



CRIMINAL PROSECUTION FUNCTION OF THE PROSECUTOR IN ACCORDANCE WITH CRIMINAL PROCEDURE LEGISLATION

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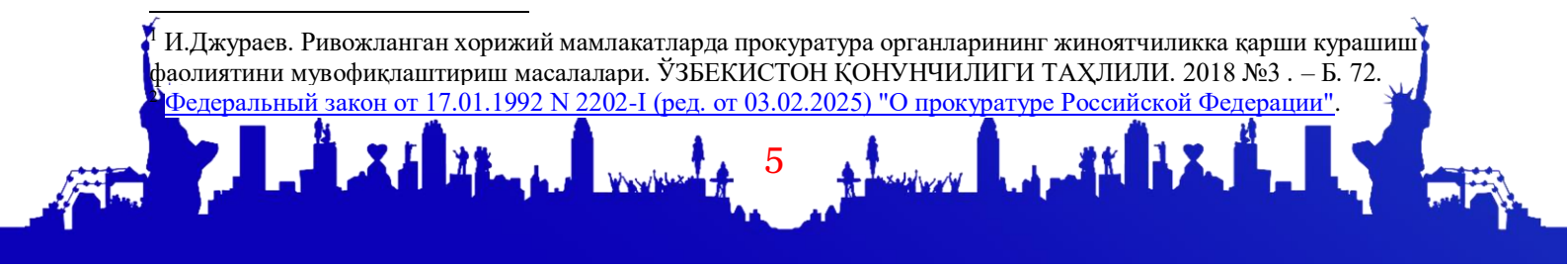
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According to criminal procedure legislation, prosecutors ensure criminal prosecution in cases of state accusation. Prosecutors initiate criminal cases and hand them over to investigators for investigation or conduct the investigation personally. In necessary cases, particularly in complex cases, they provide procedural guidance to investigators and inquiry bodies during the pre-trial stages of criminal proceedings. They support state accusation in courts and have the right to file protests against illegal and unfounded decisions, sentences, rulings, and orders.

I. Djuraev, having studied foreign experience regarding the prosecutor's function of criminal prosecution, expresses the following opinion. According to him, the function of criminal prosecution includes: initiation of a criminal case, investigation, and preparation of an indictment by the prosecutor or investigator of the prosecutor's office; procedural guidance of the preliminary investigation by the prosecutor; referring the criminal case to the court and supporting the accusation in court. A number of special supervisory functions of the prosecutor's office are closely related to the function of criminal prosecution: 1) oversight of ensuring legality in the activities of inquiry, preliminary investigation, and operational-search bodies; 2) oversight of the legality of court verdicts; 3) oversight of the precise execution of the law during the implementation of punishments and other compulsory measures¹.

Regarding criminal prosecution, referring to the legislation of foreign countries, for example, according to Article 1 of the Law of the Russian Federation "On the Prosecutor's Office," the Prosecutor's Office of the Russian Federation is a single federal centralized system of bodies that oversees compliance with the Constitution and the implementation of laws of the Russian Federation, monitors the observance of the rights and freedoms of man and citizen, carries out criminal prosecution in accordance with their powers, and performs other functions². According to Article 46 of the Law of the Republic of Belarus "On the Prosecutor's Office", the prosecutor carries out criminal prosecution on behalf of the state and

¹ И.Джурев. Ривожланган хорижий мамлакатларда прокуратура органларининг жиноятчиликка қарши курашиш фаолиятини мувофиқлаштириш масалалари. ЎЗБЕКИСТОН ҚОНУНЧИЛИГИ ТАҲЛИЛИ. 2018 №3 . – Б. 72.
² [Федеральный закон от 17.01.1992 N 2202-1 \(ред. от 03.02.2025\) "О прокуратуре Российской Федерации"](#).





supports the state accusation in court, acting as the state accuser on the prosecution side³. Similar rules are set forth in the Constitutional Law of the Republic of Kazakhstan "On the Prosecutor's Office" (Article 1 of the Law)⁴ and the Constitutional Law of the Kyrgyz Republic "On the Prosecutor's Office" (Article 2 of the Law)⁵. Analysis of foreign countries' legislation reveals that prosecutors possess a criminal prosecution function. In the Criminal Procedure Code of Kyrgyzstan, we can observe that the prosecutor's role in criminal prosecution is more extensively defined. For instance, according to Article 41 of this Law, the prosecutor supports the state prosecution and conducts criminal prosecution. Furthermore, Article 43 of the Law stipulates that the prosecutor carries out criminal prosecution in accordance with criminal procedure legislation. The legislation also assigns the prosecutor with the task of criminal prosecution in matters of international cooperation (Articles 45-46 of the Criminal Procedure Code of Kyrgyzstan).

Taking the above into account, criminal prosecution as an independent function of the prosecutor's office represents the primary role of the prosecutor in criminal proceedings, which includes procedural activities aimed at uncovering crimes and exposing persons who have committed them.

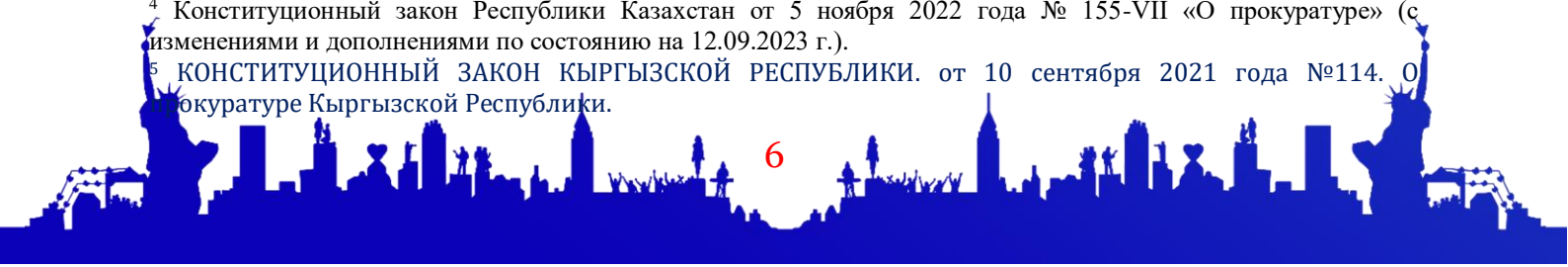
At the same time, in some cases, at the stage of initiating a criminal case, the prosecutor does not directly exercise criminal prosecution powers. Rather, it consists of providing a legal assessment of the results of preliminary prosecution activities carried out by authorized bodies and officials within the framework of criminal prosecution. The procedural form of this assessment involves confirming the indictment or the act of indictment. The prosecutor's approval of the indictment grants it the force of criminal prosecution originating from the state. If the prosecutor withdraws the state accusation, the prosecution ends (Article 409 of the Criminal Procedure Code). This constitutes the main essence of prosecutorial criminal prosecution at the pre-trial stage. Additionally, it entails implementing procedural measures related to ensuring the legal status of persons involved in criminal proceedings, as well as exercising regulatory powers.

Another important issue is the pre-trial resolution of issues related to ensuring prosecutorial measures or appealing the actions and decisions of bodies and officials carrying out criminal prosecution. The prosecutor also carries out procedural guidance over the course of the preliminary investigation (checks the

³ Закон "О прокуратуре" Республики Беларусь. 8 мая 2007 г. № 220-З.

⁴ Конституционный закон Республики Казахстан от 5 ноября 2022 года № 155-VII «О прокуратуре» (с изменениями и дополнениями по состоянию на 12.09.2023 г.).

⁵ КОНСТИТУЦИОННЫЙ ЗАКОН КЫРГЫЗСКОЙ РЕСПУБЛИКИ. от 10 сентября 2021 года №114. О прокуратуре Кыргызской Республики.





legality of each decision made by them). The prosecutor has the right to give the necessary instructions for investigators, inquiry officers, and bodies carrying out pre-investigation checks or operational-search activities to conduct their work comprehensively, completely, and impartially.

In general, the criminal procedural functions of the prosecutor are the main directions of activity aimed at fulfilling the tasks and achieving the goals of criminal proceedings.

Thus, the following main functions of the prosecutor can be distinguished: a) combating crime; b) supervising the procedural activities of bodies carrying out pre-investigation checks or operational-search activities, inquiry and preliminary investigation bodies; c) protecting the rights and legitimate interests of individuals and citizens; d) criminal prosecution; e) initiating or denying criminal cases by the investigator, inquiry officer, and coordinating the procedural activities of investigative bodies; f) law enforcement function; g) prosecution function; h) preventive and other functions. At the same time, the specific set of powers of the prosecutor at the stages of criminal proceedings is determined by the goals and objectives of these stages.

Taking into account the foregoing, it is proposed to supplement the first part of Article 2 of the Law "On the Prosecutor's Office," that is, after the words "rights and freedoms of citizens, legally protected interests of society and the state," with the words "criminal prosecution".

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