



Research Article

CURRENT ISSUES OF PROSECUTORIAL SUPERVISION OVER THE EXECUTION OF LEGISLATION ON LAND USE

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ABSTRACT

The article analyzes the relevance of prosecutorial supervision over the implementation of land legislation.

KEYWORDS

Public prosecutor's supervision, land legislation, land, land relations, public prosecution bodies, prosecutor, supervision, land use.

INTRODUCTION

One of the topical areas in the activities of the prosecution bodies is supervision over the execution of land legislation. It should be noted that the foundation of human life and activity, social production and the existence of the entire human society are closely linked with the land and relations incorporated with it. The

most significant matter of state policy has always been and will continue to be the legal status of land and land relations. It is only natural that the change in land relations has evolved into one of the main pillars of the reform process taking place in Uzbekistan over the past six years given that the rate and degree of



economic and social development, as well as the political stability of society, depend on the state policy approaches.

In order to strengthen the rule of law in land relations and urge regulatory institutions to step up and improve their operations, the prosecutor's office has always made a significant contribution to land policy. It has focused its efforts on systematic and comprehensive supervision. Acts in reaction to the legislative (representative) and executive branches of state authority, local governments, and prosecutors sought to take the required steps to hold offenders accountable under the law, as well as to identify and eradicate the factors that lead to land crimes¹.

The prosecuting authorities were entrusted the following tasks by the Presidential Decree dated February 21, 2022 No. 138 "On measures to improve the efficiency of state control over the use of land plots":

The permanent establishment of supervision over the prompt and thorough execution of measures determined by republican and territorial programs connected to the distribution of land plots, the development, and the inclusion of additional lands in agricultural circulation;

Implementation of ongoing monitoring of the "E-qaror" (Unified Electronic System) for the development, coordination, and registration of decisions made by public authorities on the ground, as

well as actions taken in response to decisions that do not adhere to statutory requirements;

Early discovery of evidence of illicit land usage and unauthorized possession, as well as the creation of strong prosecution supervision to guarantee the inevitability of punishment for offenders;

Regular examination of the level of adherence to acts of legislation on land and the development of a uniform law enforcement strategy in this area;

Preparation of proposals for the sensible use of land based on cutting-edge foreign expertise;

Regular analysis of the targeted use of funds from the Fund for the Development of Agriculture and Food Security, as well as the relevant extra-budgetary funds allocated to this area, funds from international financial institutions and foreign government financial organizations².

Additionally, pursuant to order of the Prosecutor General of the Republic of Uzbekistan dated March 10, 2022 No. 261 "On approval of the regulation on the Office for the Prevention of Theft of Land Resources of the General Prosecutor's Office", the prosecution authorities' primary area of supervision is the legality of land use, which is carried out by prosecutors as part of their duties using readily available and current sources of information about violations of a particular law³.

¹ Ashitkova T. V. Actual problems of prosecutorial supervision over the execution of legislation on land use // Russian justice. 2016. No. 7. p. 60-63.

² Постановление Президента Республики Узбекистан от 21 февраля 2022 года №138 «О мерах по повышению

эффективности государственного контроля за использованием земельных участков».

³ Приказ Генерального прокурора Республики Узбекистан от 10 марта 2022 года №261 «Об утверждении положения об Управлении по предупреждению хищений земельных ресурсов Генеральной прокуратуры».

The primary areas of prosecutorial supervision over the execution of legislation on land use are as follows:

- 1) Supervision over the compliance with the laws of legal acts (containing norms of land law) issued by supervised bodies of state power and local self-government bodies and their officials, including their assessment of any corruption-related factors;
- 2) Supervision over the compliance by the executive bodies of state power, local governments, their officials with the Constitution of the Republic of Uzbekistan and the execution of laws in the issuance of individual legal acts and the implementation of actions (inaction);
- 3) Supervision over monitoring the legitimacy of legal acts issued by management bodies and leaders of commercial and nonprofit organizations, as well as their adherence to the Constitution of the Republic of Uzbekistan and the laws governing land relations.

The following objectives of supervisory actions in the sphere of land law enforcement can be distinguished (based on requirements):

By measures of prosecutorial supervision, to ensure that the fundamental freedom of citizens and their associations acquire ownership of land plots;

By measures of prosecutorial response, to achieve the consistent application of laws pertaining to the protection and use of land by state authorities, local governments, their officials, management bodies, and heads of commercial and non-profit organizations, including those who own, use, and dispose of land plots.

The accomplishment of these objectives is meant to advance the establishment of the rule of law, its unification and reinforcement in the Republic of

Uzbekistan, the defense of civil and human rights and freedoms, as well as the interests of society and the state that are legally protected.

Issues like nationalization and privatization of land, including land in the economic turnover, buying and selling land, etc., do not always have a happy outcome. But there are moments when intervention from the prosecution bodies is required. Unfavorable developments in the status of legality in the land use area are mostly a result of legislative gaps, insufficient state land supervision, and, of course, weaknesses in prosecution supervision and response.

The tasks of the prosecutor's office in this area also include the followings:

The detection, prevention, and suppression of infractions of laws governing the preservation and use of land and identification of conditions that facilitate their occurrence;

Restoration of the violated rights of citizens and their associations to acquire ownership of land plots, the interests of society and the state;

Identifying those responsible for breaking the law on the usage and protection of land and taking action to bring them before the legal system;

Guaranteeing compliance with the legislation on the usage and protection of land;

Timely implementation of measures to protest (refute) local governmental entities' unlawful legal actions pertaining to the protection and usage of land;



Ensuring the prompt and full execution by public authorities of their authority to keep the state registry of real estate;

Ensuring that when state authorities and municipal authorities issue land management and town planning documents, town planning regulations, they are in line with the law's obligations for the protection and reasonable use of land, and taking prompt action to dispute them;

Ensuring the completeness and timeliness of the implementation by local government bodies and bodies of control and supervision, as well as conciliation of permitting powers in the area under consideration;

The prompt adoption of steps to hold offenders accountable on a disciplinary, administrative, or criminal level, pay damages they caused, etc.

It is well-recognized in the scientific literature that the identification of typical legal violations has a significant practical value in organizing and exercising prosecutorial supervision over the implementation of laws because it helps determine the object of verification correctly, narrows the scope of issues that must be clarified during implementation, and allows timely qualification of those established in during the supervisory review of the actions (inaction) as unlawful and select adequate response measures⁴.

In this regard, it is necessary to streamline and systematize information about typical violations of land legislation.

This is based on the subject-object principle and involves monitoring how particular groups of bodies and (or) their personnel implement land legislation and ensure that the laws of legal acts made by them are followed:

- Violations committed by the authorities (listed in Article 22 of the Law of the Republic of Uzbekistan dated August 29, 2001 No. 257-II “On the Prosecutors Office”), when adopting legal acts in the field of land relations;
- Violations committed by local government authorities in the management and disposal of lands;
- Violations committed by state control and supervision bodies, other executive authorities, and those carrying out their responsibilities to manage state property, provide services, and enforce the law in the area of land use;
- Violations of land use laws perpetrated by management bodies and officials of businesses and nonprofit organizations, farms, and clusters.

M. Kleponosova suggests classifying common violations of people's land rights into four categories:

“defining infringement of citizens’ material land rights as different sorts of illegal and arbitrary limits on the rights of possession, use, and disposal of land plots or the transfer of such rights to persons to whom they cannot belong;

Reflected in the illegitimate holding, use, and disposal rights of property plots by individuals and legal entities;

⁴ Subanova N.V. Theoretical and applied foundations of prosecutorial supervision over the execution of laws on the

licensing system: dis. ... Dr. jurid. Sciences. M., 2013. p. 124-125.



Characterizing the process and methods set forth by law for the granting and observance by state authorities and, local governments of the rights of citizens to land;

Bringing to justice officials and citizens who have violated the rights of citizens to land is characterized as not complying with the legal standards”⁵.

As evidenced by practice, prosecutorial supervision of the application of laws governing land use is now a fairly well-established practice. Prosecutors raise concerns about the culpability of the criminals and the recovery of material harm caused by them when they issue actions of reaction to prevent and suppress land violations. In addition, prosecutorial supervision procedures should be continuously reviewed and improved in light of pressing governmental obligations, evolving legal requirements, and the nation's challenging economic and environmental circumstances.

The current stage of development of prosecutorial supervision in the area of land use, as well as prosecutorial supervision generally, is characterized by a greater focus on the standard of organization and the degree of efficiency in the use of resources, including data, people, temporary workers, materials, etc. The advancement of its information support is also one of the most critical areas for enhancing the structure of prosecutorial supervision in the field of land use, especially in light of the current state of information technology development.

According to our analysis, the following objectives can be attained in order to effectively handle the issues related to information support of prosecutorial supervision in the area of land use:

Information must be protected from illegal access, and only personnel with the proper authorization should have access to it;

In order to make prompt decisions and avoid missing the dates set down by law for the completion of specific procedural procedures, it is required to ensure the quickest interchange of pertinent information possible;

Reducing the amount of paper workflow is crucial because it consumes a lot of time and material resources.

Another important aspect of the organization of prosecutorial supervision in the field of land use is the formation of a human base for carrying out prosecutorial supervision in the field of land use. It appears that specialization of prosecutors and the division of a group of workers for whom prosecutorial supervision in the area of land use is a core activity and this is required for the efficacy of prosecutorial supervision in this area.

Additionally, unique office tasks for prosecutorial supervision in the area of land use should be organized. Prosecutors who specialize in prosecutorial supervision in the area of land use will receive documents containing information about infractions in this case from a central location.

⁵ Kleponosova M. V. Procurator's supervision over the observance of the constitutional rights of citizens to land: dis. ... cand. legal Sciences. M., 2000. p. 112-113.



Working groups, which may include not only representatives of the prosecutor's office but also representatives of other state organizations authorized in the field of land use, should be set up in order to efficiently organize prosecutorial supervision in the field of land use.

As experience has shown, it is currently necessary to compile various suggestions for enhancing prosecutorial supervision in the area of land use, and adopt a special Order of the General Prosecutor's Office "On improving the organization of prosecutorial supervision in the field of land use". Adoption of this regulatory legal measure would contribute to strengthening and enhancing the efficiency of prosecutorial supervision in this area.

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