

Prosecutor's Supervision in Criminal Proceedings

Dildora Bahadirovna Bazarova

Professor of Tashkent state university of law

A. T.

Abstract

In recent years, a number of scientific studies have been carried out on the activities of the prosecution authorities, which have identified systemic problems in the field and issues that need to be improved. Accordingly, on the basis of this article, scientific and practical issues related to the guarantees of the activities of the prosecutor in the field of criminal proceedings and the directions of prosecutorial supervision in the process are studied in detail. At the same time, the article develops the author's proposals and recommendations on guarantees for the activities of the prosecutor in the criminal procedure sphere and the improvement of prosecutorial control in the process.

Keywords: prosecutor, prosecutor's office, supervision, prosecutor's supervision, crime, criminal process, investigation.

Control over the precise and uniform implementation of laws in our country is carried out by the Prosecutor General of the Republic of Uzbekistan and prosecutors subordinate to him.

From the point of view of criminal-procedural legislation, control over the implementation of laws by bodies that carry out pre-trial investigation, inquiry, preliminary investigation, preliminary investigation of crimes, support of state charges when criminal cases are being considered in courts [1], are among the main areas of activity of prosecutor's offices. is one.

It should be noted that in recent years, effective reforms have been implemented in the field of procedural legislation to expand the powers of the prosecutor's office and to create an effective mechanism of the prosecutor's control in the field.

In particular, in accordance with the Decree No. PF-6041 of the President of the Republic of Uzbekistan dated August 10, 2020 "On measures to further strengthen the guarantees of the protection of the rights and freedoms of the individual in judicial investigation activities", in the cases provided for in the Criminal Procedure Code of the Republic of Uzbekistan, the criminal case is one investigation or it was assumed that the transfer from the preliminary investigation body to another can be carried out only by the Prosecutor General of the Republic of Uzbekistan and his deputies, the prosecutors of the Republic of Karakalpakstan, regions, Tashkent city and prosecutors equivalent to them [2].

The issue of the prosecutor, who is one of the officials responsible for criminal proceedings, his rights and obligations, as well as the guarantees of the prosecutor's activities, will be analyzed below based on the current legal norms and the scientific and theoretical views of the field researchers.

The prosecutor exercises control over the precise and uniform execution of the laws of the Republic of Uzbekistan at the inquiry and preliminary investigation stages of the criminal process, performs procedural powers established by the legislation and procedural activities in support of the state prosecution when considering cases in courts.

Criminal procedural legislation states that "at the stages of inquiry and preliminary investigation, the prosecutor must take timely measures provided for by the law to eliminate the violation of the law, regardless of who committed it, and the prosecutor must exercise his powers independently of any body and official, only subject to the law ." [3] is set to implement.

As the subject leading the prosecution "camp", the prosecutor should have more independence than the persons conducting the preliminary investigation. [4].

At the stage of investigation and preliminary investigation, the prosecutor appears as a person who supervises the application of laws, a leader and a participant who directly conducts the preliminary investigation. At this stage, the prosecutor must ensure that the rights and legal interests of the participants in the criminal proceedings are not violated, consider complaints about the illegal behavior and decisions of the investigator, the investigator and timely eliminate the mistakes and shortcomings, strictly comply with the requirements of the procedural law in the recovery and verification of evidence, crimes fulfill a number of tasks such as determining the causes of origin and taking measures to eliminate them, ensuring impartiality and equality of all before the law [5].

Therefore, it is appropriate to establish the guarantees of the prosecutor's activity in the legislation so that this activity can be carried out without any obstacles.

Based on the current legislation, we will consider the system of guarantees for the activities of the prosecutor as follows.

In particular, according to the Law of the Republic of Uzbekistan "On the Prosecutor's Office", the prosecutor's office shall exercise its powers independently of any state bodies, public associations and officials, only subject to the law. It is forbidden to interfere with the activities of the prosecutor's office. According to the law, influencing the prosecutor in any form or preventing him from carrying out his activities in order to achieve an illegal decision, encroaching on his privacy, as well as conducting inspections without the permission of the prosecutor or investigator and disclosing preliminary investigation information, failure to comply with the prosecutor's requirements shall be liable in the prescribed manner. cause [6].

In accordance with the criminal legislation, measures of responsibility for unlawfully influencing the prosecutor in various forms in order to interfere with the investigation, that is, to prevent a comprehensive, full and impartial investigation of the case, have been established.

Interfering with the investigation by holding placards with slogans near the building of the investigative body, prosecutor's office, all or part of the investigation, or holding a demonstration, rally or demonstration related to the strike, announcing hunger strikes near the building of the investigation, prosecutor's office, organizing campaigns in the media, etc. can be Interference can be in different forms: request or demand from the investigator, investigator, prosecutor to conduct the investigation in a different direction; intimidation by threats; trying to solve the investigation case in his favor through the prosecutor he knows well; giving advice or guidance through a government official, etc. The instructions of the senior prosecutor to the lower prosecutor regarding the case under

investigation are not considered to interfere with the investigation of the case according to the law of criminal procedure. According to Article 37 of the Criminal Code of the Republic of Uzbekistan, the instructions of the head of the investigation department do not constitute the structure of this crime [7].

As one of the officials responsible for criminal proceedings, we will consider the scientific-theoretical views of the prosecutor and his procedural guarantees based on the conceptual opinions of the following researchers.

In particular, guarantees allow prosecutors to perform their duties and use their rights in solving the tasks assigned to them by the state, in particular: strengthening the rule of law, protecting the rights and freedoms of people and citizens, as well as the interests of society and the state protected by law. [8].

It should be noted that the national legislation does not have a clear legal description of the concept of "Prosecutor's immunity" and the status of this concept in criminal procedural legislation.

However, although Article 49 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" is entitled "Immunity of an employee of the Prosecutor's Office", it can be seen that this article does not provide specific legal mechanisms for the prosecutor's immunity other than the initiation of a criminal case against the prosecutor and conducting a preliminary investigation and his disciplinary responsibility.

Only in accordance with Article 223 of the Code of Criminal Procedure, the prosecutor is designated as one of the persons enjoying the right of immunity during arrest, according to which prosecutors cannot be detained and brought to the internal affairs body or other law enforcement body.

Also, in accordance with Article 239 of this Code, it is established that preventive measures in the form of imprisonment or house arrest may be applied to the prosecutor with the consent of the Prosecutor General of the Republic of Uzbekistan.

In order to further strengthen the procedural guarantees of the prosecutor's activity in the national legislation:

- initiation of a criminal case against him;
- being summoned to investigative bodies for questioning as a witness or suspect;
- entering the residence or service room of the prosecutor, his vehicle, inspecting them, searching them or taking things from them;
- listening to the prosecutor's phone conversations;
- personal examination of the prosecutor and personal search of him;
- it is appropriate to establish specific legal mechanisms for viewing, confiscating or obtaining the prosecutor's correspondence, items and documents related to him.

of the Law "On Prosecutor's Office" entitled "Invulnerability of Prosecutor's Office Officer" is of great importance in determining the guarantees of prosecutor's activity.

Prosecutor's control as one of the mechanisms for ensuring the rights of individuals in criminal proceedings. Prosecutor's supervision is an independent, unique type of state activity. Other than the prosecutor's office, no state office, organization, public organization, or other law enforcement agencies, as well as officials or individuals can perform this activity. The prosecutor's supervision is carried out on behalf of the state, that is, on behalf of the state of the Republic of Uzbekistan, even if it

is not stated in the documents that it is on behalf of the state. The prosecutor supervises the clear and uniform implementation of laws on the territory of the Republic of Uzbekistan not on behalf of a specific office or in the interest of this office, but in the name of the state and in the interest of the state and our society [9].

Control over the precise and uniform implementation of laws in the territory of Uzbekistan is carried out by the Prosecutor General of the Republic of Uzbekistan and prosecutors subordinate to him, according to the legislation.

At the same time, prosecutors exercise appropriate control over the implementation of criminal procedural legislation in criminal proceedings, as in other areas.

In this regard, the direction of control includes quick-search activity, pre-investigation investigation, inquiry, control over the implementation of laws by the bodies that carry out the preliminary investigation, as well as protesting the illegal documents of the courts in criminal cases.

The legality of decisions made by crime-fighting bodies is the subject of control over the enforcement of laws by crime-fighting bodies[10].

In this regard, the prosecutor exercises the relevant powers provided for in Article 28 of the Law "On the Prosecutor's Office" of the Republic of Uzbekistan.

In Article 382 of the Criminal Procedure Code of the Republic of Uzbekistan, the powers of the prosecutor to exercise control over the implementation of laws during the investigation and preliminary investigation are indicated.

The prosecutor has the authority to verify the validity of the request for the application of a preventive measure in the form of detention or house arrest applied to the detained suspect or the person involved in the case as an accused, and to send the decision on the initiation of the request and the necessary materials to the court.

According to the criminal procedural legislation, if the prosecutor checks the reasonableness of the investigator's presentation and agrees with it, he submits to the court a request to refuse to open a criminal case or to close a criminal case based on the amnesty act together with the materials of the investigation conducted before the investigation or the criminal case[11].

Also, the prosecutor and his deputy have the right to file a protest against the court's verdict, which has not entered into force, in the appeal procedure .

The appellate court shall verify the completeness of the determination of the facts of the appeal (protest) and the correct application of the norms of the criminal law, whether the norms of the criminal procedural law were observed during the proceedings, the legality, reasonableness and fairness of the verdict, decision of the court of first instance in the case and the appellate court examines the evidence further examined.

At the same time, The chief prosecutor, his deputies, the prosecutor of the Republic of Karakalpakstan, the prosecutors of the regions and the city of Tashkent, and the prosecutors equivalent to them, have the right to file a protest against the judgment and ruling of the court of first instance and appeal in the cassation procedure. [12].

Let's consider below the aspects related to ensuring the rights and legal interests of the person based on the norms of the legal documents on the supervision of the prosecutor in the criminal proceedings.

It should be noted that the documents accepted as a result of the process and results of the criminal process, in particular, rapid search, pre-investigative investigation, inquiry, preliminary investigation

processes, and the process of consideration of the case in court, are directly related to the rights and legal interests of the person.

The prosecutor is one of the most active participants in the criminal process, and only he participates in all stages of criminal proceedings, that is, from the initiation of a criminal case to the execution of a court sentence against a person. The prosecutor leads the trial of all criminal cases and performs important tasks in moving cases from one stage to the next. At the same time, its procedural status will have a different appearance at different stages [13].

In the system of ensuring procedural guarantees of the rights of the participants in the criminal proceedings, the prosecutor's control is aimed at ensuring, on the one hand, the achievement of the interests of justice, and on the other hand, the protection and protection of rights and legal rights. The prosecutor's control over the provision of procedural guarantees of the rights of the participants in the criminal proceedings can be of two types: active and passive. Separation of these types of control is related to the initiative (activity) or lack thereof (passivity) at the beginning of the prosecutor's investigation, as well as the final decision on the complaint or petition. In addition, the form of active participation means the possibility of the prosecutor to conduct such an investigation on his own initiative, and passive - his participation in the investigation by another body (that is, not by the prosecutor). Which of the listed types of prosecutor's control is used depends on its content and specific features of its legal status, powers affecting security and measures of state protection against protected persons. [14].

Observance of human rights and freedoms determines the content of the subject of the prosecutor's supervision under consideration. It also includes the scope of monitoring the implementation of laws by bodies carrying out rapid-search activities, and monitoring the implementation of laws by pre-trial investigative bodies. Observance of human and civil rights and freedoms is also the focus of attention of prosecutors during the implementation of the function of criminal prosecution. [15].

As one of the institutional foundations of ensuring the rights and legal interests of a person in a criminal proceeding, the content of the prosecutor's supervision - from the receipt of reports and reports about a crime, to the investigation and investigation, and the stages of studying the legality of the court's decisions on criminal cases in order to directly ensure the rights and legal interests of the person, organizes the implementation of control measures by the prosecutor on cases of clear and uniform execution of legal documents at these stages.

Therefore, the prosecutor carries out control at the above-mentioned stages of the criminal process and applies one of the relevant documents of the prosecutor's control, that is, a measure of influence, in order to determine the rights and legal interests of a person, as well as other cases of violation of the law. These documents are the result of actions of the prosecutor's control over the clear and uniform implementation of laws in the field.

In particular, the prosecutor can cancel the decisions of investigators and investigators, as well as pre-investigation inspection bodies, which are contrary to the rights and legal interests of a person, or are otherwise illegal and unreasonable.

In addition, during the investigation of the criminal case, he gives written instructions to the investigator and investigators, which must be followed in order to strictly follow the law and fully ensure the rights and interests of the person.

The prosecutor shall disqualify the investigator or the investigator from continuing the investigation or preliminary investigation, provided that they have violated the law during the investigation of the case.

In addition, the prosecutor requests documents, materials and other information on the progress of the preliminary investigation, investigation, and investigation related to the committed crimes.

The content of the powers of the prosecutor mentioned above and directly implemented in the criminal proceedings, together with the rule of law, is formed by the goal of ensuring the rights and legal interests of the individual.

In conclusion, it should be noted that the clear definition of the organizational and legal basis of guarantees of the activities of the prosecutor, who exercises control over the clear and uniform execution of laws in criminal proceedings, as well as the clear and uniform execution of laws in the processes from the initiation of a criminal case to the adoption of verdicts, rulings and decisions high-quality and comprehensive, legal implementation of the prosecutor's control, in turn, is a guarantee of full protection of the rights and legal interests of the person in the criminal proceedings.

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