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Issues of Improving the Legal Framework for Ensuring Openness, Transparency and Accountability in the Activities of Prosecutorial Bodies

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Abstract

This article examines issues related to improving the legal framework for ensuring openness, transparency, and accountability in the activities of prosecutorial bodies. It analyzes legal mechanisms aimed at ensuring public access to information about prosecutorial activities, protecting citizens' right to information, and strengthening the accountability of public authorities to society. Particular attention is paid to legal reforms implemented in the Republic of Uzbekistan, existing challenges, and prospects for their resolution. Based on an examination of international experience, the article develops proposals and recommendations for improving legal mechanisms that promote openness, transparency, and accountability in the activities of prosecutorial bodies.

Keywords

prosecutorial bodies, openness, transparency, public oversight, legal framework, democratic principles, accountability, civil society, freedom of information, rule of law**.**

Вопросы совершенствования правовых основ обеспечения открытости, прозрачности и подотчётности в деятельности органов прокуратуры

Prokuratura organlari faoliyatida ochiqlik, shaffoflik va hisobdorlikni ta'minlashning huquqiy asoslarini takomillashtirish masalalari

Annotatsiya. Mazkur maqolada prokuratura organlari faoliyatida ochiqlik, shaffoflik va hisobdorlikni ta'minlashning huquqiy asoslarini takomillashtirish masalalari tadqiq etiladi. Unda prokuratura organlari faoliyatining jamoatchilik uchun ochiqligini ta'minlash, fuqarolarning axborot olish huquqini amalga oshirish, davlat organlarining jamiyat oldidagi hisobdorligini kuchaytirish bilan bog'liq huquqiy

mexanizmlar tahlil qilinadi. Shuningdek, O‘zbekiston Respublikasida mazkur yo‘nalishda amalga oshirilayotgan huquqiy islohotlar, mavjud muammolar va ularni bartaraf etish istiqbollari o‘rganiladi. Xorijiy davlatlar tajribasi asosida prokuratura organlari faoliyatida ochiqlik va shaffoflikni ta’minlashga qaratilgan taklif hamda tavsiyalar ishlab chiqiladi.

Kalit so‘zlar: prokuratura organlari, ochiqlik, shaffoflik, jamoatchilik nazorati, huquqiy asoslar, demokratik tamoyillar, hisobdorlik, fuqarolik jamiyati, axborot erkinligi, huquqiy davlat.

Аннотация. В данной статье исследуются вопросы совершенствования правовых основ обеспечения открытости, прозрачности и подотчётности в деятельности органов прокуратуры. Анализируются правовые механизмы обеспечения доступности деятельности органов прокуратуры для общественности, реализации права граждан на получение информации и повышения подотчётности государственных органов перед обществом. Особое внимание уделяется правовым реформам, осуществляемым в Республике Узбекистан в данном направлении, существующим проблемам и перспективам их решения. На основе изучения зарубежного опыта разрабатываются предложения и рекомендации, направленные на совершенствование механизмов обеспечения открытости и прозрачности деятельности органов прокуратуры

Ключевые слова: органы прокуратуры, открытость, прозрачность, общественный контроль, правовые основы, демократические принципы, подотчётность, гражданское общество, свобода информации, правовое государство.

Introduction

In the process of building a democratic rule-of-law state and civil society, ensuring the openness, transparency, and public accountability of state bodies is of great importance. In particular, the implementation of these principles in the activities of the procuracy, which plays a special role in ensuring legality and protecting citizens' rights and freedoms, is one of the most pressing issues. The legal reforms being implemented in the Republic of Uzbekistan require increasing the openness of the activities of the

Prosecutor General's Office and improving mechanisms for public oversight. From this perspective, studying the normative and legal framework for ensuring openness and transparency in the activities of prosecutorial bodies and analyzing the experience of foreign countries is of scientific and practical importance.

The Prosecutor's Office is an important state body that protects citizens' rights and freedoms. The process of institutionalizing the prosecutor's oversight can be outlined in accordance with his powers to supervise and conduct criminal prosecution. “In this regard, it is necessary to keep in mind the idea that served as the foundation when the prosecutor's office was established: it should not be a punitive body but a system that ensures justice and legality,” says Z.S. Ibragimov, Doctor of Legal Sciences[1].

According to jurist O.M. Madaliyev, “Prosecutorial oversight is an independent, distinctive form of state activity. Outside of the procurator's offices, this activity cannot be carried out by any other state, public, amateur, or other bodies, organizations, institutions, or officials”[2].

In our view, the fact that the Prosecutor's Office is designated in a separate chapter of our Constitution has strengthened its position as the sole constitutional body in state governance responsible for ensuring the uniform and precise enforcement of laws. At this point, while the Constitution sets forth the general duties of the Prosecutor's Office, The adoption of the Law “On the Prosecutor's Office”[3] on December 9, 1992, emerged as the primary legislation in our country ensuring the rule of law. Article 2 of this law states that “the activity of the Prosecutor's Office institutions is to comprehensively ensure the primacy of the law, to strengthen law and order, the social, economic, political, and personal rights and freedoms of individuals and citizens guaranteed by the Constitution of the Republic of Uzbekistan, as well as state independence, to ensure the protection of the social-state system, the political and economic systems, and the rights of national groups and territorial entities from unlawful attacks,” and is reinforced with such fundamental legal powers. Furthermore, it has played a significant role as an independent body in the formation of our national statehood and in guaranteeing new rights and freedoms in our legislation. It was able to protect the gaps in our national legislation from unlawful acts. At the same time, “This body, which determines the

future of our country, must create a legal framework, a system of privileges, and guarantees that allows its members to work freely and with a clear purpose for their own benefit, for their families, and for the prosperity of the entire national economy. We place special emphasis on reforming and further liberalizing the third branch of our government – the judicial system"[4].

Materials and Methods

In this study, the Constitution of the Republic of Uzbekistan, the Law "On the Prosecutor's Office," and other relevant normative legal acts were used as the primary research materials. In addition, scientific and theoretical approaches to ensuring openness, transparency, and public oversight in the activities of prosecutorial bodies, international legal standards, and the experience of foreign countries were studied. During the research, systematic analysis, comparative legal analysis, formal-legal, logical analysis, and generalization methods were used. In particular, the comparative legal method was used to compare the legislation of Uzbekistan with the relevant legal regulatory practices of foreign countries. Based on a systematic and formal-legal analysis, the content of the current legal provisions, their practical significance, and the opportunities for improving public oversight of the activities of the prosecutor's office were clarified.

Research results

O In accordance with Part 11 of Article 109 of the Constitution of the Republic of Uzbekistan, the President of the Republic of Uzbekistan appoints the Prosecutor General and dismisses him or her from office with the approval of the Senate of the Oliy Majlis of the Republic of Uzbekistan. Furthermore, Part 8 of Article 95 of the Constitution establishes the procedure for hearing reports of the Prosecutor General as one of the exclusive powers of the Senate of the Oliy Majlis of the Republic of Uzbekistan, thereby constituting an important legal basis for parliamentary oversight of the activities of the prosecution authorities.

In addition, pursuant to the Law of the Republic of Uzbekistan "On the Prosecutor's Office", adopted in a new edition on 29 August 2001, the democratic foundations of the prosecution authorities were further strengthened. The Law also provided a legal

framework for the accountability of the Prosecutor General of the Republic of Uzbekistan to the President and the Senate of the Oliy Majlis, as well as for the institution of public oversight over prosecutorial activities. According to Article 14 of this Law, the Prosecutor General of the Republic of Uzbekistan is accountable to the President and the Senate.

In accordance with the legislation, the Prosecutor General submits information to the President of the Republic of Uzbekistan as follows:

- Regularly, on the state of legality and the fight against crime;
- Immediately, regarding particularly serious crimes and emergency incidents;
- Every six months, on the results of the activities of the prosecution authorities.

Furthermore, where regulatory legal acts adopted by public administration bodies and local authorities are found to be inconsistent with the legislation, the Prosecutor General is authorised to submit proposals to the President of the Republic of Uzbekistan concerning their suspension or annulment.

The idea put forward by the President of the Republic of Uzbekistan, Sh. M. Mirziyoyev, that “Ensuring the rule of law and the protection of human interests is the key to the country's development and the well-being of its people” is also of great importance in strengthening the legal foundations of the activities of the prosecution authorities.

In this regard, Article 5 of the Law of the Republic of Uzbekistan “On the Prosecutor's Office” stipulates that prosecutors of the Republic of Karakalpakstan, regions, the city of Tashkent, districts and cities must submit annual reports on their activities to the respective Councils of People's Deputies. Where necessary, they are also required to inform citizens' self-governing bodies about the state of legality and efforts to combat crime. In this regard, in the course of the large-scale reforms implemented in our country, particularly since 2016, ensuring human dignity and protecting individual interests have become priority areas of state policy. As part of this process, fundamental institutional reforms have also been introduced in the activities of the prosecution authorities, with the interests of citizens being placed at the forefront of ensuring the rule of law. As a result, the system of accountability and transparency of the Prosecutor

General of the Republic of Uzbekistan to the President and the Senate of the Oliy Majlis has been further improved, and the practice of the Prosecutor General regularly reporting to the Senate on the activities of the prosecution authorities has been established.

Furthermore, relevant institutional mechanisms have been established by the Senate of the Oliy Majlis of the Republic of Uzbekistan with the aim of strengthening parliamentary and public oversight of the activities of the prosecution authorities. In particular, on 19 February 2016, pursuant to a joint resolution of the Presidium of the Legislative Chamber of the Oliy Majlis and the Presidium of the Senate of the Oliy Majlis of the Republic of Uzbekistan, Resolution No. 383-III entitled “On the Establishment of the Commission of the Senate of the Oliy Majlis of the Republic of Uzbekistan for Exercising Oversight over the Activities of the Prosecution Authorities” was adopted.

As a result, during 2025, the prosecution authorities undertook systematic reviews of legal acts issued by state bodies with a view to ensuring the rule of law, strengthening legality, protecting the rights and freedoms of citizens, safeguarding the legally protected interests of society and the state, and preventing and addressing offences. As a result of these activities:

- 173,305 prosecutorial oversight measures were implemented;
- 32,339 submissions were issued to eliminate the causes and conditions contributing to violations of the law;
- 20,481 claims were filed with the courts seeking the recovery of damages amounting to UZS 1,448,435,003;
- 24,378 individuals were formally warned against committing violations of the law;
- The violated rights of 562,555 individuals were restored.

During the reporting period, the prosecution authorities also processed 391,692 appeals and ensured the reception of 300,878 citizens, including through outreach visits to various regions of the country[5].

Uzbek legal scholar A. Kh. Saidov emphasizes that, in a democratic state governed by the rule of law, the activities of all law enforcement agencies, including the

prosecution authorities, must be carried out on the basis of the supremacy of human rights and the principle of legality. He also points out that oversight and accountability mechanisms constitute important guarantees for the stability of a state governed by the rule of law[6]. Certainly, the accountability of the prosecution authorities has its own specific organisational and legal foundations and mechanisms. The concept of accountability of the prosecution authorities encompasses not only their responsibility to the public and competent state bodies for their activities, but also the legal and organisational institutions designed to ensure openness and transparency in the performance of their functions.

This concept encompasses the goals and objectives of ensuring transparency in the activities of the prosecution authorities; its fundamental principles; the types of information subject to disclosure; the rights of users to access information concerning the activities of territorial prosecution authorities; the powers of structural units or officials responsible for ensuring transparency; as well as the main areas, forms and methods of ensuring accountability and openness.

Thus, the accountability of the prosecution authorities is not limited solely to reporting on their activities; rather, it manifests itself as an integrated organisational and legal system that ensures openness and transparency in their operations, public access to information, and their responsibility to both society and the state.

Furthermore, international standards place particular emphasis on ensuring transparency and accountability in the activities of prosecution authorities. In particular, Paragraph 6 of the document adopted by the Committee of Ministers of the Council of Europe on 19 September 2012, entitled “Guidelines on the Role of Public Prosecutors Outside the Criminal Justice System”, stipulates that prosecution authorities should organise their activities as openly and transparently as possible. Paragraph 23 of the same Recommendation further emphasises that, where prosecutors exercise supervisory functions over public authorities, they must perform their powers in accordance with the principle of the rule of law, in a transparent manner and in full compliance with the requirements of legislation. S. Bibas pays particular attention to the concept of accountability in prosecutorial activities, emphasising that the broad discretionary

powers vested in prosecutors should be balanced through effective accountability mechanisms[7]. In his view, normative regulation alone is insufficient to ensure effective oversight of prosecutorial activities. Therefore, in a democratic state, the broad scope of prosecutorial powers must be accompanied by openness, transparency and accountability to the public.

Analysis of the Research Findings

The national legislation has also established a legal framework aimed at ensuring openness and transparency in the activities of public authorities. In particular, by Decree No. PF–6247 of the President of the Republic of Uzbekistan, dated 16 June 2021, a list of socially significant information that must be published as open data was approved. This document constitutes one of the important legal mechanisms for ensuring transparency in the activities of public authorities and their accountability to the public.

Furthermore, a comparative legal analysis demonstrates that the legislation of certain foreign countries also contains specific provisions aimed at ensuring transparency and accountability in the activities of prosecution authorities. In particular, Article 33 of the Law of the Republic of Kazakhstan “On the Prosecutor's Office” establishes legal provisions concerning the transparency of the activities of prosecution authorities.

The analysis of the aforementioned international standards, national legislation and advanced foreign practices demonstrates that it would be advisable to improve the Law of the Republic of Uzbekistan “On the Prosecutor's Office” by introducing specific provisions aimed at ensuring openness and accountability in the activities of the prosecution authorities.

Furthermore, we believe that, in order to establish a unified organisational and legal mechanism in this area, it is necessary to adopt a separate regulatory legal act governing the accountability of the prosecution authorities. In this regard, the doctoral researcher puts forward a proposal to develop a draft Resolution of the Council of the Senate of the Oliy Majlis of the Republic of Uzbekistan entitled “On the Approval of the Model Regulations on the Organisation of Accountability and Performance Monitoring of the Prosecution Authorities of the Republic of Uzbekistan”.

It would be appropriate for these Model Regulations to clearly define the procedures for reporting by the prosecution authorities, the publication of information concerning their activities, monitoring and evaluation mechanisms, the entities responsible for ensuring accountability, and their respective powers. In our view, the adoption of the Resolution of the Council of the Senate of the Oliy Majlis of the Republic of Uzbekistan entitled "On the Approval of the Model Regulations on the Organisation of Accountability and Performance Monitoring of the Prosecution Authorities of the Republic of Uzbekistan" would serve to institutionally strengthen openness, transparency and accountability in the activities of the prosecution authorities, enhance public trust, ensure the rule of law, and further improve the functioning of the prosecution authorities in accordance with the principles of modern democratic governance.

Furthermore, this Resolution would create an opportunity to regulate, within a single normative legal act, matters relating to the accountability of the prosecution authorities and their subordinate structural units. The accountability of prosecutors, in turn, should be established exclusively by law, as this constitutes an important guarantee of their legal status and independence. The proposed Resolution would serve to provide legal regulation of the accountability of prosecutors at all levels, as well as the system of their vertical subordination.

This, in turn, would enable individuals and legal entities to freely seek and obtain information about the activities of all structural units of the prosecution authorities, while establishing the necessary legal and organisational mechanisms to facilitate such access. Consequently, favourable conditions would be created for competent authorities to objectively assess the legality and effectiveness of prosecutorial activities in the process of protecting the legitimate rights and interests of individuals and legal entities.

Secondly, it is essential to develop effective mechanisms that ensure lawful access to information relating to the activities of the prosecution authorities. This, in turn, would expand opportunities to ensure the precise and uniform implementation of laws, which constitutes one of the priority areas of prosecutorial activity, as well as to examine and assess the legality of supervisory acts issued by prosecutors.

It should be noted that this issue was also given particular attention in the speech delivered by the President of the Republic of Uzbekistan, Sh. Mirziyoyev, at the solemn ceremony dedicated to the 24th anniversary of the adoption of the Constitution of the Republic of Uzbekistan. In particular, the speech emphasised the importance of the Senate of the Oliy Majlis hearing the annual report of the Prosecutor General's Office. However, it was also stressed that parliamentary oversight should be strengthened over the activities of local authorities, prosecution authorities and internal affairs bodies at the regional level, including in remote areas.Furthermore, particular attention was drawn to the need to assess the extent to which heads of public authorities in the regions fulfil their assigned responsibilities and effectively address citizens' appeals and concerns[8].

For this reason, the socio-economic conditions of each region and efforts to address the problems faced by the population are currently being placed under constant scrutiny. In this process, strengthening the accountability of regional prosecutors is one of the key priorities. In particular, regular consideration by the Councils of People's Deputies of prosecutors' reports on oversight of law enforcement and the implementation of comprehensive regional development programmes would further strengthen the institution of "**Council Oversight**". As a result, institutional mechanisms aimed at strengthening the role of the Councils of People's Deputies as key bodies in identifying and addressing existing regional problems will be further improved.

Thirdly, it is of particular importance that the accountability of the prosecution authorities be ensured not before any ministry or inspectorate, but before the people's representatives, namely, representative bodies. In particular, just as the Prosecutor General is accountable to the Senate of the Oliy Majlis, the accountability of regional prosecutors to the respective Councils of People's Deputies should also be institutionally strengthened.

It should be emphasised that the level of prosecutors' accountability and the legal provisions governing it must be clearly established exclusively by law, and any deviation from these statutory limits in practice must not be permitted. This would serve to ensure the legality and institutional stability of the activities of the prosecution authorities.

Furthermore, this approach would also contribute to strengthening parliamentary oversight. The institution of accountability is not merely a form of internal administrative control; rather, it is based on the principle of the responsibility and accountability of the prosecution system, as a distinct component of state authority, to the legislative branch of government.

Therefore, from the perspective of modern public administration, the regulation of the accountability of the prosecution authorities within a unified regulatory legal framework is of particular relevance. In this regard, there is a need to systematically review and harmonise the accountability mechanisms of law enforcement structures, starting with the Prosecutor General and extending to territorial prosecution authorities, as well as such entities as the Bureau of Compulsory Enforcement and the Department for Combating Economic Crimes, within a unified institutional framework. Such an approach would help ensure uniform accountability standards across different authorities.

As part of the preliminary empirical research on this issue, the researcher conducted a survey involving 120 respondents. The sample comprised employees of the prosecution authorities (25.4%), representatives of the justice authorities (27%), members of local Councils (30.2%), as well as representatives of the judicial system and other professional sectors. The survey was conducted via the Google Forms platform and employed as an exploratory study aimed at conducting a preliminary analysis. According to the survey results, 77.2% of respondents expressed support for the proposal to adopt a Resolution of the Council of the Senate of the Oliy Majlis of the Republic of Uzbekistan entitled “On the Approval of the Model Regulations on the Organisation of Accountability and Performance Monitoring of the Prosecution Authorities of the Republic of Uzbekistan”. At the same time, respondents expressed a positive attitude towards the need to institutionally strengthen prosecutors' accountability at the parliamentary level. It should be emphasised that the findings of this survey are not intended to serve as a basis for definitive legal conclusions. Rather, they serve as an empirical indicator designed to identify the preliminary views of specialists and practitioners on the issue under consideration. Accordingly, the results obtained should

be regarded as supplementary evidence in substantiating the proposed legislative and regulatory improvements. On this basis, the development of a unified national approach to the accountability of the prosecution authorities, as well as the systematisation of mechanisms governing their reporting procedures, information transparency, and accountability to parliamentary and representative bodies, is of considerable academic and practical relevance. However, the introduction of such an institutional framework must take strict account of the constitutional status, functional independence and scope of powers of each respective authority.

Nowadays, one of the key priorities of public administration is to secure public trust by ensuring that executive authorities and their subordinate bodies effectively organise and implement national state policies at the local level. In this regard, we consider it necessary to analyse the legal foundations governing the activities of local executive authorities and develop proposals and recommendations aimed at their further improvement. In particular, in accordance with the revised Constitution of the Republic of Uzbekistan, representative bodies—the Councils of People's Deputies—and executive authorities (khokimiyats) operate at the regional, district and city levels. The powers of these bodies are clearly defined at the constitutional level, with representative and executive functions being organised through a functional separation of powers.

Indeed, from the earliest days of independence, one of the five fundamental principles regarded as the foundation of the country's development was the concept of “The State as the Main Reformer”. On the basis of this principle, effective and coordinated functioning of local representative and executive authorities was ensured over the years. In particular, this approach enabled local decisions adopted by representative bodies to be implemented promptly by regional governors (khokims). However, as a result of the ongoing reforms in public administration, citizens' legal awareness and legal culture have continued to develop. These reforms have also contributed to the formation of representative bodies as independent institutions. Consequently, public confidence in representative bodies has been growing.

Accordingly, the mechanism whereby regional prosecutors provide information to the respective local Councils ensures a certain degree of institutional accountability on

their part. In particular, pursuant to Article 24 of the Law of the Republic of Uzbekistan "On Local State Authority" No. 913-XII, dated 2 September 1993, the reports of the relevant prosecutors are to be heard at meetings of local state authorities.

Furthermore, pursuant to Article 28 of the same Law, documents adopted or issued by the Councils of People's Deputies and khokims may be challenged in court by citizens, public associations, enterprises, institutions and organisations. The Law also provides for the prosecutor's authority to lodge a protest against such documents. However, a scientific and legal analysis demonstrates that, on the one hand, a certain element of accountability exists through the prosecutor's submission of information to the local Council, while, on the other hand, the prosecutor's authority to lodge protests against documents adopted by those very bodies raises an issue that warrants reconsideration from the perspective of institutional coherence.

In this regard, the following revised wording is proposed for the aforementioned regulatory provision: "Documents adopted or issued by the Councils of People's Deputies and khokims may be challenged in court by citizens, public associations, enterprises, institutions and organisations. The prosecutor may also bring a claim (application) before the court in respect of such documents." This approach makes it possible to reconceptualise the institution of prosecutorial protest not as a direct administrative and legal measure of influence, but rather as a procedural mechanism for legal protection exercised through the judicial branch of government..

An analysis of the academic literature reveals that two principal doctrinal approaches have emerged regarding the institution of prosecutorial protest.

The first approach is the classical (post-Soviet) model, under which the institution of prosecutorial protest is retained as an effective and preventive legal instrument. The second approach is the liberal-constitutional model, which proposes replacing prosecutorial protest with a mechanism of judicial review. On this basis, it can be argued that contemporary trends in constitutional and legal development indicate a gradual movement towards the integration or transformation of the institution of prosecutorial protest into judicially oriented procedural mechanisms. Uzbek researcher Oybek Shokirov emphasises that the primary purpose of prosecutorial supervision over the acts

of local state authorities is to ensure legality[9]. According to the author, improving these forms of oversight on the basis of modern legal mechanisms would contribute to enhancing the effectiveness of prosecutorial activities and further strengthening the rule of law in the functioning of public authorities.

The proposal to abolish the powers of regional prosecutors to lodge protests against decisions of local Councils does not imply that such decisions would be completely excluded from prosecutorial oversight. On the contrary, this approach envisages exercising oversight over the activities of local state authorities through other constitutional and legal mechanisms. In particular, Article 6 of Resolution No. KQ-835-IV of the Council of the Senate of the Oliy Majlis of the Republic of Uzbekistan, dated 24 October 2024, entitled “On Approval of the Model Regulations of the Regional, District and City Councils of People's Deputies”, establishes the principal powers of local Councils. According to this provision, these powers include consideration of the annulment of Council decisions that are inconsistent with the legislation of the Republic of Uzbekistan.

Furthermore, pursuant to Article 26 of Law No. 913-XII of the Republic of Uzbekistan “On Local State Authority”, oversight of the legality of the activities of the Councils of People's Deputies and khokims is exercised by the Senate of the Oliy Majlis of the Republic of Uzbekistan. This provision establishes the legal foundations for parliamentary oversight of the activities of local state authorities.

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