



Prosecutor's Analysis Of The State Of Law In The Field Of Ecology And Environmental Protection

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ABSTRACT

The article reflects the significance of the analysis of the state of legality in the field of ecology and environmental protection by prosecutors, and offers proposals for its implementation.

KEYWORDS

Environmental issues, environmental protection, the state of lawfulness, prosecutorial supervision, analysis.

INTRODUCTION

Climate change taking place in the world, widespread environmental pollution, as well as the ongoing anthropogenic impact on nature, every year more and more affect human health. Despite ongoing environmental policy efforts in all countries and regions, researchers argue that the overall state of the global environment continues to deteriorate [1].

In the course of the reforms being carried out in the Republic of Uzbekistan, the issues of preserving people's health, ensuring a favorable environmental situation, preserving and protecting the natural environment have become one of the key problems in the implementation of state policy.

Article 13 of the Constitution of the Republic of Uzbekistan proclaims a person, his life and rights as the highest value. The implementation of this norm is possible only if the right of residents of the Republic of Uzbekistan to live in a favorable natural environment for their health and the health of future generations, health protection from adverse environmental influences, enshrined in the Law of the Republic of Uzbekistan “On Nature Protection” is respected.

Proclamation at the normative level of human rights to a favorable natural environment and protection of their health does not always mean that these rights are actually ensured in practice.

The analysis carried out at the state level revealed the presence of a number of factors hindering the implementation at the proper level of the set tasks of reforming in the field of ecology and environmental protection at the planned pace [2].

In this regard, and also with the aim of ensuring environmental safety, effective environmental management, revising environmental legislation, strengthening the capacity to detect and prevent environmental crimes, raising environmental awareness and promoting transparency and public participation in decision-making, as well as access to justice in environmental matters, a number of decisions have been adopted aimed at improving the system of public administration in the field of ecology and environmental protection [3], determining priority areas of state policy in the field of environmental protection, introducing effective mechanisms for the prevention, detection and suppression of violations of environmental legislation [4].

At the same time, the importance of these problems has been repeatedly emphasized by the President of the Republic of Uzbekistan Sh.M. Mirziyoyev. So, on January 24, 2020, in a message to the Oliy Majlis of the Republic of Uzbekistan, the Head of our state Sh.M. Mirziyoyev emphasized that, based on the priorities in this area, tasks are being set to increase attention to environmental issues and improve the ecological situation in the country, mitigate the consequences of the Aral Sea tragedy., the expansion of afforestation on the dried seabed, the creation of “green belts” around the cities of Nukus, Urgench and Khiva, the improvement of the system of environmental control in production, revision of the procedure for conducting environmental audits, the development of a program of comprehensive measures for 2020-2025 to prevent the negative impact of industrial development on ecology[5]. On December 29, 2020, in a message to the Oliy Majlis of the Republic of Uzbekistan, the President of the country noted that the deterioration of the environmental situation in the region and around the world causes serious concern, together with neighboring countries and the world community, we will resolutely continue to work to mitigate the consequences of the environmental disaster caused by the Aral Sea tragedy[6].

Issues in the field of ensuring environmental protection, and as a consequence of preserving human life and health, require constant close attention from government bodies that implement environmental functions, including prosecutors.

Proceeding from the main task of the prosecutor's office - the protection of the rights and freedoms of citizens, established by

Article 2 of the Law of the Republic of Uzbekistan “On the Prosecutor’s Office” [7], prosecutorial supervision plays an significant role in ensuring the environmental rights of citizens.

THE MAIN FINDINGS AND RESULTS

The prosecutor’s office, without a doubt, has an significant place in the mechanism of state bodies that pursue the observance of legislative norms in the field of environmental protection and the right of everyone to a healthy environment. This is explained by the peculiarities of its structure and functionality, including the prosecution bodies is independent from other state bodies and has integrity and subordination, as well as the presence of significant powers to detect non-compliance with the requirements of the law, violation of rights and take response measures [8].

Taking this into account, the organization of one of the main activities of the prosecutor’s office - competently structured prosecutor’s supervision over the implementation of legislation in the field of environmental protection - is of paramount importance.

At the same time, it should be noted that the analysis of the state of legality, competently carried out by prosecutors, makes it possible to most effectively carry out activities in a particular area and implement the main functions of the prosecution authorities.

The enduring importance for prosecutors of the analysis of the state of legality and law and order is dictated by the goals of the activities for which the prosecutor’s office was created [9].

To clarify the concept of prosecutorial analysis in the field of ecology and environmental protection, it is advisable to define the tasks of the prosecutor’s analysis of the state of law and order in general.

Thus, researchers believe that the general tasks of analyzing the state of law and order include [10]:

- 1) Study of the phenomenon of legality in order to solve state and legal issues of protecting human and civil rights and freedoms, the interests of society and the state;
- 2) Establishing the state of offense in the region (country) of a criminal, administrative, civil law nature, structure, dynamics, patterns of development of these processes, factors that determine their commission, circumstances that contribute to them, to create an information base for the preparation of reports to the Prosecutor General, information to the authorities representative government;
- 3) Forecast of the development of the state of legality to develop a strategy for prosecutorial activities;
- 4) Study of the effectiveness of measures to neutralize or reduce the negative impact of socio-economic, organizational and administrative factors on the offending behavior of citizens, officials and other law enforcement officers;
- 5) Informing the Prosecutor General about the impact of social processes and phenomena in the country (region) on various forms of violations of laws, on the effectiveness of supervisory practice and other activities of the prosecutor’s office in maintaining the rule of law in the country.

I would like to add that, in our opinion, these tasks can also include a systematic and critical analysis of the effectiveness and efficiency of measures taken to prevent offenses and combat crime, as well as a generalization of the activities of the prosecutor's office on the implementation of state programs in priority areas of development of the Republic of Uzbekistan.

Based on these formulations, we can conclude that the tasks of the prosecutor's analysis in the field of ecology and environmental protection are to study the compliance of regulatory legal acts with the Constitution and the laws of the Republic of Uzbekistan, their impact on ensuring the protection of human and civil rights and freedoms, the interests of society and the state; establishing the state of committing offenses in this area, the dynamics and patterns of committing offenses, the circumstances that contribute to them, forecasting the development of the state of legality; study of the effectiveness of measures to prevent and suppress the negative impact of socio-economic processes on the offending behavior of citizens, officials and other law enforcers; development of a strategy for prosecutorial activities and creation of an information base in order to inform management about the impact of social processes and phenomena on various forms of violations of laws; systematic and critical analysis of the effectiveness and efficiency of measures taken to prevent offenses and combat crime, as well as generalization of the activities of the prosecutor's office on the implementation of state programs in priority areas of development of the Republic of Uzbekistan in the field of ecology and environmental protection.

The importance of environmental analysis has been noted by a number of authors. In particular, E. Baldescu notes that environmental analysis is designed to provide regulatory authorities with analytical data to improve the efficiency of management decisions. It should also be noted that analysis and assessment of the state of the environment play an important role in the development of an environmental strategy [11].

According to A.V. Klimak, the practice of prosecutorial supervision should be constantly analyzed and improved, taking into account urgent state tasks, changes in legislation and the difficult environmental situation in the country and the world [12].

Agreeing with these conclusions, I would like to note that in the course of the prosecutor's analysis, both the issues of the activities of state bodies and the prosecutor's practice in this area should be studied.

Based on the tasks of the prosecutor's analysis in the field of ecology and environmental protection, as well as the results of generalizing the practice of conducting supervisory activities (during the study, 58 materials of supervisory checks over the implementation of legislation in the field of ecology and environmental protection were studied), it seems appropriate to formulate certain methods of conducting prosecutorial analysis in this area.

Thus, it is advisable to study the state of legality and law and order in the environmental sphere every six months and at the same time cover the issues of the state of environmental legislation, legality in the field of ecology according to the data of regulatory authorities,

law and order according to the data of the prosecutor's office, as well as the state of environmental crime. It is advisable to carry out the analysis in comparison with the same period last year and the study of trends over the past 3 years, based on the results of the study, draw up an analytical document in the form of a generalized reference.

The introductory part of the analytical document, as a rule, should contain information on the most important problems of the studied area.

The most important objects of the prosecutor's analysis in the field of ecology and environmental protection include: the legal framework that regulates legal relations in the field of ecology and environmental protection for the presence of duplication and "white spots", as well as compliance with the Constitution and laws of the Republic of Uzbekistan; the results of the law enforcement practice of the prosecutor's office on the prevention, detection and suppression of offenses in the field of ecology, bringing the perpetrators to justice and compensating for the damage caused; systemic violations of legislation in the field of ecology and environmental protection; the results of the activities of the executive authorities exercising state control over the implementation of environmental legislation; legal and socio-economic reasons contributing to non-compliance with environmental legislation.

When analyzing, special attention should be paid to the statistical reporting of the prosecutor's office in the form "P", which contains sections on the supervision of the implementation of laws in the social sphere and the protection of the interests of society

and the state, containing quantitative data on inspections carried out, unlawful legal acts detected, measures of prosecutorial response brought to administrative and material liability by the decisions of prosecutors, the amounts of compensated damage due to the voluntary satisfaction of the prosecutor's demands, applications to the courts in civil, administrative cases, the economic court, the total amounts of damage brought on claims and applications, individuals and legal entities whose rights were restored in the field of ecology and environmental protection.

In order to ensure the completeness of the information, statistical data and other materials of the judicial authorities are also subject to study. Based on the specifics of the study being conducted, an analysis of the statistical data of reporting in the form "P" in the field of participation of prosecutors in courts in the category of case related to the protection of natural resources and damage to the environment can be carried out.

In the course of analyzing law enforcement practice in the field of ecology, it is necessary to collect and systematize information on the state of state control and prosecutor's supervision in this area, on the most common offenses and measures taken to eliminate them and prevent them in the future. This information is obtained through requests from the territorial executive authorities, vested with powers in the field of environmental protection and nature management.

An important role in the analysis in the field of ecology and environmental protection is played by the study of information from regulatory state bodies in the field of ecology. Based on the results of the study, the analytical document reflects information on the activities

of the regulatory authorities carried out during the analyzed period to verify compliance with the requirements of laws and other regulatory legal acts in the field of ecology, and also analyzes the available statistical reports in these departments in the field of control and supervision in the field of environmental protection, nature management and environmental safety.

At the same time, it is necessary to request from the relevant supervisory authorities data on the inspections carried out, the violations revealed and the persons who committed them, the measures taken to bring to justice and compensate for the damage caused. At the same time, an employee of the prosecutor's office must assess not only the quantitative indicators available in the statistical reporting, but also the effectiveness of measures, as well as the facts of non-execution and exceeding of officials of their powers during their implementation.

A special place in the prosecutor's analysis of this area is occupied by the analysis of crime in the field of ecology. Criminal liability for crimes in the field of ecology is provided for in Section IV "Crimes in the field of ecology" of the Criminal Code of the Republic of Uzbekistan. The section contains 11 articles. In addition to these articles, the Criminal Code contains articles containing norms related to the impact on the environment. Such articles include Art. 251-1 (illegal traffic in potent or poisonous substances), art 186 (production, storage, transportation for the purpose of marketing or marketing of goods, performance of work or provision of services that do not meet safety requirements) and others.

It should be noted that from 31.10.2018, according to the Decree of the President of the

Republic of Uzbekistan "On measures to radically improve the system of criminal and legal statistics and increase the efficiency of systematic analysis of crimes", the prosecutor's office was endowed with the function of maintaining state unified statistical records of statements and reports about crimes, the state of crime, crime detection, state of investigative work and prosecutorial supervision [13].

CONCLUSION

In this regard, in the structure of the General Prosecutor's Office, the Office of Criminal Law Statistics was created, in the prosecutor's offices of the Republic of Karakalpakstan, regions and the city of Tashkent - departments of criminal law statistics with the assignment of their employees to the corresponding districts (cities). This measure expanded the analytical capabilities of the prosecutor's office.

Criminal-legal statistical reporting of the prosecutor's office contains a lot of information to be analyzed in the field of environmental crime.

In particular, the reporting contains data on the number of:

- Offenses in pending criminal cases;
- Crimes registered in the reporting period (of which latent);
- Completed during the reporting period of criminal cases;
- Unsolved crimes;
- Persons who committed crimes and other information.

Also from the statistical reporting can be obtained by article information on environmental crimes.

Criminal-legal statistical reporting is compiled in the context of regions and, as a rule, in comparison with a certain period of time, which greatly simplifies the prosecutor's analysis.

For a more detailed analysis of environmental crime, prosecutors should also study the materials of the relevant investigative bodies and court decisions on a certain category of cases. It is advisable to carry out the analysis in dynamics over 3 years.

At the same time, the analysis of the listed statistical data makes it possible to establish:

- The general trend of crime in the field of ecology and environmental protection by the number of investigated crimes in absolute and relative terms (per 100 thousand (10 thousand) population);
- The general trend of crime in the field of ecology and environmental protection by the number of persons who committed such crimes, in absolute and relative terms (per 100 thousand (10 thousand) population);
- The structure of crime in the field of ecology by the severity of the crimes committed;
- Group crime in the field of ecology.

The above approach to the analytical work of the prosecutor's office in the field of ecology and environmental protection will provide the most complete analysis of the effectiveness of the work of prosecutors in strengthening the rule of law, identify gaps in activities and areas of work, systematize the very work of the prosecutor to establish law and order in the environmental sphere.

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