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ISSUES OF IMPROVING PROSECUTORIAL OVERSIGHT OVER THE EXECUTION OF LAWS AIMED AT THE LEGAL PROTECTION OF ARMED FORCES SERVICEMEN

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Abstract:

This thesis analyzes the theoretical and legal foundations of ensuring prosecutorial oversight over the execution of laws regarding the legal and social protection of Armed Forces servicemen, as well as the regulatory system within national legislation. Based on the research findings, scientific and practical proposals aimed at improving national practice have been formulated.

Keywords: Prosecutorial oversight, military prosecution, military serviceman, legal protection, social guarantee, rule of law, foreign experience, parliamentary control, military ombudsman.

Introduction

The defense capability of a state is directly linked, first and foremost, to the extent to which its servicemen serving in the Armed Forces are legally and socially protected. It should be emphasized that military service, by its very nature, is distinguished by several restrictions on civil rights and freedoms, strict discipline, and relations of subordination; therefore, protecting the legitimate rights and interests of servicemen requires special state-legal mechanisms.

As is known, in recent years, large-scale measures have been implemented in New Uzbekistan to fundamentally reform the Armed Forces and raise their



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combat power and potential to the level of modern requirements. As highlighted by Shavkat Mirziyoyev, President of our country and Supreme Commander-in-Chief of the Armed Forces, providing social support and care for military personnel and their families remains one of the important priority directions of state policy¹. Naturally, the consistent implementation of these priority tasks primarily depends on the effective organization of state supervision—specifically prosecutorial oversight—over the execution of laws in the military sphere.

According to the Constitution of the Republic of Uzbekistan in its new edition², precise and uniform execution of laws throughout the territory of our country is supervised exclusively by the Prosecutor General and subordinate prosecutors. This constitutional duty is fully applicable to the military sphere, particularly to the Armed Forces, other troops, and military formations, where prosecutorial oversight is carried out by specialized bodies—the Military Prosecutor's Office. It should be noted that the scientific and practical relevance of the topic lies in the fact that the theoretical foundations, subject matter, and boundaries of military prosecutorial oversight are insufficiently covered in legal literature, and the norms regarding the legal and social guarantees of servicemen are scattered across various normative-legal acts in national legislation. Furthermore, the legislative body itself acknowledges that the study of foreign experience in regulating defense and security through legislation, as well as in improving the practice of parliamentary control, has not been sufficiently established³.

We know that prosecutor's office authorities constitute a state body with a single centralized system that oversees the precise and uniform execution of laws throughout the country.

¹ Data from the Press Service of the President of the Republic of Uzbekistan // *Gazeta.uz*, January 12, 2024.

² Constitution of the Republic of Uzbekistan, Article 144.

³ Analysis of the activities of the Committee on Defense and Security Issues of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan // Official website: parliament.gov.uz.



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As noted in legal literature⁴, prosecutorial oversight is an independent form of state control, the specificity of which is manifested in the following:

- **First**, the prosecutor's office exercises its powers independently of any state bodies or officials, subject only to the law;
- **Second**, prosecutorial oversight is limited strictly to checking legality; it does not evaluate the expediency of management activities⁵;
- **Third**, the demands of the prosecutor are binding on all individuals and legal entities.

It is well known that the military sphere differs from other sectors due to several specific characteristics:

- strict hierarchy and the principle of subordination, presence of service secrets, special regulation of military discipline;
 - a certain degree of restriction on the civil rights and freedoms of servicemen.
- Precisely because of these characteristics, organizing ordinary civilian control in the military sphere is complex, as a serviceman may typically fear appealing against illegal actions of their commander or supervisor, thereby fearing various restrictions in their service activities. As demonstrated in legal literature, this situation necessitates establishing not only general but also special—specialized—oversight institutions in the military domain.

From this point of view, it is appropriate to divide the subject of prosecutorial oversight over the execution of laws in the military sphere into two directions, namely:

- **First:** General oversight over the execution of legislation, Presidential decrees and decisions, and Cabinet of Ministers decisions by the Armed Forces, other troops, and military formations;

⁴ Prosecutorial Oversight: Textbook. — Tashkent: TSUL, 2019.

⁵ Pulatov B.Kh. Prosecutorial Oversight over the Execution of Laws. — Tashkent, 2006.



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- **Second:** Special oversight directly over the personal rights and freedoms of servicemen and their utilization of legal norms regarding legal and social guarantees. It should be stressed that this second direction constitutes the primary subject of this research.

Chapter XXV of the Constitution of the Republic of Uzbekistan in its new edition is entirely dedicated to the prosecutor's office, establishing the constitutional-legal status, independence, and organizational procedure of the prosecutor's office bodies of our country⁶.

Chapter XXVII of the Constitution, dedicated to defense and security, defines the duty of the Armed Forces in protecting state sovereignty and territorial integrity⁷. It should be noted that the interconnection between these two constitutional institutions—the prosecutor's office and the Armed Forces—forms the constitutional foundation for the activities of the Military Prosecutor's Office of our country.

As is known, the Military Prosecutor's Office bodies of our country, in their official activities, protect:

- the rights and freedoms of servicemen, persons liable for military service called up for military training, their family members, as well as employees of the Armed Forces, Internal Troops, and Ministry of Emergency Situations units;
- the security of the Republic of Uzbekistan;
- the combat readiness and combat capability of the Armed Forces;
- military discipline and the established procedure for performing military service.

The Military Prosecutor's Office exercises its powers independently of local and military administration bodies. Regional military prosecutors are appointed by

⁶ Constitution of the Republic of Uzbekistan, Chapter XXV (Articles 143–146).

⁷ Constitution of the Republic of Uzbekistan, Chapter XXVII (Articles 152–153).



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the Prosecutor General, while the Military Prosecutor of the Republic of Uzbekistan is appointed by the President. This organizational-legal setup demonstrates, on one hand, that military oversight is subject to a unified centralized management within the general prosecutor's office system and, on the other hand, ensures its independence from local military command influence.

The legal status, social protection, and material provision of servicemen of the Armed Forces of our country are primarily reflected in the Law of the Republic of Uzbekistan "On General Military Duty and Military Service"⁸. This Law regulates issues such as the financial liability of servicemen, discharge from service, and conferring military ranks. Detailed norms regarding social guarantees for servicemen—such as food, financial, and clothing supplies, housing provision, pensions, and medical care—are specified in the Regulations on the Procedure for Performing Military Service approved by the relevant decision of the President⁹.

Two main directions for improving prosecutorial oversight in the military sphere can be identified:

- **First:** systematization of national legislation constituting the subject of oversight;
- **Second:** enriching the oversight mechanisms based on advanced foreign experience.

In global practice, two main models for protecting the rights of servicemen and ensuring oversight over the execution of laws in the military sphere can be distinguished, namely:

⁸ Law of the Republic of Uzbekistan "On General Military Duty and Military Service", December 12, 2002, No. 436-II.

⁹ Regulations "On the Procedure for Performing Military Service by Citizens of the Republic of Uzbekistan", approved by Resolution of the President of the Republic of Uzbekistan No. PQ-4447 dated September 12, 2019.



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- **First model:** prosecutorial-centralized model, in which the oversight function is entrusted to a specialized (military) branch of a single centralized prosecutor's office system (Russian Federation and other CIS countries).
- **Second model:** parliamentary-ombudsman model, in which oversight authority is delegated to a special representative of the legislative branch (Federal Republic of Germany and Scandinavian countries).

The Russian model, in terms of its organizational structure and scope of powers, is very close to the Uzbek model, as both states operate on the basis of a single centralized prosecutor's office system inherited from the former Soviet period.

In the Law of the Republic of Kazakhstan "On the Prosecutor's Office", unlike our country's legislation, the principle of "unity" of the prosecutor's office system is not enshrined as a distinct, explicit legal concept¹⁰. This, in turn, provides an opportunity to identify the relative advantages of each national system by comparing the legislation of both states: while the experience of Kazakhstan serves as an example in terms of systematizing social guarantees, the experience of Uzbekistan, in our opinion, is relatively more complete regarding the explicit legal consolidation of the principle of "unity".

In the Federal Republic of Germany, protecting the rights of servicemen and ensuring oversight over the Armed Forces (Bundeswehr) is organized entirely differently—on the basis of the parliamentary-ombudsman model¹¹.

Ensuring prosecutorial oversight over the execution of laws regarding the legal protection of Armed Forces servicemen is a complex, multifaceted institution whose theoretical foundations must be formed considering the specific features of the military domain—strict discipline and service subordination. In the Republic of Uzbekistan, this task is assigned to the Military Prosecutor's Office

¹⁰ Mamirova Kh.R. Principles of Organization and Operation of Prosecutor's Office Bodies // Oriental Renaissance: Innovative, Educational, Natural and Social Sciences. — 2025. — No. 5(4). — P. 155.

¹¹ Grundgesetz für me Bundesrepublik Deutschland, Art. 45p.



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system, which relies on a constitutional basis as well as the Law of the Republic of Uzbekistan "On the Prosecutor's Office" and other relevant normative documents.

In our opinion, when improving the national legislation of our country, while preserving the existing model of prosecutor's office bodies, it is expedient to study advanced foreign experiences, conduct deep analyses, and refine legislative norms aimed at increasing the efficiency and effectiveness of prosecutorial oversight in the military sphere.

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11. Grundgesetz für me Bundesrepublik Deutschland, Art. 45p.