



ISSUES OF THEORETICAL-LEGAL IMPROVEMENT OF PROSECUTOR'S VERIFICATIONS OVER THE IMPLEMENTATION OF LAWS

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ABSTRACT

This article discussed the prosecutor's actions on the implementation of the laws, their specifics and the subject of these investigations and the legal attitude towards the prosecutor's investigation. It is theoretically and legally justified that compliance with international treaties ratified by the Republic of Uzbekistan should be included in the framework of the subject of prosecutor's investigations over the implementation of laws. A scientific discussion has been initiated with the opinions of a number of legal scholars, and author's definitions of certain concepts have been developed. Some foreign countries experience has been cited. The importance of prosecutorial investigations over the implementation of the laws was analyzed in harmony with the tasks set out in the "development strategy" and proposals were put forward.

ВОПРОСЫ ТЕОРЕТИКО-ПРАВОВОГО СОВЕРШЕНСТВОВАНИЯ ПРОКУРОРСКИХ ПРОВЕРОК ИСПОЛНЕНИЯ ЗАКОНОВ

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ABSTRACT

В данной статье рассмотрены действия прокурора по осуществлению надзора за исполнением законов, их особенности, предмет этих проверок и правовое отношение к прокурорским проверкам. Теоретически и юридически обосновано, что соблюдение международных договоров, ратифицированных Республикой Узбекистан, должно входить в предмет прокурорского надзора за исполнением законов. Начата научная дискуссия с учётом мнений ряда правоведов, даны авторские определения некоторых понятий. Приведён опыт некоторых зарубежных стран. Проанализировано значение прокурорского надзора за



договор, ратификация,
правовая система.

исполнением законов в контексте задач, изложенных в
«стратегии развития», и выдвинуты предложения.

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huquqiy tizim.

ABSTRACT

Ushbu maqolada prokurorning qonunlar ijrosini ta'minlash borasidagi faoliyati, bu faoliyatning o'ziga xos jihatlari, tekshiruvlarning predmeti va prokuror tekshiruvlariga nisbatan yuridik munosabatlar tahlil qilingan. O'zbekiston Respublikasi tomonidan ratifikatsiya qilingan xalqaro shartnomalarga rioya qilinishini qonunlar ijrosi ustidan prokuror nazoratining predmeti doirasiga kiritish zarurligi nazariy va huquqiy jihatdan asoslab berilgan. Qator huquqshunos olimlarning fikrlari bilan ilmiy munozaraga kirishilgan hamda ayrim tushunchalarga mualliflik ta'riflari ishlab chiqilgan. Bir necha xorijiy davlatlar tajribasiga murojaat qilingan. Qonunlar ijrosi ustidan prokuror nazoratining ahamiyati "Taraqqiyot strategiyasi"da belgilangan vazifalar bilan uyg'unlikda tahlil qilinib, tegishli takliflar ilgari surilgan.

The role of the prosecutor's office in ensuring the rule of law in our country, strengthening legality, protecting the rights and freedoms of citizens and the interests guarded by law, of course, is unparalleled. The President of the Republic of Uzbekistan Sh.M.Mirziyoyev said, "the role of the prosecutor's office is great in strengthening the legislative framework in every possible way and enforcing laws without words, increasing the legal culture of citizens, developing a democratic legal state, supporting private property and entrepreneurial activity, and ensuring its reliable protection"¹. In addition, the general prosecutor of the Republic of Uzbekistan N.T.Yuldashev also noted in his appeals to the people of Uzbekistan in 2024, "At present, important attention is paid to the fact that the laws are strictly enforced by our president not on paper, but in practice, that reforms should penetrate every household, every neighborhood, that our compatriots will always feel their practical effect in their daily lives. Of course, in achieving such results, it is very important that the employees of the prosecutor's

¹ Sh.M.Mirziyoyev. From the speech of the prosecutor's office at the meeting with employees // information received internet source – <https://president.uz/oz/lists/view/178> (application time: 24.07.2024).



office act as an example and role model in ensuring legitimacy in all areas and industries, acting as a separate strength”².

Legal literature has also expressed differing views on the enforcement of laws by legal scholars. In particular, professor B.X.Pulatov “The implementation of laws can be manifested in the form of actions or in the form of legal acts. Actions and acts are unique in their essence. Both this and that embody decisions aimed at applying the requirements of the law in life. And the differences are mainly seen in their formalization. Legal acts have the form of documents, while actions do not have this form. However, in most cases, even actions on the implementation of laws are ultimately formalized in the manner of a document”³ said that, O.M.Madaliyev “The essence and purpose of control over the implementation of laws is, first of all, the control of the prosecutor's office over the clear, uniform enforcement of laws in the field of Public Administration bodies. It is in this area of government that the state must ensure the enforcement of laws, along with a truly clear and uniform understanding. The legislator notes that it is necessary that the instructions be applied strictly to life and that no local, departmental influences are allowed in this”⁴ as noted. Also, according to F.X.Rakhimov, “Prosecutor's control over the implementation of laws is a kind of activity of the prosecutor's office, which carries out public activities on behalf of the Republic of Uzbekistan. Prosecutor's control is considered a kind of manifestation of state activity with an independent, special status.”

In our opinion, control over the implementation of laws is an activity that serves to properly and accurately apply the adopted laws to the existing social relations by the relevant subjects of law.

By the way, It will be necessary to dwell on scientific and theoretical analyzes of the prosecutor's examination over the implementation of the laws.

Different scientific literature also expressed differing views on prosecutorial investigations of law enforcement by legal scholars. In particular,

Also, A.B.Komilov stated that “The main purpose of the prosecutor's investigation into the implementation of the laws is to ensure the rule of law, strengthen legality, protect the rights and freedoms of citizens, the interests of society and the state guarded by law”⁵.

Futhermore, according to lawyer D.Belousova, “Prosecutorial verifications are an important instrument for establishing prosecutorial control over law enforcement and determining violations. Prosecutorial investigations appear as a mandatory sign of general supervision” activities”⁶.

² From the appeal of the prosecutor general of the Republic of Uzbekistan Nigmatilla Yuldashev Tulkinovich to the population of our country on 16.01.2024 // URL: <https://prokuratura.uz/#/newsviewid=8986> (application time: 14.06.2024).

³ Pulatov B.X. Organization of prosecutorial control over the implementation of laws and a set of sample documents of prosecutorial supervision//practical-methodological manual. - Tashkent, 2013. - Page 14 // URL: <https://proacademy.uz/postfiles/books/u-/tp/index.html> (application time: 14.07.2024).

⁴ Madaliyev O.M. Prosecutorial supervision. Textbook. Special part. Tashkent - "ILM ZIYO". – 2012.M-Page 19 // URL: <https://elibrary.namdu.uz> (application time: 20.04.2024).

⁵ Komilov A.B. Current issues of regulation of the prosecutor's investigation into the implementation of laws in the legislation // Central Asian academic journal of scientific research. – 2021. №1. – page 1 // URL: <https://cyberleninka.ru/article/n/onunlar-izhrosi-yuzasidan-prokuror-verification-onun-uzhzhatar-regulation-topical-issues>. (application time: 17.08.2024).

⁶ Белоусова Д.С. Дальнейшая процессуализация прокурорской проверки: блажь или необходимость? // Научно-практический журнал Университета прокуратуры Российской Федерации. С.49. №5 (85) 2021



In our opinion, the prosecutor's verifications of the implementation of laws is not only an important sign of the detection of violations. The reason is that as a result of the prosecutor's verification not only the violation is determined, but also measures are taken to eliminate it through the relevant prosecutor's control documents. To give a practical example from the point of view of substantiating this thought. Suppose that the prosecutor begins to conduct a prosecutor's verification of the verification of laws in the construction industry, attracting specialists with relevant knowledge to determine the quality of construction and repair work at the district Medical Association, the funds allocated to it by the state budget, and the levels of its actual spending, by which he determines cases of violations. The prosecutor's actions in the verification do not end there. Perhaps now the prosecutor makes decisions on disciplinary, administrative liability for guilty persons, initiates a criminal case against people whose actions are the composition of the crime. In order to eliminate violations of the law, the reasons for its origin and the conditions that provide an opportunity for this, it makes submissions to an organization or official with the authority to eliminate cases of violation, makes protests to the relevant organization or its higher structure that adopted it on the cancellation of illegal documents or coordination with the law. When deemed necessary, it again warns officials or citizens in writing to prevent violations of the law as a preventive measure of influence in order to prevent the recurrence of similar violations, and explains what liability occurs if an offense is committed. It turns out that through prosecutor's verifications into the implementation of laws, not only cases of violations are identified, but also actions are carried out to prevent them, eliminate the causes and conditions that allowed the emergence of violations of the law, and apply the appropriate measures of influence on the perpetrators of the violation.

Moreover, A.Y.Vinokurov noted that "The prosecutor's verification of the implementation of the laws is a legal tool for determining violations in organizations on the object of control and cases of violations that serve to identify the causes and conditions that allow it and bring guilty persons to justice"⁷.

Analyzing the above-mentioned concepts in the legislation, scientific(doctrinal) views of legal scholars about prosecutor's verifications into the implementation of laws, we found that it is necessary to give our definition of authorship to the concept of "prosecutor's verification of the implementation of laws" as follows:

The prosecutor's verification of the implementation of laws is a control event carried out by the prosecutor's office on the grounds, deadlines and procedures established by the law on the exact and uniform enforcement of certain legislation in the relevant objects of verifications, that is, in state bodies, enterprises, institutions, organizations and other agencies, based on the subject of examination.

By analyzing the scientific-theoretical views about the concepts of "prosecutorial supervision" and "prosecutorial verification over the implementation of laws", we can conclude that prosecutorial supervision is a broader concept than the concept of prosecutorial verification over the implementation of laws. Therefore, the supervision of the prosecutor is

[https://www.agprf.org/userfiles/ufiles/ob%20akademii/vestnik/2021/Вестник 5 2021_end.pdf](https://www.agprf.org/userfiles/ufiles/ob%20akademii/vestnik/2021/Вестник%202021_end.pdf) application time: 15.04.2022).

⁷ Прокурорский надзор: учеб. для вузов / под общ. ред. О.С. Капинус; науч. ред. А.Ю. Винокуров. М.: Юрайт, 2014. С. 175.



also provided by means other than the verification of the prosecutor (for example, coordination of the activities of the investigative bodies, sending a request to obtain information about the operation from various bodies, etc.).

To justify this opinion, it is desirable if the experience of some foreign countries is also cited.

In particular, the first part of article 17 of the Constitutional Law of the Republic of Kazakhstan "On the prosecutor's Office", adopted by No. 155 on November 5, 2022, shows the forms and boundaries of prosecutor's control. According to him, the supervision of the prosecutor is carried out by a prosecutor's verification of the implementation of laws, analysis of the state of legality, assessment of documents that have entered into force. As can be seen from this norm, the prosecutor's verification over the implementation of laws is only a form of prosecutor's control. In a word, the prosecutor's verification of the implementation of laws is aimed at the control of the prosecutor, which can be recognized as a form of it.

In general, the prosecutor's verification of the implementation of laws is considered an important and integral part of ensuring the control of the prosecutor, and the effectiveness of conducting a prosecutor's verification over the implementation of the laws cannot be fully achieved without coming to a clear stop on the essence of this concept and its intended purpose.

The implementation of the laws makes it possible to study the object of the prosecutor's verification also by analyzing it scientifically and theoretically, to increase the effectiveness of conducting prosecutor's verifications.

In this regard, A.P.Safonov touched on the object of prosecutor's control and expressed the following opinion, "as a object of control, it is necessary to understand the essence of the activities of the prosecutor's office, the sphere of social relations it covers, or the scope of the issues covered"⁸.

In our opinion, the subject of the prosecutor's verification over the implementation of laws is the compliance of the legislation by the ministries, departments, self-government bodies of citizens, public Associations, enterprises, institutions, organizations and military units, military structures, governors and other officials of ministries and departments, as well as the Constitution and laws of the Republic of Uzbekistan and international treaties ratified by the Republic of Uzbekistan.

If we legally justify the introduction of "compliance with international treaties ratified by the Republic of Uzbekistan" into the framework of the object of the prosecutor's verification of the implementation of laws. First of all, the third part of Article 15 of the Constitution of the Republic of Uzbekistan in the new edition included the legal norm "international treaties of the Republic of Uzbekistan are a component of the legal system of the Republic of Uzbekistan along with generally accepted principles and norms of international law". In addition, the fourth part of this article states that "if the international treaty of the Republic of Uzbekistan establishes rules different from those provided for by the law of the Republic of Uzbekistan, the provisions of the International Treaty of the Republic of Uzbekistan shall apply". Our main body also

⁸ Сафонов А.П. Сущность и пределы прокурорского надзора за соблюдением законности в местах лишения свободы // Вопр. прокурорского надзора. С. 56.



reflects the priority of the international treaties of the Republic of Uzbekistan from the national legislation.

Similarly, the third part of Article 2 of the law of the Republic of Uzbekistan "On international treaties" reflects the legal norm associated with the application of the provisions of the international treaty of the Republic of Uzbekistan if the provisions of the international treaty of the Republic of Uzbekistan are defined differently than those provided for by the legislation of the Republic of Uzbekistan, Article 2 of the plenum of the Supreme Court of the Republic of Uzbekistan No. 16 "on certain issues of direct application of the norms of the Constitution of the Republic of Uzbekistan in the implementation of Justice", adopted on 23.06.2024, states that according to the legislation "courts and other law enforcement agencies in the application of the priority of international treaties " state internal procedures, it is noted separately that additional conditions should be noted.

Taking into account the legal framework mentioned, we believe that when conducting prosecutor's verifications on the implementation of laws, the object of the verification should assess not only the compliance of documents adopted by officials with the Constitution and laws of the Republic of Uzbekistan, but also with international treaties ratified by the Republic of Uzbekistan. This serves to determine the legal norms that are contrary to the International Treaties of the Republic of Uzbekistan, to ensure compliance and proportionality between national legislation and international treaties.

From the above, the following conclusions can be drawn:

Firstly, prosecutorial oversight is a broader concept than the concept of prosecutorial scrutiny of law enforcement, and prosecutorial oversight is also provided by means other than prosecutorial scrutiny. The prosecutor's verification of the implementation of laws is a control event carried out by the prosecutor's office on the grounds, deadlines and procedures established by the law on the exact and uniform enforcement of certain legislation in the relevant objects of examination, that is, in state bodies, enterprises, institutions, organizations and other agencies, based on the subject of examination. Secondly, the object of the prosecutor's verification over the implementation of the laws is the compliance of the legislation by ministries, departments, citizens' self-government bodies, Public Associations, enterprises, institutions, organizations and military units, military structures, governors and other officials of ministries and departments, as well as by the Constitution and laws of the Republic of Uzbekistan and international treaties ratified by the Republic of Uzbekistan. The subject of the verification is the issue on which the verification is aimed, the situation (the enforcement of the laws, compliance of the adopted documents with the Constitution and laws of the Republic of Uzbekistan, which stands high in the hierarchy of regulatory legal acts), the object of the verification is the relevant agencies, officials, which are examined, as well as the documents evaluated.

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