

RESEARCH ARTICLE

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# PROSECUTOR'S PROPOSAL AS A FORM OF RESPONSE TO A VIOLATION OF LAW

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## Abstract

The article, within the framework of the application of law in a modern rule-of-law state, reveals the activities of the prosecutor aimed at making a special, individual decision – a proposal on a violation of the law. In particular, as an act of the prosecutor's legal response to violations of the law, problems arising during the submission of a representation, its consideration, as well as when taking practical measures to eliminate the causes and conditions that contributed to violations of the law are analyzed.

**Keywords** Legal regulation, application of law, act of prosecutorial response, violation of the law, response of the prosecutor, elimination of violation of the law.

## INTRODUCTION

One of the unimaginable features of the idea of a modern legal state is the possibility of ensuring the rule of law in society. This means that all legally significant actions of citizens, enterprises, organizations, officials, regardless of the procedure, must be checked in terms of compliance with the requirements of the law .

According to our constitution, our state is a democratic, legal, social and secular state, which uses its power primarily to ensure compliance with the law and the rule of law in society. However, law, in the full sense of the word, becomes a regulator of social relations only when the requirements of its norms are embodied in the behavior and actions of the subjects of the law, when they contribute to the creation of acceptable relations between people in society. Therefore, assimilation, implementation or, in other words, embodiment of the content of the legal norm in the behavior of the subjects of law is called the implementation of law.

A special form of the implementation of subjective rights and legal obligations is the activity of the authorities, which consists in making individual

decisions on legal issues by law enforcement bodies - authorized bodies and officials . At the same time, control over the observance, implementation and use of legal norms in a legal state, without a doubt, requires not only the participation of the coercive power of the state, but also differs in its expediency. Therefore, the purpose of the law enforcement activities of law enforcement agencies, including the prosecutor's office, is to ensure the normal process of legal regulation, that is, to provide practical assistance to citizens in the implementation of their rights and obligations .

Therefore, the law enforcement activities of the prosecutor's office are "special legal activities carried out by authorized state bodies, officials, local government bodies on the development of certain relations by creating legal documents in the forms prescribed by law, granting subjective rights to certain subjects and imposing legal responsibilities" .

Documents on the application of law in the activities of the prosecutor's office are called measures of influence of the prosecutor. The documents representing the prosecutor's action

measure have their own characteristics, and they consist in the fact that the prosecutors have powers strictly defined by law. Prosecutor's impact documents represent state power that helps the prosecutor's office to implement its function of protecting and ensuring human rights .

This situation determines the nature of the prosecutor's action. The duty of the body (official) to which the prosecutor's control document is entered is to review this document (decision, protest, proposal) and send a response to the prosecutor within the specified period of time. Therefore, the main characteristics of any prosecutor's document that determine its speed, timeliness and effectiveness are reasonableness, reliability, as well as legality, principle and demand.

In the current legislation, there is a fairly extensive list of the means and methods of effective action by the prosecutor in cases of violations of the law, "legal forms of implementation of the prosecutor's powers established by law to detect, eliminate, and bring offenders to justice", because the prosecutor's office has been given special powers to eliminate violations discovered during prosecutor's investigations.

In particular, despite the considerable practical importance of the documents of the prosecutor's office and their role in the law enforcement system, the proposal document has not been given due attention in the special literature until recently.

However, the prosecutor's report is a legal tool aimed at timely detection of violations, putting an end to them, restoring the rule of law and the violated rights of citizens, as well as eliminating negative situations caused by violations of the law.

Article 37 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" provides for prosecutor's control documents such as protest, decision, proposal, application and warning. Among them, the most common form of response to a violation of the law by the prosecutor is the prosecutor's proposal.

Sometimes, along with the prosecutor's protest, the prosecutor's proposal to eliminate violations of the law is considered a relatively "softer" form of prosecutorial influence in comparison with other

more serious ones (proposal to the court, using the opportunity of high-ranking prosecutors, etc.) . However, despite this, the prosecutor's proposal today serves as one of the main means of restoring the rule of law, the violated rights and freedoms of man and citizen, and the interests of society and the state protected by law .

In particular, in the second half of 2021, the prosecutor's office submitted 1,574 proposals about the elimination of systemic deficiencies and violations in all control activities conducted by prosecutors . For example, during this period, 7,500 decisions on land allocation were made by the hokims against the law, and 120,000 hectares of land were illegally allocated. As a result of the control activities carried out by the prosecutor's office in this direction, 397 proposals were submitted to eliminate cases of violations of the law .

Well, what is the legal nature of this document?

In general, the proposal is sent by the prosecutor or his deputy as its subject to the competent bodies and officials with a request for immediate consideration and acceptance, a measure to eliminate the violation of the law, the causes and conditions, to assist them, as well as to bring the guilty to financial or disciplinary responsibility. - it is a written document in an official form about reviewing the measures within the specified period and informing the prosecutor in writing about the results of the review and the measures taken.

According to the researcher Sh. Abdukodirov, the term "proposal" is an official document that expresses any information in the form of a request, and in the law it represents an acceptable document on the violation of the law, the causes of its origin and the elimination of the conditions that make it possible. .

The power of the prosecutor to submit a proposal is established in Article 40 of the Law "On Prosecutor's Office". In accordance with it, the prosecutor submits a proposal to the body or official who has the authority to eliminate the violation of the law, the reasons for its origin and the conditions that make it possible to eliminate it.

Within one month from the date of submission of

the application, concrete measures must be taken to eliminate cases of violations of the law, the causes of their origin and the conditions contributing to them, and the results of the measures taken must be reported to the prosecutor in writing.

In cases where the proposal is considered by a collegial body, the prosecutor is informed about the date of the meeting, and he has the right to participate in the meeting.

It should be noted that the proposal is submitted only to the body or official who is authorized to take real measures to eliminate the violation of the law, its causes and the conditions that contribute to them.

The following must be taken into account when making a proposal:

1. To clearly identify the body or official to whom the proposal is to be made.
2. The prosecutor must clearly indicate the violation of the law that led to the use of this form of influence measure.
3. A brief but clear and reasonable statement of the cases of violation of the law identified by the prosecutor and the reasons and conditions contributing to them.
4. Specific and detailed requirements of the prosecutor to take the necessary measures based on the legal norms on the proposal and review procedure.

Due to the complexity of the violations and the need to systematically present the legal position of the prosecutor, the most optimal structure of the proposal, the law that is the basis for its introduction, traditionally consists of three parts: introduction, description (justification) and conclusion.

The fact that the prosecutor's report is a universal prosecutor's control document, which allows to raise various, mainly legal issues aimed at eliminating and preventing violations of laws and situations that contribute to their occurrence, as well as bringing the culprits to justice, imposes certain requirements on the employee of the law enforcement agency. In accordance with these

requirements, in the preparation of proposals special attention is paid to their legal validity, reliability, literacy, brief but comprehensive description of all cases. In addition, all information that is the basis for making a proposal should be carefully checked. Proposals included in the proposal should be clear and provide for the most effective measures to eliminate and prevent violations of the law.

At the same time, there are some problems in the practice of introducing the prosecutor's proposal, the solution of which, in our opinion, can make a significant contribution to the timeliness and effectiveness of the prosecutor's introduction of this impact measure. Among these problems, first of all, the need to clarify the basis for making a proposal stands out. Secondly, the issue of the procedure and period of consideration of the prosecutor's proposal is not without problems. Third, the phrase "immediate consideration" suggests prompt action, but cannot be understood as a requirement. This creates the risk of arbitrary interpretation in practice, and in addition, in this situation, the receiver of the proposal does not have the obligation to immediately inform the prosecutor about the decision, because the law provides a one-month period for this.

However, the concept of "immediate" refers to actions that cannot be delayed, are extremely fast and urgent.

At the moment, the definition of this obligation in the law, on the one hand, allows the prosecutor to practically control the period of consideration of his proposal and to take appropriate measures to eliminate the violation of the law and the circumstances contributing to it. On the other hand, if the prosecutor's proposal is rejected or ignored, it becomes possible to immediately take other measures of the prosecutor, which is especially important when it is necessary to immediately eliminate violations of the law.

In addition, researcher O'tkir Kholmiraev said that the report is submitted only in order to take measures to eliminate the causes of the violation of the law (crime) and the conditions that allowed it to be committed. Logically, it is recognized that a crime (not a criminal case) has been committed

when a person's guilt is proven as a necessary sign of a crime. This is confirmed by the court verdict. Therefore, it seems wrong to ask for the elimination of the causes of the crime and the conditions that allowed it to be committed without a court verdict .

As a result, the accused person was disgraced in his place of residence, his dignity was humiliated. Sometimes, there are even cases of applying disciplinary measures to some employees based on the report. After the introduction, organizations should also think deeply about the future fate of the individual when implementing it.

Lawyer A.Abdullaev is in favor of canceling the practice of proposal. In his opinion, in practice, there are cases where a report is prepared by the investigative body, sent to the relevant agencies, discussed in front of the team with the participation of the official (investigator) who prepared it, and in turn, according to the result of the discussion, appropriate measures are taken (regret, fine, dismissal, etc.). causing it to be seen. However, dismissal from office is a coercive measure that can only be carried out by the court according to Article 258 of the Criminal Code of the Republic of Uzbekistan .

On the other hand, the practitioner Alisher Ismailov evaluates the proposal as reasonable. He said that in the case of non-fulfilment of a proposal or private decision or non-fulfilment of it, the guilty head of an enterprise, institution or organization shall be held liable as provided by law.

"The purpose of introducing a report is not to discuss the behavior of a person, but to eliminate the factors that lead to the commission of a crime," he says. According to his logic, if the report of the relevant body is included, the situation described in it should be interpreted as a crime, even if it is pending a court decision. is done, the situation indicated in the report should be eliminated as factors that motivate the crime .

In our opinion, the prosecutor's office must exercise control over the actual elimination of violations of the law and give a principled reaction to the non-fulfillment of the prosecutor's requirements stated in the proposal. Therefore,

today, emphasizing the special place of the report within the documents of the prosecutor's control, the question of its effectiveness as a tool aimed at immediate elimination of violations remains relevant.

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