

# FEATURES OF DETERMINING THE LEGAL STATUS OF THE PROSECUTOR'S OFFICE: FOREIGN AND NATIONAL EXPERIENCES

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**Annotation.** The article analyzes the place and role of the prosecutor's office in the state. A comparative analysis with foreign countries is carried out to determine its function. The issue of determining the legal status is considered on the basis of legislation.

**Keywords:** prosecutor's office, prosecutor's office, state bodies, Ministry of Justice, independent body.

**Аннотация.** В статье анализируются место и роль прокуратуры в государстве. Проведен сравнительный анализ с зарубежными странами для определения его функций. Вопрос об определении правового статуса рассматривается на основе законодательства.

**Ключевые слова:** прокуратура, прокуратура, государственные органы, Министерство юстиции, самостоятельный орган.

Today, there are different views on the definition of the concept and the legal status of the prosecutor's office, which, in turn, generate a certain controversy. As the legal scholar O.V. Voronin notes, "the term "prosecutor's office" comes from the Latin verb "procurare", which means "to take care", "prevent", "provide", "take care", "manage" and the term "prosecutor's office" itself is not widely used in the modern world. For example, in the Romanesque states, this institution is most often referred to as a "public ministry", in Germany – as a "state attorney's office", in the United States, the equivalent of the prosecutor's office is called the "attorney's office" [1]. He also notes that the Prosecutor's Office, first of all, is a legitimate body, its structure, organization and competence are determined in accordance with the legislation. Domestic jurists, for example, M.H. Rustambayev and U.A. Tukhtasheva believes that "prosecutor's supervision

is one of the main directions (functions) of law enforcement activities and the activities of specially authorized persons – prosecutors carried out on behalf of the state to ensure the accurate execution and uniform application of laws by identifying and promptly eliminating violations of laws, bringing perpetrators to the responsibility established by law" [2]. Summarizing the above, we can conclude that the Prosecutor's office is a law enforcement agency whose activities are carried out by specially authorized persons – prosecutors and its main task is to ensure the rule of law, strengthen the rule of law, protect the rights and freedoms of citizens, the legally protected interests of society and the state, the constitutional system, prevention and prevention of offenses.

Based on the position of the prosecutor's office in the system of state power, it can be classified into four groups:

- the Prosecutor's Office, which operates under the general direction of the Minister of Justice;
- prosecutor's offices, which are part of the judicial corps (magistracy) and operate in the courts;
- prosecutor's offices, which are an independent body of state power and are accountable to the parliament and the President;
- countries where the prosecutor's office does not function.

The first group should include the prosecutor's offices of the United States, France, Japan and other countries. For example, in the USA and Poland, the Minister of Justice (in the USA - the Attorney General) simultaneously performs the functions of the Attorney General. Subordinate prosecutors report to the Minister of Justice. In addition, in each US state, in addition to the federal prosecutor's office, there is an independent prosecutor's office, which is headed by the State Attorney General and does not depend on the federal Prosecutor's office. Also, in accordance with Ordinance No. 58-1270 of the Republic of France,

prosecutors are subordinate to and under the control of higher prosecutors, primarily the Ministry of Justice.

The prosecutor's offices that are part of the judicial corps include the Prosecutor's offices of Spain and Italy. For example, section VI of the Spanish Constitution is devoted to the judicial system and the same section refers to the Prosecutor's office. In particular, art. 124 Of the Spanish Constitution states that the Prosecutor's Office, regardless of the functions performed by other bodies, has the task to promote the administration of justice in order to protect the rule of law, the rights of citizens and the public interests protected by law, by virtue of its duties or at the request of interested persons, as well as to monitor the independence of the courts and protect public interests in them. It is also stated that the Prosecutor's Office exercises its functions through its own bodies in accordance with the principles of unity of action, hierarchical subordination and in all cases on the basis of legality and impartiality. The law defines the organic status of the Prosecutor's Office. The Prosecutor General of the State is appointed by the King on the proposal of the Government and after hearing the opinion of the General Council of the Judiciary. [3]

The third group includes many post-Soviet countries, including the Republic of Uzbekistan. In such countries, the Prosecutor's Office is a supervisory body and does not belong to any branch of government, oversees the accurate and uniform execution of laws and is mainly accountable to Parliament and the President. As an example, we can cite Article 83 of the Constitution of the Republic of Kazakhstan, which states that the Prosecutor's Office of the Republic exercises its powers independently of other state bodies, officials and is accountable only to the President of the Republic.

The fourth group includes the United Kingdom, where the prosecutor's office does not function. The functions of the Prosecutor's Office are assigned to the Attorney General, who directs the legal corps, and he is also the Queen's legal

adviser. The Attorney General is also considered to be the Secretary of State for Justice responsible for criminal justice policy. [4]

When determining the legal status of the prosecutor's office in our country, there is a different approach, which differs significantly from Western countries. The bodies of the Prosecutor's Office of the Republic of Uzbekistan are an independent body and do not belong to any branch of State power.

Firstly, the prosecutor's office is considered to be a supervisory authority, since it oversees the implementation of laws. This function of the Prosecutor's Office is also enshrined in Article 118 of the Constitution of the Republic of Uzbekistan: "Supervision of the accurate and uniform execution of laws on the territory of the Republic of Uzbekistan is carried out by the Prosecutor General of the Republic of Uzbekistan and his subordinate prosecutors." This activity is carried out on behalf of the state and its, except for the prosecutor's office, no other state or public bodies, organizations, institutions, etc. they cannot carry out.

Secondly, we know that the Constitution of the Republic of Uzbekistan is the Basic Law of the country, which has the highest legal force. And in the Basic Law of our country, along with the heads of the Oliy Majlis of the Republic of Uzbekistan, the Cabinet of Ministers, the Judiciary of the Republic of Uzbekistan, there is also a head of the Prosecutor's Office. The legal status of the Prosecutor's Office is directly enshrined in the Constitution of the Republic of Uzbekistan. This suggests that the Prosecutor's office is a significant body and it has a special place in the structure of the state.

Thirdly, prosecutorial supervision, being a specific activity, has the characteristics of the legislative, executive and judicial branches of government. As a law-making function, we can cite Article 4 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office", which states that one of the main activities of the prosecutor's office is participation in law-making activities and work to improve the legal culture in society. As for the executive function, the Bureau of Compulsory Enforcement functions under the Prosecutor General's

Office of the Republic of Uzbekistan, which is charged with the duty of executing judicial acts and acts of other bodies. Also, Article 18 of the Law "On the Prosecutor's Office" determines that the Director of the Bureau is the Chief State Executor of the Republic of Uzbekistan. The prosecutor's offices also take part in judicial activities, as they "support the state prosecution when considering criminal cases in courts, take part in the consideration of civil cases, cases of administrative offenses and economic disputes in courts, have the right to protest judicial acts that do not comply with the law"[5].

Summarizing the above, we can conclude that, unlike Western countries of the world, in most post-Soviet countries, including Uzbekistan, the prosecutor's office does not belong to any branch of government. This provision is also reflected in the Basic Law of the country. Subordination of the Prosecutor's office to any branch of government may increase the threat of violation of laws and may lead to the destruction of the legal order. Only the Prosecutor's Office, as an independent and centralized body, can ensure the rule of law and compliance with the laws by all members of society.

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