



PRACTICAL PROBLEMS OF PROSECUTOR'S OVERSIGHT OF THE IMPLEMENTATION OF LAND LEGISLATION: ANALYSIS AND EVALUATION

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ABSTRACT

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Today, all spheres of human life are in some way closely connected by economic relations. Prosecutorial activity covers all areas of the economy, but priority areas are those that affect the state of legislation and law and order in the economic sphere, and therefore require the prosecutor's office to take priority measures.

Land use, as the basis of human life and activity, as a natural object, as one of the most important parts of nature, as an object of natural resources, immovable property, property rights, and other rights to land, must be protected simultaneously with its use. Land law is a branch of state law that requires state-legal regulation of land relations, and in this regard, the activities of the prosecutor in the above-mentioned area are multifaceted.

According to the data of the Cadastre Agency for 2022, today the total land area of our country is 44 million 892.4 thousand hectares, of which 27.1 million hectares are intended for agriculture, 224.1 thousand hectares are for settlements, 879.6 thousand hectares are intended for industry, transport, communications, defense and other purposes, 731.6 thousand hectares are lands intended for nature protection, health improvement, recreation, 14.6 thousand hectares are of historical and cultural significance, 12.6 million hectares are forest fund, 827.1 thousand hectares are water fund, and 9.6 thousand hectares are reserve lands.

Our esteemed President, addressing the urgency of this issue, noted that currently, only 20.7% of the 20.2 million hectares designated for agriculture are irrigated lands. Over the past 15 years, irrigated land per capita has decreased by 24 percent (from 0.23 ha to 0.16 ha). This situation arose as a result of population growth, a decrease in water supply volumes, and the transfer of agricultural land to other land fund categories. According to forecasts, the area of irrigated land may decrease by another 20-25 percent over the next 30 years. Therefore, irrigated agricultural land should be used exclusively for growing agricultural crops, as well as for horticulture, viticulture, and the cultivation of perennial trees. Unfortunately, the area of

irrigated land in our country is only 3 million 300 thousand hectares, and it is impossible to increase it. Because our water resources are limited. Our population is growing year by year. They noted that, unfortunately, cases of sale, unauthorized seizure, and looting of irrigated lands by farmers and other responsible managers continue due to the lack of strict control on the ground.

Large-scale measures are being implemented in our country to radically reform the socio-economic sphere, aimed at consistently improving the well-being of the population. Considering the importance of accelerated development of agriculture and industrialization in the implementation of reforms in this area, especially by strengthening specialization in agriculture, as the Head of State Sh.M. Mirziyoyev noted in his Address to the Oliy Majlis, "reforming the agricultural management system, introducing advanced technologies for the rational use of land and water resources, and ensuring food security are our most important tasks".

Based on the foregoing, it can be said that in our republic, along with the implementation of systematic work to ensure the rational and targeted use of land plots, their protection, the development of new lands and their reintroduction into circulation, there are cases of non-compliance with land legislation in the regions, misuse and inefficient use of land plots, including the construction of illegal structures, as well as unauthorized seizure of land. This necessitates the introduction of a unified control system through the widespread use of digital technologies and further strengthening of cooperation between authorized agencies. In particular, the tasks of the prosecutor's office, which exercises prosecutorial supervision over the implementation of land legislation, are primarily based on the principles of reliable protection of land plots, especially irrigated lands, prevention of unauthorized seizure of land and illegal construction, and assistance in protecting the rights and legitimate interests of citizens and legal entities legally using land.

The issue of analyzing and assessing prosecutorial supervision over the implementation of land legislation is complex. First of all, it is necessary to address the goals and objectives of analysis and assessment, as well as the procedures for its implementation.

In this regard, it is noticeable that the boundaries of responsibilities between the territorial prosecutor's offices and the specialized prosecutor's offices mentioned above are not clearly defined

, resulting in instances of task duplication, and the specific duties of prosecutors in this area are not clearly established. According to Article 45 of the Law "On the Prosecutor's Office," the activities of the Military Prosecutor of the Republic of Uzbekistan, the Transport Prosecutor of the Republic of Uzbekistan, the Prosecutor of the Republic of Karakalpakstan, as well as prosecutors of regions and the city of Tashkent, prosecutors of districts, cities, and prosecutors equated to them are comprehensively reviewed by the relevant higher-ranking prosecutors at least twice during their term of office. The main criteria for assessing the activities of prosecutors are the state of legality and ensuring the protection of the rights and freedoms of citizens, as well as the legitimate interests of society and the state.

Persons who, during their activities, have failed to ensure proper control over the implementation of laws in the relevant territory, are not allowed to be re-nominated for the position of prosecutor.

From the content of this article, it is clear that the assessment in this article is related to the activities of prosecutors in terms of content and practice, and does not include an assessment of the activities of employees of the prosecutor's office, since their activities are part of the functional duties of prosecutors.

Also, the assessment reflected in this article does not fully reflect the assessment of prosecutorial supervision over the implementation of land legislation, but includes an assessment within the framework of its functional tasks.

Another problematic aspect of these cases is the lack of criteria for analyzing the assessment of their activities. In our opinion, the development of such criteria is also somewhat controversial, since it is possible to fully ensure the implementation of laws, but the breadth of participants in land relations, the diversity of land categories, as well as the multifaceted nature of procedures aimed at regulating it in each case, create the need to turn the analysis and assessment of the implementation of land legislation in the activities of the prosecutor's office into a more complex process, as well as to develop rules for additional bonuses or material incentives for the achievements of the bodies responsible for this in the field. This, on the one hand, is considered positive, but in the future it can only lead to the exaggeration of official statistics and results, that is, it can lead to the personal interest of prosecutors in the land, and as a result, it can lead to a conflict of interest between regulatory bodies and those under control.

Based on the foregoing and the content of Article 45 of the Law "On the Prosecutor's Office," it can be said that analysis and assessment in the implementation of prosecutorial supervision over the execution of land legislation are activities carried out by them for the precise and uniform fulfillment of tasks defined by legislation, which simultaneously includes analysis of documents submitted by state bodies and officials and assessment of their compliance with the tasks defined by legislation.

It should be noted that the issue of organizing analysis and assessment is carried out on the basis of the individual skills of each prosecutor, as well as employees of the prosecutor's office, and in this process, planning the study of control objects is an important practice.

In ensuring legality in the sphere of land use, the territorial prosecutor accepts and resolves appeals and messages of this content, conducts inspections in the sphere of rational and targeted land use, studies compliance with legislation in the activities of bodies related to this sphere, and makes appropriate decisions.

The assignment of these tasks to specific regions, to special prosecutor's offices, as a common task, will lead to duplication and various other misunderstandings between them in the future. To this end, this problem can be solved by defining the scope and limits of powers of the republican, regional, and district prosecutor's offices, as well as specialized prosecutor's offices, in exercising control over the implementation of land legislation, correctly organizing their activities, and strengthening their responsibility for exercising prosecutorial supervision over the implementation of land legislation.

Foreign researcher A.A. Mudrik notes that when carrying out land control and analysis by the prosecutor's office, it is important to identify typical violations in the field of regulation of land legal relations as an effective measure of planning the study of control objects, that is, the implementation of the preparatory stage. Also, the methodology and tactics of the

prosecutorial investigation are a set of recommendations, methods, and means used by prosecutors to identify violations of land legislation, prevent them, eliminate them, and take countermeasures against lies, and are important in identifying typical violations of land legislation during the investigation, as well as in choosing measures for applying the prosecutor's influence.

Practical scientist D.E. Patlaev proposes that the analysis and assessment of the implementation of prosecutorial supervision in ensuring the implementation of land legislation should be based on general principles and approaches, and the following sources should be identified to obtain information on violations of land legislation:

- internal sources, which may include statistical reports on the areas of activity of the prosecutor's offices, analysis of the state of crime and investigative and judicial practice, materials of prosecutorial investigations, criminal, civil and arbitration cases, cases of administrative offenses, developments on the results of specific inspections of the implementation of laws by the prosecutor's offices for a certain period or in relation to land;

- materials of bodies maintaining the state property cadastre, bodies carrying out state registration of rights to land plots, and state land control;

- normative legal acts adopted by state bodies and local authorities on issues of working with land plots, as well as other materials available to these bodies, including documents that are the basis for the provision of land plots, materials for conducting tenders, auctions, registers of land lease agreements, lease agreements, protocols, registers of trade and purchase agreements, and others;

- also, the most important among them are appeals to the prosecutor's office regarding violations of the law by citizens and legal entities, as well as information from other law enforcement and regulatory bodies about violations of land legislation.

Researcher Yu.O. Karpysheva focused on the problems in the activities of the prosecutor's offices of the Russian Federation on this issue, stating the following, the establishment of a 30-day period without taking into account the conflict of law norms in the legislation, certain intersectoral features of supervisory inspections, as well as, as an additional condition, in March 2022, the General Prosecutor's Office of Russia issued an instruction requiring the lower prosecutor's offices to coordinate inspections with the higher prosecutor's office, however, the absence of mechanisms for the procedure and terms of approval, the general nature of the methodological recommendations given for each supervisory inspection, which are often useful, the lack of consideration of specific features, the fact that one of the measures that should be taken to ensure electronic interaction of all levels of prosecutor's offices with each other and with other state bodies in the implementation of prosecutorial supervision activities is the preparation of scientific, methodological, regulatory support and software and hardware infrastructure to ensure the possibility of conducting remote prosecutorial inspections, in some cases, the fact that supervisory inspections are based on verbal instructions, which negatively affects the effectiveness of the activities of lower-level prosecutor's offices, the growing need for remote inspections in the modern information space, as in all spheres, makes it difficult to analyze and evaluate the activities of ground control inspections, the work done.

In our opinion, the opinions of the above-mentioned researchers are also valid, since the analytical and evaluative functions of the prosecutor's office in land relations are part of the functional duties of employees of the sphere and are considered a means of ensuring effective prosecutorial supervision.

Also, in order to eliminate existing problems based on foreign experience in the future, it is advisable to make wider use of information and communication tools in order to achieve accuracy in the analysis and assessment of the implementation of prosecutorial supervision. In particular, in Australia (state example - Western Australia), land law violations are based on evidence obtained through satellite imagery by competent authorities, allowing for the establishment of prohibitions and liability, while the Western Australian government, using European satellite data, such as Copernicus Sentinel-2, helps prosecutors find unbiased visual evidence, allowing for the illegal seizure of land, its use for purposes other than the type of activity, changing boundaries, identifying factors that negatively affect soil fertility, and on this basis successfully applying criminal or administrative liability.

In this regard, we will dwell on some problems arising in the process of applying national legislation in practice.

on the procedure for organizing the identification and liquidation (demolition) of unauthorized construction, approved by the resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated July 5, 2017 No. 467 Regulation, approved by the Resolution of the Cabinet of Ministers dated April 14, 2022 No. 183 "On State Land and on the procedure for carrying out cadastral supervision regulation Presidential Decree of the Republic of Uzbekistan dated February 21, 2022 "On Measures to Increase the Effectiveness of State Control over the Use of Land Plots" and Based on Resolutions No. 138, the prosecutor's office filed lawsuits with the courts.

In accordance with the Decree of the President of the Republic of Uzbekistan dated June 8, 2021 "On Measures to Ensure Equality and Transparency in Land Relations, Reliable Protection of Land Rights and Their Transformation into a Market Asset," the Cadastre Agency was granted additional powers in 2021 Decree of the President of the Republic of Uzbekistan No. UP-6243 Clause 10 stipulates that the Cadastral Agency will identify cases of non-registration of rights to all types of land plots and buildings, regardless of land category, take measures to prevent unauthorized seizure of land plots and unauthorized change of their boundaries, and exercise state control over the targeted use of land.

In the event of detection of cases of misuse of land plots, in accordance with Article 36 of the Land Code, the right to apply directly to the court for the cancellation of rights to these land plots, the return of illegally occupied land plots, and (or) the demolition of illegally constructed buildings on them is granted.

Within three working days from the date of receipt of the notification submitted by the authorized bodies, the khokim of the district (city) ensures the submission to the court of a statement of claim for the demolition of unauthorized construction in accordance with part 3 of Article 212 of the Civil Code.

In this case, it was added that the Cadastral Agency under the State Tax Committee of the Republic of Uzbekistan and its territorial bodies shall apply directly to the court for the

demolition of illegally constructed buildings on illegally occupied land in the prescribed manner.

Also, the Regulation "On the procedure for identifying and organizing the liquidation (demolition) of unauthorized construction," approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 467 dated July 5, 2017, was canceled by the Resolution of the Cabinet of Ministers No. 192 dated March 28, 2025.

Clause 14 of the Regulation, approved by Resolution No. 467 of July 5, 2017, stipulated that the statement of claim for the destruction (demolition) of an unauthorized structure must be accompanied by the act provided for in Clause 8 of this Regulation, the notification provided for in Clause 10, a layout of the unauthorized structure, and photographs of the structure, but currently, the court does not accept the statement of claim for consideration under this requirement.

Article 2708 of the Civil Procedure Code of the Republic of Uzbekistan establishes that the following accompanying documents must be included in the statement of claim for the demolition of illegal structures:

- an act on violation of the requirements of legislation, drawn up by the authorized state body in the field of identifying unauthorized constructions and organizing their liquidation (demolition);

- a warning from the authorized state body in the field of identifying unauthorized constructions and organizing their elimination (demolition) on the voluntary elimination of violations of the law;

- information on state registration of rights to real estate;

- documents on the commission of an offense are attached.

Otherwise, according to part 2 of Article 2707 of the Civil Procedure Code (content of the statement of claim), a statement of claim filed in violation of the requirements provided for in Articles 189 and 2708 of this Code is returned to the plaintiff by the court in accordance with the rules provided for in Article 195 of the Civil Procedure Code.

In accordance with the Regulation on the Procedure for Implementing State Land and Cadastre Control, approved by the Resolution of the Cabinet of Ministers No. 183 of April 14, 2022, it is established that in case of voluntary non-compliance by individuals and legal entities with the instructions of the Cadastre Agency bodies on the elimination of illegally constructed buildings on illegally occupied land within fifteen days, claims are filed directly with the courts.

Based on the amendments made to the above legislation, the Cadastral Agency has been filing lawsuits with the courts regarding the demolition of illegal structures.

However, there are problems with filing lawsuits in courts in criminal cases initiated against citizens in land cases.

The reason is that it is established to attach documents on the commission of an offense under paragraph 4 of Article 2708 of the Civil Procedure Code, and since the person in respect of whom a criminal case has been initiated has not yet been found guilty, the application has been rejected by the courts for civil cases.

During the first nine months of this year, cases of unauthorized construction on 63.31 hectares of arable land were identified, and a total of 123 criminal cases were initiated.

However, within the framework of these criminal cases, illegal structures on a total of 53.6 hectares of land have not been demolished, and when analyzing the reasons, inconsistencies in the above-mentioned code and legislation are the cause.

Based on the foregoing, it is advisable to supplement paragraph 4 of Article 2708 of the Code with the words "except in cases where a criminal case has been initiated".

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