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SUBMITTED 10 May 2025

ACCEPTED 06 June 2025

PUBLISHED 08 July 2025

VOLUME Vol.07 Issue07 2025

CITATION

Sh.Khujayev, & M.Mamayeva. (2025). Licensing of advocacy: the experience of Kazakhstan and Uzbekistan. *The American Journal of Political Science Law and Criminology*, 7(07), 8–12.

<https://doi.org/10.37547/tajpslc/Volume07Issue07-02>

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Licensing of advocacy: the experience of Kazakhstan and Uzbekistan

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Abstract: This article presents a comprehensive comparative analysis of legal advocacy licensing mechanisms in Uzbekistan and Kazakhstan. Given its crucial role in safeguarding the rights and freedoms of individuals and legal entities, advocacy is a subject of significant reform in both jurisdictions. The authors investigate how licensing serves as a key instrument for upholding the professionalism and legal competence of practicing lawyers. The research outlines the constitutional underpinnings, legal frameworks, and practical procedures that regulate advocacy in each nation, with particular emphasis on adherence to international standards such as the UN Basic Principles on the Role of Lawyers (1990) and the IBA Standards.

Furthermore, the paper meticulously examines eligibility criteria, encompassing citizenship, legal education, professional examinations or certification, practical internships, and ethical conduct requirements. It also addresses the integration of e-government platforms for the issuance, monitoring, and control of licenses, identifying shared practices and distinctive features concerning administrative procedures, as well as grounds for the refusal, suspension, and termination of licenses. Through a comparison of legal practices and institutional arrangements, this article illustrates the concerted efforts of both Kazakhstan and Uzbekistan to elevate the quality and integrity of legal services via robust, regulated licensing systems. This study offers valuable insights into the contribution of licensing to legal reform and the fostering of a resilient, independent advocacy system.

Keywords: Advocacy, legal profession, licensing system,

legal reform, qualification requirements, judicial regulation.

Introduction: Advocacy stands as a cornerstone institution for protecting human rights and freedoms, as well as the rights of organizations and companies. Lawyers, through their provision of qualified legal assistance, are instrumental in safeguarding their clients' interests. This vital function underscores why advocacy receives significant global attention.

In both Uzbekistan and Kazakhstan, advocacy is considered a pivotal institution within the national legal system. Consequently, ongoing reforms in these countries, as part of broader judicial and legal transformations, aim at further liberalizing advocacy legislation and strengthening the role and status of the lawyer.

The Constitution of Kazakhstan mentions lawyers in the context of the right to legal assistance during criminal prosecution. In contrast, the updated Constitution of Uzbekistan features a dedicated Chapter XXIV on advocacy. This chapter establishes crucial guarantees, including:

- a) the proclamation of the principles of legality, independence, and self-governance of advocacy.
- b) the inadmissibility of interference in a lawyer's professional activities.
- c) the protection of a lawyer's honour, dignity, and professional practice.

Both Uzbekistan and Kazakhstan regulate the organization of advocacy at the legislative level through laws adopted by their respective parliaments.

The Essence of Advocacy Licensing

Considering advocacy's societal role, Uzbekistan and Kazakhstan have adopted a "licensing advocacy" model. This means that engaging in legal advocacy in both countries is permissible only after obtaining a license. Consequently, a legislative permit requirement exists: a lawyer must obtain a license authorizing them to engage in advocacy in the prescribed manner. Practicing advocacy without a license may lead to administrative or criminal liability.

This "licensing advocacy" model fully aligns with international standards in the field. The UN Basic Principles on the Role of Lawyers of 1990 stipulate that governments, professional associations of lawyers, and educational institutions must ensure the proper qualification and training of lawyers, their knowledge of professional ideals and moral duties, as well as human rights and fundamental freedoms recognized by national and international law. At the same time,

the method for ensuring and determining qualifications is independently decided by individual states.

Furthermore, the UN Basic Principles on the Role of Lawyers of 1990 require that access to the legal profession be free from discrimination based on race, color, sex, ethnic origin, religion, political or other opinion, national or social origin, property, class, economic, or other status. However, the requirement that a lawyer must be a citizen of the relevant country is not deemed discriminatory. In Uzbekistan and Kazakhstan, only citizens of these countries may become lawyers, a rule consistent with the UN Basic Principles.

The IBA Standards for the Independence of the Legal Profession assert that every person with the necessary legal qualifications has the right to become a lawyer. In our view, licensing precisely enables the determination of this qualification and confirms a lawyer's capacity to provide qualified legal assistance.

Legal Regulation of Advocacy Licensing

In the Republic of Uzbekistan, the requirement to obtain a license is stipulated as one of the mandatory conditions for acquiring lawyer status, as per Article 3 of the Law of the Republic of Uzbekistan "On Advocacy". Article 1 of the Law of the Republic of Uzbekistan "On Guarantees of Advocacy and Social Protection of Lawyers" further clarifies that the license is a prerequisite for exercising the right to engage in advocacy.

The Law of the Republic of Uzbekistan "On Licensing, Permitting and Notification Procedures" mandates the licensing of advocacy. Concurrently, advocacy licensing in Uzbekistan is carried out across two areas of specialization:

- i. Private law sector: civil and economic litigation.
- ii. Public law sector: administrative and criminal litigation.

Subordinate acts also establish legal conditions:

- a. Resolution of the President of the Republic of Uzbekistan No. PP-263 dated May 30, 2022 (this document introduced a new licensing procedure via the "License" information system from the beginning of 2023).
- b. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 432 dated August 5, 2022 (this government decision establishes specifics for applying for, issuing, and reissuing licenses, and maintaining the register of lawyers).
- c. Order of the Minister of Justice of the Republic of Uzbekistan, registered on March 14, 2009, under registration number 1921 (this document regulates the

procedure for passing the qualification exam, as well as license suspension and termination).

In Kazakhstan, lawyer status similarly necessitates an appropriate license (Article 32 of the Law of the Republic of Kazakhstan "On Advocacy and Legal Assistance"). A license to engage in advocacy in Kazakhstan constitutes a permit to practice and is issued after the applicant undergoes an internship and certification in the manner and under the conditions prescribed by law.

The Law of the Republic of Kazakhstan "On Permits and Notifications" provides for two permitting documents in the field of advocacy:

- a license to engage in advocacy.
- certification of persons applying for advocacy (unlike Kazakhstan, Uzbekistan does not consider certification a separate permitting procedure).

In Kazakhstan, the Rules for the Provision of Public Services on Advocacy Issues are approved by an order of the Minister of Justice. This document governs the rules for the certification of persons applying for advocacy and the licensing of advocacy.

As of early 2025, there are 3,429 legal advocacy formations operating in Uzbekistan, employing a total of 6,017 lawyers. In Kazakhstan, during the same period, 6,344 lawyers are practicing. More than half of Kazakhstan's lawyers (3,474) work individually, while in Uzbekistan, 2,876 lawyers practice individually. In Kazakhstan, there is one lawyer for every 3,157 people, whereas in Uzbekistan, there is one lawyer for every 6,239 people.

General Requirements for Obtaining a License

The requirements for obtaining a license in Uzbekistan and Kazakhstan are directly linked to the prerequisites for acquiring lawyer status. These requirements include:

First – Citizenship: Only a citizen of the respective country may be a lawyer in Uzbekistan and Kazakhstan.

Second – Education: A lawyer must possess a higher legal education.

Third – Knowledge Confirmation: A lawyer must successfully pass certification (Kazakhstan) or a qualification exam (Uzbekistan).

Fourth – Health and Reputation: In both countries, individuals who are legally incapacitated or partially incapacitated, as well as those with an unexpunged or outstanding criminal conviction, are precluded from practice. Additionally, Kazakhstan imposes temporary restrictions on certain individuals dismissed from public service positions or released from criminal liability on non-rehabilitating grounds.

Fifth – Internship: At least 3 months in Uzbekistan and from 6 months to 1 year in Kazakhstan. Certain categories, such as former judges, prosecutors, and investigators, may be exempt.

Sixth – Practice Modality: A lawyer may practice individually or by joining a legal formation (e.g., law firm).

Alongside the above requirements, financial aspects are relevant. Since licensing in Uzbekistan and Kazakhstan is treated as a public service, obtaining a license involves the payment of relevant fees. In Uzbekistan, the application review fee is 50% of the base calculated value, and the license issuance fee equals one base calculated value. In Kazakhstan, the license issuance fee is 6 monthly calculated indices.

Licensing Process

In Uzbekistan and Kazakhstan, the licensing process is conducted through the e-government system, leveraging information and communication technologies. To obtain a license, an applicant must submit an application to the licensing authority via the e-government website (my.gov.uz or www.egov.kz) or a specialized licensing information system (<https://license.gov.uz/> or www.elicense.kz).

The licensing process generally comprises three stages: 1) submission of the application by the applicant; 2) receipt and review of the application by the licensing authority; 3) issuance of a decision to grant the license or a justified refusal.

Differences in application submission pertain to the data on certification and examinations. In Uzbekistan, information on successful completion of the qualification exam is immediately entered into the "License" system by the Higher Qualification Commission under the Chamber of Lawyers and the qualification commissions under the regional offices of the Chamber of Lawyers after the applicant passes the exam. In Kazakhstan, certification data is provided by the applicant within the Application Form for practicing advocacy.

The application review period is 10 working days in Uzbekistan and 15 working days in Kazakhstan. In Uzbekistan, applicants have three months to pay the licensing fee.

Grounds for refusal in both countries include non-compliance with the legal requirements for acquiring lawyer status, such as foreign citizenship, lack of legal education, missing documents on internship and exam (certification), criminal record, or legal incapacity. Other grounds for refusal are not permitted.

Activities of the Licensing Authority

In both countries, the Ministry of Justice serves as the

primary licensing authority. In Uzbekistan, licensing is conducted by mid-level justice bodies, specifically the Ministry of Justice of the Republic of Karakalpakstan, regional justice departments, and the Tashkent City Justice Department. In Kazakhstan, the license is issued by the Committee for Registration Services and Legal Assistance under the Ministry of Justice of the Republic of Kazakhstan.

The responsibilities of these justice bodies extend beyond merely issuing licenses; they also encompass monitoring compliance with licensing requirements.

One form of control exercised is the suspension of a license. In Uzbekistan, suspension may occur:

- i. Independently (if a lawyer is under criminal prosecution, from the moment charges are laid until the court's verdict enters into legal force or a decision on exoneration is made).
- ii. By filing a claim in an administrative court (for non-compliance with or improper compliance with decisions of the regional offices of the Chamber of Lawyers or the Ministry of Justice; violation of advocacy legislation, rules of professional ethics, attorney-client privilege, or the lawyer's oath).

In Kazakhstan, grounds for suspension are categorized as general and special. Examples of special grounds include holding public office, serving as a deputy, military service, or voluntary suspension. Suspension is carried out by the Ministry of Justice.

Regarding duration, the maximum suspension period in Uzbekistan is six months (excluding cases of criminal prosecution), while in Kazakhstan, the term varies by reason (typically up to 3 or 6 months).

The second form of control is license termination. In Uzbekistan, the Ministry of Justice may terminate a license due to:

a lawyer's personal request to terminate the license.

- a) non-payment of the license issuance fee;
- b) failure to join or establish a legal formation;
- c) legal incapacity;
- d) a final criminal conviction;
- e) loss of Uzbek citizenship;
- f) death or a court ruling declaring the person deceased.

Kazakhstan possesses similar grounds, with the notable exceptions of voluntary withdrawal and fee non-payment.

License termination in both countries may also result from professional misconduct, the use of fraudulent documents, the discovery of illegal issuance, or repeated or gross violations of relevant rules. In such

instances, termination is carried out by an administrative court upon request by the Ministry of Justice.

Actions and decisions made by the licensing authority are subject to appeal to the Ministry of Justice. Should the applicant disagree with the Ministry's decision, they retain the right to file a claim with the administrative court.

CONCLUSION

Licensing of advocacy in Uzbekistan and Kazakhstan serves as a key mechanism for verifying the qualifications of individuals providing professional legal assistance. The issued license thus functions as formal confirmation of a lawyer's competence and their ability to deliver effective legal support to clients. This approach reflects both countries' commitment to ensuring a high standard of legal services and strengthening public trust in the advocacy system as a whole.

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