



AN ANALYSIS OF SOME OF THE REQUIREMENTS FOR OBTAINING THE STATUS OF AN ADVOCATE IN FOREIGN COUNTRIES

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Article history:	Abstract:
Received: 10 th September 2021 Accepted: 11 th October 2021 Published: 30 th November 2021	This article analyzes the requirements for obtaining the status of an advocate, namely obtaining degree in law, knowledge of the state language, reaching a certain age in accordance with the laws of foreign countries, and their the possibility of introducing positive experience into national legislation was considered.
Keywords: Advocate, acquiring the status of an advocate, Citizen of the Republic of Uzbekistan, higher legal education, academic degree in legal specialty, be of a certain age, knowledge of the state language.	

Consistent and significant work is being done in the Republic of Uzbekistan to improve the institution of advocacy, which is part of the ongoing judicial reform, and to transform it into a law enforcement institution that has earned the trust of the people.

The main purpose of the ongoing reforms is to guarantee the right to qualified legal assistance at any stage of the investigation and court proceedings, as stated in Article 116 of the Constitution of the Republic of Uzbekistan, and to provide legal assistance to citizens, enterprises, institutions and organizations.

One of the subjects of qualified assistance in the Republic of Uzbekistan is the bar. Article 1 of the Law of the Republic of Uzbekistan "On Advocacy" states that the bar provides legal assistance to citizens of the Republic of Uzbekistan, foreign citizens, stateless persons, enterprises, institutions and organizations in accordance with the Constitution of the Republic of Uzbekistan.

Based on the analysis of the content of the norms of the Law of the Republic of Uzbekistan "On Advocacy", the concept of an advocate is defined as follows: "A citizen of the Republic of Uzbekistan has a higher legal education and a license to practice law in the prescribed manner to practice law."

The main purpose of setting the above requirements in the legislation is to enable the selection of candidates who do not have sufficient theoretical knowledge and practical skills required in the legal profession.

Some legal literature¹ stipulates that an applicant for the status of an advocate must meet the following requirements, in particular:

- 1) Being a citizen of the Republic of Uzbekistan;
- 2) having a higher legal education;
- 3) having at least two years of work experience in the legal profession, including the period of training in the legal profession.

The analysis shows that the theoretical knowledge of advocates is insufficient and their professional knowledge and skills are unsatisfactory. This, in turn, requires a critical review of the requirements for applicants to the bar, and, if necessary, strengthening the requirements for the study of foreign experience, while improving the procedure for obtaining the status of an advocate.

To do this, it provides an opportunity to study the legislation of foreign countries on advocacy and prepare proposals for the introduction of their positive aspects in national legislation. The Law of the Republic of Uzbekistan "On Advocacy" does not contain the following study requirements for obtaining the status of an advocate:

- having a scientific degree in law²;
- being of a specified age;
- knowing of the state language³.

Having a scientific degree in law. The legislation of foreign countries analyzed shows that having a degree in law gives a person a priority right in three different areas.

¹http://www.consultant.ru/document/cons_doc_LAW_36945/78554e27c2bc62cb198661b252ae7eb77fbc1c8/

²<http://www.eurasian-advocacy.ru/problemy-organizatsii-i-funktsionirovaniya-advokatury/74-koreguliyativnaya-model-deyatelnosti-advokatury-finlyandi>

³ <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.445415?jfwid=i3h7wi2cr>

The first is that having an academic degree in law without a higher legal education is considered to have fulfilled the requirement for him to have the status of an advocate.

Second, a person with a degree in law is exempted from the internship, which is one of the mandatory requirements for obtaining the status of an advocate, and has the right to take a qualifying examination.

Third, having a degree in law is explained by the fact that an applicant for the status of an advocate is exempted from all the requirements for becoming an advocate and is given the right to practice law.

Referring to the legislation of foreign countries in this regard will provide a basis for a deeper study of these issues and the preparation of proposals to fill the existing gaps in existing legislation. For example, in order to become an advocate in the Russian Federation⁴, a person must have a higher legal education or a degree in law in a state-accredited educational program. It can be understood that an applicant for the status of an advocate is given the opportunity to become an advocate if he/she has a degree in law as an alternative to those who do not have higher legal education.

An analysis of the legislation of the Republic of Armenia⁵ shows that in order to obtain a license for the right to practice law, an applicant must have a degree in law as an alternative to higher legal education. This means that even if the applicant does not have a higher legal education, but has an academic degree in law, the legislation has given him or her an additional opportunity to become an advocate.

According to the Law of the Republic of Moldova⁶ "On Advocacy", a person wishing to practice law is exempted from professional training if he or she has a doctoral degree in law.

According to the Law of the Republic of Lithuania "On Advocacy"⁷, a person with a doctoral degree in social sciences or a degree in law may not pass the qualifying examination. In our opinion, the norms of our current legislation on exemption from internships and qualification examinations should be critically considered, taking into account the positive experience of foreign countries.

According to Article 66 of the Law of Poland "On the Advocates' Profession"⁸ of May 26, 1982, professors and candidates for the degree of Doctor of Law can obtain the status of an advocate without passing an internship and qualification examination.

Concluding the study of the requirement of foreign countries to have a degree in law, the requirement to have a degree in law should be considered as an alternative to the requirement of higher legal education, exemption from internship, as well as to become an advocate. It is necessary to make changes and additions to the Law of the Republic of Uzbekistan "On Advocacy" to grant the status of a lawyer directly, exempt from all requirements.

Being of a particular age. We all know that according to the current legislation, the Republic of Uzbekistan has a clear age census for certain positions, in particular, the president, deputy, prosecutor, judge and others. However, the Law of the Republic of Uzbekistan "On Advocacy" does not specify the minimum and maximum age for becoming an advocate.

In some foreign countries, especially Finland and Cyprus, there is a clear age limit for obtaining the status of a lawyer. Being of legal age as stated in the law of these states is one of the requirements for becoming an advocate. In Finland⁹, it must be at least 25 years old, while in Cyprus¹⁰ it must be at least 21 years old.

In this case, the status of a lawyer in the Russian Federation¹¹ is granted indefinitely and does not depend on this age, the right to practice law in the Republic of Ukraine¹² and the advocate's certificate is not limited by age and is issued indefinitely, the license to practice law in Armenia¹³ is permanent and stated to be given without age limit.

Today, the number of young advocates is declining, while the number of older advocates is increasing. According to R.Altiev¹⁴, an advocate and lecturer, "If we look at the number of advocates under the age of 30, there are not even 70 of them. This is a very low figure. Also, the number of advocates over the age of 50 is around 2,200. This means that 50 percent of all advocates are over 50 years old. As a result, advocacy has become more of a profession for the elderly.

In our opinion, the current legislation should not set a minimum age for obtaining the status of an advocate in order to fill it with highly qualified personnel who think analytically and constantly develop professional skills and work tirelessly to acquire new knowledge independently.

⁴http://www.consultant.ru/document/cons_doc_LAW_36945/78554e27c2bc62cb198661b252ae7eb77fbcd1c8/

⁵ https://www.legislationline.org/download/id/7436/file/Armenia_law_advocacy_2004_ru.pdf

⁶ https://www.legis.md/cautare/getResults?doc_id=126609&lang=ru

⁷ <https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.445415?jfwid=i3h7wi2cr>

⁸https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/National_Regulations/National_Laws_on_the_Bars/EN_Poland_The-Law-on-the-Advocates-Profession.pdf

⁹ Жданов И.Н. Корегулятивная модель деятельности адвокатуры Финляндии // Проблемы организации и функционирования адвокатуры. 1 (2) 2013. –С. 21-25.

¹⁰ Н.А.Щеголева, Д.В.Бырлэдяну. Правовой статус адвоката по законодательству Республики Кипр // Вестник Поволжского института управления. 2018. Том 18. № 2. –С. 41-47

¹¹http://www.consultant.ru/document/cons_doc_LAW_36945/785ee56acf40225cfd752b462522154ebb57aaf/

¹² https://www.legislationline.org/download/id/9617/file/UKR_on%20bar%20association_ru.pdf

¹³ https://www.legislationline.org/download/id/7436/file/Armenia_law_advocacy_2004_ru.pdf

¹⁴ <https://kun.uz/news/2021/06/10/biz-protsessual-huquqlarimizga-kora-prokurorlar-bilan-deyarli-tengmiz-amalda-esa-advokat-bilan-suhbat>

It should be noted that the current regulations are changing rapidly, a significant number of foreign entrepreneurs are coming to Uzbekistan, to fulfil their problems with young lawyers who speak foreign languages (without the presence of an interpreter) to solve their problems in a timely and complete manner. We believe that the legislation should establish a maximum age limit for being a lawyer in order to withhold.

In view of the above, we believe that the status of an advocate in the Republic of Uzbekistan is not limited by age, and the maximum age for the status of an advocate should be seventy years.

Knowing of the state language. Significant work is being done in our country to increase the prestige of the Uzbek language as the state language. The number of legal acts that regulates that particular issue are includes the Law of the Republic of Uzbekistan "On the state language" is adopted, the Decree of the President of the Republic of Uzbekistan dated October 21, 2019 №DP-5850 "On measures to radically increase the prestige and status of the Uzbek language as the state language" Decree №DP-6084 "On measures to further develop the Uzbek language and improve language policy in our country" was adopted in October 2013. According to Article 1 of the current Law, the state language of the Republic of Uzbekistan is Uzbek.

According to Article 40 of the Law of the Republic of Kazakhstan "On Legal Assistance and Advocacy", the place, date and language of the attestation (Kazakh or Rus) has the right to self-determination.

Article 12 of the Law of the Republic of Tajikistan¹⁵ "On Advocacy and activity of advocate" stipulates that in order to obtain the status of an advocate, it is necessary to know the state language. Article 6 of the Law of Ukraine¹⁶ "On Advocacy and activity of advocate" stipulates that in order to become an advocate, one must know the state language to the extent required by applicable law.

In this regard, even though the Georgian¹⁷ legislation does not explicitly state the requirement to know the state language in relation to the person who wants to become an advocate, the applicants will definitely need to know the state language. According to Article 11 of the Law of Georgia "On Advocacy", everyone with a higher legal education has the right to take a written exam, which is conducted in the state language.

In conclusion, the introduction of a provision in the current legislation on the conducting qualification examinations in the state language can lead to an increase in the status of the Uzbek language, on the one hand, and a significant decrease in the number of applicants for the status of an advocate.

The introduction of the above-analyzed requirements into national legislation will allow, firstly, to fill the bar with qualified young staff, and on the other hand, to fill it with researchers with critical analysis skills.

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