



## IMPROVING THE ACTIVITY OF QUALIFICATION COMMISSIONS UNDER THE REGIONAL ADMINISTRATIONS OF THE CHAMBER OF ADVOCATES OF THE REPUBLIC OF UZBEKISTAN

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### Annotation

This article discusses the activities of qualification commissions under the Chamber of Advocates of the Republic of Uzbekistan, changes in their powers, main problems and shortcomings in their activities, the independence of self-management structures of advocates, and the experience of foreign countries in this matter.

**Keywords.** Judicial reforms, advocacy, qualified legal assistance, qualification examination, disciplinary responsibility, Chamber of Advocates, self-management

In the developed countries of the world, issues related to the legal status of advocacy structures are still of great importance in the improvement of the legal profession. The important role of the legal profession in ensuring human rights and interests in every country is recognized by the international community. In particular, in the "Basic Principles on the Role of Lawyers" adopted at the Eighth UN Congress on Crime Prevention and Dealing with Offenders, it is noted that the improvement of the legal profession is one of the primary conditions for democratic legal development.

The right to receive qualified legal assistance is considered an integral part of the legal status of a citizen and is guaranteed not only by national but also by international law.

In recent years, measures have been taken to strengthen the role and importance of the legal profession as an important component of judicial reforms in our country.

Advocacy is the most important institution of the legal system of a democratic state, and its task is to provide quality protection of the rights, freedoms and legal interests of individuals and legal entities independently of the state. It is their constitutional right to receive legal assistance from the trustee. The right to receive legal aid in accordance with the international standards of fair trial,



which is enshrined in Article 116 of the Constitution of the Republic of Uzbekistan, is considered as one of the principles underlying it.

Through the above mentioned article of the Constitution of the Republic of Uzbekistan, it is stipulated that the law firm shall operate based on the principles of independence and self-governance to provide legal assistance to individuals and legal entities. Based on the tasks of the Advocacy Institute, it is worth noting that these two principles are very important for the Advocacy.

Among the institutions whose main field of activity is aimed at protecting human rights and freedoms, the bar occupies a special and important place. Therefore, in the process of reforms in the field of judiciary in our country, a lot of attention is being paid to the reform of the legal system, which is one of the institutions of the civil society, and to increase its position in the society.

As a legal basis for the development and improvement of the field, the Laws "On Advocacy" in 1996 and "Laws on Guarantees of Advocacy and Social Protection of Advocates" were adopted in 1998, which defined the norms aimed at ensuring the important aspects of advocacy, professional integrity and guarantees of advocates. These norms ensured the independence of the bar institute to a certain extent and created opportunities for advocates to perform their professional duties.

On May 1, 2008, the Decree of the President of the Republic of Uzbekistan "On measures to further reform the legal profession in the Republic of Uzbekistan" was adopted. Amendments and additions were made to the Law "On Advocacy" on the basis of this Decree.

In particular, in the Decree, the legal profession was recognized for the first time as one of the main institutions of civil society. It was decided to establish an effective self-managing centralized system of advocacy, to strengthen the requirements for the qualifications of candidates for advocacy, and to introduce the obligation to regularly improve the professional qualifications of advocates. Establishing an effective licensing system that provides the legal profession with honest and highly skilled professionals, ensuring equal procedural rights of the prosecution and defense parties in criminal proceedings, and gradually improving the institution of representation of parties aimed at preventing persons without special knowledge in the field of jurisprudence from participating in court proceedings was introduced. Also, issues such as the mechanism for monitoring compliance with the rules of professional ethics by advocates and the improvement of the system of disciplinary proceedings



against advocates were identified as the main directions of the reform of the sector.

The rapid development of social relations ensures that the legal documents regulating any sphere are fully compatible with social relations. Therefore, on May 12, 2018, the Decree of the President of the Republic of Uzbekistan “On measures to fundamentally increase the effectiveness of the Bar Institute and expand the independence of advocates” was adopted. In addition to the improvement of the legal basis of the legal institution of the bar, this document implemented the provisions aimed at expanding the rights of advocates.

In particular, now the advocate has the right to bring and use a computer, mobile and other means of communication to the courthouse without hindrance. Requests by advocates to receive references, descriptions and other documents or their copies from the state and other bodies, as well as enterprises, institutions and organizations, necessary for providing legal assistance, must be completed within fifteen days at most from the moment they are received, advocates who have established their bureaus must regulations were introduced on the fact that officials who are guilty of failing to provide information on time, providing false or incorrect information at the request of a advocate, will be held administratively liable based on the advocate’s direct appeal to the court.

The consistent growth of the number of advocates, their compliance with the legislation and professional ethics rules in their activities is directly related to the activity of the Chamber of Advocates of the Republic of Uzbekistan and its regional offices, in particular, the Higher and Regional Qualification Commissions.

The structure and formation of qualification commissions, as defined in the Law of the Republic of Uzbekistan "On Advocacy", regional bodies of the Chamber of Advocates, in order to resolve the issue of issuing licenses to persons with the necessary knowledge and professional qualifications, to take the advocate's oath, as well as to conduct disciplinary proceedings against advocates is established in the presence of departments. The activity of regional qualification commissions is regulated on the basis of the Regulation on qualification commissions under the regional departments of the Chamber of Advocates of the Republic of Uzbekistan adopted in accordance with the order of the Minister of Justice of the Republic of Uzbekistan dated March 14, 2009 “On approval of



the regulation on qualification commissions under the regional departments of the Chamber of Advocates of the Republic of Uzbekistan”.

This regulatory legal document defined the main tasks of the qualification commission. Also, through direct tasks, it gives an opportunity to know the necessity and peculiarities of this structure. As a result of the changes made in the field of advocacy, the expansion of the activity and authority of regional qualification commissions increased the importance of these structures. A total of 14 regional qualification commissions existing in the territory of the Republic initially fulfilled the tasks of taking the qualification exam from applicants for the status of a advocates and taking the advocate’s oath from applicants who successfully passed this exam, according to paragraph 1 of the Regulation. According to the order of the Minister of Justice of the Republic of Uzbekistan No. 11 of January 9, 2019:

suspension and restoration of the status of a advocates;  
awarding a qualification to n advocates;

the tasks of reviewing appeals regarding the illegal actions of advocates were assigned, and the activities of the regional qualification commission were expanded.

The order of the Minister of Justice of the Republic of Uzbekistan No. 20 of November 30, 2021 defines the specific purpose of the establishment of regional qualification commissions, and states that they are to be established by advocates to review disciplinary proceedings on violations of the requirements of legal documents, the rules of professional ethics of advocates, the secrecy of the practice of law and the violation of the advocate’s oath.

Experienced employees of the court, judicial bodies and other organizations in the field of law are involved in the qualification commissions. The chairman and deputy of the qualification commission are elected from among the members of the qualification commission by a simple majority of the total number of members at the first meeting of the commission. Candidates for the chairmanship of the qualification commission and his deputy will not participate in the voting. The deputy chairman of the qualification commission presides at the meeting of the qualification commission in the absence of the chairman. One person cannot be a member of the Qualification Commission and the Higher Qualification Commission at the same time. Candidates for the membership of qualification commissions from advocates are submitted from among the advocates who are included in the relevant state register of advocates and have



at least five years of experience in the legal profession. Employees of the Chamber of Advocates and its regional offices, their close relatives cannot be members of the qualification commission. In the performance of assigned tasks, qualification commissions must objectively and comprehensively consider the issues included in the qualification agenda, strictly comply with the legislation, the main principles of advocacy, ensure guarantees and protection of advocacy, advocate's integrity, non-interference in advocacy, decisions of the Supreme Qualification Commission under the Chamber of Advocates of the Republic of Uzbekistan perform obligations such as execution.

It is also appropriate to turn to foreign experience of qualification commissions in order to study the organizational and legal basis of the establishment of qualification commissions and to shed light on the critical analysis of this issue. In particular, the National Bar Council in Ireland is an alternative body to the functions of the Bar and Qualifications Commissions in our practice. The National Bar Council is a body that protects the rights and interests of advocates, along with providing advocates and legal experts to citizens in need of legal aid, and in the language of Irish advocates, it is the "Shield of Advocates". The existence of the National Bar Council is essential to the development of the framework for a National Bar Council in Ireland and to create an enabling, integrated context for the effective practice, qualification, development and coordination of the Bar. The establishment of the National Bar Council covers all relevant government agencies, in particular, other government agencies such as Health, Justice, Employment and Social Protection, the Office of the Ombudsman, the Mental Health Commission, as well as legal educational institutions.

On the same issue, Article 50 of the Law of Ukraine "On Advocacy and Legal Practice" describes the Qualification and Disciplinary Commission of the Bar. In accordance with it, a qualification and disciplinary commission of the bar association will be established to determine the level of professional skills of persons who intend to acquire the right to practice law, and to resolve issues related to the disciplinary responsibility of advocates. The Bar Qualification and Disciplinary Commission is supervised by and reports to the Regional Bar Conference. Based on the information analyzed above, it is appropriate to review the activities of the qualification commissions under the regional offices of the Chamber of Advocates and make the following changes. In particular, it is necessary to turn qualification commissions into permanent bodies and to



finance them from the funds of the Chamber of Advocates. Secondly, the members of qualification commissions should consist only of advocates who have been engaged in the practice of advocacy for at least 5 years, it is necessary to limit the presence of employees of state administration and law enforcement agencies in the commission. Also, termination of the authority of the qualification commission to review the issue of disciplinary liability of advocates, introduction of the implementation of this issue by the courts in a general manner would have positively changed the approach to the issue of bringing advocates to disciplinary liability.

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