



THEORETICAL AND LEGAL FUNDAMENTALS OF THE INSTITUTE OF ADVOCACY IN UZBEKISTAN

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Annotation: This article provides a comprehensive study of the foundations, sources, organizational mechanisms and professional ethics of attorneys in the Republic of Uzbekistan. The article systematizes the ideas of the rule of law and its impact on the formation of a modern model of advocacy in Uzbekistan. The article also provides an overview of the important features and legal nature of the legal profession in Uzbekistan. The article also combines the organization of the legal profession in the Republic of Uzbekistan and the analysis of the professional ethics of attorneys. The basis and structure of the professional ethics of attorneys are defined and discussed in detail.

Keywords: advocacy, legal profession, advocacy in Uzbekistan, legal aid, Chamber of Advocates.

Article 116 of the Constitution of the Republic of Uzbekistan guarantees the right of every person living in the Republic to receive qualified legal assistance. There is an advocacy institute to provide legal assistance to legal entities and individuals. [1]

The proclamation of human rights as a supreme value has always been associated with a real opportunity for the individual to protect them. When a person is deprived of the opportunity to legally defend his or her vital interests, the institution of human rights itself disappears. The availability of such an opportunity is primarily determined by the activities of the advocacy.

In this case, the advocacy has a dual function. On the one hand, it is an institution of civilized civil society, which is the most important component of the mechanism of social control over the activities of the state, on the other hand - it protects certain individuals in agreement with the principal.

Some of the problems that arise in the process of practical application of laws and legislative acts regulating the activity of advocacy, in particular the existence of norms of a repetitive or declarative nature in the legislation, in particular in the laws "On Advocacy" and "On Guarantees of Advocacy and Social Protection of Advocates", as well as changes taking place at the present stage, the deepening of social processes also raises the need for reform of the system of advocacy in Uzbekistan, further improvement of legislation regulating the sphere.

In accordance with Article 1 of the Law of the Republic of Uzbekistan "On Advocacy" advocacy is a legal institute, which includes independent, voluntary, professional association of individuals engaged in advocacy activities, and individual persons engaged in private law practice. The Advocacy in accordance with the Constitution of the Republic of Uzbekistan provides legal assistance to citizens of the Republic of Uzbekistan, foreign citizens, stateless persons, enterprises, institutions, organizations.

There is no single definition of the Institute of Advocacy among scholars. This concept has been variously defined by many lawyers.

In general, the concept of the institute of advocacy has several meanings: 1) the institution of civil society; 2) coordinator of all norms of rights and obligations of an attorney; a complex legal institution that determines its legal status, procedures for the organization and operation of the advocacy,

advocacy bureaus, firms and Boards of attorneys; 3) independent, voluntary, professional associations of persons engaged in advocacy. [2]

Advocacy is a socio-legal institution that protects the rights, freedoms and interests of the representative in court, law enforcement agencies, investigation, inquiry and other bodies by any legal means. [3]

In our opinion, the advocacy is a civil society institution aimed at ensuring the professional protection of the rights, freedoms and interests of individuals and legal entities, and is a professional association of lawyers formed on a voluntary basis to provide qualified legal assistance.

The advocacy is a professional team of attorneys and is not included in the system of state and local authorities as a civil society institution.

At the same time, the formation and development of the legal profession as an institution of civil society will not exist without the support of the state. The state should take responsibility for creating normal conditions for the activities of the advocacy, and most importantly, to ensure a civilized attitude of the state government to the Chamber of Attorneys that meets the standards of the International Bar Association and world experience.

Advocacy activity is a qualified legal activity provided by individuals who have received the status of an attorney in accordance with the Law of the Republic of Uzbekistan "On Advocacy" on a professional basis to protect their rights, freedoms and interests, as well as to ensure a fair trial. Although related to the provision of qualified legal assistance, the services provided by persons who do not have the status of an attorney in the manner prescribed by law are not included in the activities of an attorney. [4]

The independence of the legal profession from the state does not mean that public authorities and local governments are completely relieved of their obligation to promote the development of this important institution of civil society. On the contrary, the current legislation obliges public authorities to ensure the independence of advocacy, which is, first of all, to prevent their interference in solving organizational and functional issues, to eliminate barriers to crime prevention, as well as legal entities.

Additional evidence that the legal profession belongs to civil society is the legal regulation of advocacy in Uzbekistan, not only in accordance with the principles enshrined in the legislation of the Republic of Uzbekistan, but also in accordance with generally accepted standards of the international community.

"Advocacy", "civil society" and "state" are interrelated concepts. Advocacy is the product of a society's need to protect the rights and interests of all individuals, including civil society. The organizational and legal basis of the advocacy is determined by the state through the legislature, i.e. the advocacy is a legal institution that provides legal assistance to individuals and legal entities on the basis of the rule of law, independence and other democratic principles. That is, the legal profession is governed by a law passed by the state. It is the duty of the state to protect the public interest, and this protection is provided by the activities of an attorney. The link between the institutions of "state", "civil society" and "advocacy" is the right, i.e. the law, in particular, the Law "On Advocacy", "Guarantees of advocacy and social protection of lawyers" Law on the Protection of Human Rights and Fundamental Freedoms. [5]

The advocacy is not only an institution of civil society, but also a specific entity responsible for ensuring that civil society itself and its subjects are protected from the violation of their interests by the state.

In this regard, we can highlight the following specific features of the advocacy:

- 1) an independent element of the human rights system;
- 2) normatively strengthened institution of civil society;

- 3) the state-social formation of civil society, which in turn is manifested in the following: advocacy is equal to society and the state, is aimed at protecting the rights and freedoms of man and citizen, fulfills the constitutional duty of citizens.
- 4) dual nature of the organizational and legal status of the advocacy;
- 5) acts as a public law institution of civil society;
- 6) its development depends on the level of legal culture of the population and the political will of the state.

Thus, the advocacy is a normatively strengthened legal institution of civil society, aimed at fulfilling the right of citizens to qualified legal assistance, on the one hand, and the state's obligation to protect human and civil rights and freedoms, on the other.

In the modern legal system of the Republic of Uzbekistan, the advocacy plays an important role in the self-limitation of state power. The position of the advocacy is an indicator of the state of democracy in society. In many ways, the legal profession is an indicator of "health" in terms of the state's attitude to democracy and the protection of individual rights. Only a strong state can have an independent advocacy as a "perpetual rival" in the legal field and a principled partner before the institution of civil society in the political sphere. Excessive paternalism is an insecure, biased, negative, uncompromising attitude towards the legal profession, indicating that the state is not strong enough.

The advocacy is today the only institution of civil society recognized by law. In turn, the rule of law as a humanitarian phenomenon and as a civil society has always been a key strategic task of the legal profession.

Taking into account the professional level of the advocacy, its maximum regional coverage and active citizenship of many members of society, the Chamber of Advocates of the Republic of Uzbekistan sees one of its tasks in establishing and developing close ties with other civic institutions

The peculiarities of the legal status of the advocacy allow us to talk about its special legal status. Naturally, the advocacy has, first and foremost, a general constitutional status, on the basis of which it operates with additional rights, duties and obligations to carry out certain actions that give the advocacy a special status.

The following features of the legal status of the advocacy as a collective subject of legal relations can be distinguished:

- It has a public-legal status;
- The position of this subject of legal relations is largely determined by the status of a particular attorney who is part of it. The law clearly states that advocacy is practiced directly by attorneys and that any organizational and legal form of advocacy structures is nothing more than ensuring the activities of attorneys;
- The legal status of the advocacy includes certain forms of advocacy, as well as the rights, duties and responsibilities of its subjects;
- The specifics of the form of advocacy as an element of the legal status of the advocacy depends on the composition of the subject, the procedure for obtaining legal status, the interaction with the bodies responsible for state registration and control of the legal community;
- In addition to the rights, duties and responsibilities of the legal profession, the legal status of the advocacy includes the principles of organization and operation of this institution, which are characterized by a mixed nature, ie normative (reinforced by applicable law) and non-normative (for example, enshrined in the Code of Professional Ethics for an attorney);
- The exercise of the rights and obligations of the advocacy is related to the exercise of the right of citizens to qualified legal assistance.

Maximizing the use of civil society mechanisms and tools, in particular, can be effective in reforming the law, combating its violations, and creating a favorable environment for the formation of a state where the rule of law is recognized as a supreme value.

Indeed, the main task of the advocacy is to provide socially important legal services to society and its members in order to protect the rights and freedoms of citizens and legal entities. The advocacy is also the most important legal institution in the state, recognizing the rule of law and respecting the rights, freedoms and legitimate interests of citizens and associations.

The advocacy is not a state organization because it performs functions that are of both public importance and serve personal interests. The fact that the association is voluntary indicates that the advocacy is not and cannot be a state organization. The legal basis for the formation of a legal relationship for membership in the Chamber of Attorneys is a bilateral document - an application for admission to the Chamber, a decision to pass a qualifying examination.

At the same time, the responsibilities of the legal profession reflect the public interest of society, enshrined in the Constitution. The Constitution guarantees the protection of citizens and the right of every needy person to legal assistance. A public organization is an association that represents the specific interests of a particular group of individuals. Advocacy structures, in turn, play an important role in the administration of justice, which is not directly to protect the interests of members of the association, but to the interests of an unlimited number of individuals and legal entities in need of assistance from attorneys. In addition, advocacy groups recruit new members, participate in the administration of justice, organize internships, and oversee professional activities. These features are not specific to public associations.

To conclude, the activity of the advocacy is of a public-legal nature, it is related to the state body that administers justice, which requires a clear legal regulation of the relationship between the advocacy and the state, taking into account the principles of its independence, corporate identity and self-governance. Undoubtedly, the existence of a independent advocacy is the most important guarantee of human rights and freedoms. Despite a number of pieces of legislation that have strengthened the institutional legal framework of the advocacy, which has come a long way in its formation and development, it still needs to be reformed in response to society's need for a free and independent advocacy.

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