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## Characteristics Of Providing Legal Services To Business Entities By Legal Consultancy Organisations

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### ABSTRACT

This article highlights certain aspects of the provision of legal services to business entities by legal consulting organizations in the Republic of Uzbekistan. The author notes that in addition to lawyers, legal consulting structures are also involved in the provision of legal services. Also, the views of Uzbek and foreign researchers and scientists on the positive and negative aspects of competition in the legal services market are analyzed. In particular, established that at the moment there is no single procedure for the provision of legal services to business entities, in this regard, the problems existing in practice and in the doctrine have been considered in detail. The author comes to the conclusion that in order to improve the quality of the provision of legal services by lawyers and other structures, in particular, to establish their professional ethics, civil liability and uniform standards for the provision of services, a special law should be adopted.

### KEYWORDS

Legal services, organization of legal consulting, lawyer, lawyer monopoly, business entity, uniform professional and qualification standards

### INTRODUCTION

The address of the President of the Republic of Uzbekistan Sh. Mirziyoyev to the Oliy Majlis on December 22, 2017 [1] set out the objectives of the program for further development of the

legal profession, according to which today the work is underway to take measures to improve the activities of lawyers in the field of consulting services - the provision of legal

assistance to business entities and to expand the scope of activities of lawyers to provide legal services.

It should be noted that today in the market of legal services there is a competition among lawyers. In particular, in accordance with paragraph 3 of the Decree of the President of the Republic of Uzbekistan dated May 12, 2018 No PF-5441, commercial organizations can provide legal advice without a license, and it was stated that the mentioned organizations do not have the right to represent the client in the courts on civil, criminal (administrative offenses), economic and administrative cases [2].

The decree's goal is to increase legal aid to the general public, as well as counsel and legal help for enterprises and international investors. Therefore, in order to promote a competitive environment, it is proposed to expand the range of entities providing legal advices [3].

Pursuant to the Regulation "On the provision of legal advice by commercial organizations", approved by the Cabinet of Ministers of the Republic of Uzbekistan dated August 17, 2018 No 675, an organization of legal advisers is referred to as a commercial organization providing legal advice or providing legal consulting which is included in the register of commercial organizations providing legal advice [4].

The major distinction between a legal adviser and legal consulting structure is that the legal advising organization is unable to provide legal advice and representation on cases before law enforcement agencies and courts, perform legal tasks, or participate in the preliminary inquiry. At the same time, the organization of

legal advisers can be organized and carry out its activities in any organizational and legal form, except for joint-stock companies.

## MATERIALS AND METHODS OF RESEARCH

The research employs logical, historical, comparative-legal, clear sociological, complex examination of scientific sources, statistical data analysis, interpretation of legislation, and law enforcement practice analysis.

## DISCUSSION OF THE FINDINGS

In addition to advocacy, legal counseling is becoming more popular in our country. In the Republic of Uzbekistan, there are now 65 legal service (legal consulting) organizations [5].

Consulting is a consulting activity that is a required form of service for business entities in current age of rapid technological and business development.

The essence of consulting is reflected in making proposals and solutions aimed at solving complex problems for business entities, determination of the financial condition of the company and the organization of production activities, sale of goods that are the result of production activities and making recommendations that should be applied in the process of providing services, efficient use of assets and attraction of third party investments, scheduled audit, introduction of personnel training system, implementation of management skills in management, improving the overall efficiency of labor activity in the organization [6].

The emergence of consulting sector dates back to the 1960s. Business Week, which has expanded dramatically since then and now

includes ten large US consulting firms, rose at a rate of 10% each year in the late 1990s, up from 14% in 2000. [7] The expansion of consulting operations has been aided by a variety of factors. First, many companies lack the internal workforce to perform all of their necessary tasks as a result of the corporate downsizing trend, and second, the complexity of today's business environment - as a result of regulation, globalization, and technological development, many companies require practical and effective business development advice.

Business entities should assess the nature of the actual problem, the reasons for not being able to address it rationally using internal resources, and the assumption of positive outcomes that may be expected by inviting a consultant when considering whether to engage their services.

According to John Adams, there are numerous scenarios in which a consultant's services are necessary, including a company's real income rising flat or slowly, an increase in expenditures compared to income, and the obsolescence of the business management system [8].

David Jones states that when the need for the services of a consultant in the company's activities arises when the manager has a desire to have an optimal program to reorganize the entire system and the production process, at the necessary stages of increasing competitiveness, it also occurs when a company goes bankrupt or engages in harmful production activities and in the process, consulting firms will be tasked with rescuing their respective businesses from the crisis.

In the selection of qualified consulting professionals by business entities and before signing a contract with them, attention should be paid to reports on the work of previous trustees, the cost of services provided, experience and potential of the consultant, for the period of operation of the consulting company [9].

Based on the scope of the topic, if we consider the activities of providing legal consulting services to business entities, first of all, legal consulting is the assistance of legal professionals in solving problems arising from the relationship between individuals and legal entities, verbal advice and explanations on the issues, as well as a system of processes related to the submission of written references.

In practice, there is a category of organizations that are not regulated by law, which provides legal advice and complex procedures in the process of registration and liquidation of legal entities, which is called legal consulting. Unfortunately, the provision of legal advice by these entities has been overlooked by the authorities [11]. It is important to pay attention to the fact that these entities have access to and use of commercial and confidential information of trustees - legal entities, as well as personal information about their employees.

I. Azizov was right when he noted that other categories of legal entities providing consulting services operate in the unregulated zone:

- 1) Consulting firms - residents and non-residents operating in the field of business (without declaring a narrow specialization);

- 2) Consulting firms that have announced a narrow specialization. For example, in the field of construction, securities market, TIF contracts examination and pre-shipment inspection, in the field of engineering, etc.;
- 3) Freelancers - individual consultants (residents and non-residents) [11].

I. Azizov says that taking into account foreign practice, consultants-lawyers can operate in their narrow specialties and apply only to entities engaged in commercial turnover in the field of substantive law (eg, tax law, accounting, banking law, financial law, securities circulation, etc.). should be allowed to advise [11].

We agree with this opinion and propose the followings for their operation:

Introduction of licensing procedures for consulting activities in narrow specialties;

Uniform qualification and service quality requirements for all specialties;

Consultancy operations be fully regulated and insured, and liability risks be resolved;

Establishment of a state entity to supervise consulting organizations or a single self-governing body for legal advice organizations.

The 2015 report of the International Bar Association states: “Most lawyers work outside the system of self-government (bar or other independent structure) - this means trusting individuals who do not comply with the requirements of the legal system, mainly the code of ethics and the disciplinary system. Consequently, many people who have applied for justice, including the restoration of violated human rights, they cannot prosecute their

legal representatives, even if they find that their actions have been carried out by incompetent, negligent or immoral persons.” [12]

It should be highlighted that in foreign nations, the regulation of granting and denying legal assistance remains under governmental supervision, with various degrees of independence for professional groups of attorneys [11]. On the contrary, the existing lack of regulation in Uzbekistan may have a detrimental impact on the quality of legal assistance supplied to the population, as it permits unscrupulous individuals to exploit citizens' and legal entities' personal (confidential, commercial) information and assets.

It is important to note that the following steps should be done to ensure that individuals and legal entities receive high-quality legal representation:

Development of a method for lawyers from legal advisory organizations who do not have the status of a lawyer to be admitted to the legal field, as well as quality monitoring of legal services supplied by them;

Introduction of uniform training and qualification requirements for legal advisers in the organizations of legal advisers, which are the same as the requirements for lawyers, including the following requirements for lawyers in the field of consulting:

- Having law degree and credentials;
- Having passed an examination on substantive and procedural law of the Republic of Uzbekistan in order to provide legal advice on Uzbekistan's laws;

- A lawyer's professional civil liability insurance is required;
- The lawyer's personal liability before the client is required;
- A lawyer's participation in the advanced training is required;
- Lawyers are subject to the same disciplinary oversight and termination of entrance to the profession as the institute of advocacy;
- Maintaining a public register of consulting lawyers (showing expertise, credentials, experience, and other relevant information for customers);
- Independent introduction of mandatory compliance with the rules of disciplinary control and professional ethics of lawyers in the field of consulting.

In practice, the accomplishment of all of the above standards, in our opinion, eliminates the distinction between advocacy and legal consulting. However, progressive strengthening of these standards is important, as the sudden removal of the democratic, popular, and flexible nature of consulting agencies in compared to today's advocacy may result in a large reduction in their composition.

In light of the foregoing, it is prudent to gradually implement the following processes for state supervision of the legal services market: First and foremost, licensing (there are still corporate and individual licensing or professional permits, but in practice it always turns out to be an individual legal advisor). Lawyers who engage in consulting activities, in our opinion, should obtain a separate permit (license, certificate, or certificate) to do so (except, of course, for tax, notary, advocacy, audit and other activities).

Second, regardless of their place of employment, all lawyers must recognize and follow the same principles of ethics and professional conduct. To accomplish so, the legal community must adopt uniform rules of behavior and professional standards, as well as the sequence in which they must be followed and disciplinary measures to be taken in the event of a violation.

Third, the lawyer has full responsibility for the consequences of his professional activity and the legal advice he provides. In Western nations, the types of limited liability organizations utilized only limit the culpability of the remaining parties, and the guilty lawyers are held completely responsible in any instance [14].

Special organizational and legal forms for legal consultation, as well as the legal structures presently operating in Uzbekistan, such as:

- a) Foreign individual lawyers or legal organizations;
- b) Local business consulting lawyers, should be established in the law.

These businesses operate in a different way than lawyers, in the form of commercial entities.

Fourth, insurance of civil liability of lawyers to ensure that the clients' or sgments' rights are not violated as a result of fraud and abuse or in other words, it is necessary to envisage their professional liability insurance ("professional indemnification" - PI [11]). All professionals wishing to engage in legal services must have a license as well as an insurance card.

The execution of these recommendations, of course, necessitates a thorough examination



of all areas as well as an assessment of the benefits and drawbacks. For example, a special licensing system for legal consulting agents could be established (a similar system exists in Poland) [14].

The development and implementation of a specific law - the Law "On qualified legal services" - is, in our opinion, the solution to the challenges faced by law firms and other organizations in providing competent legal aid and advisory services to businesses. Because it provides direct accountability for unskilled services, the implementation of such a regulation will help to improve the quality of legal aid. Improving the quality of legal services and providing qualified legal advice would aid in the resolution of issues such as dishonesty in the execution of their obligations. To remove unqualified legal activity in the current circumstances, it is important to create norms at the legislative level. The introduction of uniform qualification requirements for people who supply professional legal services restricts the ability to engage in legal activities in the labor market without passing the lawyer qualification examination and proving the obtained qualifications.

Given the possibility that Uzbekistan would join the World Trade Organization in the near future, it is critical that it adhere to the organization's regulations in order to promote international collaboration. The only way out of this scenario is to provide similar requirements (standards) and conditions for all legal service providers on Uzbekistan's territory.

The following duties will need to be handled if the proposed law "On qualified legal services" is passed:

- The introduction of certain professional and other qualification requirements for all people involved in the legal assistance process;
- Maintaining control over admission to the practice of advocacy and other legal professions;
- Development of additional rules to ensure control over the quality of legal aid;
- Establishment of mandatory requirements for the provision of reliable information on their qualifications and possible professional risks to the person providing confidence to persons providing qualified legal assistance, the mechanism of civil liability insurance.

It should be noted that the adoption of this law will further liberalize the legal profession in Uzbekistan, increase its popularity and attractiveness to investors. This is substantiated by surveys as well, for instance, in a public opinion poll, 80% of respondents agreed that it would be appropriate for law enforcement agencies and other organizations in Uzbekistan to adopt a special law on qualified legal assistance and consulting services for individuals and legal entities.

## CONCLUSION

1. Given the foreign practice, consultant-lawyers can operate within their narrow specialties and they should be allowed to advise the subjects of trade only in areas of substantive law (eg, tax law, accounting, banking law, financial law, securities turnover, etc.). This activity should be carried out on the following grounds:

Introduction of licensing procedures for consulting activities in narrow specialties;

Introduction of uniform qualification and service quality standards for each specialty;

Full regulation and insurance of consulting activities, resolution of liability issues;

Establishment of a state body supervising organizations engaged in consulting activities or a single self-governing body for organizations of legal advisory activities.

Accordingly, there should be a mechanism in place to monitor and prevent all types of legal advice from practicing their profession in cases of abuse, incompetent assistance, fraud, and other forms of dishonesty.

2. It is expedient to include the following procedures in the state control over the market of legal services:

First, licensing.

Second, all lawyers, regardless of the workplace, must recognize and adhere to the same rules of ethics and professional conduct.

Third, the fundamental principle is that the lawyer is fully responsible for the consequences of his professional activity and the legal advice s/he gives.

Fourth, the activities of legal advisers should be insured against civil liability.

3. Development of a special law - the Law "On qualified legal services", which should address the following issues:
  - Establishment of certain professional and other qualification requirements for all persons involved in the process of providing legal assistance;

- Ensuring control over the admission to advocacy and other legal professional practice;
- Development of additional rules to ensure control over the quality of legal aid;
- Establishment of mandatory requirements for the provision of reliable information on their qualifications and possible professional risks to the person providing confidence to persons providing qualified legal assistance, the mechanism of civil liability insurance.

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