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Research Article

SCIENTIFIC AND THEORETICAL FOUNDATIONS OF THE SUBJECT AND OBJECT OF THE PROSECUTORIAL SUPERVISION OVER THE EXECUTION OF LEGISLATION ON LAND USE IN THE REPUBLIC OF UZBEKISTAN

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ABSTRACT

The relevance of the issues discussed in this article is due to the importance of ensuring the preservation of land, the legality of its use and the protection of land in various ways. The Public Prosecutor's Office has a significant role to play in this process, which has the right to detect violations of the law in this area, to contribute to their prevention, as well as to bring the perpetrators to various types of responsibility. The purpose of the article is to consider the activities of the Public Prosecutor's Office in this area, to identify difficulties in this activity and to develop proposals to overcome the identified problems.

KEYWORDS

Procuratorial supervision, land use, unauthorized occupation and use of land plots, construction and operation of facilities without permit documents.

INTRODUCTION

Following the declaration of our nation's independence, extensive reforms in the social and economic domain are being carried out with the goal

of steadily raising the standard of living for the populace.



As a priority of these reforms special attention is paid to preserve land resources as a unique limited natural resource which is a crucial link in the ecological chain, to provide the material base for organizing agricultural production in order to maximize yield and productivity, enhance the status of land reclamation, as well as to ensure the rights of citizens to land plots.

Considering the significance of the sector's quick expansion and industrialization, particularly in the execution of reforms in this direction due to the strengthening of agricultural specialization, the President of the Republic of Uzbekistan Shavkat Mirziyoyev rightly noted in the Address to the Oliy Majlis that "reforming the management system of the agricultural sector, introducing sophisticated technology for the rational use of land and water resources, and ensuring food safety is our most important task".

As of January 1, 2022, there are 44 million square miles of territory within the administrative borders of the Republic of Uzbekistan. It measures 892.4 thousand hectares.

According to Article 8 of the Land Code, the land fund in the Republic of Uzbekistan is classified into 8 groups based on the primary use of the land.

- 1) Agricultural land, which is land that has been designated for or is to be used for agriculture (27 million 148.5 thousand hectares).

Agricultural land is divided into irrigated and non-irrigated (rainfed) land, arable land, hayfields,

pastures, land occupied by perennial fruit trees and vineyards;

- 2) lands of settlements (cities, settlements, and rural settlements) - 224.1 thousand hectares of land within cities, settlements, and rural settlements;
- 3) lands granted to legal companies for use for the designated purposes, including those for industry, transport, communications, defense, and other uses (879.6 thousand hectares);
- 4) lands used for public leisure and tourism as well as for the protection of the environment, health improvement, and recreation – grounds occupied by specifically protected natural areas with natural treatment factors; (731.6 thousand hectares);
- 5) historic and culturally significant areas, including 14.6 thousand hectares of land with monuments;
- 6) Forest fund lands, which include both those that are forested and those that are given for forestry purposes even though they are not forested (12 million 57.3 thousand hectares);
- 7) Water fund lands, which include land used for water management, land near water bodies, and land in the region (827.1 thousand hectares);
- 8) Reserve lands (3 million 9.6 thousand hectares)².

One of the key responsibilities of the prosecutor's office is to regulate the sensible and meaningful use of the aforementioned land areas.

One of the primary areas of action for the prosecutor's office today in the direction of overseeing the implementation of laws in the Republic of Uzbekistan is the prosecution's oversight of the implementation of land-related legislation.

¹ Address of the President of the Republic of Uzbekistan Shavkat Mirzkhioev to the Oliy Majlis. "Халқ сўзи" newspaper. December 29, 2018.

² Collection of codes of the Republic of Uzbekistan. Volume 1. "Legal Literature Publish" 2021. p. 712.

Statistical data: National Report on the State of Land Resources of the Republic of Uzbekistan. Cadastre Agency, 2022. page 6.



As we know, Article 118 of the Constitution specifies that “The Prosecutor General of the Republic of Uzbekistan and the prosecutor subordinate to him shall supervise the strict and uniform observance of laws on the territory of the Republic of Uzbekistan”³.

According to Article 4 of the Law of the Republic of Uzbekistan “On Prosecutor’s Office” dated August 29, 2001, one of the main focuses of the prosecution bodies is supervision over the over the execution of laws by ministries, state committees, agencies, self-government bodies of citizens, public associations, enterprises, institutions, organizations, governors and other officials⁴.

Article 20 of the Law of the Republic of Uzbekistan “On the Prosecutor’s Office” defines the subject of the prosecutorial supervision over the execution of laws.

According to it, the subject of supervision is the execution of laws by ministries, state committees, agencies, self-government bodies of citizens, public associations, enterprises, institutions, organizations and military units of ministries, state committees and agencies, military structures, governors and other officials, as well as compliance of the documents adopted by them with the Constitution and laws of the Republic of Uzbekistan⁵.

The supervision of the prosecutor’s office over the clear and consistent application of laws in the area of state administration is the essence and primary goal of prosecutorial supervision.

Localism, antagonism to the prosecutor's office in the elimination of law violations, and interference in their activities are often encountered in this area. In this particular area of state administration, it is necessary to ensure that the laws are clearly and uniformly understood and implemented, and that the instructions of the legislator are strictly followed, and that local and departmental influences are completely prohibited⁶.

From the foregoing, it can be inferred that the prosecutor's supervision carries out the duties of guaranteeing the consistent and accurate application of laws throughout the state, guaranteeing the same level of legal understanding, as well as the prevention of criminal incidents and other offenses.

Prosecutors should clearly establish the boundaries of their authority in order to effectively apply supervision over the observance of laws. Because it is required to completely implement legal influence measures in situations of legal infractions, it is also vital to avoid interfering with the financial and economic operations of businesses and to refrain from performing management and control body functions.

Law, which “contains the terms of the law, offers specific and organizational provisions”, according to **A.K. Kazarina**, establishes the limits of legislation in the field⁷.

Therefore, it is appropriate to first establish the the limits of the subject of the prosecutor’s supervision over the execution of legislation on land use. Limits of

³ Constitution of the Republic of Uzbekistan. NMIU “Uzbekistan”. 2019. p. 69.

⁴ Law of the Republic of Uzbekistan “On Prosecutor's Office”. Tashkent. “Legal Literature” 2021. p. 5-7.

⁵ Law of the Republic of Uzbekistan “On Prosecutor's Office”. Tashkent. “Legal Literature” 2021. p. 31.

⁶ Prosecutor's supervision. The team of authors. Textbook. Tashkent. TSUL, 2019, p. 62.

⁷ Kazarina A.Kh. Theoretical and applied problems of prosecutorial supervision over the execution of laws with an economic orientation. Thesis. 12.00.11. Moscow. 2009, p. 203-205.



the prosecutor's supervision in the field are as follows: legal documents regulating land relations.

It is directly related to the precise identification of the group of individuals responsible for the enforcement and defense of legal documents pertaining to land use in the Republic of Uzbekistan.

Determining the "limits of the activity of the prosecutor's office supervision" on the researched topic will help to clearly formulate the subject of the prosecutor's supervision over the implementation of legal acts on land in the Republic of Uzbekistan.

Legal relations pertaining to land are a type of social relations governed by land law norms that arise between state bodies, legal entities, and citizens (*individuals*) in connection with the provision of land, its protection, and use, according to the requirements of the land legislation in the Republic of Uzbekistan.

In turn, land law is a separate area of law that uses the law that legally regulates social relations related to land. Land-related legal relationships may involve aspects of property, production, ecology, economics, and other relevant areas.

Land law governs the majority of the connections that have developed and may continue to develop around the land⁸.

Article 3 of the Land Code states that "Land law" refers to other legal texts that govern land relations in addition to the Land Code of the Republic of Uzbekistan. Land relations in the Republic of Karakalpakstan are also regulated by the legislation of the Republic of Karakalpakstan. Relations with

mountains, forests, water, soil, vegetation, and animals, as well as with atmospheric air are regulated by special laws⁹.

This legislator's interpretation of "land legislation" (in a limited sense) is entirely consistent with the topic of this scientific study, which is the prosecutor's oversight of the Republic of Uzbekistan's execution of land law.

Although the Land Code of the Republic of Uzbekistan governs the majority of land-related transactions, numerous other laws, decrees, decisions of the President of the Republic of Uzbekistan, and decisions of the Cabinet of Ministers have also been passed.

In the paragraphs that follow, we will try to give as much information as possible about this type of legislation.

It should be mentioned at this point that implementing the prosecutor's supervision in the field will undoubtedly be challenging due to the vast array of legal papers governing land relations.

As a result, it is necessary to condense the laws regulating land relations in the field into a single document, and pertinent suggestions will be included in the findings of the study¹⁰.

The state, legal entities, and citizens are the subjects of land-related legal relations. The complete scope of the state authorities' land-related powers is outlined in Articles 4 through 7 of the Land Code.

⁸ G.Uzakova "Land law". Textbook. Tashkent. 2018. p.9.

⁹ Collection of codes of the Republic of Uzbekistan. Volume 1. "Legal Literature Publish" 2021. p. 711.

¹⁰ Part of the proposal to unify the documents under the law into a single document was partially taken into account in the Decree of the President of the Republic of Uzbekistan dated 08.06.2021 No. 6243.



The state creates legal rules in order to preserve the rights of land users, holders, tenants, and owners in connection to the land plot.

Protecting the state's single land fund and ensuring its effective and rational use in the interests of the people of the Republic of Uzbekistan, the national economy and its industries, and land users are the main objectives of state control of land relations.

Regardless of the type of ownership, B.V. Erofeev defines the state management of land use as the institutional actions taken by state entities empowered by the executive power to create circumstances for successful use of land and conservation of land¹¹.

A.P. Anisimov defined land fund management as an executive-ordering activity focused on the public-legal control of land relations to ensure the rational use of land and land protection within the bounds of their authority¹².

It can be inferred from the aforementioned definitions that they all interpret the idea of management in the context of land relations through the category of activities. However, despite the appearance of unanimity, a thorough analysis of the scientific literature reveals that there are various ways to interpret the concept of management in the area of land relations, oftentimes even the most crucial elements. This, in turn, prevents the development of an accurate and non-contradictory understanding of this reality.

The main topics of conversation in this regard are those around land resource management. Typically, the state is acknowledged as such an entity. Of course, no one contests the government's primary role in managing land resources; on the contrary, it is constantly stressed.

The allotment of land plots, their use, and the management of their protection are all covered in Chapter 12 of the Land Code.

It states that the major duties of controlling the distribution of land plots, their usage, and their protection are to make sure that people and legal entities, state administration bodies, and local state authorities comply with the law.

According to the provisions of Article 83¹ of the Land Code, local state authorities and specially designated state agencies are responsible for exercising state control over the distribution of land plots, their usage, and their protection¹³.

Additionally, it is crucial to clarify the core of theoretical and scientific concerns connected to the target of the prosecutor's supervision over the application of legal documents on land as well as its reach. Legal experts frequently argue on the subject under the prosecutor's supervision in legal literature and scientific study, and they typically categorize this subject into two groups.

In particular, B. Polatov expressed the opinion that the legal documents the prosecutor evaluates in the course of ensuring supervision constitute the object of

¹¹ Erofeev B.V. Land law of Russia: textbook. 9th ed., revised. – M.: Yurayt-Izdat, 2004. – p.46.

¹² Anisimov A.P., Ryzhenkov A.Ya., Charkin S.A. Land law in Russia: a textbook for academic baccalaureate. 4th ed., revised. and additional – M.: Yurayt, 2014. – p.55-56.

¹³ Collection of codes of the Republic of Uzbekistan. Volume 1. "Legal Literature" 2021. p.736.

the prosecutor's supervision, whereas V. Bessarabov, A. Vinokurov, and O. Kalugina believe that bodies under the prosecutor's supervision, officials, and other persons are objects of the prosecutor's supervision in their scientific views.

V. Bessarabov specifically said that "the prosecutor's supervision is the aim is a group of structures, organizations, authorities and other persons responsible for protecting the rights and freedoms of people and citizens, which are under the prosecutor's supervision"¹⁴.

Using the category of regulatory legal documents, which are evaluated by the prosecutor for compliance with the Constitution and laws, B. Polatov¹⁵ bases his analysis of the idea of objects of supervision over the implementation of laws.

T. Ashitkova conducted research on the topic of prosecutor's supervision over the implementation of land laws and she listed the objects of prosecutor's supervision, combining the above-mentioned two groups of opinions on the object of land supervision. It indicates that the republican and local state authorities, authorized state control, bodies authorized to manage land resources, tax control, sanitary-epidemiological control, commercial and non-commercial organizations, and heads of farms are the subjects of control over the implementation of land laws¹⁶.

Ministries, state committees, agencies, citizen self-government bodies, public associations, enterprises,

institutions, organizations, and military units of ministries, state committees and agencies, military structures; governors and other officials, as well as documents adopted by them, are all subject to supervision under Article 20 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office".

As a result, it is appropriate to address the subject of supervision in accordance with the content of the current legislation.

One crucial situation shouldn't be ignored while deciding the subject of authority over the application of legal documents on land.

Because "governors and other authorities" are covered by the prosecutor's authority under the aforementioned law. It follows naturally from this that whether or not land users such as farmers, clusters, etc. and people are likewise thought of as objects of supervision in the direction of the prosecutor's supervision that we are analyzing.

Land users were not considered a prosecutor's supervision object when drafting Article 20 of the Law "On the Prosecutor's Office". However, in our opinion, such an approach is somewhat controversial.

In particular, it is evident from the figures that 472 administrative and 126 disciplinary actions were taken against responsible residents, farmers, and cluster

¹⁴ Prosecutor supervision. In 2 volumes. Volume 2. General and special parts: a textbook for universities / under. total ed. O.S.Kapinus. - 4th ed., trans. and additional - M.: Yuryat Publishing House, 2019. - p. 83.

¹⁵ Prosecutor's supervision: textbook / B.Kh.Polatov; responsible editors: T.A.Umarov, A.T.Allamuratov and others. - T.: "Uzbekistan", 2009. - p. 148-149.

¹⁶ Ashitkova T.V. Prosecutor's supervision over the implementation of land legislation. Diss. cand. legal Sciences. – M.: RSL, 2008. – p. 103.



firms in 2021. Or, 307 residents and 63 agricultural managers are those charged with illegally using land¹⁷.

The study of this data reveals that the land users are flagrantly breaking the law. Land areas, particularly irrigated lands, are thus plundered, which poses a significant threat to the interests of the state and the food security of our population. For this reason, in our opinion, prosecutors must rigorously monitor the observance of laws by the land users themselves and instill in them a sense of responsibility to conduct their activities in accordance with the law and without compromising the interests of individuals, society, and the state. Accordingly, in our opinion, it is necessary to consider land users as objects of prosecutor's supervision.

In our opinion, the subject of the prosecutor's supervision over how land laws are implemented is how they are implemented by ministries, state committees, agencies, citizen self-government bodies, public associations, enterprises, institutions, organizations, governors, and other officials in charge of the sector's development and legal compliance, as well as compliance with the documents that have been accepted. Laws and supporting documents fall under the umbrella of supervision. The land users are also the subjects of the prosecutor's supervision, in addition to the responsible entities, authorities, and other people named in the legislation, even if this is not stated in Article 20 of the Law "On the Prosecutor's Office". Normative legal and law enforcement practice records are among the legal documents that the prosecutor may supervise, according to the research findings, which also included an analysis of the prosecutor's supervision practice.

In general, the efficacy of the prosecutor's supervision in this area cannot be fully realized without reaching a clear decision regarding the topic and object of the prosecutor's supervision over the performance of legal acts on land, as well as its scientific and theoretical basis.

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¹⁷ 2021-2022 reports of the General Prosecutor's Office "On cases of land law violations".

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