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VALUES OF PRINCIPLES IN THE ACTIVITY OF LAW-MAKING IN THE PROSECUTOR'S OFFICE

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ABSTRACT

This article analyzes the importance of the principles in the law-making activities of the prosecutor's office, the organization of cases in accordance with them. The scientific and theoretical views of scientists working on the principles in the creative activity of law are highlighted, some scientific author's views in this area are highlighted. The participation of the prosecutor's office in law-making was studied from the point of view of general principles and special types. The category of general principles includes legitimacy, unity and centralization, independence, transparency, etc. Special principles include democracy, humanity, justice, a systematic approach, planning, scientific validity, professionalism, resource and other security, expediency and systematization of lawmaking.

KEYWORDS

Lawmaking, prosecutor's office, principles, law enforcement, legality, regulatory legal acts, general principles, special principles, transparency.

INTRODUCTION

The prosecutor's office is a subject of law-making carried out by the state. Functions of the prosecutor's office i reflects its essence and role in the state mechanism¹. The main purpose of this function of the Prosecutor's Office is to ensure the rule of law, strengthen unity and the rule of law, protect the rights and freedoms of man and citizen, as well as the legally protected interests of society and the state.

The participation of prosecutors in the rule of law allows to prevent violations of the normative and legal acts in this area of social relations by means of the means established by law, by identifying and eliminating inconsistencies with the Constitution and laws.

The entry into force of the necessary, non-contradictory and high-quality normative legal acts will create favorable conditions for all legal entities to pursue their legitimate interests. As a result, there will be a positive change in such needs, which will lead to further improvement of the legal regulation of developing social relations.

At the same time, due to the efforts of prosecutors, violations of the law will be eliminated at the stage of preparation of normative legal acts. This significantly reduces the workload of the prosecutor's office's oversight units, eliminating complex and costly cases of protesting against illegal legal documents and litigation.

Participation of the prosecutor's office in law-making activities is carried out in accordance with certain

principles. After all, law-making activity, by its very nature, cannot be carried out without certain principles. The participation of the prosecutor's office in law-making activities is carried out in accordance with certain principles. Legal principles are general, guiding rules that define the important aspects and characteristics of this multifaceted and multi-level activity, as well as the basic requirements for it.

MAIN PART

Because the principles define common features and requirements, they are mandatory for all participants in law-making activities. The basic principles include, firstly, the principles that reflect the main, objectively necessary aspects and aspects of lawmaking, and secondly, the principles that characterize the permanent, naturally existing relationships and connections in the lawmaking process. An important feature of legal creativity is to carry out such work on the basis of certain principles, including legality, science, professionalism, speed, planning.

In particular, according to D.J. Pashtov, in participating in law-making activities, the prosecutor's office adheres to the following principles: general principles - legitimacy, unity and centralization, independence, transparency; special principles of lawmaking - democracy, humanity, justice, systematic approach, planning, scientific basis, professionalism, resource and other security, feasibility, systemicity of lawmaking².

¹ Ергашев Е.Р. Институты прокурорского надзорно-охранительного права // Российский юридический журнал. – 2008. – №3.

² Паштов Дж.Р. Участие прокуратуры в законотворческой деятельности законодательных (представительных) и

In our opinion, the following principles of the participation of the prosecutor's office in lawmaking can be highlighted:

- The principle of legality - means that all normative legal acts must comply with the laws on the content, form and order of publication, other documents of higher authorities;
- The principle of democracy - has a number of manifestations, one of which is the existence of democratic procedures in the development, discussion and adoption of draft laws and other regulations;
- The principle of transparency - the open nature of this activity, the availability of extensive and systematic information about it. Transparency of the law-making process is inherent in all its main stages: preparation of projects, their initial discussion, adoption of documents, informing the public about the adopted legal documents and their implementation;
- The principle of humanity - normative-legal documents provide for the expression and protection of universal values, natural human rights, the interests of which must be at the center of lawmaking;
- the principle of fairness - implies the need to take into account social expectations and the actual readiness of the subjects to fulfill its instructions;
- The principle of scientific substantiation of legal creativity - includes several components: the study of the objective needs of each document, the practice of applying existing laws, the correct choice of method of legal regulation, the structure of placement of legal material, the near and future taking into account the possible consequences, etc.;
- The principle of professionalism - involves the participation of qualified professionals in certain areas of social life with appropriate training, extensive experience and sufficient knowledge in making new legal decisions. Professional law is of great importance for the subjects of the creative process. At the same time, the planning of law-making activities should be not only short-term, but also long-term, taking into account the strategic objectives of society and the state. The speed of law-making, which allows to ensure the timely legal regulation of social relations, is also important³;
- The principle of systematization and consistency - implies consistency in the implementation of the rule of law, the mandatory compliance of each normative legal act with the Constitution, other laws and norms of international law;
- The principle of continuous development and timely implementation of lawmaking - an integral condition of lawmaking that meets the needs of society and the state.

All the listed principles are, in essence, the basic principles of lawmaking, and the prosecutor's office must take them into account when participating in lawmaking. The participation of the prosecutor's office in law-making activities is based on the principles of unity, centralization and independence, as well as the general principles of the prosecutor's office and its organization.

RESULTS AND DISCUSSIONS

The principle of legality of legal activity implies the supremacy of law and the rule of law in the system of legal documents and the compliance of other normative legal

исполнительных органов субъектов Российской Федерации: дисс. ... канд. юрид. наук. – М., 2014.

³ Малько А.В., Шундинов К.В. Правовая политика современной России: цели и средства // Государство и право. – 2001. – № 7. – С. 19; Поленина С.В., Гаврилов О.А.,

Колдаева Н.П., Лукьянова Е.Г., Скурко Е.В. Некоторые аспекты развития правотворчества в современной России // Правовая политика и правовая жизнь. – 2006. – № 1. – С. 7.

acts with it. Contrary to this principle and the inconsistency of law enforcement practice is a violation of the rule of law⁴.

An important constitutional requirement to ensure the legitimacy of the participation of the prosecutor's office in legislative activity is to prevent the inconsistency of legal acts with laws and the unconstitutionality of laws. Thus, the strict, binding nature of normative legal acts does not mean that the state bodies adopting these documents act at their own discretion and outside any legal framework. The principle of the supremacy of the Constitution and laws throughout the country is enshrined in Article 15 of the Constitution.

The next principle is the principle of unity and centralization. In our opinion, unity and centralization in modern conditions is the only principle of organization and activity of the whole prosecutor's office. The subordination of subordinate prosecutors to superior prosecutors shall be determined by the Procurator-General.

Prosecutors use a single procedure and legal means to protect the rights and freedoms of man and citizen, the interests of society and the state protected by law, to eliminate violations of the law. This means that the creation and operation of prosecutor's offices that are not part of a single system of the prosecutor's office is not allowed. Each prosecutor shall act on behalf of the country in the relevant territory or in the field of legal relations.

It should be noted that the principle of unity and centralization should not be understood as a principle of monopoly that cannot be fully applied to the prosecution system, as each prosecutor is legally protected and independent in his or her work.

Another principle of participation of the prosecutor's office in legislative activity is the principle of independence. This means that the prosecutor's office exercises its powers independently of other state bodies, public associations and in strict accordance with applicable law.

An important guarantee of the independence of prosecutors is the inability of prosecutors to join and participate in politically motivated public associations. The establishment and activity of public associations and their organizations pursuing political goals in the bodies and institutions of the Prosecutor's Office shall not be allowed. Prosecutors are not bound by the decisions of public associations in their official activities. This rule applies not only to prosecutors, but also to scientific and pedagogical staff of prosecutor's offices, other employees of the prosecutor's office and institutions with a degree.

The principle of independence of prosecutors is also ensured by their professionalism, integrity, ethical qualities and knowledge of applicable law.

It can be concluded that the independence of the prosecutor's office in exercising its legislative powers fully meets international requirements, in particular the Recommendation of the Parliamentary Assembly of the Council of Europe No. 1604 (2003) "On the Role of the Prosecutor's Office in a Democratic Legal Society". and the need to completely eliminate interference from which sector, and to meet the requirements of Recommendation No. 19 (paragraphs 9, 10, 36a) of the Committee of Ministers of the Council of Europe "On the Role of the Prosecutor's Office in the Criminal Justice System" Rec (2000).

The principle of compulsory compliance with the requirements of the prosecutor is directly stated in Article 6 of the Law on the Prosecutor's Office "Obligation to

⁴ Теория государства и права. – М.: Норма, 2006. – С. 275.

comply with the requirements of the prosecutor." The requirements of the procurator arising from the powers provided by law must be complied with within the established time limits; statistical and other information, certificates, documents and their copies, necessary for the performance of the functions assigned to the prosecutor's office, shall be provided free of charge at the request of the procurator; failure to comply with the requirements of the procurator arising from his powers, as well as failure to appear at his summons shall entail liability established by law.

The principle of transparency means openness and a certain degree of publicity of the activities of prosecutors and procurators, openness to the public and the media. Through its implementation, the society exercises control over the activities of the prosecutor's office .

Adherence to this principle will help society and public authorities to be aware of the rule of law and order in the country, increase the level of legal awareness of the population and, ultimately, strengthen the rule of law.

This principle means that as a result of lawmaking, the hopes, interests and needs of the majority of the people must be reflected in the laws ⁵.

It is the result of legislation that reflects the rights and responsibilities of citizens - laws must be brought to the attention of citizens. Citizens should be able to know the requirements imposed on them by law.

The final document of the Vienna Meeting of the Conference on Security and Co-operation in Europe of 15 January 1989 stated that the States Parties to the Conference on Security and Co-operation in Europe "should publish all laws, administrative rules and

procedures relating to their fundamental freedoms and create conditions for their free exercise ”.

In accordance with the Constitution of the Republic of Uzbekistan and the Law "On regulatory legal acts", regulatory legal acts must be officially published. However, any normative legal acts affecting the rights, freedoms and obligations of an individual and a citizen may not be applied unless they have been officially published for all attention.

In our opinion, the main ways to ensure the transparency of lawmaking are the meetings of draft laws and regulations with the participation of legal scholars and experts in the working groups of prosecutors at various levels, "roundtables", meetings of coordinating councils of law enforcement officers, academic councils of the Academy is a wide-ranging discussion in the classroom with the audience, in small classes, and so on.

The humane principle of law-making activity. The humane nature of a normative legal document is related to its compliance with ethical principles. There should be nothing in it that compels a person to commit immorality. This means that the goals and instructions of the normative-legal document should be ethically oriented and become "internal" (moral) regulators of human behavior . Strengthening the moral capacity of a normative legal act increases its legal value, eliminates the problem of contradiction between the normative legal act and the scope of persons to whom it is applied, and they are the basis of legal action ⁶.

The principle of justice. This principle applies, first of all, to the content of normative-legal documents, not to individual social groups, but to their conformity to the needs of society. In our opinion, prosecutors with

⁵ Гребенников В.В. Правовая система станет прозрачной // Известия. 2001. 28 июня

⁶ Червонюк В.И. Теория государства и права: Учебник. М.: ИНФРА-М, 2006. С. 380, 381.

extensive experience in the field of law enforcement can make the necessary proposals to ensure that the project fully meets the principle of fairness in the development of a draft regulatory document.

The principle of scientific substantiation of legal creativity. It includes the development of a science-based strategy of lawmaking in the country and in administrative-territorial units; forecasting the social consequences of the impact of new norms; covers both national and world legal science achievements, taking into account scientific recommendations.

A systematic approach and the principle of planning the development of law-making activities are ensured through the planning of law-making activities. In essence, planning emerges as the basis for high-quality law-making activities and serves as a factor contributing to the orderly development of legislation and the formation of a complete legal framework ⁷.

In this regard, R.K. Nadeev said, "The haste in the adoption of laws often leads to the fact that the laws do not have mechanisms for their implementation and accountability for non-compliance. The legislature deprives itself of a significant share of power when it entrusts departmental legitimacy to address the most important issues in the documents ⁸."

CONCLUSION

The above-mentioned aspects simultaneously create conditions and guarantees not only for the interests of

prosecutors directly involved in the law-making process, but also for the interests of citizens, society and the state as a whole when the case is properly organized.

In addition to the above, V.I. Chervonyuk emphasizes the principle of resource and other support of the law-making process. The specificity of this principle is reflected in the use of a system of special tools (organizational, technical, legal, etc.) for the organization of this activity in the practice of lawmaking, which provides for the development of effective methods of lawmaking in the adoption of reasonable regulations. In this regard, the researcher includes the following in the means of ensuring the activities of lawmaking: information support; planning and programming of these activities; use of legal creativity experiment; expert opinion; organizational and legal support of legal creativity ⁹. In this regard, R.Z. Zafarov also provided information on the normative activity, its legal basis is not defined in a separate normative legal act or in any specific part of the normative legal act. He argues that the quality and practical effectiveness of the adopted legislation depends on the information collected in the norm-making process and the extent to which they are analyzed ¹⁰.

L.A. Morozova emphasizes the principle of systematization of lawmaking and the fact that the adopted normative legal acts are "absorbed" into the existing legal system, do not contradict other existing documents, do not have conflicts, gaps, duplications, and

⁷ Забарчук Е.Л. Саломаткин А.С. Участие органов прокуратуры в правотворческой деятельности органов государственной власти субъектов Российской Федерации и органов местного самоуправления. – М.: Изд. СФ РФ, 2010. – С.11

⁸ Надеев Р.К. Правовое обеспечение законопроектной деятельности Государственной Думы. – М.: Издание Государственной Думы, 1997. – С.4.

⁹ Червонюк В.И. Теория государства и права: Учебник. – М.: ИНФРА-М, 2006. – С. 381.

¹⁰ Зафаров Р.З. Норма и жодкорлиги жараёини ахборот билан таъминлашнинг ҳуқуқий асослари таҳлили // Science and Education. – 2021. – №2(5). – Б. 803-804.

in this case the social states that it should use the means of regulating relations ¹¹.

In short, the prosecutor's office follows the following principles when participating in law-making activities:

- 1) General principles: legitimacy, unity and centralization, independence, openness;
- 2) Special principles of lawmaking: democracy, transparency, humanity, justice, scientific basis, professionalism, systematization and consistency, continuous development and timely implementation of lawmaking.

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¹¹ Морозова Л.А. Теория государства и права: Учебник. Изд. 2-е, перераб., доп. – М.: Эксмо, 2007. – С.280.