

# Issues of applying measures of influence of the prosecutor over the implementation of legislation on irrigated agricultural land

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**Abstract:** This article analyzes the importance of prosecutorial oversight and the application of measures to ensure the enforcement of legislation on the efficient use of irrigated agricultural lands. It highlights existing legislative norms, their socio-economic significance, and practical challenges. Scientific proposals and recommendations have also been developed to improve the mechanism of prosecutorial measures. These recommendations aim to enhance the efficiency of rational land resource use and prevent legal violations.

**Keywords:** Irrigated agricultural lands, prosecutorial oversight, enforcement of legislation, measures of influence, land resources, legal violations, efficient use, legal mechanism, challenges, recommendations.

**Introduction:** The President of the Republic of Uzbekistan, Sh. M. Mirziyoyev, correctly emphasized, "Ensuring the supremacy of the Constitution and laws, and the principles of legality, is an essential guarantee for protecting human rights and freedoms." [1]

As the Prosecutor General of the Republic of Uzbekistan N.T. Yuldashev noted, "...due to the initiatives of the head of our state and his attention to our system, the entire appearance of the prosecutor's office has radically changed in recent years. The most important thing is that, as a result of the measures taken to transform the prosecutor's office into a "People's Prosecutor's Office" in the true sense of the word, the system, which for many years has been perceived by people as a punitive body, is now becoming a structure that protects their rights and, in turn, the interests of the state, and contributes to ensuring the rule of law and the triumph of justice in society." [2].

Article 5 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" states that any deviation from the strict implementation and observance of laws, regardless of the grounds on which it is made, is considered a violation of legality and entails the established liability. [3].

One of the most important elements of organizing

prosecutorial control over the implementation of legislation on irrigated agricultural lands is the analysis of data on violations of the laws regulating the area under consideration. The timely application of prosecutorial control documents, i.e. prosecutorial measures of influence, on cases of violations identified during the review of data is important for ensuring the effectiveness of prosecutorial control in the area.

In this regard, some legal literature emphasizes that prosecutorial control documents should be considered as a means of preventing and preventing violations of the law, as well as eliminating violations of the law, their causes, and the conditions that enable them [4].

In the opinion of T.V. Ashitkova, the timely and strict use of prosecutor's control documents against offenders who have committed violations of the land law is considered an important aspect of ensuring legality in this area [5], according to V.K. Zvirbul, the prosecutor's control documents are the main instrument of warning against violations [6].

Taking into account the universality and importance of the prosecutor's control over the implementation of laws and the legality of regulatory legal acts established in other sources, the legal regulation of the prosecutor's office is fully covered by the Law "On the Prosecutor's Office". The main fact that needs to be

clarified and is largely decisive is that the “Procuracy Law” states that in order for the prosecutor’s office to exercise control over compliance with laws and the legality of regulatory legal acts, no indication is required in other laws other than the law [7].

The analysis shows that the main documents of prosecutorial control used in the direction of control over the implementation of legislation on irrigated agricultural lands are protests, presentations, decisions, warnings and applications. In particular, over the past period, it was revealed that 6,259 hectares of land plots were arbitrarily occupied across the republic, illegal construction was carried out on 365 hectares, warnings were issued to 28,636 individuals, 3,247 hectares of land were returned to the state reserve, and 1,503 illegally constructed objects on 63 hectares were voluntarily demolished, lawsuits were filed in courts in 9,484 cases (2,617 hectares), and 30,128 individuals were brought to administrative responsibility.

Also, 1,465 criminal cases were initiated in connection with the looting of 6,077 hectares of land, and 2,823 hectares of land were sold for 22.6 million. US dollars and 19.7 billion. cases of illegal sale were prevented [8].

A protest filed in the direction of control over the implementation of legislation is a written legal document of the prosecutor, which entails legal consequences, in which he puts forward substantiated demands to the authorized bodies to cancel or adjust an illegal act [9].

When conducting an inspection of the implementation of legislation on irrigated agricultural lands, prosecutors may file protests against documents they consider illegal due to violations of the law identified as a result of the inspection of compliance with the principles of the Land Code, the authority to maintain records of information on objects and subjects of ownership, land ownership, use and lease, their intended use and the regime of their use, and the decisions of authorized bodies in the field of protection and protection of irrigated lands.

Article 38 of the Law “On the Prosecutor’s Office” states that a prosecutor may file a protest against an unlawful act with the body that adopted the act or with a higher authority. According to this Law, if the protest is rejected by the body (official) that adopted the act or by a higher authority (official) or is not considered within the time limit established by law, the prosecutor has the right to apply to the court with an application to declare the act unlawful.

In addition, prosecutors use the submission control document in accordance with Article 40 of the Law “On the Prosecutor’s Office” to eliminate the violation of

the law, the causes of its origin and the conditions that make it possible.

According to T.I. Ashitkova, “the most effective means of prosecutorial control in eliminating violations of the law in the activities of prosecutors and the conditions under which they arise is the presentation” [10].

According to V.G.Melkumov [11] and T.V.Ashitkova [12], the cases of violation of the law, violated legal documents, the range of officials who committed the violation of the law, and the reasons for the violation of the law should be clearly indicated in the presentation.

In our opinion, the presentation is a document aimed at eliminating a complex of violations of the law. The presentation should be legally and qualitatively formalized and the circumstances of using cultural heritage objects and archaeological monuments should be clearly and concisely expressed in it.

Some scholars indicate that the submission as a document of prosecutor’s control should contain the following elements:

- a) legal analysis of information on the identified violations of the law;
- b) the type, name, date of adoption and number of the violated regulatory legal act, a clear indication of whose interests were harmed as a result;
- c) the circle of officials who committed the violations of the law or allowed such violations to be committed;
- d) the specific reasons and circumstances that led to the violation of the law;
- e) the opinions and considerations of the prosecutor aimed at eliminating or eliminating the violations of the law [13].

At this point, it is worth noting that the opinion of legal scholar A.I. Rakhmonov that “the use of general requirements in setting requirements for eliminating violations of the law predetermines the official nature of responses to prosecutors’ submissions” [14] is correct.

Presentations, as a rule, are formed by summarizing information about many cases of violations of the law.

The presentation is based on a generalization of facts about a relatively large number of violations, but it can also be reduced to single facts [15].

According to the analysis, 158 submissions were submitted in 2024 to address violations of the law, their causes, and the conditions that create opportunities for them.

In accordance with Article 42 of the Law “On the Prosecutor’s Office”, in the event of reliable information about the preparation of illegal actions

that may harm the legally protected interests, rights and freedoms of citizens, as well as the interests of society and the state, the prosecutor shall, in order to prevent violations, warn officials and citizens in writing to prevent violations of the law and explain the responsibility for committing violations [16].

According to V.B. Yastrebov and T.V. Ashitkova, the warning is a warning by the prosecutor to prevent "pure" violations of the law - aimed at preventing the commission of illegal actions and the occurrence of negative consequences [17].

The prosecutor shall notify the superior body (official) of the warning, as well as the employer (administration) at the place of work, study or self-government body of citizens at the place of residence of the person against whom the warning was issued. The basis for issuing a warning to an official shall be only reliable information about violations that may lead to the commission of a crime and damage to the interests of the state or society or the rights and freedoms of citizens protected by law.

In general, a warning should be one of the minimum documents of prosecutorial control. Since such a measure should be applied only if there is reliable information about the commission of violations of the law.

The prosecutor has the right to file a lawsuit with the court to protect the rights and legitimate interests of legal entities and individuals and the state in cases of damage caused by arbitrary occupation of land or illegal use of land.

The prosecutor has the right to file a petition with the court to protect the rights and legitimate interests of citizens, legal entities and the state, in accordance with Article 41 of the Law [18]. When investigating the implementation of legislation on irrigated agriculture, the prosecutor must first protect the interests of society and the state by filing a lawsuit with the court to recover the damage caused from the guilty parties.

In case of unprofitable use of irrigated agricultural land or violation of legislation in this area, in accordance with Article 50 of the Federal Code of Civil Procedure, Article 46 of the Code of Civil Procedure and Article 49 of the Code of Criminal Procedure, the prosecutor may participate in cases related to legal relations related to land or apply to the court with a statement to this effect in order to protect the legally protected interests of the state.

For example, during the control measures carried out, 2,059 applications filed with courts across the republic were satisfied. During the investigation, 14 court decisions on the demolition of illegal structures in

Surkhandarya, 5 in Syrdarya, and 3 in Karakalpakstan were enforced[19].

Also, Article 39 of the Law "On the Prosecutor's Office" provides that the prosecutor has the authority to issue a decision to initiate a criminal case, administrative or disciplinary liability, depending on the nature of the violation committed by an official or citizen, and in order to make a decision on administrative liability, the person who committed the offense must have committed the actions provided for in Articles 60, 601 of the Code of Administrative Responsibility of the Republic of Uzbekistan (hereinafter referred to as the CAC). Prosecutors are required to separately investigate whether the authorized body has made the correct decision to initiate a case on administrative liability for the offenses provided for in this article.

Article 60, Part 1 of the Criminal Code of the Republic of Uzbekistan stipulates that if administrative liability is established for an offense resulting from the arbitrary use of land, water, flora or fauna, or the conclusion of transactions or other actions that directly or covertly violate the right of ownership of land and other natural resources (except for subsoil and groundwater), or the transfer of the right to special use of nature to others, citizens may be fined from five to ten times the basic calculation amount, and officials - from ten to fifteen times the basic calculation amount, or administrative arrest for a term of up to fifteen days.

In Part 2 of this Article, the arbitrary seizure of land plots, including the use of them without legal rights to these land plots, shall be punishable by a fine of thirty times the basic calculation amount for citizens, and seventy times the basic calculation amount for officials.

Or in Part 3 of this Article, the implementation of construction work on land plots adjacent to or not adjacent to the allocated land plot, which was arbitrarily seized, shall be grounds for imposing a fine of two hundred times the basic calculation amount for citizens, and four hundred times the basic calculation amount for officials.

Based on the principle of humanity, the legislator has established that a person who has committed the offense contemplated in Part 2 of Article 60 of the Criminal Code for the first time shall be exempted from liability if he ensures the return of the arbitrarily occupied land plot and eliminates the consequences of the arbitrarily occupied land plot.

In addition, within the scope of the direct subject of the study, Article 601 of the Code of Civil Procedure establishes administrative liability for failure to take measures to prevent the arbitrary seizure of irrigated land.

Failure to take measures by the landowner, land user or lessee to prevent the arbitrary seizure of irrigated land in accordance with the provisions of this article, including failure to notify the competent authorities of the fact of the arbitrary seizure of the land plot, shall entail the imposition of a fine on citizens in the amount of twenty times the basic calculation amount, and on officials - in the amount of fifty times the basic calculation amount.

The administrative offenses specified in these provisions fall under the authority of the bodies of the Cadastre Agency under the State Tax Committee of the Republic of Uzbekistan.

When studying the legislation of foreign countries in this regard, for example, Article 136 of the Civil Code of the Republic of Kazakhstan establishes administrative liability for the illegal seizure or exchange of state land plots, as well as the implementation of other transactions that directly or indirectly violate the state's right to land ownership, as well as failure to return temporarily occupied state land in a timely manner, and is punishable by a fine of seventy-five monthly calculation indices for individuals, one hundred for officials, small business entities or non-profit organizations, one hundred and fifty for medium-sized business entities, and seven hundred for large business entities [20].

Or Article 7.1 of the Code of Administrative Offenses of the Russian Federation also establishes liability for the arbitrary seizure of land plots, mainly with a fine [21]. It can be seen that the fine is high when compared to national legislation.

In addition, the administrative legislation of India, the USA, China, Germany, and Turkey provides for fines and other penalties for the arbitrary seizure of irrigated land, and in the countries studied, similar to national legislation, the arbitrary seizure of land is considered a crime.

The legislation uses administrative penalties (fines) as the main measure. The processes of returning the acquired lands are carried out through the protection of the law. When it comes to the specifics, it can be seen that the amount of the fine is low in the national legislation. In our opinion, taking into account the interests of the state and society, it is advisable to increase the amount of fines for offenses such as the arbitrary occupation of irrigated agricultural lands and introduce electronic monitoring tools.

As a result of the inspections conducted on the implementation of the CAC, it was revealed that 54 sq. m. of the land area belonging to the branch of the family polyclinic No. 7 located in the district was arbitrarily occupied by citizen H.M., and on 12.04.2023

a lawsuit was filed with the Inter-District Court of the Federal District Police Office.

In addition, prosecutors, within the scope of their powers, must make a firm decision in the event of a criminal offense stipulated by Article 197 of the Criminal Code of the Republic of Uzbekistan (hereinafter referred to as the Criminal Code). Article 197 of the Criminal Code stipulates that in cases where a violation of the conditions for the use of land, subsoil resources or the requirements for their protection has resulted in grave consequences, the punishment shall be a fine in the amount of fifty to one hundred times the basic calculation amount, or up to three hundred and sixty hours of compulsory community service, or up to three years of correctional labor, or up to three years of restriction of liberty, or up to three years of imprisonment.

Or, Article 197.1 of the Civil Code states that failure to take measures by a landowner, land user or lessee to prevent the arbitrary seizure of irrigated land, including informing the authorized bodies about the fact of the arbitrary seizure of a land plot, if committed after the imposition of an administrative penalty for such an act, is punishable by a fine in the amount of two hundred to four hundred times the basic calculation amount, or by compulsory community service for up to three hundred and sixty hours, or by correctional labor for up to two years, or by restriction of liberty for a term of one to three years, or by imprisonment for a term of up to three years.

The legislator notes that in cases where the above-mentioned criminal offense is committed repeatedly or by a group of persons in advance by collusion, it shall be punishable by a fine in the amount of four hundred to six hundred times the basic calculation amount, or by correctional labor for a term of two to three years, or by restriction of liberty for a term of three to five years, or by imprisonment for a term of three to five years.

Based on humanitarian principles, the law provides that a person who has committed a crime for the first time is exempted from liability if he ensures the return of the arbitrarily occupied land plot and eliminates the consequences of the arbitrarily occupied land plot. Of course, this requires that the person who committed the crime voluntarily ensures the return of the arbitrarily occupied land plot and eliminates the damage caused.

Also, Article 2296 of the Civil Code stipulates that selling or otherwise transferring the right to an irrigated land plot or part thereof to another person in violation of the law is punishable by a fine of four hundred to five hundred times the basic calculation

amount, or deprivation of certain rights, restriction of freedom for a term of two to five years, or imprisonment for a term of up to five years.

The same act, if it a) causes significant damage to land; b) is committed by a group of persons in advance by a conspiracy; c) is committed repeatedly or by a dangerous recidivist; d) is committed by taking advantage of an official position, shall be punishable by a fine of five hundred to six hundred times the basic calculation amount or by deprivation of certain rights for a term of five to seven years.

The same act:

- a) caused significant damage to land;
- b) was committed by an especially dangerous recidivist;
- c) by an organized group or in its interests, - shall be punishable by deprivation of certain rights and imprisonment for a term of eight to ten years.

It is established that a person who commits a crime provided for in parts one and two of this article for the first time shall not be subject to punishment in the form of restriction of liberty or deprivation of liberty if he ensures the return of the land plot and the introduction of the land into agricultural circulation.

In comparison with the legislation of foreign countries, Article 136 of the Criminal Code of the Republic of Kazakhstan establishes liability for violation of land legislation, irrigated lands are given special legal protection by the state due to their importance, and more severe penalties are applied in cases where the illegal occupation of state lands causes environmental damage [22].

When compared to the criminal legislation of Russia, India, and the United States, it can be observed that the legislation of Russia and Kazakhstan imposes more severe penalties for cases of causing environmental damage.

In addition, the national legislation establishes liability for irrigated agricultural lands or crimes committed in connection with land under 7 articles. In our opinion, this creates conditions for corruption factors. Therefore, we believe that it is necessary to protect lands by reducing the articles and strengthening the penalties for this type of crime in the national legislation, thereby strengthening prosecutorial control in this area.

As a result of the investigations conducted by the prosecutor's office in this area, it was found that by the decision of the district khokim dated June 27, 2019, the boiler house building, food storage and enterprise buildings of the former multidisciplinary hospital belonging to the district medical association were taken into the ownership of the district khokim without

the permission of the ministry, contrary to the requirements of decision No. PP-4055, with the condition of their subsequent demolition, the buildings and structures were demolished, and in 6 cases, a total of 0.075 hectares of land were sold through electronic online auctions.

As a result, the company's officials illegally demolished buildings and structures worth a total of 109.9 million soums on the balance sheet of the Medical Association, and the land was taken out of the medical association's possession.

A criminal case has been initiated under Article 167, Part 2, Subparagraphs "a, b, d" and Article 205, Part 2, Subparagraph "a" of the Criminal Code.

In general, it is advisable to pay more attention to the judicial consideration of disputes arising from irrigated agricultural lands, since the legal consequences of disputes in this area are directly related to causing damage to the state.

The effectiveness of prosecutorial control increases when conducting control inspections to identify the facts of eliminating the identified violations of the law. In particular, it is important to monitor the implementation of the requirements set forth in the submissions submitted by prosecutors. Prosecutors often do not pay attention to the formal review of powers, and the effectiveness of the measures taken based on the results of the review of powers is not always analyzed. Naturally, indifference to the measures taken weakens the role of prosecutorial control.

The prosecutor's activities in identifying and eliminating violations of legislation on irrigated agricultural lands should not be limited to implementing the above-mentioned measures, but should also help identify the causes and conditions of these violations and take measures to eliminate them.

For the effectiveness of prosecutorial control, it is of great importance for the prosecutor to apply effective measures in a timely manner, to determine their content, the adequacy of improper actions, the elimination of violations, and the reasons and conditions for their implementation.

Often, during investigations, prosecutors can also identify illegal legal documents of state authorities and local authorities that regulate legal relations in the analyzed area.

## **CONCLUSION**

In conclusion, it can be said that in organizing and implementing supervisory activities, the prosecutor must correctly use the forces and means assigned to him in order to fulfill the tasks assigned to him in an

excellent manner, to do as much work as possible in the least amount of time, and at the same time to do it with high quality. We believe that when implementing supervisory work, it is appropriate to separate the main thing from the secondary work, to concentrate the efforts of employees, to prioritize the main problems and pay attention to their successful resolution.

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