



Improving the Organizational and Legal Foundations of Prosecutorial Supervision over the Legality of Decisions of Local Governments

Shokirov Oybek Azizjon ogli, PhD

Student of the Academy of the General Prosecutor's Office of the Republic of Uzbekistan

Abstract

The article analyzes the improvement of the organizational and legal foundations of prosecutorial supervision over the legality of decisions of local governments, and using the methods of system analysis, the author proposes to improve prosecutorial supervision over the execution of decisions made by self-government bodies.

Keywords: Prosecutor supervision, self-government bodies, prosecutor's office, laws, decisions, mass media, mahalla, structure, execution of laws, Constitution, state, power.

Increasing the efficiency of the work of local governments is closely related to the interaction of these bodies with various state structures, including the prosecutor's office. Such cooperation is aimed at the implementation of common tasks, such as the observance and protection of human rights, citizens and the state, due to the improvement of interaction between local governments and the prosecutor's office. It should be borne in mind that between local governments and the prosecutor's office a colossal document flow is carried out, it follows that, in order to improve interaction, it is necessary to optimize these information flows.

The Constitution of the Republic of Uzbekistan is the basis of the legal strategy for the development of our state. In this regard, the idea of constitutional partnership seems promising, which reveals the basic principles of interaction between state authorities of the Republic of Uzbekistan, its subjects, other state bodies and institutions of civil society.

In the work of M.P. Zolotarev, based on the experience of constitutional partnership, it was proposed to form in parallel not only a partnership of institutions of society and the state, but also to include the lower level of power in this process, thus, the concept of "local self-government partnership" was developed and introduced into scientific circulation. It is determined by an integrated goal, legislatively and / or contractually mediated cooperation of local governments with similar and other public authorities to optimize the resolution of issues of local importance and represent their interests at the state and international levels.¹

Based on the presented definition, as well as taking into account the specifics of the subjects declared in this study (local governments and the prosecutor's office), we believe it is more appropriate to use the term "interaction" with the subsequent argumentation of this thesis.

Let us explain that one of the facets of such a complex phenomenon as local self-government is its significance as one of the levels of public authority.

This is shown quite clearly, for example, by the definition of local self-government, interpreted as "the right and real ability of local self-government bodies to regulate a significant part of public affairs and manage it, acting within the framework of the law, under their own responsibility and

¹ Золотарев М.П. Конституционно-правовые основы и факторы развития муниципального партнерства в современной России: Дис. ... канд. юрид. наук. - Белгород, 2011. - С. 9.



in the interests of the local population”, enshrined in the European Charter of Local self-government.² Thus, in this definition, the complex and multifaceted phenomenon of local self-government appears, first of all, as a management activity, albeit of a specific nature.

V.E. Chirkin specifically notes that, despite the presence of many common characteristics of state and local governments, each of these two types of public authority has its own characteristics. Among these differences is that state power acts on behalf of the entire people, while municipal power acts on behalf of a relatively small territorial community. State power operates throughout the country and in international relations, local governments have a local scope of activity, the first is sovereign, it establishes general rules for the activities of municipal authorities as well.³

The powers of state power are not only immeasurably wider, but also qualitatively different, which follows, in particular, from state sovereignty. Many of the powers that belong to the state power, its bodies (issues of citizenship, crime and punishment, foreign affairs, the prosecutor's office, courts, etc.) can never, by their nature, be exercised at the level of the municipality, no matter how large.⁴

According to the Law of the Republic of Uzbekistan "On Citizens' Self-Government Bodies", the main principles of the activity of citizens' self-government bodies are:

1. democracy;
2. publicity;
3. social justice;
4. humanism;
5. independence in resolving issues of local importance;
6. Public mutual assistance.

As for the prosecutor's office, today their legal status is debatable. There is a sharp controversy about whether the prosecutor's office belongs to a certain branch of state power, whether it is generally a body of state power.⁵

The powers of the prosecutor's office and the court differ significantly; the prosecutor's office is an independent state body, the main purpose of which is to supervise the observance of the Constitution and the execution of laws on the territory of the Republic of Uzbekistan.⁶ Thus, the prosecutor's office turned out to be included in the relevant section, not being an element of the judiciary either structurally or competently.

The emergence and implementation of organizational forms of interaction between local governments and prosecutors are not related to the requirements of the law. They are formed as a result of the participants' awareness of the need for cooperation based on mutual assistance in order to more effectively resolve certain issues and fulfill common tasks. At the same time, these

² Европейская хартия местного самоуправления (ETS № 122) принята в г. Страсбурге 15 октября 1985 г. // Дипломатический вестник. - 1998. - №10.

³ Чиркин В.Е. Государственное и муниципальное управление. - М., 2003. - С. 17.

⁴ Алексеев В.Б., Колибаб К.Е. Процессуальный статус прокуратуры и судебная власть // Организация управления в органах прокуратуры: Сб. ст. - М., 1998. - С. 95-96.

⁵ Джамбулатов С.И. Защита органами прокуратуры Российской Федерации прав и свобод человека и гражданина: по материалам Южного федерального округа. Автореферат диссер. на соиск. уч. степени к.ю.н. - М.: 2009. <https://www.dissercat.com/content/zashchita-organami-prokuraturv-rossiiskoi-federatsii-prav-i-svobod-cheloveka-i-grazhdanina-p>

⁶ Пўлатов Б.Х.. Судларда жиноят ишларини кўрилишида прокурорнинг процессуал фаолияти. Ўқув қўлланма. - Т. 2004. - Б. 92.



forms of mutual relations have an independent meaning, which is expressed in the information support of the activities of both these bodies themselves and in general for the accumulation and dissemination of legal information about law enforcement activities in society. The specificity of the organizational forms of joint activity is also expressed in the admissibility of participation in it of additional entities, the possibility of establishing multilateral relationships, and the conclusion of interdepartmental agreements on cooperation.

In addition, the presidential decree of February 21 assigned additional tasks to the prosecution authorities in order to strengthen control in the field of rational use and protection of land plots.

Among them:

- ✓ constant supervision of the timely and complete implementation of the measures determined by the republican and territorial programs related to the allocation of land plots, the development and introduction of new lands into agricultural circulation;
- ✓ constant supervision of ensuring compliance with the requirements defined by the Land Code when allocating land plots for agricultural and non-agricultural purposes;
- ✓ continuous monitoring of the Unified Electronic System for the Development, Approval and Registration of Local Government Decisions E-qaror, as well as taking measures to respond to decisions that do not comply with legislative acts;
- ✓ early detection of facts of unauthorized seizure and illegal use of land, as well as the establishment of strict prosecutorial supervision to ensure the inevitability of punishment of persons who committed offenses;
- ✓ regular study of the state of compliance with acts of legislation on land, as well as the formation of a unified law enforcement practice in this area;
- ✓ preparation of proposals on the rational use of land based on advanced foreign experience;
- ✓ regular study of the intended use of funds from the Fund for the Development of Agriculture and Food Supply, as well as the relevant extrabudgetary funds allocated to this area, funds from international financial institutions and foreign government financial organizations.⁷

The Department for the Prevention of theft of Land Resources is being formed within the General Prosecutor's Office, and the Department for Combating theft of Land Resources is being created within the structure of the Operational Investigative Department of the Ministry of Internal Affairs.⁸

In order to strengthen public control over the rational use and protection of land plots, from March 1, 2022, a procedure is established in accordance with which:

- Photo and video materials about the facts of unauthorized seizure and illegal use of land plots sent by the population and self-government bodies of citizens to the General Prosecutor's Office (short number 1007) and the Cadastre Agency (short number 1097) are considered in the manner prescribed by legislative acts;
- self-government bodies of citizens and assistants to khokims of districts (cities) on the development of entrepreneurship, employment and poverty reduction in mahalla are given the right to send requests to local executive authorities, construction and cadastre authorities on the legality of the construction of any building or structure on their territories, while:

⁷ Указ Президента Республики Узбекистан О стратегии развития нового Узбекистана на 2022 — 2026 годы от 07.02.2022 года за №УП-4947 <https://lex.uz/docs/5841077>

⁸ Приложение № 1 к Указу Президента Республики Узбекистан от 22 июня 2020 года № УП-6012 Национальная стратегия Республики Узбекистан по правам человека. <https://lex.uz/ru/docs/4872357>



- these requests are subject to mandatory consideration within 5 working days, following the results, information is provided on the presence or absence of permits for the commenced construction of buildings and structures;
- Citizens' self-government bodies shall place in the most visible place of their building for all citizens the information received on the basis of their request, as well as information on revealed illegal facts, shall be submitted within one day to the bodies exercising control in the field of land use.⁹

In our opinion, the current situation in the makhals does not reveal the essence of the interaction between the mahal and the prosecutor's office, since self-government bodies in some cases arbitrarily solve certain problems without the participation of authorities, where arbitrariness leads to offenses and crimes.

It should be noted that recently the interaction between local governments and the prosecutor's office has noticeably intensified; we can say that there has been an improvement in interaction between them. This was facilitated by:

1. Accumulation by employees of the prosecutor's office of positive experience in the organization and implementation of the activity in question;
2. organizational changes in the structure of the prosecutor's offices of the Republic of Uzbekistan (specialized divisions and corresponding positions have appeared);
3. consideration of issues of interaction in scientific, educational and methodological literature;
4. Improving the legal basis for interaction, primarily through the signing of various cooperation agreements between the prosecutor's office and local governments.

Also, positive trends in the development of interaction can be traced, in connection with an increase in the effectiveness of strengthening the rule of law, primarily in such areas as lawmaking and combating corruption.¹⁰

Interaction between local governments and the prosecutor's office is carried out in the following forms:

1. joint activities in the preparation of draft normative legal acts relating to the strengthening of the rule of law;
2. preliminary familiarization of the prosecutor's office with draft regulatory legal acts issued by local governments;
3. assessment of the legality of regulatory legal acts of local governments;
4. participation of prosecutors in meetings and hearings held by local governments;
5. participation of representatives of local governments in coordination meetings organized by the prosecutor's office;
6. joint or coordinated conduct of legal education;
7. organizing joint events to improve the skills of employees of the prosecutor's office and local governments;
8. advising on legal issues of municipal employees.

⁹ Постановление Президента Республики Узбекистан «О мерах по повышению эффективности государственного контроля за использованием земельных участков» от 21 февраля 2022 года.

¹⁰ Ўзбекистон Юридик энциклопедияси/ Масъул муҳаррир Н. Тойчиев. – Т.: Адолат, 2010. – Б. 372.



Problems of a departmental nature arise because, sometimes, the interests of the state are opposed to the interests of individual bodies or officials. To solve them, it is necessary to conclude cooperation agreements, which should reflect the mechanisms for resolving all possible disputable issues.¹¹

The results of joint activities directly depend on its methodological and scientific support, which at the moment does not meet all the needs of practice. In fact, we can talk about individual manuals and developments related to certain aspects of interaction. In this regard, scientists who are engaged in the improvement of prosecutorial activities, as well as practitioners responsible for the preparation of methodological literature, need to pay attention to this problem.¹²

In our opinion it is necessary:

- 1) observe a decrease in the number of illegal municipal acts adopted, by improving the interaction between local governments and prosecutors, with the help of the conclusion of new interdepartmental agreements that would clearly indicate such forms of interaction as advising municipal employees on the application of law
- 2) it is necessary to improve interaction in the field of municipal rule-making, it is necessary to increase the period for consideration by prosecutors of draft regulatory legal acts, as well as to increase the period for eliminating inconsistencies in draft legal acts (if possible).
- 3) it is necessary, with the help of the issuance of orders by the General Prosecutor of the Republic of Uzbekistan, to organize the optimal distribution of the burden on prosecutors who ensure the implementation of the interaction between the prosecution authorities and local governments, with an increase in the professional skills of both parties to the interaction.

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¹¹ Прокурор назорати (Умумий қисм): О.М. Мадалиев (Иноғомжонов З.Ф.нинг умумий тахрири остида). – Т.: ТДЮИ нашриёти, 2009. – Б. 61.

¹² Прокуратура в странах СНГ: правовой статус, функции, полномочия: научное и учебное пособие / под общ. И науч. ред. Проф. Щербы С.П. –М.: Издательство «Экзамен», 2007. -557, - С 37.



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