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SCIENTIFIC AND THEORETICAL BASIS OF THE OBJECT OF THE PROSECUTOR'S CONTROL OVER THE ENFORCEMENT OF FOOD SAFETY LEGISLATION

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Abstract

This article explores the enhancement of scientific and theoretical underpinnings of prosecutorial control in enforcing food safety legislation, analyzes legal scholars' viewpoints, and considers the legislative experiences of foreign countries. The analysis culminates in substantiated proposals for refining the scientific and theoretical framework of prosecutorial control in the realm of food safety legislation implementation.

Keywords Food safety, legislation, prosecutor's control, object of control, legal framework, foreign experience, improvement.

INTRODUCTION

Revealing the scientific and theoretical aspects of the prosecutor's role and scope in enforcing food safety legislation is crucial.

It's notable that monitoring food safety legislation is a primary focus of the prosecutor's office, given its relevance to national security and its significance in human life and activities. Thus, ensuring quality and safe food is essential for national security.

Over the past six years, our country's food product imports have doubled, reaching 2.92 billion dollars from 1.27 billion dollars. Last year, our country imported over 532,000 tons of potatoes, 9,700 tons of onions, and 7,800 tons of rice.

Specifically, the rise in import volumes results in a significant outflow of foreign currency reserves.

Over the past two years, approximately 200,000 hectares previously used for cotton and grain have been repurposed for growing food products. However, inconsistent industry control has

resulted in continued dependence on foreign countries for 25 types of products.

The system for cultivating, receiving, storing, processing, and selling food products is dysfunctional.

Specifically, the failure of the guaranteed food production chain is due to disconnections between farmers, processors, and exporters, a lack of accurate forecasting, and inadequate record-keeping.

Research indicates that without developing domestic seed production, it's challenging to achieve abundant harvests and provide the population with quality, affordable products.

The Netherlands, despite its limited land area, demonstrates that developing seed production can lead to substantial benefits, such as exporting seeds worth 2.2 billion dollars annually.

In Egypt, our partner with limited water resources, potato production reached 800,000 tons due to sector reform. In Iran, production increased by

16%, reaching 855,000 tons.

The urgent issues facing our country include developing seed production, attracting foreign investors to the industry, and transitioning from an importer to an exporter by leveraging scientific advancements.

Establishing a favorable investment and legal environment for food producers and investors, and aiding in market access for cultivated products, is another important task for our country.

Out of nearly 3,700 hectares of cultivable coastal land under the Ministry of Water Resources, 2,274 hectares (62%) remain unused. Additionally, about 210,000 hectares of potential orchard land are unplanted.

The misuse of 197 billion som in loans and subsidies, allocated for ensuring food safety, constitutes a legal violation. This necessitates the establishment of stringent control by the prosecutor's office over food safety.

The prosecutor's comprehension of their control structure and authority in enforcing food safety legislation is vital for preventing, detecting, and addressing violations of citizens' rights and laws. Legal literature presents varying interpretations of the object of the prosecutor's control.

Scholars like V.G. Ryabtsev, V.B. Yastrebov, and B.V. Korobeynikov view the object of prosecutor's control as encompassing authorities, organizations, institutions, and officials, while A.A. Chuvilev and A.Yu.Vinokurov extend it to state bodies, local governments, and their law-executing activities, as well as a range of social relations governed by norms relevant to the prosecutor's activities.

Foreign scientists V. Bessarabov and O. Kalugina have opined that the prosecutor's control extends to bodies, officials, and other individuals under their jurisdiction. V. Bessarabov defines the object of the prosecutor's control as a group of bodies, organizations, officials, and others responsible for upholding the rights and freedoms of people and citizens under the prosecutor's jurisdiction. O. Kalugina, referencing Article 21 of the Law of the Russian Federation "On the Prosecutor's Office,"

states that federal ministries, state committees, and all federal executive bodies part of the Russian government fall under the prosecutor's supervision.

M.T. Abduhakimov identifies the object of the prosecutor's control as encompassing various bodies, including state and economic management bodies, self-governance bodies, public associations, enterprises, institutions, organizations, and military units, along with their activities, legal documents, and officials involved in executing laws. This includes ensuring land use compliance with the Constitution and laws of the Republic of Uzbekistan.

A.B. Komilov, while acknowledging the views of the aforementioned researchers, emphasizes two key aspects in defining the object of the prosecutor's control: the range of responsible bodies, officials, and persons under control, and the legal documents assessed for legality by the prosecutor.

Legal scholar O. M. Madaliev includes a broad range of entities under prosecutor control, encompassing authorities, enterprises, institutions, organizations, and individuals, while B. Kh. Polatov focuses on the legal rights of citizens and the protection of interests, including legal documents assessed by prosecutors.

We concur with legal scientist O. B. Mamadaliev's definition of the prosecutor's control object. It includes legal documents accepted by various bodies, enterprises, organizations, and officials under the prosecutor's jurisdiction, and these documents are integral to their activities. Therefore, it's inappropriate to consider documents separately from the entities they pertain to.

As per Article 4 of the Law of the Republic of Uzbekistan "On Quality and Safety of Food Products" (August 30, 1997), state management for food quality and safety involves the Sanitary-Epidemiological and Public Health Service, the Veterinary and Animal Husbandry Committee, the Plant Quarantine and Protection Agency, the Standardization, Metrology and Certification Agency of Uzbekistan, and other legally mandated bodies.

According to Article 7 of the Law of the Republic of Uzbekistan dated October 23, 2019, "On Support of Breastfeeding and Requirements for Food Products for Infants and Young Children," health care, including the sanitary-epidemiological service, its regional divisions, and the Ministry of Health, is responsible for the quality and safety of food products for infants and young children, with the Agency for Standardization, Metrology, and Certification of Uzbekistan overseeing compliance.

Under Article 25 of the "On Protection of Consumer Rights" Law of Uzbekistan, the Agency for the Protection of Consumer Rights, operating under the Anti-Monopoly Committee and its regional bodies, is responsible for safeguarding consumer rights in food safety.

The Technical Regulatory Agency of Uzbekistan sets and monitors mandatory safety and quality standards for goods and services, ensuring compliance and addressing violations. It directs manufacturers to remove, halt production, or recall substandard goods and can initiate legal actions.

It's important to note that foreign legal scholars have not directly researched the prosecutor's control over the enforcement of food safety legislation. In M.S. Bykova's study "Prosecutor Control Over the Implementation of the Legislation on the Technical Regulation of Children's Food Products," the subjects of prosecutor's control include:

- executive authorities, including state control bodies;
- local self-government bodies;
- business entities producing, storing, selling, transporting and destroying children's food products;
- organizations that carry out verification of compliance of children's food products with technical regulations;
- consumer of products (excluding consumer natural persons) - organized children's welfare (education, health care institutions, social protection agencies, organizations providing recreation services for minors, orphanages,

temporary detention facilities for juvenile delinquents).

M.S. Bykova also suggests including individual entrepreneurs under the prosecutor's supervision. Similarly, M.T. Abduhakimov, in his research on various governmental and economic bodies, suggests including the activities of military structures, officials, legislative chambers, the President, and the Cabinet of Ministers, as well as the prosecutor's role in legal document implementation, as subjects of prosecutor's control.

In our view, these scholars' perspectives do not comprehensively address the scope of the prosecutor's control in food safety. As per Article 3 of the "On Farming" Law of Uzbekistan (01.04.2021), the cultivation and sale of agricultural products on farmland, whether inherited or rented, is the personal responsibility of farm members. It is also mentioned that farm activities can qualify as entrepreneurial activities, conducted either with or without establishing a legal entity, based on the members' preference.

Article 10 of this Law states that control over the intended and rational use of land allocated for farming is exercised by authorized state bodies, as per legal procedures.

According to Article 6 of the "On Guarantees of Freedom of Entrepreneurial Activity" Law of Uzbekistan (02.05.2012), a sole proprietorship by an individual entrepreneur can operate without a legal entity and hire employees as per regulations set by the Cabinet of Ministers.

Article 7 of the same law specifies that individuals can engage in joint business activities like family businesses, partnerships, and farms without forming a legal entity.

Article 39 of the Law states that inspections of business entities should be initiated based on procedures set by supervisory bodies, taking into account risk analyses of potential legal violations.

We believe that family businesses, ordinary companies, and farms operating without a legal entity should be considered within the scope of the prosecutor's control.

The experience of foreign countries indicates that

the enforcement of various regulatory legal documents also falls under the realm of prosecutor's control. For instance, under Article 26 of the Republic of Belarus's "On the Prosecutor's Office" Law, the prosecutor's control extends to republican authorities, state organizations under the Council of Ministers, local representatives, executive bodies, management bodies, public and religious organizations, officials, citizens, and individual entrepreneurs.

Additionally, in Uzbekistan's law enforcement practice, it is well-established that prosecutors study the implementation of regulatory legal documents while controlling the enforcement of laws. In addition to food safety laws, the chambers of the Oliy Majlis, the President, and the Cabinet of Ministers of Uzbekistan are accountable for ensuring the documents they adopt comply with the nation's Constitution and laws.

As per Article 28 of Uzbekistan's "On Local State Power" Law (dated September 2, 1993), the prosecutor can challenge documents from the Council of People's Deputies and the governor, and as stated in Article 29, the governor's decisions protested by the prosecutor are subject to review.

Considering the perspectives of legal scholars, international practices, and the current tasks of the prosecutor's office, it can be concluded that the scope of prosecutorial control over food safety legislation includes the following entities:

Local state government;

-Ministry of Investment and Foreign Economic Relations;

-Minister of Agriculture;

-Agency of Plant Protection and Quarantine;

-Services of Sanitary and Epidemiological Welfare and Public Health;

-Committee for Veterinary Medicine and Livestock Development;

-State Customs Committee of Uzbekistan;

-State Tax Committee of the Republic of Uzbekistan;

-Ministry of Economy and Finance;

-Commercial banks;

-The Consumer Protection Agency;

- State and Economic Management Bodies, including various agencies, enterprises, institutions, organizations, military units of ministries, state committees, and agencies, military formations, public associations, and officials irrespective of their subordination;

- Self-Government Bodies of Citizens, Local Executive Authorities, and Councils of People's Deputies in regions, districts, and cities.

Regarding food safety, the Technical Regulatory Agency of Uzbekistan plays a key management role.

According to the Presidential Decree No. PF-6240 (June 2, 2021) "On the fundamental improvement of state management in the field of technical regulation," the agency is a key state management body responsible for implementing state policy in technical regulation and metrology, with the authority to enforce universally binding regulatory legal documents.

The main tasks of the Agency in the field of food safety include:

- Enforcing laws such as "On Certification of Products and Services," "On Standardization," "On Technical Regulation," "On Conformity Assessment," "On Metrology," and ensuring that measurements adhere to a unified standard for the practical implementation of these regulations;

- Implementing a unified state policy to enhance product quality and competitiveness, aligning with international technical regulation standards, including those on quality management systems;

- Advancing the technical aspects of regulation, disseminating scientific and technical information, and ensuring harmonization with international, interstate, and national systems of other countries;

- Ensuring compliance with quality and safety standards for products, services, and works, and protecting consumer rights from the adverse effects of incorrect measurements;

- Organizing the retraining and qualification

improvement of personnel in technical regulation;

- Rapidly adopting international standards and technical regulations in local product production to ensure compliance with modern requirements and boost competitiveness in international markets;

- Extensively implementing modern product quality management systems, especially in exporting enterprises, and certifying products as per technical regulations and standardization documents;

- Creating favorable conditions for product conformity assessment in exporting enterprises and fostering cooperation with international organizations for national conformity assessment and acknowledgment of test results in key export markets;

- Further developing technical regulation and metrology systems to enhance their efficiency in systematically ensuring product safety;

- Implementing modern information and communication technologies to expand the range of interactive state services available to businesses and the general population;

- Enforcing technical regulation, standardization, and certification to prevent and address violations in metrology-related legal documents;

- Providing comprehensive assistance to industrial enterprises and businesses in technical regulation matters; - Organizing state control and coordination for the enforcement of mandatory technical regulation requirements, ensuring measurement uniformity and accuracy, and adherence to compulsory certification rules;

- Coordinating the activities of technical standardization committees involving state administration bodies and business associations;

- Supplying stakeholders with standardization normative documents as specified;

- Ensuring normative documents on standardization align with international requirements;

- Submitting reports to enterprise leaders regarding non-compliance with technical

regulations and standards;

- Organizing and coordinating efforts in technical regulation, standardization, conformity assessment, accreditation, and key metrology development indicators.

Currently, the following entities are not regarded as under the prosecutor's control for food safety:

1. President of the Republic of Uzbekistan (head of state);

2. Administration of President of the Republic Uzbekistan Cabinet of Ministers of the Republic of Uzbekistan (the highest executive body);

3. Judicial power of the Republic Uzbekistan;

4. Central Bank of the Republic Uzbekistan;

5. Accounts chamber of the republic Uzbekistan;

6. Representative for human rights, business rights;

While legally, citizens are excluded from the prosecutor's control, in practice, this control is maintained to some extent. For example, when a citizen commits violations in the food sector, the prosecutor enforces applicable control measures.

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