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## Administrative appeal as a legal process: meaning and role

**Abstract.** *The article explores the importance of social legal awareness development, as well as the provision of Constitutional Law and Administrative Law mechanisms of the right to human rights and freedoms defense. The purpose of the article is the essential role of the administrative complaint concept in society. It analyses legal support process, the subject and the importance of the complaint procedure, when considering appeals by the current State Bodies. The introduction of the administrative appeal procedure in order to increase public confidence in public authorities, including Law Enforcement Agencies in present time, and determine the importance of the administrative complaint process as a process. Ensuring the study of the essential role of Administrative Appeal Law as a process.*

*This article seeks to examine both the mechanisms and procedures of administrative appeal as well as its effectiveness and impact on legal systems. Specific areas for study are legal framework, procedural aspects and practical implementation of administrative appeal.*

*This work plays an invaluable role in understanding justice systems and administrative management, deepening legal knowledge and improving citizen legal defense effectiveness.*

*The analysis has demonstrated the power of administrative appeal as an effective mechanism for protecting citizens' rights and liberties while increasing state bodies' transparency and responsibility. In this article are provided recommendations on improving appeal procedures.*

**Keywords:** *administrative complaint, legal process, importance of administrative complaint, complaint, process, legal awareness.*

DOI: <https://doi.org/10.32523/2616-6844-2023-145-4-119-126>

### Introduction

Administrative appeal as a legal process has grown increasingly significant in modern legal practice, yet numerous studies in administrative law still neglect its aspects and its role within our system. Administrative appeal's significance stems from its integral part of justice provision, legal protection of citizens, and effective functioning state bodies.

Administrative appeal as a legal process forms the focus of this research paper, with emphasis placed upon understanding its significance and role within law enforcement to guarantee legality and efficiency of law enforcement. Furthermore, comprehensive investigation will take place of mechanisms and procedures used in administrative appeal as well as its impact on legal systems across jurisdictions using comparative legal analysis techniques to achieve its aim of comprehensive assessment of mechanisms and procedures utilized. To do so successfully, tasks

including legal framework analysis, studying judicial practice analysis and comparative legal analyses must also be accomplished to reach this endpoint - with administrative appeal playing an integral part in strengthening legal protection within legal systems across jurisdictions in each legal jurisdiction in which they occur. Hypotheses for this investigation suggests administrative appeal plays a pivotal role in further strengthening rule of law protection throughout legal systems to increase protection by strengthening enforcement as it does strengthening rule of law protection within legal systems; hence my study's hypothesis suggests this factual resultant.

This study is of considerable theoretical and practical interest, contributing to an in-depth knowledge of administrative appeal mechanisms as they relate to effective law enforcement and justice delivery systems. Furthermore, its outcomes could help enhance law enforcement practice as well as legislation within administrative law fields.

### **Research methodology**

This study draws upon key materials including normative-legal acts regulating administrative appeal; judicial practice decisions related to this procedure; scientific literature articles and monographs on administrative law proceedings as well as reports analyzing their efficacy as key resources for its study.

At this research phase, four methods were utilized: analytical method, comparative legal method, historical method and statistical analysis.

An analytical approach can help researchers organize and assess normative legal acts and judicial practices as well as scientific works related to this subject matter. Comparative-legal analysis allows one to understand how administrative appeal practices vary among jurisdictions and to identify best practices, while historical study allows for insight into its evolution as a legal process. Statistical analysis can be utilized for processing and examining quantitative information related to results of administrative appeals.

This study begins by collecting and analyzing normative acts to establish the legal foundations of administrative appeals. Next, an in-depth investigation is undertaken of current judicial practice as well as scientific works regarding its development; comparative analysis with practices in other countries helps pinpoint possible ways of improving this process while statistical analyses on appeal outcomes help assess their efficacy.

This study is noteworthy due to its comprehensive approach to administrative appeals analysis, taking a comprehensive view of this practice from all possible angles (legal framework analysis, practical application analysis and comparative evaluation). This comprehensiveness allows not only greater comprehension of administrative appeals' mechanisms and significance; but also for exploring methods to optimise them and increase effectiveness.

### **Discussion**

Administrative complaint is an information fund that ensures the real quality of the activities of state bodies, local government, officials, employees. Formation of the complaint, the way or recognition of its basic elements, which is the basis for the complaint regardless of its impact from a legal point of view. An important role is the proper application and registration of the complaint in the prescribed manner. Administrative complaint registered in the appropriate manner entails the right to appeal the manner of the complaint. As a result, the essence of the complaint and the right to appeal derive from the right to draft, apply and register the complaint.

In accordance with Article 33 of the Constitution of the Republic of Kazakhstan, citizens of the Republic of Kazakhstan have the right to appeal directly to state bodies and local self-government bodies, as well as to send individual and collective appeals [1].

The concept provided by the Constitution is narrowed, because, as participants of all legal relations, today every citizen has the right to apply with a statement, complaints to non-state organisations on the relations arising between them [2].

Russian scientist, M.D. Zagryatskov classified appeals into four types: submission, complaint, formal complaint, and administrative appeal. According to the scholar, the submission belongs

to the type of complaint, Grievance, formal complaint and traditional complaint. This is because the complaints of citizens are accepted for consideration by the higher head of the same authority that gives rise to the application, formal complaint is the consideration of the same application under administrative responsibility. Administrative complaint is considered by interested parties in an open appeal to the higher authorities on the shortcomings and deficiencies of the administrator's decision-making [3].

## **Results**

An administrative complaint leads to the work of the public system in the direction of protecting the interests of the complainant. As the handling of the complaint relates to the activities and employee of the public body, the body expresses its interest to a certain extent as it is handled by the management and without the participation of the employee named in the complaint.

From the example of the scholar, the complaint against the administrative service can only be considered within the framework of the thrown out administrative act within the legal power of this body and the decision made by the employee. The administrative act in the technical sense is sent to the person, but it should not go beyond the norms of law and objective evaluation [4].

It is necessary to be able to distinguish between an administrative complaint and an administrative application. An administrative complaint differs from an administrative statement by the fact that in an administrative statement the person filing the application is recognised as a separate subject of law, controls the action of a law enforcement agency in an administrative case and the order of the complaint, is recognised as one of the opposing parties and objects to the employee of the state body that made the decision. And the court, in turn, having considered the complaint, having assessed the legal legality of the decision taken, recognises it as legitimate or decides to cancel it.

Administrative claim provides for the protection of public law, and administrative complaint provides for the elimination of offences arising from the violation of the law, the purpose of which is brought to the order of administration, committed by public authorities, in the order of administration, the restoration of the right.

Thus, the public law scholar of that time creates a special system of defence against other law enforcement system, which protects the subjective claim of administration.

They are as follows:

- Administrative action for the prevention of offences arising from an administrative order;
- the distinction of administrative action from criminal and civil order with special characteristics;
- «in order to check the excesses of the activity of administration over the requirements of the management of its activity, it is necessary to expand the form of legal proceedings»;
- the order of criminal and civil proceedings is insufficient to consider the administrative application reason, outside the interests of society, the positions of both parties are not binding on the court, the role of the administrative court in the administrative process or where it is more active, the activity of civil courts is lower, for administrative courts should be increased independence to make legal decisions during the consideration of the administrative case;
- at present, administrative justice does not realise full scientific-theoretical knowledge in practice in the course of judicial proceedings. However, the procedure for consideration of complaints is fully related to the procedure for consideration of complaints and grievances of the administration provided by the Constitution, other international norms [5].

In all cases, an administrative complaint is related to the attitude of a person towards the violation of all his/her rights and freedoms through a decision or action taken by an employee of a public body.

Complaint, a means of procedure aimed at its urgent restoration in case of violation of the rights and interests of citizens;

- The actions and decisions of a public authority are subject to a big difference in the form of an administrative complaint and an appeal to the court. The right of appeal to the court and its procedure are different from the procedure of the Administrative Code of Procedure and the Administrative Code.

- The acceptance of a complaint gives rise to the right of appeal to the court [6].

The above-mentioned legal features only clarify that the consideration of an administrative complaint cannot be regulated by a single norm.

Administrative claim is not regulated in full. Legal sciences classify two ways of its definition.

On the way to the first, perceiving it as a legal concept, its substantive and procedural perception. The second way, their classification, the right to appeal and the concept of administrative claim.

- In a number of concepts, the second understanding can be perceived closer to this legal topic. In addition, in legal theory, a common method of defence is the administrative claim, the law and the protection of violated rights and protected rights through the court.

- The right of recourse is among the priority branches regardless of the branch of law.

- Consideration of legal statements on civil offences as procedural means of consideration of the mentioned issues allows to state their difference.

- resolve general public disputes.

- for administrative general law, public law, civil law, arbitration and criminal procedure offences.

- requires the resolution of a public legal issue, unlike other types of appeal. The procedural means differed from other criminal or civil complaints. The administrative complaint involved disputes in relation to non-state public legal relations in which the state body carries out its activities. Therefore, the complaint here becomes a means of protecting the public interest, as well as only personal rights. Administrative claim is a means of defence of objective and subjective public right [7].

- as a result, the court, through an appeal, verifies the legality of decisions taken by an administrative body (action, act, etc.), in which it examines them in order to protect subjective and objective public rights. The scientist Zagryatsky M.D. established the emergence of 12 types of administrative and financial rights to the emergence of administrative complaint and administrative claim. All of them arise from objective and subjective needs.

Whatever the type of administrative complaint, the complaint is sent to the consideration of a state body or a higher state body, the referral to the court is not initially considered, so the concept of administrative action is not formed.

The concept of administrative claim follows from the administrative complaint in the direction of the protection of public law, as it is a continuation of the law enforcement form.

- As a result of human rights relations, verticality is manifested. The citizen expects the decision of his complaint from a higher authority. And appealing to the court with an administrative claim leads to the emergence of horizontal relations, as the citizen is the injured party, and the state body - the opposite party.

In this case, the complainant expects the court in response to the request to cancel the decision taken by the public authority, which is not a response to the complaint.

The subject of the complaint, being a uniform type of complaint, is distinguished by the type of procedural actions.

Thus, from the scholar's work, the following concepts can be summarised:

1) Two avenues of appeal are considered under complaint, comprising an administrative complaint and an administrative claim. Administrative grievance and judicial grievance. Regardless of the type with which they are considered, the order of appeal does not limit each other. Their connection is connected not only with the history of the origin of the complaint, but also with the common presence of the subject.

2) The whole administrative complaint is a form of complaint directed to the Administrative or supervisory and management body, aimed at the defence of public law, without which the claim cannot arise and cannot be brought before the court.

3) The nature of the administrative claim is related to the nature of the administrative claim and is a way to protect public interests [8].

The question arises about the totality of the above mentioned complex actions of the right to appeal, whether it is a way to achieve the purpose of appeal in legal tension. Because the appeal to the relevant authorised body is not the main purpose. It is an instrument in solving the problem and its main purpose is to remove the violations of legality committed by the action or inaction of the authorities with the result of the decisions taken. Therefore, there is no need to limit its purpose to the right of appeal and the enumeration of the first complex actions given above.

Basically, the right to appeal, which is carried out in relation to the result of one actually performed action and includes drafting a complaint, sending it, registration, consideration, expression of one's position on the preliminary decision, making a decision on the complaint, execution of the adopted decision. Only the execution of the said actions is recognised, the execution of the right to appeal with the result, the rights violated with the result are restored and violations of legality are eliminated.

The concept of complaint is established by the administrative procedural code of the RK, one of the forms of appeal, containing a request of a participant of administrative procedure to restore or protect his or other persons, violated by an administrative act, action, violated rights and freedoms or legitimate interests [7].

An appeal within the framework established by law to an administrative body, official is understood as a statement or complaint in writing in paper or electronic form, orally, as well as in the form of a video link, video message, appeal.

The specified right to appeal in general administrative appeal plays the main service role in relation to other rights of citizens. The result can be considered the realisation of the right to administrative appeal, starting from the establishment of the fact of violation of rights by decisions, actions of state bodies, officials, public and civil servants, ending with restorative actions of real rights of citizens.

One of the features of the right of administrative complaint is that the complainant has established actions that he or she must perform, because without his or her performance of the actions, the administrative complaint is not liable in respect of the administrative complaint arising before the complainant. The right of administrative appeal is not an inherent concept like a complaint. They are distinguished by their fundamental difference.

In our legislatively formed approach, the concept of administrative appeal must contain the following information in the following complaint with the Administrative Code, which:

- surname, first name, patronymic of a natural person individual identification number postal address or name of a legal entity, postal address, business identification number;
- name of the body, employee against whom the complaint is filed;
- concept
- date of issue of the appeal
- signature of the applicant or his/her representative;
- other information specified by the norms of law.

The complaint, in turn, should undergo appropriate registration from the moment of its receipt by the legal authority, with the result of which it is necessary to ensure the receipt of a registration receipt [2].

Consideration of the complaint in the administrative and judicial order is provided by the right of appeal in the order of its consideration. The listed types of the right of appeal are distinguished by their legal advantages.

Foreign scholars in their definitions «create a democratic institution of appeal, in which the procedure of administrative appeal and judicial appeal are inextricably linked».

Scholars often consider four main types of ways to protect the rights of citizens from unlawful actions of state bodies, unlawful decisions of executive bodies.

The first method of protection in four different ways, the organisation of courts, tribunals, collegium protects public law through the creation of a systematic specialised body.

The first method under the jurisdiction of the administrative or higher authority determines the legality, validity, correctness of the decision taken, «managerial type» execution of administrative acts(French), the intervention of the administrative justice authority in the management of the organs under public administration, and the court in general is not subject to.

The second method is to apply to the court with a statement about the violation of the rights and freedoms of a citizen by an employee of a state body in accordance with the requirements of the Code of Civil Procedure.

The third method, quasi-judicial (Anglo-American and Anglo-Saxon), is the creation of tribunals considering administrative disputes, subordinate to courts of general jurisdiction.

The fourth method, administrative-judicial (of the Germanic type), is reflected in the application of foreign states among courts specialising in resolving disputes caused by decisions of administrative authorities.

There are only two main models of administrative justice moulded after the Western pattern: continental and Anglo-Saxon justice. The Aral model is observed in some countries.

At the objective approach of the action of an official on the way of administrative appeal, as noted by many scholars, the following shortcomings are revealed. They note: in the absence of fundamental specificity in the order of appeal of the legislation on administrative appeal, with all the identified shortcomings, the order of appeal can be turned to the order provided by the civil procedure code.

## Conclusion

Administrative complaint in everyday life gives ordinary citizens the opportunity to quickly contact government agencies and appeal and legally, if they are dissatisfied with the fact that they express their opinion about the activities carried out.

Administrative claims as an institution of law allows for quick constructive solutions to problems of a wide and broad range of perspectives.

At present, the Republic of Kazakhstan is among the most rapidly developed countries on the world stage. The introduction of widespread digitalisation in all spheres has raised the importance of the administrative appeal sphere and ensured that opportunities to protect and restore their rights are in the hands of citizens.

The administrative complaint procedure has allowed the authorities to work in balance, in turn, the review of the complaint is aimed at improving the quality of public services.

Administrative justice has made great strides in Kazakhstan since 2021. This appeals system, initially considered for 10 years of government discussion, has been rigorously implemented. On 18 June 2020, the RoK was approved by the Senate and found support.

The President of the RK, Kasym-Jomart Kemelevich Tokayev, in his address on 2 September 2019, set the goal of establishing administrative fairness in the administrative appeal system.

Also, this system of appeal provided not only for the protection of rights and freedoms in the country, but also to increase the degree of social activity among the population.

The system of administrative appeal from the point of view of developing countries, above, suggests the aspiration to follow the example of developed countries. The system of administrative appeal provides for full respect and proper enforcement of rights in the course of appeal regardless of ownership.

Although initially the issue of defining the judicial system dealing with administrative complaints raised a number of questions, it now makes it easy to trace the protection of the rights concerned. Under the information system, each institution provides for the degree of legal compliance, enforcement of compliance by passengers.

Ensuring compliance with the norms and requirements of the law will increase the degree of authority of authorised agencies and state law enforcement agencies, judiciary in ordinary life, society.

Based on the above, the right to administrative appeal is the most important way to protect the rights of citizens and legal entities. An important way in which citizens on the basis of the right to administrative appeal apply to the relevant authorised bodies and require them to ensure their qualitative rights.

Administrative appeal is a rapidly developing factor of legal activity of citizens in society, the importance of which can be explained by the rapid growth of the degree of legal consciousness in society in recent years. And given that the future is in the hands of a legally literate society, administrative appeal has a special significance as a legal institution with its own peculiarities.

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## Әкімшілік шағым құқықтық процесс ретінде: мағынасы мен рөлі

**Аңдатпа.** Мақалада қоғамдық құқықтық сананы дамытудың маңыздылығы, сондай-ақ адамның құқықтары мен бостандықтарын қорғау құқығын конституциялық-құқықтық және әкімшілік-құқықтық тетіктермен қамтамасыз ету зерттеледі. Мақаланың мақсаты – қоғамдағы Әкімшілік шағым тұжырымдамасының маңызды рөлін анықтау. Қолданыстағы мемлекеттік органдардың өтініштерін қарау кезінде Құқықтық қамтамасыз ету процесі, шағымдану рәсімінің мәні мен маңызы талданады. Қоғамның мемлекеттік билік органдарына, оның ішінде қазіргі уақытта құқық қорғау органдарына деген сенімін арттыру мақсатында әкімшілік шағымдану рәсімін енгізу және әкімшілік шағымдану процесінің процесс ретінде маңыздылығын айқындау. Әкімшілік апелляциялық құқықтық процесс ретіндегі маңызды рөлін зерттеуді қамтамасыз ету.

Бұл мақала әкімшілік шағымданудың тетіктері мен рәсімдерін де, оның тиімділігі мен құқықтық жүйелерге әсерін де зерттеуге бағытталған. Зерттеудің нақты бағыттары-құқықтық негіздер, іс жүргізу аспектілері және әкімшілік шағымды іс жүзінде жүзеге асыру.

Бұл жұмыс сот төрелігі мен әкімшілік басқару жүйелерін түсінуде, құқықтық білімді тереңдетуде және азаматтарды құқықтық қорғаудың тиімділігін арттыруда баға жетпес рөл атқарады.

Талдау мемлекеттік органдардың ашықтығы мен жауапкершілігін арттыра отырып, азаматтардың құқықтары мен бостандықтарын қорғаудың тиімді тетігі ретінде әкімшілік шағымданудың күшін көрсетті. Бұл мақалада шағымдану процедураларын жетілдіру бойынша ұсыныстар берілген.

**Түйін сөздер:** әкімшілік шағым, құқықтық процесс, әкімшілік шағым маңызы, шағым, құқықтық сана.

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### **Административное обжалование как правовой процесс: значение и роль**

**Аннотация.** В статье исследуется важность развития общественного правосознания, а также обеспечение конституционно-правовыми и административно-правовыми механизмами права на защиту прав и свобод человека. Цель статьи - выявить существенную роль концепции административной жалобы в обществе. Анализируется процесс правового обеспечения, предмет и значение процедуры обжалования при рассмотрении обращений действующих государственных органов. Введение процедуры административного обжалования в целях повышения доверия общества к органам государственной власти, в том числе к правоохранительным органам в настоящее время, и определение значимости процесса административного обжалования как процесса. Обеспечение изучения существенной роли административного апелляционного права как процесса.

Данная статья направлена на изучение как механизмов и процедур административного обжалования, так и его эффективности и влияния на правовые системы. Конкретными областями для изучения являются правовые рамки, процессуальные аспекты и практическая реализация административного обжалования.

Эта работа играет неопределимую роль в понимании систем правосудия и административного управления, углублении правовых знаний и повышении эффективности правовой защиты граждан.

Анализ показал силу административного обжалования как эффективного механизма защиты прав и свобод граждан при одновременном повышении прозрачности и ответственности государственных органов. В данной статье представлены рекомендации по совершенствованию процедур обжалования.

**Ключевые слова:** административная жалоба, правовой процесс, важность административной жалобы, жалоба, процесс, правовое сознание.

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