The Concept, Purpose, And Objectives of Prosecutorial Supervision Over Compliance with Legislation by State Tax Service Authorities

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Abstract

This article examines the concept, purpose, and objectives of prosecutorial supervision over compliance with legislation by state tax service authorities through the lens of national and foreign scholarly approaches. It clarifies the legal nature of prosecutorial supervision, its place within tax administration, and the features that distinguish it from the functions of tax authorities. The study identifies the principal purpose of such supervision as ensuring legality, maintaining a proper balance between the legitimate interests of the state and taxpayers' rights, and restoring violated rights. It further proposes dividing the objectives of prosecutorial supervision into core and specialized categories and formulates recommendations for improving supervisory priorities in the context of digital tax administration.

Keywords: Prosecutorial supervision; state tax service authorities; tax administration; legality; taxpayers' rights; purpose of prosecutorial supervision; objectives of prosecutorial supervision.

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1. Introduction

Prosecutorial supervision over compliance with legislation by state tax service authorities is an institution of exceptional theoretical and practical importance. Because it is directly linked to strengthening tax discipline, securing public budget revenues, maintaining economic stability, regulating business activity, and protecting the interests of the state and society, establishing effective prosecutorial supervision over legality in this field remains a priority.

The existing literature generally defines prosecutorial supervision by reference to its exercise on behalf of the state, its attribution to a specially authorized body, and its orientation toward the precise and uniform implementation of laws. National scholars, including O. Madaliyev, B. Pulatov, F. Rakhimov, A. Komilov, I. Dzhuraev, U. Akhunov, and others, have developed differing sector-specific and general theoretical approaches to prosecutorial supervision, its object and subject matter, purpose, and objectives.

In particular, Professor B. Pulatov emphasizes the role of prosecution authorities in safeguarding human rights and freedoms and the legitimate interests of society and the state. This approach is especially important in tax relations because decisions of tax authorities simultaneously affect both fiscal interests and individual property and entrepreneurial rights. The essence of prosecutorial supervision therefore lies in assessing legality not solely from the standpoint of state interests, but on the basis of a proper balance of rights.

A. Komilov argues that the legal basis for sector-specific prosecutorial supervision derives primarily from the Law "On the Prosecutor's Office" and that there is no need to restate prosecutorial powers in every sectoral statute. This position is significant because it highlights the unified legal nature of prosecutorial supervision. However, given that tax administration is a highly specialized and digitalized system of relations, general prosecutorial powers must be interpreted in conjunction with the substantive and procedural requirements of the Tax Code.

O. Madaliyev defines prosecutorial supervision as the independent activity of prosecution authorities, conducted on behalf of the state, to oversee the precise and uniform observance of the Constitution and laws. This approach correctly captures the public-law and independent nature of supervision. Yet, when applied to taxation, such a general definition does not fully explain what a prosecutor should examine, which processes should be subject to legal assessment, and where the limits of intervention lie. F. Otakhonov characterizes the prosecution service as an institution that guarantees legality in the activities of public authorities. In our view, this constitutional and status-based approach should be supplemented by a sectoral-functional criterion: the effectiveness of prosecutorial supervision depends not on the prosecution service's "central" status, but on the clarity of its object, subject matter, and limits of intervention.

Foreign scholars likewise differ in their general and specialized approaches. Works edited by Yu.E. Vinokurov describe prosecutorial supervision as an independent form of state activity aimed at ensuring compliance with laws and the conformity of legal acts with the law. S. Osipyan views the institutional independence of the prosecution service as a condition for impartial enforcement of legality, while cautioning that an excessively broad scope of supervision may undermine effectiveness. T. Abdreev and A. Iskhakov associate prosecutorial supervision in taxation with anti-corruption efforts, economic security, and enforcement of tax legislation. V. Titova, in turn, treats prosecutorial supervision as a preventive mechanism designed to identify and eliminate the causes and conditions conducive to tax offences and to prevent their recurrence. Although this view is theoretically sound, in our opinion an excessive emphasis on prevention should not relegate the remedial and legality-assessment functions of prosecutorial supervision to a secondary position. In the activities of state tax service authorities, annulling unlawful acts, amending illegal decisions, and restoring violated rights after a breach has occurred are no less important than prevention.

In a collective study led by N. Subanova, prosecutorial supervision outside the criminal-law sphere is viewed as a comprehensive mechanism encompassing compliance with laws, human rights, the legality of legal acts, and the proportionality of prosecutorial intervention. This approach is applicable to the work of tax authorities because tax administration involves interconnected departmental regulatory acts, individual decisions, inspection activities, electronic notices, and coercive measures. Nevertheless, because this approach was developed on the basis of foreign legislation, it cannot be transplanted directly into the national legal system.

On the basis of the foregoing scientific and theoretical perspectives, we propose defining prosecutorial supervision over compliance with legislation by state tax service authorities as an independent form of state legal activity exercised by prosecution authorities within the powers prescribed by law, aimed at overseeing the lawful exercise of public powers by tax authorities and their officials; the conformity of adopted legal acts, decisions, actions, and omissions with the Constitution and legislation; and the protection of taxpayers' rights and legitimate interests, without duplicating the administrative or fiscal functions of tax authorities.

This definition reflects four principal features of prosecutorial supervision. First, it is exercised on behalf of the state and on the basis of the institutional independence of prosecution authorities. Second, its benchmark is not the economic efficiency of the tax authority's activities, but their legal basis, the limits of competence, and compliance with established procedures. Third, supervision does not end with the identification of a violation; it is directed toward eliminating the violation, restoring the infringed right, and reducing the causes of recurrence. Fourth, prosecutorial supervision does not duplicate the tax authority's internal departmental control or tax control. These features determine the distinct legal nature of prosecutorial supervision and its place within tax administration.

The purpose and objectives of prosecutorial supervision are interrelated but substantively distinct legal concepts. The purpose denotes the general legal condition to be achieved through supervision, whereas the objectives are specific areas of activity through which that result is attained. It is therefore methodologically incorrect to define the purpose as a list of actions, such as detecting violations, conducting inspections, or issuing prosecutorial response measures. The purpose must indicate the legal condition that should prevail in tax administration.

In national scholarship, Professor B. Pulatov links the purpose of prosecutorial supervision to safeguarding human rights and freedoms and the legitimate interests of society and the state, while A. Komilov emphasizes protecting the rights of business entities, eliminating unlawful interference, and preventing violations. O. Madaliyev connects prosecutorial supervision with strengthening legality and maintaining legal order. In F. Otakhonov's approach, the prosecution service appears as an institution guaranteeing legality in the activities of public authorities. These views are not contradictory, but each reflects a particular dimension of the purpose. In taxation, they should be integrated into a coherent system: legality must encompass both the protection of the state's legitimate financial interests and safeguards for taxpayers' rights and fair procedures.

Foreign approaches likewise identify different elements of the purpose. S. Alekseev and N. Votchel state that "the purpose and objectives of prosecutorial supervision are the result toward which all activities of the prosecution service are directed", whereas O. Khanyukova argues that "the purpose of prosecutorial supervision may be achieved through the implementation of the objectives assigned to the prosecution service". Legal scholars A. Bryagin and A. Pronyakin also maintain that the purpose of prosecutorial supervision derives from the objectives set out in Article 1 of the Law "On the Prosecutor's Office", and associate it with ensuring the rule of law, strengthening legality and its uniform application, protecting human and civil rights and freedoms, and safeguarding the legally protected interests of society and the state. Yu.E. Vinokurov emphasizes the precise and uniform implementation of laws and the legality of legal acts; N. Subanova, the protection of rights and proportionality of prosecutorial intervention; and S. Osipyan, the impartial maintenance of legality through institutional independence. V. Titova highlights preventive outcomes, T. Abdreev and A. Iskhakov economic security and the reduction of budgetary losses, and O. Lyutova compliance with competence and time limits in tax procedures. Although legality is common to all these approaches, treating either fiscal stability or prevention as the sole purpose would produce a one-sided conception.

Accordingly, we consider the purpose of prosecutorial supervision within state tax service authorities to be the establishment of the rule of law and a stable state of legality in tax administration; the precise and uniform application of tax legislation; maintenance of a proportionate balance between the state's legitimate financial interests and taxpayers' rights and legitimate interests; and the creation of legal safeguards for restoring violated rights and reducing the recurrence of legal violations.

The objectives of prosecutorial supervision translate its purpose into practical areas of activity. National and foreign literature presents these objectives in various forms, including analyzing the state of legality, identifying and eliminating violations, restoring rights, prevention, addressing liability, exchanging information, and improving inspection methodology. An excessively broad list of objectives, however, may blur the distinction between prosecutorial supervision and the management functions of tax authorities. It is therefore scientifically appropriate to divide them into core objectives arising from the general legal nature of prosecutorial supervision and specialized objectives reflecting the specific features of tax administration.

Among national scholars, B. Pulatov emphasizes the protection of human rights and the legitimate interests of society and the state; F. Rakhimov, strengthening legality and ensuring the rule of law; A. Komilov, eliminating unlawful interference in entrepreneurial activity and preventing violations; and O. Madaliyev, ensuring the precise and uniform implementation of laws, strengthening legality, and maintaining legal order. I. Dzhuraev regards systematic analysis of sector-specific legality and the improvement of supervisory forms as important, while A. Dzhuraeva emphasizes prevention and inter-agency cooperation. U. Akhunov's functional approach makes it possible to link objectives not to the name of a particular authority, but to the substance of the powers being exercised and the legally significant activities performed. When these views are applied to taxation, inter-agency cooperation should be understood not as general management by the prosecutor, but as information exchange and coordinated actions within the limits established by law.

A number of foreign scholars identify further aspects of these objectives. Yu.E. Vinokurov emphasizes verifying compliance with laws and the legality of legal acts; N. Subanova, protecting rights and ensuring the proportionality of intervention; S. Osipyan, observing the limits of competence; and V. Titova, prevention and elimination of the causes of violations. A. Kazarina andN. But argue that prosecutorial supervision should not duplicate the functions of other oversight bodies and must preserve the proper balance between freedom of economic activity and legality. A. Smirnov, as well as E. Yergashev and A. Firsova, consider it essential to prepare properly for inspections, define their subject matter and limits, analyze information, provide a legal assessment, and select an effective prosecutorial response. T. Ashitkova adds the objectives of generalizing law-enforcement practice, securing compensation for damage, and eliminating systemic deficiencies.

In our view, the objectives of prosecutorial supervision constitute practical areas of activity derived from its purpose. The objectives of prosecutorial supervision within state tax service authorities should be divided into core and specialized objectives. The core objectives include systematically studying and assessing the state of legality in tax authorities; verifying compliance with laws and the legality of legal acts; identifying and eliminating unlawful decisions, actions, and omissions; restoring violated rights and legitimate interests; raising the issue of the statutory liability of responsible persons; and identifying and eliminating the causes and conditions that have led to violations in order to prevent their recurrence. These objectives are common to prosecutorial supervision in all sectors and do not entail performing the internal management or fiscal functions of tax authorities. Specialized objectives arise from the substantive, procedural, and digital features of tax administration. They include assessing the legality of the grounds and procedures for ordering and conducting tax audits; verifying compliance with competence, time limits, and proportionality when calculating tax liabilities, collecting tax arrears, and imposing restrictions on property and bank accounts; assessing the legal justification for financial sanctions, decisions concerning the granting or recovery of tax benefits, and other financial determinations; safeguarding taxpayers' right to appeal; and verifying compliance with tax secrecy and personal data protection requirements.

In the context of digital tax administration, specialized objectives should also include examining the legal basis of automated decisions and risk-analysis criteria, assessing mechanisms for correcting errors in electronic data, and determining whether an effective remedy is available against digitally imposed restrictions. The prosecutor should not undertake the technical analysis of the digital system. Rather, where necessary and with the involvement of a specialist, the prosecutor should assess the legality of decisions adopted through digital tools and their impact on rights. Early detection of corruption risks, conflicts of interest, unjustified or arbitrary decision-making, and unlawful use of data should likewise form an integral part of these objectives.

Overall, the objectives of prosecutorial supervision over compliance with legislation by state tax service authorities consist in assessing the state of legality in tax administration; facilitating the precise and uniform application of tax legislation; eliminating unlawful legal acts, decisions, actions, and omissions; restoring violated rights; maintaining a proportionate balance between the state's legitimate financial interests and taxpayers' rights; and preventing violations and the legal risks that give rise to them. The performance of these objectives should be evaluated not by the mere issuance of a prosecutorial response measure, but by whether the violation has actually been eliminated, the right restored, and the risk of recurrence reduced.

Prosecutorial supervision over compliance with legislation by state tax service authorities is an independent form of state legal activity aimed at ensuring legality in tax administration, protecting the interests of the state and society, and safeguarding taxpayers' rights and legitimate interests. The analysis demonstrates that the purpose of prosecutorial supervision in this field is not limited to detecting tax-related violations. It also includes ensuring that tax authorities exercise the public powers conferred upon them within the limits of the law, restoring violated rights, and eliminating the factors that give rise to legal violations. Prosecutorial supervision should therefore be directed not at assessing the internal management or economic efficiency of tax authorities, but at ensuring the legality of their activities.

Furthermore, when defining the objectives of prosecutorial supervision within state tax service authorities, both general and sector-specific features must be taken into account. Alongside general objectives such as verifying compliance with laws, eliminating unlawful decisions and actions, and restoring rights, attention must also be paid to specialized areas, including tax audits, determination of tax liabilities, collection of tax arrears, and assessment of the legality of decisions made in digital tax administration processes. This approach helps clarify the legal nature of prosecutorial supervision, rationally define its boundaries, and ensure legality and legal stability in the field of taxation.

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