



ORIGINAL ARTICLE

DOI: <https://doi.org/10.30932/1992-3252-2022-20-6-10>

Topical Issues of Formation and Development of Moscow Interregional Transport Prosecutor's Office



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ABSTRACT

The objective of the study of issues related to participation of transport prosecutors in solving the problems of ensuring the rule of law in transport is to comprehend the role and significance of the transport prosecutor's office in the history of Russia and at the present stage of its development, to identify the most significant areas of activity of transport prosecutors and effective means of its implementation in the interests of implementing national tasks of socio-economic development, implementation of the provisions of the Transport Strategy of the Russian Federation until 2030 with a forecast until 2035.

Based on the application of the historical and legal method, the stages of formation and development of the transport prosecutor's office in Russia are identified, the regular relationships between development of the transport industry and the change in the role and legal status of transport prosecutors are identified, conclusions are drawn regarding the significance of development of the transport prosecutor's office in the modern period and the possibility of using the historical experience of legal regulation of relations with participation of transport prosecutors to solve urgent problems of transport system development.

The formal dogmatic and statistical analysis made it possible to reveal the main areas of activity of transport prosecutors, to formulate, based on

an analysis of the work of Moscow Interregional Transport Prosecutor's Office, conclusions about the most promising forms, methods and means of exercising the powers of transport prosecutors to ensure the rule of law in transport sector.

The use of systemic legal analysis made it possible to analyse the state and prospects for further interaction between Moscow Interregional Transport Prosecutor's Office and departments of Russian University of Transport for formation of a legal culture of future transport specialists, legal education of students and young people, to determine ways and means of solving the problems of civil law education of students using the potential and considering possible correlation of the efforts of the professors of legal disciplines of RUT University and transport prosecutors.

The implementation of individual proposals formulated by the authors can contribute to the increment of scientific knowledge about the role, directions, and forms of work of transport prosecutors, improve further interaction between Moscow Interregional Transport Prosecutor's Office and departments of Russian University of Transport to ensure the rule of law in transport, the implementation of the Cooperation Agreement between Moscow Interregional Transport Prosecutor's Office and Russian University of Transport.

Keywords: transport prosecutor's office, transport specialists, legal culture, legal education.

For citation: Openyshev, O. S., Zemlina, O. M., Yangez, D. I. Topical Issues of Formation and Development of Moscow Interregional Transport Prosecutor's Office. World of Transport and Transportation, 2022, Vol. 20, Iss. 6 (103), pp. 204–211. DOI: <https://doi.org/10.30932/1992-3252-2022-20-6-10>.

The text of the article originally written in Russian is published in the first part of the issue.

Текст статьи на русском языке публикуется в первой части данного выпуска.

INTRODUCTION

In the context of increasing diversity and complexity of transport relations, expansion of the composition of their participants, associated both with an increase in risks and threats to transport security and security in general, and the emergence of new, innovative types of vehicles, the issues of ensuring the rule of law in transport are of particular importance. Accordingly, the role of the transport prosecutor's office is significantly increasing.

In this regard, the attention paid by representatives of the scientific community, as well as practitioners, to the analysis of the role, to the search for the most effective directions, forms, and methods of work of transport prosecutors is fully justified.

Issues related to prosecutorial activities, the exercise of the powers of transport prosecutors have repeatedly become the subject of research by representatives of the scientific school in Transport Law, created and functioning at the Law Institute of the Russian University of Transport.

In particular, topical issues of prosecutorial supervision, carried out to ensure transport security and safety, were disclosed in sufficient detail both in monographic and educational literature [1; 2].

Understanding the directions and forms of work of transport prosecutors in this area can be facilitated by further scientific study of issues related to ensuring the security of transport infrastructure [3; 4], minimising the negative impact of the so-called «human factor» [5], countering terrorist threats in transport [6; 7], eliminating the risks of environmental damage [3; 5], improvement of technical regulation in the field of transport [8], etc.

The analysis of the features of the supervisory activities of transport prosecutors, aimed at protecting the legitimate rights and interests of business entities in a market economy, is given attention, first, in textbooks aimed at training future transport specialists [9, pp. 665–670].

The issues of prosecutorial supervision over the legality of the activities of control and supervision bodies in transport, the organisation of interaction between law enforcement and other bodies in the exercise of state control (supervision) in transport sector, are considered in detail and quite thoroughly, in textbooks focused, among other things, on improving the skills of the inspectors of the Federal Service on supervision

in the field of transport, training of RUT students in the relevant educational programs of higher education [10, pp. 298–300, 313].

It should be noted that several monographic and educational publications considered important aspects of ensuring the rule of law in transport sector under special conditions that are difficult for students to master and put into practice. They concern, in particular, the application of prosecutorial response measures to violations of law in a difficult epidemiological situation associated with the need to prevent the importation and spread of mass infectious diseases in transport sphere [11–13].

Of course, representatives of the scientific community could not ignore such a significant issue for prosecutorial activities in transport as combating corruption [14–16].

Problematic issues of participation of prosecutors in legal education of young people [17; 18], the implementation of youth policy in transport field [19–21], are also thoroughly considered in the works of representatives of the scientific school of Transport Law.

It is quite natural that consideration of many issues refers somehow, directly or implicitly from the point of historical analysis of development of legislation, to the timeline of prosecutor's office activity during different historical periods.

At the same time, despite the sufficiently large number of scientific publications on the history of the prosecutor's office, the topic of development of transport prosecutor's office is not very often subject to consideration. On the other hand, it is possible to mention recently published book «300 years of Prosecutor's Office in Russia. From the origins to our days» and some articles published during last decade [22–24].

The article is intended to fill to some extent that gap.

RESULTS

The History of Formation and Development of the Transport Prosecutor's Office of Russia

In the process of preparing for celebration of the 300th anniversary of the Russian Prosecutor's Office, specialists analysed and studied in sufficient detail the historical milestones in formation and development of this unique state institution, which has no analogues in world law enforcement practice.

This fact along with the presence of a significant number of other works of



a monographic nature, educational publications on the issue in terms of development of the prosecutor's office as a whole makes it possible to confine ourselves to an outline analysis of the most significant conclusions of specialists, to focus mainly on issues related to the history of development of the transport prosecutor's office.

Since creation of the prosecutor's office in Russia, which is considered to be established on January 12, 1722, the day Peter I (the Great) signed the Decree on establishment of the post of Prosecutor General, reporting directly to the Emperor, the legal status of prosecutors and the structure of the prosecutor's office has changed repeatedly.

However, at the same time, the importance attached to their role in ensuring the rule of law remained unchanged. In the above-mentioned Decree, in particular, it was said: «Now it is not necessary to work on anything like that» as how to quickly realise the urgent need of the state to appoint worthy people to the posts of general and chief prosecutors. When creating the prosecutor's office, Peter I set the task of «destroying or weakening the evil arising from disorder in business, injustice, bribery and lawlessness»¹.

The essence of the position of the prosecutor Peter I outlined very briefly and clearly: «This rank is like our eye». Since then, in Russia, the prosecutor's office has been called the «eye of the sovereign».

At all times, despite changes in the legal status of prosecutors, caused by the need to solve momentary problems, the main function of the prosecutor's office remained supervision over implementation of laws.

In particular, during the reign of Catherine II, the prosecutor had the following duties: to prevent violations of the law, to take measures to prevent violations, to protest against illegal acts. Beginning in 1802, the attorney generals officially became ministers of justice at the same time. In 1862, according to the Basic Provisions on the Prosecutor's Office approved by the State Council, the main goal of the Prosecutor's Office was to monitor the exact and uniform execution of laws in the Russian Empire. After the Judicial Reform of 1864, according to the Charter of Criminal Proceedings, the prosecutor's office was re-qualified as a body for criminal prosecution. The prosecutor was to

supervise the police inquiry and was also entrusted with monitoring the preliminary investigation.

In Soviet times, starting from 1922, according to the Regulations on prosecutorial supervision, the prosecutor's office was supposed to carry out work on behalf of the state to supervise compliance with the law by authorities, economic institutions, organisations and citizens operating in public or private order; to protest decisions and orders that are at variance with the law; supervise the activities of the bodies that carry out the investigation; to support state charges in court; to control whether the prisoners are properly held.

The Regulation on the Prosecutor's Office¹ established the legal status of the prosecutor's office as an independent, single, centralised system of state bodies, carrying out its activities regardless of the influence of the local authority, subordinated exclusively to the Prosecutor General of the USSR. At the same time, in the structure of the Prosecutor's Office, along with the Chief Military Prosecutor's Office, the Chief Prosecutor's Office of Railway Transport and the Chief Prosecutor's Office of Water Transport were created.

The Regulation on Prosecutorial Supervision in the USSR¹ clarified the purpose of prosecutorial supervision: prosecutors must appeal against all orders and legal acts that contradict legal norms, unjustified sentences, decisions, and rulings of courts. Also, the duties of prosecutors were charged with introducing submissions to state and public organisations regarding elimination of violations of the law and the reasons that contributed to these violations.

Currently, the prosecutor's office, as a body that is not part of any of the branches of government, operates on the basis of Art. 129 of the Constitution of the Russian Federation and in accordance with the Federal Law «On the Prosecutor's Office of the Russian Federation»² in accordance with the principles of legality, unity and centralisation of the prosecutor's office bodies, independence, openness.

The role and place of the transport prosecutor's office in the system of ensuring the rule of law in transport field was studied by specialists in the field of transport law.

It is fundamentally argued that the need to ensure the rule of law in transport sector

¹ 300 years of the Prosecutor's Office of Russia. Website of the Prosecutor General's Office. [Electronic resource]: <https://epp.genproc.gov.ru/web/gprf/about-the-proc/300-years>. Last accessed 05.10.2022.

² Federal Law No. 2202-1 of January 17, 1992 (as amended and supplemented) «On the Prosecutor's Office of the Russian Federation».

immediately after the 1917 revolution was particularly acute. Therefore, even before the creation of the Soviet prosecutor's office, there were revolutionary military transport tribunals. The tribunals, and then the military prosecutors, were entrusted with the functions of overseeing the observance of the rule of law in transport sector [19, p. 313].

To ensure supervision over the observance of legislation in transport sector, in the post-revolutionary period, along with the territorial prosecutor's offices, a transport prosecutor's office was created.

In accordance with the Regulation on Prosecutorial Supervision enacted in 1922, prosecutors were charged with the responsibility of supervising the observance of discipline and traffic safety rules in railway and water transport, ensuring safety of national economic goods transported by railway and water transport.

At the end of 1930, to strengthen the fight against crimes that threaten operation of transport, to bring the investigation of cases of these crimes closer to the place where they were committed and to speed up their proceedings, special prosecutorial bodies in railway transport and railway line courts were created³.

In 1933, the position of Chief Transport Prosecutor was established, which lasted until 1960.

By the decree of the Presidium of the Supreme Soviet of the USSR of March 3, 1960, the transport prosecutor's offices were liquidated with the transfer of their functions to the territorial prosecutor's offices. It is reasonably noted that over the next fifteen years, there has been a consistent increase in accidents and dangerous situations in transport sector, the number of thefts of goods transported by transport, especially import and export, has also increased, and the level of compliance with the law has reached a critically low level. In this regard, the issue of recreating the transport prosecutor's offices as independent subjects of prosecutorial supervision in the system of the USSR prosecutor's office has become especially relevant [19, p. 315].

By order of the Prosecutor General of the USSR No. 9 dated February 28, 1977, the transport prosecutor's offices were re-established, they obtained the status of district prosecutor's

offices. It is noted that reconstruction of the activities of the transport prosecutor's offices fully justified itself, and that resulted in creation of transport prosecutor's offices having the rights of the regional ones⁴. In the Prosecutor's Office of the USSR, a corresponding department was also created, which was later transformed into a department responsible for implementation of laws in transport sphere.

By order of the Prosecutor General of the Russian Federation of November 11, 1993, the subject and limits of supervision over implementation of laws by transport prosecutors have been determined. In particular, the bodies of the transport prosecutor's office were entrusted with supervision over legality of legal acts and implementation of laws by enterprises, organisations and institutions, public associations, officials of the Ministry of Railways of the Russian Federation, the Departments of Maritime, River and Air Transport, and over issues of enforcement of laws on the safety of railway traffic, sea, river, air transport, regardless of the form of ownership and departmental affiliation.

Thus, even the briefest analysis of legal acts that determine the historical milestones in formation and development of transport prosecutor's offices shows the dependence of emergence and restoration of their system on complexity of the tasks solved by the Russian transport system at the corresponding historical stages.

Transport Prosecutor's Office in Modern Conditions

The Prosecutor's Office of the Russian Federation is a single federal centralised system of bodies exercising supervision on behalf of the state over implementation of the legislation in force on the territory of Russia.

In conformity with paragraph «o» of the Article 71 of the Constitution of the Russian Federation, issues related to organisation and activities of the prosecutor's office, are within the jurisdiction of the Russian Federation. The powers, organisation and procedure for the activities of the Prosecutor's Office of the Russian Federation are determined by the Federal Law «On the Prosecutor's Office of the Russian Federation» (Article 129 of the Constitution of

³ Decree of the Central Executive Committee and Council of People's Commissars of the USSR of November 27, 1930 «On railway line courts and special prosecutorial bodies».

⁴ Order of the Prosecutor General of the USSR of November 5, 1980 «On organisation of transport prosecutor's offices in railway, water and air transport».



the Russian Federation). Also, the Constitution of the Russian Federation defines the procedure for appointing and dismissing the Prosecutor General of the Russian Federation and all lower prosecutors (part 2 of article 98 of the Constitution of the Russian Federation).

According to the part 2 of Art. 1 of the Federal Law «On the Prosecutor's Office of the Russian Federation» the main tasks and goals of the Prosecutor's Office refer to ensuring the rule of law; ensuring unity and strengthening the rule of law; protection (ensuring protection) of the rights and freedoms of man and citizen, as well as legally protected interests of society and the state.

Transport prosecutor's offices, which include prosecutor's offices for railway, water and air transport, being specialised prosecutor's offices, are included in the system of prosecutor's offices of the Russian Federation.

The powers of the transport prosecutor's offices, as well as the subjects of their jurisdiction, are strictly delimited, considering local conditions, the linearity and length of transport routes, as well as the location of transport facilities⁵.

Moscow Interregional Transport Prosecutor's Office (hereinafter – MITP) was established by the order of the Prosecutor General of the Russian Federation No. 117 of December 16, 2006, and has been exercising its powers since March 1, 2007.

The structure of MITP includes 22 transport prosecutor's offices (with the rights of district) [22, p. 221].

MITP employees supervise implementation of laws, observance of human and civil rights and freedoms, the legality of issued legal acts in the field of railway, air and inland water transport, as well as in the customs sphere. Their competence includes supervision over the criminal procedural and operational activities of the internal affairs bodies in transport, customs authorities, the procedural activities of the bodies of the Investigative Committee of the Russian Federation, coordination of the activities of law enforcement agencies to combat crime in railway, air and inland water transport, in customs sphere. Prosecutors take part in consideration by the courts of criminal, civil, arbitration and administrative cases, carry out organisational,

methodological, and operational management of subordinate employees.

The prosecutor's office operates in three federal districts: Central, Southern and Volga federal district. The «geography» of MITP's supervisory activity extends in whole or in part to the territory of 19 constituent entities of the Russian Federation – the city of Moscow, Moscow, Belgorod, Bryansk, Vladimir, Voronezh, Volgograd, Kaluga, Kursk, Lipetsk, Oryol, Penza, Ryazan, Rostov, Saratov, Smolensk, Tambov, Tver and Tula regions.

Supervisory activities of MITP are planned based on an analysis of the state of legality in this area, including the use of information from the media, the Federal State Information System «Single Register of Control (Supervisory) Measures» [ERKNM], public associations.

The prosecutor's office pays special attention to the issues of reducing administrative pressure on business, compliance with the requirements of the legislation on control (supervisory) activities.

In particular, the fact of ignoring the requirements of the legislation on state control (supervision), within the framework of the moratorium introduced on March 10, 2022, was established by the prosecutor's office during an audit of the activities of UGAN NOTB [direction of air supervision and supervision over transport safety] in the Central Federal District of Rostransnadzor (hereinafter referred to as the Office, UGAN). Control (supervisory) measures in relation to controlled persons, objects of control, provided for by annual plans, are subject to cancellation. However, in the act of the scheduled field inspection conducted by the Office in relation to JSC «C» it is indicated that the inspection is «suspended» (paragraph 11). These violations are reflected in the presentation of the prosecutor's office, submitted to the head of the Department. As a result of its consideration, the identified violations were eliminated, those guilty were subject to disciplinary responsibility.

In the first half of 2022, the interregional transport prosecutor's office, as part of ERCNM monitoring, revealed numerous violations of the rules for its maintenance.

Thus, the fact of untimely entry of data on the results of the check by an official of UGAN, in respect of which the prosecutor's office initiated an administrative offense case under part 3 of article 19.6.1 of the Code of Administrative Offenses of the Russian Federation, was

⁵ Order of the Prosecutor General of the Russian Federation dated May 7, 2008 No. 84 «On delimitation of the competence of prosecutors of territorial, military and other specialized prosecutor's offices».

established. The guilty person was brought to administrative responsibility in the form of a warning.

Particular attention is paid by the prosecutor's office to the study of the results of control (supervisory) measures, the execution of their results.

Under the close attention of the interregional transport prosecutor's office is the observance of the rights of economic entities in the provision of public services to them.

An audit conducted by the interregional transport prosecutor's office in Moscow (hereinafter – MTD) and South-East (hereinafter – SETD) territorial departments of the Office of the Federal Service for Supervision of Consumer Rights Protection and Human Welfare in Railway Transport (hereinafter – the Office, Rosprotrebnadzor on railway), revealed numerous violations of the law.

In the first half of 2022, compliance with the rights of foreign economic activity participants was checked when providing them with public services on customs matters. Prosecutorial checks established the facts of improper informing the applicants about the date and time of provision of the service, and failure to comply with the procedure for sending responses based on the results of provision of services. There have been cases of their provision by unauthorised persons in premises that do not meet the requirements. Such violations were revealed by Moscow–Yaroslavl and Moscow–Kursk transport prosecutors.

Interregional Transport Prosecutor's Office constantly monitors electronic information and reference systems of projects and adopted regulatory legal acts of state authorities of the constituent entities of the Russian Federation that regulate issues of entrepreneurial, investment activities, state control (supervision) and municipal control.

In the first half of 2022, the prosecutor's office and transport prosecutors (with the rights of district prosecutors) in the course of studying the legal acts of local governments identified provisions that infringe on the rights of business entities.

For example, the Bryansk transport prosecutor's office, established in the rules for improvement of the territories of rural settlements in Bryansk region the facts that representative bodies of local government impose on railway enterprises the obligation to clean and maintain

railway tracks in the right of way of the railway, which contradicts the requirements of Articles 87, 90 of the Land Code of the Russian Federation.

The work of Moscow Interregional Transport Prosecutor's Office to strengthen the rule of law in the field of protecting the rights of legal entities and individual entrepreneurs in modern conditions, when unprecedented sanctions pressure from unfriendly states creates obstacles to normal development of business in the field of transport, needs, more than ever, systematic reflection and scientific support.

Topical Aspects of Participation of Moscow Interregional Transport Prosecutor's Office in Formation of the Legal Culture of Future Transport Specialists

The issues of formation of legal culture have traditionally been essential for training of future transport specialists [23, p. 249; 24, pp. 262–263].

In this regard, interaction of lecturers of RUT Law Institute with the employees of Moscow Interregional Transport Prosecutor's Office is not only justified, but also necessary for formation of respect for the law among future transport specialists, of the ability to adequately interpret legal norms and apply them in the activities of the upcoming official assignment.

The existing systemic interaction between the employees of Moscow Interregional Transport Prosecutor's Office and the teaching staff of RUT received a new impetus during preparation and celebration of the 300th anniversary of the Russian Prosecutor's Office. A monthly student lecturing event «300 years on guard of the law» was organised as well as a competition of student projects «Russian prosecutor's office: 300 years on guard of the law», the results of which were summed up on March 16, 2022 at the All-Russian scientific and practical conference «Russian prosecutor's office: history, modernity and development prospects».

At present, when the course towards the innovative policy of the transport industry has predetermined new approaches to training of professional personnel for transport organisations, as evidenced by the Concept of training personnel for the transport complex until 2035, the role of the transport prosecutor's office in the legal education of young people and students of Russian University of Transport is constantly increasing and carried out in various directions.



Thus, on April 20, 2022, the All-Russian Scientific and Practical Conference «The Role of Civil Society Institutions in the Transport Security System» was held at the discussion platform of RUT Law Institute, organised by Russian University of Transport (Department of Transport Law of the Law Institute), Moscow Interregional Transport Prosecutor's Office and the Interregional Public Organisation «National Committee of Public Control».

As part of RUT Science Week (2022), the Law Institute of Russian University of Transport, together with Moscow Interregional Transport Prosecutor's Office, carried out a series of activities aimed at implementing the provisions of Transport Strategy of the Russian Federation until 2030 with a forecast for the period up to 2035, which provides as the most important condition for development of transport systems of Russia introduction of innovative technologies and improvement of the system of personnel training, integration of science, education and business.

Thus, the Competition of research projects of students and Ph.D. students on the topics «Problems of legal support for implementation of sectoral transport policy in the context of modern challenges and threats», «Problems of legal support of environmental safety in transport» were attended by more than 120 students and Ph.D. students. Based on the results of the discussion, more than thirty articles were selected for publication in the collection of scientific articles «Legal Support for Transport Policy and Security in Transport: Experience, Problems and Prospects»⁶, reflecting the results of research projects that have already been placed in the RSCI bibliometric database. The ceremony of awarding the winners, among which were not only RUT students, but also representatives of the law faculties of the Institute of Legislation and Comparative Law under the Government of the Russian Federation; Financial University under the Government of the Russian Federation; International Law Institute, as well as Belarusian State University, was organised as part of the

Interdepartmental Scientific and Practical Seminar «On the directions of interaction between Moscow Interregional Transport Prosecutor's Office and the Russian University of Transport», held on September 28, 2022. At the same event, the signing of the Cooperation Agreement between Moscow Interregional Transport Prosecutor's Office and Russian University of Transport took place, the ceremony was attended by Moscow Interregional Transport Prosecutor K. N. Bukreev and the rector of Russian University of Transport A. A. Klimov.

There is no doubt that the events held will facilitate the formation of law-significant competencies among future transport specialists whose activities will be associated with the application of numerous, sometimes conflicting rules of law under the conditions of a complex and dynamically changing environment, typical for functioning of the transport system of Russia.

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⁶ Legal support of transport policy and transport security: experience, problems and prospects. Collection of scientific papers based on the results of scientific events organized by the Department of Transport Law as part of preparation and holding of the Science Week at Law Institute of RUT (MIIT). Moscow, KnoRus publ., 2022, 344 p. ISBN 9785466017908. [Electronic resource]: <https://www.litres.ru/aleksandr-igorevich/pravovoe-obespechenie-transportnoy-politiki-68005310/>. Last accessed 05.10.2022.

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Article received 23.09.2022, approved 03.11.2022, accepted 11.11.2022.

