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# Issues of the time limit for consideration of an administrative complaint

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**Abstract.** Administrative relations as an area of law is an integral aspect of modern society, regulating many relationships among its constituents. Through analysis of administrative law it has been demonstrated that its regulations determine what term should be considered when considering complaints, its implementation in other spheres of law is then assessed.

This article investigates issues surrounding the timeliness of administrative complaints review processes. Particular attention is given to factors that contribute to long review processes, which in turn impact administrative efficiency. Authors discuss various legal regulations, organizational features and procedural features while pinpointing key challenges they present and ways to overcome them.

According to the results of legal examination, relevant concepts are evaluated; time limits for consideration of complaints, procedures and similar requirements related to other legal areas are taken into consideration, compliance with deadlines signifies the level of importance given to protecting human rights and liberties both criminally as well as administratively.

Based on its findings, this paper emphasizes the significance of adhering to time limits for administrative complaints in order to maintain fairness and efficiency of administrative procedures.

**Keywords:** administrative complaint, institute of the term of administrative complaint, terms, procedure of administrative appeal, term of consideration of the complaint, administrative principles.

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## Introduction

At present, administrative-legal relations lack an established development plan and fundamental research, as well as adequate support from doctrines and international law. When considering Kazakhstani models of adopting legal norms that regulate specific administrative-legal relationships we can distinguish 3 stages [1].

The initial period, from 1994 to 2002, coincides with the initial legal reforms in Kazakhstan;

The second stage (from 2002 to 2010) includes the development of legal policy within Kazakhstan;

The third stage will focus on legal reforms implemented since 2010.

One of the primary issues was improving administrative legislation and legal relations both at all stages and before the state. One goal of these efforts was forming an orderly system of administrative proceedings with regards to both civil and criminal proceedings [2].

Thus, the establishment of administrative justice and administrative judicial bodies was seen as an evolution of Kazakhstani jurisprudence.

Based on legal examination, these reforms recognized that protecting rights and legitimate interests of citizens and people within public law is the responsibility of institute of administrative justice and other bodies within Republic of Kazakhstan.

Administrative law has seen a long and distinguished history of development over its entirety - comprising justice for administrative decisions as well as public legal relationships and state administration systems.

Before the late nineteenth century, public administration and service management were widely acknowledged as part of state law. O. Mayer, L. Stein and Rudolf Gneist were recognized by scholars of administrative science in European states and Russia Federation during the third half of the XIX and XX centuries as pioneers in "administrative law", with their research covering administrative-legal relations among various capital branches [3].

Understanding of administrative justice as defined by its initial concept - administrative law - was the basis for its interpretation in German states during the late XVIII and XIX centuries, particularly regarding public safety concerns for police officers as well as protecting rights and freedoms of citizens.

French administrative law was originally devised to safeguard ordinary citizens against the power of officialdom in Napaleon. Today, its system of administrative justice is considered globally as an exemplary form in which special bodies adjudicate disputes between public authorities and citizens [4].

Many decisions taken during Kazakhstan's system of administrative justice development can be seen as innovative solutions, given its long development cycle. Administrative justice history can be divided into three stages. They are:

– The period of revolution;

– The period of the Soviet Union;

– Modern period [1].

Kazakhstan was not home to an administrative justice system prior to revolution. Following it, however, Soviet law evolved with one common system for development that included

administrative justice as a component. Thus, the conception and creation of Soviet Union both contributed to the development of administrative justice on legal platforms; yet with its establishment no tangible results or achievements were seen in this field. Andreev I. E., Tarasov I. T. and Korkunovan N. M. provided operational and sustainable development of administrative justice in Russia during the prerevolutionary period. Additionally there have been works by Gessen V.M., Korf S.A., Elistratova A.I., Gagen V., Zagryatkova M.D. as well as other scientists.

As Soviet power declined, administrative-legal science underwent tremendous change and development within public relations of administrative justice. This period saw numerous scientific works published during this time by Absalyamov A. V., Bakhrakh D. N., Belsky K. S. and Demin A. A. being published. Zelentsov A. B. was responsible as well for publishing Kucherena A.G with Lyubimova R.N and Osintsev D.V. which ultimately lead to Studenikina M., Tikhomirov Y.A., Kilyaskhanova I.Sh. and other authors that contributed immensely towards developing institute of administrative justice institute of administrative justice institute itself.

These authors' works reveal the necessity to regulate administrative bodies, administrative legal proceedings and relations within an administration and how these need to be managed effectively.

Kazakh scientists have made a great contribution to the development of the modern institute of administrative justice. The authors of scientific works that made a significant contribution to the institute of administrative complaints are: Abdikerimova A. A., Abdrakhmanov B. E., Baisalova G. T., Zhatkanbaev A. E., Zhetpisbaev B. A., Mami K. A., Medetov A. M., Nugmanov E. A., Nurbolatov A. N., Podoprigora R. A., Porokhova E. V., Taitorina B. A., Taranov A. A., Tuzelbaeva E. O. and other jewelers [5].

These specialists were pivotal figures in modernizing Kazakhstan's administrative appeals process and administrative justice, leading to legal reforms to meet modernity's demands.

## Methodology

Researching timeframes for consideration of administrative complaints requires both qualitative and quantitative methods of analysis to provide a holistic analysis. This research adopts both methods in its research effort.

At the time of writing, qualitative methods including documents analysis and expert interviews were utilized. Document analysis consisted of studying legislation as well as normative documents governing administrative complaint consideration procedures and terms as well as case law reports from bodies dealing with complaints. Semi-structured and unstructured interviews conducted with administrative law experts as well as staff from complaint handling bodies or individuals filing complaints were also analyzed in-depth in order to gain first-hand insight into both formal and informal processes that occur when dealing with complaints.

At the same time, quantitative methods such as statistical and correlation analyses were utilized when writing this article. Statistical analysis is the collection and examination of quantitative information regarding administrative complaint processing times from different sources. Utilizing statistical techniques to ascertain mean values, medians, modes and standard deviations as well as potential correlations between duration of processes and other factors

(i.e. type of complaint; instance of review; geographical location). Correlation analysis involves exploring the relationships between complaint processing times and various potentially influential factors, including court workload, electronic means for filing and processing complaints and internal procedure efficiency.

Mixed methods allow both quantitative and qualitative approaches to be taken into consideration, providing a complete picture of issues under study. Case studies provide an opportunity to contextualise theoretical findings through real life examples.

**Findings/Discussion**

At present, in accordance with requests in the Republic of Kazakhstan's institute of administrative law there exists a new institute of administrative law. On January 12, 2007 was passed Law of RK on Appeal Procedure of Individuals and Legal Entities which later underwent reform and on June 29 2020 came the adoption of Administrative Procedural Code RK or "Code".

This legislation altered the discipline and institute of administrative law with its main goal being the safeguarding of human rights and liberties through legal order.

In accordance of this Code, an administrative claim refers to litigation filed before a court to protect and restore rights, freedoms or legitimate interests that have been compromised due to public-law relations that has been breached or challenged.

Activities by right holders play an invaluable role in society, impacting state bodies' authority and interests while acknowledging anyone committing an offense as they consider appeals from both individuals and legal entities.

At present, the order and concept of each sectoral law to be restored has been outlined. Most truthfully and fully it should be noted that the concept of legal restoration is illustrated by the Code of Criminal Procedure.

Restoration of the violated right is a concept that has been discussed for many years. With the results of the study of scientific textbooks we observe one izdi understanding of the concept of restoration of the right.

Klimova G. Z. in her works emphasizes the notion of normalization of rights as the sole retroactive mechanism through which an accused can gain justice after they've been wrongfully accused. Her works outline various approaches and ways of understanding restoration. Asked to assess methods related to restoration rights it should be noted that prior to 1900 full coverage restoration rights was only known through compensating applicants monthly by making monthly calculations over an agreed time [6].

Modern Kazakhstan has changed its discipline in modernizing the site of administrative law. Identifying the relationships in the system, in the supervision of their regulation reveals a critical picture of governance.

Firstly, governance is a critical attribute inherent only to the authorities and management bodies.

Secondly, public administration has a universal characteristic, carried out to the state.

Third, the legal form implies the exercise of governance.

Fourthly, the system of governance is the hallmark of irarchical governance. And such governance is mainly recognized as constitutional and regulated by constitutional law [7].

The norms of the law regulating administrative relations provide for appeal by individuals and legal entities against acts and decisions of the government and decisions of other authorities.

A special feature of the fact that one of the parties to administrative appeal is necessarily a state body. As a result, the akimat was expanded by introducing systemic control of administrative proceedings into the system of cardinal supervision of appeal and supervision of appeal.

Scientific textbooks precisely revise the exact place and order of the administrative judiciary. Thus, the power of the judiciary is maintained in the direction of constitutional law. Legal protection is carried out only by the court with constitutional competence of the guarantor of the state, ensuring human rights and freedoms. As the justice system, carries out a certain type of public service of discipline.The judiciary literature also includes the following:

– Judicial administration;
– clarification of rules of law;
– legal essence of legal facts.

Judicial control is aimed at resolving legal disputes, gives an assessment of violations by state bodies of human rights and freedoms caused by their actions [8].

Thus, only administrative litigation resolving administrative disputes is considered. There should be no reasonable disputes and questions regarding these decisions taken. Since the consideration and application of administrative complaint is carried out in accordance with administrative law.

In order to examine administrative complaints against the judiciary in the order of the administrative dispute resolution authority, initially, the authorities faced a big question on the classification of courts, which required the classification of specialized inter-district administrative court and administrative court.

At present, the courts have classified the ratio of administrative cases and administrative complaints. The need to clarify the recognition of decisions and actions of state bodies recognized as the object of an administrative complaint and the establishment of its classification by branches is determined by the Code and immediately legislated that their relationship to a branch of law other than administrative cannot be considered a classification of complaints.

The term for consideration of an administrative complaint is twenty working days. Based on the results of the consideration of the complaint, six basic decisions established by law are taken. They are:

– repeal of an administrative act;
– repeal of an administrative act and adoption of a new administrative act;
– on the performance of an administrative act;
– to leave the complaint without satisfaction;
– to send the administrative act to the administrative body or official under appeal;
– to leave the complaint without consideration;

Depending on the type of adoption of each decision, there are exceptions depending on the timeframe for consideration.

However, the administration does not pay attention to the deadlines and timeframes for consideration of the relevant complaint by the bodies. In the last days of the relevant deadline, complaints are dealt with by officials with the imposition of the state and do not receive due attention.

In accordance with the requirements of Article 17 of the Code, administrative proceedings shall be conducted within a reasonable time. A reasonable term shall be determined by the requirements of the Code and shall be established depending on the circumstances.

1. In accordance with part 6 of Article 64 of the Code, in case of non-compliance of the appeal with the requirements established by Article 63 of this Code, the administrative body, official shall indicate what requirements the appeal to the applicant does not meet and establish a reasonable period of time to bring it into compliance with the requirements (15 working days for the general administrative procedure).

2. In accordance with part 3 of article 76 of the Code, the term of the administrative procedure initiated on the basis of an appeal may be extended by a reasoned decision of the head of the administrative body or his deputy for a period not exceeding two months in connection with the need to establish specific circumstances, reasonable, but relevant for the correct consideration of the administrative case. notified within a working day.

3. Part 6 of article 138 of the Code, the judge shall hold a preliminary hearing within a reasonable period of time (the term of consideration of an administrative case as a whole 3 months), except for cases stipulated by this Code.

4. Part 1 of Article 146 of the Code, an administrative case shall be considered and resolved within a reasonable period of time, but not more than three months from the date of filing the claim. In particularly complex administrative cases, this term may be extended by a reasoned determination of the court for a reasonable period of time, but not more than three months.

5. Under Article 148(1) of the Code, by agreement of the parties, the court shall have the right to consider an administrative case in written proceedings within a reasonable, but not exceeding the date of filing a claim, period of time in administrative cases, reasonable by a reasoned determination of the court, but not more than three months, which may be extended by no more than three months.

6. In accordance with part 8 of Article 168 of the Code, an administrative case in the court of appeal instance shall be considered and resolved within a reasonable time, but not more than three months from the date of its receipt by the court. In particularly complex administrative cases, this term may be extended by a reasoned determination of the court for a reasonable period of time, but not more than three months. A ruling on the extension of the trial period shall not be subject to appeal or to review at the request of the procurator.

7. In accordance with paragraph 5 of Article 169 of the Code, an administrative case is considered and resolved in the court of cassation instance within a reasonable period of time, but not more than six months from the date of its receipt by the court [9].

The most frequent gap is that the person filing a complaint sends his/her complaint to a body outside the relevant state body, and the official sends it to the authorized body within three working days at the latest. However, the responsible person, by deciding to send the complaint to the relevant authorized body after the expiry of the time limit for its consideration, entails violation of the rights of the complainant without complying with the time limit requirements.

This issue leads to a gross violation of the twenty-day deadline for consideration of a complaint by both quasi-governmental organizations and state bodies under economic management.

**Most state organizations are among their constant financial complaints**

Currently, the Code of Administrative Offenses stipulates responsibility for these violations. However, in most cases, unreasonable delay in consideration leads to violation of people's rights and legitimate interests.

The reason for these violations is that in order to improve the legal literacy of citizens, appropriate informatization is not carried out, and employees of the state body refuse or evade the proper performance of their official duties.

And the main purpose of the administrative complaint known to us is the need to restore the violated rights of citizens.

According to Article 5 of the Administrative Code, among the tasks of administrative procedures is the full realization of public rights, freedoms and interests of individuals and legal entities.

In accordance with the specific timing of the requirements of the above law and the requirements of the principles of the code, proper compliance is not ensured by the officials of the responsible state bodies at present.

The result in the vast majority of cases is the violation of deadlines, and citizens, not finding a proper solution to their complaints, lose time due to appeal to a higher authority or court and negligent consideration by the state authorities in a period exceeding a reasonable time.

For these gaps, the supervisory bodies always during periodic inspections reveal the facts of violations committed by each employee, and appropriate measures are taken. But for the specified shortcoming there is no work on restoration of rights and restoration of authority of the state body of citizens and legal entities, who lost their time and caused negative criticism from the state.

In this direction, there is an obvious need to work in front of state bodies to ensure proper informatization in order to develop appropriate preventive measures and legal awareness in society.

According to part 4 of article 69 of the Code, one responsible person forming the correct consideration of appeals are the heads of state bodies[10].

However, despite the fact that the norms of administrative law have been improved in their automation, at present, the system of proper assessment of ensuring the proper consideration of appeals works at a low level.

**Conclusion**

Based on the above information, there is a need to make appropriate amendments to the norms and requirements of the Code in order to ensure quality consideration of daily appeals with minimization of their number.

Taking into account the sectoral features of administrative complaints and appeals, in order to ensure the organization of their constant receipt by the relevant authorized body on a particular issue, it is necessary to classify possible similar issues and introduce a special algorithm into the system, mandatory for the applicant to fill in by sectoral features. It is necessary to organize

a system of evaluation of how effectively the administrative complaint considered will lead to the result. And with regard to a specific appeal or complaint with the authorized body, it is only necessary to establish the organization of quality control beyond the indicator of the system "E-application".

The proposed changes will make it possible to identify gaps and shortcomings arising in the consideration of appeals of citizens and legal entities, to determine in what direction it is necessary to make changes in the requirements of the law and the system, to ensure qualitative consideration of each appeal, to eliminate the need to forward one appeal, to reduce their quantitative volume, to increase the level of confidence of the population in the employees of state bodies, as well as to fully implement the principles established by the Code.

**The contribution of authors.**

**Persheyev Alisher Saparbekovich –** annotation, keywords, introduction, methodology, conclusion, list of references.

**Bekturganov Abdimanap Elikbaevich –** results and discussion.

**Tokhanova Roza –** transliteration, information about the authors.

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## Әкімшілік шағымды қарау мерзімі мәселелері

**Аңдатпа.** Әкімшілік қатынастар құқық саласы ретінде қазіргі қоғамның ажырамас аспектісі болып табылады, оның құрамдас бөліктері арасындағы көптеген қатынастарды реттейді. Әкімшілік құқықты талдау оның нормалары шағымдарды қарау кезінде қандай терминді ескеру керектігін анықтайтынын көрсетті. Содан кейін оның басқа құқық салаларында қолданылуы бағаланады.

Мақалада әкімшілік шағымдарды қарау процестерінің уақтылығына қатысты мәселелер қарастырылады. Ұзақ қарау процесіне ықпал ететін факторларға ерекше назар аударылады, бұл өз кезегінде әкімшілік тиімділікке әсер етеді. Авторлар әртүрлі құқықтық нормаларды, ұйымдастырушылық және процедуралық ерекшеліктерді талқылайды. Сонымен бірге ұсынылатын негізгі мәселелерді және оларды қалай жеңуге болатындығы анықталады.

Заң сараптамасының нәтижелері бойынша тиісті тұжырымдамалар бағаланып, шағымдарды қарау мерзімдері, басқа құқықтық салаларға қатысты рәсімдер мен ұқсас талаптар назарға алынады. Мерзімдердің сақталуы қылмыстық және әкімшілік тәртіпте адамның құқықтары мен бостандықтарын қорғауға берілетін маңыздылық деңгейін көрсетеді.

Өз қорытындыларына сүйене отырып, авторлар осы мақалада әкімшілік рәсімдердің әділдігі мен тиімділігін қолдау үшін әкімшілік шағымдарды қарау мерзімдерін сақтаудың маңыздылығын дәйекті талдаулар арқылы көрсеткен.

**Түйін сөздер:** әкімшілік шағым мерзімі институты, мерзімдер, әкімшілік шағымдану тәртібі, шағымды қарау уақыты.

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## Вопросы срока рассмотрения административной жалобы

**Аннотация.** Административные отношения как область права являются неотъемлемым аспектом современного общества, регулирующим многие отношения между его составляющими. Анализ административного права показал, что его нормы определяют, какой термин следует учитывать при рассмотрении жалоб, затем оценивается его применение в других сферах права.

В этой статье исследуются вопросы, связанные со своевременностью процессов рассмотрения административных жалоб. Особое внимание уделяется факторам, способствующим длительным процессам рассмотрения, которые, в свою очередь, влияют на административную эффективность. Авторы обсуждают различные правовые нормы, организационные особенности и процедурные особенности, выявляя при этом ключевые проблемы, которые они представляют, и способы их преодоления.

По результатам юридической экспертизы оцениваются соответствующие концепции, принимаются во внимание сроки рассмотрения жалоб, процедуры и аналогичные требования, относящиеся к другим правовым областям, соблюдение сроков свидетельствует об уровне важности, придаваемой защите прав и свобод человека как в уголовном, так и в административном порядке.

Основываясь на своих выводах, в настоящей статье авторы подчеркивают важность соблюдения сроков рассмотрения административных жалоб для поддержания справедливости и эффективности административных процедур.

**Ключевые слова:** административная жалоба, институт срока административной жалобы, сроки, порядок административного обжалования, срок рассмотрения жалобы, административные принципы.

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