

Prosecutorial Supervision Over the Enforcement of Land Legislation in The Agrarian Sector: Concept, Subject, Object, Tasks and Legal Foundations

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Received: 08 Feb 2026 | Received Revised Version: 24 Feb 2026 | Accepted: 10 Mar 2026 | Published: 31 Mar 2026

Volume 08 Issue 03 2026 | Crossref DOI: 10.37547/tajpslc/Volume08Issue03-22

Abstract

The article examines the theoretical and legal foundations of prosecutorial supervision over the enforcement of land legislation in the agrarian sector of Uzbekistan. Based on a critical analysis of Uzbek and foreign doctrine, the author defines the concept, subject, object, objective and tasks of such supervision and treats it as a subject-specialised area of general supervision over the execution of laws rather than a separate function. The legality of acts, decisions, actions and omissions is attributed to the subject, and the activity of the responsible subjects to the object; land itself is shown to be the material basis of the relations rather than an object of supervision. A two-level system of tasks is proposed. The legal foundations are defined as a system of norms interrelated by legal force and divided into four functional groups; it is substantiated that presidential acts and departmental orders do not create new prosecutorial powers and that each inspection should begin by determining the applicable law. Normative conflicts concerning the calculation of damage, the qualification of acts of lawful land holders and sub-lease are identified, and amendments to criminal, administrative and judicial-interpretative acts are proposed.

Keywords: Prosecutorial supervision, agricultural land, land legislation, subject of supervision, object of supervision, tasks of supervision, legal foundations, legal force, normative conflict, sub-lease.

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Cite This Article: Karimov Ulugbek Khakimjonovich. (2026). Prosecutorial Supervision Over the Enforcement of Land Legislation in The Agrarian Sector: Concept, Subject, Object, Tasks and Legal Foundations. The American Journal of Political Science Law and Criminology, 8(03), 162–171. <https://doi.org/10.37547/tajpslc/Volume08Issue03-22>

1. Introduction

Agricultural land, and above all irrigated land, is a national asset whose loss is often irreversible. Article 68 of the Constitution of the Republic of Uzbekistan declares land and other natural resources to be national wealth subject to rational use and state protection, while Article 143 entrusts supervision over the precise and

uniform execution of laws to the Prosecutor General and subordinate prosecutors [1]. Since 2021, land relations in the agrarian sector have been reformed profoundly: the power to allocate land has been withdrawn from local authorities, electronic auctions have been introduced, and digital systems of state land control have been created [2, 3, 4].

These reforms raise a theoretical question that practice cannot resolve on its own: what exactly does the prosecutor supervise in this field, whose activity is examined, what result is pursued and on which legal norms the prosecutor relies. Without clear answers, supervision risks either duplicating the work of specialised control bodies or interfering in economic activity. The literature contains valuable but divergent views on these issues [5, 6, 7]. The purpose of this article is to define the concept, subject, object, objectives and tasks of prosecutorial supervision over the enforcement of land legislation in the agrarian sector, to systematise its legal foundations and to identify normative conflicts that hinder uniform supervision.

The study is based on the Constitution, the Law «On the Prosecutor's Office» [8], the Land Code [9], laws, acts of the President and the Cabinet of Ministers regulating agricultural land, orders of the Prosecutor General and the Resolution of the Plenum of the Supreme Court on land offences. The views of Uzbek and foreign scholars are analysed critically. Formal-legal, systemic, comparative-legal and logical methods are used.

The concept of prosecutorial supervision in the agrarian land sector. Uzbek scholars interpret prosecutorial supervision primarily as a state-legal activity specific to the prosecution service. A.Komilov links it with detecting violations, giving them a legal assessment, restoring legality, eliminating causes and conditions of violations and prevention, stressing the timely and prompt detection of violations [5]. O.Madaliev defines it as a special activity of the prosecution service, carried out on behalf of the state, aimed at the precise and uniform execution of the Constitution and laws [10]. M.Rustambaev describes it as activity aimed at the timely detection and elimination of violations and at ensuring uniform execution of laws [11]. B.Pulatov substantiates the need not to equate prosecutorial supervision with specialised state control [12]. This point is crucial in the agrarian sector, where the prosecutor does not repeat the routine work of control bodies but assesses the legality of their activity and decisions.

Foreign authors emphasise sectoral features. V.Aliev views supervision in the agro-industrial complex as prosecutorial activity that takes into account the specific relations of the sector [13], while M.Miroshnichenko considers land protection through a combination of supervisory and non-supervisory legal means [14].

V.Yastrebov regards supervision over the execution of laws as the main function of the prosecution service [15], and M.Shalumov separates the powers of prosecutorial supervision and state control, holding that the prosecutor's criterion is legality and that he must not assume managerial or economic functions [16]. Zh.Vologina, E.Gafurzyanov and I.Farkhutdinov treat agrarian supervision as a subject-specialised area reflecting the multi-sectoral nature of agrarian relations [17]; E.Kunitsyna describes supervision in the natural resources sphere as a special state activity [18], and A.Baldin, Ya.Aliev and F.Rumyantsev see it as a means of timely response to violations [19]. The latter approach makes it possible to measure the result of supervision not by the number of inspections but by the elimination of unlawful decisions, the restoration of the violated legal situation and the removal of the causes of violations. Comparing these views, A.Komilov, O.Madaliev and M.Rustambaev reveal the state-legal and active nature of supervision, B.Pulatov its boundary with specialised state control, and V.Aliev and M.Miroshnichenko its sectoral features.

In our view, supervision over agricultural land is not a new function of the prosecution service but a subject-specialised area of general supervision over the execution of laws. Accordingly, prosecutorial supervision over the enforcement of land legislation in the agrarian sector is a subject-specialised area of prosecutorial supervision over the execution of laws, exercised by the prosecution bodies on behalf of the state within the powers established by law, aimed at an independent legal assessment of the state of legality in the allocation, use and protection of agricultural land, at preventing the irreversible withdrawal of land from agricultural use and at restoring the violated legal status of land. This definition is consistent with the views of V.Yastrebov and M.Shalumov, at the same time, tasks such as detecting and eliminating violations are deliberately left outside the concept and considered separately.

Article 20 of the Law «On the Prosecutor's Office» links the subject of supervision with the execution of laws by bodies, organisations and officials and with the conformity of the acts they adopt to the Constitution and laws [8]. This gives two criteria: the execution of laws and the legality of legal acts. In the agrarian sector, however, an unlawful action or a failure to perform an action required by law also requires legal assessment.

A.Komilov places the execution of laws and the conformity of legal acts at the centre of the subject [5], this approach is theoretically more precise because it ties the subject to a clear legal criterion. Yet in the agrarian sector the mechanism for implementing a law is often set out in by-laws. In our view, compliance with by-laws should be assessed not as an independent subject but as part of verifying how a statutory requirement is actually fulfilled, D.Patlaev also stresses the need to take such acts into account [20]. M.Abdukhakimov describes the subject broadly, including the protection of land rights, rational use of land, restoration of soil fertility and strengthening legality [6]. The advantage of this approach is its fuller coverage of land relations, but it mixes elements of the subject, objectives and tasks: detecting offences and strengthening legality describe what the prosecutor achieves, not what he examines.

O.Kalugina distinguishes the range of normative acts and the range of subjects whose activity is assessed [7], V.Aliev includes compliance with the Constitution, laws and implementing acts and the legality of acts of supervised subjects [13], M.Kleponosova places citizens' constitutional land rights at the centre [21]. In our view, the subject must cover both individual land rights and mandatory land-law requirements affecting state and public interests. O.Voronin rightly states that the legal nature of supervision lies in the legal assessment of the activity of supervised persons [22]. T.Sushina argues that the type of legal norm, rather than the law itself, is decisive [23], this limits interference in economic decisions left to the discretion of the subject, but because land law combines dispositive and imperative elements, the subject should be defined by the mandatory legal consequence, restriction or public interest protected by a norm. V.B.Yastrebov and V.V.Yastrebov exclude expediency from the criteria of supervision [24], and V.Lavrov stresses that the prosecution service must not replace land control bodies [25], in the agrarian sector these approaches should also cover omissions. Thus, A.Komilov emphasises a clear legal criterion, M.Abdukhakimov sectoral content, O.Voronin legal assessment, T.Sushina the mandatory nature of norms and V. Lavrov the execution of laws on land use and protection. In our view, land relations form the sectoral legal environment of supervision, while the subject is the execution of laws and the conformity to law of legally significant acts, decisions, actions and omissions within that environment. Its sectoral boundary covers the allocation of plots, formalisation of rights, designated and rational use, protection, preservation of soil fertility,

transfer of land to another category or its withdrawal from agricultural use, and state management and control in these processes.

We therefore define the subject of supervision as the execution of laws in the allocation of agricultural land, the establishment, change and termination of rights to it, its designated and rational use and protection, and the exercise of state management and control in this field, as well as the conformity to the Constitution and laws of legal acts, decisions, actions and omissions of the competent subjects.

Object. While the subject answers the question «the legality of what is assessed?», the object answers «whose activity is supervised?». M.Abdukhakimov proposes including land users such as farmers and clusters [6]. This reflects the real participants of the sector, but treating every land user as a permanent object of inspection creates a risk of interference in economic activity. Some authors also include legal acts in the object [5], in theory, however, a decision or contract is the legal expression of the activity of a body or person, so its legality belongs to the subject and the activity of its author to the object. N.Mikhлина distinguishes the object of legal activity as the social reality regulated by law and the subject as the part directly affected by legal influence [26]. E.Butylyna shows the multifunctional legal nature of land as a natural object, a natural resource, real estate and an object of rights [27], this does not make land itself the object of supervision. Land is the material basis of the relations, while the prosecutor assesses the legality of the activity of those who exercise powers and obligations in respect of it.

O.Kalugina includes management bodies of legal entities and other subjects covered by law [28], T.Sushina links the object with the legal function performed by the subject [29], K.Bizhanova includes state, local and control bodies and business entities to which the prosecutor's inspection powers apply [30]. In our view, the decisive criterion is the subject's statutory power or obligation and the existence of prosecutorial competence in respect of it. This is consistent with the rule of the Law «On the Prosecutor's Office» that the prosecutor does not perform the functions of control and management bodies [8]. A dehqan, a farmer or a cluster therefore falls under supervision not because of its economic results but where statutory obligations, a public interest or the need to assess the lawful activity of a competent body are involved.

The object of supervision is thus the activity of state bodies, local state authorities, organisations and their officials, and, in cases provided by law, other subjects engaged in the allocation, registration, formalisation of rights, use and protection of agricultural land and in state management and control in this field, within the competence of the prosecution service.

The objective expresses the general legal result to be achieved; conducting inspections, detecting violations and applying prosecutorial acts are means of achieving it. M.Abdukhakimov specifies this result through rational land use, preservation of soil fertility and protection of land rights [6], M.Miroshnichenko links it with the supremacy of the Constitution and laws, the unity of legality and the protection of the rights of citizens and the interests of society and the state [14], K.Bizhanova adds the protection of these interests from the depletion of natural resources [30]. These views allow the objective to be expressed in two layers: a general legal layer (the rule of law and protection of rights and legitimate interests) and a special agrarian layer (lawful use and protection of agricultural land and its special legal regime). The objective of supervision is therefore to establish a stable legal order in agrarian land relations by ensuring the rule of law and legality in the allocation, use and protection of agricultural land and by protecting land rights and the legitimate interests of the state and society.

Tasks translate the objective into a system of practical directions and should not be equated with a list of procedural actions. A.Komilov divides tasks into general, special and specific [5], V.Baskov and B.Korobeinikov explain the relation between objectives and tasks as one between a result and the means of achieving it and also divide tasks into general, special and particular [31]. Komilov treats general tasks as those set by the Constitution, the Law «On the Prosecutor's Office» and sectoral legislation for all prosecution bodies, special tasks as those arising from the specialisation of a given area, and specific tasks as those set by a particular situation or by instruction of a higher prosecutor for a limited period. Adapted to the agrarian sector, legality and protection of rights are general tasks, ensuring statutory requirements in the allocation, designated use and protection of land are special tasks, and practical actions in a particular inspection are individual tasks. A. Vinokurov names the detection, suppression and elimination of offences, compensation for damage, restoration of natural objects, bringing the

guilty to account and prevention as priority tasks [32]. For agricultural land, revoking an unlawful act is often insufficient: the violated land-law situation must be restored. T.Otchetskaya stresses the quality of state monitoring and the methodological regulation of recurring inspection processes [33], cadastral and monitoring data, however, do not replace a legal conclusion but provide its factual basis.

In our view, tasks should be organised in two levels. The first level comprises stable special tasks: detecting, suppressing and eliminating violations, restoring the violated legal situation, resolving the question of liability, eliminating causes and conditions, and prevention. The second level comprises individual tasks performed in a particular inspection: requesting information, examining a legal act, using a specialist's data or choosing a response measure. Prevention deserves particular weight, because once land has been unlawfully used for another purpose or its fertility seriously damaged, revoking an unlawful decision does not always restore its former state. Information and analytical work also matters: digital data help identify risks, but, as V.Lavrov notes, the prosecution service must not perform the functions of land control bodies [25], so digital data should serve evidence-based legal assessment rather than technical monitoring.

The boundary of supervision must be preserved in performing these tasks. A low harvest is not in itself a ground for prosecutorial intervention. It becomes one only where it is linked to a breach of statutory obligations of designated use, land protection or preservation of soil fertility. The prosecutor assesses not the economic result but compliance with the law in economic and management activity.

The legal foundations of supervision: system and hierarchy.

A.Makhmudov emphasises that the status and powers of the prosecution service must have a clear normative basis [34]. M.Abdukhakimov considers the systematic study of legal foundations a prerequisite for effective supervision [35], and Kh.Rakhmedov shows that this system includes the Constitution, laws, acts of the President and the Government and sectoral orders of the Prosecutor General [36]. In land law theory, Sh.Fayziev classifies sources by their function [37], while A.Nigmatov classifies them by legal force [38], both criteria are needed in supervision, since the prosecutor must know what a norm regulates and on which higher act it is based. M.Usmonov [39] and

Sh.Bobokulov [40] show that land relations are regulated by norms of various branches of law that define the rights, obligations and powers of competent bodies. D.Patlaev links gaps and conflicts in regulation with the effectiveness of supervision [41], A.Chertov stresses the methodological importance of classifying acts by legal force [42], and D.Dobretsov notes that the prosecutor may use by-laws in legal assessment while verifying their own conformity to the law [43]. N.Mikhlina links the normative basis of the prosecutor's protection of public interests in land relations with both supervisory and judicial mechanisms [26], and T.Otchetskaya's analysis of land and soil protection implies that mandatory requirements on the quality and protection of soil should be a separate sectoral criterion of the prosecutor's assessment [33].

In our view, the legal foundations of this supervision are a system of legal norms, interrelated by legal force, that confer on the prosecution service the power to supervise the execution of laws in the allocation, use and protection of agricultural land, define the limits and legal means of supervision, and contain the substantive and procedural rules on which the prosecutor relies in assessing legality. Functionally, these norms form four groups: (1) norms on the constitutional status, general powers, subject and limits of supervision, (2) statutory norms on the allocation, lease, designated and rational use and protection of land and soil, against which the prosecutor assesses legality, (3) by-laws establishing the procedures, monitoring, state control, electronic auctions and information exchange, and (4) departmental acts organising the exercise of statutory powers within the prosecution system. This classification does not replace the hierarchy by legal force but identifies the role of each act in the supervisory mechanism.

The Constitution provides the general basis of supervisory powers, and laws specify their content and limits. If a decision or departmental act contradicts a norm of higher legal force, the prosecutor relies on the higher act, supervision itself must rest on powers conferred by law rather than on departmental instructions. Articles 20-23 of the Law «On the Prosecutor's Office» define the subject, the inspection and information powers and the means of responding to violations [8]. The same Law also sets the limits of supervision: the prosecutor does not measure land, keep cadastral records, organise agrotechnical measures or conduct land monitoring in place of the competent body, and low efficiency of land use or an agrotechnical result

below expectations is not in itself sufficient for intervention, which must be linked to a breach of a statutory requirement, an excess of powers, or an unlawful decision, action or omission. The main substantive source is the Land Code [9], supplemented by the laws on dehqan farms [44] and on the protection of soil and increasing its fertility adopted in 2024 [45].

Acts of the President form modern mechanisms of agrarian land relations: Resolution No. PR-5006 on improving the use and protection of agricultural land [46], Decree No. PD-6243 on equality and transparency in land relations, paragraph 12 of which instructs the Prosecutor General's Office to establish strict supervision over violations of land legislation, including forgery of documents on the allocation and withdrawal of land [2], Resolution No. PR-138 on state control over land use [4], Decree No. PF-15 on the procedure for leasing agricultural land [3], Decree No. PD-172 on the continuity of production on agricultural land [47] and Resolution No. PR-287 on eliminating corruption factors in land relations [48]. Their procedures are specified in Resolutions of the Cabinet of Ministers No. 709 on leasing agricultural land [49], No. 22 on monitoring, land protection and land management [50] and No. 183 on state land and cadastral control [51].

Two conclusions follow. First, a presidential act does not confer new powers on the prosecutor: powers derive from the Law «On the Prosecutor's Office», while a decree or resolution sets specific tasks within those powers and is a direction of their application, not their source. Second, after Decree No. PD-15 the legality of land allocation cannot be verified only through the minutes of a selection commission or a khokim's decision, the prosecutor must assess the grounds for putting a plot up for electronic auction, the accuracy of lot data, the correct reflection of boundaries and category, the registration of the lease and subsequent designated use as one consistent chain.

Sectoral orders of the Prosecutor General, such as Orders No. 233 [52] and No. 261 [53], are of great practical value, but they are not sources equal to the Constitution, laws or presidential acts and cannot create new obligations for external subjects or new substantive powers for the prosecutor. Some provisions of Order No. 160 [54] rest on mechanisms that preceded the 2021-2025 reforms, such as the competitive allocation of land to farms and the review of district commission documents, applying them today as a substantive

criterion would be scientifically incorrect. Because the legal framework is fragmented and frequently updated, we propose that every inspection begin with a step of «determining the applicable law»: if a norm was later repealed or amended but was in force when the act under review was committed, the assessment is made under the law of that time, while a later requirement does not apply automatically to past conduct.

The Regulation approved by Cabinet of Ministers Resolution No. 246 of 15 May 2026 entrusts the Inspectorate for Control over the Agro-Industrial Complex with calculating damage where land is withdrawn from agricultural use without authorisation, and treats occupation of a plot by fences, construction or non-agricultural use as such withdrawal [55], the Inspectorate therefore calculates damage on the entire occupied area. Paragraph 11 of Resolution No. 36 of the Plenum of the Supreme Court of 16 December 2024, however, requires the area still fit for use to be deducted and damage to be based only on the land actually lost under construction [56]. In our view, this approach is debatable: the offences under parts 1 and 2 of Article 2291 of the Criminal Code are directed against land, and damage is not a qualifying element [57], moreover, land enclosed by a concrete wall or foundation is inaccessible to machinery and cut off from irrigation, so there is no basis for deducting it as «fit for use». We propose linking the calculation of damage to the land withdrawn from agricultural use and allowing a deduction only where there is evidence that the consequences of seizure have been eliminated, such as a statement on the return of the plot and demolition of the unlawful structure or space monitoring data.

Unauthorised seizure by a lawful holder. Part 1 of Article 2291 of the Criminal Code defines the offence as the use of land plots in the absence of lawful rights to them, and part 2 is its qualified form [57]. An act that does not meet the elements of the basic offence cannot be assessed under the qualified one, and a farm whose lease is registered is precisely a person with lawful rights. This is confirmed by paragraph 5 of the Plenum Resolution, which understands unauthorised seizure as use without documents confirming the right [56], and by part 2 of Article 60 of the Code of Administrative Liability [58]. A person with lawful rights to a plot cannot seize it without authorization, his acts constitute use beyond the granted right, which falls under Article 197 of the Criminal Code. Since that article makes liability conditional on «grave consequences» whose criteria are

not specified, a simple referral to it weakens land protection. We propose stating in paragraph 9 of the Plenum Resolution that such acts are qualified under Article 197, while part 2 of Article 2291 applies only to seizure of land outside the boundaries of the allotted plot, and supplementing part 3 of Article 60 of the Code of Administrative Liability with the clause «if these actions do not contain the elements of a crime under Article 2291 of the Criminal Code», harmonising the grounds for release from liability in both codes.

Sub-lease and criminal liability. Law No. LRU-973 of 9 October 2024 added Article 245 to the Land Code, allowing the lessee of agricultural land to transfer his rights and obligations to another person (sub-lease) [59], and Cabinet of Ministers Resolution No. 6 of 10 January 2025 requires notarial formalisation and state registration of such transfers [60]. At the same time, Article 2296 of the Criminal Code establishes liability for the sale or other unlawful transfer of the right to irrigated land [57], and paragraph 17 of the Plenum Resolution understands «sale» as transfer for material benefit [56], without any exception for a notarised sub-lease. A lawful sub-lease therefore formally risks falling within a criminal offence. In our view, it is sufficient to remove the word «sale» from the disposition and apply the element «unlawfully» to the act as a whole.

Given the frequent updating of agrarian land legislation, it is also advisable to create a continuously updated electronic legal database for prosecutors, in which acts are arranged by legal force and each norm shows its current wording, dates of entry into and loss of force, scope of application in inspections and related digital source. Sectoral orders of the Prosecutor General should also state clearly the boundary between prosecutorial supervision and specialised state control, the procedure for using digital data and the requirement to confirm legal conclusions by official sources.

First, prosecutorial supervision over the enforcement of land legislation in the agrarian sector is not a separate function of the prosecution service but a subject-specialised area of general supervision over the execution of laws, exercised on behalf of the state within statutory powers, with legality as its sole criterion. This distinguishes it both from specialised state control and from economic management.

Second, the subject of supervision is the execution of laws and the conformity to law of acts, decisions, actions

and omissions in the allocation, formalisation of rights, use and protection of agricultural land, the object is the activity of the subjects responsible for these requirements. The legality of a document belongs to the subject, the activity of its author to the object, and land itself is the material basis of the relations rather than an object of supervision.

Third, the objective has a general legal and a special agrarian layer, and the tasks form two levels: stable special tasks and individual tasks of a particular inspection. The prosecutor does not manage the economic or agrotechnical results of land use, he assesses compliance with the law.

Fourth, the legal foundations form a system of norms interrelated by legal force and divided into four functional groups. Presidential acts and departmental orders do not create new prosecutorial powers, and each inspection should begin by determining the applicable law.

Fifth, normative conflicts concerning the calculation of damage, the qualification of acts of lawful holders and sub-lease prevent supervision from resting on a single criterion. Amendments to Resolution No. 36 of the Plenum of the Supreme Court, Article 2296 of the Criminal Code and Article 60 of the Code of Administrative Liability, together with an electronic legal database for prosecutors, are proposed to resolve them.

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