

PROBLEMS IN THE FIELD OF ADVOCACY IN UZBEKISTAN AND POSITIVE SOLUTIONS TO THEM

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Abstract. *This article presents the current changes and problems in the field of advocacy in Uzbekistan and offers positive solutions to these problems.*

Keywords: *Advocate, advocacy activities, problems, solutions, quality of lawyers, legal problem.*

INTRODUCTION

An advocate acts as a person who protects human rights and legitimate interests. Of course, they must act as stated in the normative documents, without going beyond the law. We cannot say that the Bar institute is fully established in Uzbekistan, although in recent years a number of positive changes have been introduced in the advocacy profession. In particular, the Decree of the President of the Republic of Uzbekistan dated May 12, 2018 No. 5441 «On measures to radically increase the efficiency of the Bar and expand the independence of advocates» has brought a «legal spring» to advocacy. As a result, the legislation has been amended. For example, an advocate has the right to bring telephone, video and audio equipment to the trial and to take a picture and video the proceedings. They also have the right to bring the equipment to penitentiaries and pretrial detention facilities [1]. It should be noted that the revocation of the advocate's license was previously carried out by the Department of Justice, but now the legal profession is terminated in court. The Law of the Republic of Uzbekistan No. 497 of October 11, 2018 stipulates that an applicant for an advocate's license must have completed at least three months of internship [2]. Previously, this period was six months. But these reforms do not mean that all problems in the field of advocacy in Uzbekistan have been resolved.

MATERIALS AND METHODS

The first problem is the lack of enough staff [7]. The number of advocates in Uzbekistan is more than 4,000, and each advocate serves 8,400 people nowadays. These figures are deplorable, as measured by the lack of incentives for law students to start advocacy and the advocate's reputation in the judiciary. In addition, there are several reasons for the shortage of staff. For example, according to the Regulation of the Cabinet of Ministers «On Licensing of Advocacy», a person applying for an advocate's license must have at least two years of experience in the legal profession, including at least six months in the legal profession in advocacy must have passed an internship [3]. We consider it unnecessary to have two years of work experience and six months of training if we want to increase the number of advocate staff. Because a recent graduate of University of Law is forced to work in another field or study abroad due to not obtaining an advocate's license on suitable time. Also, it is necessary to reconsider the issue of a six-month internship in this regulation. If we look at the American legal system, to become an advocate, a person has to take an exam called a bar exam. Applicants who have completed the Juris of Doctor or Bachelor of Laws field may apply for this exam. But this requirement may vary by state. For example, in 39 states, including Massachusetts, Nebraska, Alabama, Alaska, California, Colorado, Florida, Michigan, and New Jersey, law students can also practice

advocacy by taking a bar exam before graduating. Also, the procedure for obtaining an advocate's license is mainly regulated by the state parliament. Those who fail the bar exam have the right to see their work until fixed time and compare it with the actual answers. The failed candidate has the right to retake the exam at any time, at his / her own discretion [4]. However, according to Article 31 of the Law of the Republic of Uzbekistan «On Advocacy», an applicant who fails the qualification exam will be allowed to retake it at least six months later [2]. This deadline requirement should be removed. Because we believe that this period will also reduce the desire of those who want to become an advocate. Pursuant to Article 3 of the Law of the Republic of Uzbekistan «On Advocacy», a citizen of the Republic of Uzbekistan with higher legal education and obtained an advocate's license in a defined order can be an advocate in Uzbekistan [2]. In order to increase the number and quality of lawyers, the rule «a citizen of the Republic of Uzbekistan can be» in this article should be removed. It would be a good solution to tackle these issues if a person wishing to practice advocacy in Uzbekistan must also start his / her activity on a permanent basis from the moment of obtaining an advocacy's license in Uzbekistan. It should be noted that the legislation on the protection of the Uzbek client of a foreign advocate does not specify the source.

RESULTS

This could submit the right to the prosecutor's office not to allow a foreign advocate come into Uzbekistan and protect the client's rights. In addition, in order to increase the number of advocacy staff, as well as to strengthen their material and technical base, it is necessary to provide tax and credit benefits to start-ups. The second big problem is that a plenty of officials do not listen to advocates, their words are considered as ordinary people's words, compared to the judge, investigator, prosecutor, the reputation of an advocate is very low. In particular, in court proceedings, the judge does more what the prosecutor says, but the principle of equality of parties does not work in practice. As a solution to this problem, several years of work experience with two types of bar licenses (criminal and administrative, civil and economic) must be required in order to appoint the judge. We believe that after working as an advocate, the judge considers the prosecutor and the advocate as equal parties during the trial. The third legal problem is the procedure for an advocate to meet with a client in penitentiary institutions. According to Article 10 of the Criminal Executive Code of the Republic of Uzbekistan, private meetings with advocates for legal assistance are provided through the application of a convict or the petition of an advocate [5]. However, it is mentioned that this application and petition must be approved by the police officer. As a result, the convict is artificially deprived of access to legal assistance from a lawyer. The purpose of denial may be the ill-treatment of prisoners by internal affairs employee. To overcome this, we believe that the management and control of penitentiaries should be transferred to the system of the Ministry of Justice. As a result, it is possible to know how internal affairs employee treat prisoners, to get information about the condition and health of prisoners. The most of it is that an advocate and a convict will not face to artificial barriers to meet with each other in penitentiaries. The next legal problem is the lack of powers of lawyers in criminal proceedings. Article 53 of the Code of Criminal Procedure of the Republic of Uzbekistan is limited to the existence of rights and obligations of lawyers: A defense counsel shall have the right: to be informed of charge against the defendant; to obtain a written admittance to participate in the case from the inquiry, pretrial investigation agencies and the

court; to participate in the questioning of the suspect, to be present during announcement of charges against him and to participate in the interrogations of the defendant, as well as in other investigative actions involving the accused or defendant, and to question the suspect, defendant, witnesses, experts, specialists; to participate, upon the permission of the inquiry officer or the investigator, in other investigative actions; to submit written comments about the conduct of the investigating action wherein he participated; to file motions and challenges; to introduce evidences; to inquire from the state agencies, self-governing bodies, enterprises, institutions, organizations and public associations the references, character evidences, and other documents required for defense; to get familiarized with the official record of the procedures conducted with participation of the suspect or the defendant, and, upon completion of the inquiry or the pretrial investigation, to get familiarized with the whole criminal case file and write out required information thereof; to get familiarized, under the legally established procedure, with the state, commercial and other secrets, if it is required for defense; to participate as a party in the court hearing; to bring complaints against actions and decisions of the inquiry officer, investigator, prosecutor, or court; to get familiarized with the official records of court session and to submit comments thereon; to be informed of any protests and complaints on the case, and challenge them; to participate in the hearings at courts of first instance, of appeal, review, and cassation [6].

DISCUSSION

However, we can see that in this code, investigators, prosecutors, and inquirers also have powers. This makes it difficult for lawyers to assess the facts of the case and in criminal investigations. In my research, in an interview with about 10 lawyers in Kashkadarya region and Tashkent city, all participants stated that lawyers should be empowered and that prosecutors and lawyers should be heard equally in court.

CONCLUSION

In general, there are enough legal norms in the state for the legal profession, but it is expedient to further develop them. Also, the enforcement of these laws remains inactive. This is directly related to the inaction of stakeholders who are not new-minded, pro-old.

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