defining the right of citizens to appeal at the constitutional level in Uzbekistan, this type of right was not included in the Constitutions of the Uzbek SSR adopted in 1927 and 1937¹.

The right of citizens to appeal was included as a constitutional norm in the Constitution of the Uzbek SSR adopted in 1978².

Article 35 of the Constitution of the Republic of Uzbekistan, adopted on 8 December 1992 and in force until 1 May 2023, provides for the right of every person to submit, alone or jointly with others, proposals, complaints and petitions directly to the competent State bodies, institutions or representatives of the people. It is no exaggeration to say that the right to appeal has been transformed into a constitutional and legal institution with a guarantee that petitions, proposals and complaints will be considered in accordance with the procedure and within the time limits established in accordance with the law³.

On 6 May 1994, Law of the Citizens petitions was adopted to give effect to citizens' rights in connection with communications as defined in the Constitution of the Republic of Uzbekistan⁴.

Under the requirements of this Law, citizens' appeals may be submitted written or orally, in the form

of petitions, complaints and proposals; citizens' proposals must be considered within one month from the date of receipt of the proposal; proposals requiring additional research are considered with notification of the person who made the proposal; petitions and complaints must be resolved within one month from the date of their receipt by a State body, voluntary association, enterprise, institution or organization, and they must resolve the issue within one month from the date of receipt of the appeal.

According to the law, if it is necessary to conduct special investigations, request additional materials or take other measures to resolve a petition or complaint, the head or deputy head of the relevant body, enterprise, institution or organization may exceptionally extend the time limit for resolving the petition or complaint, but this time limit must not exceed one month, of which the person who submitted the petition or complaint must be informed. The total period for considering an appeal is strictly specified as two months.

The significance of the constitutional right of citizens to appeal lies in the fact that they have the right to have their legitimate rights and interests protected and to have their violated rights restored by the competent State bodies and voluntary associations.

As a result of a study of the issues arising in the implementation of the Law, amendments and additions

¹ Constitution of the Uzbek SSR. - Samarkand: Publication of the Legal Publishing House of the SNK of the Uzbek SSR, 1927. Constitution of the Uzbek SSR. Tashkent: Uzpolygraphkombinat, 1938.

² Constitution (Basic Law) of the Uzbek SSR. Adopted on 19.04.1978 at the sixth session of the ninth convocation of the Supreme Soviet of the Uzbek SSR. 1978.

³ "Xalq so'zi" newspaper, 15 December 1992, No. 243 (494).

⁴ Law No. 1064-XII of 06 May 1994, which entered into force on 27 May 1994. (Bulletin of the Supreme Council of the Republic of Uzbekistan, 1994, No. 5, art. 140).



were made to it, and on 13 December 2002 it was adopted in a new wording⁵.

This law also specifies only natural persons-citizens as subjects of the right of appeal.

Both laws legislated such issues as types and forms of citizens' appeals, requirements to appeals, the procedure for their consideration, responsibilities of state bodies and officials, and measures of responsibility in case of violation of these legal requirements.

During the implementation of the 2002 Law, questions arose in practice about the procedure for considering applications from legal entities, the procedure for considering citizens' applications to public organizations, law enforcement agencies, the activities of the units responsible for handling applications in State bodies and many other related issues and problems, as a result of which the Law was revised and in 2014 the Law on Appeals from Individuals and Legal Entities was adopted⁶.

It would be an understatement to say that the adoption of this law was one of the important steps in the development of the institution of appeal. That is, this Law created a legal basis for the full realization of the constitutional norm from the point of view of the subjects of appeal.

When drafting this law, the experience of foreign countries, including CIS countries, was deeply studied. The results of the study showed that in Germany, Canada, Norway, the United States, Switzerland and some CIS countries adopted special laws regulating the consideration of appeals of individuals and legal entities⁷.

When Shavkat Mirziyoyev took office as President of the Republic of Uzbekistan, he stressed the following idea: "It is not the people who should serve the state bodies, but the state bodies should serve our people"⁸. This guiding principle is defined as a priority direction of our country's policy. Soon after that, the Decree of the President of the Republic of Uzbekistan No. DP-4904 dated 28 December 2016 On measures to radically improve the system of work with appeals from

individuals and legal entities⁹ was adopted. The Public Reception Centre and the Virtual Reception Centre of the President of the Republic of Uzbekistan, established in accordance with this decree, have become a system linking citizens with official bodies.

Analyses of current problems raised through public receptions and mobile reception centres have also led to many reforms. For example, earlier, an average of 100,000 enquiries were received per month on currency exchange, tips, pensions and gratuities in cash. With the amenities created in these areas and systematic problem solving, the appeals have completely stopped.

All State bodies and organizations have now set up virtual reception desks for their chief executives, which are open on a permanent basis.

The new wording of the Constitution, adopted by referendum on 30 April 2023, proclaims the safeguarding of human rights and freedoms as the supreme goal of the State and increases human rights standards more than threefold.

The Constitution has adopted a separate article on national human rights institutions.

Article 56 of the Constitution states: "National human rights institutions shall complement the existing forms and means of protecting human rights and freedoms, contribute to the development of civil society and enhance the culture of human rights. The State shall create conditions for the organization of the activities of national human rights institutions"¹⁰.

Uzbekistan's system of national human rights institutions includes the Commissioner for Human Rights (Ombudsman) of the Oliy Majlis, the Commissioner for Child Rights of the Oliy Majlis, the Presidential Commissioner for the Protection of Entrepreneurs Rights (Business Ombudsman) and the National Centre for Human Rights. Their activities are organized on the basis of international human rights standards¹¹ and best foreign practices and are constantly being improved.

⁵ LawNo. 446-II of 13 December 2002, which entered into force on 02 February 2003. (Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 2003, No. 1, Article 7)

⁶ (Bulletin of the Chambers of the Oliy Majlis, 2014, No. 12, article 340)

⁷ Comments to the Law of the Republic of Uzbekistan On Appeals of Individuals and Legal Entities. Tashkent, "Adolat", 2016.

⁸ From the speech of Sh.M. Mirziyoyev at the VIII meeting of the Movement of Entrepreneurs and Business People of the

Liberal Democratic Party of Uzbekistan, held on 19 October 2016.

⁹ Collection of legal documents of the Republic of Uzbekistan, 2017, No. 1, Article 5.

¹⁰ National Legislative Information Database, 01.05.2023, No. 23/03/837/0241

¹¹ Sulaymanov, O. R. (2022). AN INTERDISCIPLINARY APPROACH TO THE CONCEPT OF "INTERNATIONAL STANDART" IN THE MODERN THEORY OF INTERNATIONAL LAW. European International Journal of Multidisciplinary Research and Management Studies, 2(12), 44-50.



With regard to their legal status and activities, attention should be drawn to the following:

At the first session of the Oliy Majlis, the institution of the Parliamentary Commissioner for Human Rights was established. On 6 May 1995, by decision of the Oliy Majlis, a Commission on the observance of the constitutional rights and freedoms of citizens was established to facilitate the exercise of parliamentary responsibilities in the area of human rights. Their work was regulated by the Regulations on the Commissioner for Human Rights of the Oliy Majlis, approved by a parliamentary decision of 29 August 1995¹².

At the eighth session of the Oliy Majlis, held on 24 April 1997, the Law on the Commissioner for Human Rights (Ombudsman) of the Oliy Majlis was adopted.

In addition to intensive reforms in all spheres, parliamentary reforms were also implemented in Uzbekistan. Following the transition from a unicameral to a bicameral parliament, a new version of the Ombudsman Law was adopted on 27 August 2004.

The Commissioner for Human Rights (Ombudsman) of the Oliy Majlis is an impartial and humane defender of citizens' rights. He considers and investigates complaints of human rights violations within the limits of his powers as defined by law, recommends measures to remedy errors committed by individual organisations and officials, and, while promoting the restoration of citizens' rights, is empowered to make recommendations on bringing to justice, in accordance with the law, persons causing serious violations of human rights.

The Ombudsman operates in accordance with the new version of the Constitution adopted by referendum on 30 April 2023;

The Law on The Oliy Majlis Human Rights Commissioner (Ombudsman);

Presidential Decree No. DP-6312 of 10 September 2021 on measures to improve the work of the Commissioner for Human Rights (Ombudsman) of the Oliy Majlis and other relevant legal and regulatory instruments.

The deadline for filing a complaint missed for valid reasons may be restored by the Commissioner. This provision was introduced by Law LRU-441 of 29 August 2017, which gives individuals the right to apply to the Ombudsman for the restoration of a time limit missed for valid reasons.

As one of the national human rights institutions and Deputy Commissioner for Human Rights (Ombudsman) of the Oliy Majlis, Presidential Decree No. DP-4296 of 22 April 2019 on additional measures to further strengthen guarantees of child rights¹³ introduced the institution of the Commissioner for Child Rights.

Also, special priority is given to improving the legal status and activities of the Commissioner for Child Rights in the National Strategy of the Republic of Uzbekistan on Human Rights approved by Presidential Decree No. DP-6012 of 22 June 2020 On Approval of the National Strategy of the Republic of Uzbekistan on Human Right¹⁴.

Presidential Decree No. DP-6275 of 9 August 2021 on measures to further improve the system for safeguarding children's rights¹⁵, which was adopted in order to implement the tasks set out in the present National Strategy, established the institution of the Oliy Majlis Commissioner for Children's Rights and abolished the post of Deputy Commissioner for Human Rights (Ombudsman) of the Oliy Majlis, the Commissioner for Child Rights.

In 2022, the Ombudsman for Child Rights received 696 communications requesting protection of child rights.

Of these, 374 were duly considered, 64 were satisfied, and legal explanations were given in 310 cases.

With the support of the Office of the General Prosecutor, alimony totaling 389.3 million sums was recovered from 71 children on the basis of recommendations resulting from the examination of 29 applications concerning their parents' right to alimony.

In addition, the Commissioner for Child Rights receives group applications. Some 500 parents of children with the serious genetic disease phenylketonuria have reported that there is a shortage of special medical nutrition for their children, which jeopardizes the health and life of their children.

A number of legislative documents relating to the safeguarding of children's rights and guarantees of their rights have been adopted in our country and are being applied in practice.

If we look at the national legal framework in this regard, the number of normative legal documents relating to child rights is 40, and the number of subordinate legal documents is more than 500. This, in turn, has created the need to specialize in legislation on

¹² A. A. Gafurov, A. R. Mominov, and M. A. Tillabaev, "Human Rights" textbook. -Tashkent-2012.-C.158.

¹³ National Database of Legislative Documents, 23.04.2019, No. 19/07/4296/3001.

¹⁴ National database of legislative documents, 23.06.2020, No. 20/06/6012/0953.

¹⁵ National Legislative Information Database, 10 August 2021, No. 21/06/6275/0781.



child rights and to create effective mechanisms for its implementation.

It is worth noting that in many foreign countries the activities of the children's ombudsman are regulated by special laws, including the Law on the Ombudsman for the Rights of the Child in Sweden, the Law on the Ombudsman for the Rights of the Child in Poland, the Law on the Children's Advocate in France, the Law on the Ombudsman for Children in Ireland and the Law on the Supervision of the Protection of the Rights of the Child in Lithuania.

Parliament is currently discussing a draft Law on the Commissioner for Child Rights (Children's Ombudsman) of the Oliy Majlis.

The institution of the Presidential Commissioner for the Protection of Entrepreneurs Rights, established under Decree No. DP-5037 of 5 May 2017 on the establishment of the institution of the Presidential Commissioner for the Protection of the Rights and Legitimate Interests of Entrepreneurs¹⁶, serves to protect the rights of entrepreneurs established by the State.

The duties and rights of the Commissioner for the Protection of Entrepreneurs Rights are to participate in the formation and implementation of State policy for the development of entrepreneurial activity, to protect the rights and interests of entrepreneurs, to provide them with legal support in investigating the activities of entrepreneurs, to file lawsuits in court in the interests of entrepreneurs, and to monitor their activities.

On 29 August 2017, the Law of the Republic of Uzbekistan on the Commissioner under the President of the Republic of Uzbekistan for the protection of the rights and legitimate interests of business entities¹⁷ was adopted.

On 15 March 2019, the Decree of the President of the Republic of Uzbekistan No. DP-5690 on measures to radically improve the system of protection of business and optimize the activities of the prosecutor's office¹⁸, and from 1 April 2019 it was determined that control over the legality of inspections conducted in the activities of business entities by the bodies of coordination and control will be carried out by the Commissioner for the Protection of the Rights and Legitimate Interests of Business Entities under the President of the Republic of Uzbekistan, as well as by the Commissioner for the Protection of the Rights and Legitimate Interests of Business Entities under the President of the Republic of Uzbekistan.

¹⁶ Collection of Legal Documents of the Republic of Uzbekistan, 2017, No. 19, article 333.

¹⁷ Collection of Legal Documents of the Republic of Uzbekistan, 2017, No. 35, Article 915.

In January-June 2023, the Ombudsman received a total of 4,414 appeals.

18 per cent of the appeals were related to taxes, 14 per cent - to land, cadastral, architectural issues, 13 per cent - to banking, financial and credit issues, 8 per cent - to infrastructure, 7 per cent - to the execution of documents of courts and other bodies.

In addition, 4,399 applications were received through the Virtual Office of the Entrepreneur information portal.

As a result of the consideration of the applications, the Commissioner sent 74 lawsuits to the courts in favor of entrepreneurs for a total amount of 24 billion soums.

A total of 1,675 measures were taken against officials who had violated the law in considering their applications. Eighty-one appeals were filed with the relevant departments. Over the past period, the Commissioner's Office drew up 1,474 protocols on administrative offences.

Of the orders submitted to the Commissioner for consent to inspections by the supervisory authorities, 890 were rejected due to the lack of legal grounds for conducting inspections.

Following a review of the legality of the inspections, administrative protocols were drawn up in respect of 1,474 officials and disciplinary measures were taken against 113 employees.

Among the national institutions protecting human rights in Uzbekistan, the National Centre for Human Rights plays an international and national interdepartmental coordinating role. The National Centre for Human Rights is a State body that ensures mutual cooperation between State bodies and other organizations in fulfilling Uzbekistan's international human rights obligations, the preparation of periodic reports and the expansion of cooperation with international organizations for the protection of human rights. The Centre exercises its powers independently of all State bodies and organizations and their officials.

In accordance with the recommendations of the Second United Nations World Conference on Human Rights (Vienna, 1993), the National Centre for Human Rights, established by Presidential Decree No. DP-1611 of 31 October 1996, is responsible for dealing with communications from individuals and legal entities¹⁹.

Over the past 27 years, the National Centre has received about 34 thousand appeals. More than 50 per cent of the appeals are of a personal nature, more than

¹⁸ National database of legislative documents, 16.03.2019, No. 19/06/5690/2772.

¹⁹ Saidov A. H. "Uzbekistan and the Universal Declaration of Human Rights". - "Adolat". Tashkent-2018.



40 per cent relate to socio-economic rights, 4.4 per cent to cultural rights, and 4 per cent to political rights.

About 95 per cent of the appeals received by the National Centre were forwarded to the relevant bodies for legal consideration of the issues raised in them, and more than 2,000 appeals were given appropriate legal explanations.

More than 35 per cent of the appeals examined were received directly from citizens during the reception process, while the rest were received through the means of communication.

Due to the coronavirus pandemic, it can be seen that the number of applications in 2020 has decreased compared to other years.

In the life of states, peoples and nations at certain stages of history, great changes take place. Uzbekistan today is experiencing just such a period.

The adoption of the Strategy of Action on the initiative of President Sh.M.Mirziyoyev initiated a period of radical democratic reforms and transformational changes in Uzbekistan.

An analysis of the communications examined by the centre shows that some 8,000 of them concern citizens' rights to justice; some 5,300 complaints have been lodged against decisions of local State authorities; more than 4,100 complaints against the actions and decisions of officials of pretrial investigation and enquiry bodies; 5,600 complaints against decisions of other State bodies, institutions and organizations and the actions of their officials; and some 2,000 complaints relating to the enforcement of court decisions.

Uzbekistan today has sufficient legal means for citizens to apply to the judicial authorities for the defense of their rights and the restoration of violated rights.

Article 8 of the Universal Declaration of Human Rights states: "Everyone has the right to effective redress by the competent national tribunals for violations of the fundamental rights conferred on him by the Constitution or the law".

Under article 55 of the new edition the Constitution, everyone has the right to defend his or her rights and freedoms by all means not prohibited by law.

Everyone is guaranteed the right to defend his or her rights and freedoms through the courts and to appeal to the courts against unlawful decisions, acts and omissions by State bodies and other organizations and their officials.

Everyone has the right to compensation by the State for damage caused by unlawful decisions, acts or omissions of State bodies or their officials.

The specialization of the judicial system (criminal, civil, administrative and economic) gives citizens the right to apply to the appropriate courts, depending on which rights have been violated.

As a result of the measures taken by the National Centre on the basis of applications considered over the past 27 years, the rights of more than 4,500 citizens have been restored, and in 3,100 cases citizens have received practical assistance in exercising their rights and legal interests.

In addition, during that period, representatives of the Centre participated as observers in more than 180 different categories of court cases.

In more than 60 cases in which the Centre's representatives participated, lawful court decisions were secured and citizens' rights and interests were restored.

During that period, on the basis of a written opinion submitted by the Centre to the courts and the Prosecutor's Office, it was established that 26 citizens had been unlawfully prosecuted in 23 criminal cases, and their acquittal (rehabilitation) under the relevant articles of the Code of Criminal Procedure was achieved; 23 convicted persons had their sentences changed and their sentences reduced.

The acquitted (rehabilitated) persons were compensated in the amount of 3 billion sums for material and moral damage.

Proposals submitted to the courts to restore the violated labor rights of 7 citizens were granted²⁰.

It has also been established that, by decisions of the relevant criminal courts, the immovable property of 22 persons was illegally transferred to the State and was returned to its rightful owners on the basis of the conclusions and recommendations of the Centre at the appropriate level.

When analyzing the appeals examined by the Centre in 2023 only, it is necessary to pay attention to the following:

The Centre received a total of 1,430 applications in 2023, which is 9.9% more than the number of applications received in 2022 (1,301 applications).

Of the applications received, 32 were received as anonymous and remained without consideration in accordance with Articles 3, 6 and 29 of the Law of the

²⁰ Sulaymanov, Odiljon and Rasulov, Jurabek, Abolition of Forced Labour: Case of Uzbekistan (April 5, 2021). Turkish Journal of Computer and Mathematics Education Vol.12 No.

4 (2021), 1078- 1089, Available at SSRN: <https://ssrn.com/abstract=4485273>



Republic of Uzbekistan On Applications of Individuals and Legal Entities.

In total, more than 500 citizens were received at the reception of the Centre in 2023, of which 393 written appeals of citizens were accepted for processing. More than 100 citizens were given legal explanations and consultations.

A total of 1,398 appeals were sent to the relevant authorities for consideration, of which 129 received legal explanations.

Of the communications considered, 393 (28.1 per cent) were received directly from citizens, and 1,005 (71.9 per cent) were received by means of communication (mainly through the postal network). The Virtual Reception Room of the President received 39 communications and the Virtual Reception Room of the National Centre 133 communications.

In analyzing the sex of applicants, 679 (48.5 per cent) were men, 646 (46.2 per cent) were women, and 73 (5.2 per cent) were collective communications.

Of the references examined, 1,064 (76.1 per cent) are applications, 330 (23.6 per cent) are complaints and 4 (0.4 per cent) are proposals.

When comparing the appeals received in 2023 with those received in 2022, by region, an increase in appeals is observed in the Republic of Karakalpakstan, Andijan, Jizzak, Kashkadarya, Navoi, Namangan, Fergana regions and the city of Tashkent.

However, according to the analysis, the largest number of references, as in previous years, came from Tashkent city - 407 (28.4 per cent), Kashkadarya province - 230 (16 per cent), Tashkent province - 170 (11.9 per cent), Surkhandarya province - 91 (6.3 per cent) and Samarkand province - 85 (6 per cent).

Of the communications, 678 (48.5 per cent) concerned personal rights, 594 (42.5 per cent) social and economic rights, 87 (6.2 per cent) and 39 (2.8 per cent) cultural rights.

Of the communications examined by the Centre, 294 concerned citizens' rights to justice, 156 complaints about the actions and decisions of officials of enquiry and pretrial investigation bodies, 194 complaints about decisions of local public authorities, 251 complaints about decisions of other State bodies, institutions and organizations and the actions of officials, 164 related to issues of decent living, 70 to appeals to State bodies, 165 to personal property rights, and 82 to the enforcement of court decisions.

According to the monitoring results, the majority of the appeals received in 2023, compared to the previous years, it became known that there were a lot of appeals related to the implementation of justice, court decisions, preliminary investigations and decisions of the responsible persons who conducted them, as well

as complaints about the decisions of local public authorities, land allocation, violations of the right to private property and housing.

As a result of more than 400 recommendations provided by the National Centre to various State and law enforcement bodies in 2023, citizens' rights were restored in 25 cases, citizens were provided with practical assistance in restoring their rights and legitimate interests in 62 cases, and in 129 cases citizens were given appropriate legal explanations on the requirements established by regulatory documents.

In addition, in 2023, legal advice was provided to more than 2,800 citizens who sought it by telephone (the number of persons seeking oral legal advice increases every year).

In order to monitor the protection of human rights and freedoms in the courts, representatives of the Centre participated in nine court proceedings.

It is noteworthy that it takes several years to restore a violated human right. That is, after several years, positive decisions are taken on recommendations and conclusions submitted to the State body empowered to legally resolve the issue raised by the National Centre.

In conclusion, the National Centre works effectively in cooperation with the State bodies and organizations concerned, within the framework of its competence, to consider applications from representatives of individuals and legal entities. Therefore, as the President of Uzbekistan stated, **"The constitutional principle of the priority of human rights and freedoms must be unconditionally ensured in the daily work of State bodies"**.