

**CUSTOMS CODE
OF THE REPUBLIC OF KAZAKHSTAN**

SECTION XV. CONSIDERATION OF AN APPEAL AND MAKING A DECISION THEREON

CHAPTER 66. APPEALING A DECISION, ACTIONS (INACTION) OF THE CUSTOMS AUTHORITY AND A CUSTOMS OFFICIAL

(a) Article 493
Right of Appeal

1. Any person, including their representatives, shall be entitled to appeal to customs authorities, also to the superior customs authority or to the authorized body on customs issues and (or) to the court a decision, actions (inaction) of a customs authority and (or) of a customs official, if such decision and (or) actions (inaction) infringes upon rights and interests of this person, creates obstacles to their implementation, or unlawfully imposes a responsibility.
2. Normative legal acts of the Republic of Kazakhstan in the sphere of customs activity issued by the authorized body on customs issues may be appealed in compliance with the legislation of the Republic of Kazakhstan.
3. The procedures for filing, considering and satisfying an appeal forwarded to the court, shall be determined in compliance with the legislative acts of the Republic of Kazakhstan.
4. Filing an appeal to court shall suspend the execution of a decision made on the appeal.

(b) Article 494
The Procedures for Filing an Appeal

1. An appeal against a decision, actions (inaction) of a customs official shall be filed with the customs authority which employs the customs official who made such decision or took such actions (inaction), or a superior customs authority. An appeal against a decision, actions (inaction) of the customs authority shall be filed with a superior customs authority, or with the authorized body on customs issues.
2. When the appeal filed is subject to consideration by a superior customs authority, then the appeal within three working days from the day of its registration shall be forwarded to the superior customs authority along with materials thereon (where available), with notification of the person who filed the appeal.
3. Not later than three working days from the date of the appeal registration, a superior customs authority to which the appeal is filed, shall request the conclusion and materials regarding the decision, actions (inaction) of the customs authority subject to appeal, or shall request the conclusion and materials from the customs authority regarding its customs official whose decision, actions (inaction) is appealed.

(c) Article 495
Time Limit for Filing an Appeal

1. An appeal against a decision, actions (inaction) of a customs authority and of a customs official may be filed within a period of one year:
 - 1) from the date that the person discovered that his/her rights in the sphere of customs activity were infringed upon, or obstacles were created for their realization, or any responsibility that is not stipulated by the customs legislation of the Republic of Kazakhstan was imposed on him/her;
 - 2) from the date of expiration of the time limit stipulated by the customs legislation of the Republic of Kazakhstan for making a decision by the customs authority or by a customs official.
2. An appeal against a notification from customs authorities about collection of debts and penalties shall be filed within ten days.
3. When the time limit for filing an appeal has not been complied with for good reasons, the time limit may be renewed in legal form, based upon a written application by the person who filed the appeal.

(d) Article 496
Format for and Contents of an Appeal

1. An appeal shall be filed in written form.
2. An appeal shall contain the following details:
 - 1) date of filing the appeal;
 1. 2) name of the customs authority, or the position, family name, first name and patronymic name of the customs official (if they are known) whose decision, actions (inaction) are subject to appeal;
 - 3) family name, first name and patronymic name of the person filing the appeal; his/her address or location;
 - 4) the subject of a decision, actions (inaction) of a customs authority and (or) of a customs official subject to appeal;
 - 5) the circumstances based upon which the person believes that the decision, actions (inaction) of a customs authority and (or) of a customs official have infringed upon his/her rights, created obstacles for their realization, or unlawfully imposed a responsibility.
3. An appeal may contain other information relevant and important to the subject of appeal.
4. An appeal shall be signed by the appellant or his/her representative.
5. Documents and (or) materials (where available) proving the illegality of a decision, actions (inaction) of a customs authority and (or) of a customs official shall be attached to an appeal.

(e) Article 497
Consequences of Filing Appeals

Filing an appeal shall not suspend the execution of the decision, actions (inaction) of the customs authority and (or) of the customs official subject to appeal, except in the following cases:

- 1) when the superior customs authority or the authorized body on customs issues which is considering the appeal, has sufficient grounds to believe that a decision by the customs authority or an actions (inaction) by a customs official do not comply with the customs legislation of the Republic of Kazakhstan;
 - 2) when notification about collection of debts and penalties is being appealed.
- 2.

3. **CHAPTER 67. CONSIDERATION OF AN APPEAL OF A DECISION, ACTIONS (INACTION) OF A CUSTOMS AUTHORITY AND OF A CUSTOMS OFFICIAL**

(a) Article 498
Bodies Considering Appeals

1. An appeal of a decision, actions (inaction) of a customs authority shall be considered by a superior customs authority, or by the authorized body on customs issues.

2. An appeal of a decision, actions (inaction) of a customs official shall be considered by the customs authority employing the official, or by a superior customs authority, whereas an appeal of a decision, actions (inaction) of the head of a customs authority shall be considered by his/her superior customs authority and by the authorized body on customs issues.

3 On behalf of the customs authority, the head of the customs authority or a person, substituting for him/her, shall make a decision with regard to the appeal. In the process, the appeal may not be considered by the customs official who made the decision or performed the actions (inaction), or by his/her subordinate.

4. An appeal shall be subject to mandatory registration with the appropriate body on the date of filing. The customs authority shall not be entitled to refuse registration of an appeal.

(b) Article 499
Consideration of an Appeal

1. An appeal of a person, duly registered in compliance with the established procedures, shall be essentially considered by the appropriate customs authority.

2. An appeal shall not be essentially considered in the following cases:

- 1) the prescribed time limit for filing an appeal was not complied with, and the person did not apply with a request to renew an expired time limit, or the request to restore an expired time limit was rejected;
- 2) the appeal is not signed, or is signed by a person or his/her representative who cannot duly confirm his/her authority to do so;
- 3) the subject of an appeal relates to a decision, actions (inaction) of a body that is not authorized with regard to customs issues.
3. A repeated appeal that does not contain new arguments or newly discovered circumstances shall not be subject to consideration if there is exhaustive material concerning the appeal and the person who filed the appeal has been given an answer in compliance with the established procedures.
4. The appellant shall be notified in writing of a decision to refuse consideration of an appeal within three working days of the date of its registration, stating the reasons for refusal.

(c) Article 500
Withdrawal of Appeal

1. An appellant may withdraw his/her appeal at any stage and any moment prior to the moment when a decision is made on the appeal.
2. Withdrawal shall be carried out in written form, stating the reasons for withdrawal.

(d) Article 501
Time Limit for Considering an Appeal

1. An appeal must be considered and a decision must be taken thereon, within a period not to exceed fifteen days starting from the date of registration of an appeal, except for appeals requiring additional review and (or) checking.
2. An appeal requiring additional review and (or) checking must be considered within one month of the date of registration.

(e) Article 502
Decision on an Appeal

1. Based upon the results of the consideration of an appeal, the superior customs authority or the authorized state body on customs issues shall:
 - 1) acknowledge that the decision or action (inaction) of the customs authority or of the customs official is lawful;
 - 2) acknowledge that the decision or action (inaction) of the customs authority or of the customs official is partially or completely unlawful.
2. When the superior customs authority or the authorized state body on customs issues that considers the appeal deems it necessary, it may make several decisions

with regard to the same appeal or complaint which are not exclusive of one another, as specified in Sub-paragraph 2) of Paragraph 1 of this Article.

3. When the decision or actions (inaction) of a customs official, subject to appeal, is acknowledged as unlawful, or when a customs official does not duly fulfill his/her official duties, the body considering the appeal shall take measures to subject the official to a disciplinary, administrative, and criminal action.

4. A decision by the superior customs authority or by the authorized body on customs issues that considers the appeal shall be made in writing and shall contain the following details:

1) the name of the body which considered the appeal;

2) the position, family name and initials of the official of the body that made the decision on the appeal;

3) the family name and initials or the name of the person who filed the appeal;

4) a brief description of the subject of the appeal;

5) the decision made on the appeal;

6) the reasons and grounds for the decision made;

7) the measures undertaken with regard to the official who committed the violation in the sphere of customs;

8) information concerning the order of appeal on the decision made.

5. Within the time limit stipulated by Article 501 of this Code, a copy of the decision made as a result of consideration of the appeal shall be forwarded to the person who filed the appeal.

4. CHAPTER 68. SIMPLIFIED PROCEDURES FOR APPEALING DECISIONS, ACTIONS (INACTION) OF A CUSTOMS AUTHORITY AND OF A CUSTOMS OFFICIAL

(a) Article 503

Simplified Procedures for Appealing Decisions, Actions (Inaction) of a Customs Authority and of a Customs Official

1. A person shall be entitled to appeal under simplified procedures against a decision, actions (inaction) of the customs authority to the head of a superior customs authority; and against actions (inaction) of a customs official - to the head of the customs authority, or to the person substituting for him/her, which employs the customs official whose actions (inaction) is subject to appeal.

2. A decision, actions (inaction) of a customs authority and of a customs official may be appealed under simplified procedures in cases when the value of goods and means of transport with regard to which the decision, actions (inaction) which is being appealed was made, as well as other actions, caused, in the opinion of the person, illegal expenses that do not exceed an amount equivalent to one hundred monthly calculation indices established by the law on the national budget for the appropriate financial year.

3. Consideration of an appeal against a decision, actions (inaction) of a customs authority and of a customs official under simplified procedures, and making decisions thereon, shall not serve as an obstacle for filing an appeal in compliance with the procedures and time limit stipulated by this Code.

(b) Article 504

Procedures for Appeals and Making Decisions under Simplified Procedures

1. The simplified procedure for appealing a decision, actions (inaction) of a customs authority and of a customs official shall mean filing a written appeal to the head of the customs authority.

2. An appeal filed under simplified procedures shall be subject to immediate consideration, and a decision thereon shall be made on the day of filing the appeal.

3. When considering an appeal under simplified procedures, the head of the customs authority, which considers the appeal, shall draw up a certificate on considering the appeal under simplified procedures, stating information on the person who filed the appeal, a brief description of the appeal, and the decision made thereon.

4. The certificate on considering an appeal shall be signed by the head of the customs authority which considers the appeal, and by the person who filed the appeal. A copy of the certificate on considering the appeal shall be delivered to the person who filed the appeal.