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Institutional Guarantees Of The Independence Of The Legal Profession: The Case Of Uzbekistan

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Abstract: The independence of the legal profession is a key element of the rule of law and access to justice. This article offers a brief overview of how institutional and functional guarantees for lawyers' independence can be strengthened in a reforming legal system, using Uzbekistan as an example. It distinguishes between the institutional independence of the bar as a self-governing body and the functional independence of individual lawyers. The analysis focuses on self-governance, admission and discipline, state-funded legal aid, protection of lawyer–client privilege and immunity, and digitalisation.

Keywords: Independence of the legal profession, Institutional and functional independence, Admission and disciplinary procedures, Economic guarantees and legal aid, Digitalisation and electronic lawyer's order, International standards and bar self-governance.

Introduction

1. Independence of the Legal Profession: Institutional and Functional Dimensions

International standards such as the UN Basic Principles on the Role of Lawyers and the International Bar Association's Standards for the Independence of the Legal Profession underline that lawyers must be able to act without improper interference by state authorities or private actors. In Europe, the new Council of Europe Convention for the Protection of the Profession of Lawyer (CETS No. 226) further elevates these soft-law principles into binding treaty obligations backed by a dedicated monitoring mechanism. Yet many jurisdictions proclaim independence while preserving strong informal or structural levers of control.

It is therefore useful to distinguish two dimensions. Institutional independence of the bar may be defined as the legally guaranteed status of the professional community and its governing bodies, enabling them to organise themselves, regulate admission and discipline

and manage resources, free from undue interference. Functional independence of advocacy refers to the ability of individual lawyers to provide legal assistance and represent clients without pressure or retaliation, with effective protection of their rights and professional secrecy. Weaknesses in one dimension almost inevitably affect the other.

2. Key Guarantees in a Reforming System

Recent reforms in Uzbekistan illustrate both progress and remaining challenges. On the institutional side, law recognises a national chamber of lawyers with regional branches and grants them self-governing functions. To bring this model closer to international standards, several directions are crucial: clearer and more competitive elections of bar leadership, reasonable term limits and rotation, transparent reporting to members, and minimal direct involvement of executive bodies in forming or approving governing structures.

Admission and discipline are another sensitive area. Proposals include abolishing unjustified exemptions from mandatory traineeship; separating qualification and disciplinary commissions; and ensuring that core disciplinary powers belong to professional self-governance bodies, subject to judicial review. At the same time, ethical requirements for candidates should be strengthened in line with rules for judges and notaries, particularly with respect to corruption-related offences.

Economic guarantees also matter. A coherent tax and remuneration regime is needed to reflect the public-interest function of advocacy and to avoid disguised financial pressure. In the sphere of state-funded legal aid, contracts with lawyers, clear grounds for terminating legal aid and fair remuneration are central. One practical solution tested in Uzbekistan is to link legal-aid work to specific districts or cities within the region where the lawyer has contracted with the territorial justice authority, thus reducing territorial gaps in access to counsel.

3. Digitalisation and the Electronic Lawyer's Order

Digitalisation can either support or undermine independence. In many post-Soviet systems the paper "order" confirming a lawyer's authority has become a routine document, but the requirement to attach copies of orders to various requests may expose sensitive information about clients and cases.

An innovative response is the introduction of an electronic lawyer's order with a unique QR-code, equivalent in legal force to the traditional paper document. State bodies, courts and law-enforcement agencies can verify the lawyer's authority by scanning

the QR-code through a secure system, without needing copies that reveal confidential details. In the longer term, it is possible to envisage a model where the lawyer's status and powers are confirmed primarily through an electronic register, licence and identity card, and the traditional order is gradually phased out.

More broadly, digital infrastructure used by lawyers should be designed with independence and confidentiality in mind. This implies secure electronic communication with courts and administrative bodies, strict limits on access to data concerning lawyers' professional activities, and clear allocation of responsibility for administering information systems, ideally to entities independent from law-enforcement agencies.

Conclusion

The case of Uzbekistan shows that guarantees of the independence of the legal profession form a complex system that combines institutional, economic, procedural, personal and digital elements. Strengthening one element while neglecting others is insufficient: a formally self-governing bar will not be independent if admission and discipline are controlled by the executive, and strong procedural rules will not work if lawyers remain economically dependent on a single state payer or exposed to digital surveillance.

For reforming jurisdictions three points are especially relevant: conceptual clarity between institutional and functional independence; practical mechanisms such as transparent elections, fair disciplinary procedures, realistic remuneration and workable digital tools; and iterative, evidence-based reforms that draw on international standards while remaining sensitive to national legal culture. These approaches may help transform declarative guarantees of independence into effective protection of both the profession and the rights of those it serves.

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