

Issues of improving prosecutorial control over the implementation of legislation in the field of ecology and environmental protection

Rustam Gafurov

The Academy of the General Prosecutor's Office of the Republic of Uzbekistan

Abstract: *This article discusses the organization of prosecutorial control over the implementation of laws in the field of ecology and environmental protection, its regulatory framework, the main directions, development directions and problems in this area and ways to solve them. Article provides information on the theory of environmental policy integration and discusses some of the successes of this process in Uzbekistan, as well as barriers to it.*

Keywords: *concept, place and tasks of environmental prosecutor's offices, organization of activities, strategic environmental assessment*

Introduction

Currently, environmental protection has ceased to be a narrow departmental task, the implementation of which is entrusted only to environmental authorities. Rather, it is a topic that penetrates more and more deeply into various sectors of activity - whether it is energy, transport, agriculture, industry or trade. This approach to environmental protection is due to the fact that the roots - and often also the solution - of many environmental problems lie in industry strategies. In the absence of intersectoral integration, economic growth can adversely affect not only the state of the environment, but also budget expenditures. There are examples of countries that have been forced to incur significant costs to restore the environment and cover social costs instead of less costly activities to prevent environmental damage [2]. In order to avoid such situations, the state needs to follow the path of integration of environmental policy. Integration of environmental policy (IEP) implies a systematic analysis of environmental aspects of cross-cutting (national) and sectoral strategies and programs, laws, as well as the activities of the financial, economic and sectoral blocks of the government. Such an analysis should be both predictive and retrospective in nature [2,3]. The essence of the IEP is the combination of socio-economic development with the need to protect the environment in accordance with Goal 9 of the Millennium Development Goals. IEP is part of a modern approach to environmental management, focused on the diversity and synergy of various policies. As part of this approach, the use of solutions that benefit from both economic and environmental considerations, as well as resolving intersectoral inconsistencies, helps to increase the effectiveness of the policy. A very effective way of IEP is to establish a link between the provision of budgetary allocations and the implementation of environmental goals, but this method has so far limited use. The main tool of the IES remains the "strategic environmental assessment" [6].

The IES requires a certain organizational framework (from officially established interdepartmental commissions to more informal structures) to ensure intersectoral cooperation. In addition, the IES necessitates a radical change in the working methods of environmental ministries, which increasingly require economic knowledge and data to "argue" their activities. Coordinating the goals of economic development and environmental protection is especially difficult in conditions when public support for environmental protection is only in its infancy, and at the same time, influence groups and corruption are

especially strong and widespread [7]. Quite often, IEP efforts are undermined by the widespread belief that environmental protection only inhibits economic growth. IEP has important international aspects. First, under certain conditions, foreign direct investment can serve as a mechanism for transferring environmentally sound technologies, and as a tool for raising environmental standards. The inclusion of environmental issues in trade agreements and the removal of restrictions on the import of environmentally sound technologies can help increase the effectiveness of environmental activities. Technical assistance can improve the institutional framework of the IEP. etc. Technological progress, which changes both the methods of production and the characteristics of the product itself, can either create or reduce environmental pollution and either reduce or increase the amount of scarce natural resources used. Table 1 shows the impact on the economy and the environment of technological progress in selected sectors [5].

IEP in Uzbekistan: common successes and barriers

Uzbekistan has made some progress on a number of aspects of environmental policy integration, although the pace of IEP does not allow us to talk about a significant breakthrough in this area of activity. The tasks of the IEP are often accomplished by discussing them with the authorities in charge of sustainable development. At the same time, the contribution of non-governmental parties is expanding. For example, an active dialogue on combining ecology and economics is conducted in business circles - at business forums or as part of more formal meetings, for example, in the Council of Foreign Investors. Interdepartmental structures are quite common. Working groups have also been set up to deal with transport and the environment, as well as forestry and the environment. In some countries, specialized environmental units have been created in line ministries. As a rule, this happens in ministries dealing with nature management (for example, agriculture or forestry). Unfortunately, line ministries rarely participate in the development of environmental strategies, which prevents a more complete alignment of sector strategies with environmental ones. Occasionally, sectoral strategies incorporate environmental targets, and they may even be subject to environmental assessment. For example, in Uzbekistan, an environmental assessment of energy and transport strategies is carried out. An increasing number of employees in line ministries are receiving environmental training. One of the serious barriers to the IEP is the tradition of narrow departmental work [8,9].

The complex of professional knowledge currently owned by environmental officials is insufficient for an effective IEP. Environmental experts, as a rule, are well trained in the natural sciences, but they are not well versed in the economy, how the policies of branch ministries are developed, and how to link changes in the environment with the development of sectors - in short, they lack professional knowledge to develop an economic argument in favor of environmental sustainability. In addition, the skills and opportunities for communication with business, civil society or line ministries are still limited. In addition to overall successes and barriers, there are achievements on specific issues. Some examples are provided in this document to illustrate such accomplishments on particularly relevant issues [11].

Agriculture and ecology

Agriculture and forestry often account for 20% or more of the economies in the region and are important sources of export earnings and rural employment. However, poor governance seriously affects the environment - especially biodiversity conservation, water pollution and climate change - which entails major economic losses for the sectors themselves and society as a whole. From an economic point of view, inadequate water management and soil salinization are of serious concern. Decades of intensive agriculture in

the countries of Central Asia have led to widespread problems of soil erosion, their depletion and compaction, expansion of drylands, salinization of irrigated lands or their swamping. The irrigation and drainage subsector is characterized by insufficient operating costs, maintenance and maintenance of fixed assets and inefficient water use. In runoff containing nutrients, the trend is improving, mainly because fertilizer use and livestock have declined significantly, although both are starting to increase again. At the same time, there are many potential approaches to agroecological practice and sustainable forestry practices, the implementation of which brings economic benefits. Sustainable land management can provide farms with guaranteed income in the long run. Integrated Pest Management (IPM) measures help control pests efficiently in terms of costs and reduce the need for chemical pesticides [13].

Advanced nutrient management helps maintain the quality of drinking water sources. Carbon sequestration activities attract carbon finance. Organic agriculture and forest certification can expand export earnings to growing international markets. The fight against illegal deforestation reinforces the rule of law. Integration indicators developed by the World Bank send diverse signals. For example, along with many countries of Central Asia, Uzbekistan has programs to improve land management using good agricultural practices, but their funding remains inadequate. Several countries have adopted water and salinization management strategies and programs. In addition to improvements at the infrastructure level, these programs often provide for the establishment of water user associations to manage water supply at the local level, as well as the introduction of water charges. Uzbekistan has successfully developed the IPM program. There is a clear tendency towards an increase in protected areas [4,12].

At the same time, the lack of innovations and the limited amount of technical assistance provided to farmers are undoubtedly barriers to the IPM, reducing the nutrient load and managing water resources, controlling salinization of soils, anti-erosion plowing of soils and carbon binding. In addition, slight progress in land privatization and insufficient access to capital are affecting. There are very few ways to influence government agencies responsible for the strategy and policy for the development of agriculture and forestry, partly because the “cost of environmental inaction” is unknown. Energy and Ecology The environmental impact of the production, transportation and use of energy is diverse and significant. It ranges from soil and water pollution to the extraction and transportation of fossil fuels and from local emissions of air pollutants and greenhouse gases (GHGs) from fuel combustion to radiation emitted from inappropriately disposed nuclear waste. A reliable and financially acceptable energy supply is a prerequisite for economic growth. Ensuring access to financially acceptable energy resources at the household level is becoming a serious issue for the countries of the region, partly due to the deterioration of infrastructure. Integrating environmental considerations into energy sector strategies and practices can have a tangible effect. Investments in energy efficiency will reduce energy costs, increase the reliability of energy supply and mitigate the environmental impact of energy consumption. Investing in energy efficiency globally will be one of the best ways to reduce GHG emissions. Over the past decade, unfortunately, Uzbekistan has made little progress in energy efficiency. The established energy efficiency agencies have not yet been used for a much wider use of energy efficiency tools. Some countries do not have a national energy efficiency program. Most countries have stated the national goal of renewable energy, but overall, the strategic framework for transition to renewable energy is still in its infancy [5,9].

However, there are examples of positive changes. For example, this decision was made to develop wind energy and to map the potential of wind energy in Uzbekistan. Some countries are making great strides in the pricing policy for energy services, such as gas and electricity services. Although this is probably not related to environmental interests, it can have a serious environmental effect if additional measures are taken (such as the introduction

of metering devices and reporting information). Electricity tariffs vary, but there is a general tendency for their growth, in recent years they have increased in Uzbekistan. Improving energy facilities will significantly improve the environment. In Uzbekistan, which, due to its dependence on coal as the main source of energy, accounts for almost half of the pollutant emissions in the 10th atmosphere in Central Asia, work is underway to introduce clean coal use technologies. However, relatively low prices remain a serious barrier to improving the environmental performance of the energy sector. Final energy consumers are not interested in consuming energy resources more economically and investing in energy-efficient devices and appliances. At the same time, energy suppliers lack resources for the maintenance and maintenance of energy infrastructure, and social considerations make it difficult to carry out tariff reform. The lack of a strategic and regulatory framework is also a serious barrier to improving energy efficiency and developing renewable energy sources. In addition, energy efficiency is hampered by a low level of awareness among consumers, suppliers and policy makers. In addition, it is difficult to gain access to advance capital to purchase new energy-efficient equipment and carry out the necessary modernization, since many projects are small-scale and therefore require high transaction costs, and international investors do not know the local lending conditions [3]. Proponents of energy efficiency are not able to compete with the powerful lobby of the fossil fuel industry, therefore, the state will more likely stimulate investments in increasing energy supply, rather than in reducing demand for energy resources [13].

Environmental prosecutorial supervision

Problems in the sphere of ensuring environmental protection and, as a result, the preservation of human life and health require constant close attention from government agencies that carry out environmental protection functions, including the prosecutor's office. Prosecutorial oversight plays a crucial role in ensuring citizens' environmental rights.

Prosecutorial oversight of the implementation of legislation in the area of ecology and environmental protection is a constituent concept of the definition of prosecutorial oversight in general. Proceeding from the specifics of the industry, it can be concluded that prosecutor's supervision over the implementation of legislation in the field of ecology is a specific area of activity of prosecution bodies, carried out on behalf of the state, regardless of the branches of state power, which provides for the supervision over the precise and uniform implementation of legislation in the field of ecology and environmental protection, aimed at identifying violations of the law, determining the circumstances (causes, conditions) contributing to their commission, etc.

Despite the fact that in recent years the role of prosecutorial supervision in the field of environmental protection has been increasing, there are a number of unresolved problems of both a normative and organizational nature.

In particular, due to the presence in this area of a large number of regulatory legal acts that must be executed and, as a result, be supervised by their implementation, there is no specific framework that defines the scope of objects and subject of prosecutorial supervision in the field of ecology. The lack of a single regulatory act in this area reduces the effectiveness of prosecutorial oversight and does not fully cover all areas of regulatory regulation in the course of activities.

At the same time, it should be noted that the situation with the environmental situation in the republic continues to deteriorate. According to statistical information, in 2018, the total emissions of pollutants into the air in the republic amounted to 2.492 million tons, in 2017, 114.7 million tons of production and consumption wastes, including toxic waste not recyclable, amounted to 41.6 million tons and toxic waste to be processed - 42.8 million tons, 80% of the republic's territory is occupied by deserts and semi-deserts, the ecological disaster of the Aral Sea region is aggravated [1]. Despite this, there is only one environmental

prosecutor's office in the system of prosecution bodies specialized in the implementation of the environmental protection function. Otherwise, these functions are performed by units for the supervision of the implementation of social legislation, which makes it impossible to focus specifically on solving environmental functions.

The presence of industrial zones and objects of environmental pollution in the regions of Uzbekistan determines the need to create additional forces to oversee the implementation of laws in this field, in particular, the opening of interregional specialized environmental prosecutors, or specialized units at the level of prosecutor's offices of the regions.

It should also be noted that the status of the environmental function of the prosecutor's office, as well as the specialized environmental prosecutor's office of the Aral Sea region, has not yet been determined. There is no comprehensive normative act that can determine the specific functions and tasks of the environmental prosecutor's office.

At the same time, to date, the regulatory framework of Uzbekistan has not clearly delineated the functions of regulatory bodies in the field of ecology and the prosecutor's office, there are no clear mechanisms for detecting violations in the field of ecology and the transfer of relevant materials for further action.

Moving Forward: Possible Directions

The lessons learned from the integration of environmental policy in Uzbekistan allow us to outline several areas of action for those states that wish to move forward in this direction, in particular the following:

- regular participation of representatives of industry bodies in environmental planning;
- analysis of the relationships between economic growth (poverty) and the environment and, at a minimum, the reflection of these relationships in sectoral and development strategies as issues of public and economic importance;
- legal consolidation and conduct of SEA when considering industry strategies and development strategies;
- identification of priority areas and goals, and the inclusion of environmental measures in sectoral and development strategies;
- inclusion of environmental functions in the internal regulations of the branch ministries and the environmental training of their personnel;
- provision of budgetary allocations on the basis of environmental protection integration;
- a clear distribution of responsibilities in the public administration system and the introduction of mechanisms for information interaction and coordination.

To find out what are the most effective environmental policy integration tools in Uzbekistan, a closer dialogue with stakeholders, including international partners, as well as a thorough analysis are needed. It will be especially important to involve “non-environmental” circles in this process [12].

Today, the country is actively conducting consistent work in the field of environmental protection, rational use of natural resources, and improvement of sanitary and environmental conditions.

At the same time, the results of the analysis indicate the absence of an integrated approach and strategic planning in the implementation of the state's functions in the field of environmental protection, as well as the insufficient authority of the environmental authority to effectively carry out the tasks.

In pursuance of the Decree of the President of the Republic of Uzbekistan dated October 3, 2018 No. PP-3956 “On Additional Measures for Improving the System of Public Administration in the Sphere of Ecology and Environmental Protection”, the Cabinet of Ministers decides to perform the following tasks: distribution of functional duties between the

deputy chairmen of the State Committee of the Republic of Uzbekistan for ecology and environmental protection; staffing the central office and subordinate units with highly qualified specialists with the necessary theoretical and practical knowledge, capable of ensuring the implementation of the tasks and functions assigned to the committee at a high professional level; approval of regulations on structural units of the central office, the Committee of the Republic of Karakalpakstan on ecology and environmental protection, departments on ecology and environmental protection of the regions and the city of Tashkent [3,5].

A presidential decree introduced a moratorium on cutting down valuable species of trees and shrubs that are not part of the state forest fund. However, with the connivance of local leaders, individual cases of damage to the plant world are recorded. The Prosecutor General's Office was entrusted with taking strict control over the activities of the mayor on this issue and ensuring the inevitability of responsibility.

In addition, it is necessary to consider the following issues in order to further improve the environmental function of the prosecution in Uzbekistan:

- development and adoption of a single regulatory act that will regulate the scope of environmental protection. This act is seen as a codified document that will combine all the regulatory legal acts of this sphere into a single Environmental Code;

- increasing the number of environmental prosecutor's offices, creating environmental prosecutor's offices in regions with the worst environmental conditions, ensuring clear legal regulation of their activities and empowering them with additional powers;

- fixing at the level of the Law of Uzbekistan "On the Prosecutor's Office" the environmental function of the prosecution authorities, with the inclusion of a separate chapter on the characteristics of the organization and activities of specialized environmental prosecutor's offices;

- a clear delineation by law of the functions of environmental control bodies and prosecution bodies in order to avoid duplication, as well as the development of mechanisms for the exchange of information at the level of interdepartmental agreements, the identification and prevention of environmental violations, as well as the transfer of relevant materials for further action.

References:

- [1] Annex No. 1 to Decree No. 5863 of the President of the Republic of Uzbekistan dated 30 October 2019 "On approval of the Environmental Protection Concept of the Republic of Uzbekistan until 2030". [Electronic resource] // URL: <http://lex.uz/docs/4574010>, (date of address: November 2019).
- [2] FayziyevShokhrudFarmonovich Medical law and features of legal relations arising in the provision of medical services. International journal of pharmaceutical research Volume 11, Issue 3, July - Sept, 2019 P. 1197-1200 doi:10.31838/ijpr/2019.11.03.088 <http://www.ijpronline.com/ViewArticleDetail.aspx?ID=11016>
- [3] Bryanskaya Elena, FayzievShokhrud, Altunina Anna, Matiukha Alena Topical Issues of an Expert Report in the process of Proving in a Criminal Examination. International Journal of Engineering and Advanced Technology (IJEAT) ISSN: 2249 – 8958, Volume-9 Issue-1, October 2019 5345-5349 DOI: 10.35940/ijeat.A2946.109119. <https://www.ijeat.org/wp-content/uploads/papers/v9i1/A2946109119.pdf>
- [4] FayzievShokhrud (2019) Legal Aspects of Transplantology in the Republic of Uzbekistan. Systematic Reviews in Pharmacy, ISSN: 0976-2779, Vol: 10, Issue: 2, Page: 44-47 doi:10.5530/srp.2019.2.08. <http://www.sysrevpharm.org//fulltext/196-1575419211.pdf?1586863081>

- [5] Shokhrud F. Fayziev The problem of social stigma during a pandemic caused by COVID-19 International Journal of Advanced Science and Technology Vol. 29, No. 7, (2020), pp. 660-664. <http://sersc.org/journals/index.php/IJAST/article/view/13965/7188>
- [6] O. Olsson, M. Gassmann, N. Manig, M. Ikramova, K. Wegerich Basin efficiency approach and its effect on streamflow quality, Zerafshan River Uzbekistan Journal of Hydrology Volume 4767 January 2013 Pages 128-135
- [7] Dilfuza Egamberdiyeva, Gisela Höflich Effect of plant growth-promoting bacteria on growth and nutrient uptake of cotton and pea in a semi-arid region of Uzbekistan Journal of Arid Environments Volume 56, Issue 2 January 2004 Pages 293-301
- [8] Yue Yang, Zhaoqi Wang, Jianlong Li, Chencheng Gang, Jiaguo Qi Comparative assessment of grassland degradation dynamics in response to climate variation and human activities in China, Mongolia, Pakistan and Uzbekistan from 2000 to 2013 Journal of Arid Environments Volume 135 December 2016 Pages 164-172
- [9] Maja Schlüter, Darya Hirsch, Claudia Pahl-Wostl Coping with change: responses of the Uzbek water management regime to socio-economic transition and global change Environmental Science & Policy Volume 13, Issue 7 November 2010 Pages 620-636
- [10] R. Kulmatov, M. Groll, A. Rasulov, I. Soliev, M. Romic Status quo and present challenges of the sustainable use and management of water and land resources in Central Asian irrigation zones - The example of the Navoi region (Uzbekistan) Quaternary International Volume 464, Part B15 January 2018 Pages 396-410
- [11] Gulnara J. Abdiniyazova, Olim K. Khojimatov, Valeriy V. Pak Honey in traditional cuisine of Uzbekistan and analysis of melliferous flora of Karakalpakstan Journal of Ethnic Foods Volume 3, Issue 3 September 2016 Pages 222-227
- [12] Negar Elodie Behzadi Women miners' exclusion and Muslim masculinities in Tajikistan: A feminist political ecology of honor and shame Geoforum Volume 100 March 2019 Pages 144-152
- [13] David Post, Yi Meng Does schooling foster environmental values and action? A cross-national study of priorities and behaviors International Journal of Educational Development Volume 60 May 2018 Pages 10-18