

The Right of a Witness to Lodge a Complaint against Actions (Inaction) and Decisions of Officials Conducting Criminal Proceedings

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Abstract: In criminal proceedings, the safeguarding of individual rights is fundamental to ensuring fairness and legality. Although witnesses are not direct parties to criminal liability, their procedural rights remain essential for the integrity of justice. In Uzbekistan, the legal framework governing the rights of witnesses to appeal procedural actions and decisions is partially developed. Despite constitutional guarantees and provisions within the Criminal Procedure Code, ambiguities remain regarding the scope, procedure, and mechanisms for a witness to effectively challenge procedural violations by authorities. This article aims to analyze the current legal basis for the witness's right to lodge complaints against actions (or inaction) and decisions of officials in criminal proceedings and to propose necessary amendments for ensuring judicial protection. The study finds that although constitutional and legislative norms allow for complaints, key procedural aspects such as the obligation to register complaints, prohibition against self-review by accused officials, and timely notification of outcomes are either unclear or omitted. The paper proposes a concrete amendment to Article 27 of the Criminal Procedure Code to explicitly include witnesses and detail the procedural framework for submitting and reviewing complaints. Strengthening the legal status of witnesses not only ensures fair trial rights but also reinforces the accountability of legal institutions, thereby enhancing trust in the judicial system.

Keywords: constitution, criminal case, criminal procedure, witness, complaint, rights and freedoms, investigation, prosecutor, decisions, action or inaction, violated.

Introduction

According to Article 66 of the Criminal Procedure Code of the Republic of Uzbekistan, a witness has the right to file complaints against the actions and decisions of an investigator, inquiry officer, prosecutor, and court to protect their interests [1]. Consequently, a witness can appeal any actions (inaction) and decisions of the above-mentioned and unmentioned officials (for example, bodies of pre-investigation verification, investigative judge), if they violate his rights and legitimate interests. The list of these actions (for example, searches, detentions, arrests, sentences) and decisions is not defined by law [2].

It should be noted that the witness's right to appeal has been established as a fundamental principle of criminal procedure legislation. For example, Article 27 of the Criminal Procedure Code of the Republic of Uzbekistan establishes that participants in the process and other persons, as well as representatives of enterprises, institutions, and organizations interested in conducting a criminal case, have the right to appeal a procedural action or decision of an investigator, inquiry officer, prosecutor, judge, or court in the manner and within the time limits established by this

Code [3]. Consequently, the right to appeal applies to both individuals and legal entities [4].

In accordance with Article 55 of the Constitution of the Republic of Uzbekistan, everyone has the right to protect their rights and freedoms by all means not prohibited by law. Everyone is guaranteed the right to judicial protection of their rights and freedoms, the right to appeal to the court unlawful decisions, actions, and inaction of state bodies and other organizations, their officials [5].

Methodology

The methodological approach of this study is based on a comprehensive legal analysis of the current legislation of the Republic of Uzbekistan concerning the rights of witnesses in criminal proceedings, particularly their right to appeal actions or inaction and decisions of officials involved in the criminal justice process. The research primarily relies on the interpretative method of legal doctrine, examining relevant articles of the Constitution of the Republic of Uzbekistan and the Criminal Procedure Code, including Articles 27, 55, 66, and 333, to identify existing provisions and gaps in regulating witness rights. A comparative legal method was applied to contrast national norms with principles found in international practices and doctrines, ensuring a broader perspective on procedural guarantees. In addition, doctrinal views of prominent legal scholars were analyzed to highlight theoretical inconsistencies and normative ambiguities [6]. The analytical method was used to evaluate legal provisions and judicial practices related to witnesses' complaints, while synthesis was employed to formulate coherent recommendations for improving legislation [7]. The normative-propositional method helped in drafting a proposed amendment to Article 27 of the Criminal Procedure Code, aiming to expand procedural guarantees for witnesses. The study does not involve empirical data collection, but instead engages in normative critique and conceptual refinement grounded in primary legal texts and secondary scholarly sources. This methodological approach provides a solid legal-theoretical basis for the conclusions and proposals of the research, emphasizing the need for explicit legal regulation of a witness's right to appeal and the institutional obligations that must accompany such rights [8].

Results and Discussion

As a result of the reforms carried out in the judicial and legal sphere in our country, in accordance with the Criminal Procedure Code, the range of decisions and actions that interested parties in the case, including witnesses, can appeal to the court, has been significantly expanded. Consequently, according to Article 333 of the Criminal Procedure Code, if the circumstances stipulated in paragraphs 1, 3-8 of Articles 83 and 84 of the Criminal Procedure Code are established in the case, the official of the body conducting the pre-investigation check, the investigator, the inquiry officer, or the prosecutor shall issue a decision to refuse to initiate criminal proceedings, and the citizen, legal entity, or official who reported the crime shall be notified of this. In this case, they must be explained the right and procedure for appealing the decision. However, this article does not fully explain the procedure for filing a complaint [9]. It should be noted that the decisions of an official of the body carrying out pre-investigation checks, operational-search activities, an investigator, an inquiry officer, or an investigator to refuse to initiate a criminal case, to terminate a criminal case, as well as their other decisions and actions (inaction), may harm or create difficulties in the implementation of the constitutional rights and freedoms of a person and citizens and may impede the realization of the rights of participants in criminal proceedings to a fair trial [10].

Of course, the decision to refuse to initiate criminal proceedings and the response to the person who filed the complaint (by the investigator or other official) must be substantiated. In addition, the official against whom the complaint was filed is not entitled to consider the complaint himself, but is subject to verification by a higher authority or prosecutor [11]. At the same time, refusal to accept and register a complaint is not allowed, and the decision made based on the

results of the complaint review must be attached to the materials of the criminal case. It should be noted that these issues are not reflected in the national legislation of our country [12].

Although the right to appeal is not explicitly stated in the aforementioned article, the witness has the right to appeal to the supervisory authority for the administration of justice. This conclusion stems directly from the legal position indicated in the Constitution of the Republic of Uzbekistan, according to which everyone is guaranteed the right to judicial protection of their rights and freedoms, the right to appeal to the court against unlawful decisions, actions, and inaction of state bodies and other organizations, their officials (part 2 of Article 55).¹ Thus, this right is connected with ensuring, guaranteeing, or officially recognizing the rights and freedoms of a person and citizen by the state. These are important characteristics that characterize a person's true status as the need to ensure their corresponding right [13].

Thus, it is advisable to supplement part one of Article 27 of the Criminal Procedure Code with the following content:

"Participants in the process and other persons, as well as representatives of enterprises, institutions and organizations interested in criminal proceedings, have the right to appeal the procedural action (inaction) or decision of officials carrying out pre-investigation verification and operational-search activities, an investigator, inquiry officer, prosecutor, investigative judge, judge and other participating persons in the manner and within the time limits established by this Code. The person who filed the complaint must be informed of the decision taken on the complaint and the right to subsequently file a complaint with a supervisory or higher authority. The decision made on the complaint must be justified. The body or official against whose actions (inaction) or decisions a complaint has been received is obliged to immediately forward the complaint with its explanations to the head of the investigative department, the head of the inquiry body, or the prosecutor. Refusal to accept and register a complaint is not permitted and entails liability established by law. It is prohibited to entrust the consideration of a complaint to the official or body whose actions are being appealed. The decision made based on the results of the consideration of the complaint is attached to the materials of the criminal case [14].

At the same time, a witness, like other persons in criminal proceedings (suspect, accused, victim), has the right to file a complaint against officials conducting the criminal case. Because the witness appears in the case as an impartial participant and in order to realize the interests of justice [15].

Conclusion

In conclusion, the study underscores that while the Constitution and the Criminal Procedure Code of the Republic of Uzbekistan formally recognize the right of every individual, including witnesses, to appeal against unlawful actions and decisions of criminal justice officials, existing legal provisions lack clarity and completeness in regulating the procedural aspects of this right. The research highlights that the absence of explicit norms regarding the registration, review, and resolution of such complaints by witnesses creates significant legal uncertainty and may hinder the effective protection of their constitutional rights. The proposed amendment to Article 27 of the Criminal Procedure Code presents a viable legal solution aimed at closing this normative gap and ensuring a more robust, transparent, and accountable complaint mechanism within the criminal justice system. The implications of this finding extend to enhancing the overall fairness and integrity of criminal proceedings by affirming the procedural role and legal protection of witnesses. Further research is recommended to explore the practical enforcement of such legal amendments, including institutional capacities, procedural timeframes, and comparative best practices in other jurisdictions to ensure the effective realization of a witness's right to judicial protection.

¹ Ўзбекистон Республикаси Конституцияси. – Т.: Ўзбекистон, 2024.

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