

RESEARCH ARTICLE

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STRENGTHENING THE LEGAL STATUS OF ADVOCATES

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Abstract

The article examines the issues of strengthening the guarantees of the advocacy as the main human rights institution, analyzes the reforms of the institute of advocacy carried out in the country in recent years, in particular, strengthening the status and providing guarantees to advocates, increasing the reputation and prestige of the advocate's profession, as well as further development of the system of the institute of qualified advocacy based on the principle of competitiveness, rivalry, as well as attracting interest young people in this field.

Keywords Guarantees of the advocacy, strengthening the status of an advocate, principles of legality, independence and self-government, non-interference in the activities of an advocate.

INTRODUCTION

Over the years of independence, 3 Laws and several by-laws have been adopted in order to reform the institution of the advocacy, further strengthen the status and provide guarantees to advocates, and increase the reputation and prestige of the advocate's profession. In turn, these normative legal acts and documents have formed a kind of practice, prompted advocates to carry out their activities on a professional basis.

In other words, these reforms in the judicial and legal sphere are of particular relevance and focus on further liberalizing legislation on the legal profession and strengthening the role and status of an advocate. Information and communication technologies are being actively introduced into the activities of the legal profession. Thus, licensing is carried out through the "License" information system, a unified database of lawyers "E-advokat" has been created, and the practice of issuing an "Electronic Advocate's Warrant" by law enforcement agencies is being introduced. Work in this direction continues. The State Program for the implementation of the Development Strategy of

New Uzbekistan for 2023 provides for the introduction of the procedure for submitting a criminal case to the courts together with an accusation (bill of indictment) and the opinion of the defense, as well as the abolition of the requirement to have at least two years of work experience in the legal profession in order to obtain a license granting the right to practice advocacy .

The ongoing changes in the country also indicate that it is important to radically reform the institution of the advocacy, which is an integral part of judicial and legal reforms, strengthening its importance in the field of protecting individual rights and freedoms, as well as ensuring its true independence. There were a number of problems in the field of advocacy that require strengthening the status of advocates. In particular, the genuine equality of the defender and the prosecutor is insufficiently ensured, the lack of attractiveness of the legal profession, problems with the effective exercise of powers. Therefore, solving these problems is important.

The modern historical period of the Republic of Uzbekistan has proved that judicial and legal

reform cannot be carried out in isolation from the improvement of the legal profession system, which is inherently designed to defend and protect the rights and interests of the individual. In turn, the bar carries out its activities on the basis of international standards. In particular, the special role of advocates as a reliable defender of human rights is indicated in the Basic Principles on the Role of Lawyers adopted within the framework of the United Nations. Therefore, as part of the constitutional reform, it was also proposed to pay attention to strengthening the institution of the advocacy.

The new version of the Constitution has been supplemented with a separate chapter on the advocacy.

This chapter provides for a number of new guarantees for advocacy. Most importantly, the institution of the bar acquires a genuine constitutional status on a par with the court and the prosecutor's office. Thus, it is proposed to assign the role of providing qualified legal assistance to the advocacy. Consequently, the guarantees for obtaining qualified legal assistance from professional advocates are being strengthened.

It is separately established that the activity of the advocacy is based on the principles of legality, independence and self-government. These principles of advocacy are important for the rule of law. In a State governed by the rule of law, ensuring a balance of power between the State and society is a prerequisite for the establishment of a democratic regime. This requires the strength of civil society institutions, in particular the legal profession. The advocacy, in fact, symbolizes legal protection, and also has the leverage to influence others in order to ensure legality. This lever can be used by all legal remedies that can be applied by a advocate. According to the Chamber of advocates of the Republic of Uzbekistan, in 2022, advocates of Uzbekistan provided legal assistance in more than 192 thousand cases, and about 97 thousand legal consultations were conducted free of charge. Therefore, the state is interested in the development and strengthening of advocacy. In other words, the advocacy, independent and protected from outside interference, restrains the

illegal actions of both individuals and government agencies and officials. It is in this regard that the independence of the advocacy is considered as a necessary requirement for the democratization of society.

Legality can be considered from two sides, both the observance of laws by lawyers and the regulation of legal activity only by law. It is the law that should determine the licensing and qualification requirements for advocates. The existence of clear, clear and transparent rules for acquiring the status of an advocate ensures that persons applying for this profession are well aware of the requirements and are evaluated on the basis of objective criteria that are equally applicable to all candidates.

Self-government characterizes the independence of the institute of advocacy in solving its important issues. By consolidating this principle, the State restricts arbitrary and unjustified interference in the professional activities of an advocate. The constitutional consolidation of self-government means the professional independence of lawyers. Self-government makes it possible to form a unified system of management of the advocacy system, to turn the bar into the main human rights institution of civil society.

The changes in the framework of this chapter also affected the strengthening of guarantees for the professional activity of advocates. The new version of the Constitution stipulates that interference in the activities of a lawyer in the exercise of his professional duties is not allowed. Guarantees of non-interference in professional activities are a key condition for the independence of the advocacy. A truly independent legal profession can help people and society protect and defend their legitimate rights. The duty of the advocate and the institution of the advocacy as a whole is to serve the rule of law and the broader public interest. The protection of advocacy from external influences allows advocates to act for the benefit and in the legitimate interests of the principal and society as a whole, without fear of unlawful prosecution and without being subjected to any influence. It is the guarantee of non-interference that fully corresponds to the realization of advocate's immunity. After all, the advocate's personality is

inviolable, which applies to the living quarters, the place of work of the advocate, his vehicles, belongings and means of communication, business correspondence and documentation.

Violation of the inviolability of advocates will be regarded as a violation of the rights of advocates, which may entail liability provided for by law.

One of the important guarantees provided to an advocate is the provision by the state of conditions for an unhindered and confidential meeting and consultation with his client. This guarantee makes it possible to achieve procedural equality between the representatives of the prosecution and the defense at various stages of the proceedings, in particular in the framework of criminal proceedings. Unfortunately, in Soviet times, the defense side was not equal to the prosecution side, often the courts were on the prosecution side. Sometimes the evidence presented by the advocates was regarded as secondary. The opinions of lawyers were rarely taken into account when resolving legal disputes.

Thanks to the ongoing reforms, the situation is beginning to change. A number of changes have been made to the Criminal Procedure Code of the Republic of Uzbekistan. Lawyers are given the opportunity to familiarize themselves with all the materials of the case and extract the necessary information from it. It was guaranteed that the lawyer has the right to meet with his client from the moment of detention, while their duration and number are not limited. Now these guarantees are fixed at the level of a constitutional norm. This will allow it to be applied to all types of lawyer's activities, not limited to criminal proceedings. In addition, the constitutional norm will provide organizational conditions for the implementation of the rights of advocates under consideration (meeting in special rooms without audio and video surveillance devices, as well as without the participation of outsiders).

The new version of the Constitution also enshrines the protection of the lawyer and his professional activities by the State. At the same time, the professional rights, honor and dignity of an advocate are protected by law. Such guarantees are designed to exclude administrative influence on advocates, as a result of which the autonomy and independence of the advocacy may be undermined. Guarantees of protection from the state will help to increase the attractiveness of advocacy. Unfortunately, the number of advocates is insufficient. There are more than 4.5 thousand advocates operating in the country, and about 7.8 thousand citizens per advocate. For comparison, this figure in Germany is almost 500, in the Russian Federation – about 1900, in Kazakhstan – more than 3,800 residents. These figures clearly show the importance of raising the status of advocates.

In conclusion, it can be noted that the people themselves benefit from a strong advocacy. Representing the interests of individuals, a strong legal profession will properly protect human rights and exercise public control. In the end, the adversarial nature of the parties in the courts will increase, the practice of bringing innocent people to justice, as well as illegal actions by state bodies in relation to citizens, will be eliminated. In turn, the quality of professional legal assistance and the prestige of the lawyer's profession will increase.

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