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### **A LEGAL BASIS FOR THE PARTICIPATION OF THE PROSECUTOR IN CIVIL PROCEEDINGS: HISTORICAL DEVELOPMENT AND COMPARATIVE LEGAL ANALYSIS**

**Abstract:** this article contains the historical development of the legal basis for the participation of the prosecutor in civil proceedings, a comparative legal analysis with the legislation of foreign countries. As a result of the analysis, conclusions were drawn regarding the improvement of the legal framework for the participation of the prosecutor in the civil process.

**Key words:** civil process, history of development, prosecutor, legal grounds, participation in court, improvement.

The order of organization and operation of prosecutor's offices in our country, as well as the powers of prosecutors, are determined by the Constitution of the Republic of Uzbekistan, Law "About prosecutor's office" and other legal documents. In the Republic of Uzbekistan, the prosecutor's office is an independent institution of the state that supervises the precise and uniform implementation of laws throughout the country. The task of monitoring the clear and uniform implementation of laws in the territory of the Republic of Uzbekistan is entrusted to the General Prosecutor of the Republic of Uzbekistan and prosecutors subordinate to him by the Constitution of the Republic of Uzbekistan (Article 118).<sup>1</sup>

In accordance with Article 2 of the newly revised Law of the Republic of Uzbekistan "About prosecutor's office", the main tasks of the prosecutor's office of the Republic of Uzbekistan are to ensure the rule of law, strengthen legitimacy, protect the rights and freedoms of citizens, the interests of society and the state protected by law, the constitutional system of the Republic of Uzbekistan, prevention and prevention of crimes.<sup>2</sup>

The President of the Republic of Uzbekistan, Shavkat Mirziyoev, paid special attention to this issue at a meeting with the employees of the field on January 7, 2017, before the Day of Prosecutors, and said, "People can tolerate anything, but they cannot tolerate injustice. "Prosecution authorities should play a major role in maintaining justice in society," he said.<sup>3</sup>

It is known from history that prosecutor's office is one of the most important constitutional institutions that protect human rights, society and state interests. The granting of constitutional status to the prosecutor's office is, first of all, closely related to the role of this structure in protecting the interests of people, society and the state, ensuring legality, rule of law and justice in the country.

However, if we look at the history of the development of legislation on the participation of the prosecutor in civil proceedings, the norms regarding the participation of the prosecutor in the

<sup>1</sup> Constitution of the Republic of Uzbekistan. – T.: Uzbekistan. 2022. – P. 32-33.

<sup>2</sup> The newly revised law of the Republic of Uzbekistan "About prosecutor's office" // Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 2001. No. 9-10, - 41 p.

<sup>3</sup> The performance of prosecutors is evaluated by rating  
// [https://www.gazeta.uz/uz/2017/01/09/prokuratura/?auth\\_finish=1#](https://www.gazeta.uz/uz/2017/01/09/prokuratura/?auth_finish=1#)

conduct of court proceedings were almost non-existent in the first civil procedural legal acts in force in the territory of our country. Though, the development of the prosecutor's control and participation in civil proceedings was first expressed in the norms of the Civil Procedure Code of Uzbekistan (CPC) adopted in 1927. According to the Code, the prosecutor has the right to participate in all stages of the proceedings, and the law gives the prosecutor the right to initiate civil cases with a lawsuit. For example, according to Article 2 of the Civil Code of the Republic of Uzbekistan from 1927, if he considers it necessary to protect the interests of the state or the working community, the prosecutor may start a civil case and start work at any stage of the process. According to Article 11 of this Code, the prosecutor has the same procedural rights as other persons participating in the case, such as obtaining copies of case materials.<sup>4</sup>

It can be seen that the participation of the prosecutor in civil proceedings is relatively detailed in the Civil Code of Uzbekistan adopted on March 23, 1963 and implemented from January 1, 1964. This Code contains a separate article (Article 13) called "Prosecutor's control over the conduct of civil court cases", according to which control over the exact implementation of laws in civil proceedings is the responsibility of the General Prosecutor and his other subordinate prosecutors, that the prosecutor is obliged to take measures provided for by the law in time to eliminate any violation of the law at all stages of conducting civil court cases, regardless of who committed such violations, that the prosecutor in conducting civil court cases does not exercise his authority in any way independently of bodies and officials, only in compliance with the law and following the instructions of the General Prosecutor of the Union.<sup>5</sup>

In the Civil Code of Uzbekistan from 1963, the prosecutor is included in the group of persons participating in the case, and when it is required to protect the state or public interests or the rights and interests of citizens protected by law, the prosecutor can apply to the court in order to protect the rights and interests protected by law of other persons or any of the proceedings has the right to start work at the stage. It is confirmed that the participation of the prosecutor in the consideration of the civil case is mandatory only in the cases specified by the law or the participation of the prosecutor in this case is deemed necessary by the court.

It can be seen that this Code provides some wide procedural rights to the prosecutor in civil proceedings. For example, according to Article 43 of the Civil Code, the prosecutor uses the procedural rights specified in Article 31 of this Code to control compliance with the law in civil proceedings and in addition, to support and withdraw applications submitted by him, to give written or oral opinions to the court on the content of each case in which he participated during the hearing of the case, as well as on certain issues that arose during the hearing of the case, illegal and groundless decisions and rulings of the courts and has the right to protest against the decisions, as well as against the illegal actions of the bodies for the execution of the court's decisions, rulings and decisions in the prescribed manner.

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<sup>4</sup> Civil Procedure Code of the Uzbek SSR // Publication of the Legal Publishing House under the Administration of the Council of People's Commissars of the Uzbek SSR. - Samarkand, 1927. – P. 5-6.

<sup>5</sup> Civil Code of the Uzbek SSR. Civil Procedure Code of the Uzbek SSR: (with changes and additions until January 1, 1986). - T.: Uzbekistan, 1986. - 219 p.

The fact that the prosecutor gave up his application in order to protect the interests of another person did not deprive this person of the right to request the court to consider the case based on its merits.<sup>6</sup>

In the first years of our independence (December 9, 1992), Law of the Republic of Uzbekistan "About the prosecutor's office" draws attention to the fact that the scope and limits of the prosecutor's control in the conduct of civil court cases have been significantly expanded. For example, according to Article 35 of this Law, the prosecutor may participate in the consideration of cases in the courts in the cases provided for by the law, as well as if the prosecutor himself or the court deems it necessary it is determined that the scope and scope of powers of the prosecutor participating in the court session shall be regulated by the procedural laws of the Republic of Uzbekistan. This Law also states that the prosecutor, his deputy, within the scope of their powers, have the right to demand from the court any case whose judgments, decisions, rulings and decisions have become legally binding, the prosecutor, his deputy, or other employees of the prosecutor's office, according to their assignment, in the courts of any category it is confirmed that he has the right to study cases (Article 38 of the Law).<sup>7</sup>

According to Article 41 of Law of the Republic of Uzbekistan "About the prosecutor's office", the General Prosecutor of the Republic of Uzbekistan has the right to suspend the execution of the protested verdict, decision, ruling and decision of any court until the case is resolved in the control procedure. In addition, prosecutors who have the right to file a protest in the control procedure over civil and economic cases, if there is sufficient evidence of a clear violation of the law, they can demand the case, as well as demand the execution of the court's decision, ruling and decision for a maximum of three months before filing a protest against them. had the right to suspend.<sup>7</sup>

It should be noted that in connection with the adoption of the Civil Procedure Code of the Republic of Uzbekistan (hereinafter referred to as the Civil Procedure Code) on August 30, 1997, a number of changes occurred in the role of the prosecutor in civil proceedings. Article 46 of this Code establishes the norm regarding the participation of the prosecutor in the proceedings, according to which the prosecutor has the right to apply to the court to protect the rights and interests of other persons protected by law, as well as the right to participate from the beginning in the hearing of the case initiated by other persons. was placed. That is, based on the requirements of this Code, it was assumed that the prosecutor participates in the hearing of the case from the beginning, not at the desired stage of the civil case.

It is stipulated that the participation of the prosecutor in civil cases, as well as in cases initiated by the prosecutor's application, is stipulated in the cases provided by the law or in cases where the court deems it necessary for the prosecutor to participate in the case.

The CPC of our country on August 30, 1997 is significant in that the prosecutor's procedural rights and obligations are somewhat broad. Therefore, according to Article 47 of this Code the prosecutor shall use the procedural rights of the persons involved in the case provided for in Article 34 of this Code and undertake the obligations, and in addition, give explanations to the court regarding the demands made by him in order to fully or partially withdraw his application, to protect the rights and interests of other persons, the case has the right to express

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<sup>6</sup> Civil Code of the Uzbek SSR. Civil Procedure Code of the Uzbek SSR: (with changes and additions until January 1, 1986). - T.: Uzbekistan, 1986. - 231 p.

<sup>7</sup> Law of the Republic of Uzbekistan "About prosecutor's office" adopted on December 9, 1992 // <https://lex.uz/docs/31452>

his opinion on the content, as well as on some issues that arose during the hearing of the case, to protest the court's decision, ruling, decision. If the claimant does not agree, the prosecutor has no right to change the basis or subject of the claims, to increase or decrease the amount of claims.

A prosecutor's withdrawal from his application to protect the rights and interests of another person protected by law does not deprive this person of the right to request the court to review the case in accordance with the provisions of Article 104 of this Code.<sup>8</sup>

At this point, it should be noted that in connection with the amendments and additions to the Criminal Procedure Code adopted on August 30, 1997 based on the Law of the Republic of Uzbekistan dated December 14, 2000<sup>9</sup>, some changes occurred in the legal status of the prosecutor in civil proceedings. In particular, the words "to give a written and oral opinion on the content of each case, as well as on certain issues that arose during the hearing of the case" in the first part of Article 47 of the Criminal Procedure Code mean "expressing one's opinion on the content of the case, as well as on certain issues that arose during the discussion of the case" has been changed. This norm was later reflected in the second part of Article 51 of the new Criminal Code of the Republic of Uzbekistan adopted on January 23, 2018. In a word, while participating in the civil proceedings, the prosecutor should express his opinion on each civil case, not a written and oral conclusion. Legal scholar M.M.Mamasiddikov reacted to this news and noted that it is important as one of the practical measures aimed at increasing the authority of the judicial system in our country<sup>10</sup>. Accordingly, the sentence "Prosecutor's conclusion" in Article 45 of the Criminal Code was changed to "Prosecutor's opinion".

Also, according to the Law of the Republic of Uzbekistan dated December 14, 2000, it was determined that the prosecutor and his deputies, who have the authority to file a protest in the CPC in the control procedure, do not have the right to stop the execution of court decisions.

If we look at the history, it can be seen that changes were made to the prosecutor's control system at the same time that important legal bases for the regulation of market relations were being established in the country, as well as the institution of legal protection of citizens and economic entities. Consequently, on August 29, 2001, the adoption of the new version of Law of the Republic of Uzbekistan "About the prosecutor's office" and the introduction of several amendments clarifying the authority of the prosecutor, confirms our opinion. In particular, citizens were excluded from the list of objects of prosecutor's control established by law. Therefore, it was emphasized that in a democratic society, not individual citizens, but how their legal rights and interests are protected is considered the object of prosecutor's control.<sup>11</sup>

Also, according to the new version of law "About the prosecutor's office", the power of prosecutors to issue mandatory orders for execution has been abolished. Now, according to Article 37 of the Law, protest, decision, presentation, application and warning are designated as documents of prosecutor's control. There have also been changes in the organization of activities

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<sup>8</sup> Civil Procedure Code of the Republic of Uzbekistan adopted on August 30, 1997 // <https://lex.uz/docs/186105>

<sup>9</sup> Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 2001, No. 4-2, Article 11.


<sup>10</sup> Mamasiddikov M.M. Development of civil procedural legislation of the Republic of Uzbekistan: (scientific and practical manual) / 2nd edition, with changes and additions. Responsible editor, Ph.D., prof. Sh.K. Fayziev. Institute for monitoring of current legislation under the President of the Republic of Uzbekistan - Tashkent.: AQHMI, 2010. - 16 p.

<sup>11</sup> Karimov I.A. Justice is the rule of law. We must fight for security and peace. T. 10. – T.: Uzbekistan. 2002. - P. 46-49.



of prosecutor's offices and the main principles of their activities. Now, the prosecutors of the Republic of Karakalpakstan, regions, Tashkent city, districts and cities annually submit a report on their activities to the Dzhokorgi Council of the Republic of Karakalpakstan, the Councils of People's Deputies, and, if necessary, inform the citizens' self-government bodies about the state of legality and the fight against crime ( Article 5 of the Law). In the new version of the Law, the orders and other documents of the Prosecutor General of the Republic of Uzbekistan (with the exception of documents of an individual character) are for the first time confirmed to be canceled based on the decision of the Constitutional Court of the Republic of Uzbekistan if they contradict the Constitution and laws of the Republic of Uzbekistan (Article 13 of the Law). This is important in ensuring the legality of orders and other documents issued by the Prosecutor General of the Republic of Uzbekistan.

In connection with the adoption of the new CPC of the Republic of Uzbekistan (January 22, 2018) <sup>12</sup> and the Law of the Republic of Uzbekistan dated January 12, 2021 "On Amendments and Additions to the Civil Procedural Code of the Republic of Uzbekistan in connection with the improvement of the Institute of Review of Court Decisions" O'RQ-661 serious changes have also taken place regarding the function of the process. In particular, with the changes and additions made to the second part of Article 50 of the Criminal Procedure Code by the Law No. LRU-661 dated January 12, 2021 <sup>13</sup>, it was established that the prosecutor has the right to participate in the hearing of the civil case only in the cases provided for by the law, as well as in cases initiated according to the prosecutor's application. It was also stipulated that the prosecutor may not participate on his own initiative in the discussion of the case initiated by the applications of other persons.

In the process of liberalization and democratization of the judicial system in our country, special attention is paid to the improvement of the activities of prosecutor's offices and their legal status. In recent years, the legal framework defining the activities of the prosecutor's office has been improved, a number of amendments have been made to the legal documents related to their legal status, and priority has been given to strengthening the powers of the prosecutor's office to protect the rights. Now the prosecutor's office operates in a new legal capacity as a defender of human and civil rights, state and community interests. 

The legal basis of the prosecutor's participation in the civil proceedings is derived from the goals and tasks assigned to the prosecutor by law, that is, from the provision of ensuring the rule of law, strengthening legality, protecting the rights and freedoms of citizens, and the interests of society and the state protected by law. That is why in legal literature, legal scholars put forward the opinion that the basis of the prosecutor's participation in the civil process is his function. <sup>14</sup>

In fact, unlike other participants in the civil process, the reasons for the prosecutor's participation in the case do not always depend on the circle of persons whose interests are being protected by the court. For example, in the prosecutor's application to declare a legal document illegal, it is not required to clarify whose rights and legal interests have been violated by this

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<sup>12</sup> Civil Procedure Code of the Republic of Uzbekistan // National database of legal documents, 23.01.2018, No. 02/18/FPK/0612, 12.10.2018, No. 03/18/496/2043.

<sup>13</sup> Law of the Republic of Uzbekistan dated January 12, 2021 "On amendments and additions to the Civil Procedure Code of the Republic of Uzbekistan in connection with the improvement of the Institute of Review of Court Decisions" // National database of legal documents, 13.01.2021, 03/21 No. /661/0011.

<sup>14</sup> Ivanov S.A. Protection by the prosecutor of the rights and legitimate interests of citizens in Russian civil proceedings: Abstract of the thesis. diss. cand. legal Sciences. -M. 2009. -18 p.

document, or to attach documents confirming that a citizen cannot apply independently with an application to declare a legal document illegal.

In a word, in order to ensure the authority of the prosecutor in the execution of the laws related to the conduct of civil court cases, the prosecutor strictly adheres to the principle of independence of courts and only obedience to the law, and helps in the implementation of justice by the courts in civil cases.

With the development of various legal relations in our society, the number of appeals coming to the courts on civil cases increases, and the number of civil cases arising from all kinds of new, somewhat complex legal relations that need to be resolved in the court system is increasing, as a result, the volume of work of judges on civil cases has expanded, the violated rights of citizens and the emergence of the need to properly and timely, effective protection of the interests protected by the law shows that the participation of the prosecutor in the civil process is of urgent importance.

According to statistics, the number of civil cases heard in the courts of first instance and the number of court orders issued in our country has increased several times in the last one year. For example, compared to the number of civil cases considered and completed in the first instance in the first half of 2021, the number of cases considered and completed in the first half of 2022 increased by almost 40 thousand. Accordingly, the average monthly workload of a judge increased by 40 in the corresponding period. The high workload of judges is also found in regional and equivalent courts for civil cases (90/100).<sup>15</sup>

The high workload of civil case judges, in addition to the existing serious problems in the structure of district courts and their territorial location, does not fail to have a negative impact on the quality of consideration of civil cases. This has a negative impact on the legality, validity and fairness of court decisions, and also causes the timely execution of court decisions. As a result, it lowers the quality of justice and leads to serious objections of the population. In such a precarious situation, prosecutor's offices are required to fully implement their main tasks of ensuring the rule of law, strengthening legitimacy, protecting the rights and freedoms of citizens, and the interests of society and the state protected by law.

In fact, even in legal literature, the prosecutor's office is recognized as a body that can take measures to protect violated rights and legal interests quickly, competently and free of charge.<sup>16</sup> Sh.Sh.Shorakhmetov specifically noted that the role of the prosecutor's office in ensuring the rule of law for the construction of a legal democratic state is important in the implementation of important tasks such as the clear and consistent execution of laws, the protection of the rights and interests of citizens and organizations protected by law.<sup>17</sup> Another group of scholars also states in their works that there is an objective necessity for the participation of the prosecutor in

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<sup>15</sup> A collection of statistical data on the work of civil courts during the 1st quarter of 2022. Supreme Court of the Republic of Uzbekistan. -Tashkent, 2022. - P. 2, 59-60.

<sup>16</sup> Maslova T.N. Problems of participation of the prosecutor in civil proceedings. Abstract diss. cand. legal Sciences. -Saratov, 2002. - 2 p.

<sup>17</sup> Shorakhmetov Sh.Sh. Civil procedure law of the Republic of Uzbekistan. Textbook. -T.: Justice. 2001. -73 p.

the conduct of civil court cases.<sup>18</sup> However, a proposal to limit or completely exclude the participation of the prosecutor in civil proceedings was also made.<sup>19</sup>

In our opinion, in the context of the establishment of a new Uzbekistan and the 17th goal of the development strategy of the new Uzbekistan for 2022-2026 aimed at "Forming a new image of law enforcement agencies and directing their activities to the effective protection of people's interests, human dignity, rights and freedoms" in order to effectively implement the stipulated tasks, it is necessary to review and strengthen the powers of prosecutors in the conduct of civil court cases to ensure the protection of the rights and freedoms of citizens, the interests of society and the state, and to strengthen the legitimacy.

At a time when legal scholars also have limited access to the services of lawyers in providing legal assistance to the underprivileged in society and those in need of social protection,<sup>20</sup> it is necessary to increase the efficiency and effectiveness of the prosecutor's participation in civil cases not.<sup>21</sup>

The General Prosecutor of the Republic of Uzbekistan N.T. Yoldoshev said that in the past year alone (2022), in order to ensure the rule of law and strengthen legitimacy, about 140,000 prosecutor's control documents were used, the rights of 278,000 citizens were restored, and the indicators in this regard have changed significantly in a positive direction. In addition, more than 46,000 illegal documents were brought into line with the law based on the protests of the prosecutors, about 24,000 submissions were made to the relevant agencies.<sup>22</sup>

The analysis of the legal acts of the CIS member states shows that the grounds for the prosecutor's participation in the case are stipulated in the special legal acts regulating the activities of the prosecutor's office. For example, according to the fourth part of Article 27 of the Law of the Russian Federation "About the prosecutor's office", in case of violation of the rights and freedoms of citizens protected in civil court proceedings, the victim's health if, due to age or other reasons, he is unable to defend his rights in court personally, or if the rights and freedoms of a group of citizens are violated in an arbitration court, or if this violation is of particular social importance due to other circumstances, the prosecutor shall present a claim in court or in an arbitration court, defending the interests of the victims and defend it. Also, according to the third part of Article 35 of this Law, the prosecutor has the right to apply to the court or to start work at any stage of the process if it is required to protect the rights of citizens and the interests of

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<sup>18</sup> Look: Egamberdiev E. Participation of the prosecutor in civil proceedings // In the protection of the law. 1997. No. 10. -B. 23-26.; Taranenko V. the participation of the prosecutor in civil proceedings is not only permissible, but also necessary // prosecutorial and judicial practice. M. 1999. No. 1-2. -S. 131-136. Nazarov G'.I. Prosecutor's rights // Under the protection of the law. 2000. No. 3. -B. 10-14.; Nazarov G'.I. Personal interests and the right of the prosecutor // Life and law. 2000. No. 5-6. - 77 p.

<sup>19</sup> Pokhmelkin V. The participation of the prosecutor's office in the consideration of civil cases is a legal atavism // Russian Justice, 2001. No. 5. - 6 p.

<sup>20</sup> Maslova T.N. Problems of participation of the prosecutor in civil proceedings: Abstract of the thesis. diss. cand. legal Sciences. - Saratov, 2002. - 3 p.

<sup>21</sup> Mamasiddikov M.M. Theoretical and practical problems of recovery of labor-related material and moral damage in court // Dissertation written for the degree of Doctor of Legal Sciences. - Tashkent, TSIL. 2008. - 161 p.

<sup>22</sup> Yoldoshev N.T. The main criterion is legality, attention to people and the approval of the people // "People's word" gas. 2023 January 7 Issue 4 (8347). – 3rd page.

society or the state protected by law, based on the procedural legislation of the Russian Federation.<sup>23</sup>

According to the first part of Article 45 of the Law "On Prosecutor's Office" of Belarus, in the case of a written assignment of the senior prosecutor, the senior prosecutor is the Supreme Court of Belarus, the Supreme Economic Court, the first instance of the regional and Minsk City Court, the Belarusian Military Court, the regional and Minsk City Economic Courts, participates in hearing cases related to the implementation of civil, entrepreneurial or economic (economic) activities by special economic courts.<sup>24</sup>

A characteristic feature of Armenian legal documents is that the prosecutor presents a claim in civil proceedings mainly in the interests of the state. For example, according to Law of Armenia "About the prosecutor's office", if the state's property interests are about to be violated, the prosecutor or, at his request, a relevant authorized state body or official, submits a claim to the court. Before submitting a claim for the protection of state interests, the prosecutor has the right to warn the relevant body and relevant persons about the submission of a claim and to submit an application for compensation of the damage in the prescribed manner (fourth part of Article 27).

According to the sixth part of this article, if there is a reason to apply to the court in order to protect the interests of the state, the prosecutor, in order to prepare documents, by his decision:

1) may conduct inspections in state bodies, local self-government bodies and non-governmental non-profit organizations, request and receive legal documents, documents and other information from them;

2) has the right to demand and receive explanations from officials of state bodies, local self-government bodies and non-governmental non-profit organizations.

Only these powers of the prosecutor should not go beyond the protection of the state's interests (the eighth part of Article 27).<sup>25</sup>

The legislation of the Republic of Kazakhstan provides for the participation of the prosecutor in the civil proceedings mainly by protecting the interests of the state. For example, Article 4 of Law of the Republic of Kazakhstan "About the prosecutor's office" defines the tasks of the prosecutor's office, according to which the prosecutor's office performs the following tasks within the framework established by law:

1) protection and restoration of human and citizen rights and freedoms, legal interests of legal entities, society and the state;

2) to identify and eliminate violations of the law, causes and conditions contributing to it, as well as consequences;

3) coordination of activities of law enforcement and other state bodies to ensure legality, law enforcement and fight against crime;

4) other duties established by the laws of the Republic of Kazakhstan and documents of the President.<sup>26</sup>

In the CPC of the Republic of Uzbekistan, which was in force earlier, there was a separate article (Article 46) dedicated to the participation of the prosecutor in the case. According to it, the prosecutor had the right to apply to the court to protect the rights and interests of other persons protected by law, as well as to participate in the hearing of the case initiated by other persons from the beginning. It was mandatory for the prosecutor to participate in civil proceedings, as well as in cases initiated by the prosecutor's application, in the cases stipulated

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<sup>23</sup> Federal Law of the Russian Federation dated January 17, 1992 No. 2202-1 "About prosecutor's office" <http://logos-pravo.ru>

<sup>24</sup> Law of the Republic of Belarus "About prosecutor's office of the Republic of Belarus" dated May 8, 2007 No. 220-3// <http://www.pravo.by>

<sup>25</sup> Look: Law of the Republic of Armenia "About prosecutor's office". <http://www.parliament.am/legislation.php?sel=show&ID=1453&lang=rus>

<sup>26</sup> Law of the Republic of Kazakhstan "About prosecutor's office". // <http://online.zakon.kz>



by the law or in cases where the court found it necessary to participate in the case.<sup>27</sup> However, with the Law of the Republic of Uzbekistan dated January 12, 2021 "On Amendments and Additions to the Civil Procedure Code of the Republic of Uzbekistan in connection with the improvement of the Institute of Review of Court Decisions", amendments and additions were made to the second part of Article 50 of the Criminal Procedure Code. According to it, it was established that the prosecutor has the right to participate in the discussion of the civil case only in the cases provided for by the law, as well as in cases initiated according to the prosecutor's application. It was also stipulated that the prosecutor may not participate on his own initiative in the discussion of the case initiated by the applications of other persons. Some of the studied foreign documents, for example, in Law of the Republic of Belarus "About the prosecutor's office" issues of the prosecutor's participation in the hearing of cases in the courts are in separate chapter 12,<sup>28</sup> in Law of the Russian Federation "About prosecutor's office" in the IV section,<sup>29</sup> the issues of the prosecutor's participation in the hearing of cases in the courts of the Republic of Tajikistan The participation of the prosecutor in the consideration of cases in courts is regulated in detail in Chapter 5 of the Law on.<sup>30</sup>

The analysis of the legislation of foreign countries shows that in the above chapters, in contrast to the Law "On Prosecutor's Office" of our country, what are the activities of the prosecutor in the civil process, the right of the prosecutor to appeal to the court, the limits of the prosecutor's participation in court proceedings, the powers of the prosecutor, citizenship from the court, the legal basis of taking cases it can be seen that the foundations have been strengthened. For example, according to the first part of Article 36 of the Constitutional Law of the Republic of Tajikistan "About prosecutor's office", it is stipulated that the prosecutor participates in the consideration of cases of civil, family, economic and administrative offenses and gives conclusions on the case under consideration. Article 245 of the Criminal Code of the Republic of Uzbekistan stipulates that the prosecutor participating in the case shall express his opinion on the nature of the dispute after court negotiations, except for the cases initiated on the basis of the application filed in order to protect the rights, freedoms and interests of other persons protected by law. However, the second part of Article 50 of the Criminal Procedure Code stipulates that the prosecutor has the right to participate in the discussion of a civil case only in the cases provided for by law, and the prosecutor cannot participate in the discussion of the case initiated by the applications of other persons on his own initiative. This means that the prosecutor can give an opinion on the case in the court only on the cases stipulated by the law, and it limits the possibility to give an opinion on the cases initiated by the applications of other persons.

Also, according to the first part of Article 38 of the Constitutional Law of the Republic of Tajikistan "About prosecutor's office", the prosecutor, his first deputy and deputy, within the scope of their powers, in accordance with the criminal-procedural, civil and economic legislation, the order, decision, sentence, ruling or decision that entered into legal force from the court has the right to claim the issued work or class of works. Such a norm is stipulated in all

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<sup>27</sup> Civil Procedure Code of the Republic of Uzbekistan // Law of the Republic of Uzbekistan dated on August 30, 1997 No. 477-I "On Approval of the Civil Procedure Code of the Republic of Uzbekistan". <https://lex.uz/docs/186105>

<sup>28</sup> Law of the Republic of Belarus "About prosecutor's office" 220-3 dated May 8, 2007 // [https://kodeksy-by.com/zakon\\_rb\\_o\\_prokurature.htm](https://kodeksy-by.com/zakon_rb_o_prokurature.htm)

<sup>29</sup> Federal Law "About prosecutor's office of the Russian Federation" dated January 17, 1992 N 2202-1 (last edition) // [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_262/](http://www.consultant.ru/document/cons_doc_LAW_262/)

<sup>30</sup> Constitutional Law of the Republic of Tajikistan "About prosecutor's office of the Republic of Tajikistan" // <https://www.prokuratura.tj/legislation-rus/49-the-constitutional-law-of-the-republic-of-tajikistan.html>

laws of foreign countries on prosecution.<sup>31</sup> Article 34 of the Law of the Republic of Uzbekistan "About prosecutor's office" also provides that the prosecutor, within the scope of his authority, can demand from the court any case in which the judgment, decision, ruling and decision of the court have entered into legal force, and the prosecutor or other employees of the prosecutor's office according to his assignment can handle such cases in the courts. It is determined that he has the right to study any category. However, in accordance with Article 4071 of the Criminal Code of the Republic of Uzbekistan, the Prosecutor General of the Republic of Uzbekistan and their deputies, regional prosecutors, prosecutors equivalent to him and their deputies, only if there is an appeal from the persons specified in Article 403 of this Code, to resolve the issue of bringing a cassation protest to the appropriate court it was determined that he has the right to claim the job. However, the civil procedural legislation of the studied foreign countries does not provide such a condition, that is, the appeal of the parties and other persons participating in the case, when the prosecutor takes any case in which the court's decision, decision and decision has entered into legal force.

In our opinion, the determination of the requirement to bring the prosecutor's protest provided for in Article 4071 of the Criminal Procedure Code of the Republic of Uzbekistan, such as the application of the parties and other persons participating in the case, is the control over the clear and uniform implementation of laws on the territory of the country, as defined in Article 118 of our Constitution, by the Prosecutor General of the Republic of Uzbekistan and the prosecutors subordinate to him. It is contrary to the constitutional norm defining its implementation.

Based on the above, in our opinion, in the next stages of improvement of the CPC of our country and the Law "On Prosecutor's Office", which envisages the participation of the prosecutor in the civil proceedings, it is necessary to expand the scope of powers of the prosecutor in civil cases. After all, as it is rightly stated in the legal literature, scientists who have carried out special research studies on the experience of foreign countries regarding the participation of the prosecutor in protecting the interests of the state and society in court also highly appreciate the role of the prosecutor in protecting the interests of the state and society.<sup>32</sup>

Therefore, the Law of the Republic of Uzbekistan "On Prosecutor's Office" includes a chapter known as "Participation of the prosecutor in the conduct of civil court proceedings" and in this chapter the content of the participation of the prosecutor in the conduct of civil court proceedings, the right of the prosecutor to appeal to the court, the limits of the participation of the prosecutor in the conduct of civil court proceedings and the powers of the prosecutor, the issues of requesting civil cases from the court should be expressed in detail.

First of all, in this chapter, a clear understanding of the activities of the prosecutor in conducting civil court cases should be given. Based on the above analyzes and the conclusions presented in the legal literature, it is proposed to define the activity of the prosecutor in the conduct of civil court cases as follows and to include this definition as a separate article in the above proposed chapter of the Law "On Prosecutor's Office".

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<sup>31</sup> Constitutional Law of the Republic of Tajikistan "On Prosecution Bodies of the Republic of Tajikistan" // <https://www.prokuratura.tj/legislation-rus/49-the-constitutional-law-of-the-republic-of-tajikistan.html>

<sup>32</sup> Otcheskaya T.I. Legal and methodological problems of organizing the participation of a prosecutor in an arbitration court in defense of the economic interests of the Russian state (according to the legislation of the Russian Federation, countries of near and far abroad). Abstract diss. scientist walls. Doctor of Law Sciences. - Ryazan. 2003. - 13 p.

"Participation of the prosecutor in the conduct of civil court proceedings includes the prosecutor's submission of a claim (petition) to the courts in the manner and form prescribed by law and ensuring that the rights of people and citizens, legal entities, the interests of the state and society protected by law are effectively protected in court in proceedings initiated by other persons, is an activity aimed at strengthening legality and the rule of law in the process, as well as achieving the legal, reasonable and fair issuance of court decisions through the powers established by law."

Also, it is necessary to cancel the requirement of the parties and other persons participating in the case to bring the prosecutor's protest from Article 4071 of the Criminal Code of the Republic of Uzbekistan. ☺

In conclusion, it should be emphasized that the norms regarding the participation of the prosecutor in civil cases are determined by the socio-political importance of this category of cases, the right to privacy of citizens and the need to protect the legal interests of the future generation. Also, although the law does not directly provide for the participation of the prosecutor in the consideration of other types of civil cases in the courts, it should be based on the relevance, complexity, social importance of these cases and the local legality situation.