



ORGANIZATIONAL AND LEGAL FOUNDATIONS OF THE PROSECUTORIAL ACTIVITY: A COMPARATIVE-LEGAL ANALYSIS

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ANNOTATION

This article provides a comprehensive comparative-legal analysis of the organizational and legal foundations of prosecutorial activity, emphasizing the need to modernize and harmonize the legal framework governing the prosecutor's office of Uzbekistan. The study highlights the importance of strengthening prosecutorial oversight to ensure the precise and uniform execution of laws, particularly within the context of the New Uzbekistan Development Strategy (2022–2026). Special attention is given to the legal status, functions, and normative bases regulating the activities of prosecution bodies in Uzbekistan and selected foreign countries, including Russia, Ukraine, and Kazakhstan. The article argues that international treaties, which form an integral part of the national legal system under the renewed Constitution, must be formally recognized as a legal basis of prosecutorial activity. The author further proposes expanding the subject of prosecutorial review to include compliance not only with national legislation but also with international treaties ratified by Uzbekistan. Empirical data from a survey of more than 5,400 prosecutors reinforces the relevance and necessity of these reforms. The findings ultimately justify specific legislative amendments aimed at improving the effectiveness, transparency, and international compatibility of prosecutorial oversight.

Keywords: prosecutorial supervision, legal framework, organizational foundations, international treaties, rule of law, comparative legal analysis, prosecution service, constitutional principles, law enforcement oversight, legislative reform.

In building a legal democratic state based on a market economy, one of the most urgent issues today is the establishment of effective oversight by the prosecution authorities over the precise and uniform execution of laws in our Republic.

Likewise, pursuant to the Decree of the President of the Republic of Uzbekistan No. PF-60 of January 28, 2022, approving the “Development Strategy of New Uzbekistan for 2022–2026,” 100 goals were defined, where Goal 17 is also dedicated to improving the activities of prosecution bodies. The task was set to create solid legal foundations for a transparent and fair prosecutorial system that strictly ensures the rule of law and turns the principle “Law is supreme, punishment is inevitable” into a core criterion. Therefore, in this



article we provide a scientific analysis of our proposals aimed at improving the legal foundations of prosecutorial activity.

The term “prosecutor’s office” originates from the Latin word “procurare,” which in Uzbek means “to take care of.” At present, this concept in many countries refers to a special state authority entrusted with powers such as initiating criminal cases, maintaining the prosecution, and protecting the interests of the state within judicial proceedings. Famous French legal scholar René David emphasized that the prosecutor’s office emerged within the Romano-Germanic legal system. For this reason, the first prosecutor’s office appeared in France. Many countries of the world have taken France’s prosecution system as a model. Thus, prosecution bodies gradually formed in other countries as well. In modern times there is no single unified model of prosecution; this naturally indicates the existence of various models¹.

According to Article 1 of the new version of the Law of the Republic of Uzbekistan “On the Prosecutor’s Office,” adopted on August 29, 2001 under No. O‘RQ-257-II, the Prosecutor’s Office of the Republic of Uzbekistan is a single centralized system of prosecutorial bodies headed by the Prosecutor General of the Republic of Uzbekistan.

The organizational-legal foundations of prosecutorial activity refer to the set of legislative acts regulating the work of the prosecutor’s office, as well as the fundamental principles, directions, tasks, and organizational-legal structure of its activities, i.e., the system of prosecutorial bodies.

According to O. Vinogradov, the legal status of prosecution bodies refers to their place, functions, and tasks within the system of state power². We may add that the legal status of the Prosecutor’s Office of the Republic of Uzbekistan refers to its legally formalized situation defined by normative acts—namely, the organizational-legal foundations of prosecutorial activity and the core tasks, directions, principles, and system of prosecutorial bodies encompassed within it. Because first and foremost, the main tasks of any structure are determined, then activity directions are established based on those tasks, and afterwards guiding principles are adopted to ensure purposeful implementation of these directions.

Article 3 of the Law of the Republic of Uzbekistan “On the Prosecutor’s Office” specifies the legal foundations of the activities of prosecution bodies. It states that the establishment and operation of prosecution bodies, as well as their powers, are determined by the Constitution of the Republic of Uzbekistan, the Law “On the Prosecutor’s Office,” and other legislative acts³.

In particular, Section V, Chapter XXV, Articles 143, 144, and 145 of our Constitution are devoted to the Prosecutor’s Office of the Republic of Uzbekistan. These provisions determine the functions and main tasks of the prosecution service⁴.

¹ Матушевский Р.Г., Пятаков В.А. Прокуратура и прокурорский надзор. –М.:Приор-издат, 2005. -2 ст.

² Виноградов О. Прокуратура в системе органов государственной власти // Законность, 2000. -№4. - С. 2-4.

³ The Law of the Republic of Uzbekistan “On the Prosecutor’s Office”, National Database of Legislative Documents, 15 August 2025, No. 03/25/1081/0738.

⁴ The Constitution of the Republic of Uzbekistan // National Database of Legislative Documents, 1 May 2023, No. 03/23/837/0241



As noted above, the activities of prosecution bodies are also regulated by the new version of the Law “On the Prosecutor’s Office,” which was adopted on August 29, 2001 under No. O’RQ-257-II and consists of 7 chapters and 56 articles.

Furthermore, as mentioned earlier, the establishment and operation of prosecution bodies are also determined by other legislative acts. Such acts include the Criminal Procedure Code, Civil Procedure Code, Penal Enforcement Code, and other codes, as well as numerous laws and subordinate legislation regulating prosecutorial activity. Subordinate legislation includes, for example:

— Presidential Decree No. PF-5690 of March 15, 2019 “On Measures to Fundamentally Improve the System of Protecting Entrepreneurial Activity and to Optimize the Activities of Prosecution Bodies”;

— Presidential Decree No. PF-5438 of May 8, 2018 “On Measures to Fundamentally Improve the System of Training, Retraining, and Professional Development of Prosecutorial Personnel”;

— Presidential Decree No. PF-5343 of February 15, 2018 “On Additional Measures to Increase the Effectiveness of Prosecutorial Activities in Ensuring the Implementation of Adopted Normative Legal Acts”;

— Resolution No. PQ-3016 of May 30, 2017 “On Organizing the Activities of the Bureau of Compulsory Enforcement under the Prosecutor General’s Office of the Republic of Uzbekistan”;

and other normative legal acts.

Thus, all the above-mentioned normative legal acts, including sectoral documents such as orders, regulations, instructions, and guidelines of the Prosecutor General, constitute the legal foundations of the activities of prosecution bodies.

In this regard, it is appropriate to refer to the experience of several foreign states. Article 3, Chapter 1 of the Law of the Russian Federation “On the Prosecutor’s Office,” adopted on January 17, 1992 (as amended on December 30, 2020), sets out the legal foundations of the activities of the Prosecutor’s Office of the Russian Federation as follows:

— the Constitution of the Russian Federation;

— the Law of the Russian Federation “On the Prosecutor’s Office” and other federal legislation;

— international treaties of the Russian Federation⁵.

Likewise, Article 1 of the Law of Ukraine “On the People’s Prosecutor’s Office,” adopted on October 14, 2014, defines the legal foundations of the activities of the People’s Prosecutor’s Office of Ukraine. According to this article, the establishment and activities of the prosecution bodies of Ukraine are regulated by:

— the Constitution of Ukraine;

— the Law of Ukraine “On the People’s Prosecutor’s Office” and other legislation;

— international treaties in which Ukraine is a participant⁶.

⁵ Electronic source: <https://www.ligislationline.org>.

⁶ Electronic source: <https://cis-legislation.com/document.fwx?gn=16014>



The Law of the Republic of Kazakhstan “On the Prosecutor’s Office,” adopted on December 21, 1995, consists of 12 chapters and 59 articles. This law also specifies the legal foundations of the prosecutorial system. According to it, the Prosecutor’s Office of the Republic of Kazakhstan operates based on:

- the Constitution of the Republic of Kazakhstan;
- the Law “On the Prosecutor’s Office”;
- other normative legal acts regulating prosecutorial activity;
- international treaties registered by the Republic of Kazakhstan;
- orders of the Prosecutor General⁷.

Thus, according to the legislation of these states, international treaties constitute one of the legal foundations of prosecutorial activity. However, Article 3 of the Law of the Republic of Uzbekistan “On the Prosecutor’s Office” does not mention international treaties as a legal foundation. Whereas certain issues related to prosecutorial activity are regulated within international treaties in which Uzbekistan participates. For example, Article 592(1) of the Criminal Procedure Code of the Republic of Uzbekistan states:

“When procedural actions envisaged in this Code need to be carried out on the territory of a foreign state, the court, prosecutor, investigator, or inquiry body submits a request for such actions to be carried out by the competent authority of the foreign state in accordance with the international treaties of the Republic of Uzbekistan or on the basis of reciprocity”.

Moreover, Article 592(3) specifies that such requests are transmitted:

- through the Supreme Court of the Republic of Uzbekistan for criminal cases under the jurisdiction of general courts;
- through the Ministry of Internal Affairs or the State Security Service for procedural actions not requiring a court decision or prosecutor’s authorization;
- in other cases, through the Prosecutor General’s Office of the Republic of Uzbekistan.

These legal norms show that requests for procedural actions abroad, submitted by the Prosecutor General’s Office, along with their procedural rules, are defined in international treaties of the Republic of Uzbekistan. Nevertheless, such norms are not listed among the legal foundations of prosecutorial activity in Article 3 of the Law “On the Prosecutor’s Office.” Therefore, taking into account the above-mentioned foreign experience and national legislation, we believe that international treaties in which Uzbekistan participates should also be included in Article 3 as a legal foundation of prosecutorial activity.

Proceeding from this, we now turn to our proposal regarding the inclusion of international legal documents within the subject of prosecutorial review over the execution of laws. First, we examine the views of legal scholars regarding the subject of review. Professor B. X. Polatov notes that, according to Article 20 of the Law “On the Prosecutor’s Office,” the subject of review includes:

- the execution of laws by ministries, departments, local self-government bodies, public associations, enterprises, institutions, organizations, and military units of ministries and

⁷ Electronic source: <https://www.ligislationline.org>.



departments, as well as by khokims and other officials, and the compliance of documents issued by them with the Constitution and laws of the Republic of Uzbekistan;
— compliance with laws on economic relations, environmental protection, and foreign economic activity.

Likewise, according to V. V. Gavrilov, “The subject of prosecutorial supervision is directed toward the execution of laws, and the precise execution of laws must be defined as the subject.” In our view, Gavrilov’s definition is somewhat narrow, because the subject should include not only the precise execution of laws but also the compliance of documents adopted by competent authorities with the Constitution and laws⁸.

In addition, B. M. Spiridonov argues that the subject of supervision represents the factors a prosecutor must examine in order to effectively perform assigned tasks. Furthermore, according to N. V. Subanova, “The subject of prosecutorial review over the execution of laws includes not only the essence of all actions performed within prosecutorial authority and their relevance to specific goals and tasks, but also the final result toward which the entire oversight activity of the prosecutor is directed”⁹.

Similarly, Doctor of Law A. B. Komilov expressed his scholarly views regarding the subject of prosecutorial supervision in certain fields. According to him, “The subject of prosecutorial supervision over the execution of laws protecting entrepreneurs includes the execution of laws by ministries, state committees, departments, local self-government bodies, public associations, enterprises, institutions, organizations, khokims, and other officials, as well as the compliance of documents adopted by them with the Constitution and laws of the Republic of Uzbekistan”¹⁰.

Based on the above theoretical definitions of legal scholars, we consider the views of B. X. Polatov, A. B. Komilov, and N. V. Subanova the most detailed and accurate. Therefore, we propose the following definition of the subject of prosecutorial review over the execution of laws:

The subject of prosecutorial review includes the execution of laws by ministries, departments, local self-government bodies, public associations, enterprises, institutions, organizations, military units of ministries and departments, khokims, and other officials, as

⁸ Гаврилов В.В. Сущность прокурорского надзора в СССР: предмет, объект, функция, компетенция / под ред. В.И. Новоселова. Саратов, С. 15–16.

⁹ Спиридонов Б.М. Прокурорский надзор за соблюдением законности в исполнительно-трудовых учреждениях. М.: Изд-во Моск. ун-та, 1978. С. 127.

¹⁰ Komilov A.B. Improving the Organizational and Legal Foundations of Prosecutorial Supervision over the Implementation of Laws Aimed at Protecting Entrepreneurs // Dissertation prepared for obtaining the degree of Doctor of Philosophy (PhD) in Legal Sciences. – Tashkent, Academy of the Prosecutor General’s Office. 2020. – p. 63



well as the compliance of documents adopted by them with the Constitution and laws of the Republic of Uzbekistan, and with international treaties ratified by the Republic of Uzbekistan.

We now substantiate the inclusion of “compliance with international treaties ratified by the Republic of Uzbekistan” within the subject of review. First, the new version of the Constitution of the Republic of Uzbekistan introduces the provision in Article 15(3) that “International treaties of the Republic of Uzbekistan, along with universally recognized principles and norms of international law, constitute an integral part of the legal system of the Republic of Uzbekistan.” Article 15(4) further states: “If an international treaty of the Republic of Uzbekistan establishes rules different from those provided in national legislation, the rules of the international treaty shall apply”.

Foreign experience supports this approach. In the constitutional practice of Germany, France, Spain, Slovenia, and other states, international law’s universally recognized principles and norms are considered an integral part of the national legal system.

Likewise, Article 2(3) of the Law of the Republic of Uzbekistan “On International Treaties” also provides that if an international treaty establishes rules different from those in domestic legislation, the provisions of the international treaty shall apply. Additionally, Paragraph 2 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan No. 16 of June 23, 2023 “On Certain Issues of the Direct Application of Constitutional Norms in the Administration of Justice” emphasizes that courts and law-enforcement bodies must ensure the supremacy of international treaties by verifying ratification and domestic procedures necessary for them to take effect.

It is noteworthy that during our research, a survey of 5,437 employees of prosecution bodies was conducted. When asked whether it is appropriate to include compliance with international treaties ratified by Uzbekistan within the subject of prosecutorial review, 3,677 respondents agreed, also noting that the new Constitution confirms that international treaties are part of the national legal system. These survey results further demonstrate the justification of our proposal.

Considering the above-mentioned legal grounds and empirical data, we conclude that during prosecutorial review over the execution of laws, prosecutors must 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 ensures the identification of legal norms contradicting Uzbekistan’s international treaty obligations and helps maintain consistency and harmony between national legislation and international treaties.

Based on the above, the following conclusions may be drawn:

Firstly, taking into account foreign experience and the analysis of national legislation, we propose amending Article 3 of the Law “On the Prosecutor’s Office” to include international treaties of the Republic of Uzbekistan as one of the legal foundations of prosecutorial activity.



Secondly, we propose that the subject of prosecutorial review over the execution of laws be defined as the execution of laws by ministries, departments, local self-government bodies, public associations, enterprises, institutions, organizations, military units of ministries and departments, khokims, and other officials, as well as the compliance of documents adopted by them with the Constitution and laws of the Republic of Uzbekistan and with international treaties ratified by the Republic of Uzbekistan.

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