



SUPERVISION OVER THE IMPLEMENTATION OF LEGISLATIVE ACTS ON THE FIGHT AGAINST TORTURE IN THE PROSECUTOR'S OFFICE OF FOREIGN COUNTRIES: NATIONAL PRACTICE AND FOREIGN EXPERIENCE

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Article history:	Abstract:
Received: May 11 th 2023 Accepted: June 11 th 2023 Published: July 16 th 2023	This article presents some aspects of the activities of the prosecutor's office in the field of combating torture. The opinions expressed by scientists in this field are analyzed. The author expressed his opinion about the ongoing reforms in the field of combating torture in our country
Keywords: Torture, prosecutor's office, prosecutor's supervision, UN, law enforcement agencies, Prosecutor General's office, foreign countries.	

INTRODUCTION

In recent years, a lot of work has been done in our country to further strengthen the guarantees of citizens' rights and freedoms, including the prevention of torture and other cruel, inhuman or degrading treatment or punishment.

At the same time, it is necessary to continue working on the creation of effective legal mechanisms for early prevention of torture, prompt and objective consideration of related appeals, regular monitoring visits to places of detention of persons with limited freedom of movement.

In order to improve national preventive mechanisms for the prevention of torture, taking into account the National strategy of the Republic of Uzbekistan on human rights, recommendations of the UN statutory bodies and treaty committees, and to ensure the fulfillment of the tasks set out in the State program "Year of youth support and public health promotion" was adopted the Decree

of the President of the Republic of Uzbekistan dated June 26, 2021, PD-5163 **"On additional measures to improve the system of detection and prevention of torture"**.

The Decree sets a number of priority tasks to identify cases of torture and other cruel, inhuman or degrading treatment or punishment and to improve the effectiveness of the system of their prevention.

In particular:

- ❖ bringing the system of detection and prevention of cases of torture in line with generally recognized principles and norms of international human rights law;

- ❖ strict provision by the administration of the institution to prevent the viewing of appeals sent by persons with limited freedom of movement to national human rights institutions, as well as their immediate referral to the recipient;
- ❖ improving the mechanism for prompt and objective consideration of complaints about cases of torture, as well as the inevitability of bringing perpetrators to justice;
- ❖ ensuring the provision of social, legal, psychological and medical assistance to victims of torture, as well as compensation for the damage caused to them;
- ❖ wide involvement of civil society institutions in the detection and prevention of cases of torture, as well as ensuring their effective cooperation with state bodies;
- ❖ informing the general public about the results of activities to identify and prevent cases of torture;
- ❖ establishment of close cooperation with international organizations and national institutions of foreign countries in the field of prevention of the use of torture.

THE IMPORTANCE OF RESEARCH

The importance of the issue being analyzed in the article is that the fight against any type of torture is of urgent importance today. In the full implementation of the prosecutor's supervision over



the implementation of legislative acts in this area, it is important to develop scientific and theoretical proposals and conclusions in accordance with the requirements of international standards and times in this direction.

ANALYSIS OF THE MAIN LITERATURE

Analyzing the methods of increasing the effectiveness of the prosecutor's supervision over the implementation of the legislation on ensuring the rights and freedoms of citizens and combating torture by the prosecutor's office, it is very important to check and inspect the methods of ensuring the implementation of the law in the prosecutor's supervision. Even in the methods of the prosecutor's supervision, the scientifically based and proven practice of applying and implementing the legal means of the prosecutor's supervision understood¹.

In particular, the prosecutor's office is a participant in such legal relations as compliance of the state with the Constitution as a supervisory authority, protection of human and civil rights and freedoms, exclusion of the interests of society and the state, ensuring the rule of law.

We can see the opinions of a number of scientists regarding the effective organization of the inspection of the prosecutor's supervision over the implementation of the legislation on the protection of the rights and freedoms of citizens and the fight against torture.

According to **Tobios Kelly** of foreign scholars, there are four main common assumptions in the fight against torture and ill-treatment: that torture is a matter of arrest and interrogation; that political and security prisoners are the archetypal victims of torture; legal reform is one of the best ways to combat torture; it was noted that monitoring of the provision of human rights helps to end violence².

Russian lawyer **A.N.Akhpanov** in his research work on combating torture, prevention of torture and torture complaints, regulations providing for a special procedure for considering claims, namely; when

considering applications for preventive measures; when a person is in prison due to the use of a precautionary measure; during pre-trial proceedings; when the prosecutor makes a decision on the criminal case brought to him; emphasized that it should be included in the preliminary review of the case³.

In particular, ensuring compliance with legislation in the field of law enforcement is the subject of the prosecutor's supervision.

Prosecutor's offices are like other state bodies with different powers and tasks, but the activities of prosecutor's offices in foreign countries are fundamentally different from each other. Prosecution authorities in foreign countries perform various tasks. Their activities include the main inquiry, investigation, supervision over the implementation of legislation, even

in the presence of courts and judicial bodies, and separately and independently. **A.B.Komilov** explained⁴ the activities of prosecutor's offices of foreign countries into **two main models**.

In this, in fact, **the first model**, the prosecutor's office is considered as a criminal prosecution department, while in **the second model** it is analyzed as bodies exercising supervision over legislation. Based on these views, we can see that each state is based on the direction and powers of the prosecutor's office.

But the classification of the general activities of the prosecutor's office for the provision of rights and freedoms of citizens by some of our legal scholars by *Z.S.Ibragimov* and *O.Toshev* was studied in **4 groups**. In particular:

³ Akhpanov A.N., "The Investigation of Criminal Cases and Other Issues of Counteracting Torture" Doctor of Law, Professor, Honored Worker of the Ministry of Internal Affairs of the Republic of Kazakhstan, Member of the Scientific Advisory Board under the Supreme Court of the Republic of Kazakhstan, Academician of KazNAEN. https://online.zakon.kz/Document/?doc_id=32407743&pos=6;-108#pos=6;-108

⁴ Komilov A.B. "Improving the organizational and legal basis of the prosecutor's supervision over the execution of laws aimed at the legal protection of entrepreneurs" is written for the degree of Doctor of Philosophy in Legal Sciences. diss...-Tashkent: Academy of the General Prosecutor's office of the Republic of Uzbekistan. 2020 -B. 120.

¹ Grigoryeva N.V. "Prosecutor's supervision" Textbook. / N.V. Grigoriev. – 6th ed. - Moscow.: PIOR: INFRA -M, 2017.-S. 4.

² Tobias Kelly. "The Struggle Against Torture: Challenges, Assumptions and New Directions" Journal of Human Rights Practice, 11, 2019, 324–333 / doi: 10.1093/jhuman/huz019 / Advance Access Publication Date: 23 July 2019



- countries that are part of the Ministry of justice or the prosecutor's office of the first group;
- the second group includes states in which the prosecutor's office has administrative independence either completely within the judicial structure or within the judicial authority;
- the third group includes states where the prosecutor's office is an independent system and is accountable to the country's parliament or the head of state;
- in the fourth group, the prosecutor's office or similar institutions are divided into non-existent groups.

Such a classification was also advanced by a group of scientists A.Allamuratov⁵, D.Khamdamova⁶ and Sh.Zokirov⁷.

It was analyzed that the study of these scientists in *four groups* differed from the activities and competence of the prosecutor's office and its role in state systems. The bodies of the prosecutor's office of these foreign countries are justified by how influential the bodies of the prosecutor's office are in the state system to ensure the rights and freedoms of citizens and conduct specific supervision over the prevention of torture. In addition, foreign countries rely on their national legislation, traditions, customs and democratic activities. In particular, the state also covers the fact that the authorities do not duplicate the powers and duties of citizens in ensuring their rights and freedoms.

It is worth saying that the prosecutor's office system under the Ministry of justice is conducting its activities in the states of **France, Germany**.

From European countries, the French prosecutor's office⁸ is under the leadership of the Ministry of justice and is organized and centralized

⁵ Allamuratov A.T., Ergashov A.A. Prosecutor's office in foreign countries: study guide / Editor-in-chief: Doctor of law O.M.Madaliev. - T.: TSIL publishing house, 2009. - P.8-9

⁶ Khamdamova D. Comparative analysis of prosecutor's offices // "Rights and duties", 2020, No. 4 (172). - P.42-43

⁷ Zokirov Sh "Issues of improving the institute of working with appeals in prosecutor's offices", diss. PhD. 2022 -p.110-115

⁸ M.H.Rustamboev, U.A.Tukhtshuva "Judicial and law enforcement bodies" Textbook. Tashkent – "Ilm zijo" - 2011. -p. 286-289.

in a hierarchical order, exercising supervision over the application of its law in the field of combating crime in order to ensure the rights and freedoms of citizens. In particular, issues of the necessary assignments for the implementation of justice, the issuance of assignments to the police with supervision from the activities of officials and agents of the prosecutor general's judicial police are presented⁹.

The prosecutor's office not only monitors compliance with the rights and freedoms of citizens, conducts inspections, but also participates in the judicial review of disputes related to them. In addition, the prosecutor's office, as a coordinating body, has the right to conduct or organize gross teshiroves in the prescribed manner, attracting specialists in supervision and examination. The prosecutor's office has the opportunity to organize the protection of the right as a whole mechanism on a national scale, due to the fact that the prosecutor's office consists of a holistic centralized system and there is a prosecutor's office in every territorial unit.

But we can see that some countries, for example, in **England**, police inquiry is not considered a criminal-procedural activity¹⁰. The **Federal Republic of Germany** also conducts pre-Investigation, inquiry. The prosecutor's office has the authority to bring a public charge and carries out proceedings in a criminal case. In Germany, the prosecutor's office is considered part of the judicial system in organizational terms, and there are prosecution bodies under the court of each of the general tribunals. However, the Federal Attorney General has a certain position: as a political civil servant (§ 54 Para. 1 Clause 5 BBG), which can be sent to a temporary pension by the Federal Minister of Aldia at any time and without other grounds¹¹.

⁹ https://studme.org/70462/pravo/prokuratura_frantsii. // Электрон манбаа: (мурожаат этиш санаси: 25.04.2023)

¹⁰ Mirazov D.M. "Theoretical, organizational and procedural aspects of control and improvement of control over the activities of primary investigation agencies" Doctoral dissertation auto-abstract. Academy of the Ministry of Internal affairs of the Republic of Uzbekistan. Tashkent city - 2016.

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<https://www.generalbundesanwalt.de/EN/FederalPublicProsecutorGeneral/legal-position->



In addition, in the state of Georgia¹², even though the prosecutor's office is in the system of the Ministry of justice, in the cases provided for by the law, it is necessary to carry out full-scale investigations, to supervise the exact and uniform implementation of the law in the implementation of operational search activities, to check and supervise the facts of violations of the rights of persons deprived of their freedom. performs several tasks such as even the Law of the state of Georgia "On the Prosecutor's office" coordinates the fight against crime and the coordinated activities of law enforcement agencies.

Timely detection, investigation, detection, suppression and prevention of crimes, as well as inspections of compliance with the requirements of legislation in places of detention, penal institutions and other institutions, interrogation of imprisoned prisoners and persons subject to coercive measures and the prosecutor's rights (**articles 17, 19**) are listed as taking measures to immediately release persons who have been illegally arrested, imprisoned or illegally punished.

Based on the analysis, it should be noted that in most of the western countries, prosecutor's offices participate in criminal and civil cases in courts, protect the rights and freedoms of citizens, and play an important role in the development of state policy in the field of criminal legislation.

The system of the prosecution bodies of the Republic of Uzbekistan is reflected as one of the countries where the prosecutor's office is an independent system and is accountable to the country's parliament or the head of state.

In addition, it plays a key role in ensuring the rights and freedoms of citizens.

Article 32 of the Law of the Republic of Uzbekistan "**On the Prosecutor's office**" provides for complaints and applications to the administration of the enforcement body or institution, other state bodies, public associations, and officials of persons

AttorneyGeneral/legal-position-AttorneyGeneral-node.html;jsessionid=362A7873DB0039B2C941147B805BE5BF.intranet662// Электрон манбаа: (мурожаат этиш санаси: 25.04.2023)
¹²

[https://matsne.gov.ge/ru/document/download/19090/12/ru/pdf// Электрон манбаа: \(мурожаат этиш санаси: 17.04.2023\)](https://matsne.gov.ge/ru/document/download/19090/12/ru/pdf// Электрон манбаа: (мурожаат этиш санаси: 17.04.2023))

detained, imprisoned, deprived of liberty and subjected to other measures of criminal-legal influence. supervises compliance with the requirements of the law on the right of appeal.

Therefore, it is important to carry out prosecutor's supervision over the activities of the prosecutor's office, i.e., the procedure for legal assessment of identified deficiencies. In particular, familiarization and analysis of the prosecutor's supervision over the execution of legislation on the fight against torture, not only with national legislation, but also with international legal documents, the legislation of developed countries, and improving the supervision over the implementation of legislation on the fight against torture will serve to increase the effectiveness and efficiency of the prosecutor's supervision.

CONCLUSION

The Republic of Uzbekistan is increasingly developing its relations with foreign countries within the framework of a single international community. International relations affect not only the life of society, but also every individual.

In our opinion, today the prevention of torture and other cruel, inhuman or degrading treatment in the prevention of torture and other crimes and the strengthening of the prosecutor's supervision is effective in the prevention of torture and other cruel, inhuman or degrading treatment or punishment. It is important to **adopt the sectoral order** of the Prosecutor General "**On improving the effectiveness of the prosecutor's supervision over the implementation of legislation related to fighting against types of crimes**".

Based on this, the adoption of the sectoral order of the Prosecutor General "*On improving the effectiveness of the prosecutor's supervision over the implementation of legislation related to fighting against types of crimes*" will ensure the rights and interests of citizens in our society against torture and the subject of supervision and powers of the prosecutor's office will be strengthened in supervising the performance of the duties of the state bodies, which are responsible for the prevention of other cruel, inhuman, degrading treatment and other punishments.

In order to increase the efficiency of the activities of the prosecutor's office, create a solid legal



framework for open and fair prosecutorial activities, and make the principle "**Law - priority, punishment – inevitability**" the main criterion, strengthen supervision over the activities of operational-search activities, to protect the dignity and freedom of citizens, such goals as the introduction of effective mechanisms for effective protection and a radical reform of the system for registering reports of crimes in law enforcement agencies, the use of modern methods in the prevention of cases of concealing crimes are presented.

Therefore, it is important to exercise prosecutorial supervision over the activities of the prosecution authorities, that is, the implementation of the law, and the procedure for providing a legal assessment of the identified shortcomings. In particular, familiarization and analysis of prosecutorial supervision over the implementation of anti-torture legislation not only with national legislation, but also with international legal documents, the legislation of developed countries, improving supervision over the implementation of anti-torture legislation will serve to increase the effectiveness and efficiency of prosecutorial supervision.

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