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## **Improvement of Organizational Forms of Interaction of the Court and the Public Prosecution Office as a Condition of Effective Solution of General Tasks of the Court and the Public Prosecution Office**

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***Abstract:***

*The paper considers the problems concerning the improvement of organizational forms of interaction of the court and the public prosecution office, while specific forms and methods of interaction currently realized by the said bodies regarding the rule of law in the state are represented.*

***Key Words:*** *Crime Prevention, the Rule of Law, Law-Enforcement Agencies*

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## **Introduction**

The fact that there are general ultimate purposes regarding establishment of the supremacy of the law determining the importance of the court's and the public prosecution office's united actions is the major condition of obligation of such kind of their mutual relations, which is usually called mutual cooperation (interaction) in law literature.

Focused on the consolidation of constitutional legitimacy in the Republic of Kazakhstan organizational regulatory impact on public relations by means of mutual cooperation of the court and the public prosecution office requires more detailed study of standard and acceptable methods, forms and techniques of their interaction.

### **General characteristic of problems concerning models of the court's and the public prosecution office's mutual cooperation**

The questions of establishing the optimal models of the court's and the public prosecution office's mutual cooperation are regularly raised in legal literature. Analysis of scientific disputes' outcomes, the system of national and international legislation, the court's and procuracy bodies' practice problems give ground for different classifications of interaction models depending on some or other criteria. In our mind, the classification that distinguishes two large groups of mutual cooperation forms: administrative (organizational) forms and procedural models of interaction.

#### **1. General classification of interaction models (kinds)**

Stressing the importance of administrative models of interaction and setting them apart from the procedural, Kobzarev F.M. suggests that "organizational forms of the court's and the public prosecution office's interaction differing from procedural forms with their diversity, possibility of their enforcement beyond the range of procedural provisions effect, parties' mutual initiative for cooperation and other features, are based not on binding mutual actions due to legal requirements, but understanding and comprehension by each of interacting parties of the need for community of powers and means for more effective solution of common tasks in the area of criminal proceeding"<sup>3</sup>.

#### **2. Different authors' opinions regarding the problem under consideration**

Due to interaction administrative models' importance we need refer to some researchers' positions. Speaking about interaction of the public prosecution office,

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<sup>3</sup>Kobzarev, F.M. Problems of theory and practice of procedural and organizational relations of the public prosecution office and the court in the area of criminal proceeding. // Dissertation for the degree of Doctor of Juridical Science. Moscow, 2006. p. 60.

the court and internal affairs bodies regarding wrongdoing prevention, including crimes, Zvirbul V.K. decided upon “the possibility to hold joint arrangements in the context of sharing experience and mastering qualification of judges, public prosecutors, and militia men”<sup>4</sup>, addressing such mutual cooperation’s models as:

“1) joint arrangements on a) crime study and prevention; b) exposure of most grave crimes; c) professional skills improvement and learning new methods of crime prevention; d) legal propaganda; 2) interdepartmental conferences”<sup>5</sup>.

Shirinsky S.F. largely agrees with Zvirbul V.K. and correctly notes that “exposure of crimes doesn’t fall under the court’s competence”. A judge in accordance with courts’ tasks, established current legislation cannot and shall not deal with crime exposure. The presence of close contact in the work of the court, the public prosecution office and militia gives no ground to substitute some bodies with others, to mingle their functions<sup>6</sup>.

### **Specific models of the court’s and the public prosecution office’s mutual cooperation**

#### 1. Joint study of some or other problems of national and international legislation

Such form of interaction as study of some or other problems of national and international legislation at joint arrangements gained ground in the activity of courts and prosecution agencies.

This model is more preferable than narrow-departmental approach in studying the similar issues and problems of legislation since in the process of their joint study the problems of exception of various approaches to the content and meaning of regulatory acts, enforcement of individual regulatory acts are solved what ultimately has impacts on the effectiveness of right exercise, the enforcement subjects of which are both the court and the public prosecution office. Besides, the said form contributes to the opportunity of participation of a wide range of court’s and public prosecution office’s representatives what leads to cost cutting and time saving to accomplish joint tasks. For today the corresponding work is being carried out almost in all CIS countries. Thus, on November 18, 2014 The Institute for Retraining and Upgrade Qualification of Judges, Prosecutors and Legal Professionals at the Belorussian State University held a joint workshop with participation of judges, prosecutors, crime investigators on the topic “Receipt of evidences in pre-trial procedure and their use when hearing court cases”<sup>7</sup>.

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<sup>4</sup>Zvirbul, V.K. Coordination of work of procuracy bodies, the court and public order protection to crimes. “Crime prevention issues” collected works. Moscow, Yuridicheskaya Literatura Press, 1966, p. 70.

<sup>5</sup> Work of the district public prosecutor regarding crime prevention. In Pankratov A.S. Yuridicheskaya Literatura Press, 1965, p. 36.

<sup>6</sup> Shirinsky, S. F. On interaction of the court, the public prosecution office and militia in crime prevention // Pravovedenie. -1970, No. 1, p.115.

<sup>7</sup> Criminal Procedure Code of the Republic of Belarus: changes and practical applicationio

2. Interdepartmental meetings as a peculiar model of the court's and public prosecution office's mutual cooperation

Interdepartmental meetings judges, judicial service and public prosecution office staff take part in are a peculiar model of mutual cooperation in the area of wrongdoing prevention, including crimes, establishment of the supremacy of the law. For example, on March 7, 2013 the meeting of Coordination Council on the rule of law, enforcement of law and crime prevention took place in General Prosecutor's Office, where the issues of efficiency of investigative activities of law-enforcement and special agencies were analyzed. The members of Coordination Council, senior officials of Presidential Administration, heads of the Supreme Court, Economic and Corruption Crime Agency, National Security Committee, Ministry of Internal Affairs, Customs Control Committee took part in the forum. Members of Coordination Council and management of the Supreme Court assessed investigative activities, revealed most pressing problems, the need for further strengthening of interdepartmental interaction was highlighted and high priority measures, contributing to further improvement of the effectiveness of crime prevention, strengthening of the personal rights and freedoms guarantees system, were provided<sup>8</sup>.

In addition, for the purpose of realization of chapter 5 "Interdepartmental interaction" of Strategic plan of General Prosecutor's Office of the Republic of Kazakhstan for 2014-2020 General Prosecutor's Office held joint with The Supreme Court of the RK workshops-meetings concerning the practice of enforcement of the national legislation by courts.

3. Round tables, conferences and workshops

Interdepartmental measures are prominent in the interaction of the court and the public prosecution office. They are held in the form of round tables, conferences and workshops with judges, prosecutors, representatives of other state bodies, and also representatives of science and public members. Thus, legal press gives an example of the court's interaction with the public prosecution office, guardianship and wardship authorities. The mentioned form of interaction according to Sosedova M.V. influences the whole process of legal relations related to family, childrearing, eventually contributes to the change in person's approach to the institute of family in the society, minor children, he comprehends the importance of discharge of his parental duties. In the course of this activity effective interaction and coordination of all main strands of work of guardianship and wardship authorities, public prosecution office, internal affairs bodies, and officers of court are necessary. In this paper round tables can be considered most acceptable form of interaction. They are

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URL: <http://www.lawinstitute.bsu.by/>

<sup>8</sup> The issues of efficiency of investigative activity of law-enforcement and special bodies were considered in the General Procurator's Office of the RK. URL: <http://www.inform.kz/rus/article/2545697>

often a subject-based meeting of officers of court, public prosecution office, guardianship and wardship authority on the solution of problems arising from working with those who have restricted parental rights<sup>9</sup>.

4. Participation of representatives of the General Prosecutor's Office of the Republic of Kazakhstan at Research Advisory Council meetings at the Supreme Court of the Republic of Kazakhstan

Participation of representatives of the General Prosecutor's Office at Research Advisory Council meetings at the Supreme Court of the Republic of Kazakhstan is one of the effective models of the court's and the public prosecution office's interaction, since paragraph 3.3. Regulations on Research Advisory Council at the Supreme Court of the Republic of Kazakhstan approved by the decree of the plenary session of the Supreme Court of the Republic of Kazakhstan as of June 29, 2009 No.18, establishes that meetings of the Research Advisory Council are held under the guidance of a chairman of corresponding judicial board, with the participation of a plenary session secretary, a reporting judge, RAC members and other concerned parties of state bodies and organizations<sup>10</sup>. As a rule, the public prosecution office takes an active part at such meetings for the purpose of implementation its Strategic plan providing participation in the improvement of regulatory resolutions of the Supreme Court by means of making corresponding proposals.

5. Participation of the Prosecutor-General of the Republic of Kazakhstan at plenary sessions of the Supreme Court of the Republic of Kazakhstan

Participation of the Prosecutor-General of the Republic of Kazakhstan at plenary sessions of the Supreme Court of the Republic of Kazakhstan when adopting a regulatory resolution is almost binding model of the court's and the public prosecution office's interaction, since subparagraph 11-1) of Art. 11 of Prosecutor's Office Act of the Republic of Kazakhstan provides that "the Prosecutor-General makes proposals for consideration of the plenary session of the Supreme Court of the Republic of Kazakhstan on giving explanation concerning judicial practice issues"<sup>11</sup>. Besides, this participation is a result of public prosecution office's supervisory work in various areas, when Public prosecution offices of regions and equal offices send the results of generalization, i.a. judicial and investigative, prosecutor's practice, with well-founded proposals to improve the legislation, to the Prosecutor-General's Office. Thus, the results of inspection in the area of housing law execution, and also generalizations of judicial and investigative practice with regard to cases related to

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<sup>9</sup> Sosedova, M.V. Forms and methods of work with people who have restricted parental rights. URL: [http://34.klg.msudrf.ru/modules.php?name=info\\_pages&id=376](http://34.klg.msudrf.ru/modules.php?name=info_pages&id=376)

<sup>10</sup> Regulations on Research Advisory Council at the Supreme Court of the Republic of Kazakhstan approved by the decree of the plenary session of the Supreme Court as of June 29, 2009, No. 18.

<sup>11</sup> Law of the Republic of Kazakhstan as of December 21, 1995 No. 2709 "On the Public Prosecution Office" (as amended and supplemented as of 10.07.2012). URL: [http://online.zakon.kz/Document/?doc\\_id=1004024](http://online.zakon.kz/Document/?doc_id=1004024)

house fraud, were considered at the board of the Public prosecution office of the Karaganda region on March 9, 2010. The results of inspection and generalizations of judicial and investigative practice demonstrated that the issue of housing fraud is of peculiar importance and requires consideration concerning introduction of changes in the regulatory resolution of the Supreme Court of the RK as of July 9, 1999 No. "On some issues of execution of the housing ownership legislation"<sup>12</sup>.

#### 6. Mutual information sharing on the state of criminality as a form of the court's and the public prosecution office's interaction

Considerable amount of work is carried out between the Supreme Court of the Republic of Kazakhstan and the Prosecutor-General's Office of the RK regarding mutual information sharing on the state of criminality and criminal records. Thus, on October 7, 2011 the Chief Justice of the Republic of Kazakhstan and the Prosecutor-General of the Republic of Kazakhstan issued two joint directions "On the approval of Information sharing rules between the Prosecutor-General's Office of the Republic of Kazakhstan and the Supreme Court of the Republic of Kazakhstan" by means of information systems" and "On the approval of Interdepartmental electronic document flow rules between the bodies of public prosecution office and the judicial agencies of the Republic of Kazakhstan" by means of "Unified information analytical system of the Prosecutor-General of the Republic of Kazakhstan" and "Unified computer-aided information analytical system" (hereinafter referred to as UCAIAS) of the judicial agencies of the Republic of Kazakhstan. The project "Creation of the information exchange system of law-enforcement and special agencies" was implemented based on the first direction. Access to data kept in the databases UCAIAS of the judicial agencies of the Republic of Kazakhstan was provided based on this project. This step also provided access to judicial acts. As a result of adopting the first direction courts' activity information became available almost for all law-enforcement and special agencies of the Republic of Kazakhstan.

The next direction was focused on the efficient response of information exchange and interaction between court and prosecution bodies. There is necessary information on the Internet source of the Supreme Court of the Republic of Kazakhstan via the search system "Court Cases Guide". The Guide provides online access to information provided by the courts of the Republic of Kazakhstan on the course of a case, review of made judicial acts. It's also important that the Guide gives explanation of electronic information resource's guidelines, there's request interface in Kazakh and Russian. For the purpose of gaining access to court case information one should make a request in the system, then lists of cases, their consideration dates and opportunity to study court documents are provided. It is worth noting that Court Cases Guide provides information on cases, which don't

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<sup>12</sup>Regulation of the Supreme Court of the RK as of June 9, 1999 No.10 "On some issues of execution of the housing ownership legislation", URL:  
[http://online.zakon.kz/Document/?doc\\_id=1013950#pos=0;90&sel\\_link=1000279766](http://online.zakon.kz/Document/?doc_id=1013950#pos=0;90&sel_link=1000279766)

contain state, commercial, and other legally protected secret. Court acts delivered at open court session and also their minutes can be found on open access<sup>13</sup>.

## **Conclusion**

Thus, the administrative models of the court's and public prosecution office's mutual cooperation are arrangements of different organizational content, which are focused on creating conditions for judges and prosecutors, which render them active help in establishing justice, providing efficient prosecutor's supervision.

The administrative models of interaction are focused on providing specific tasks of legal practice, revealing and closing the existing gaps in the legislation in the course of joint discussion of regulatory resolutions projects of the Supreme Court of the RK or in the course of holding joint workshops-meetings regarding the results of judicial investigative practice generalization.

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<sup>13</sup> Information technology in courts of Kazakhstan. URL:  
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