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Features of Organizing Prosecutorial Supervision Over the Implementation of Legislation Regarding Lands Designated for Settlements and Other Purposes

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Abstract

In this scientific-theoretical and practical article, the researcher examines the specific features of organizing prosecutorial oversight of the implementation of legislation regulating the use of land within settlements, as well as land designated for industrial, transport, communication and other purposes. The author analyzes the legal reforms being carried out in this field, presents the views of national and foreign scholars who have conducted research in this area, provides statistical data, and also advances his own authorial perspectives.

Keywords: land, category, settlements, transport, industry, communication and other designated lands, prosecutorial oversight, water fund lands, reserve lands.

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In recent years, a number of decrees and resolutions of the President of our country have been adopted to ensure the rational and targeted use of land, in particular, the Decree of June 8, 2021 "On Measures to Ensure Equality and Transparency in Land Relations, Reliable Protection of Land Rights and Their Transformation into a Market Asset." This document stipulates that, starting from August 1, 2021, land plots will be allocated to the private sector - on the basis of ownership and lease rights, and to state bodies, institutions, enterprises, and self-governing bodies of citizens - on the basis of the right of permanent use. A number of amendments and additions were made to the Land Code of the Republic of Uzbekistan as amended by the Law of the Republic of Uzbekistan dated August 16, 2021 No. ZRU-708. In particular, legal norms related to defining the foundations of private ownership of land, further improving the rights of citizens related to land use, increasing land fertility, and soil protection have been improved.

Chapter 7 of the Land Code of the Republic of Uzbekistan lists the lands of settlements (cities, towns, and rural settlements), and according to Article 59 of this Code, all lands within the administrative boundaries of cities and towns belong to the lands of cities and towns. These lands include:

1) lands of urban and settlement development;

2) lands of common use;

3) agricultural and other lands;

4) lands occupied by forests;

5) lands of industrial, transport, communications, defense and other purposes;

6) lands of protected natural areas;

7) lands of the water fund;

8) reserve lands.

According to official data, as of November 2025, the lands of settlements (cities, urban-type settlements, and rural settlements) in our republic amount to 22,1544 hectares, 0.5% of the total land fund, lands intended for industry, transport, communications, defense, and other purposes - 79,8778 hectares, 1.8% of the total land fund, lands intended for environmental protection, health improvement, and recreation - 42,58751 hectares, 9.5% of the total land fund, lands of historical and cultural significance - 32,320 hectares, 0.1% of the total land fund[1]. Nevertheless, the significance of these lands in the overall development of society is immense. Such land use fundamentally differs from other categories of the land fund in its social, economic, recreational, and ecological significance. As the place and location of the population's life activity and settlement, they vividly manifest their social essence. It is in settlements that residential, public, industrial, engineering, and transport infrastructure, recreational, and other areas will be allocated for the purpose of creating optimal living conditions for the population.

The issue of organizing prosecutorial supervision over the implementation of legislation on settlements and lands intended for industrial, transport, communication, and other purposes has been poorly studied from a scientific and theoretical point of view, on the contrary, public administration in the field of land has been studied to a certain extent as an object of research.

U.T.Ayubov notes that "through state management of the land fund, the state, as the owner of the land, exercises the right to dispose of the land in order to organize its use. State management of the land fund is understood as the executive and administrative activity of authorized state bodies on the use and protection of land[2]. R.Kh.Kenzhaev notes that "state management in the field of rational use and protection of lands means the organization by state administration bodies of the rational and effective use of land fund categories and land plots, as well as ensuring the fulfillment of the rules and requirements established by land legislation"[3], emphasizes.

D.j.s., G.Uzakova city lands are, first of all, the place of permanent residence of the population. Legal relations related to these lands arise from relations related to ensuring the natural right of citizens to land use (living on land, accommodation, and housing construction for these purposes) and the placement of legal entities of various forms of ownership on the territory of the territorial basis. At the same time, it should be noted that urban lands, being a certain category of the land fund, are an administrative-territorial unit with state-defined boundaries. Similarities and similarities in the legal status of lands of cities, settlements, and rural settlements can be seen in the procedure and purposes of using their lands of common use[4].

According to a group of scientists, the location of most industrial enterprises, transport networks, and engineering infrastructure in settlements determines their economic essence, since it is precisely such

[1] Кадастр агентлигининг Миллий ахборот портали. https://open.ngis.uz/#/reportstat

[2] Ер ҳуқуқи. Дарслик. Муаллифлар жамоаси. - Тошкент: ТДЮИ, 2002. - 64 б

[3] Кенжаев Р.Ҳ. Ўзбекистон Республикасида ерларни муҳофаза қилишнинг ҳуқуқий масалалари. – Тошкент: ТДЮИ, 2006. - Б. 74-75.

[4] Узакова.Г. Шаҳар ерларидан фойдаланишни ҳуқуқий тартибга солиш 2017 №2 Ўзбекистон қонунчилиги таҳлили Uzbek law review обзор законодательства Узбекистана. -С.30.

objects that "determine the high economic efficiency of settlements." In settlements, recreational zones are also located, including urban forests, forest parks, swimming areas, and cultural heritage sites. The construction and improvement of settlements allows for the preservation of natural landscapes, ensuring the interconnection of existing natural and technogenic landscapes[5].

As can be seen from the above, the land use of settlements is multi-purpose and multifaceted. Such a multifaceted nature requires a unique approach to the prospective development of settlements, the maintenance of the land cadastre, the comprehensive organization of the territory, and, of course, its protection. Indeed, while agricultural lands are mainly intended for growing agricultural products or forest fund lands for organizing and developing forestry, settlement lands are used for various purposes.

In our opinion, this is precisely why the value of these lands in today's market conditions is constantly increasing. Moreover, the amount of taxes levied on such lands is significantly higher than the amount of taxes levied on any other category of land.

According to Article 60 of the Land Code, the boundaries of settlements are the external boundaries of the lands of a city, settlement, or rural settlement, which distinguish these lands from other lands. The demarcation of settlements is carried out on the basis of approved urban planning and land management documentation. The boundaries of settlements must be determined along the boundaries of land plots of legal entities and individuals. Suburban zones include lands located outside the city limits, forming a single social, natural, and economic territory with the city. In suburban zones, suburban agricultural production areas, recreation areas for the population, and reserve lands for urban development are allocated.

That is why, when studying, analyzing, and assessing the state of land use in settlements, it is advisable to distinguish between cities, urban-type settlements, and rural settlements. In cities, large areas are usually allocated to the spheres of industry, transport, trade and services, education and upbringing, and public zones. In rural settlements, large areas were allocated for individual housing, household plots, and dehkan farms. Thus, the composition of land use in settlements has a great influence on its efficiency, the nature and intensity of use, the differentiation of value and land payments. Therefore, the value of land, land tax rates, and rent in large cities are significantly higher than in rural areas. Another important feature of the land use of settlements is that in this territory, along with settlement land use, there are other categories of land use, including industrial and transport, forest and water resources, historical and cultural monuments, land for nature conservation and recreational purposes. Although they exist within the city limits and carry out their activities there, they retain their status as a land category.

According to researcher R.D. Abdiramanov, such an opinion cannot be expressed for agricultural lands. Such lands, as a rule, cannot be within the city limits. If, for any reason, such lands fall within the city limits, they must be legally formalized and transferred to the city as part of the land allocation and removed from the balance of agricultural land[6].

In our opinion, another peculiarity of the use of this category of land is that various rights to land plots are exercised in this territory. In particular, the right of ownership of a land plot, the right of permanent and temporary use, inheritance ownership, and lease rights exist precisely in settlements. In addition, another distinctive legal aspect of such lands is that it is necessary to begin using the land plot allocated for housing construction strictly within two years for its main purpose. It was on this category of land that the right of hereditary ownership was introduced, which did not exist in other categories of land. Another important aspect of land use in settlements is that it is in this territory that zoning is carried out according to various characteristics, including administrative-territorial, functional nature of lands, value, and tax.

Of particular importance is the study of the experience of developed foreign countries in the effective

[5] Бабажанов А.Р., Мукумов А.М., Хафизова З.Х. Ердан фойдаланишда интеграцион бошқарув. Тошкент, ТИҚХММИ, 2018

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organization of prosecutorial supervision over the implementation of legislation on settlements and lands for industrial, transport, communication, and other purposes. For example, the U.S. Department of Justice has established the ENRD (Environment and Natural Resources Division), the main prosecutorial unit specializing in the protection of nature, land resources, environmental safety, and federal property, which protects the interests of the federal government through the prevention of illegal occupation or destruction of federal lands, the prevention of violations in national parks, the investigation of environmental crimes (for example, air, water, soil pollution), the identification of environmental and offenses in the construction of new roads, pipelines, railways, damage to transport and infrastructure facilities, illegal excavation, deforestation, the prevention of violations in road and railway infrastructure, the investigation of environmental violations and crimes at the local level, and participation in court proceedings[7].

This specialized prosecutor can conduct systematic investigations, study appeals in this regard, file civil and criminal claims against offenders, and take strict measures aimed at preventing violations of the law in urgent cases[8].

In England and Wales, the CPS (Crown Prosecution Service) is a body authorized to protect infrastructure, settlements, and government facilities, working in cooperation with local authorities, environmental agencies, and transport authorities.

In England, Wales, and Scotland, in crimes related to critical infrastructure, the prosecutor is involved at the beginning of the investigation, implementing a strategy for gathering evidence, appointing technical examinations, using CCTV digital evidence, and bringing charges, and if the investigation is being conducted by the police, it is mandatory to consult with the CPS, since the main task of the CPS is to protect settlements and urban infrastructure[9].

A distinctive feature of the policy pursued by the English government in this regard is the large amount of fines and criminal liability for committed offenses, as well as the strictness of its implementation. For example, the CPS has imposed a 300,000 pound fine and criminal liability on officials for a company that is a legal entity dumping illegal hazardous waste near a settlement, which proves our point[10].

In France, the Code de l'urbanisme is the main code that defines the rules for all urban planning, construction, reconstruction, development of settlements, and land use, and the main body executing urban planning laws is the Maire (mayor's office). Upon detection of a violation by them, it is mandatory to notify the prosecutor within 24 hours[11].

A distinctive feature of the organization of prosecutorial oversight over the implementation of legislation concerning settlements and lands designated for industrial, transport, communication, and other purposes in France is that individuals and legal entities who have committed offenses, along with fulfilling additional conditions for their rehabilitation, are placed under long-term prosecutorial supervision[12].

According to foreign scientists, prosecutorial supervision over the implementation of legislation on settlements and lands for industrial, transport, communication, and other purposes is one of the priority areas of activity of the prosecutor's office. The relevance of this area is determined by the rapid

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[7] U.S. Department of Justice, Environment & Natural Resources Division. (n.d.). Practice areas / About ENRD. Retrieved from https://www.justice.gov/enrd/about

[8] Code of Federal Regulations. (n.d.). 43 CFR Part 9230 — Trespass (BLM). Retrieved from https://www.ecfr.gov/current/title-43/subtitle-B/chapter-II/subchapter-I/part-9230

[9] Crown Prosecution Service. (n.d.). Offences during protests, demonstrations or campaigns. Retrieved from https://www.cps.gov.uk/legal-guidance/offences-during-protests-demonstrations-or-campaigns

[10] Crown Prosecution Service. (n.d.). Trespass and nuisance on land (guidance). Retrieved from https://www.cps.gov.uk/legal-guidance/trespass-and-nuisance-land

[11] Legifrance. (n.d.). Code de l'urbanisme. Retrieved from https://www.legifrance.gouv.fr/loda/id/LEGISCTA000006143372

[12] Ministère de la Transition écologique. (2021). Guide pratique du recours au procureur de la République (habitat et urbanisme). Retrieved from https://www.ecologie.gouv.fr/sites/default/files/documents/lhi_guide_recours_au_procureur_republique.pdf

development of legislation in the field of urban planning relations, the wide range of legal documents regulating urban planning activities, as well as the existence of civil law, land, forestry, environmental, housing, budget, and other types of related legal relations in this area. At the same time, along with the need to build modern housing, the increase in offenses in this area and the high profitability of this industry also increase the importance of this area[13].

Another group of scientists believes that the necessity of prosecutorial supervision over the management of settlements and residential buildings lies in the fact that state administration bodies, ministries, committees, and agencies participating in these relations are not interested in the disclosure of cases of violation of the law in terms of the tasks and powers defined by legislative acts regulating their activities, and on the contrary, they in most cases try to hide the facts of violation of the law in their actions, in contrast, the prosecutor's office is responsible for ensuring the rule of law[14].

E.Gyamfi emphasizes that prosecutorial oversight in this area is significant not only because of the inevitability of punishment for offenses, but also because it is aimed at ensuring public cooperation, monitoring, and compensation measures[15].

In our opinion, the main areas of prosecutorial supervision over the implementation of legislation on settlements and lands of industrial, transport, communication, and other purposes are:

verification of the compliance of adopted regulatory legal acts with the norms of urban planning, land, housing, forestry, water, and other branches of legislation;

conducting inspections of compliance with the requirements of the law during the implementation of construction, reconstruction and major repairs of facilities, as well as in the process of providing land plots, including for housing construction;

conducting state examinations and verifying compliance with the established procedure and deadlines for licensing procedures;

verification of compliance by supervisory and control-audit bodies with the requirements of the law regarding planning, conducting control measures, formalizing their results, and the lawful application of measures of influence against offenders.

Also, an important component of the exercise of supervisory powers is the information support of the activities of the prosecutor's office.

Sources of information about violations of the law must be reliable. Along with other sources used in prosecutorial supervision, reliable sources can be the results of legal expertise of regulatory legal acts (drafts) on urban planning, architecture, land use, data from monitoring of unfinished construction projects and apartment buildings, judicial practice (complaints about the actions or inaction of state authorities or local government bodies), and publications in the mass media.

At the same time, depending on the object of the inspection, the following should be clarified: the type of inspection, the range of issues to be clarified, the procedure for involving specialists in the field, the goals and objectives of the inspection, the possibility and necessity of assigning the inspection to regulatory bodies or conducting it jointly.

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[13] Прокурорский надзор за исполнением законов и законностью правовых актов : учебное пособие / [О. Н. Коршунова, И. И. Головко, Э. Р. Исламова, С. И. Коряченцова, М. Н. Кустов, В. В. Омельянович, Д. М. Плугарь, К. И. Тимощук] ; под ред. Э. Р. Исламовой. — 2-е изд,, перераб. — Санкт-Петербург : Санкт-Петербургский юридический институт (филиал) Университета прокуратуры Российской Федерации, 2023. — 287, [1] с. -.С. 180-187.

[14] Прокурорский надзор за исполнением законов в сфере жилещно-комунального хозяйства: пособие / рук.авт.кол.Н.Д.бут: Акад.Ген.прокуратуры Рос. Федерации. -М.2015.-76 с. -С.37.

[15] Insights, motives, and means of overcoming forest offences in Ghana's forestry sector: The case of the Bibiani Forest District. Scientific African, 2021. DOI: 10.1016/j.sciaf.2021.e00962.

According to Article 62 of the Land Code, urban and settlement construction lands include all lands on which residential, communal-household, cultural-educational, industrial, commercial, administrative, and other buildings and structures have been constructed or provided for the construction of such buildings and structures. Urban and settlement construction lands are provided for the construction of residential, cultural, domestic, industrial facilities and other types of capital construction, as well as for individual housing construction in the manner prescribed by this Code. Lands of the city and settlement allocated for construction, but temporarily not used for these purposes, may be leased for short-term lease through an electronic online auction for the construction of lightweight objects (trade tents, kiosks, advertising structures, etc.) and other needs. Division of a land plot or a building on it is not permitted if one or another part of the land plot is deprived of utilities (lighting, wastewater disposal, pipelines, irrigation devices, etc.), and the owners or users of the land plot are deprived of access independently or by transport.

Also, if the construction of household premises on a land plot (garage, stable, stable, warehouse, basement, etc.) harms the interests of legal entities located on this plot or individuals living in residential premises, such construction is not permitted.

In the event of the demolition of a building due to a natural disaster or other reasons, if the owner of the demolished building begins to restore the building or construct a new building on this plot no later than two years from the date of its demolition, the owner of the demolished building retains the right to own or use the land plot, except in cases where the urban or settlement planning and development project provides for the use of this land plot in a different way. In such cases, procedures for the seizure of land plots for public needs with compensation are applied.

The concept of industrial land is defined in Article 69 of the Land Code of the Republic of Uzbekistan. According to it, land for industrial purposes is understood as land granted for permanent use to industrial enterprises, including mining and energy enterprises, for the construction of production and auxiliary buildings and structures. Consequently, industrial land consists of land plots allocated by industrial enterprises for the performance of their assigned tasks.

The Land Code of the Republic of Uzbekistan states that land for transport purposes includes land granted for permanent use to enterprises, institutions, and organizations of railway, inland water transport, automobile, air, and pipeline transport for the implementation of their assigned tasks in the field of operation, maintenance, construction, reconstruction, repair, improvement, and development of transport structures, installations, and other facilities.

Communication land refers to land granted for permanent use to communication, radio broadcasting, television, and information enterprises, institutions, and organizations for the placement of communication lines and related structures. The land of communication and power transmission lines is used as a supporting space. They are sections of land plots allocated as supports for overhead lines, underground cable lines, necessary service buildings and structures (substations, distribution devices, cable booths, etc.) and have an internal structure.

Articles 65, 67, 69 of the Land Code specify the composition of agricultural and other lands in cities and settlements, industrial, transport, communications, defense, and other lands in cities and settlements, as well as industrial, transport, communications, defense, and other lands.

However, no regulatory document specifies "other purposes" for the use of this category of land.

In our opinion, although lands for other purposes may be transferred to forest fund lands in the prescribed manner for the creation of forest plantations, stopping the expansion of ravines, and creating protective forest belts and green zones around cities and industrial centers, it is advisable to clearly specify the mechanisms of their legal regulation in the legislation.

In our opinion, in order to eliminate the above-mentioned ambiguities, it is advisable to amend the Land Code of the Republic of Uzbekistan as follows:

Article 18^1. Right of private ownership of land plots of legal entities and individuals

Legal entities - residents of the Republic of Uzbekistan may use land plots on the basis of the right of private ownership for the purposes of trade and provision of services and production, i.e., urban planning and entrepreneurship. The right of private ownership of a land plot of legal entities arises upon its sale in the manner prescribed by law. Citizens of the Republic of Uzbekistan use land plots on which individual residential houses are located on the basis of the right of private ownership. Also, citizens can use land plots on the basis of the right of private ownership for the purposes of trade and 196 provision of services, organization of production, i.e., urban planning and entrepreneurship.

Article 18^2. Land plots not subject to privatization

The following land plots are not subject to privatization:

land plots on which mineral deposits are located, with the exception of common minerals, the reserves of which have not been taken into account in the state balance of mineral reserves;

land plots included in lands for environmental protection, health improvement, recreational and historical-cultural purposes, as well as lands of forest and water funds, cities and towns in common use (squares, streets, lanes, roads, embankments, squares, boulevards, parks); land plots on which state property objects are located, not subject to privatization in accordance with the legislation;

land plots located in zones of use of territories where restrictions on urban development activities are established by law; land plots contaminated with hazardous substances and subject to biogenic contamination;

land plots provided to participants of special economic zones in the manner prescribed by law - for the period of operation of the special economic zone;

land plots on which apartment buildings are located, as well as adjacent to apartment buildings;

land plots provided for the implementation of public-private partnership projects, agreements and contracts on social partnership, as well as those provided to legal entities for public needs.

When privatizing land plots, the right of limited use (servitut) of another's land plot may be established in the manner prescribed by civil legislation.

Article 37^1: "The grounds for the seizure, repurchase of a land plot for public needs with compensation are:

international obligations;

allocation of a land plot for industrial, transport, communications, defense, environmental protection, health improvement and recreation, historical and cultural needs;

identification and development of mineral deposits (excluding common minerals);

construction of roads, electrical networks, communication lines, main pipelines, public utility networks of the settlement, as well as other facilities of state importance; demolition of emergency facilities with a high probability of destruction; execution of the master plan of the settlement.

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