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The role and importance of digitalization in the activities of the prosecutor's office to protect the rights of entrepreneurs

Abstract. *The article examines the issues of introducing digital technologies into the activities of the prosecutor's office to protect the rights of entrepreneurs. In connection with the impact of innovative development, the transformation of the public space of all spheres of social life is taking place, which is based on the rapid development of the digitalization process. Digital technologies have proven to be a key part of the solution during the crisis, allowing governments to continue providing essential social services, enabling many businesses to continue their operations and keeping people connected. The potential of digital technologies as a transformative force for nations is clear, as is the commitment to bridging the digital divide. The team of authors analyzes current problems and prospects for organizing prosecutorial activities in the context of digitalization. The interaction and integration within formation systems of other state bodies and their role in the implementation the entire process of digitalization and the protection of the rights of entrepreneurs.*

Keywords: *digitalization, digital technologies, prosecution authorities, electronic document management, digital transformation, legality, activities of prosecution authorities.*

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Introduction

Digital transformation is both a prospect for optimization, a serious problem, and new, almost unlimited development opportunities in all areas of activity. National programs are being implemented in different countries of the world. In particular, Kazakhstan has a state program "Digital Kazakhstan" as an important comprehensive program aimed at improving the standard of living of all residents of the country through the use of digital technologies.

The subject of the study is the study of the role of digital technologies in the process of protecting the rights of entrepreneurs by the prosecutor's office.

The purpose of the study is to analyze the activities of the prosecution authorities in the age of digital transformation, to identify problematic aspects and development prospects.

The implementation of digital projects in Kazakhstan increases the efficiency of activities and the law enforcement system. Under the leadership of the Prosecutor General, within the framework of the Digital Kazakhstan state program, a number of digital projects are being implemented, such as the Electronic Criminal Case (e-UD), the Unified Register of Administrative Offenses (ERAP), the Unified Register of Subjects and Objects of Inspections (ERSOP) and, together with the ICRIAP, the E-Appeal project. This work is carried out in a timely manner and at a high quality, developing in the right direction in the context of universal digitalization.

Methods

In the process of working on the study, the authors methodologically proceeded from the provisions on a comprehensive analysis of the stated goal. In this regard, general scientific,

private scientific and special research methods were used. But they used system analysis as a priority, since an analysis was made of digital components, thanks to which activities are carried out in the process of cooperation with other law enforcement agencies and other government agencies.

Results

At present, Kazakhstan should further develop the digitalization of the activities of the prosecutor's office and other law enforcement agencies, which allows protecting the rights of entrepreneurs. For these purposes, it is useful to refer to successful foreign practices. However, it is important to pay attention to other promising associations of states, in particular, the BRICS countries in the context of the emerging multipolar world. At the meeting of the heads of the prosecutorial services of the BRICS states, the participants discussed issues of countering the use of information and communication technologies for criminal purposes, including the commission of illegal actions in the economic sphere, which, among other things, implies the need to protect the rights of entrepreneurs. They paid attention to that the development of information technologies in the modern world causes their widespread penetration into all spheres of public life. Cryptocurrency payments, the use of artificial intelligence for commercial purposes in the market of goods and services are already becoming familiar. However, legal regulation does not keep up with new technologies, therefore, law enforcement gaps and conflicts in law enforcement practice are successfully used by attackers pursuing various illegal goals - personal enrichment, discrediting citizens, entrepreneurs and government agencies. For the stable development of national economies and the creation of a safe socio-economic space, it is necessary to share the best practices of departments in the fight against economic crimes,

Consolidation of national and international efforts in the fight against crime requires the use of a set of legal and organizational measures. Among them, not the last place is given to the practical cooperation of the competent authorities of various states with unconditional respect for the principles and norms of international law.

As a result of the meeting, its participants recognized the importance of:

- strengthening and continuing cooperation in order to ensure the rule of law, security and well-being of the population of the BRICS states and the world as a whole;
- transparency and accountability, which are of key importance for the implementation of effective methods of combating economic crimes, including in the virtual space, while ensuring compliance with due process of law;
- development and adoption of a universal international legal instrument in the field of the return of assets obtained by criminal means;
- ensuring the protection of the rights of entrepreneurs and the creation of a favorable economic environment for citizens of the BRICS states, as well as the exchange of accumulated experience;
- building up cooperation in matters of legal assistance in criminal cases, including the establishment and return of criminally acquired assets withdrawn abroad in order to protect the property rights of citizens;
- countering the spread of disinformation on the Internet that harms society and endangers the economy.

Representatives of the Prosecutor General's Offices of the BRICS countries expressed a common opinion that the interaction of states will gain momentum and bring even more tangible results in strengthening the rule of law, protecting the rights of citizens and combating transnational crime." They expressed confidence that information about the best practices of prosecutors in Brazil, Russia, India, China and South Africa can be used both to improve the efficiency of prosecutorial activities at the national level and to improve interstate cooperation in the legal sphere.

Discussion

The Committee, using modern technologies, concentrates on inspections of state bodies. During the pandemic, businesses suffered significant economic losses, and today the state is providing support to entrepreneurs, and a presidential moratorium on inspections is being applied. The business protection system has been maintained by the Committee since 2000, when the accounting and registration of inspections carried out against entrepreneurs began to be carried out. Since 2003, unreasonable inspections have been suppressed, including those that are carried out in relation to a business at the stage of registration. Since 2015, the Committee has become the coordinator of all inspections, and today not a single inspection of the regulatory body is carried out without taking into account the Committee.

The President of the Republic of Kazakhstan set a number of tasks to protect the rights of entrepreneurs, and for their timely and high-quality implementation, the General Prosecutor's Office developed and introduced new methods of supervision using innovative technologies, and now the entire process of recording and registering inspections has been digitized in the ERSOP information system. This system ensures the transparency of state control and supervision and was created to protect businesses from unlawful inspections.

In the old days, government agencies stood in line to receive a registration stamp. At present, the system has changed, the whole process is automated, which has happened largely as a result of integration with bodies that have departmental systems. The audit report and the result are issued electronically. This allows timely detection of illegal checks at the appointment stage, which is especially important during the moratorium period, which is valid until the end of 2022. There are many facts when there is a reason not only to refuse registration, but also to cancel the decisions of the first head of a local executive or central state body.

In order to prevent unreasonable inspections, the Committee has introduced a mechanism of action that does not allow appointing an unlawful inspection, and also provides for control over the timing, categories of business entities, grounds, etc.

At the same time, in order to prevent unlawful bringing to administrative responsibility and involvement of entrepreneurs in the criminal process, integration with the ERAP information systems and the Unified Register of Pre-trial Investigations has been ensured. In particular, by comparing information from ERAP and ERSOP, it is possible to identify the facts of bringing entrepreneurs to administrative responsibility without appointing inspections.

Operational interaction involves integration with information systems of other state bodies. ERSOP provides automatic selection of entrepreneurs who are subject to verification according to risk assessment. The system contains criteria that allow it to select complaints, checks, etc.

At the same time, the Qamqor mobile application was created directly for entrepreneurs, which allows them to quickly receive information about ongoing inspections, including clarifications on emerging issues, they can also leave complaints about inspectors.

The number of registered inspections in the first half of 2021 amounted to over 48,000, including 16,000 inspections by private entrepreneurs [1]. The Committee refused to register 306 unreasonable inspections, including 135 in relation to businesses. Entrepreneurs who encounter illegal actions on the part of employees of inspecting state bodies can report this to the single call center number of the Prosecutor General's Office - "115". Each entrepreneur who has been approached with an inspection can study the legal grounds for the inspection on the information service www.qamqor.gov.kz or in the Qamqor mobile application [2].

The Committee together with NCE "Atameken" developed a mechanism for registering raids of monitoring groups on the electronic platform "InfoKazakhstan". The protocol of the Interdepartmental Commission for the Prevention of Coronavirus Infection dated July 1, 2021 adopted additions to the "Algorithm for the actions of officials on the application of administrative measures in the event of violations of the requirements for compliance with restrictive measures, including quarantine" regarding the registration of raids by monitoring groups on the electronic platform "InfoKazakhstan", which was created by the Committee jointly with NCE "Atameken" [3].

These groups are currently required to visit entrepreneurs only after registering a raid in InfoKazakhstan. Departing to the object with a check, representatives of the monitoring group show the entrepreneur a printed act on the appointment of monitoring or show it on the smartphone screen.

At the same time, the subject of monitoring can use the application on a mobile device to read the QR code placed on the monitoring act and make sure that it is registered on the InfoKazakhstan electronic platform. This confirms the validity of monitoring, and ensures the protection of the entrepreneur from fraudsters and various abuses on the part of inspecting state bodies. The electronic platform allows you to save a digital trace of the activities of all review teams. There remains information about visited objects, established violations, objects with no violations, inspectors, etc. This allows you to analyze the activities of monitoring groups, excluding the establishment of facts of unreasonable visits to the same objects, as well as identifying persistent violators of sanitary requirements [4].

On September 1, 2020, the President of the Republic of Kazakhstan in his Address to the people of Kazakhstan "Kazakhstan in a new reality: time for action" instructed to introduce a three-tier model in Kazakhstan with a clear division of powers. This model is used in almost all developed countries. According to the model, three links are responsible for the criminal process: the police, the prosecutor's office and the court, whose powers are strictly delimited [5].

The police are engaged in the identification of crimes, the identification of persons involved, the collection of evidence. Prosecutor in accordance with Art. 83 of the Constitution of the Republic of Kazakhstan [6], gives an independent assessment of the collected evidence, prevents violations of the rights of citizens and their unreasonable involvement in criminal proceedings, supports the prosecution in court. The prosecutor, who monitors the legality, joins the process not before the case is received by him, but initially takes part in its investigation. Electronic coordination minimizes manipulation, which reduces the likelihood and possibility of falsification [7]. The Committee remotely supervises the reliability of legal statistics and provides objective legal information to authorized state bodies and all participants in the criminal process. Even at the investigation stage, the court exercises control over the observance of human rights, including control over the actions of the prosecutor, and as a result of the consideration of the case, evaluates all the arguments and issues a verdict.

In accordance with the instruction of the President of the Republic of Kazakhstan, at first, a procedure was introduced for the prosecutor to agree on the main procedural decisions that are made by the pre-trial investigation bodies in order to ensure the constitutional rights of persons involved in criminal prosecution.

Strengthening the protection of the rights of citizens in the criminal process required a change in legislation, but this was not the end of it. In the shortest possible time, the technical improvement of the information system of the Unified Register of Pre-trial Investigations (URDR), which is operated by the Committee, took place. This task was solved in 2020, when the amendments made to the Code of Criminal Procedure (CCP RK) entered into force [8], and all investigative and prosecutorial authorities began to electronically coordinate the main decisions in the criminal case.

At present, decisions on recognition as a suspect, determination of the qualification of the suspect's act, qualification of a criminal offense, interruption of the pre-trial investigation, termination, as well as the indictment are recognized as illegal without the consent of the prosecutor. This approach makes it possible to protect the constitutional rights of citizens, in which both the suspect and the victim are equally interested, as well as to exclude the facts of unreasonable involvement of persons in the criminal process and increase the level of objectivity of the investigation.

In order to implement the tasks set by the President of the Republic of Kazakhstan to protect the rights of entrepreneurs, the General Prosecutor's Office has developed and is implementing new methods of supervision using innovative technologies everywhere. This process is fully digitized in the information system "Unified Register of Subjects and Objects of Inspections" -

ERSOP, so today it is not required to stand in line for a registration stamp. Everything happens automatically, including the possibility of integration with authorities where departmental systems operate. The audit report and the result are issued electronically. This allows timely detection of illegal checks at the appointment stage

Conclusions

The potential of digital technologies as a transformative force for nations is clear, as is the commitment to bridging the digital divide.

Digital transformation is a transformation of the management system through a change in strategy, models, operations, products, marketing approach and goals, provided by the introduction of digital technologies, as well as the knowledge, skills and abilities of people to work with them in various areas of social life.

Digital transformation, of course, has also spread to public authorities, which, on the one hand, themselves began to work according to new principles and standards, and, on the other hand, began to pursue a targeted policy for the digitalization of the whole society.

The digitalization of the activities of public authorities is provided for by the national project "Digital Kazakhstan", within the framework of which law enforcement agencies and, above all, the Prosecutor General's Office of the Republic of Kazakhstan have introduced convenient and efficient electronic systems for interdepartmental interaction, as well as electronic platforms and mobile applications that allow entrepreneurs to independently control the legality of inspections and their results, send complaints to supervising prosecutors online, and prosecutors began to control inspections and court cases at all stages, since information about this became available automatically.

Moreover, digital innovations have already led to the fact that documents not registered in electronic systems are not recognized as legal. The transition to digitalization has increased the efficiency of the activities of the competent authorities, saves time for investigations, making decisions, optimizes the functionality of employees and ensures the safety of all data that can be promptly provided at the request of persons interested in them and entitled to appropriate access.

Prosecutorial verification and analysis are the main legal tools of the prosecutor in the field of protecting the rights of entrepreneurs. At the same time, the General Prosecutor's Office of the Republic of Kazakhstan draws attention to the fact that it is necessary to pay serious attention to the legal education of the inspecting competent state bodies, as well as the entrepreneurs themselves, so that the latter understand how they can file complaints within the time limits established by law, how to behave when appointing and conducting inspections, etc.

In order to identify violations in the actions of the bodies exercising control and supervisory powers in relation to business entities, it is necessary to reconcile planned and unscheduled events at least twice a year with a visit to their location. This measure will allow timely identification and response to violations of the rights of individual entrepreneurs and legal entities.

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Кәсіпкерлердің құқықтарын қорғау бойынша прокуратураның қызметіндегі цифрландырудың рөлі мен маңызы

Аңдатпа. Мақалада кәсіпкерлердің құқықтарын қорғау бойынша прокуратураның қызметіне цифрлық технологияларды енгізу мәселелері қарастырылған. Инновациялық дамудың ықпалына байланысты цифрландыру үдерісінің қарқынды дамуына негізделген әлеуметтік өмірдің барлық саласының қоғамдық кеңістігін түрлендіру жүріп жатыр. Цифрлық технологиялар дағдарыс кезінде шешімнің негізгі бөлігі екенін дәлелдеді, бұл үкіметтерге маңызды әлеуметтік қызметтерді көрсетуді жалғастыруға мүмкіндік береді, көптеген бизнеске өз жұмысын жалғастыруға және адамдарды байланыстыруға мүмкіндік береді. Сандық технологиялардың ұлттар үшін трансформациялық күш ретіндегі әлеуеті, цифрлық теңсіздікті жою жөніндегі міндеттеме айқын.

Авторлар ұжымы цифрландыру жағдайында прокурорлық қызметті ұйымдастырудың өзекті мәселелері мен перспективаларын талдайды. Өзара әрекеттесу және интеграциябасқа мемлекеттік органдардың ақпараттық жүйелері және олардың енгізудегі рөлі цифрландырудың бүкіл процесі және кәсіпкерлердің құқықтарын қорғау.

Түйін сөздер: цифрландыру, цифрлық технологиялар, прокуратура органдары, электрондық құжат айналымы, цифрлық трансформация, заңдылық, прокуратура органдарының қызметі.

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Роль и значение цифровизации в деятельности прокуратуры по защите прав предпринимателей

Аннотация. В статье исследуются вопросы внедрения цифровых технологий в деятельность органов прокуратуры по защите прав предпринимателей. В связи с воздействием инновационного развития происходит трансформация общественного пространства всех сфер общественной жизнедеятельности, которая основана на стремительном развитии процесса цифровизации. Цифровые технологии оказались ключевой частью решений во время кризиса, позволяя государственным структурам продолжать оказывать основные социальные услуги, обеспечивая возможность многим предприятиям продолжать свою деятельность и поддерживая связь с людьми. Потенциал цифровых технологий как преобразующей силы для государств очевиден, равно как и приверженность делу преодоления цифрового разрыва.

Авторским коллективом анализируются актуальные проблемы и перспективы организации прокурорской деятельности в условиях цифровизации. Рассматривается взаимодействие и интеграция с информационными системами других государственных органов и их роль в осуществлении всего процесса цифровизации и по защите прав предпринимателей.

Ключевые слова: цифровизация, цифровые технологии, органы прокуратуры, электронный документооборот, цифровая трансформация, законность, деятельность органов прокуратуры.

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