

THE INSTITUTE OF CITIZEN APPEALS AS AN ACTIVE MECHANISM FOR THE PROTECTION OF SOCIO-ECONOMIC HUMAN RIGHTS

Volodymyr Dulger¹, Serhii Baranov², Ivan Khozlu³

Abstract. The institute of appeal of citizens to state authorities as an effective mechanism of implementation of socio-economic human rights and freedoms is studied. Attention is drawn to the fact that human rights are the highest social value and determine the degree of political, economic, cultural and other human freedoms. The authors established that the state must be accountable to the individual for its activities, in this regard, ensuring human rights and freedoms is the main responsibility of the state, but all this is possible subject to the principle of the rule of law, which in many countries is enshrined as constitutional. It was found that the problematic issues remain related to the definition of international requirements for the mechanism of implementation of the right of citizens to appeal to public authorities, providing a mechanism for exercising the right of citizens to appeal to public authorities using the latest information technologies, etc. The authors have found that the institute of citizens' appeal to public authorities, as a mechanism for exercising human rights and freedoms, includes many important areas, such as the conduct of public affairs, both directly and through freely elected representatives; the functioning of public control; ensuring the right of access to public information, etc. The peculiarities of the development of the institute of citizens' recourse in the context of international experience in the realization of human rights and freedoms were investigated. It was found that the dynamism of the development of international law at the present time has also influenced the fairly rapid development of the institute of citizens' right to appeal to public authorities, which in turn has affected the increased participation of citizens of different states in the political processes in the world. The concept of the right of citizens to appeal to public authorities has been formulated. International requirements for the mechanism of implementation of the citizens' right to appeal to public authorities were analyzed and identified. The authors found that the international requirements for the mechanism of implementation of the citizens' right to appeal to public authorities are based on five basic principles. The prospect of introducing information technology in the process of citizens' applications to public authorities is considered. It was determined that the rapid development of modern information technologies and their introduction into various spheres of social life has not bypassed their introduction into the legal sphere, which in turn led to the processing of increasing volumes of information in a short period of time, and on the other hand, was a consequence of threats of violation of individual rights, through unauthorized access to personal data, their theft and use for criminal purposes. Shows the problematic aspects arising from the introduction of modern technologies in the work with the citizens' appeal, which affect the protection of personal data. The experience of many countries, such as Great Britain, Germany, Scotland, USA, etc., in the implementation of the system of electronic appeal and the use of electronic petitions as the most progressive form of communication with the government is analyzed.

Key words: institution of citizens' appeal, legal mechanism, human rights and freedoms, social rights, economic rights, electronic petition.

JEL Classification: K38, K39

¹ Odessa State University of Internal Affairs, Ukraine (*corresponding author*)

E-mail: vdulger74@ukr.net

ORCID: <https://orcid.org/0000-0003-3051-657X>

² Odessa State University of Internal Affairs, Ukraine

E-mail: vonarab55@gmail.com

ORCID: <https://orcid.org/0000-0002-1277-3153>

³ Donetsk State University of Internal Affairs, Kropyvnytskyi, Ukraine

E-mail: ivanhozlu@ukr.net

ORCID: <https://orcid.org/0000-0002-2705-3968>



*This is an Open Access article, distributed under the terms
of the Creative Commons Attribution CC BY 4.0*

1. Introduction

Human rights are the highest social value. They determine the degree of political, economic, cultural, and other human freedoms. But the realization of these freedoms is possible only in conditions of the formation of a state governed by the rule of law and the aspiration of the current state power for democratic transformations. The state needs to be accountable to the people for its activities, so ensuring human rights and freedoms is the primary responsibility of the state. In addition, the realization of social and economic human rights is impossible without sustainable economic growth in the state and is a guarantee of strengthening democracy in society. Thus, an increase in production, especially those that are not monopolized by the state or big capital, forms the material basis for further social development of society, due to the fact that there is an increase in the material income of citizens and, accordingly, their well-being. All this is possible in the conditions of formation of a socially lawful state, which proclaims the main value of human rights and freedoms.

But all this is possible if the principle of the rule of law, which in many countries is enshrined as constitutional, is respected. If power lays this principle in the basis of public administration, it defines the supreme values of man, his rights and freedoms, which, in turn, forms the content and direction of its development.

The mechanism for the implementation of human rights and freedoms is their guarantees, which, in turn, act as a totality of legal norms. One of these institutions, through which human rights and freedoms are realized in an individual state, is the establishment of permanent two-way communication between the current government and the people, through the appeal of the latter to the relevant state bodies and the opportunity to participate in the management of state and public affairs, in order to influence the improvement of these bodies, as well as enterprises, institutions, organizations, regardless of ownership, to protect their rights and legitimate interests and restore them in case of violation. The institute of citizens' appeal to public authorities, as a mechanism for implementing human rights and freedoms, includes many important areas, such as the conduct of public affairs, both directly and through freely elected representatives; the functioning of public control; ensuring the right of access to public information, etc. All this encourages the individual to participate in the processes of state administration, to take an active civic position and, as a consequence, to form a civil society.

In general, the problem of realizing the right of citizens to appeal to public authorities has been

sufficiently developed in modern legal science. Thus, scholars L. Mosca, L. Dahlberg, A. Michels, L. Hoffman and others dealt with the problematic issues of implementing the right of citizens to appeal to public authorities. In addition, beyond the zone of attention of scientists remained some of the issues associated with the definition of international requirements to ensure the mechanism for exercising the right of citizens to appeal to public authorities, providing a mechanism for the implementation of the right of citizens to appeal to public authorities using the latest information technology, etc.

2. Peculiarities of the development of the institute of citizens' recourse in the context of international experience in the realization of socio-economic human rights and freedoms

In the history of genesis of development of the state and law the institute of appeal of citizens to public authorities has passed a long way and is still of scientific interest. Thus, there are opinions of scholars that this institution has its origins in the adoption of the Great Charter of Freedoms in 1215, in connection with which Article 61 provided for consideration of complaints by the king no more than 40 days. Other scholars link the emergence of the institution with the emergence of political power itself. But in spite of this, it is possible to assert that in any case the mechanism of relations between representatives of power and society was established by means of appeals to persons representing power. It should be noted that it was in Great Britain that the right to address the authorities was legislated in the "Bill of Rights" of 1689. Also an integral part of human rights in the political history of the United States of America was the right of recourse, which was enshrined in the U.S. Constitution of 1787. Then France took the baton to consolidate the right of recourse, which already in the Constitution of 1791 consolidated the right to petition individual citizens to the relevant authorities. Formation and normative consolidation of the right of citizens to address public authorities has gone a long way, but in the history of the state and law it entered, according to scientists, as the first political right of citizens.

Despite its rather ancient origin and development, the Universal Declaration of Human Rights of 1948 can be considered the most significant step in the recognition of the right of citizens to apply to public authorities at the international level. Thus, under Articles 7, 8, and 19, the right of citizens to apply to public authorities was equated with the rights to judicial protection, to restoration of rights by competent national courts, in case of violation of other rights, and to freedom of opinion. Moreover, in 1948 the one hundred and eighty-third plenary session of the General Assembly determined that the right of petition was

a fundamental human right. Despite this, the next step was not taken and the 1966 International Covenants "On Civil and Political Rights" and "On Economic, Social and Cultural Rights" no longer explicitly mentioned the right of petition to public authorities. But at the same time, Article 34 of the "Convention for the Protection of Human Rights and Fundamental Freedoms", adopted in 1950, enshrines the right of individual complaints, namely, that the Court may receive complaints from any natural person, any non-governmental organization or any group of individuals who are victims of one of the High Contracting Parties referred to in this Convention and its Protocols. At the same time, it should be remembered that the right of citizens to appeal to state authorities in this Convention is enshrined only procedurally, due to the fact that it establishes the procedure for appeal only in case of violation of substantive norms.

The dynamism of the current development of international law has also influenced the fairly rapid development of the institution of the right of citizens to appeal to public authorities, which in turn has influenced the increased participation of citizens of different states in the political processes in the world. One such example is the establishment of the right to appeal to the European Parliament in the form of a complaint or inquiry, which fall within the scope of the European Union. This became possible only after the entry into legal force of the Maastricht Treaty (Kovalova, Korniienko, Pavliutin, 2020).

Due to the rapid growth of scientific and technological progress from the beginning of the 21st century, it became possible to improve the system of organizing citizens' appeals to public authorities, which virtually eliminated the red tape. Scotland was the first to modernize the organization of citizens' appeals to public authorities, where, as early as 1999, the Parliament created an advanced system of appeals based on information technology, which allows filing, registering and reviewing appeals electronically. Next, the best experience of Scotland was borrowed by other countries. Thus, already in 2005 – borrowed from Germany and Portugal (Dahlberg, 2011), in 2012 – Ireland, in 2014 – Luxembourg. Also in 2015, the Westminster Parliament proposed the introduction of the newest system of appeals to the public authorities, which included the creation of a Petitions Committee to oversee the consideration of electronic appeals (Ming, Teng, Jodaki, 2020).

3. Analysis and definition of international requirements for the mechanism of realization of the right of citizens to appeal to public authorities

In the process of formation and development many states of the world have passed a difficult way

from complete humiliation of social and economic human rights and freedoms to the creation of effective democratic mechanisms to ensure the protection of such rights. Due to the individual experience of each state, it became necessary to develop unified requirements in the context of international law, which would form a certain model of state development in a democratic direction. These requirements must be defined as international norms establishing human rights and freedoms and reflecting the achievements of human civilization internationally and domestically.

The establishment of the right of citizens to apply to public authorities or to participate in public affairs at the international level is an expression of a component of human rights. Therefore, international requirements concerning the right of a citizen to appeal to public authorities are primarily aimed at improving the domestic legislation of states in the direction of ensuring human rights and freedoms. The right of citizens to appeal to public authorities is the inalienable right of everyone to directly apply, orally or in writing, individually or collectively, to public authorities for protection and realization of their rights, freedoms and legitimate interests. Based on the content of this definition, it can be argued that the right of citizens to appeal to public authorities is a means of protecting violated rights, freedoms and legitimate interests. Also, the right of citizens to appeal to public authorities is derived from the right to freely express their opinion, the right of access to information, the right to participate in public (state) affairs directly or through freely elected representatives. In this regard, it can be confidently asserted that the right of a person to appeal to public authorities is an attributive property of a free person.

Earlier, the emergence and development of the institute of appeal of citizens to public authorities was considered, but it is necessary to analyze the emergence and consolidation of international requirements for the mechanism of implementation of the right of citizens to appeal to public authorities. Currently, the right to appeal to public authorities is enshrined in the constitutions of various countries around the world, including Romania, Italy, Japan, Switzerland, and others. The very awareness of the importance of the right of citizens to appeal to public authorities is associated with its enshrined in the legislation of many countries at the constitutional level, as well as its definition and consolidation in international legal documents.

The United Nations has played an important role in ensuring and protecting the right of citizens to appeal to public authorities, which has introduced a system of universal human rights cooperation, namely, the development of a mechanism for individual complaints (Kovalova, Korniienko, Postol, 2019).

In order to more fully understand the content of international requirements for the mechanism of implementation of the right of citizens to appeal to public authorities, it is necessary to investigate the basic principles underlying the effective implementation of this right, both at the international and national levels.

The first principle is the close relationship between the right of citizens to appeal to public authorities and other human rights and freedoms. Therefore, this right cannot be considered separately from, for example, the right to equality and non-discrimination, to freedom of opinion and expression, as well as freedom of peaceful assembly and association, and respect for others. The right of citizens to appeal to public authorities is also closely linked to the full realization of the right of access to information, which, as part of the right to freedom of expression, is a means of ensuring openness and transparency of the existing authorities, as well as accountability for the decisions of public authorities. Ensuring the right of citizens to appeal to public authorities implies protection of life, health, including physical integrity, and freedom of all citizens wishing to exercise this right.

The second principle of ensuring the right of citizens to appeal to public authorities is the creation, both internationally and domestically, of an environment conducive to the realization of this right by all members of society, supporting and encouraging their participation, ensuring their legal awareness, through training, etc.

The third principle provides for equality and non-discrimination in the exercise of the right of citizens to appeal to public authorities, which is the prerogative of the state. The implementation of this right must be carried out regardless of the social, economic, political, or any other status of a citizen. Appropriate mechanisms for recourse to public authorities must also be created for stateless persons and persons with the citizenship of other states to the extent necessary to exercise their legal rights, as enshrined in international documents and reflected in national legislation.

The fourth principle of implementation of the right of citizens to appeal to public authorities is to ensure equality before the law, which is to ensure the right to effective justice. It is in the context of justice that a reliable system of appeal against the decisions of judges, both at the international level and in the state itself, is created. The right to appeal against court decisions is a separate area of implementation of the right of citizens to appeal to public authorities. The right to appeal against court decisions ensures the determination of the right to personal judicial protection and equality before the law for every citizen and individual.

The fifth principle is access to public information. Thus, states must guarantee and enforce the right of

access to information. States must recognize, protect and implement the right of access to information in their national constitutions. Laws and regulations on the right of access to information must be consistent with international law, namely the protection of human rights and freedoms. This principle also provides for the maximum disclosure of information of public interest and in the possession of the state. If the state imposes any restrictions on access to public information, they must comply with international law and not violate human rights. The exception may be cases involving the restriction of access to information that contains state secrets and its disclosure may harm national security. Access to public information should be free or at minimal cost, quickly processed, and have a system of independent control in cases of denial of requests. That is, states must promote the principles of openness and transparency in all aspects of decision-making processes of public (state) bodies.

The sixth principle is the effectiveness of ensuring the right of citizens to appeal to public authorities. This principle is the basis for the creation in states of civic education programs aimed at increasing both individual and collective legal awareness and legal culture. These programs of civic education must be implemented in the school system, in various other educational institutions, and in state and non-state institutions. Civic education programs should include knowledge of human rights, the importance of participation for society in the political life of the country, an understanding of the political system, the legal mechanisms for exercising one's rights, through active participation in government through the exercise of one's rights, including the right to appeal to public authorities.

4. Perspective on the introduction of information technology in the process of citizens' applications to public authorities

The rapid development of modern information technologies and their introduction into various spheres of public life has not bypassed their introduction into the legal sphere. On the one hand, this is due to the need to process increasing volumes of information in a short period of time, and on the other hand, to the emergence of new threats of human rights violations, through unauthorized access to personal data, its theft and use in criminal interests. All this led to the creation of electronic systems capable of performing the above tasks.

If to speak about the mechanism of realization of the citizen's right to appeal to state authorities, the creation of a system based on information technology will not only ensure the protection of personal data, under certain conditions created by the state, but will also eliminate further bureaucratic red tape and

corruption component of the process. All of the above has pushed society to create and develop the concept of e-government. So, with the development of the concept of e-government, the problem of the relationship between the citizen and the state, in particular, in such a new form as an application to public authorities using information technology in electronic form becomes more and more relevant.

As mentioned earlier, in 2005, a version of the electronic filing system, which had been developed in Scotland back in 1999, was first presented to the German National Parliament as part of a joint project between the Scottish Parliament and the Bundestag, the "online services department". This new system was also introduced in the Bundestag and in the parliaments of all 16 individual German states, including cities with special status (Barnes, Kaase, Allerback, Farah, Heunks, Inglehart, *et al.*, 1979). Among the various appeal bodies, the best known is the Committee of the German Bundestag. In Germany, appeals to public authorities, both at the national and international level, can now be filed electronically.

This innovative method is largely the result of Scottish practice, the experience of which will be discussed below. The development of appeals institutions in Germany has created new ways to improve the system by taking into account the opinion of the public through the possibility of holding hearings and public discussions in the Committee of Appeals (Schmidt, Johnsen, 2014). At the same time, mechanisms not related to the use of information technology continue to operate in the country.

It is also interesting to study the experience of Great Britain to implement an equally innovative method in providing a mechanism for the implementation of the citizen's right to appeal to public authorities. In the UK there is a developed electronic system of filing complaints to the central government authorities. Thus, since 2006 the country has had an electronic system of appealing to the office of the Prime Minister, as well as to other higher public authorities of the state. An electronic petition system has also been implemented at a very high level, thanks to which an electronic appeal against the introduction of toll roads and car tracking collected more than 1.8 million electronic signatures in 2007 (Leston-Bandeira, 2016). To submit an electronic petition, a citizen must go through the registration process on the site with verification through an email address, as well as provide a name and zip code.

Based on the above, we can say that the development of information technology has greatly accelerated and improved the relationship between citizens and the state, in connection with which the collective appeal in the form of an electronic petition is becoming increasingly popular; the use of information technology

in the mechanism for exercising the right of citizens to appeal to public authorities requires continuous improvement in terms of protection of personal data, ensuring the identification of users in the digital environment, while excluding the possibility of abuse of the right to appeal, manipulation of public opinion, etc.

5. Conclusion

Summarizing the results of the study of the genesis and development of the institute of the right of citizens to appeal to public authorities, international requirements for the mechanism of its implementation and the impact of information technology on the further improvement of the mechanism of the right to appeal, it is possible to come to the following conclusions:

1. In the history of genesis of development of the state and law the institute of citizens' appeal to public authorities has passed a long way and is still of scientific interest. Thus, due to the rapid growth of scientific and technological progress from the beginning of the XXI century it became possible to improve the system of organization of citizens' appeals to public authorities, which virtually eliminated bureaucratic red tape. Scotland was the first to modernize the organization of citizens' appeals to public authorities, where, as early as 1999, the Parliament created an advanced system of appeals based on information technology, which allowed to submit, register and consider appeals electronically. Further, the best practices of Scotland were borrowed by other countries. So, already in 2005 – borrowing in Germany and Portugal, in 2012 – Ireland, in 2014 – Luxembourg. And in 2015, the Westminster Parliament proposed the introduction of the newest system of appeals to the public authorities, which provided for the creation of a Committee on Petitions, which oversees the consideration of electronic appeals.

2. The right of citizens to appeal to public authorities is the inalienable right of everyone to appeal directly orally or in writing, individually or collectively, to public authorities for the protection and realization of their rights, freedoms and legitimate interests.

3. The basic principles underlying the effective implementation of citizens' recourse to public authorities, both at the international and national level, are the close relationship between the right of citizens to recourse to public authorities and other human rights and freedoms; ensuring the right of citizens to recourse to public authorities consists in creating, both at the international and national level, conditions conducive to the realization of this right by all members of society; equality and non-discrimination in the exercise of the right; ensuring equality before the law, which is a guarantee of the right to effective justice; access to public information.

4. The development of information technology has greatly accelerated and improved the relationship between citizens and the state; subsequently, collective recourse in the form of an electronic petition has become increasingly popular; the use of information technology in the mechanism for exercising the right

of citizens to appeal to public authorities requires continuous improvement in terms of protection of personal data, ensuring the identification of users in the digital environment, while excluding the possibility of abuse of the right to appeal, manipulation of public opinion, etc.

References:

- Asher, M., Bandeira, K. L., & Spaicer, V. Hansard society, assessing the effectiveness of e-petitioning through Twitter conversations [Internet; cited 2020 March 6]. Available at: <https://www.oidp.net/docs/repo/doc174.pdf>
- Barnes, S. H., Kaase, M., Allerback, K. R., Farah, B., Heunks, F., Inglehart, R., ect. (1979). Political action: mass participation in five western democracies. Beverly Hills: Sage Publications.
- Beato, G. From petitions to decision [Internet; cited 2020 March 14]. Stanford Social Innovation Review. Available at: https://ssir.org/articles/entry/from_petitions_to_decisions
- Bochel, C. (2016). Process matters: petitions systems in Britain's legislatures. *The Journal of Legislative Studies*, 22(3): 368–384.
- Bull, R. (2015). Building a framework for governance: retrospective review and rulemaking petitions. *Administrative Law Review*, 67(2):265–319.
- Carman, C. (2014). Barriers and barriers: asymmetric participation in the Scottish public petitions system. *Parliamentary Affairs*, 67:151–171.
- Carman, C. The assessment of the Scottish Parliament's public petitions system 1999–2006, commissioned by the Scottish Parliament Information Centre for the Public Petitions Committee [Internet; cited 2020 March 13]. Available at: <https://archive.parliament.scot/business/committees/petitions/reports-06/pur06-PPS-assessment-01.htm>
- Dahlberg, L. (2011). Re-constructing digital democracy: an outline of four “positions”. *New Media & Society*, 13:855–872.
- Datta, P. (2020). Digital transformation of the Italian public administration: A case study. *Communications of the Association for Information Systems*, 46(11), 252–272. *Viešoji politika ir administravimas*. T. 19, Nr. 4, p. 52–63.
- Dias, G. P. (2020). Global e-government development: besides the relative wealth of countries, do policies matter? *Transforming Government: People, Process and Policy*, 14(3):381–400.
- Gerpott, T., & Ahmadi, N. (2016). Use levels of electronic government services among German citizens: an empirical analysis of objective household and personal predictors. *Transforming Government: People, Process and Policy*, 10(14):637–668.
- Gerpott, T., & Ahmadi, N. (2016). Use levels of electronic government services among German citizens: an empirical analysis of objective household and personal predictors. *Transforming Government: People, Process and Policy*, 10(14):637–668.
- Hoffman, L. H. (2012). Participation or communication? An explication of political activity in the Internet age. *Journal of Information Technology & Politics*, 9:217–233.
- Leston-Bandeira, C. A year on, the new Petitions Committee has much to celebrate [Internet; cited 2020 February 11]. Available at: <https://constitution-unit.com/2016/07/20/a-year-on-the-new-petitions-committee-has-much-to-celebrate/>
- Ma, L., & Zheng, Y. (2019). National e-government performance and citizen satisfaction: a multilevel analysis across European countries. *International Review of Administrative Sciences*, 85(3):506–526.
- Ming, T., Teng, W., & Jodaki, S. (2020). A model to investigate the effect of information technology and information systems on the ease of managers' decision-making. *Kybernetes*. Available at: <https://www.emerald.com/insight/content/doi/10.1108/K-10-2019-0712/full/html>
- Mosca, L., & Santucci, D. (2009). Petitioning online: the role of e-petitions in web campaigning. In: Baringhorst S, Kneip V, Niesyto J, editors. Political campaigning on the web. New Brunswick: Transaction; 145 p.
- Olena Kovalova, Maksym V. Korniienko, & Yurii V. Pavliutin (2020). The role of public organizations in ensuring national security of ukraine vol. 37, № 65 (julio-diciembre), 136-155 *Cuestiones Políticas* Esta revista fue editada en formato digital y publicada en julio de 2020, por el Fondo Editorial Serbiluz, Universidad del Zulia. Maracaibo-Venezuela. DOI: <https://doi.org/10.46398/cuestpol.3865.11>
- Olena Kovalova, Maksym Korniienko, & Olena Postol (2019). Ensuring of child's dignity as a principle of modern education: administrative and legal aspects. *Asia Life Sciences Supplement. Asian International Journal of Life Sciences*, 21(2):341–359.
- Rosenberg, D. (2020). Ethnic perspective in e-government use and trust in government: A test of social inequality approaches. *New Media & Society*. Available at: <https://journals.sagepub.com/doi/>

abs/10.1177/1461444820920655

Rot, A., Sobińska, M., Hernes, M., & Franczyk, B. (2020). Digital transformation of public administration through blockchain technology. *Studies in Computational Intelligence*, 887:111–126.

Schmidt, J. H., & Johnsen, K. (2014). On the use of the e-petition platform of the German Bundestag. *HIIG Discussion Paper Series*, 3:1–49.

Received on: 2th of August, 2022

Accepted on: 12th of September, 2022

Published on: 30th of September, 2022