

**ON THE QUESTION OF THE CONCEPT OF THE PROSECUTOR'S POWERS OVER
THE ENFORCEMENT OF LAWS IN THE INVESTIGATION OF EXTREMIST CRIMES IN
THE RUSSIAN FEDERATION AND THE REPUBLIC OF UZBEKISTAN**

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Abstract: *This article notes that in the science of prosecutorial supervision there is the most diverse range of approaches to understanding the powers of the prosecutor. In this paper, their analysis is not carried out, but the definition of the prosecutor's powers, already adapted to the prosecutor's supervision of the execution of laws in the investigation of extremist crimes, is presented to the scientific community. It is noted that it is useful for Uzbekistan to turn to Russia's experience in this direction.*

Keywords: *prosecutor, prosecutor's supervision, inquiry, preliminary investigation, terrorism, extremism, orientation.*

In the science of prosecutorial supervision, there is the most diverse range of approaches to understanding the powers of the prosecutor [1]. In this paper, we will not dwell on their analysis, but will present to the scientific community the definition of the prosecutor's powers already adapted to the prosecutor's supervision of the execution of laws in the investigation of extremist crimes. In the context of the title of this paragraph, it is a system of rights and duties of the prosecutor determined by the system of principles of criminal proceedings and the "tree" of the goals of preliminary investigation in criminal proceedings of extremist orientation.

The conditionality of the prosecutor's powers in the course of supervising the execution of the laws of criminal proceedings[2] by the principles of criminal proceedings and the "tree" of the goals of preliminary investigation in criminal cases of extremist crimes presupposes their interrelation and interdependence with the cultural system of the Russian community and the system of traditional spiritual and moral values of the Russian people. The cultural system of the Russian community has a significant impact on the meaning formation of the prosecutor's powers to supervise the execution of laws in the investigation of extremist crimes. For its part, the system of traditional spiritual and moral values of the Russian people gives the supervisory powers of the prosecutor in the investigation of extremist crimes internal strength and ensures their clarity, stability and certainty.

Unfortunately, during the reform of the domestic criminal justice system, the cultural system and the system of traditional spiritual and moral values of the Russian people were considered as secondary and optional entities. As a result, the doctrine embodied in the Code of Criminal Procedure of the Russian Federation turned out to be divorced from the cultural system and the system of spiritual and moral values. The liberal doctrine of criminal procedure in the form of the concept of "due process of

law"[3] with its human and civil rights and freedoms appeared on the forefront of history, and the Criminal Procedure Code of the Russian Federation manifested itself. Such a reform of criminal proceedings could not but have a negative impact on the effectiveness of prosecutorial supervision in the criminal procedure sphere, including the supervisory powers of the prosecutor. Liberalism, by its denial of the very existence of the life of our people, has neutralized the most effective supervisory powers. We are not alone in our thoughts.

The harmful influence of liberalism on the powers of the prosecutor is also indicated by the authoritative scientist and solid practitioner V. V. Doroshkov. "In recent years, in the domestic criminal procedure policy and, accordingly, in legal science, – writes V. V. Doroshkov, – liberal legal doctrines were supported, certain generally recognized principles and norms of international law were implemented into domestic procedural legislation and judicial practice, the role of precedent-based decisions of the European Court of Human Rights and the Constitutional Court of the Russian Federation increased. The provisions defining the role of the prosecutor in the criminal process were constantly clarified and adjusted. At the same time, the terms "legality" and "law and order" were mentioned less and less. As a result of active attempts to implement the primitively interpreted principle of adversarial parties in criminal proceedings and a formal approach to its essence, the form, as a philosophical category, often really became more important than the content itself"[4].

For our part, we not only agree, but also agree with the judgments and conclusions of V. V. Doroshkov. In the context of the ideological dominance of liberalism in domestic criminal proceedings, the implementation by the prosecutor of his supervisory powers in general, including those that relate to the prosecutor's supervision of the execution of laws in the investigation of extremist crimes, is of particular importance. In the course of prosecutorial supervision over the execution of laws in the investigation of extremist crimes, there are two relatively independent systems of prosecutor's powers[5].

The first system of powers in this area is directly related to the exercise by the prosecutor of rights during supervision during the investigation of extremist crimes. This system of supervisory powers of the prosecutor will be given the name "procedural powers of the prosecutor".

The second system of powers of the prosecutor has no direct connection with the implementation of prosecutorial supervision in the investigation of extremist crimes. In the legal literature, the second system of powers is given the name "general powers of the prosecutor". Thus, part 2 of Article 5 of the Law on the Prosecutor's Office[6] "Inadmissibility of interference in the exercise of prosecutorial supervision" grants the prosecutor the right, according to which he is not obliged to give any explanations on the merits of the cases and materials in his proceedings, as well as to provide them to anyone for review. In addition, the requirements of the prosecutor arising from his powers listed in articles 9.1, 22, 27, 30 and 33 of the Law on the Prosecutor's Office are

subject to unconditional execution within the prescribed period. Statistical and other information, certificates, documents and their copies, necessary in the exercise of the functions assigned to the prosecutor's office, are provided free of charge at the request of the prosecutor. Failure to comply with the requirements of the prosecutor arising from his powers, as well as evasion from appearing on his call, entails liability established by law (article 6 of the Law on the Prosecutor's Office).

In accordance with article 22 of the Law on the Prosecutor's Office, the prosecutor, when exercising the functions assigned to him, has the right: 1) upon presentation of an official certificate, freely enter the territories and premises of the bodies specified in paragraph 1 of Article 21 of the Law on the Prosecutor's Office; 2) have access to their documents and materials, check the enforcement of laws in connection with information received by the prosecutor's office about the facts of violation of the law; 3) require the heads and other officials of the bodies specified in paragraph 1 of Article 21 of the Law on the Prosecutor's Office to submit the necessary documents, materials, statistical and other information; 4) require the heads and other officials of the bodies specified in paragraph 1 of Article 21 of the Law on the Prosecutor's Office to allocate specialists to clarify the issues that have arisen; 5) require the heads and other officials of the bodies referred to in paragraph 1 of Article 21 of the Law on the Prosecutor's Office to conduct inspections on materials and appeals received by the prosecutor's office, audits of the activities of organizations controlled or subordinated to them; 6) summon officials and citizens to explain violations of laws.

In contrast to the general powers of the prosecutor, the system of procedural powers of the prosecutor for the enforcement of laws in the investigation of crimes of extremist orientation is subject (specialized). It is not limited solely to rights and includes responsibilities. The inclusion of duties in the word "powers" represents a certain compromise between the rights and duties of the prosecutor in the supervision of the investigation of extremist crimes. In the Code of Criminal Procedure of the Russian Federation, this idea was accepted by part 1 of Article 37 of the Code of Criminal Procedure of the Russian Federation. In accordance with this norm, the prosecutor is an official authorized, within the competence provided for by the Code of Criminal Procedure of the Russian Federation, to carry out criminal prosecution on behalf of the state during criminal proceedings, as well as supervision of the procedural activities of the bodies of inquiry and the bodies of preliminary investigation [7].

An integral part of the prosecutor's supervision of the procedural activities of the bodies of inquiry and the bodies of preliminary investigation is the prosecutor's supervision of the execution of laws in the investigation of extremist crimes. At the same time, the system-forming place in the powers of the prosecutor to supervise the execution of laws in the investigation of extremist crimes belongs to the duties. The system-forming place of duties in the supervisory powers of the prosecutor for the

analyzed type of criminal cases is explained by two circumstances: the first (mental) and the second (ideological and legal).

The first circumstance. It is interconnected with the mentality of the Russian prosecutors themselves. Russian prosecutors are representatives of our (Russian) people. In the mentality of the Russian people, it is not the idea of law that prevails, but the idea of duties, as a result of which our people view public administration bodies through the prism of their duties. The spirit of the "state of truth" is inherent in the Russian mentality.

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The second (ideological and legal) circumstance. According to him, the system-forming place of duties in the supervisory powers of the prosecutor is explained by the status of the prosecutor's supervision in criminal proceedings. The prosecutor's supervision over the execution of laws in the investigation of extremist crimes in the mechanism of legal influence on criminal procedural activity acts as one of the general conditions of preliminary investigation.¹ As such, prosecutorial supervision is an element of the system of criminal procedural activity, which is located at the underlying hierarchical level in relation to both the system of principles of criminal proceedings and the purpose of criminal proceedings. In this sense, it is conditioned by the system of principles of criminal proceedings and the purpose, or rather, the "tree" of the goals of the criminal process. Thus, one of the principles of criminal proceedings is the principle of publicity of the criminal process. By its nature, it is a manifestation of the mentality, worldview and rights of the Russian people. In this sense, the principle of publicity is a kind of channel through which elements of the Russian mentality, worldview and law are embodied in legislation and law enforcement practice. For example, the element of the principle of publicity includes the provision of the Criminal Procedure Law, according to which the prosecutor is one of the subjects of criminal procedural activity, which is assigned a procedural duty. Thus, in accordance with parts 1 and 2 of Article 21 of the Code of Criminal Procedure of the

Russian Federation "The obligation to carry out criminal prosecution", the prosecutor is charged with the obligation to carry out criminal prosecution on behalf of the State and taking measures provided for by the Code of Criminal Procedure to establish the event of a crime, expose the person or persons guilty of committing a crime.

The analysis of the norm of the Criminal procedure law, which establishes the procedural rule on assigning the procedural duty of criminal prosecution to the prosecutor, suggests that the totality of the prosecutor's rights in the course of supervision during the investigation of extremist crimes is conditioned by duties. In the course of supervising the enforcement of laws in the investigation of extremist crimes, for example, the prosecutor is charged with the following duties:: 1) take measures provided for by the Criminal Procedure Code of the Russian Federation to establish the event of a crime, to expose the person or persons guilty of committing a crime, in each case of detecting signs of an extremist crime (Part 2 of Article 21 of the Criminal Procedure Code of the Russian Federation); 2) explain to the suspect, the accused, the victim, the civil plaintiff, the civil defendant, as well as to other participants in criminal proceedings their rights, duties and responsibilities and ensure the possibility of exercising these rights (Part 1 of Article 11; Part 2 of Article 16 of the Code of Criminal Procedure of the Russian Federation); 3) immediately release by their decree everyone detained or detained in violation of the law deprived of liberty, or unlawfully placed in a medical or psychiatric hospital, or detained for more than the period provided for by the Code of Criminal Procedure of the Russian Federation (Part 2 of Article 10 of the Code of Criminal Procedure of the Russian Federation; Part 2 of Article 33 of the Law on the Prosecutor's Office); 4) at least once a year to check the condition and conditions of storage of physical evidence, the correctness of maintaining documents for their reception and accounting; to draw up an act on the results of the inspection, etc.

In Part 1 of Article 37 of the Criminal Procedure Code of the Russian Federation, the legislator uses the term "authorized". He uses it in the meaning: to impose the duty on the prosecutor to exercise prosecutorial supervision over the procedural activities of the bodies of inquiry and preliminary investigation. The above is fully relevant to the prosecutor's supervision of the execution of laws in the investigation of extremist crimes. Hence the conclusion: the powers of the prosecutor to supervise the implementation of laws in the investigation of extremist crimes include not only rights, but also duties. Moreover, the latter are not the result of linguistic studies of the main postulates of the theory of prosecutorial supervision, but the consequence of more serious reasons. The main one is the conditionality of the prosecutor's supervision over the execution of laws in the investigation of extremist crimes by the system of criminal procedural relations and the purpose of the proceedings on the type of criminal cases under consideration.

The powers of the prosecutor in supervising the execution of laws in the investigation of extremist crimes do not differ from the supervisory powers of the

prosecutor in other cases. They are aimed at ensuring the legality and validity of the preliminary investigation of the analyzed criminal cases. "The procedural powers of the prosecutor should allow him," O. S. Kapinus notes, "to influence the collection, verification and evaluation of evidence in criminal cases, the qualification of the deed, the results of the investigation. It is also necessary to take into account the historical experience of Russia, the system and structure of preliminary investigation bodies, the level of professional training of law enforcement officers and legal literacy of the population. All this allows us to state: the supervisory activity of the prosecutor in pre-trial proceedings is intended to be an effective means of detecting and suppressing violations of the law"[8].

In the most general terms, the powers of the prosecutor in the investigation of extremist crimes are listed in part 2 of Article 37 of the Criminal Procedure Code of the Russian Federation. In accordance with this norm, the prosecutor, supervising the procedural activities of the bodies of inquiry and preliminary investigation bodies during the preliminary investigation of criminal cases of extremist crimes, is authorized:

1) to make a reasoned decision on sending relevant materials to the investigative body or the body of inquiry to resolve the issue of criminal prosecution on the facts of violations of criminal law revealed by the prosecutor;

2) require the bodies of inquiry and investigative bodies to eliminate violations of federal legislation committed during the inquiry or preliminary investigation;

3) give the investigator written instructions on the direction of the investigation, the production of procedural actions;

4) give consent to the inquirer to initiate a petition before the court for the election, cancellation or modification of a preventive measure or for the production of another procedural action that is allowed on the basis of a court decision;

5) to demand and verify the legality and validity of the decisions of the investigator or the head of the investigative body on the refusal to initiate, suspend or terminate a criminal case and to make a decision on them in accordance with the Code of Criminal Procedure of the Russian Federation;

6) to consider a petition for the conclusion of a pre-trial cooperation agreement and the investigator's decision to initiate a petition before the prosecutor for the conclusion of a pre-trial cooperation agreement with the suspect or accused, to make a decision on the satisfaction of such a petition or refusal to satisfy it, to conclude a pre-trial cooperation agreement, to make a decision on the amendment or termination of such an agreement in accordance with the procedure and on the grounds provided for by the Code of Criminal Procedure of the Russian Federation, and also to make an idea about the special procedure for holding a court session and making a court decision on a criminal case against an accused with whom a pre-trial cooperation agreement has been concluded;

7) cancel illegal or unjustified decisions of a lower-level prosecutor, as well as illegal or unjustified decisions of the body of inquiry, the head of the body of inquiry, the head of the unit of inquiry and the inquirer in accordance with the procedure established by the Code of Criminal Procedure of the Russian Federation;

8) consider the information provided by the head of the investigative body of the investigator about the disagreement with the requirements of the prosecutor and make a decision on it;

9) participate in court sessions when considering issues during pre-trial proceedings on the election of a preventive measure in the form of detention, on the extension of the period of detention or on the cancellation or modification of this preventive measure, as well as when considering petitions for the production of other procedural actions that are allowed on the basis of a court decision, and when considering complaints in accordance with the procedure established by Article 125 of the Code of Criminal Procedure of the Russian Federation;

10) if there are grounds to initiate a petition before the court to extend the term of house arrest or the term of detention in a criminal case sent to the court with an indictment or indictment;

11) to allow the recusals declared to the inquirer, as well as his recusals;

12) remove the investigator from further investigation if he has committed a violation of the requirements of the Criminal Procedure Code of the Russian Federation;

13) withdraw any criminal case from the body of inquiry and transfer it to the investigator with mandatory indication of the grounds for such transfer;

14) transfer a criminal case or materials of verification of a crime report from one body of preliminary investigation to another (except for the transfer of a criminal case or materials of verification of a crime report in the system of one body of preliminary investigation) in accordance with the rules established by Article 151 of the Code of Criminal Procedure of the Russian Federation, to withdraw any criminal case or any materials of verification of a crime report from the preliminary investigation body of the federal executive authority (under the federal executive authority) and transfer it (them) to the investigator of the Investigative Committee of the Russian Federation with mandatory indication of the grounds for such transfer;

15) approve the decision of the inquirer on the termination of proceedings in a criminal case;

16) approve an indictment, indictment or indictment in a criminal case;

17) return the criminal case to the inquirer, the investigator with his written instructions on the conduct of an additional investigation, on changing the scope of the charge or the qualification of the actions of the accused, or to resubmit the indictment, indictment or indictment and eliminate the identified deficiencies;

18) exercise other powers granted to the prosecutor of the Criminal Procedure Code of the Russian Federation, for example, firstly, upon a reasoned written request

of the prosecutor, he is given the opportunity to familiarize himself with the materials of a criminal case under investigation (Part 2.1 of Article 37 of the Criminal Procedure Code of the Russian Federation); secondly, when combining criminal cases under investigation by different preliminary investigation bodies in one proceeding, the jurisdiction is determined by the prosecutor in compliance with the jurisdiction established by Article 151 of the Code of Criminal Procedure of the Russian Federation (Part 7 of Article 151 of the Code of Criminal Procedure of the Russian Federation); thirdly, to resolve disputes on jurisdiction (Part 8 of Article 151 of the Code of Criminal Procedure of the Russian Federation).

In addition to the listed powers to supervise the implementation of laws in the investigation of extremist crimes, the prosecutor is authorized: 1) if it is necessary to carry out documentary checks, audits, studies of documents, objects, corpses, extend the period of verification of the statement (message) about the crime by the investigator to 30 days (Part 3 of Article 144 of the Code of Criminal Procedure of the Russian Federation); 2) to get acquainted with the documents on the basis of which persons are detained or imprisoned, as well as to demand from the administration the creation of conditions ensuring the rights of detainees and (or) prisoners in custody (Part 1 of Article 33 of the Law on the Prosecutor's Office); 3) in cases listed in Part 2 of Article 75 of the Code of Criminal Procedure, to recognize evidence unacceptable (Part 2 of Article 88 of the Code of Criminal Procedure of the Russian Federation); 4) to learn from the head of the investigative body that the investigator, to whom the prosecutor has made demands for the elimination of violations of federal legislation committed during the preliminary investigation, does not agree with those and in this regard submitted his written objections to the named head (Part 3 of Article 38 of the Code of Criminal Procedure of the Russian Federation); 5) receive from the head of the investigative body that has reviewed the prosecutor's request to cancel the illegal or unjustified investigator's decision and eliminate other violations of federal legislation committed during pre-trial proceedings, as well as objections from the investigator subordinate to him, a message on the cancellation of the illegal or unjustified investigator's decision and elimination of violations committed, or a reasoned resolution on disagreement with the prosecutor's requirements (ch. 4 Article 39 of the Code of Criminal Procedure of the Russian Federation); to terminate the criminal case that came to him with a resolution on the application of medical measures (paragraph 3, part 5 of Article 439 of the Code of Criminal Procedure of the Russian Federation); to consider and resolve the petitions of suspects and accused to conclude a pre-trial cooperation agreement (Articles 317.1-317.5 of the Code of Criminal Procedure of the Russian Federation).

LITERATURE:

1. Agutin A.V., Kulikova G. L., Ageev A. N. Organization of prosecutorial supervision at the stage of initiation of a criminal case: monograph. M., 2010. pp. 76-78.
2. Doroshkov V. V. General and special powers of the prosecutor in criminal proceedings // Justice of the Peace. - 2015. - No. 11. - pp. 13-19.
3. Agutin A.V., Troshkin E. Z., Gubzhokov R. H. The organizational and legal mechanism for implementing the concept of "due process of law" and the moral foundations of criminal procedural activity in domestic criminal proceedings: monograph. M., 2016. pp. 6-61.
4. Doroshkov V. V. General and special powers of the prosecutor in criminal proceedings // Justice of the peace. - 2015. - No. 11. - pp. 13-14.
5. Vinokurov A. Yu. Actual issues of the organization and activity of the prosecutor's office. Selected articles. 2nd ed., additional M., 2012. p. 186.
6. Law of the Russian Federation "On the Prosecutor's Office of the Russian Federation" dated January 17, 1992 No. 2202-1 // Vedomosti of the Congress of People's Deputies and the Supreme Council of the Russian Federation. - 1992. - No. 8, Article 366.7.
The Law of the Republic of Uzbekistan "On the Prosecutor's Office" (With amendments and additions as of August 1, 2021). -Tashkent, "Yuridik adabiyotlar publish", 2021.
8. Ivanov D. A. Topical issues of theory and practice of compensation for damage caused by a crime (in the activities of preliminary investigation bodies): monograph. Moscow: Yurlitinform, 2018. p. 201.
9. Kapinus O. S. On the question of the procedural position of the prosecutor in criminal proceedings // Prosecutor. - 2013. - No. 2. - pp. 50-58.