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APPEAL AND REVIEW OF INVESTIGATIVE AND PROSECUTORIAL ACTIONS IN UZBEKISTAN

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Annotation

This paper examines Article 358 of the Criminal Procedure Code of the Republic of Uzbekistan, which regulates the procedure for appealing actions and decisions of investigators and prosecutors. The study analyzes the normative content of this provision in conjunction with other procedural norms of the CPC, constitutional guarantees of judicial protection, and relevant international human rights standards. Special attention is paid to the dual mechanism of administrative (prosecutorial) and judicial review, its legal nature, functional limitations, and practical implications for the protection of individual rights. The author argues that the existing model, while formally consistent with international requirements, requires further development to ensure effective remedies and genuine judicial control at the pre-trial stage.

Keywords: appeal of procedural actions, investigator, prosecutor, judicial control, prosecutorial supervision, effective remedy, criminal procedure, Uzbekistan

The right to appeal actions and decisions of public authorities constitutes a fundamental element of the rule of law and an essential guarantee of individual rights in criminal proceedings. In systems based on continental legal traditions,



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this right is commonly implemented through a combination of administrative supervision and judicial review, particularly at the pre-trial stage.

Article 358 of the Criminal Procedure Code of the Republic of Uzbekistan establishes a specific procedure for appealing actions and decisions of investigators and prosecutors, assigning a central role to prosecutorial supervision. This provision reflects a traditional model of internal control within the prosecution system; however, its effectiveness must be assessed in light of constitutional principles, systemic coherence within the CPC, and international standards concerning the right to an effective remedy.

Article 358 of the CPC of Uzbekistan provides that complaints against actions and decisions of investigators shall be submitted to the head of the investigative unit and to the supervising prosecutor, while complaints against actions and decisions of prosecutors shall be submitted to a higher-level prosecutor. From a systemic perspective, this provision is closely connected with other CPC norms governing prosecutorial supervision, legality of pre-trial proceedings, and protection of participants' rights.

In particular, Article 18 of the CPC, which enshrines the principle of legality, and Article 20, which guarantees protection of rights and freedoms in criminal proceedings, form the normative foundation for Article 358. Furthermore, procedural rights of suspects, accused persons, victims, and defenders to file complaints are reinforced by provisions regulating their legal status and procedural guarantees at various stages of criminal proceedings.

The appeal mechanism established under Article 358 primarily relies on prosecutorial supervision, which traditionally serves as a means of ensuring legality in pre-trial proceedings. This model presupposes that higher prosecutors are capable of objectively reviewing the legality and justification of decisions taken by subordinate prosecutors and investigators.



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However, from a doctrinal perspective, such administrative review cannot be equated with judicial control due to the hierarchical and institutional nature of the prosecution service. Prosecutors, acting as parties to the criminal process and representatives of the public accusation, may face structural limitations in providing fully impartial review of complaints concerning their own procedural actions or those of subordinate officials.

Although Article 358 focuses on administrative appeal, it should be interpreted in conjunction with CPC provisions that establish judicial control over certain procedural actions, particularly those involving restrictions of fundamental rights. Articles regulating judicial authorization of detention, search, seizure, and other coercive measures demonstrate a gradual expansion of judicial oversight in Uzbek criminal procedure.

From a systemic standpoint, the coexistence of administrative appeal under Article 358 and judicial review mechanisms reflects a mixed model of pre-trial control. Nevertheless, the absence of a clear and comprehensive judicial remedy for challenging all procedural actions and decisions limits the practical effectiveness of the right to appeal, especially in cases involving discretionary investigative measures.

International human rights instruments, including Article 2(3) of the International Covenant on Civil and Political Rights and Article 13 of the European Convention on Human Rights, require States to ensure an effective remedy for individuals whose rights have been violated. According to the jurisprudence of international human rights bodies, such remedies must be accessible, impartial, and capable of providing appropriate redress.

In this context, the appeal procedure under Article 358 meets the formal requirement of availability of a remedy but raises questions regarding its effectiveness and independence. International practice increasingly emphasizes



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the role of judicial review as a key element of effective remedies, particularly where prosecutorial authorities exercise significant discretionary powers.

Empirical observations of law enforcement practice indicate that complaints submitted under Article 358 are often reviewed in a formalistic manner, with limited reasoning and without meaningful participation of the complainant. In some cases, prosecutorial responses merely reaffirm the legality of contested actions without substantive legal analysis.

Such practice undermines confidence in the appeal mechanism and reduces its preventive and corrective potential. From a doctrinal standpoint, the effectiveness of Article 358 should be evaluated not only by its normative existence but also by its capacity to restore violated rights and prevent procedural arbitrariness.

In light of the above, further development of Article 358 should aim at strengthening judicial control over pre-trial proceedings and clarifying the relationship between administrative and judicial remedies. Legislative refinement may include expanding judicial competence to review a broader range of procedural actions and establishing clearer standards for motivation and transparency in decisions on complaints.

Such reforms would enhance compliance with international standards and contribute to a more balanced system of procedural guarantees in criminal proceedings.

Article 358 of the Criminal Procedure Code of the Republic of Uzbekistan plays an important role in ensuring the right to appeal procedural actions and decisions at the pre-trial stage. However, its reliance on prosecutorial supervision as the primary remedy reveals structural limitations that affect the effectiveness of legal protection.

A systematic interpretation of this provision in conjunction with constitutional guarantees, other CPC norms, and international standards demonstrates the need



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for further strengthening of judicial review mechanisms. Enhancing the effectiveness of appeal procedures is a crucial step toward ensuring fair trial guarantees and reinforcing the rule of law in criminal justice.

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