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Legal Framework for Prosecutorial Oversight over the Enforcement of Legislation Aimed at Ensuring Employment of the Population

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ABSTRACT

This article examines the legal foundations of prosecutorial oversight over the implementation of legislative acts aimed at ensuring employment of the population. Although this area of prosecutorial oversight has been examined by scholars within the broader framework of prosecutorial oversight as a field of legal study, it has not yet been addressed as an independent subject of comprehensive research. In certain sections, the author engages in scholarly debate with a number of researchers and presents their own views on the contemporary significance and relevance of the research topic.

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It should be emphasized that ensuring legality has always been regarded as one of the fundamental and enduring objectives of every society and state, and it continues to be of particular importance in the present day.

In particular, ensuring compliance with legislation aimed at promoting employment of the population constitutes one of the priority areas of public policy.

The organization of activities in this field and the establishment of effective oversight over the implementation of legislation are based on the existing legal framework.

Therefore, the scholarly and practical examination of the concept of a legal framework is also of significant importance.

In this regard, the academic literature contains various views that are substantively similar in nature.

“A legal framework constitutes the core and stabilizing element of legal and social systems and is oriented toward the principal trends of their development.”

According to S. S. Alekseev, it is necessary to distinguish between the foundations of social relations and their legal regulation, with the former serving as the basis for the latter. Legal regulation entails the purposeful influence of the state on specific social relations—those requiring stabilization and regulation—through the use of particular legal means and methods.

In the legal literature, the legal foundations of law-enforcement activities and other activities of state bodies are interpreted in both a narrow and a broad sense.

Principles of Russian Law: General Theoretical and Sectoral Aspects, ed. N. I. Matuzov and A. V. Malko. Saratov: Saratov State Academy of Law, 2010, p. 41.Alekseev, S. S. *General Theory of Law*. In 2 vols. Moscow: Yuridicheskaya Literatura, 1981, Vol. 1, p. 291.Agarkov, A. V., and S. V. Obraztsov. “Tasks and

Functions of Operational Units of the District Police Inspectors: Innovations in the Regulatory and Legal Framework." *Bulletin of the Vladimir Law Institute*, 2010, No. 4, pp. 4–5; Bobrov, V. G. "Legal and Organizational Foundations of Operational Development, Ways and Measures…"

In the broad sense, the term "legal framework" refers to the entire body of normative legal acts that not only directly regulate a particular type of law-enforcement activity but also contain the fundamental provisions governing the conditions necessary for the implementation of such activities. In the narrow sense, the legal framework constitutes a system of normative legal acts that directly regulate the relevant activity.

With regard to the legal foundations of the prosecutorial oversight under consideration, we concur with the views expressed by A. E. Skachkova, A. V. Shibina, and other scholars.

According to their view, the legal foundations of prosecutorial oversight are generally understood either as a body of legal norms regulating a specific area of prosecutorial activity or as a set of norms establishing the grounds for granting and securing the authority to exercise prosecutorial functions.

Prosecutorial oversight over compliance with legislation aimed at ensuring employment of the population constitutes an important area of prosecutorial activity.

…its improvement (theoretical and practical issues): Dissertation for the degree of Doctor of Law. Moscow, 1990, p. 142; Meretukov, G. M., E. S. Lunina, and S. N. Biryukova. "Legal Foundations of Search Activities of Units Engaged in Operational-Search Activities." *Polythematic Online Electronic Scientific Journal of Kuban State Agrarian University*, 2016, No. 117, pp. 235–239; Virabov, V. S. *Legal Foundations of Police Activities under Contemporary Conditions: Theoretical and Legal Aspect*: Dissertation for the degree of Candidate of Legal Sciences. Nizhny Novgorod, 2014, pp. 11–12, 122; Zulfugarzade, T. E. *Legal and Organizational Foundations of the Activities of Private Detective and Security Organizations in Crime Prevention*: Dissertation for the degree of Candidate of Legal Sciences. Moscow, 1998, pp. 31–33.Shibina, A. V. *Prosecutorial Oversight over Compliance with Citizens' Rights to Health Protection*: Dissertation for the degree of Candidate of Legal Sciences. Moscow, 2018, p. 16.Skachkova, A. E. "Theoretical and Legal Foundations of the Prosecutor's Activities in Supervising the Enforcement of Laws and the Legality of Legal Acts." *Leningrad Law Journal*, 2012, No. 1, p. 86; Tamaev, R. S., A. G. Khaliulin, and N. V. Bulanova. "Implementation of Prosecutorial Oversight over the Procedural Activities of Preliminary Investigation Bodies." *Bulletin of the Academy of the Prosecutor General's Office of the Russian Federation*, No. 2 (4), pp. 41–43; Kostin, D. V., and F. M. Kobzarev. "On Improving the Regulatory and Legal Foundations of Prosecutorial Oversight over the Procedural Activities of Preliminary Investigation Bodies." *Ibid.*, 2016, No. 2 (52), pp. 3–9.Shibina, A. V. *Prosecutorial Oversight over Compliance with Citizens' Rights to Health Protection*: Dissertation for the degree of Candidate of Legal Sciences. Moscow, 2018, p. 17.

Proceeding from the fact that it is one of the main forms of legal regulation, it is regulated by the legal foundations of prosecutorial supervision.

In his work entitled *"The Development Strategy of New Uzbekistan"*, President Sh.M. Mirziyoyev emphasized: "The principle of 'The rule of law, punishment is inevitable' should be the main criterion of the activities of prosecutorial bodies. To this end, it is necessary to create new legal foundations for a prosecutor's system that ensures strict observance of legality in our country and is open and fair."

There are different opinions and approaches among legal scholars regarding the legal foundations of prosecutorial activities.

For example, legal scholars V.B. Yastrebov and V.V. Yastrebov argue that the most important legal foundations of the activities of prosecutorial bodies consist solely of the Constitution and the Law on the Prosecutor's Office.

In our view, this position does not fully encompass the activities of prosecutorial bodies.

In particular, pursuant to Article 3 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office," the procedure for establishing and operating prosecutorial bodies, as well as their powers, are determined by the Constitution of the Republic of Uzbekistan, this Law, and other legislative acts.

The exercise of prosecutorial supervision over the implementation of laws is regulated by the Law "On the Prosecutor's Office" as a special legal instrument, and it is not necessary for other laws to contain a specific provision expressly authorizing the exercise of prosecutorial supervision.

Therefore, the legal foundations of prosecutorial supervision over compliance with legislation concerning the promotion of employment must necessarily include the legislation governing the activities of the prosecutor's office are also directly related to the legislative acts regulating the activities of prosecutorial bodies.

7.Mirziyoyev, Sh.M. *Strategy of New Uzbekistan*. Tashkent: "Uzbekistan" Publishing House, 2021, pp. 74, 108.

8.Vestnik Moskovskogo Universiteta. Series 11: Law, 2022, No. 4, pp. 39–61.

It should be emphasized that ensuring oversight over compliance with legislation in this area is one of the most important areas of prosecutorial supervision.

In our country, the procedure for establishing and operating prosecutorial bodies, as well as the powers and duties of prosecutors, is determined by the Constitution of the Republic of Uzbekistan, the Law "On the Prosecutor's Office," and other legislative acts.

Pursuant to Article 143 of the Constitution, supervision over the precise and uniform implementation of laws throughout the territory of the Republic of Uzbekistan is exercised by the Prosecutor General of the Republic of Uzbekistan and prosecutors subordinate to him.

Pursuant to Article 2 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office," as amended, the main tasks of the prosecutorial bodies of the Republic of Uzbekistan are to ensure the rule of law, strengthen legality, protect the rights and freedoms of citizens, the legally protected interests of society and the state, and the constitutional order of the Republic of Uzbekistan, as well as to prevent and carry out preventive measures against offenses.

Based on the foregoing, it can be stated that in our country, prosecutorial supervision over compliance with legislation is exercised in all areas and sectors, including the field of ensuring employment of the population. Like other state bodies, the prosecutor's office, in carrying out its activities, including supervisory measures, primarily relies on the principle of legality enshrined in Article 15 of the Constitution of the Republic of Uzbekistan. According to this principle, the state and its bodies, other organizations, officials, civil society institutions, and citizens shall act in accordance with the Constitution and laws.

According to Article 20 of the Law "On the Prosecutor's Office," the subject of supervision includes the implementation of laws by ministries, state committees, agencies, citizens' self-government bodies, public associations, enterprises, institutions, organizations, military units and military formations of ministries, state committees and agencies, as well as by governors and other officials. It also includes monitoring whether the acts adopted by them comply with the Constitution and laws of the Republic of Uzbekistan.

Article 23 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office," as amended, also stipulates that prosecutors are not permitted to interfere in economic or other activities. In accordance with this provision, direct interference by a prosecutor in economic or other activities, as well as the performance of the functions of departmental management and inspection bodies, is not permitted.

Article 5 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" stipulates that any deviation from the precise execution of and compliance with laws, regardless of the grounds on which such deviation is made, shall be deemed a violation of legality and shall entail the liability established by law.

Pursuant to Article 6 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office," the prosecutor has the authority to demand the submission of documents, materials, and other information; to conduct audits and inspections; to request the appointment of specialists; to require individuals to appear before the prosecutor's office and provide explanations concerning identified violations of the law, as well as to take measures to eliminate violations of the law and the circumstances that contribute to them within the scope of their authority, the requirements imposed to eliminate the causes and conditions contributing to violations, as well as to ensure compliance with the law, are binding on all citizens and legal entities.

The information, documents, and copies thereof necessary for prosecutorial bodies to perform their functions shall be provided free of charge upon the request of such bodies.

The effectiveness of prosecutorial oversight over the implementation of legislation aimed at ensuring employment for the population directly depends on the proper organization of supervisory activities. The general requirements governing such activities are established by orders of the Prosecutor General of the Republic of Uzbekistan.

In support of these views, the opinions of certain scholars may be cited, who maintain that "the legal basis for the law-enforcement activities of the prosecutor's office is established by legislation, while the detailed regulation of such activities is determined by the prosecutor's office's own normative legal acts."

Sharing these views, we may state that the sector-specific and organizational orders issued by the Prosecutor General are of significant legal importance in organizing prosecutorial oversight over the implementation of laws aimed at ensuring employment for the population and constitute one of the key legal foundations of prosecutorial oversight in this area.

Article 13 of the Law "On the Prosecutor's Office" establishes the powers of the Prosecutor General. Among these powers, it is stipulated that the Prosecutor General of the Republic of Uzbekistan shall lead the prosecutorial bodies and exercise supervision over their activities, issue orders, and approve regulations governing the structural divisions of the prosecutorial bodies.

Order No. 166 of the Prosecutor General of the Republic of Uzbekistan, dated 24 November 2017, "On Further Improvement of Prosecutorial Oversight over the Implementation of Social and Economic Legislation," establishes that ensuring employment for the population is one of the principal tasks of the prosecutorial bodies.

Decree No. PF-5019 of the President of the Republic of Uzbekistan, dated 18 April 2017, "On Strengthening the Role of Prosecutorial Bodies in Implementing Socio-Economic Reforms, Modernizing the Country, and Ensuring Reliable Protection of Human Rights and Freedoms," identified "Serving the Interests of the People" as a priority task of prosecutorial bodies. The Decree emphasizes the need to strengthen the rule of law in society and to ensure effective oversight over the unconditional implementation of laws aimed at advancing democratic and socio-economic reforms and ensuring the reliable protection of human rights and freedoms. It also stipulates that particular attention should be devoted to ensuring the implementation of programmes aimed at creating new jobs.

We concur with the views of legal scholar D. S. Davudova concerning the legal foundations of the activities of prosecutorial bodies. In particular, according to the scholar, the legal foundations regulating the activities of prosecutors may be conditionally classified into several groups:

a) internationally recognized instruments, including the Universal Declaration of Human Rights and a number of other international instruments;

b) fundamental instruments establishing general legal principles, such as the Constitution of the Republic of Uzbekistan;

c) instruments directly aimed at regulating the substantive, procedural, organizational, and practical aspects of the relevant field, including the Law "On the Prosecutor's Office," the Criminal Procedure Code, sector-specific orders of the Prosecutor General, resolutions of the Plenum of the Supreme Court, and other relevant instruments;

d) normative legal acts aimed at improving prosecutorial activities, including decrees and resolutions of the President of the Republic of Uzbekistan, joint resolutions of state bodies, and other relevant acts.

Legal scholars have not reached a definitive consensus as to whether decisions of the collegiums of prosecutorial bodies should be regarded as legal foundations of prosecutorial oversight.

In this regard, an examination of the relevant legislation shows that Article 19 of the Law "On the Prosecutor's Office" provides that the collegiums established within the General Prosecutor's Office of the Republic of Uzbekistan, the Prosecutor's Office of the Republic of Karakalpakstan, the prosecutor's offices of the regions and the city of Tashkent, and equivalent prosecutor's offices are advisory bodies. These collegiums consider matters relating to the state of legality and crime, the activities of prosecutorial bodies, the implementation of orders and instructions of the Prosecutor General of the Republic of Uzbekistan, the selection and placement of personnel, as well as other relevant issues. They also hear reports from prosecutors, heads of structural divisions of prosecutorial bodies, and other employees.

Based on decisions of the collegiums, the relevant prosecutors may issue orders.

Based on the foregoing, it may be argued that, in our view, collegium decisions should also be regarded as one of the legal foundations of prosecutorial oversight, as such decisions establish relevant instructions and tasks aimed at properly organizing oversight activities and enhancing their effectiveness. The implementation of these tasks is subsequently placed under supervision.

In this regard, A. B. Komilov has also expressed well-founded views that decisions of the collegiums of prosecutorial bodies should be regarded as a legal basis for prosecutorial oversight over the implementation of laws.

Based on the foregoing, it may be stated that, in our view, the organizational and legal foundations of prosecutorial oversight over the implementation of legislation aimed at ensuring employment for the population comprise the following:

- international legal instruments relevant to the field, including the Universal Declaration of Human Rights and a number of other instruments;
- the Constitution, the Law "On the Prosecutor's Office," and legislation regulating the relevant field, including the Law "On Employment of the Population" and other legislative acts;
- resolutions and decrees of the President of the Republic of Uzbekistan, resolutions of the Cabinet of Ministers, and other relevant regulatory acts;
- orders of the Prosecutor General, decisions of collegium meetings, and relevant legal acts of ministries and agencies;
- legal acts of local government authorities concerning the promotion and provision of employment for the population, as well as other relevant legal instruments.

In light of the above, studying the legal foundations of prosecutorial oversight over the implementation of legislation aimed at ensuring employment for the population is of significant legal importance. A comprehensive examination of this area contributes to the proper and effective organization of prosecutorial oversight.

In conclusion, it may be stated that, at present, improving prosecutorial oversight over the implementation of legislation aimed at ensuring employment for the population is of crucial legal importance not only for ensuring the rule of law in this area, but also for further improving the living standards of the population and ensuring their access to stable sources of income.

Komilov, A. B. *Improving the Organizational and Legal Foundations of Prosecutorial Oversight over the Implementation of Laws Aimed at the Legal Protection of Entrepreneurs*. Dissertation submitted for the degree of Doctor of Philosophy (PhD) in Law. Tashkent, 2020, pp. 59–60.