

The Concept of the Legal Status of the Prosecutor in Civil Proceedings and the Significance of their Role as a Participant In Civil Litigation

Shukrullaev Siyovush Ulugbek ugli¹

Annotation: In this article, the concept of the legal status of the prosecutor in the civil process and its importance today, the principles and forms of the participation of the prosecutor in the civil process, and the problems related to the legal status of the prosecutor in our national legislation are studied in this article. Scientifically based proposals of significant practical importance have also been developed, as well as the legislation of developed countries has been analyzed, relevant scientific conclusions, proposals and recommendations have been developed.

Keywords: participant in civil court proceedings, grounds and forms of prosecutor's participation, application, protest, procedural right, procedural obligation, cases considered in a separate category, state of health, age.

I. Introduction

The legal status of the prosecutor in civil proceedings, his participation and importance in the conduct of civil judicial proceedings, play a major role in ensuring the judicial system and legal order. The intervention of the prosecutor in civil cases is of great importance not only in regulating the activities of the courts, but also in protecting the legitimate interests of citizens and legal entities, and ensuring justice. Civil procedural legislation in the Republic of Uzbekistan provides for the participation of the prosecutor in various forms, which allows for the continuous development of his role and status.

The participation of the prosecutor in civil proceedings and his legal status are mainly determined by laws and regulatory documents for the exercise of his powers in courts. The Constitution of the Republic of Uzbekistan, as well as the Law "On the Prosecutor's Office", clearly specify the legal status of the prosecutor and his powers. The main tasks of the prosecutor are to protect the interests of the state in courts, prevent the violation of legitimate interests, and ensure the equality of the parties to a civil case.

In civil procedural legislation, the participation of the prosecutor is allowed only in cases established by law. This indicates the possibilities of the prosecutor to apply to the court on his own initiative. At the same time, the participation of the prosecutor in civil cases is mainly aimed at protecting the interests of the state, protecting the rights of citizens and ensuring the impartiality of judicial activities.

The prosecutor may participate in civil cases, especially those related to state interests, such as state property, compensation for damage caused to the state, and land legal relations. In these cases, the prosecutor has the right to protect the interests of the state and file an application with the court. At the same time, in protecting the rights and legitimate interests of citizens, the prosecutor may file an application with the court, especially for persons who are in poor health, are elderly, or are unable to protect their rights for other reasons.

¹ Lecturer at the Department of Civil Procedural and Economic Procedural Law, Tashkent State University of Law
siyavush.law@gmail.com



II. Materials and methods

This study uses a comprehensive approach to studying the legal status of the prosecutor in civil court cases in the Republic of Uzbekistan, using legal and comparative research methodology. The study assesses changes in legislation and their impact on the role of the prosecutor through the methods of generalization, deduction, and systematic analysis.

In addition, the study also conducted a comparative legal analysis aimed at studying the experience of countries such as Germany, France, Russia, and the United States, drawing conclusions that could be useful in developing the legal system of Uzbekistan.

The main source is the Civil Procedure Code of the Republic of Uzbekistan, Presidential Decrees, and amendments to the Civil Procedure Code, which are analyzed to identify existing gaps and problems in the legal status of the prosecutor. International legal experience is also studied as a potential model for strengthening the prosecutor's participation in civil cases.

Practical recommendations are developed based on qualitative data from academic articles, statistical reports, and legal literature. A systematic approach is used to analyze the evolution of prosecutorial involvement in civil litigation in recent years, highlighting changes in the main legislation and their consequences.

III. Results

The analysis shows that significant developments are being observed in the legal status of prosecutors in civil court cases in Uzbekistan, in particular, the recent amendments to the Civil Procedure Code and the establishment of a special prosecutor corps were an important milestone in this regard. The amendments to the legislation of 2023 and 2024 clearly defined the cases in which prosecutors can intervene in civil cases - this is significant because it is mainly aimed at protecting the interests of the state and ensuring the legality of court decisions.

These reforms are expected to strengthen the impartiality of the judicial system, as the prosecutor's involvement is limited to cases that are prescribed by law and necessary to protect the public interest.

In addition, the establishment of a corps of special prosecutors will serve to more effectively organize the participation of prosecutors in civil cases, making their participation more consistent and transparent.

Comparative analyses show that by introducing some international experiences, it is possible to further improve the legal status of the prosecutor in Uzbekistan and expand the scope of his participation in civil proceedings. This, in turn, will help increase public confidence in the judicial system.

IV. Literature review

The Decree of the President of the Republic of Uzbekistan "On additional measures to further expand access to justice and increase the efficiency of the courts" dated January 16, 2023, provides for a new mechanism for the participation of prosecutors and the creation of a specialized corps of prosecutors. These new initiatives are, of course, aimed at making prosecutorial participation in civil court cases more effective.

The main powers of the prosecutor in civil proceedings are clearly defined by law. According to the Civil Procedure Code of the Republic of Uzbekistan and the Law "On the Prosecutor's Office", the prosecutor may actively participate in the consideration of cases in courts. The main purpose of this participation is to protect the legitimate interests of the state in civil cases, promote equality of parties and a fair decision.

The legal status and participation of the prosecutor in civil proceedings is one of the important elements of reforming the judicial system and building a legal state in the Republic of Uzbekistan. The participation of prosecutors in civil cases is necessary not only to protect the interests of the state, but also to ensure the impartiality of the court, and to protect the rights of citizens and legal entities. Therefore, the role, legal status and powers of the prosecutor in civil proceedings are constantly



developing, an important process that serves to ensure a fair trial. Changes and new mechanisms in the legislation of the Republic of Uzbekistan are aimed at effectively implementing the participation of the prosecutor and ensuring the impartiality of the courts. This helps to strengthen the trust of citizens and entrepreneurs in the judicial system.

The recognition of the prosecutor as a participant in civil proceedings is provided for in Article 39 of the Civil Procedure Code of the Republic of Uzbekistan dated January 22, 2018.

From this point of view, since the prosecutor is recognized as a person participating in the case, his legal status can be recognized as a direct participant.

Because he is directly interested in the outcome of the case, that is, the court document issued after the case is considered on its merits.

Article 39 of the Civil Procedure Code of the Republic of Uzbekistan recognizes the prosecutor as a participant in the case, which indicates his important role in the civil court process. The participation of the prosecutor is aimed not only at protecting the interests of the state protected by law, but also at protecting the rights of citizens and legal entities, ensuring the impartiality of the courts. In this case, the legal status of the prosecutor is confirmed as a direct participant, and his participation in the court process becomes a necessary condition.

Article 50 of the Code of Civil Procedure of the Republic of Uzbekistan [1] defines the legal status of a prosecutor as a person participating in a civil proceeding as follows: "A prosecutor may participate only in cases provided for by law, as well as in cases related to legal relations related to land, state property, compensation for damage caused to the state and levies from the state budget, or in cases initiated on the basis of a statement of claim (application) of the prosecutor. A prosecutor may not participate on his own initiative in the consideration of a case initiated on the application of other persons.

A prosecutor may file a petition with the court to protect the interests of the state.

If a citizen is unable to personally defend his rights, freedoms and legitimate interests in court due to his health condition, age or other reasons, the prosecutor has the right to apply to the court with an application for protection of the violated rights, freedoms and legitimate interests of the citizen.

In civil cases, a claim (application) shall be submitted to inter-district, district, and city courts by prosecutors of the Republic of Karakalpakstan, regions, Tashkent city, districts, cities, and prosecutors equivalent to them, or their deputies; to the court of the Republic of Karakalpakstan, and to the courts of regions and Tashkent city by prosecutors of the Republic of Karakalpakstan, regions, and Tashkent city, or their deputies.

The Prosecutor General of the Republic of Uzbekistan or his deputies have the right to submit a statement of claim (application) to all civil courts of the Republic of Uzbekistan."

The Civil Procedure Code of the Republic of Uzbekistan establishes the conditions for the participation of the prosecutor in the procedure, which is necessary to ensure the impartiality of his activities and the protection of state interests. The fact that the prosecutor can apply to the court with an application to protect the interests of the state protected by law is an important element of interaction between state bodies and courts. This, in turn, allows the prosecutor to actively participate in the protection of citizens' rights.

In addition, the prosecutor has the right to apply to the court for the protection of the rights of a citizen in cases where he faces difficulties in defending his rights in court due to his health condition, age or other reasons. This norm expands the prosecutor's duties in protecting citizens and creates an additional guarantee in the protection of citizens' rights in court.

These amendments and additions to the Civil Procedure Code allow for the effective and fair participation of prosecutors in court cases. The innovations in this legislation also ensure that prosecutors participate only in protecting the interests of the state, while also protecting the personal



rights of citizens. At the same time, the participation of prosecutors serves to ensure the fairness of the trial and strengthen confidence in the court.

The participation of the prosecutor is a prerequisite for the impartial and fair organization of the activities of the courts. In this, it helps to protect the interests of the state, increase confidence in the fair decision of the court, and strengthen the trust and respect of citizens and entrepreneurs for the judicial system. New laws and regulations are aimed at further strengthening the legal status of the prosecutor in civil proceedings, which is an important step in the development of the judicial system and the rule of law.

According to Article 43 of the Constitution of the Republic of Uzbekistan, control over the clear and uniform implementation of laws in the territory of the Republic of Uzbekistan is carried out by the Prosecutor General of the Republic of Uzbekistan and prosecutors subordinate to him.

One of the main regulatory legal acts that reveals the legal status of the prosecutor is Article 41 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" [2] dated August 28, 2001, which states that "The prosecutor has the right to apply to the court with an application to protect the rights and legitimate interests of citizens, legal entities and the state. The prosecutor's application shall be considered by the court in the manner prescribed by law." It is clear from this that the legal status of the prosecutor in civil proceedings is determined not only by the current Civil Procedure Code of the Republic of Uzbekistan, but also by the Law "On the Prosecutor's Office", which provides for the legal status of the prosecutor in civil proceedings, such as the ability to apply to civil courts with an application or a lawsuit.

Article 4 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" [3] establishes that one of the main areas of responsibility of prosecutor's offices is to participate in the consideration of civil cases, cases of administrative offenses, and economic disputes in courts, and to protest against judicial acts that contradict the law.

Article 51 of the current Code of Civil Procedure of the Republic of Uzbekistan [4] sets out the procedural rights and obligations of the prosecutor in civil proceedings. In particular:

- The prosecutor who filed the application shall exercise all procedural rights and assume all procedural obligations of the plaintiff, with the exception of the right to conclude a settlement agreement or a mediation agreement and the obligation to pay court costs;
- The prosecutor has the right to withdraw his application in whole or in part, to provide explanations to the court on the claims he has filed to protect the rights and interests of other persons, to express his opinion on the content of the case, as well as on certain issues arising during the hearing of the case, and to file a protest against the court document;
- If the plaintiff does not agree, the prosecutor does not have the right to change the basis or subject of the claims he has filed, to make additional claims, or to increase or decrease the amount of the claims;
- The plaintiff's withdrawal from the claim submitted by the prosecutor to protect the plaintiff's rights shall entail the dismissal of the claim (application) without consideration, unless this infringes on the rights, freedoms and legitimate interests of third parties;
- The withdrawal of a prosecutor from his/her own claim (application) submitted to protect the interests of another person does not deprive this person of the right to demand consideration of the case on its merits.

In order to ensure the prosecutor's authority over the implementation of laws related to the conduct of civil proceedings, the prosecutor shall, in strict compliance with the principle of independence of the courts and subjection only to the law, facilitate the administration of justice by the courts conducting civil proceedings, and shall conduct proceedings without violating the principle of equality of the prosecutor and the lawyer in court proceedings.



Also, in order to ensure effective protection of the rights and freedoms of citizens, the legally protected interests of society and the state in the consideration of civil cases in courts, Order No. 124 of the Prosecutor General of the Republic of Uzbekistan "On further increasing the effectiveness of the participation of prosecutors in the consideration of civil cases in courts" was adopted on November 17, 2015. This Order emphasizes that the main tasks of the prosecutor's offices of the Republic of Uzbekistan in the consideration of civil cases in courts are to achieve legality, justification and fairness of court decisions through the powers established by law, as well as to strengthen legality, ensure the rule of law, and effectively protect the rights and freedoms of citizens, the legally protected interests of society and the state.

The powers of the prosecutor in civil cases in courts are:

- ensuring the rule of law in society, strengthening legality, social justice, peace and national harmony;
- to protect the personal, political, economic, and social rights and freedoms of citizens, as well as the legitimate interests of society and the state, as well as private property owners, enshrined in the Constitution and laws of the Republic of Uzbekistan;
- to ensure the participation of the prosecutor in all court instances in cases provided for by law, as well as in cases initiated at the request of the prosecutor (claim);
- to take measures to bring illegal court decisions into line with the law in cases where the participation of a prosecutor is required by law, initiated on the basis of a prosecutor's application (claim), as well as cases investigated on the basis of appeals;
- is aimed at studying court decisions based on appeals and eliminating identified violations of the law.

The legislation of the Republic of Uzbekistan clearly and in detail defines the legal status of the prosecutor in civil proceedings, which is aimed at ensuring his main role in protecting the legitimate interests of the state and citizens. This justifies the participation of the prosecutor in the trial as an important legal norm. Also, the Law "On the Prosecutor's Office" and the Civil Procedure Code establish detailed rules on the participation of the prosecutor in courts, filing a lawsuit, and other procedural rights.

The main purpose of the prosecutor's activities in civil courts is to ensure the rule of law, issue fair and lawful court decisions and protect the rights of citizens. The Law of the Republic of Uzbekistan "On the Prosecutor's Office" clearly states the prosecutor's right to appeal to the court. The prosecutor, within the framework of civil cases, can actively participate in protecting the interests of the state, ensuring the legality of court decisions and protecting individual rights. The importance of this situation lies in ensuring the role of state bodies in civil proceedings, not only in control, but also in effective protection.

V. Discussion

According to some scholars, the reason why the prosecutor is recognized as a person who assists in the administration of justice in civil proceedings is closely related to his legal status in civil proceedings. [5] Because the prosecutor, in cases provided for by law and in cases considered through his own claim, directly participates in the court and helps restore the violated rights of the party, whether the plaintiff or the defendant, in a legal, reasonable and fair way.

Article 383 of the Civil Procedure Code of the Republic of Uzbekistan provides that "the prosecutor, a higher prosecutor, a prosecutor in a case considered with the participation of a prosecutor, as well as in the event of an appeal by the persons specified in the first part of this article, shall have the right to file an appeal protest against a judicial act of the first instance court that has not entered into legal force." It should be noted that Article 35 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office" stipulates that "the prosecutor has the right to file a protest against a court verdict, decision, ruling and decision within the scope of his powers in the manner established by the procedural law"



[6]. The main reason for the inclusion of such norms in legislative acts is to protect the violated rights of citizens, minimize the amount of expenses that may be incurred by them, ensure that judicial acts are legal, reasonable and fair, and further increase public confidence in the employees of the prosecutor's offices and the courts.

According to the current Code of Civil Procedure, the prosecutor has the right to exercise all the rights of the parties, i.e. the plaintiff and the defendant, including the right to familiarize themselves with the case materials, obtain extracts from them, make copies, file a motion for rebuttal, present evidence, participate in the examination of evidence, ask questions to other persons participating in the case and persons assisting in the administration of justice, file motions, submit oral and written explanations to the court, state their arguments on all issues arising during the court hearing, object to the motions, motions, arguments of other persons, and file a complaint (protest) against court documents [7]. The status of the prosecutor in the conduct of civil cases is not recognized as a plaintiff or defendant. The main reason for this is that the prosecutor is considered a participant in a separate case. Because the prosecutor is not considered to have any interest, material or otherwise, in applying to civil courts on the basis of a lawsuit or a final judicial document to protect the rights and interests of citizens.

The legal status of the prosecutor in civil cases has been considered important not only today, but since the years of independence, and this situation continues to this day. The reason is that not only in the current century of developing digital economy, but also during the period of independence, the rights and interests of citizens, the state and society, as well as business entities, are put in the first place and protected in our democratic state.

In particular, the legal status of the prosecutor in civil court proceedings is significant in the adoption of legal decisions by the courts, in the conduct of court proceedings without violating the transparency of the court, the independence of the court. In his congratulatory message to employees and veterans of the Prosecutor's Office on January 8, 2024, the President of the Republic of Uzbekistan Shavkat Mirziyoyev stated, "Most importantly, the prosecutor's system and the attitude of our people towards it are changing. Today, our people see in the prosecutor's office not a "punitive office", but a people-oriented structure that helps restore the violated rights of the population and entrepreneurs, shares their pain, and tries to be supportive." [8] This situation demonstrates the new approaches of prosecutors in restoring the violated rights of citizens and entrepreneurs and strengthens public confidence in the prosecutor's system. Thus, the legal status of the prosecutor in civil proceedings demonstrates that it is crucial not only for the credibility of the judicial system, but also for ensuring the rule of law in a democratic state.

At the same time, it is necessary to further improve the legal status of the prosecutor, expand his participation in the courts and increase his effectiveness, and further strengthen the legal system of Uzbekistan on a global scale. This, in turn, will serve to ensure legality, justice and equality in civil court cases.

Today, while the judicial and law enforcement systems are undergoing fundamental reforms and changes, the participation of the prosecutor in the conduct of civil cases, as well as the number of lawsuits filed by the prosecutor in civil courts to protect the rights and legitimate interests of citizens and entrepreneurs in court, and the number of protest appeals against illegal court decisions, rulings, and decisions issued in the consideration of civil cases, has increased significantly compared to previous years, and today the number of judicial documents amended and canceled through protests is also quite large.

If we look at court statistics, in the first 6 months of 2023, in order to ensure the work of prosecutors in the courts:

- Prosecutor participation in trials of 34,000 criminal, 6,000 civil and economic, and 5,000 administrative cases has been ensured;
- based on the prosecutors' protests, the decisions of the courts in criminal cases against 1,338 individuals, as well as 127 decisions of civil courts, 79 decisions of economic courts and 240



decisions of administrative courts were brought into line with the law. [9] According to the information provided by the Prosecutor General of the Republic of Uzbekistan, Nigmatilla Yuldoshev, on 06.12.2023, "Special attention is being paid to the protection of the rights and freedoms of citizens in the consideration of criminal, civil, administrative and economic cases in courts. In particular, the participation of the prosecutor in the consideration of about 80 thousand cases in courts has been ensured." [10] However, this indicator is significantly higher than in 2021. Because, in order to ensure the powers of the prosecutor in the consideration of cases in courts at the end of 2021:

- The participation of prosecutors in the consideration of 47,755 criminal, 9,899 civil, 3,387 economic, and 11,850 administrative cases in courts was ensured.

VI. Conclusion

Looking at the statistics of the above cases by the prosecutor's office, the reason why the number of individuals who are unable to directly protect their rights and interests, as well as the number of actions aimed at ensuring the uniform implementation of laws and the rule of law in our country, is increasing year by year is clearly visible not only in the legal status of prosecutors in civil courts, but also in criminal, economic and administrative courts, their direct participation in the proceedings and their protests against unlawful judicial acts.

The legal status of the prosecutor in civil proceedings has always been important and continues to be so today. The participation of the prosecutor plays an important role in protecting the rights and legitimate interests of citizens, the state and business entities. The prosecutor, participating in the court, protects the rights and interests of the parties, helps restore their violated rights, and also ensures the legality and fairness of the court's decisions. The Code of Civil Procedure of the Republic of Uzbekistan and the Law "On the Prosecutor's Office" clearly define the procedural participation and powers of the prosecutor, which serves to increase trust in the system, ensure the legitimacy of the courts, and ensure justice in society.

The status of the prosecutor in civil proceedings is not as one of the parties, but as an independent subject participating in many important processes. Protests and complaints filed by prosecutors, actions aimed at correcting illegal acts of courts, contribute to strengthening the rule of law in civil courts and other courts. The participation of prosecutors ensures the credibility of the judicial system and serves to protect the rights of citizens.

Also, the new approach of the President of the Republic of Uzbekistan Shavkat Mirziyoyev to the prosecutor's office, the increased role of prosecutors in society as a people's advocate and restorer of law, has further strengthened public confidence in the prosecutor's office. The amended and annulled court documents, as well as fair decisions implemented through protests, provide citizens and entrepreneurs with more effective legal protection.

Statistical indicators confirm that the participation of prosecutors in courts and their legal activities are increasing year by year. This indicates the strengthening of the legal status of the prosecutor not only in civil courts, but also in criminal, economic and administrative courts. The fundamental reforms implemented by the prosecutor's office system, the efforts aimed at bringing protests against judicial acts and ensuring the rule of law, are yielding more effective results in protecting citizens and entrepreneurs.

List of references; Bibliographic links; References:

1. Civil Procedure Code of the Republic of Uzbekistan. <https://lex.uz/uz/docs/-3517337#-6715857>
2. Law of the Republic of Uzbekistan "On the Prosecutor's Office" No. 257-II dated August 28, 2001, <https://lex.uz/ru/docs/-106197>
3. Law of the Republic of Uzbekistan "On the Prosecutor's Office" No. 257-II dated August 28, 2001, <https://lex.uz/ru/docs/-106197>



4. Civil Procedure Code of the Republic of Uzbekistan dated January 22, 2018.<https://lex.uz/uz/docs/-3517337#-6715857>
5. Civil procedural law. Textbook. Authors' team. Responsible editors: yfd, prof. MMMamassiddiqov, yfn, prof. DY Khabibullayev. –“ Lesson press ”publishing house. 2020. -607 p (158 pages)
6. Law of the Republic of Uzbekistan No. 257-II “On the Prosecutor's Office” dated August 29, 2001.<https://lex.uz/docs/-106197>
7. MMMamassiddikov and others. Civil procedural law. Textbook for students of legal technical schools. – T: TDYU, 2021. (p. 38).
8. Congratulations from the President of the Republic of Uzbekistan to employees and veterans of the Prosecutor's Office on January 8, 2024.<https://president.uz/oz/lists/view/6961>
9. Prosecutor General's Office: 29 CRIMINAL CASES INITIATED AS A RESULT OF STUDY OF CRITICAL MATERIALS - AUZ.UZ<http://auz.uz/news/bosh-prokuratura-tankidiy-materiallarni-urganish-natizhasida-29-zhinoyat-ishi-kuzgatildi>
10. "The prosecutor's office has entered a new era" - Nig'matilla Yu'ldoshev - khabar.uz<http://m.xabar.uz/uz/huquq/prokuratura-organlari-yangi-davrga-kadam>
11. Decree of the President of the Republic of Uzbekistan No. PF-11 dated January 16, 2023 "On additional measures to further expand access to justice and increase the efficiency of the activities of courts. <https://lex.uz/uz/docs/-6358976>
12. Decree of the President of the Republic of Uzbekistan No. PF-12 dated January 16, 2023 "On additional measures for the effective organization of the implementation of justice activities." <https://lex.uz/docs/-6358913>
13. Law of the Republic of Uzbekistan No. O'RQ-887 dated December 25, 2023 "On Amendments and Additions to the Civil Procedural Code of the Republic of Uzbekistan in connection with improving the procedure for verifying the legality, validity and fairness of court decisions. <https://lex.uz/uz/docs/-6708694>
14. Law of the Republic of Uzbekistan No. O'RQ-968 dated September 30, 2024 "On Amendments and Addenda to Certain Legislative Acts of the Republic of Uzbekistan Aimed at Ensuring the Powers of the Prosecutor in Hearing Cases in Courts". <https://lex.uz/uz/docs/-7121954>
15. Decree of the President of the Republic of Uzbekistan No. PF-60 dated January 28, 2022 "On the Development Strategy of the New Uzbekistan for 2022-2026".<https://lex.uz/uz/docs/-5841063>.

