

The Role and Practical Significance of Prosecutorial Supervision in Ensuring the Housing Rights of Minors

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Abstract: This article analyzes the supervisory function of the prosecutor's office in ensuring the housing rights of minors. Based on legislative provisions, constitutional norms, and legal acts on the prosecutor's office, the author reveals the significance of this institution.

At the same time, the article examines scholarly views regarding the protection of minors' housing rights, provides the author's reflections on them, explores the experience of foreign countries in this area, and analyzes the possibilities of incorporating such practices into national legislation.

Keywords: Prosecutorial supervision, minors, housing rights, social protection, enforcement of legislation, prosecutorial remedial measures, legal guarantees, constitutional norms.

Introduction: In the context of New Uzbekistan, one of the priority directions of state social policy is the protection of the rights and legitimate interests of orphans and children deprived of parental care. Special significance is attached to strengthening the social protection of this category of children, ensuring their access to decent living conditions and a stable social environment, as well as preparing them for independent life in the future through the systematic implementation of comprehensive measures.

The Constitution of the Republic of Uzbekistan enshrines the right of citizens to housing and the state's obligations to ensure the realization of this right through specific legal provisions. In particular, Articles 31, 47, and 79 of the Constitution establish the right of citizens to private property, the principle of the inviolability of housing, and state guarantees regarding the provision of housing for socially vulnerable segments of the population.

These articles, first and foremost, are aimed at guaranteeing the constitutional rights of citizens by ensuring the inviolability of private property. At the same time, the principle of the inviolability of housing is manifested as an important legal guarantee for the protection of human dignity, personal honor, and the privacy of individuals. Furthermore, on the basis of the

principle of social justice, the constitutional foundations of state policy are defined with respect to providing housing for such vulnerable categories as orphans, youth, and low-income families.

Thus, the constitutional norms not only legally guarantee citizens' rights to own and use housing but also establish the state's duties and responsibilities to improve the housing conditions of socially vulnerable groups of the population.

These constitutional norms not only establish the general principles regarding citizens' right to housing but also legally reinforce the state's specific obligations in the field of social policy. In particular, they constitute the constitutional basis for state guarantees aimed at providing housing for socially vulnerable segments of the population.

At the same time, these norms serve strategic objectives such as ensuring social stability, improving the quality of life and well-being of citizens, and upholding human dignity. This, in turn, expands the substance and meaning of the legal guarantees enshrined in the Constitution and creates the possibility of implementing them in harmony with the principles of social justice.

In our opinion, in the process of ensuring the full and effective implementation of the aforementioned

constitutional provisions, the role of the prosecutor's office is of exceptional importance. Indeed, as the only centralized state body supervising compliance with the Constitution and legislative acts, the prosecutor's office ensures the functioning of effective legal guarantee mechanisms for protecting citizens' housing rights as well as the interests of socially vulnerable groups.

Therefore, the significance of the prosecutor's office lies not only in monitoring and evaluating the enforcement of these constitutional provisions but also in taking proactive measures to eliminate legal gaps or practical problems when they arise.

According to Article 143 of the Constitution of the Republic of Uzbekistan and Article 1 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office," the Prosecutor General of the Republic of Uzbekistan and subordinate prosecutors exercise supervision over the precise and uniform execution of laws throughout the country. This provision represents a fundamental guarantee that legally defines the role and functions of the prosecutor's office within the state governance system and demonstrates that its activities are directed, in accordance with constitutional principles, toward ensuring legal order, upholding the rule of law, and safeguarding the legitimate interests of citizens.

Supervision over the "precise and uniform execution of laws" is not merely an administrative or procedural control but is grounded in such principles as normative clarity, legal stability, and legal certainty.

As an institution, the prosecutor's office and its supervisory function, which ensures its balanced role, manifest the prosecutor's office not only as a body responsible for criminal prosecution but also as a constitutional preventive organ that preserves equilibrium within the state. In particular, through the formulation of "uniform execution of laws," the primacy of the principles of normative equality (equality before the law) and legal certainty becomes evident in prosecutorial activity. This feature elevates the prosecutor's role beyond punitive functions to encompass preventive and cautionary functions as well.

In practice, the effectiveness of prosecutorial supervision is most clearly observed in monitoring processes conducted over departmental regulations, decisions of local authorities, and the activities of economic entities. Likewise, prosecutorial conclusions and directives often serve as a primary source for preventing misinterpretations of laws. At the same time, the consistent and impartial application of prosecutorial responses in ensuring legality plays a crucial role in strengthening constitutional fidelity and enhancing public trust.

The authority of the Prosecutor General of the Republic of Uzbekistan and subordinate prosecutors with respect to ensuring the precise and uniform execution of laws occupies a central place in the formation of the rule of law. This provision embodies the organic unity of a constitutional approach, the theory of norms, and law enforcement practice. The consistent and systematic exercise of this authority functions not only as a mechanism for consolidating legal order but also as a means of securing trust between the state administration and society. Therefore, this provision remains one of the core elements of the system of legal protection.

The role of the prosecutor's office as a central institution of law enforcement and its significant importance in ensuring human rights and freedoms is recognized as one of the priority directions of state policy pursued in our country. As a practical expression of this recognition, the adoption of the Law of the Republic of Uzbekistan "On Establishing the Day of Employees of the Prosecutor's Office of the Republic of Uzbekistan" (Law No. URL-414 of December 19, 2016), and the designation of January 8 as the Day of Employees of the Prosecutor's Office, can be regarded as one of the acknowledgments of the vital functions of the prosecutor's office in protecting the state, society, and the rights and freedoms of citizens.

The importance of these functions has been repeatedly emphasized by the President of the Republic of Uzbekistan, Sh.M.Mirziyoyev, in official speeches and programmatic documents on legal policy. In particular, it was underlined that "The role of the prosecutor's office is great in comprehensively strengthening the legislative framework and ensuring the unconditional implementation of laws, raising the legal culture of citizens, developing a democratic rule-of-law state, supporting the development of private property and entrepreneurship, and ensuring their reliable protection [1]." In our view, these high acknowledgments are closely interconnected with the essence of the systemic reforms being carried out in our country.

Within the framework of these systemic reforms, a whole system of legal acts has been established defining the role of the prosecutor's office in ensuring the housing rights of minors, children deprived of parental care, and orphans. In particular, the Action Strategy for the Development of the Republic of Uzbekistan along Five Priority Directions for 2017–2021 was adopted, and within the scope of its consistent and effective implementation, the legal capacity and institutional potential of the prosecutor's office were comprehensively mobilized to ensure the supremacy of law, strengthen public order, and guarantee the

protection of human rights and freedoms in the country.

During this period, the prosecutor's office focused its activities primarily on ensuring the unconditional implementation of legal and regulatory acts, protecting the legitimate interests of citizens, and establishing effective oversight over the activities of state bodies. The main attention of the prosecutor's office was directed to the following:

"...thirdly, enhancing the effectiveness of preventive measures, especially those conducted among minors and youth, ensuring the timely identification and elimination of the causes and conditions conducive to the commission of offenses;

...sixthly, allocating affordable housing to citizens, creating opportunities to use credit resources for the purchase of housing, primarily for young families and orphans, as well as ensuring the provision of quality utility services and the timely execution of payments" [2].

As a logical continuation of the above-mentioned legal act, the key organizational and administrative document that establishes the mechanisms of supervision over ensuring the housing rights of minors is the Order of the Prosecutor General of the Republic of Uzbekistan No. 139 of September 11, 2017, "On Increasing the Effectiveness of Supervisory Activity over the Enforcement of Legislation on Minors." This departmental normative act explicitly sets out the legal and organizational foundations of supervisory activity in the field of protecting the housing rights of minors, in particular, provisions directly related to this issue are reflected in Clauses 4, 6, and 7. These clauses define the content and essence of supervisory activity aimed at safeguarding the interests of minors, as well as establish cooperation and responsibility among the relevant authorities.

In particular, the document stipulates the establishment of strict supervision over compliance with the law in the placement and care of infants abandoned by their mothers, the implementation of social protection measures, and their return to mothers. It is established that in cases of violations of children's housing and property rights, immediate prosecutorial responses shall be undertaken, including the restoration of violated rights through the application of prosecutorial supervision acts, as well as the submission of claims to the court.

It is further emphasized that in transactions related to housing, the inevitability of liability for officials who violate the rights of minors must be ensured [3].

In these constitutional and legislative norms, the

state's attitude is clearly expressed toward the placement and care of children deprived of maternal custody, the measures for their protection, as well as cases of violations of their housing and property rights. Furthermore, mechanisms for restoring these rights and the issue of liability of officials who have allowed violations of the law are also legally established.

These provisions provide not only general guarantees of social protection for children but also ensure their practical implementation through specific legal instruments and measures of accountability. This, in turn, plays an important role in consolidating the principle of social justice, protecting human rights and freedoms, and ensuring social stability.

In our opinion, in the sphere of protecting orphans and children deprived of parental care: measures should be taken to strengthen the responsibility of guardianship and trusteeship bodies, in particular their accountability in ensuring legality when placing orphans and children deprived of parental care into families, "Mehribonlik" homes, family-type children's homes, and other specialized institutions; the enforcement of laws aimed at protecting the personal and property rights of orphans and children deprived of parental care, safeguarding their health, ensuring their material support, education, and upbringing, as well as the targeted use of budgetary funds in educational and social protection institutions, should be systematically monitored; and the unconditional implementation by the responsible authorities of legislative norms aimed at providing orphans and children deprived of parental care with housing should be ensured [4].

It should be emphasized that, according to our Constitution, the protection and guarantee of the rights, freedoms, and legitimate interests of the child, as well as the creation of the best possible conditions for his or her full physical, mental, and cultural development, constitute a duty of the state.

According to Article 48 of the Law of the Republic of Uzbekistan "On Guardianship and Trusteeship", persons found guilty of violating the legislation on guardianship and trusteeship are subject to liability in the manner prescribed by law.

According to the current legislation, guardianship is defined as a legal form of placing orphans under the age of 14 and children deprived of parental care, as well as persons declared legally incapable by a court, for the purpose of providing them with maintenance, upbringing, and education, as well as protecting their property and personal non-property rights and legitimate interests. Custodianship, in turn, is recognized as a legal form of placing orphans aged 14 to 18 and children deprived of parental care, as well as

persons with limited legal capacity as determined by a court, with the aim of providing them with maintenance, upbringing, and education, as well as protecting their property and personal non-property rights and legitimate interests. It should be noted that custodianship may also be established, upon the request of the individuals concerned, for adult persons who are legally competent but unable, due to their state of health, to independently exercise their rights and fulfill their obligations.

Article 48 of the Code of Administrative Liability of the Republic of Uzbekistan establishes liability for the abuse of guardianship rights. According to the conducted analyses, in 2022 a total of 26,864 cases of guardianship were appointed (28,603 in 2023, 29,587 in 2024, and 9,944 in the first half of 2025), and 15,646 cases of custodianship (7,146 in 2022, 12,425 in 2023, and 3,306 in the first half of 2025). In 2024, one case of administrative liability was recorded for the abuse of guardianship rights.

In 2022, when the Prosecutor's Office examined the enforcement of the Law of the Republic of Uzbekistan "On Guardianship and Custodianship," cases of legal violations were identified, in response to which prosecutorial acts of supervision were issued in some cases, while criminal proceedings were initiated in others.

However, at present, the Criminal Code of the Republic of Uzbekistan does not provide for liability for the abuse of guardianship and custodianship rights. In contrast, reference to the legislation of foreign states (Kazakhstan, Kyrgyzstan, Belarus, Ukraine) shows that such unlawful acts entail criminal liability. For example, Article 142 of the Criminal Code of Kazakhstan, Article 186 of the Criminal Code of Kyrgyzstan, Article 176 of the Criminal Code of Belarus, Article 166 of the Criminal Code of Ukraine, and Article 123 of the Criminal Code of Estonia establish criminal liability for the abuse of guardianship and custodianship rights.

The conducted analysis demonstrates that guardianship and custodianship are primarily applied with respect to socially vulnerable individuals, particularly children. This category of persons requires special guarantees for the protection of their rights.

In our view, the introduction of criminal liability into the Criminal Code for the abuse of guardianship and custodianship rights would serve to strengthen the rule of law and ensure the effective protection of the legitimate interests of children placed under guardianship or custodianship. This proposal not only contributes to enhancing the targeted nature of law enforcement activities but also represents an important legal and social step towards further

improving the system of guaranteeing children's rights.

The above-mentioned provision also clearly sets forth norms regarding the placement of orphans and minors deprived of parental care in state specialized institutions, their provision with housing, their inclusion in the system of social protection, and the establishment of legal liability for officials responsible in this regard. These norms serve to guarantee the fundamental social and legal interests of minors, as well as to strengthen, at the institutional level, the protection mechanisms implemented by the state in relation to them.

In our view, the following provisions of this legal document also represent a consistent logical continuation of the preceding ones:

– the participation of the prosecutor in court hearings concerning the placement of minors in social-legal assistance centers and specialized educational institutions is mandatory;

– the conditions of admission, placement, and maintenance of minors in social-legal assistance centers and specialized educational institutions shall be inspected on a monthly basis.

– the unconditional enforcement of legislative requirements concerning the socio-pedagogical rehabilitation and reintegration of minors returning from specialized educational institutions shall be ensured" [5].

The above provisions stipulate the mandatory nature of the prosecutor's participation in court proceedings concerning minors and establish procedures for conducting inspections regarding the legality of other important rules. Undoubtedly, these constitute legal guarantees of minors' rights, which in turn indicate the significant role of prosecutorial supervision in ensuring minors' housing rights.

Another legal act that establishes prosecutorial supervision in protecting the rights of minors is the Resolution of the President of the Republic of Uzbekistan "On Measures to Introduce a Fundamentally Updated System of Raising Orphans and Children Deprived of Parental Care." According to this act, the following important task is entrusted to prosecutorial supervision:

"The Office of the Prosecutor General is assigned the duty to ensure the timely and full recovery of alimony from parents for the maintenance of minors being raised in educational institutions" [6].

Furthermore, the Presidential Resolution of the Republic of Uzbekistan No. PQ-5216 of August 9, 2021, "On Measures to Introduce a New System of State Support for Orphans and Children Deprived of Parental

Care,” tasked local government authorities with providing housing for 757 orphans and children deprived of parental care, as well as with assisting in furnishing them with essential household equipment. This resolution is one of the key normative-legal foundations aimed at strengthening institutional mechanisms of state support for orphans and ensuring the principles of social justice.

In addition, the Presidential Decree of the Republic of Uzbekistan No. PD-60 of January 28, 2022, “On the Development Strategy of New Uzbekistan for 2022–2026,” stipulates specific tasks for prosecutorial bodies. These include creating a solid legal foundation for an open and fair prosecutorial system that strictly ensures the rule of law and adopts the principle “Law – Priority, Punishment – Inevitability” as a fundamental criterion. Moreover, the Decree emphasizes the introduction of a new system that harmonizes state and public supervision in ensuring uniform and accurate implementation of laws by prosecutorial bodies, guarantees the transparency of prosecutorial activities and their accountability to society, and strengthens the role of collegial bodies in the management of the prosecutorial system [7].

The activities of prosecutorial bodies are manifested in ensuring the rights of minors and in preventing violations of these rights, serving as a means of upholding the rule of law, legality, and the restoration of legal order. Certain researchers have expressed the following views regarding the role of the prosecutor in safeguarding minors’ rights:

“Prosecutorial supervision is one of the most effective and fundamental guarantees of protecting minors’ rights, since the prosecutor not only monitors compliance with the law but also responds to signals received by the institution concerning violations of children’s rights” [8].

The housing rights of minors are among the fundamental human rights to life, and prosecutorial supervision plays a crucial role in their realization. Scholars of law in Uzbekistan have analyzed this issue from different perspectives, and their views highlight various functional aspects of prosecutorial supervision.

For instance, According to D.S. Davudova, the prosecutor, by exercising special functions through the protection of rights and the fight against crime, must approach and safeguard the rights, freedoms, and legitimate interests of minors in proceedings involving them, including the protection of their housing rights. [9]

From the above views, it becomes evident that prosecutorial supervision in ensuring minors’ housing rights should be reconceptualized as a humane, legally

guaranteed, and proactive institution.

Today, violations of the law in the exercise of citizens’ rights – particularly minors’ rights to housing – are frequent. The role of the prosecutor is crucial in eliminating such violations, applying appropriate legal measures against them, and preventing the recurrence of similar situations in the future.

The protection of human and civil rights and freedoms is one of the priority directions of state policy in the Republic of Uzbekistan. The prosecutor’s office is considered one of the essential instruments for implementing this policy. As a universal body, the prosecutor’s office serves to protect the rights and freedoms of the state, society, and citizens [10].

Based on research into prosecutorial supervision of the implementation of legislation on minors, D.Sh. Ibragimov [11], in his study “Organizing Prosecutorial Supervision over the Implementation of Legislation on Minors and Improving Its Legal Foundations” reached the following conclusion:

“In order to fully realize the housing rights of orphans, it is necessary that, in cases where housing is not provided to orphans within the timeframes established by law, district (city) prosecutor’s offices submit representations to district (city) hokimiyats concerning the violation of the law, the reasons for its occurrence, and the conditions enabling such violations. This requirement should be stipulated directly in the normative-legal document governing this field” [12].

The effectiveness of prosecutorial supervision over compliance with the housing rights of minors is directly dependent on the proper organization of supervisory activities. We have examined the general requirements imposed on such activities on the basis of the legislation of the Republic of Uzbekistan. At the same time, within this framework, it is appropriate to consider foreign experience through the example of the organizational-administrative acts of the Prosecutor General of the Russian Federation.

The main organizational-administrative act regulating the organization of supervision over the observance of minors’ housing rights in the Russian Federation is Order No. 744 of the Prosecutor General of the Russian Federation. According to this order, “it is required to ensure the establishment of effective prosecutorial supervision over the observance of minors’ housing and other property rights, in particular by paying special attention to ensuring compliance with the special legal procedure when concluding transactions involving property belonging to a minor, including residential premises” [13].

More specifically, this provision requires: protection of

minors' housing and other property rights; the effective organization of prosecutorial supervision in order to prevent violations of these rights; and adherence to special legal procedures when property (especially housing) is being registered in the name of minors.

In this regard, S.D.Borobyev, who conducted research on safeguarding minors' rights, particularly housing rights, in the Russian Federation, emphasizes that "the Prosecutor General's Office of the Russian Federation pays special attention to enhancing the effectiveness of supervision in this sphere, to responding in a timely and principled manner to legal violations by the competent authorities, and to restoring the housing rights of orphaned children" [14].

Within the framework of studying foreign experience, reference should also be made to the legal acts of the Republic of Kazakhstan, the People's Republic of China, and the Republic of Turkey concerning this sphere. In Kazakhstan, the new version of the Law "On the Rights of the Child" adopted in 2010 establishes the legal guarantees of children's rights. It stipulates the housing and property rights of orphans and children deprived of parental care, the mechanisms for their protection, and the obligations of state authorities (including the prosecution service) [15].

In line with this provision, Kazakh scholar E.M.Sibankulov, in his academic article, stressed that "the prosecution service in Kazakhstan plays an important role in protecting the rights of orphans and children deprived of parental care in the modern state system" [16].

In the People's Republic of China, Articles 100–106 of the new version of the Law "On the Protection of Minors" adopted in 2020 provide for the protection of minors' rights, including their property, physical and personal inviolability, and the safeguarding of their housing rights, with the active participation of public associations and prosecutorial authorities [17].

In the Republic of Turkey, the Law "On the Protection of Children" (No. 5395), adopted in 2005, defines the state policy on the legal, social, and domestic protection of children. Although this law does not directly provide for prosecutorial supervision, it regulates the involvement of courts, social services, and ombudsman institutions in matters relating to children's housing, education, healthcare, and social protection [18].

Unlike the aforementioned states, in the Republic of Turkey prosecutors safeguard minors' housing rights indirectly, in cooperation with courts, social services, and ombudsman institutions.

Based on the above analytical considerations, it should

be emphasized in conclusion that prosecutorial supervision over the enforcement of legislation plays a decisive role in the practical realization of minors' housing rights. This supervisory mechanism occupies an essential institutional place in guaranteeing the protection of the rights and legitimate interests of this category of persons, serves to ensure the rule of law, and contributes to the consolidation of the principle of social justice.

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