

## Features of the Prosecutor's Participation in Countering Corruption and the Problem of Optimizing its Criminal Procedure: the Experience of the Post-Soviet States

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**Abstract.** *The purpose of the study is to assess the effectiveness of the establishment of specialized units in the system of prosecutors, which exclusively oversee the implementation of anti-corruption laws. Methods of research are represented by a wide range of scientific methods. The methodology is based on the dialectical method, which allows to evaluate the phenomena considered in the static and dynamic aspects. Analytical, system-structural, instrumental methods of cognition were used during the research. A comparative legal method was used to study the legislation of the post-Soviet states. The results of the study include an analysis of the current legislation, regulating the powers of the prosecutor in the process of combating corruption. Based on the experience of a number of foreign countries, the effectiveness of the activities of specialized anti-corruption prosecutors is assessed. Conclusions on the results of the study are formulated in several ways. First, the author's assessment of the powers of the prosecutor, implemented in the fight against corruption, was given. Secondly, the experience of foreign countries, which have established specialized anti-corruption units in the system of prosecution authorities, is analyzed, and the prospect of its use in Russian legislation is justified. Thirdly, a forecast is given regarding the strengthening of the role of prosecutors in countering corruption.*

**Keywords:** corruption; criminal process; the prosecutor; criminal case; legitimacy.

### Introduction

Anti-corruption is an important problem in all post-Soviet states. After the collapse of the Soviet Union, corruption manifestations have acquired trends in quantitative growth and change in quality content due to the economic crisis and large-scale but not meaningful strategic, political and legal transformations. As a result, institutional and systemic corruption has affected virtually all types of social relations and the mechanism of public administration.<sup>1</sup>

The most significant consequences of this were noted in such states as Russia,<sup>2</sup> Kazakhstan,<sup>3</sup> Georgia, Moldova, Ukraine,<sup>4</sup> Armenia,<sup>5</sup> Kyrgyzstan.<sup>6</sup> These consequences influenced less on the Baltic states, since after gaining independence, political, economic and legal transformations were carried out quickly and taking

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<sup>1</sup> E. Scott, *Georgia's Anti-Corruption Revolution. Organized Crime and Corruption in Georgia*, London, Routledge, 2007, p. 10-16.

<sup>2</sup> S. A. Avakyan, *Anti-corruption: constitutional legal approaches: a collective monograph*. Moscow: Justicinform, 2016, p. 78-101.

<sup>3</sup> A. A. Smagulov, "Kazakhstan experience of fighting corruption", in *Journal of Russian Law*, VII (2012), p. 26-29.

<sup>4</sup> R. Sh. Shegabudinov, "Criminal policy in the field of struggle against the organized economic criminality, connected with corruption: its essence and the maintenance", in *The Criminal trial*, II (2016), p. 45-58.

<sup>5</sup> The Criminal Procedure Code of the Republic of Armenia dated 01.09.1998 No. ZR-248 (from 07/07/2016). Legislation of the CIS countries. Available at: [http://base.spinform.ru/show\\_doc.fwx?rg7460](http://base.spinform.ru/show_doc.fwx?rg7460), accessed on 27. 04. 2018.

<sup>6</sup> *Anti-corruption reforms in Kyrgyzstan: the third round of monitoring of the Istanbul Action Plan against Corruption*, Paris, OECD, 2015, p. 25-26.

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into account the anti-corruption mechanisms operating in the European Union countries that have undergone practical adaptation and demonstrated high efficiency.<sup>7</sup> Concerning the impact of corruption on public administration in such states as Azerbaijan, Belarus, Tajikistan, Uzbekistan, Turkmenistan, the world community does not have objective data, because the socio-political processes, economic reforms and legal transformations that take place in these countries are not fully covered in scientific literature.<sup>8</sup> Proceeding from the fact that in these states the normative legal acts on combating corruption have been adopted, it can be concluded that its danger is recognized as high.

Analyzing the experience of anti-corruption activities in the post-Soviet states, it can be concluded that two methods are generally used to identify, suppress and prevent corruption. The first way is the establishment of a specialized anti-corruption body with the assignment of the functions of initiation and investigation of criminal cases (for example, in Ukraine, Moldova). The second is the adoption and implementation of comprehensive normative legal acts aimed at destroying the impact of organized crime and corruption (for example, in the Republic of Belarus, Georgia, Lithuania, Latvia, Estonia).<sup>9</sup> In a number of states formed in the territory of the former USSR, these methods have been combined: the criminal liability for corruption crimes has been strengthened, anti-corruption laws have been enacted, and the main functions for implementing the corresponding measures are assigned to prosecutors (for example, in Russia and Kazakhstan).<sup>10</sup>

In the modern period, it is possible to assess the effectiveness of each of these methods, identifying the advantages and disadvantages of the establishment of specialized anti-corruption bodies. The general concept of prosecutor's supervision is implemented in the post-Soviet states.<sup>11</sup> Therefore, it seems possible to highlight similarities and differences in the activities of the anti-corruption prosecutor's office and other prosecution bodies established in them, based on the experience of specific countries (in particular, Ukraine, Georgia, Moldova).

The positive experience of foreign countries is used when adopting anti-corruption laws, regardless of which model of anti-corruption activity is implemented in the state. In the post-Soviet space, these processes include close

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<sup>7</sup> The Code of Criminal Procedure of the Republic of Lithuania of 14 March 2002 (from 04/04/2018). WIPO. Available at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=202109](http://www.wipo.int/wipolex/en/text.jsp?file_id=202109), accessed 24. 04. 2018.

<sup>8</sup> I. S. Kotlyarov, *Belarus on the way to the future: sociological dimension*, Minsk, Belarus Navuka, 2015, p. 109-110; *The Code of Criminal Procedure of the Republic of Estonia* dated 12.02.2003 (from 01.01.2018). Jurist Aitab. Available at: URL: <https://www.juristaitab.ee/sites/www.juristaitab>, accessed 27. 04. 2018.

<sup>9</sup> K. M. McMann, *Corruption as a last resort: adapting to the market in Central Asia*. Cornell University Press, 2014, p. 147-150.

<sup>10</sup> Zh. A. Mamitova, *On some issues of implementation of the norms of the UN Convention against Corruption. Problems of harmonization of legislative mechanisms to ensure the security of the individual, society and the state in the Eurasian space: scientific-practical*, St. Petersburg, MIEP, 2013, p. 155-159.

<sup>11</sup> A. V. Sidorenko, *The constitutional status of prosecuting authorities of the CIS countries*, Dokt, Diss., Moscow, 2003.

attention to the anti-corruption policies of those states that have carried out large-scale activities in this area. The establishment of a specialized anti-corruption body did not happen in Russia. Therefore, special units of the Investigative Committee of the Russian Federation, as well as operational and investigative units of the Ministry of Internal Affairs and the Federal Security Service of the Russian Federation, identify, suppress and investigate not only corrupt, but also economic crimes. An analysis of the results of anti-corruption activities of specialized bodies operating in other countries is of scientific interest.

Evaluation of the effectiveness of the use of the mechanism of prosecution supervision in the anti-corruption mechanism is also relevant because there has been a narrowing of the prosecutor's powers in the sphere of criminal proceedings in the Russian legislation for a long period, which resulted in a decrease in the quality of the preliminary investigation (in Russia, according to some researchers, in 2016-2017 the situation has changed for the better, but in general, the number of violations allowed by investigators and inquiry officers remains very high).<sup>12</sup> Therefore, positive foreign experience can be used in preparing proposals for improving the current legislation.

### **Materials and methods**

The study was conducted on the basis of the method of dialectical cognition, which is the most effective for scientific work. In addition, the authors used a combination of scientific methods that make it possible to cover the most problematic field of research in the most complete way.

Thus, the use of analysis and synthesis methods in the conduct of research is due to the fact that most post-Soviet countries have identical problems, for which the law provides for related norms. With the help of analysis and synthesis, the author examined the provisions of the current legislation of Russia, Armenia, Azerbaijan, Belarus, Georgia, Moldova, Ukraine, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, in which the peculiarities of countering corruption and the powers of the prosecution authorities in this direction were consolidated. The criminal procedural legislation of Latvia, Lithuania, Estonia,<sup>13</sup>

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<sup>12</sup> N. V. Bulanova, "Observance of human rights in the sphere of criminal proceedings: status, problems, means of support", in *Bulletin of Economic Security*, V (2016), p. 66-68.

<sup>13</sup> The Criminal Procedure Code of the Republic of Kazakhstan of July 4, no. 231-V (as per 09. 04. 2018), 2014. The Kazakh truth. 1 October 2014; Racketeer influenced and corruption Act. Encyclopedia Britannica. Available at: <https://www.britannica.com/topic/Racketeer-Influenced-and-Corrupt-Organizations-Act> (accessed 27 April 2018); On combating organized crime and racketeering; Law of Georgia № 2354-ES//Legislative Herald of Georgia. Available at: <https://matsne.gov.ge/ru/document/download/27814/0/en/pdf> (accessed 25 April 2018); O. Bazaluk, *Corruption in Ukraine*, Cambridge, Cambridge Scholars Publishing, 2016, pp. 45-58; I. Ceneric, *Strengthening integrity and fighting corruption in education: Armenia*. NY: Open Society Foundation, 2000; The Code of Criminal Procedure of the Republic of Georgia as of 09.10.2009 no. 1772-ps (as per 01.02.2018). Parliamentary statements. 17 October 2009; The Code of Criminal Procedure of the Russian Federation of December 18, 2001 no. 174-FZ (as per 23. 04. 2013). Ros. gas. 22 December 2001; The Code of Criminal Procedure of the Republic of Belarus of 16.07.1999 no. 295-Z (as per 01/04/2018). Zvyazda. 22 July 1999; The Code of Criminal Procedure of the Republic of

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was investigated by the author to the extent that its provisions relate to the participation of the prosecutor in combating corruption.

Post-Soviet countries do not form one legal group;<sup>14</sup> but they have a common „platform”, based on which the established procedure for the legal regulation of social relations is built. In this connection, the authors used a comparative legal method to identify a set of provisions of foreign legislation that can be used to improve Russian legislation.

The statistical method was used by the authors to assess the effectiveness of anti-corruption activities of specialized and non-specialized prosecutors in the post-Soviet states.

The formal-logical method and other instrumental techniques were used by the authors when summarizing the results of the study.

The applied scientific methods guarantee the reliability of the conducted research and the validity of its results.

### Literature Review

In the post-Soviet period, the general approach to assessing human rights, criminal procedural, coordinating activities and supervisory activities of the prosecutor's office has been preserved.<sup>15</sup> However, taking into account the emergence of new urgent tasks related to counteracting corruption, it was modernized, which was reflected in monographic studies.<sup>16</sup> Analyzing the above judgments, it is necessary to pay attention to the fact that with the development of the anti-corruption legislation, the issue of expanding the powers of the prosecutor in criminal proceedings arose (in terms of his criminal prosecution in cases of corruption crimes). The solution of this problem in the countries had a number of features.

In the criminal process in Russia and other post-Soviet states, the prosecutor performs the function of criminal prosecution and the function of supervision.<sup>17</sup> In addition, the prosecutor's office oversees the implementation of laws in various areas.<sup>18</sup> In this regard, the imposition of additional powers to coordinate anti-corruption specifically on the prosecutor's office appears logically stemming from their legal status. At the same time, the prosecutor's exercise of the function of criminal prosecution in pre-trial proceedings has now undergone

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Moldova of 14.03.2003 No. 122-XV (as per 21.02.2017). Monitorul Oficial. 2003. no. 104-110. Art. 447.

<sup>14</sup> N. A. Gorshkova, "The degree of legislative penalization of intentional violent crimes against health and bodily integrity committed in places of deprivation of liberty, according to the Criminal Code of CIS countries and Georgia", in *Bulletin of the Samara Institute of Law*, II (2016), p. 12-16.

<sup>15</sup> F. M. Kobzareva, *Coordination of the activities of law enforcement agencies in the fight against crime by the prosecutor's office*, Moscow, Prospekt, 2016, p. 9-12, p. 51.

<sup>16</sup> D. K. Nechevin, M. M. Polyakov, *Powers of the Prosecutor's Office for Combating Corruption in the Russian Federation*, Moscow, Prospekt, 2017, p. 45-46.

<sup>17</sup> V. A. Lazareva, *Participation of the prosecutor in criminal proceedings*, Moscow, Yurayt, 2017, p. 11-18.

<sup>18</sup> O. S. Voronin, *Theoretical foundations of modern prosecutorial activities*, Tomsk, NTL, 2013, p. 21-36.

changes. For example, in Russia, after the separation of investigative units from the prosecutor's office and the creation of the Investigative Committee of the Russian Federation, the prosecutor's office lost the powers to initiate criminal proceedings and conduct a preliminary investigation.<sup>19</sup>

At the same time, the Federal Law „On the Prosecutor's Office of the Russian Federation”<sup>20</sup> and the national anti-corruption plans empower the prosecution authorities with both coordinating and supervisory powers, that is, the implementation of anti-corruption measures (including audits, the results of which may be revealed violations of criminal law). Analysis of the statistical data of the General Prosecutor's Office of the Russian Federation revealed that anti-corruption activities within the limits provided for by the Federal Law „On Combating Corruption”<sup>21</sup> are sufficiently effective, but the issue of prosecuting is resolved indirectly, in accordance with the procedure stipulated in Part 2 Article 37 of the Code of Criminal Procedure of the Russian Federation.

For comparison, the prosecutor's procedural status in such countries as Kazakhstan and the Republic of Belarus did not undergo significant changes in comparison with the Soviet period. Article 58 of the Criminal Procedure Code of the Republic of Kazakhstan imposes on the prosecutor supervisory powers, the implementation of which allows for the management of the preliminary investigation. Article 34 of the Criminal Procedure Code of the Republic of Belarus stipulates not only the guiding position of the prosecutor in the pre-trial proceedings in the criminal case, but also the power to authorize investigative actions that limit the constitutional rights and freedoms of citizens. Although an Investigative Committee has been established in the Republic of Belarus, the „strong positions” of the prosecutor's office in pre-trial proceedings have been fully preserved<sup>22</sup> and can be used to combat corruption.

The specialized prosecutor's offices were not established in Armenia and Azerbaijan. However, there are established departments that oversee the implementation of anti-corruption laws in the structure of the General Prosecutor's Office of Azerbaijan and the General Prosecutor's Office of Armenia. In the criminal proceedings of these states, the prosecutor is empowered to lead a preliminary investigation, and these powers are effectively used in pre-trial proceedings in criminal cases of corruption crimes. Article 84 of the Code of Criminal Procedure of Azerbaijan authorizes the prosecutor to conduct an independent investigation. Part 2 of Article 53 of the Armenian CCP grants the prosecutor a wide list of powers of an administrative character (to give written

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<sup>19</sup> N. V. Bulanova, *The prosecutor in the pre-trial stages of the criminal proceedings of the Russian Federation*, Moscow, Yurlitinform, 2015, p. 15-19.

<sup>20</sup> On the Prosecutor's Office of the Russian Federation: Federal Law of 17.05.1992 no. 2201-I (as per 01/04/2018). *Vedomosti RSFSR RF*. 1992. No 8. Art. 366.

<sup>21</sup> M. Emerson, N. Hriptievski, O. Kalitenko, T. Kovziridze, E. Prohnitchi, *Anti-Corruption Policies in Georgia, Moldova and Ukraine. Centre for European policy studies*. Available at: <https://crjm.org/wp-content/uploads/2017/10/Anti-corruption-policies-Georgia-Moldova-Ukraine-02.10.07.pdf>, accessed 28. 04. 2018.

<sup>22</sup> A. V. Konyuk, *Anti-corruption*, Minsk, Academy of Management under the President of the Republic of Bashkortostan, 2016, p. 78.

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instructions binding on the investigator, to request for verification materials of reports on crimes).

It can be concluded from the examples that the presence of administrative powers determines the central place of the prosecutor in pre-trial proceedings, and this is quite important in the sphere of combating corruption. Criminal cases of corruption crimes require special control, because the impartiality and completeness of the investigation may cause doubts. Therefore, the granting of additional powers to prosecutors in pre-trial proceedings, in criminal cases involving corruption-related crimes, can be an effective anti-corruption tool.

Thus, it seems advisable to give the prosecutor the following powers: to give investigators mandatory requirements to eliminate violations of the law and written instructions to send investigations (including the detection of additional episodes of criminal activity, additional undeclared sources of income of the suspect (accused), who is an official); to demand materials of inspections of reports on crimes and materials of criminal cases.

From the experience of countries such as Ukraine and the Republic of Moldova, it can be noted the tendency to establish specialized prosecutors in the system of the prosecutor's office, authorized to carry out anti-corruption activities. This is achieved by assigning to the anti-corruption prosecutor's office functions for criminal prosecution in cases of corruption crimes, supervision of the implementation of anti-corruption laws, security functions (filing administrative lawsuits, overseeing the execution of judicial acts). It can be noted a negative aspect in the activities of the anti-corruption prosecutor's office of the Republic of Moldova, expressed in the fact that it is regulated by a general law regulated by the establishment of specialized prosecutors.<sup>23</sup> It does not consider the specific features of anti-corruption activity, and a number of its provisions have a framework character without detailed elaboration. In general, the idea of establishing specialized prosecutors is not new (for example, the activity of the military prosecutor's office is recognized as effective in Ukraine).<sup>24</sup> In Russia, there are military, transport, environmental and other specialized prosecutors, which are part of a unified system of prosecution authorities, in accordance with Article 11 of the Federal Law „On the Prosecutor's Office of the Russian Federation”.

The effectiveness of the activities of the Anticorruption Procurator's Office of Ukraine is relative, since it has been operating only since 2016,<sup>25</sup> but international experts generally give it a positive assessment. However, based on published statistics, it can be concluded that supervision of the execution of laws on operational search activity and for pre-trial investigation of criminal cases by

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<sup>23</sup> On specialized prosecutors: Law of the Republic of Moldova of 07.07.2016 no. 159. Monitorul Oficial. 30 July 2016.

<sup>24</sup> O. S. Kozachuk, *Military prosecutors in Ukraine: the organizational and legal basis for functioning*, Kiev, National Academy of Public Prosecutor of Ukraine, 2018, p. 44.

<sup>25</sup> Regulations on the specialized Anticorruption Prosecutor's Office of the General Prosecutor's Office of Ukraine: Order of the Prosecutor General of Ukraine on 12.04.2016 no. 149. Voice of Ukraine. 14 April 2016.

units of the National Anti-Corruption Bureau of Ukraine (NABU) is carried out on the basis of impartiality and completeness. In particular, significant work in its implementation is being done aimed at compensating the budget for damage caused by corruption crimes, and the oversight tools are effective when used for this purpose. Since the effectiveness of empowering the prosecutor with powers in the enforcement of judgments has been approved by scientists in terms of implementing supervisory tools,<sup>26</sup> it can be concluded that giving the prosecutor's office special powers in the field of supervision over the execution of laws in the execution of judicial acts could have anti-corruption effect.

It is quite interesting in this context to consider the experience of anti-corruption activities in Georgia. In 2005, a policy of zero tolerance for criminal activity was proclaimed in Georgia. The adopted law „On organized crime and racketeering” borrowed a number of provisions of the same Law, successfully operating in the US (RICO USA act) and take into account national specificities.<sup>27</sup> The Law on Combating Corruption, adopted a little later, proved to be highly effective, and in 2015 Georgia's indicators in anti-corruption ratings turned out to be the best in the post-Soviet space. When implementing its provisions, civil society institutions were involved in the sphere of combating corruption. This idea was adopted by the Georgian legislator from the experience of Italy.<sup>28</sup> In Italy, a special anti-corruption agency was established in the system of executive authorities, which carried out operational-search activity and preliminary investigation in criminal cases related to corruption.<sup>29</sup> A similar approach was adopted in Georgia, and anti-corruption activities appeared in the sphere of prosecutorial supervision but did not become an independent function of the prosecutor's office. Analysis of the statistical data characterizing the rate of detection of corruption crimes in Georgia makes it possible to talk about the completion of the „anti-corruption revolution”.<sup>30</sup> At the same time, in a number of sources the completeness of these data is disputed.<sup>31</sup>

In comparison, Romania has a specialized anti-corruption body - the National Anticorruption Directorate (DNA), which operates independently of the prosecutor's office, but is under its supervision. Its effectiveness is recognized as quite high: in 2014-2017, the DNA identified up to 300 corruption crimes annually,

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<sup>26</sup> K. K. Arushanyan, *Prosecutor in criminal proceedings at the stage of execution of court decisions*, Kiev, National Academy of the Prosecutor's Office of Ukraine, 2015, p. 101-116.

<sup>27</sup> M. P. Kleymenov, I. M. Kleymenov, "The development of organized crime: the phenomenon and definition", in *Right. Bulletin of Omsk State University*, no. 2, 2017, p. 160-175.

<sup>28</sup> A. A. Gavrilenko, *On the implementation of the principle of glasnost in the activities of the prosecutor's office of the Republic of Belarus. Constitutional rights and freedoms: the problems of interpretation and implementation in national legal systems*, Novopolotsk, Publishing House of the PGU, 2016, p. 25-31.

<sup>29</sup> R. Nalbandov, *Democratization and instability in Ukraine, Georgia and Belarus*, New York, US Army War College, 2014, p. 39-52.

<sup>30</sup> A. Bohr, Turkmenistan. Freedom House. Available at: [https://freedomhouse.org/sites/default/files/27.%20NIT14\\_Turkmenistan\\_final.pdf](https://freedomhouse.org/sites/default/files/27.%20NIT14_Turkmenistan_final.pdf), accessed 23. 2018.

<sup>31</sup> Criminal Procedure Code of the Republic of Latvia dated 21.04.2005 (from 01.03.2018). Latvian laws. Available at: [http://www.pravo.lv/likumi/29\\_upz.html](http://www.pravo.lv/likumi/29_upz.html), accessed 26. 04. 2018.

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and the total number of cases in which the prosecutor's office upheld the indictment and supported the state's accusation in court exceeded 9100.<sup>32</sup> A similar technique has been used in some post-Soviet countries: for example, in the Kyrgyz Republic, the Anti-Corruption Service has been established in the State Committee for National Security. The Deputy Prosecutor General of the Kyrgyz Republic has the authority to coordinate anti-corruption activities, including determining the directions for dismantling corrupt schemes and improving law enforcement in the detection of corruption crimes.<sup>33</sup> The previously used principle, according to which the Prosecutor General's Office was responsible for investigating crimes committed by all state officials, regardless of the crime committed, was found to be effective<sup>34</sup> and was assigned in clause 3 of Part 1 of Art. 33 of the Criminal Procedure Code of the Kyrgyz Republic, adopted in 2017.

Similar processes take place in Tajikistan and Uzbekistan; but at the moment, the functions of law enforcement agencies and prosecutors in the area of combating corruption are not transformed, since the large-scale process of adoption of anti-corruption regulatory legal acts has not yet embraced this direction.<sup>35</sup>

In Turkmenistan, the concept of prosecutor's supervision has been preserved since the Soviet period and is implemented in the existing laws regulating the procedure for the implementation of criminal proceedings and the functions of the prosecutor's office. A special normative legal act on combating corruption in this country was not adopted, although corruption manifestations in the country are recognized by scientists as highly prevalent. The question of the prosecutor's participation in anti-corruption activities is resolved on a general basis: within the framework of the criminal prosecution function or in the context of general supervision.

## Results

After analyzing the provisions of the legislation of the post-Soviet states on the prosecutor's office and on countering corruption, comparing them with the functions of the prosecutor fixed in the criminal procedural legislation, it can be concluded that giving him the role of an active participant in the anti-corruption process has a legal basis.

It should be borne in mind that the prosecutor can be more effective in carrying out the functions of criminal prosecution and supervision over the

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<sup>32</sup> S. Chayes, The structure of corruption in Moldova. Carnegie Endowment for International Peace. Available at: [https://carnegieendowment.org/files/10\\_Moldova\\_Full\\_Web1.pdf](https://carnegieendowment.org/files/10_Moldova_Full_Web1.pdf), ccessed 28. 04. 2018.

<sup>33</sup> On measures to eliminate the causes of political and systemic corruption in government: Decree of the President of the Kyrgyz Republic from 12.11.2013 no. 215. Erkin Too. 15 November 2013.

<sup>34</sup> *Anti-corruption reforms in Kyrgyzstan*, p. 59.

<sup>35</sup> A. R. Nematov, "Conducting anti-corruption expertise of regulatory legal acts as a factor in counteracting corruption in Tajikistan", in *Journal of Russian Law*, VII (2012), p. 29-32.



execution of laws in pre-trial stages of criminal proceedings in cases of corruption-related crimes if he has special powers relevant to this category of cases.

One way to achieve this is the establishment of specialized anti-corruption prosecutors. However, as the analysis showed, the effectiveness of the prosecutor's participation in the proceedings in cases of corruption crimes can be achieved without this. Thus, the establishment of a specialized prosecutor's office can be recognized as a special „landmark” step reflecting the state's strategy in the field of destructive impact on corruption and its manifestations.

The provision of additional powers to the prosecutor's office, the implementation of which will take place exclusively in cases of corruption crimes, looks positive, as it emphasizes the complexity of investigating such cases, and shapes public opinion on the fundamental nature of anti-corruption activities.

In countries where specialized prosecutor's offices were not established, the priority of anti-corruption activities is strengthened by increasing its information openness, and the established hierarchical relationship between the investigation and the prosecutor's office contribute to the speed and completeness of the investigation of criminal cases.<sup>36</sup>

### Discussions

The first hypothesis of the study is the multidimensionality of the legal regulation of counteracting corruption. In this regard, the authors agree with the researchers who believe that the anti-corruption potential in the activities of the prosecutor's office is not yet fully implemented due to imperfections in the current legislation.<sup>37</sup> Proceeding from this, proposals can be made for its improvement in the part regulating the powers of the prosecutor in criminal proceedings.

Since the counteraction to corruption overlaps with other law enforcement activities (including the identification, suppression and criminal prosecution of active participants in organized criminal activities), it is required to develop a common criminal and legal policy that takes into account these circumstances.<sup>38</sup> In this regard, it seems important to legislatively fix the notion of corruption crimes and provide for the specifics of pre-trial proceedings in cases. In the Federal Law „On Combating Corruption” the list of such crimes is incomplete, and it does not regulate the specifics of criminal proceedings.

The second hypothesis of the research is, firstly, the thesis of the importance of ensuring information openness in covering anti-corruption measures and their results, and secondly, the strategic nature of anti-corruption legal transformations and the need to change the balance of criminal procedural

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<sup>36</sup> The Criminal Procedure Code of the Republic of Uzbekistan dated 22.09.1994 no. 2013-XII (from 04 April 2018). Paragraph IP. Available at: [https://online.zakon.kz/Document/?doc\\_id=30421101](https://online.zakon.kz/Document/?doc_id=30421101), accessed 22. 04. 2018.

<sup>37</sup> L. A. Bukalerova, R. A. Sorochkin, *The prosecutor's office in the mechanism of combating corruption*, Moscow, Military University, 2012, p. 132.

<sup>38</sup> Romanian Anti-Corruption Board: the number of arrests has doubled. Center for Corruption and Organized Crime Studies. Available at: <https://www.occrp.org/en/daily/3715-romania-anti-corruption-agency-indictments-doubled-in-2014-former-minister-arrested-ru>, accessed 24. 04. 2018.

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relations with the prosecutor in cases of corruption crimes and in supervisory activities. Judicial and law enforcement systems may not be free from corruption; however, part of the anti-corruption strategy is the expansion of special powers.<sup>39</sup>

The results of sociological research show that, despite the significant amount of anti-corruption measures, Russian citizens are convinced of the high prevalence of corruption manifestations.<sup>40</sup> In order to change this position, the most successful strategy may be the activation of the activities of the prosecutor's office, preliminary investigation and inquiry to identify corruption crimes. The prosecutor should receive legal instruments that can effectively prevent the delaying of pre-trial proceedings and the violation of reasonable time.

The danger of systemic corruption is realized in all post-Soviet countries;<sup>41</sup> while the current anti-corruption legislation provides for related anti-corruption tools, including the active role of prosecutorial oversight. Nevertheless, the need to complement the criminal procedural powers of the prosecutor, stipulated in Article 37 of the Code of Criminal Procedure of the Russian Federation, was identified. This fully corresponds to the global trends in reforming the legislation on the prosecutor's office.<sup>42</sup>

## Conclusions

After systematization of normative, analytical and statistical materials considered above, the following conclusions may be drawn:

1. In order to optimize the initial stage of pre-trial criminal proceedings on corruption crimes, it seems necessary to give the prosecutor the power to initiate criminal cases on such crimes (in particular, if the signs of a corruptible crime were identified during an audit in the framework of supervision of the execution of laws).

2. The experience of the establishment of specialized prosecutors' offices implemented in Ukraine and Moldova is very interesting, but it is not appropriate to borrow it, since optimization of the prosecutor's involvement in countering corruption can be achieved through less significant and less costly changes in the legal framework and additional financing of the prosecutor's office.

3. The implementation of preliminary investigation of corruption crimes by a specialized body can be highly effective. But at the same time, the personnel of

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<sup>39</sup> The Criminal Procedure Code of the Kyrgyz Republic dated 02.02.2017 No. 20. Legislation of the CIS countries. Available at: [http://base.spinform.ru/show\\_doc.fwx?rgn=95077](http://base.spinform.ru/show_doc.fwx?rgn=95077), accessed 25. 04. 2018.

<sup>40</sup> Counteraction to corruption. General Prosecutor's Office of the Russian Federation. Available at: <https://www.genproc.gov.ru/anticor/>, accessed 27.04. 2018.

<sup>41</sup> N. A. Podolny, "Systemic corruption: problems of definition and struggle with it", in *Problems of law*, I (2016), p. 125-130.

<sup>42</sup> The Code of Criminal Procedure of the Republic of Tajikistan dated 03.12.2009 No 160 (from February 24, 2017). Legislation of the CIS countries. Available at: [http://base.spinform.ru/show\\_doc.fwx?rgn=95077](http://base.spinform.ru/show_doc.fwx?rgn=95077), accessed 21. 04. 2018.

such a body must undergo strict selection, and its procedural activity must be fully supervised by the prosecutor's office.

4. The traditional „closed” preliminary investigation, as the experience of the Republic of Kazakhstan shows, can become a serious support in the process of countering corruption. However, the criminal procedure legislation of Russia is developing in the direction of independence of prosecutorial and investigative activities, and it is unlikely that such experience will become in demand. Nevertheless, with the provision of certain administrative powers to the prosecutor, certain progress can be made to improve the quality and speed of the preliminary investigation. For example, the Prosecutor for Corruption Affairs may be authorized to send binding requirements to eliminate violations of the law, to determine the direction of the investigation, to give binding instructions for execution of investigative and other procedural actions.

5. The approach adopted in the Soviet period to the legal regulation of the activities of the prosecutor's office, the functions of the prosecutor in the criminal process, the structure of supervision over the execution of laws can be successfully used in combating corruption, covering a wide range of areas of this activity. Examples of post-Soviet states that have made some progress in the field of countering corruption confirm this.

"Features of the Prosecutor's Participation in Countering Corruption and the Problem of Optimizing its Criminal Procedure: the Experience of the Post-Soviet States," *Astra Salvensis*, VI (2018), no. 12, p. 129-139