



## SOME COMMENTS ON THE LEGAL INITIATIVE OF THE PROSECUTION GENERAL

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**Annotation:** This article for the first time tells about the history of the emergence of the right of the Prosecutor General of the Republic of Uzbekistan to legislative initiative, its improvement, the activities of the prosecutor's office in the field of lawmaking, the analysis of the scientific and theoretical views of scientists.

**Key words:** lawmaking, lawmaking, Prosecutor General - the subject of legislative initiative, prosecutor's office, normative legal acts.

It should be noted that the law-making activity of the prosecutor's office was first reflected in the Law of November 30, 1979 "On the Prosecutor's Office of the USSR". In particular, Article 3 defined participation in the improvement of legislation and propaganda of Soviet law as one of the main activities of the prosecutor's office. At the same time, Article 9 of this Law establishes the powers of the Prosecutor General of the USSR and the prosecutors of the union republics to submit proposals to the Presidium of the Supreme Soviet of the USSR and the Supreme Soviets of the union republics on issues requiring the interpretation of laws.

The Constitution of the Uzbek SSR, adopted on April 19, 1978, for the first time consolidated the right of the Prosecutor of the Republic of Uzbekistan to come up with a legislative initiative (Article 105). However, Section 9 is entitled "Justice, Arbitration and Prosecutorial Supervision", while Chapter 21 is directly devoted to the prosecution (Articles 175-177).

An important stage in the development of the prosecutor's office over the years of independence was the transformation of the Prosecutor's Office of the Uzbek SSR into the Prosecutor's Office of the Republic of Uzbekistan by Decree of the President of the Republic of Uzbekistan No. PF- No. 313 of January 8, 1992.

By this Decree, the Prosecutor's Office of the Uzbek SSR, under the auspices of the Union, was transformed into the Prosecutor's Office of the Republic of Uzbekistan, and the Central Asian Transport Prosecutor's Office was created on the basis of its bodies. was created under the regional prosecutor's office, which was subordinate to the prosecutor's office of the Republic of Uzbekistan <sup>1</sup>.

At the same time, a constitutional basis has been laid for the right of the Prosecutor General to initiate law-making, which is one of the most important forms of participation of the prosecutor's office in law-making activities (Article 83 of the Constitution).

The adoption of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" dated December 9, 1992 (adopted in a new edition on August 29, 2001) also became a solid legal basis for the activities of independent prosecutor's offices. Article 3 states that one of the main activities of

<sup>1</sup>Decree of the President of the Republic of Uzbekistan "On the Prosecutor's Office of the Republic of Uzbekistan" No. PF-313 dated January 8, 1992 // Bulletin of the Supreme Council of the Republic of Uzbekistan, 1992, No. 2, article 97.

the prosecutor's office is the improvement of legislation and participation in the promotion of laws. At the same time, the Prosecutor General of the Republic of Uzbekistan has the right to initiate legislation in the Oliy Majlis of the Republic of Uzbekistan (Article 9).

The new Law of the Republic of Uzbekistan "On the Prosecutor's Office" dated August 29, 2001 provides for the right of the Prosecutor General to apply to the Legislative Chamber of the Oliy Majlis with a legislative initiative (Article 13) and participate in raising the legal culture. in society is defined as one of the main activities of the prosecutor's office (Article 4) <sup>2</sup>.

To date, a solid constitutional and legal basis has been created for the participation of prosecutors in lawmaking. In particular, the Constitution of the Republic of Uzbekistan assigns the right of legislative initiative to the Prosecutor General (Article 83), and Chapter 24 of Section Five "On the Organization of State Power" directly regulates the activities of the Prosecutor's Office (Articles 118-121).

According to it, the Prosecutor General of the Republic of Uzbekistan and his subordinate prosecutors exercise control over the precise and uniform execution of laws on the territory of the Republic of Uzbekistan (Article 118). In this regard, one can support the opinion of V.Yu.<sup>3</sup>

It should be noted that the legal basis for the participation of the prosecutor's office in law-making activities is determined by the regulatory legal acts regulating the activities of the prosecutor's office and rule-making activities.

In particular, the Law of the Republic of Uzbekistan "On the Prosecutor's Office" recognizes the participation of the Prosecutor's Office in lawmaking as one of the main areas of activity. In particular, one of the main areas of activity of the prosecutor's office was "participation in lawmaking and propaganda of the law" in the wording of the law of December 9, 1992.

It should be noted that the new version of the law somewhat narrows the activities of the prosecutor's office in this regard, i.e. "improvement of legislation" refers to all types of normative legal acts, and "legislative activity" refers only to the law.

Therefore, in our opinion, taking into account the fact that the prosecutor's office is currently actively engaged not only in the development of laws, but also in the elimination of "legal gaps" through the development of draft documents of the President and the Cabinet of Ministers, Article 4 of the Law "On the Prosecutor's Office" **in legislative activity" replaced by "legislative activity"**.

In order to strengthen the participation of the prosecutor's office in law-making activities, **the Law and Order Analysis Department** in the structure of the General Prosecutor's Office of the Republic of Uzbekistan is of great importance.

The Department for the Analysis of Legislation and Law Enforcement Problems coordinates the law-making activities of the prosecution authorities and in practice ensures a unified policy in the field of law-making in the system of prosecution bodies.

In this regard, in accordance with the Regulation approved by the order of the Prosecutor General No. 137 of August 31, 2017, draft regulations developed by the Prosecutor General's Office, as well as those received from other state bodies and organizations for consideration (approval) are

<sup>2</sup>Law of the Republic of Uzbekistan "On Amendments and Additions to the Law of the Republic of Uzbekistan "On the Prosecutor's Office" No. 257-II dated August 29, 2001 // Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 2001, No. 9-10, article 168.

<sup>3</sup>Shobuksin V. \_ Yu . Legal Education as a Perspective Direction of Prosecution // Electronic Supplement to the Russian Legal Journal. - 2016. - No. 5. - S. 34.

binding with the Board, the fact that the condition is agreed also confirms our word. Currently, the department is working with the prosecutor's office to improve the legislation.

One of the forms of participation of the prosecutor's office in law-making activities is the coordination of regulatory documents in the cases and in the manner established by the law on the prosecutor's office, as well as the adoption of departmental documents. In this case, consent is expressed in special legal control over the compliance of this regulatory document with the requirements of the law or the decision of the body authorized to adopt it, and taking measures to eliminate existing shortcomings <sup>4</sup>.

In this regard, D.R. Pashtov said that "the participation of the prosecutor's office in lawmaking means the development of public relations, strengthening the rule of law, unity and legality, human and civil rights of laws developed, adopted and in force, implemented in accordance with the principles of lawmaking and submitting bills to the legislative (representative) bodies of the state authorities with the right of legislative initiative in order to protect the freedoms and legally protected interests of society and the state, as well as to legislative (representative) and executive bodies of state power, other relevant bodies with the right of legislative initiative - activities aimed at establishing compliance with the needs of legal regulation by amendments, additions, repeals or proposals for the adoption of laws <sup>5</sup>.

Another group of authors argues that an independent, but carefully controlled function of the prosecutor's office is to participate in its law-making activities, the right to submit proposals to the relevant bodies with the right of initiative to change, supplement, cancel or adopt laws and other regulatory legal acts <sup>6</sup>.

VB Yastrebov also said that the role of the prosecutor's office in law-making activities is closely related to its supervisory function. The practice of prosecutorial supervision, the author writes, reflects the priorities of the prosecutor's office and helps to choose the best ways of legislative decisions. Supervisory practice materials play an important role in determining an effective enforcement mechanism, and this is important for their viability. The author comes to the conclusion that participation in law-making activities as a function of the prosecutor's office follows from the function of control over its execution <sup>7</sup>.

In our opinion, the participation of the prosecutor's office in law-making activities with the possibility of a positive impact on the legal situation will further strengthen the legal control of the prosecutor.

A group of scientists proposes to consider the participation of the prosecutor's office in law-making activities and in the legal education of citizens as independent functions <sup>8</sup>. However, not all researchers agree with this opinion. In particular, writes M.S. Shalumov, "for the prosecutor's office, as well as for any other state body, the function is a legal category. Only a legal obligation can

<sup>4</sup>Dudin N.P., Golovko I.I. Participation of the prosecutor's office in law-making activities . Lecture notes Yu. - St. Petersburg: St. Petersburg Law Institute of the Academy of the Prosecutor General's Office of the Russian Federation, 2014. - p. 18-19.

<sup>5</sup>Pashtov D.R. Participation of the prosecutor's office in the legislative activity of the legislative (representative) and executive bodies of the constituent entities of the Russian Federation: Diss. ... Cand. legal Sciences. - M., 2014.

<sup>6</sup>Prosecutor's supervision in the Russian Federation: a textbook. / pod red. A.A. Chuvileva. — M.: Lawyer, 1999. — p. 68.

<sup>7</sup>Yastrebov V.B. Prosecutor's supervision: textbook. - M.: Gorodets, 2001. - p. 103.

<sup>8</sup>Rosenfeld V.G., Frolov A.V. On the functions and organization of the prosecutor's office // Journal of Russian law . - 1999. - No. 2. - p. 69

be considered a function <sup>9</sup>.” As an alternative, A. Yu. Vinokurov also argues that the participation of the prosecutor's office in lawmaking cannot be an independent function <sup>10</sup>.

In our opinion, participation in lawmaking is one of the priorities of the prosecutor's office, as well as the right of the Prosecutor General to legislative initiative, as well as the recent strengthening of the legislative initiative of the prosecutor's office. At the same time, it can be concluded that the prosecutor's office contributes to the protection of human rights through interaction with authorized bodies authorized to develop basic regulations governing the socio-economic policy of the state, through participation in law-making activities.



<sup>9</sup>Shalumov M.S. Judicial prosecution in the modern Russian state. - Kostroma, 2001. - p. 57.

<sup>10</sup>Vinokurov A.Yu. To the question of the classification of external functional activities of the Prosecutor's Office of the Russian Federation // Topical issues of Russian law: Sat. scientific article. Issue. 18. - M.: MosGU, 2010. - p. 5-6.

### References:

- 1) Decree of the President of the Republic of Uzbekistan "On the Prosecutor's Office of the Republic of Uzbekistan" No. PF-313 dated January 8, 1992 // Bulletin of the Supreme Council of the Republic of Uzbekistan, 1992, No. 2, article 97.
- 2) Law of the Republic of Uzbekistan "On Amendments and Additions to the Law of the Republic of Uzbekistan "On the Prosecutor's Office" No. 257-II dated August 29, 2001 // Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 2001, No. 9-10, article 168.
- 3) Shobuksin V. \_ Yu . Legal Education as a Perspective Direction of Prosecution // Electronic Supplement to the Russian Legal Journal. - 2016. - No. 5. - S. 34.
- 4) Dudin N.P., Golovko I.I. Participation of the prosecutor's office in law-making activities . Lecture notes Yu. - St. Petersburg: St. Petersburg Law Institute of the Academy of the Prosecutor General's Office of the Russian Federation, 2014. - p. 18-19.
- 5) Pashtov DJR \_ Participation of the prosecutor's office in the legislative activity of the legislative (representative) and executive bodies of the constituent entities of the Russian Federation: Diss . ... Cand. jurid . Sciences. - M., 2014.
- 6) Prosecutor's supervision in the Russian Federation: a textbook. / pod red. A.A. Chuvileva . - M .: Lawyer, 1999. - p. 68.
- 7) Yastrebov V.B. Prosecutor's supervision: textbook. - M .: Gorodets, 2001. - p. 103.
- 8) Rosenfeld V.G., Frolov A.V. On the functions and organization of the prosecutor's office // Journal of Russian law . - 1999. - No. 2. - p. 69
- 9) Shalunov M.S. Judicial prosecution in the modern Russian state. - Kostroma, 2001. - p. 57.
- 10) Vinokurov A.Yu. To the question of the classification of external functional activities of the Prosecutor's Office of the Russian Federation // Topical issues of Russian law: Sat. scientific article. Issue. 18. - M.: MosGU, 2010. - p. 5-6.