



IMPROVING THE EFFECTIVENESS OF THE PROSECUTOR'S SUPERVISION IN LABOR RELATIONS: BASED ON THE EXPERIENCE OF FOREIGN COUNTRIES

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Abstract:

In this article, the authors discuss the need for legal research of labor relations, the legal bases of the activities of bodies authorized to control the progress of labor relations, the importance and necessity of the participation of the prosecutor at the stage of seeing and resolving disputes of this category, the reforms implemented in our country in this regard, as well as the further development of this field in the future. aspects that should be paid attention to in the study and implementation of the experience of foreign countries, at the same time, the author's suggestions on the further improvement of the prosecutor's control over labor relations in Uzbekistan are included.

Keywords:

Employee, employer, state body, justice, prosecution, prosecutor, workplace, worker, accident, production, illness, death during work, dangerous and unhealthy working conditions, labor inspector, supervision, inspection.

A person's right to work is one of his most important rights, and the methods of implementing this right characterize the level of development of society. In order to ensure that people live a decent life, the state applies economic, organizational, technical, legal and other measures aimed at ensuring the effective protection of the rights of people capable of working, and effective protection of their rights in case of illness or injury at work.

In accordance with the second part of Article 534 of the New Labor Code of the Republic of Uzbekistan, the control over the precise and uniform implementation of the Labor Code, as well as other laws, is carried out by the prosecutor's office within their powers. To the law was determined to be carried out accordingly. After all, in accordance with the requirements of Article 143 of the new version of the Constitution of the Republic of Uzbekistan The General Prosecutor of the Republic of Uzbekistan and prosecutors subordinate to him exercise control over the precise and uniform implementation of laws in the territory of the Republic of Uzbekistan. also in the newly revised Law "On Prosecutor's Office" (Article 1) it is established that the Prosecutor General of the Republic of Uzbekistan and the prosecutors subordinate to him shall exercise control over the clear and uniform implementation of laws in the territory of the Republic of Uzbekistan. Therefore, in other legal documents, in particular, Codes, it is appropriate from the point of view of the requirements of legislative technique to provide for control over the exact and uniform execution of a certain law in the territory of the Republic of Uzbekistan by the Prosecutor General of the Republic of Uzbekistan and prosecutors subordinate to him.

Statistical data obtained from court practice also confirm that the cases of gross violations of labor legislation have increased significantly recently. In particular, In the first

half of 2020, there were 760 (1,460) reinstatement cases, 731 (1,011 in the corresponding period of 2021) wage recovery cases, and the total number of labor dispute cases in the corresponding period of 2021 was 2,471 and It has increased by 980 compared to the same period of 2020.¹

In 2022, 3151 of the labor disputes heard in the first instance in inter-district courts were considered to be reinstatement cases, and this figure was 2606 in 2021.²

Also, it is no secret that the life and health of the employees entering into labor relations with the employer are being seriously harmed due to the lack of clarity in the mechanisms of monitoring compliance with the rules of safety equipment. According to the International Labor Organization (ILO), 2.78 million workers die each year from work-related accidents and diseases, and 374 million workers suffer from non-fatal work-related accidents. This means that 7,500 workers die every day due to unsafe and unhealthy working conditions.³

4% (US\$1,251,353 million) of the world's gross domestic product is spent on various payments due to occupational injury, death and illness, treatment and death of dependents.⁴

As we can see, the cases of layoffs, The increase in cases of wage collection and various payments due to work injury, death and illness, treatment and death of a dependent may cause the creation of social tensions in the society.

The above circumstances require the development of the institution of prosecutor's control over the observance of labor legislation, the improvement of legal documents regulating the prosecutor's powers in the process of hearing and resolving labor disputes in court from a scientific point of view.

It is known that the prosecutor's control differs from other state and non-state controls in that it is focused on ensuring legality, law and order and the rule of law in society, effective organization of these activities, and quality, effective and timely execution of duties and obligations provided for by legislation.

Consequently, the prosecutor's control first of all, ensuring the rule of law, meaning the activities of the specially authorized state body in the country on behalf of the state; secondly, to strengthen law and order and democracy; thirdly, it focuses on protecting the rights and freedoms of people and citizens, the interests of society and the state.

In legal literature, we see similarities in the definitions of prosecutorial control in terms of its specific features. For example, if Professor B.Kh. Polatov recognizes that prosecutor's supervision is a special independent form of state activity carried out on behalf of the state and the main, leading function of the prosecutor's office,⁵ Professor F.K. Rakhimov emphasizes that the prosecutor's control in Uzbekistan is a specific type of activity of the prosecutor's

¹ A collection of statistical data on the work of civil courts during the first half of 2021. Supreme Court of the Republic of Uzbekistan. Tashkent - 2021.

² <https://stat.sud.uz/fib.html>.

³ See A Safe and Healthy Working Environment. From the proceedings of the 110th session of the International Labor Conference, held from May 27 to June 11, 2022. <https://unglobalcompact.org/take-action/safety-andhealth>.

⁴ See: From the official website of the Subregional Office of the International Labor Organization (ILO) for the countries of Eastern Europe and Central Asia. // <http://www.ilo.ru>; Amonov A.I. Security is the guarantee of peace of mind. // Labor protection and social protection. 2007. -1 (17) issue, -8 p.

⁵ Polatov B.Kh. Constitutional status of the Prosecutor's Office of the Republic of Uzbekistan // Bulletin of Higher Education Courses of the General Prosecutor's Office of the Republic of Uzbekistan, 2017, No. 4 (32). - B. 27-28.

office, which performs state activities on behalf of the Republic of Uzbekistan, and that the prosecutor's control is considered a unique form of state activity with an independent, special status.⁶

Therefore, from the above definitions, it can be seen that ppokupop nazopati is a special activity of ppokupatupa opganlap, which carries out nazopath on the clear and precise implementation of the Constitution and other laws in the territory of the Republic of Uzbekistan. It is not possible to engage in public organization. In turn, the Constitution of our country established an important guarantee for the prosecution bodies to engage in this activity, in particular, that the prosecution bodies exercise their powers independently of any state bodies, public associations and officials, only in compliance with the law.⁷

In our opinion, prosecutor's control over the implementation of labor legislation, that is, detection, detection and prevention of violations of labor legislation, is one of the relatively broad and successful directions of the activity of ppokupatupa bodies. In particular, the uniqueness of the composition of the subjects of labor-related legal relations, that is, the participation of socially unequal parties in it - the employer and the employee, shows the complexity of these relations. In addition, as a result of the violation of the labor legislation, the interests of several individuals (a group of individuals) are often harmed at the same time, the tensions that may occur in the society due to the timely restoration of the violated rights of the employees who make up the majority of the members of the society,⁸In addition, through the proper implementation of the prosecutor's control, the ground is created for the implementation of important tasks aimed at strengthening the legality and law and order in society, ensuring democracy, social justice, peace and national harmony among citizens.

Based on the above definitions, the prosecutor's control over the implementation of labor legislation means that the prosecutor's office, based on the current labor legislation, exercises its powers independently of any state bodies, public associations and officials, over the clear and precise implementation of the legislation by the subject of legal relations related to labor. samapali and tezkop, as well as special activities aimed at the implementation of nazopath, the scope of which is relatively wide, are understood.

Researcher A.S. Maltseva tries to explain the different and unique features of the prosecutor's control in labor relations from other authorized bodies as follows, including by the prosecutor's office tThe reasons for carrying out inspections can be: information about violations of the law, messages given by the mass media, tasks of public prosecutors and planned inspections, other cases, for example, the labor inspector, in addition to the above information and notifications, planned and unplanned inspections within the scope of his functional duties and the prosecutor's office to be involved in planned inspections by the authorities. It is clear from this that, unlike labor inspectors, prosecutor's offices are not authorized to organize an investigation of labor relations on their own initiative in all cases.

⁶Rakhimov F.Kh. Prosecutor's supervision and areas of activity: a collection of scientific and practical articles / -Tashkent, "Noshir", 2008. - B. 87-94.

⁷Constitution of the Republic of Uzbekistan // <http://lex.uz/docs/20596>

⁸See: Mamasiddikov M.M. Theoretical and practical problems of recovery of labor-related material and moral damage in court // Dissertation written for the degree of Doctor of Legal Sciences. -Tashkent, TDYuI. 2009. - 6 p.

Because the labor bodies are the state management body within the framework of labor relations, they are considered to have priority rights in organizing inspections and studies.⁹

V. Khlavych puts forward the view that the important aspect of the prosecutor's control in labor relations is evaluated by his compliance with special regulations.¹⁰

It is important for the prosecutor to study the legal experience of foreign countries regarding the protection of labor rights of citizens in courts.

The experience of foreign countries is fundamentally different from the legal basis of the procedure for the protection of employees from labor-related crimes by prosecutor's offices.

In particular, Article 133 of the Constitution of Azerbaijan, which is closer to our legal system¹¹ and according to Article 40 of the Criminal Code of Azerbaijan, if it is necessary to protect the rights of citizens, the prosecutor has the right to apply to the court or participate in the trial at any stage of the case. The prosecutor is obliged to participate in the proceedings of the civil case, provided by the legal documents or when the need for the participation of the prosecutor in the case is recognized by the court.¹²

In Armenia, the prosecutor has the right to appeal to the court in order to protect the interests of the state (Article 103 of the Constitution, Part 3 of Article 37 of the Criminal Code).¹³ The prosecutor has the right to file a protest against court documents in the case considered with his participation (Part 3 of Article 28 of the Law on the Prosecutor's Office). At this point, the Prosecutor's Office of Armenia does not have the authority to protect the labor rights of citizens in court.¹⁴

In accordance with the first part of Article 124 of the Constitution of Moldova, the prosecutor's office protects the rights and freedoms of citizens, helps to administer justice.¹⁵ In accordance with Article 71 of the Criminal Code of Moldova and Article 9 of the Law "On the Prosecutor's Office", if it is necessary to protect the rights and legal interests of minors, the elderly, the disabled who cannot protect their rights, the public prosecutor has the right to appeal to the court.¹⁶ In this case, the prosecutor, as a participant in the proceedings, has procedural rights and obligations, in addition to the right to conclude a settlement agreement.

It should be noted that the control and inspection activities of prosecutors and authorized state bodies in this area are based on the nature of the legal system existing in

⁹ A.S. Maltseva. Osobennosti metodiki prokurorskogo nadrazovna za soblyudeniem trudovogo zakonodatelstva / Rossiyskoe pravovedenie: tribuna molodogo uchyonogo. Vypusk 19. Tomsk. 2019. -S.305-307.

¹⁰ V. Khlavych. Labor disputes and their resolution procedure / Jan, 14 2023. <https://valen-legal.com/news/labour-disputes-and-their-resolution-procedure>.

¹¹ Constitution of the Republic of Azerbaijan on November 12. 1995 g. // President of Azerbaijan: site. URL: <http://ru.president.az/azerbaijan/constitution>

¹² Civil Procedure Code of the Republic of Azerbaijan dated December 28, 1999 // Zakonodatelstvo stran SNG: site. URL: <http://www.base.spininform.ru/index.fwx>

¹³ The Constitution of the Republic of Armenia, adopted on July 5, 1995; Civil Procedure Code of the Republic of Armenia dated June 17, 1998 // <http://www.parliament.am/legislation.php?sel=show&ID=1918&lang=rus>

¹⁴ Law No. HO-126 of the Republic of Armenia "On Prosecutor's Office" adopted on March 29, 2007 // <http://www.parliament.am/legislation.php?sel=show&ID=1918&lang=rus>

¹⁵ Constitution of the Republic of Moldova of July 29, 1994 // <http://www.base.spininform.ru/index.fwx>.

¹⁶ Civil Procedure Code of the Republic of Moldova No. 225-XV of May 30, 2003 // <http://www.base.spininform.ru/index.fwx>.

this or that country. Consequently, in this process, of course, the form of government of the foreign country, the state and time of the studied field, and the adopted regulatory legal documents should be taken into account. For example, Austria, Denmark, Italy, France, Germany represent the continental legal system, while the United States and Great Britain belong to the Anglo-Saxon legal system, and countries such as Bulgaria, Hungary, Poland, Slovenia, Slovakia, and the Czech Republic belong to the Eastern European legal system.

Therefore, a comparative legal analysis of the norms of the prosecutor's supervision in the labor legislation of developed countries, in particular the USA, FRG, France, Great Britain, as well as the Commonwealth of Independent States member states, provides a deep understanding of the norms of our country's legislation on the prosecutor's supervision. Considering it, it plays an important role in the further improvement of legal documents in this field, in clarifying the legal status of the prosecutor, and in determining the modern directions for improving the prosecutor's control over the execution of laws in the future.

It should be noted that based on how the prosecutor's control institution works in foreign countries, in order to correctly determine its legal status in the implementation of the control function over the execution of laws, it is necessary to first determine its place in the system of state bodies. Already, which system the prosecutor's office belongs to determines the scope of its powers.

The analysis of the legislation of foreign countries shows that if the prosecutor's office is part of the Ministry of Justice or the judicial system, this body is engaged in such tasks as criminal prosecution of persons who have committed a crime, public prosecution in court, and ensuring legality in places of detention. If the prosecutor's office belongs to a separate independent system subordinated to the Parliament or the President of the country, then, in addition to the above-mentioned tasks, the prosecutor's office also performs the general control function of ensuring legality, rights and freedoms of citizens, and the interests of society and the state protected by law.¹⁷

In the legal literature, there are cases of classification of the prosecutor's office based on its position in the system of state bodies as follows:

- 1) countries whose prosecution bodies are part of the system of the Ministry of Justice (Belgium, Germany, Denmark, Israel, the Netherlands, Poland, Romania, Syria, USA, France, Estonia, Japan, etc.);
- 2) the states that are part of the system of judicial power of the prosecutor's office and are included in the judicial corps (magistrate) located before the court (Azerbaijan, Bulgaria, Georgia, Spain, Italy, Indonesia, Colombia, Latvia);
- 3) countries where the prosecutor's office does not exist at all (Great Britain, India);
- 4) countries where the prosecutor's office is divided into a separate independent system and is accountable to the Parliament or the President of the country or both (Egypt, PRC, DPRK, CIS member states).¹⁸

¹⁷ See: Mukhammedjanov E.B. Prosecutor's office v zarubejnyx stranax. Textbook. -Almaty: "Nur-press", 2005. -5 p.

¹⁸ See: Konstitutsionnoe (gosudarstvennoe) pravo zarubejnyx stran. Textbook. V 4-x tomax. Thomas 1-2. Otv. ed. B. A. Strashun. -M.: Izd-vo BEK, 1995. -647 p.; Rossiysky prosecutor's office. M., 2001. -S. 136-170.

As can be seen from the above classifications, there are no uniform standards for the organization of prosecution bodies in the world, for regulating the activities of this body both from an organizational and functional point of view. According to the sources, such standards do not exist even in the member states of the European Union.¹⁹

Therefore, as it is rightly stated in the legal literature, one should not rush to copy the prosecution system of one or another country. After all, famous legal scholars and practitioners of foreign countries do not consider this or that legal system to be exemplary, nor do they recommend taking a model from it.²⁰

In order to comprehensively research the experience of foreign countries in the implementation of prosecutorial control over the implementation of labor legislation, the legal status of other state bodies authorized to carry out such control, in particular, specially authorized bodies such as labor inspectorates, the organization of activities and the procedure and characteristics of its implementation will be appropriate.

In France, labor inspectors and prosecutors, with the support of the police, carry out joint investigations to combat undeclared work and identify cases of forced labor. In such cases, their entry into private houses (households) in order to detect violations is somewhat simplified, because the judge is involved in the persons participating in these inspections.²¹

At this point, some experiences in the activity of the French prosecutor's office are interesting for us. Here we give the following example. In 2013, French prosecutors demanded the seizure of four Boeing 737 aircraft from the Irish budget airline Ryanair for violating labor laws in France. Ryanair moved to Marignane Airport near Marseille in 2006-2007, initially serving as a base for the company's four aircraft. 127 employees were hired. However, the airline was not properly registered with French organizations and did not meet the requirements of French labor law. Based on this, he showed that he was temporarily operating in France and that his activities were governed by Irish law. As can be seen from this example,²²

In Germany, the experience of the prosecutor's control over the implementation of labor legislation, in general, the activity of the prosecutor's office in this area is somewhat limited. In recent years, even the tendency to limit the participation of the prosecutor in the consideration of civil cases in courts can be seen. For example, since July 1, 1998, the prosecutor's office does not participate in the consideration of civil cases, including labor disputes. In the common law system, the prosecutor's office is not even officially considered a defender or guarantor of the rule of law.²³ The role of the prosecutor in the

¹⁹See: Jursimbaev S.K. Prosecutor's Office v Kazakhstan. Almaty, 2003. -S. 36-37.

²⁰ See: Mamasiddikov M.M., Mirakhmedova N.A. Prosecutor's participation in civil proceedings: national practice and foreign experience // Scientific and practical guide. -Tashkent, Justice. 2016. -B. 12-13.

²¹Educational program MUTs-MOT "Creating a modern and effective inspection system is working". Module 16. Trudovoe inspektirovanie v sfere domashnego truda. International Bureau of Labor, Program of Regulation of Voprosov Labor and Inspectorate of Labor, Group of Technical Support and Voprosam Dostoyrnogo Labor and Bureau MOT for the countries of Eastern Europe and Central Asia. - Moscow: MOT, 2016.

²² Electronic resource: <https://rus.postimees.ee/1254450/prokuratura-francii-trebuat-izyat-u-ryanair-chetyre-laynera>

²³ See: Mamasiddikov M.M., Mirakhmedova N.A. Prosecutor's participation in civil proceedings: national practice and foreign experience // Scientific and practical guide. -Tashkent, Justice. 2016. - 32 p.

civil proceedings was reduced, and it was determined that he would participate only to represent public interests, and then mainly to protect the interests of the government (executive authority) in a narrow circle.

In the common law system of foreign countries, the prosecutor's office is not officially recognized as a body that guarantees legality or fairness in the administration of justice. The prosecutor's function in the trial of civil cases is compatible with the function of representative bodies protecting public interests. In this system, the participation of the prosecutor as a plaintiff or defendant on behalf of the state in the trial of civil cases can be shown as a form of his participation in this category of cases. For example, in the United States, the prosecution service is called the attorney service, and the state attorney service is headed by the Attorney General - the Minister of Justice (U.S. Department of Justice) at the federal level.²⁴ Its main task is to protect the interests of the US Government in the courts.²⁵

In a word, the form of participation of the prosecutor's office in the trial of civil cases, that is, in cases related to the restoration of the rights of citizens in the field of labor and employment, is manifested mainly in the participation of the state as a plaintiff or defendant.

Determining the place of the prosecutor's office in private legal relations related to labor has both legal and cultural-historical aspects. It should be emphasized that the issues of protection of individual's labor rights in the modern sense came to us from European law.

Thus, the issue of moral damage compensation was raised for the first time in England in the 19th century, and only at the end of the 20th century was this issue legally consolidated in the legislation of our country. European countries have developed procedural legislation that creates a whole system that ensures the protection of violated rights.²⁶

The practices of most of the CIS member states, in particular, Uzbekistan, the Russian Federation, Belarus and Kazakhstan, are similar, and the prosecutor's office is recognized as one of the state bodies that carry out state control and control over compliance with the current labor legislation. In these countries, the prosecutor's office belongs to the system of single centralized bodies.

In short, improving prosecutorial control in the field of labor relations is crucial for strengthening labor justice and fair competition in the market. Therefore, it is important to implement several initiatives to strengthen the prosecutor's control over labor relations.

First, based on the analysis of the experience of foreign countries, strengthening the coordination mechanisms between various law enforcement agencies and encouraging public participation in labor law enforcement can create an effective regulatory framework that ensures compliance with labor law, but the implementation of these initiatives requires

²⁴See: Raevsky P.A., Parkhomenko S.A. The organization of the right protection system and some federal parties // Information-reference material. <https://komitetgi.ru/upload/iblock/538/538b9dcf40eca849375fa5f15da10d26.pdf>

²⁵See: Karpova E. Modeli prokuratury v zarubejnyx stranax // Zakon i jizn, No. 3. 2012. -52 p. <http://www.legasiviata.in.ua/archive/2012/3/09.pdf>

²⁶Kalashnikov N.N. Zarubezhnyi opyt prokuroskogo nadrazovna za spolnieniem trudovogo zakonodatelstva // World science. No. 2(30), Vol.5, February 2018 <http://ws-conference.com>

different stakeholders in the labor market. careful implementation, taking into account their interests and opinions.

Secondly, in order to form a corps of prosecutors specialized in this field in our country, to increase their admission parameters and organize educational programs based on the form and organizational mechanisms of prosecutor supervision. At the same time, organizing seminars, trainings, for example, on conducting negotiations and communication, focused not only on theoretical concepts, but also on practical skills for prosecutors working in this field. This allows prosecutors to understand the dynamics and complexity of labor relations and competently review cases of violations.

Thirdly, the development of specialized units in the prosecution system can be seen as a step towards more efficient and effective control of labor relations. Specialized units provide for the allocation of staff with expertise in specific areas such as labor law, labor relations, and collective bargaining. These units may be responsible for handling cases related to their respective areas of expertise, ensuring greater focus on such cases. The creation of specialized units can also facilitate better data management, allowing for a clearer understanding of trends and conflict situations in labor relations cases and their drivers.

Fourth, and the most effective way in this regard, is to promote fairness and accountability in the workplace through a multifaceted approach to improving prosecutorial oversight of labor relations by raising public awareness of labor laws and the role of prosecutors in enforcing those laws.

Fifthly, to increase the effectiveness of the prosecutor's control, to take into account the clear and uniform application of the law, to amend and add to Article 20 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office", and to replace the word "organizations" in this article with "organizations regardless of the form of ownership and departmental affiliation". it is proposed to change it, as well as include "individual entrepreneurs operating without establishing a legal entity" in the subject of control. Also, it is appropriate to include the same addition and change in Article 24 of the Law "On Prosecutor's Office".