



**LEGAL ISSUES PARTICIPATION OF THE PROSECUTOR IN ECONOMIC
CASES**

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ABSTRACT

The article examines the issues of prosecutor's participation in the economic process, forms of participation. The legislation of Western Europe and the USA on the participation of the prosecutor in court proceedings is analyzed. It is concluded that the prosecutor who filed a statement of claim (application) in the interests of a citizen and a legal entity does not have the right, if the plaintiff does not agree, to change the basis or subject of the claims made against him, to make additional claims, to increase or decrease the amount of the claim.

KEYWORDS

Prosecutor, economic process, civil process, statement of claim.

Introduction

The economic development of the country is directly related to the perfection of sectoral legislation and the degree of its application in practice. In particular, the Economic Procedural Code establishes that the prosecutor has an independent procedural status when conducting legal proceedings in the sphere.

The President of the Republic of Uzbekistan signed the law of 30.09.2024 No. UP-968 "On Amendments and Supplements to Certain Legislative Acts of the Republic of Uzbekistan Aimed at Ensuring the Powers of the Prosecutor When Considering Cases in Courts".

The prosecutor may participate in civil cases only in cases stipulated by law, as well as in cases related to land relations, state property, compensation for damage to the state and collections from the state budget for the purpose of protecting the interests of the state protected by law, or in cases initiated on the basis of a claim (statement) of the prosecutor. The prosecutor may not, on his own initiative, participate in the consideration of a case initiated on the basis of an application from other persons. The prosecutor may apply to the court with a petition to protect the interests of the state.

Also, the prosecutor in cases initiated in economic courts on the basis of his statement of claim (application), as well as in cases related to land relations, state property for the purpose of protecting

the interests of the state protected by law, violation of environmental legislation, collection from the state budget, recognition of the right of ownership of an unauthorized building, recognition of its private property may participate in cases related to establishing the fact of ownership and use, collection of customs duties.

In addition, the Civil Procedure Code, the Economic Procedure Code and the Code of Administrative Offenses establish the right of the prosecutor, without proper notification of the prosecutor about the time and place of the trial, to request cases from the relevant courts to resolve the issue of a cassation protest on cases considered, on initiating a protest in the order of revision¹.

In Article 41 of the Economic Procedural Code of the Republic of Uzbekistan, a prosecutor is a person participating in a case in accordance with the powers vested in him/her, among the parties, third parties, state bodies and other persons. An analysis of the Economic Procedural Code allows us to divide the rights of a prosecutor as a person participating in a case into general and special rights.

The prosecutor will also have the following special rights provided for in the Economic Procedural Code:

- filing a claim in court to protect the rights and legally protected interests of other persons only in cases provided for by law (Article 49 of the IPC);
- the Prosecutor General of the Republic of Uzbekistan or his deputy may file a claim (application) in all economic courts (Article 49 of the IPC);
- withdrawal of his own claim (Article 49 of the IPC);
- appeal against judicial acts (Article 42 of the IPC)².

Article 49 of the Economic Procedural Code states that a prosecutor who has filed a claim in the interests of a citizen, legal entity and the state enjoys the rights of the plaintiff and bears his obligations, with the exception of the right to conclude a settlement agreement or mediation agreement. However, the procedure and conditions for the exercise of rights related to the partial or complete refusal of the prosecutor from the claims and the recognition of the claim, the change of the subject or basis of the claim are not established.

However, unlike the Economic Procedural Code, in Article 51 of the Civil Procedural Code, the prosecutor who filed the application has the right, in addition to the obligation to pay legal costs, to exercise all the procedural rights of the plaintiff and assume all procedural obligations, fully or partially withdraw the filed application, provide explanations to the court on the claims in defense of the rights and interests of other persons, it is noted³.

It should be noted that the regulation of the prosecutor's powers is a priority in economic litigation in other countries as well. In particular, in accordance with Part Three of Article 52 of the Arbitration Procedural Code of the Russian Federation, a provision is established that a prosecutor who has applied to the Arbitration Court of the Russian Federation enjoys all the procedural rights of the plaintiff and assumes his procedural obligations. Also, in cases specified in Part One of Article 52 of

¹ Ibratova F. B. Corporate dispute as a subject of litigation consideration //Экономика, право и инновации в мире глобальных трансформаций. – 2023. – С. 5-9.

² Довудова Д. Апелляция инстанция суд муҳокамасида қонуний кучга кирмаган ҳукм ёки ажримни текширишда иштирок этаётган прокурорнинг процессуал мақоми //Общество и инновации. – 2023. – Т. 4. – №. 4. – С. 139-152.

³ Ёқубов Ш. М. СУД ҲОКИМИЯТИ, ПРОКУРОР НАЗОРАТИ, ҲУҚУҚНИ МУҲОФАЗА ҚИЛИШ ФАОЛИЯТИНИ ТАШКИЛ ЭТИШ ВА АДВОКАТУРА //Научный Импульс. – 2024. – Т. 2. – №. 24. – С. 102-103.

the Arbitration Procedural Code of the Russian Federation, the prosecutor has the right to begin working with the procedural rights and obligations of persons participating in the case in order to ensure legality at any stage of the arbitration process⁴.

Based on this, we propose to set out part five of Article 49 of the Economic and Procedural Code of the Republic of Uzbekistan as follows:

"A prosecutor who has filed a statement of claim (application) in the interests of the state enjoys all the rights of the plaintiff and assumes his obligations, with the exception of the right to conclude a settlement agreement or mediation agreement, as well as the obligation to pay legal costs. A prosecutor who has filed a statement of claim (application) in the interests of a citizen or a legal entity does not have the right, if the plaintiff does not agree, to change the basis or subject of the claims made against him, make additional claims, increase or decrease the amount of the claim".

There are various discussions about the legal status of the prosecutor and the legal regulation of his powers to supervise compliance with the law in economic proceedings. In legal literature, this situation is often explained by the fact that it contradicts the constitutional principle of the independence of the court and its subordination only to the law⁵.

In order to express an opinion on the powers and functions of the prosecutor in conducting economic proceedings, as well as on establishing their boundaries, it is first necessary to pay attention to the history and analysis of the economic procedural legislation in force in our country.

Analyzing the economic procedural legislation in force in our country, concerning the function and legal status of the prosecutor in the economic process, it should be noted that in accordance with Article 67 of the Law "On Arbitration and the Procedure for Resolving Economic Disputes", adopted on November 20, 1991, the claim of the prosecutor or his deputies is sent to arbitration courts in the interests of the organization or cannot be considered in the Arbitration Court, in cases of challenging the decision, the prosecutor participates in the arbitration process.

The Economic Procedural Code of the Republic of Uzbekistan, which entered into force on April 1, 2018, established essential rules concerning the participation of the prosecutor in court. In accordance with it, it is established that claims are filed to inter-district, district (city) economic courts by prosecutors of the Republic of Karakalpakstan, regions, the city of Tashkent, districts (cities) and prosecutors equivalent to them, to the court of the Republic of Karakalpakstan, and to regional and city courts of Tashkent - prosecutors of the Republic of Karakalpakstan, regions, the city of Tashkent or their deputies. At the same time, prosecutors of the Republic of Karakalpakstan, regions, the city of Tashkent, districts (cities) and deputy prosecutors equivalent to them are deprived of the right to file claims in inter-district, district (city) economic courts.

It is envisaged that the Prosecutor General of the Republic of Uzbekistan or his deputy has the right to file a claim (application) to all economic courts of the Republic of Uzbekistan⁶.

⁴ Отческая Т. И. Процессуальные аспекты участия прокурора в арбитражном процессе //Актуальные проблемы российского права. – 2018. – №. 2 (87). – С. 122-131.

⁵ Ibratova F., Axunova D. O'ZBEKISTON RESPUBLIKASI QONUNCHILIGIDA BOLA HUQUQLARINING KAFOLATLARI: NAZARIYA VA AMALIYOT //Theoretical aspects in the formation of pedagogical sciences. – 2023. – Т. 2. – №. 19. – С. 106-113.

⁶ Отажанов Б. А. ИҚТИСОДИЙ СУД ИШЛАРИНИ ЮРИТИШДА ПРОКУРОР ИШТИРОКИНИНГ ШАҚЛЛАРИНИ ТАКОМИЛЛАШТИРИШ МАСАЛАЛАРИ //STUDIES IN ECONOMICS AND EDUCATION IN THE MODERN WORLD. – 2023. – Т. 2. – №. 6.

The Law of the Republic of Uzbekistan dated January 12, 2021 No. 663 "On Amendments and Additions to the Economic Procedural Code of the Republic of Uzbekistan in Connection with the Improvement of the Institute of Review of Court Decisions" excluded from the code the right of the prosecutor to participate in the court hearing in all cases. In accordance with the amendments and additions made by this law to the Economic Procedural Code, it is established that the prosecutor cannot, on his own initiative, participate in the consideration of a case initiated by applications of other persons, and that the court does not have the right to involve the prosecutor in the process. From the analysis of the norms of economic procedural legislation adopted to date on the powers of the prosecutor, it is known that the prosecutor participated in the court mainly for the purpose of protecting the legitimate interests of the state.

However, legal literature states that legislation that gives the prosecutor the right to apply to an economic court with a claim to protect the interests of the state contradicts the norms of equality of subjects of civil circulation⁷.

At the same time, the main focus of the prosecutor's office in supervisory activities in the economic sphere is on facilitating the resolution of problems arising in the development of entrepreneurship, expansion of exports, and attraction of foreign investment.

The direction of the prosecutor's participation in court for the purpose of protecting the interests of the state and society can be found in the legislation of many states of the continental legal system. The legislation of these states establishes that the prosecutor participates in civil cases for the purpose of protecting public interests, that is, "the interests of the state, society, as well as the interests of individual social categories of persons".

The economic procedural legislation of European countries provides for the powers of the prosecutor to participate in court primarily for the purpose of protecting the interests of the state and society. In particular, in most Western European countries and in the United States, prosecutors can file lawsuits in court only for the purpose of protecting the interests of the public and the state, and in France and Italy – the interests of other persons⁸.

In the common law system of foreign countries, the public prosecutor's office is not officially recognized as a body that guarantees legality or fairness in the administration of justice.

In our legal literature and national legislation there are no definitions defining the concept of "a circle of persons who are not citizens", "the rights of a circle of persons who are not citizens".

It is proposed to regulate in detail in economic procedural legislation the right of the prosecutor to file a claim (application) in court to protect the rights and legitimate interests of an unscrupulous circle of persons and the mechanisms for its implementation. The inclusion of this provision in legislation serves as an additional guarantee of judicial protection of the rights of persons who are unable to exercise their rights and legitimate interests.

The inclusion in legislation of the prosecutor's right to file a claim (application) in court to protect the rights and legitimate interests of an unscrupulous group of persons and the procedure for its implementation is at the same time an effective means of protecting interests of a mass nature, equally

⁷ Ibratova F., Xodjaeva D. IQTISODIY SUD ISHLARINI YURITISHDA TAFTISH TARTIBIDA QAYTA KO'RISH: NAZARIYA VA AMALIYOT //Theoretical aspects in the formation of pedagogical sciences. – 2024. – T. 3. – №. 3. – С. 93-102.

⁸ Рожков А. Ю. Необходимость и целесообразность участия прокурора в гражданском и арбитражном процессе //Вестник воронежского института МВД России. – 2014. – №. 2.

desirable for both the state and society. Courts that accept such claims for consideration simultaneously decide the issue of protecting the rights of a group of persons, preventing only procedural costs. In the process of considering and resolving such claims in court, courts can also decide the issue of restoring the violated rights and legitimate interests of specific subjects.

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