

THE ROLE OF ADVANCED INTERNATIONAL EXPERIENCE IN IMPROVING PROSECUTORIAL VERIFICATIONS OVER THE IMPLEMENTATION OF LAWS

Djumayev Shokhjakhon Begimqul ugli

Senior lecturer of Training Institute for lawyers, The doctoral of the
Law Enforcement Academy of the Republic of Uzbekistan

ANNOTATION

This article discusses prosecutorial verifications of the execution of laws, their specific aspects and the classification of forms of prosecutorial supervision over the execution of laws. Some official statistical data on the conducted prosecutorial investigations are presented. A scientific discussion was held with the opinions of a number of legal scholars, and the author's personal scientific and theoretical position on their views was presented. The best practices of a number of foreign countries, including Kazakhstan, Turkmenistan, Belarus, the USA, Great Britain, France, Singapore, Malaysia, were comparatively and legally analyzed with our national legislation, and proposals were put forward.

Keywords: prosecutor's verifications over the execution of law, prosecutorial supervision, prosecutorial supervision over the execution of laws, monitoring, deadlines for conducting verifications, information-analytical activity.

Analyzing the experience of foreign countries and incorporating their advanced aspects into national legislation and prosecutorial oversight practices is of particular importance for ensuring the effectiveness and further development of prosecutorial inspections over the implementation of laws. The reason is that in many foreign countries, conducting quality prosecutorial inspections plays a significant role in ensuring the rule of law, strengthening legality, preventing legal violations, and eliminating the causes and conditions that give rise to such violations.

Based on the analysis of the constitutions and other legal documents of foreign countries, it can be observed that in some countries, the prosecutor's office is part of the judicial branch (as in Georgia, Lithuania, and Moldova) or part of the executive branch (as in Kyrgyzstan and Estonia), or not connected to any branch of power at all (in several other countries).

At the same time, a classic example of the prosecutor's office being included in the executive branch can be seen in the United States. In the U.S., the Attorney General simultaneously holds the position of Secretary of Justice.

In many countries belonging to the Romano-Germanic legal family, the prosecutor's office is positioned "on the border" between the judiciary and the executive powers. In the constitutions

of these countries, the administrative boundary between these branches remains unclear. Several Romanian legal scholars consider the prosecutor's office to be a structural part of the executive branch and propose incorporating clear provisions into the Constitution defining the main functions of the prosecutor's office and its institutional place within the general legal system. Accordingly, amendments made in 1997 to Romania's Law on the Organization of the Judiciary of 1992 reflect this concept.

Commentaries on *Germany's* Law on the Judicial System state that "the prosecutor's office is a law-enforcement body that is more subordinate to the third branch of power—the judiciary." According to its functions, the prosecutor's office is independent from the courts, has its own staff, and is organizationally separate from the judiciary, although it is acknowledged that every prosecutor's office exists under a court (as per Paragraphs 141, 146, 150, and 151 of the Law on the Judicial System).

In *Latin America*, attempts have been made to logically resolve certain contradictions between the various functions of the prosecutor's office in a unique manner. For example, the Constitution of Colombia divides the country's prosecutor's office into two independent components. The first, called the "General Prosecutor's Office," is part of the judicial branch and is responsible for criminal prosecution. The second, known as the "Public Ministry," is part of the oversight authority and conducts general oversight, monitoring the activities of state bodies in the interests of society and citizens.

When analyzing foreign experiences related to prosecutorial inspections over the implementation of laws, it would be appropriate to conditionally divide the countries studied into three groups: CIS countries, Western countries, and Southeast Asian countries.

In particular, Article 17, paragraph one, of the Constitutional Law of the Republic of *Kazakhstan* "On the Prosecutor's Office," adopted on November 5, 2022, under No. 155, outlines the forms and limits of prosecutorial supervision. According to it, prosecutorial supervision is carried out through prosecutorial inspections over the implementation of laws, analysis of the state of legality, and evaluation of enacted documents. From this provision, it is evident that prosecutorial inspection over the implementation of laws is just one form of prosecutorial supervision. In other words, prosecutorial inspection over the implementation of laws is directed toward carrying out prosecutorial supervision and should be recognized as one of its forms.

Based on the above, we propose introducing a legal provision into the Law of the Republic of *Uzbekistan* "On the Prosecutor's Office," stating that: "The measure of prosecutorial supervision over the implementation of laws consists of the following forms: conducting monitoring, prosecutorial inspections over the implementation of laws, analytical and

informational activities, and reviewing materials concerning legal violations submitted by supervisory bodies.”

According to Article 27 of the Law of *Turkmenistan* “On the Prosecutor’s Office” adopted on December 2, 2015, the inspection of compliance with legal acts is conducted within a period of up to one month. The prosecutor who initiated the inspection may extend this period up to three months with the consent of a higher-ranking prosecutor, and up to six months with the consent of the Prosecutor General of Turkmenistan. The head of the organization being inspected shall be informed of this in writing.

We propose introducing the following time limits for conducting prosecutorial inspections over the implementation of laws into the Law of the Republic of Uzbekistan “On the Prosecutor’s Office”:

Prosecutorial inspections over the implementation of laws shall be conducted by prosecution bodies within a period of one month. In the following cases, this period may be extended by the relevant prosecutor for an additional one month:

- If an examination or audit is assigned in relation to the prosecutorial inspection that requires a considerable amount of time;
- If, within the one-month inspection period, legal violations are not fully identified but there remain sufficient grounds for continuing the inspection.

We can observe that the duration of processes involving the establishment of specific facts, imposing various liabilities on individuals, and legally restricting their rights and freedoms through legal measures is regulated by relevant laws and codes in the legislation of the Republic of Uzbekistan. For instance, the time frames for inspections conducted by state control bodies over business entities are strictly defined in Article 9 of the Law “On State Control Over the Activities of Business Entities,” and the time limits for preliminary investigation in criminal cases are definitively set forth in Article 351 of the Criminal Procedure Code. From this point of view, we believe it is reasonable that the duration of prosecutorial inspections over the implementation of laws also be clearly specified in legal acts.

Additionally, we propose that the Law of the Republic of Uzbekistan “On the Prosecutor’s Office” include a provision stating that the inspection period, in exceptional cases, may be extended for no more than thirty additional working days, but only with the consent of the Prosecutor General or his/her deputy. This would improve the law and enhance its application effectiveness.

If we conduct a comparative legal analysis of the provisions related to prosecutorial inspections over the implementation of laws as defined in the Law of Turkmenistan “On the Prosecutor’s Office” mentioned above, it is noteworthy that in this country, the duration, length, and the

rights and responsibilities of prosecutors during the inspection process are defined at the level of the law. This can be recognized as a positive and commendable practice.

Similarly, if we examine the experience of the Republic of Belarus, Article 19 of its Law “On the Prosecutor’s Office” states that the prosecutor may inspect the activities of state bodies on appropriate grounds to ensure the correct application of laws. Furthermore, during inspections, prosecutors act solely on legal grounds and must conduct inspections only when necessary. This article guarantees that the inspection process is based on legal norms and is fair. During inspections, if needed, prosecutors have the right to examine documents, interrogate witnesses, and carry out other relevant measures.

Moreover, Article 16 of the Law of the Republic of Latvia “On the Prosecutor’s Office,” titled “Protection of the Rights and Legal Interests of Individuals and the State,” defines the procedure for conducting prosecutorial inspections. According to it, if information about a legal violation is received, the prosecutor shall carry out an inspection in accordance with the procedure established by law, if:

1. The information contains facts related to a crime;
2. The rights and legal interests of persons with limited physical capacity, persons with disabilities, minors, persons in detention, or others facing difficulties in defending their rights have been violated.

If we conduct a comparative legal analysis of these provisions with our national legislation, we can note that if facts related to a crime are identified, the materials, in accordance with the legislation of the Republic of Uzbekistan, are sent to the pre-investigation body, and if a crime is established, a criminal case is initiated and appropriate investigative actions are taken.

In the *United Kingdom*, the prosecution service usually deals with criminal cases, but it does not have a general supervisory function. In this country, the prosecution participates only in criminal investigations and court proceedings and does not directly intervene in civil or administrative matters.

In the *United States*, the prosecution primarily handles criminal cases. Prosecutors at both federal and state levels operate strictly within specific powers. The general supervisory function—such as broadly overseeing government bodies and their activities—is limited. The prosecution works solely within the scope of its jurisdiction. In certain states, the prosecution may review police activities only from the perspective of whether a criminal case has been properly handled.

The activities of the *Canadian* prosecution service are also limited to handling criminal cases and participating in court proceedings. The prosecution does not engage in the general supervision of government agencies. Instead, it may carry out additional functions aimed at ensuring compliance with the law.

The *Japanese* prosecution service likewise does not perform a general oversight function. In Japan, the prosecution is mainly engaged in investigating criminal cases and submitting them to the court, but it does not participate in the broad supervision of government institutions.

In *France* as well, the prosecution investigates criminal cases and submits them to the courts. However, the general supervisory function is limited to a certain extent. In the French legal system, the prosecution primarily performs duties related to the criminal justice system.

At this point, we consider it appropriate to present another proposal as a result of our scientific research aimed at further improving legislation. As a manifestation of the principle of transparency outlined in Article 5 of the current Law of the Republic of Uzbekistan "On the Prosecutor's Office," we propose that a legal provision be introduced into this law stating: "Information about the conclusion and results of prosecutorial oversight measures may be disclosed to the public, except for information classified as state secrets or other secrets protected by law."

This would contribute to a reduction in the number of legal violations at the entities subject to prosecutorial oversight, encourage these entities to regularly analyze the extent to which their activities comply with the law, and ultimately help prevent potential future violations of the law.

Based on the above, we may draw the following **conclusions**:

Firstly, we propose introducing into the Law of the Republic of Uzbekistan "On the Prosecutor's Office" a classification of prosecutorial oversight measures, as well as a mechanism for informing the public about the conclusions and results of such measures.

Secondly, drawing upon the positive experiences of advanced foreign countries cited above, we believe that it is crucial to improve the grounds, time limits, and stages for conducting prosecutorial inspections over the implementation of laws, and to regulate these legal relations in a clear and strict manner within the legislation governing prosecutorial bodies.

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