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THE CONCEPT, CONTENT, AND ESSENCE OF THE PROSECUTOR'S POWERS WHEN REFERRING A CRIMINAL CASE TO COURT

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ABSTRACT

This article analyzes the concept, legal nature, content, and significance of the prosecutor's powers at the stage of sending a criminal case to court. The scientific and theoretical foundations of the term "authority" as a set of rights and obligations are highlighted, and the functions of the prosecutor in supervising the inquiry and preliminary investigation are studied. Also, in addition to sending the case to court with the indictment, the direct participation of the prosecutor in the application of alternative institutions such as amnesty, reconciliation and plea bargaining, as well as the role of the prosecutor in guaranteeing human rights are scientifically and practically revealed.

Before directly defining the concept, content, and essence of the prosecutor's powers when referring a criminal case to court, it is advisable to dwell in detail on the etymological and legal nature of the term “authority”.

Linguistically, this word primarily refers to the authority and right granted to perform a task, manage, or act on behalf of others. However, in legal literature, scientific research, and regulatory legal documents, this term has a much broader, systematic, and strict meaning, expressing official representation and jurisdiction (competence) within the system of state power and administration.

Powers are an integral set of rights and obligations enshrined by law to act on behalf of the state, institution, organization, or a specific official, make decisions that entail legal consequences, sign documents of legal significance, and regulate specific social relations [1].

In legal science, it is a mistake to simply use this concept as a synonym for the word “law”. This is because the powers of an official (including a prosecutor) include three integral mechanisms:

Law is the ability of an official to perform certain actions on behalf of the state not at their own discretion, but to achieve goals defined by law (for example, to request documents, initiate a criminal case, or send the case to court).

Obligation is a condition for the unconditional use of granted rights only in the interests of society and the state, for the purpose of protecting the rights and freedoms of the individual. Unlike ordinary citizens, for an official, exercising their right is simultaneously their duty (i.e., if a prosecutor sees a violation of the law, they cannot refuse to exercise their right; they are obliged to act).

Scope (boundary) of authority and responsibility - the authority of each body is strictly limited in territorial, sectoral, or procedural terms. Exceeding this limit (abusing power or exceeding the scope of authority) entails legal liability.

In the system of state power and law enforcement agencies, authority always acquires an imperative (commanding) character. That is, legal acts (decisions, representations, sanctions) adopted by an authorized person within their competence are mandatory for execution by all citizens, institutions, and departments. This imperative is the primary tool for ensuring law and order within society.

Consequently, based on the above, it can be concluded that at the stage of sending a criminal case to court, the prosecutor's "authority" should be understood as a set of imperative rights and procedural obligations that determine the fate of participants in the criminal process, guarantee the provision of their rights and freedoms, evaluate the legality of the preliminary investigation on behalf of the state, and transfer the case to the court for final resolution.

In accordance with the new edition of the Law of the Republic of Uzbekistan “On the Prosecutor's Office” dated August 29, 2001, the Prosecutor's Office of the Republic of Uzbekistan is the sole centralized system exercising control over the precise and uniform execution of laws [2]. In this system, the prosecutor not only fights crime but also acts as the primary supervisory body ensuring the legality of investigative bodies’ activities.

The primary object of prosecutorial supervision is the strict execution of laws by bodies engaged in the fight against crime (bodies of inquiry and preliminary investigation). According to Article 33 of the Criminal Procedure Code of the Republic of Uzbekistan (CPC), the Prosecutor General of the Republic of Uzbekistan and subordinate prosecutors supervise the precise and uniform execution of laws at the stages of inquiry and preliminary investigation [3].

This oversight process includes reviewing criminal complaints, initiating a case, and verifying the legality of applying preventive measures in the form of detention and imprisonment. The prosecutor is the sole responsible state servant who carries out criminal prosecution, manages the rapid, comprehensive, and objective investigation of criminal cases, and simultaneously exercises control over this activity.

Upon the logical conclusion of the pre-trial proceedings, the case shall be transferred to the prosecutor's discretion. Articles 372 and 381-10 of the CPC strictly define the types of preliminary investigation and completion of inquiry. According to him, the investigation can be completed in the following forms:

• Termination of a criminal case;
• Drafting an indictment or indictment;
• Referring the case to court for the application of compulsory medical measures;
• Referral to court in connection with the reconciliation of the parties;
• Submitting a petition to the court to dismiss a criminal case based on the Amnesty Act [3].

The referral of a criminal case to the relevant court for consideration on its merits shall be carried out only after the prosecutor or their deputy approves the indictment. It should be noted that along with the criminal case, all motions and complaints submitted for verification and resolution in a court session are also sent to the court.

The prosecutor does not always send the case to court with the indictment. The legislation also provides alternatives that alleviate the individual's situation. In particular, criminal cases involving the application of a settlement agreement may be referred to court with a ruling without resolving the issue of guilt in the criminal case [4].

The resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On judicial practice in cases of reconciliation" also clarifies the relationship between the investigator and the prosecutor. If the prosecutor returns the case for additional investigation in a case concluded by the investigator's indictment, and the investigator does not agree to this, they have the right to submit their objections in writing to a higher-ranking prosecutor. Similarly, in cases where an act of amnesty must be applied to a person, the prosecutor leaves the issue of guilt open and refers the case to court for termination in connection with the application of amnesty.

The development of the modern legal system requires the humanization and optimization of the criminal process. In accordance with the Law of the Republic of Uzbekistan № LRU-675 dated February 18, 2021, the Criminal Procedure Code was supplemented with a new chapter 62-1 titled "Plea Agreement" [5].

According to it, in cases of crimes that do not pose a great public danger, less serious and serious crimes, the suspect or accused may enter into an agreement with the supervising prosecutor if he admits his guilt, actively helps to solve the crime and eliminates the damage. After the investigator submits the case to the prosecutor, the prosecutor reviews the materials within 5 days, approves the indictment, and sends the case to court along with the plea agreement. This institution further increased the role of the prosecutor in ensuring procedural economy.

The prosecutor is obliged to immediately notify the accused, their defense counsel, as well as the victim, civil plaintiff, and defendant of the referral of the criminal case to the court for consideration on its merits. Simultaneously, they are explained their right to file their petitions and complaints in court. If serious deficiencies of investigative bodies are identified as a result of prosecutorial supervision, a submission is made to the leadership of the relevant body [3].

In conclusion, it can be said that the modern criminal procedure norms in force in our country have elevated legality and human rights to the level of the highest value. The nature of the prosecutor's "filtration" (verification of legality) at the stage of sending the case to court is of decisive importance in guaranteeing the rights to life, freedom and personal inviolability enshrined in the Constitution of the Republic of Uzbekistan. Protecting the individual from any criminal encroachments and preventing unjustified prosecution directly constitutes the essence of the prosecutor's powers.

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