



## **ISSUES OF IMPROVING THE ACTIVITIES OF THE CHAMBER OF ADVOCATES**

**Saddam Qodiraliyev**

Lecturer of the department Judicial,  
law enforcement agencies and advocacy,  
Tashkent State University of Law

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<b>Received:</b> 10 <sup>th</sup> October 2021 <b>Accepted:</b> 8 <sup>th</sup> November 2021 <b>Published:</b> 17 <sup>th</sup> December 2021	This article discusses the activities of the Bar in the Republic of Uzbekistan, its upcoming changes, the activities of the Chamber of advocates, powers, structure, legislation related to the activities of the chamber, as well as shortcomings in the activities of the chamber of lawyers, proposals and recommendations on them.
<b>Keywords:</b> advocate, Chamber of Advocates, Conference, charter, survey, respondent, project, institute of the bar, legal services, advocates's immunity, advocates 's independence, rule-making, number of lawyers.	

It is known that in recent years, along with all spheres of our life, positive changes have taken place in the judicial system. In recent years, special attention has been paid to ensuring the independence of advocates through the introduction of international standards in the judicial system of Uzbekistan, strengthening their participation in the proceedings, strengthening their key role in the protection of human rights and freedoms. Decree of the President of the Republic of Uzbekistan dated December 13, 2019 № DP-4551 "On measures to ensure the rule of law and the rule of law, strengthening public control and raising the legal culture in society" set tasks to further improve the legal profession and radically increase the status of advocates.

Article 116 of the Constitution of the Republic of Uzbekistan establishes the right of every person residing in the territory of the state to receive qualified legal assistance. It is noted that a bar will be set up to provide this type of assistance.

The role of advocates in the implementation of this guarantee, established by our Basic Law, cannot be compared with other law enforcement agencies. The realization of this rule will be achieved through the direct reform of the legal profession, its development and ensuring the real movement in this area.

The Bar is one of the most important institutions of civil society in the Republic of Uzbekistan, an element of the rule of law, without which it is impossible to effectively protect the rights, freedoms and legitimate interests of individuals and legal entities.

Admittedly, the advocacy in our country is developing, and its current state is not good. The role of the advocacy is important in building the rule of law, and the implementation of this task imposes a special responsibility on the Chamber of Advocates of the Republic of Uzbekistan.

According to the Law of the Republic of Uzbekistan "On Advocacy", the Chamber of Advocates is a non-profit organization based on the mandatory membership of all advocates of the Republic of Uzbekistan.

This law defines the main tasks of the Chamber of Advocates, the basic rules for the bodies of the Chamber and their officials, as well as the territorial departments of the Chamber. According to this basic legal document on advocacy, the Conference of the Chamber of Advocates is the supreme body of the Chamber, while the Board of the Chamber of Advocates is the executive body of the Chamber of Advocates elected from among the advocates and provides current management of the Chamber. The Audit Commission of the Chamber is the financial supervisory body of the Chamber of Advocates and is elected from among the advocates.

Although the Conference, which is the supreme body of the Chamber of Advocates of the Republic of Uzbekistan under our national legislation, has many powers, the law stipulates that the Conference should be convened at least once every five years<sup>1</sup>. In our opinion, it is not expedient to convene the main body of the Chamber of Advocates in the long run at a time when the laws related to the judicial system are changing rapidly and the level of development is rapid. The experience of foreign countries shows that the powers of the supreme body of advocates, the procedure for its summoning, and other issues are clearly defined at the legislative level. In particular, the supreme body of the Federal Chamber of Advocates in Russia is the All-Russian Congress of Advocates, the Congress of Advocates in Ukraine, the Conference of the Republican Bar Association in Kazakhstan, the Plenum in Estonia. Also, the term of convening their next meeting in foreign countries, in contrast to the legislation of Uzbekistan, has been introduced much shorter.

<sup>1</sup> Bulletin of the Oliy Majlis of the Republic of Uzbekistan, National Database of Legislation, April 21, 2021, No. 03/21/683/0375

For example, in the Russian Federation<sup>2</sup>, Kazakhstan<sup>3</sup> and Armenia<sup>4</sup> it is planned to convene at least once every 2 years, in Ukraine<sup>5</sup> every 3 years, and in Estonia<sup>6</sup> at least once a year. In our opinion, it is necessary to reduce the term of convocation of the Conference of the Chamber of Advocates.

To date, several documents aimed at regulating the activities of the Chamber of Advocates have been adopted, the last of which is the "Charter of the Chamber of Advocates of the Republic of Uzbekistan", approved by the III Conference of the Chamber on November 17, 2018. According to Article 3 of the Charter, the Chamber, together with the territorial divisions formed in 14 administrative-territorial units, forms a single system of self-government of the Bar and adheres to the principle of non-interference in the activities of advocates in accordance with the law.

The above is a brief overview of the basic rules governing the activities of the Chamber of Advocates. As a continuation of the analysis, we can note the following shortcomings related to the improvement of the activity of advocates:

- today the relationship of the Chamber of Advocates with advocates is not fully regulated;
- the Chamber does not have clear powers to provide full protection to advocates;
- the personnel training system of the Chamber of advocates does not exist;
- the role of the Chamber of Advocates in norm-setting is insufficient.

V.Davlyatov, one of the leading researchers in the field of advocacy, conducted a sociological study on advocacy and activity of advocate in all regions of the country in 2020. According to a survey of 1,550 advocates, "How do you assess the current activities of the Chamber of Advocates of the Republic of Uzbekistan?" 38.5% of respondents answered "good", 48.5% answered "satisfactory", and 9.6% answered "unsatisfactory". Of the advocates surveyed, 225 rated the Chamber of Advocates of the Republic of Uzbekistan as a punitive body, while 676 rated the Chamber as a professional and social protection body. 357 advocates, or 23% of the advocates surveyed, consider the Chamber as an oversight body for the advocacy<sup>7</sup>.

In this case, it is necessary to fully regulate the interaction of the Chamber of Advocates with advocates, to further expand the powers of the Chamber in this regard.

It is well known that the full exercise of the powers of advocates by law, the absence of obstacles in this regard, is closely linked to their independence and inviolability. The full use of the norms of substantive and procedural law, in turn, is an important factor in the administration of justice. To further strengthen the inviolability and independence of the advocate, it would be expedient to reconsider the powers of the chairman of the Chamber of Advocates as well. In particular, it is necessary to introduce the power of the Chairman of the Chamber of Advocates to submit a petition to the Prosecutor General of the Republic of Uzbekistan in cases of violation of the inviolability and independence of advocates, obstruction of their rights. As a logical continuation of this change, it is necessary to determine the obligation to provide written information to the Chamber of Advocates within 1 month about the study of the application and its results.

According to statistics, the number of advocates in Uzbekistan is slightly lower than the total population. Currently, more than 8,000 citizens have one advocate. We can cite several factors as the reason for this. It is also necessary to reconsider some of the requirements for obtaining the status of advocate. In our opinion, increasing the number of advocates is a positive development, but first of all it is necessary to take into account the need of the population for the services of advocate. If the number of advocates does not cover the current need of the population for legal assistance, then increasing the number of advocates will become one of the key issues. The increase in the number of advocates is directly related to the training system. The fact that the Chamber of Advocates does not have a special function in the field of training does not affect the increase in the number of advocates, as well as the issue of training in-depth study of the legal profession. One of the good news in this regard was the opening of a special master field of law at the Tashkent State University of Law. However, it is not limited to the establishment of the Academy of the Chamber of Advocates, which will introduce a system of training legal personnel on the basis of a 1-year master's degree. There is no doubt that such a reform will have a positive effect on our state on the path to the rule of law in the coming years.

To date, on the initiative and under the leadership of President Shavkat Mirziyoyev, drastic reforms have been carried out in the judicial system, as well as in all spheres of life. In recent years, special attention has been paid to ensuring the independence of advocates through the introduction of international standards in the judicial system of Uzbekistan, strengthening their participation in the proceedings, strengthening their key role in the protection of human rights and freedoms. The above-mentioned Decree of the President of the Republic of Uzbekistan dated December 13, 2019

N<sup>o</sup> DP-4551 "On measures to ensure the rule of law and the rule of law, strengthening public control and raising the legal culture in society" tasks were defined. In particular, a number of tasks were identified with the resolution such as

<sup>2</sup> <http://pravo.gov.ru/proxy/ips/?docbody=&nd=102076346>

<sup>3</sup> [https://online.zakon.kz/document/?doc\\_id=33024087#pos=654;-52](https://online.zakon.kz/document/?doc_id=33024087#pos=654;-52)

<sup>4</sup> <http://www.parliament.am/legislation.php?sel=show&ID=1483&lang=rus>

<sup>5</sup> <https://zakon.rada.gov.ua/laws/show/5076-17#Tex>

<sup>6</sup> <https://www.juristaitab.ee/sites/www.juristaitab.ee/files/elfinder/ru-seadused/2010.06.2018.pdf>

<sup>7</sup> Analysis of the results of sociological research on advocacy and activity of advocate (information-analytical information) //

V.X.Davlyatov. -- T : LESSON PRESS Publishing House, 2020. p 40

increases the role and importance of the structure of the Chamber of Advocates of the Ministry of Justice of the Republic of Uzbekistan through the development of a draft document of the President of the Republic of Uzbekistan on the activities of the Chamber of Advocates and revision and the establishment of additional benefits for advocates.

In order to ensure the implementation of the decree, the Chamber of Advocates has developed a Presidential Decree "On measures to further improve the Bar and increase the status of advocates" and "Concept for the development of the Bar of the Republic of Uzbekistan." In 2022, these documents are expected to be adopted with certain changes. It is true that it took time for the projects to gain the status of a normative legal document. If the Chamber of Advocates had the power to submit drafts to the Oliy Majlis of the Republic of Uzbekistan on the basis of the right of legislative initiative, this process could have taken place in a shorter period of time. In this context, it would also be a good change for the advocacy to consider giving the Chamber of Advocates the right to initiate legislation.

Article 27 of the Constitutional Law of the Republic of Uzbekistan "On the Constitutional Court of the Republic of Uzbekistan", adopted on April 27, 2021, gives 14 subjects the right to appeal to the Constitutional Court. Today, the Chamber of Advocates is not among the entities that have the right to submit issues to the Constitutional Court. During the analysis, the Constitutional Court has made only one comment on the norms of the Constitution and laws of the Republic of Uzbekistan over the past five years. In Hungary, Poland, the Russian Federation, there is a practice of introducing issues into the bodies of constitutional control by the self-governing bodies of the advocates. Therefore, the expansion of the range of subjects entitled to appeal to the Constitutional Court at the expense of the Chamber of Advocates of the Republic of Uzbekistan would contribute to the development of advocacy.

The implementation of the above-mentioned changes will have a direct impact on the development of the advocacy and a positive change in the performance of our country in various international indices. This is because the role of the advocacy in law enforcement cannot be compared with other bodies. Among the law enforcement agencies, only the activities of the advocacy are aimed at protecting human rights, restoring violated rights. Its sufficiently effective, in turn, justice decision-making is one of the key factors in building the rule of law. We hope that the changes that are expected to take place will change the status of the advocacy.

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