

QUALIFICATION COMMISSION AND ITS IMPROVEMENT OPPORTUNITIES

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Abstract: This article provides the qualification commission under the Chamber of Advocates in the Republic of Uzbekistan and the possibilities of its further improvement are considered.

Key words: Advocacy, qualification commission, bar exam, bar association.

This article examines the qualification commission in our country and the possibilities of its further improvement.

The reforms implemented in the field of advocacy in our country in the last two years have raised the quality and efficiency of this service to a completely new level.

In previous years there was indeed attention to the front as well. For example, in 2008, the Bar Association of the Republic of Uzbekistan was established based on the Bar Association of Uzbekistan, based on the mandatory membership of all lawyers. Its legal status, goals, tasks, rights and obligations of its members were defined. Admittedly, advocacy organizations have not achieved good results in this direction. The Bar Association's role as a defender of the legal profession has declined. At the same time, it is said that there are various obstacles in the examination of lawyers' complaints in investigative and judicial bodies, and lawyers commit violations due to a lack of knowledge and experience. This is the cause of citizens' rightful objections.

In each region of our country, based on the Chamber of Advocates, relevant qualification commissions have been established, and their activities are regulated by the Decree of the Minister of Justice of the Republic of Uzbekistan No. 1921 "Qualification commissions under the regional departments of the Chamber of Advocates of the Republic of Uzbekistan" which came into force on 24.03.2009. will be carried out based on the order "On approval of the statute on Based on this normative legal document, qualification commissions perform the following:

Qualification commissions:

acceptance of a qualification exam from applicants for the status of a lawyer (hereinafter referred to as applicants);

taking the lawyer's oath;

suspension and restoration of the status of a lawyer;

awarding a qualification to a lawyer;

consideration of appeals regarding the lawyer's illegal actions;

It is established by lawyers to consider the requirements of legal documents, rules of professional ethics of lawyers, and disciplinary proceedings on violation of a lawyer's secret and lawyer's oath.

Referrals regarding the illegal actions of a lawyer referred to in the sixth paragraph of this clause mean appeals of individuals and legal entities, submissions and letters of law enforcement agencies, and other appeals related to the actions of lawyers.

The qualification commission is organized as follows based on the relevant paragraph of the above order:

Joint decisions of qualification commissions of the regional departments of the Chamber of Advocates of the Republic of Uzbekistan (hereinafter referred to as regional departments) and the Ministry of Justice of the Republic of Karakalpakstan, regional and Tashkent city justice departments (hereinafter referred to as judicial bodies) and will be made up of lawyers respected among their colleagues, as well as experienced experts in the field of law.

According to the above-mentioned order, the qualification commission shall act as follows to fulfil the tasks assigned to it:

- considers applications of applicants, lawyers and other interested persons;
- if necessary, requests additional documents from interested persons and relevant organizations;
- makes decisions based on the results of qualification exams by applicants;
- makes decisions based on the results of taking the lawyer's oath the applicants;
- makes decisions on suspending and restoring the status of a lawyer;
- makes decisions on granting and revoking qualifications to lawyers;
- makes decisions on the initiation of disciplinary proceedings or refusal to initiate disciplinary proceedings based on the results of consideration of appeals regarding illegal actions of a lawyer;
- makes decisions on the results of consideration of disciplinary proceedings against lawyers.

The composition of qualification commissions is approved by the joint decisions of the heads of regional administrations and judicial bodies, consisting of 7-9 people from among lawyers respected among their colleagues, as well as experienced experts in the field of law for two years. In this case, at least 4 of the 7 members of the commission, and at least 5 of the 9 members of the commission should be lawyers. Experienced employees of the court, judicial bodies and other organizations in the field of law are involved in the composition of qualification commissions based on an agreement.

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.

Qualification commissions in developed foreign countries operate as follows:

In Germany: The DAV represents the German legal profession and aims to unite all 160,000 lawyers in Germany and German lawyers abroad. It currently has an app. 66,000 individual members organized in 259 local bar associations, 13 of which are located outside Germany (Brazil, France (2), Greece, Italy, Netherlands, Luxembourg, Poland, Portugal, Spain, Turkey, Ukraine and Great Britain).

All lawyers admitted to practice in the jurisdiction of the state supreme court are members of the bar association. Lawyers admitted to work in the Federal Court are members of the special chamber. Each local ward is headed by a seven-member council. A member of the jury can be an elected lawyer who has reached the age of 35 and has 5 years of continuous work experience in the bar. The members of the Council of the Chamber are elected for a term of four years. The Chamber of Advocates operating before the Federal Court has a structure similar to the structure of the local chambers, the only difference is that the Chamber of Advocates reports on its activities to the federal minister rather than to the department. provides. The functions of state control over the activities of federal and local chambers are mainly limited to checking compliance with the laws and statutes of the chamber, as well as the fulfilment of the tasks assigned to a particular chamber.

Disciplinary sanctions against lawyers are carried out by honorary courts established in each bar association. Courts of honour may apply the following disciplinary measures to guilty lawyers: warning, reprimand, a fine up to 50,000 euros, and prohibition to work as a representative or defence attorney in certain areas of justice. exclusion from the bar for a period of one to five years. Hearings in the Honorable Court are usually held in closed session.

Since the establishment of the German Bar Association, its legislative committees have supported and enriched the activities of the Executive Board and the leadership. Legislative committees consist of representatives of the legal profession operating voluntarily. The task of the legislative committees is to formulate opinions on all relevant bills at the German and European levels.

In France: A lawyer is obliged to keep professional secrets, it is both a right and a duty. He is not limited in his correspondence with the client, even with the arrested person. A lawyer cannot be an advisor, representative or defender of several clients in one case. A lawyer should make a decent living. In the case of dishonest behaviour towards his clients, he is civilly liable, and in the case of committing a crime, he is liable to criminal liability.

Violation of laws and regulations, professional standards, and disregard for the rules of honesty, dignity and professional courtesy, even outside of professional activity, may result in a lawyer being subject to disciplinary action. Disciplinary sanctions: warning, reprimand, temporary suspension (up to 3 years), removal from the list of lawyers. Decisions of the Council of the Chamber of Advocates on sanctions can be appealed to the court of appeals. Lawyers can agree on cooperation with individuals (for example, the establishment of a limited liability company) or with another lawyer or a group of lawyers.

USA: Disciplinary practice in the United States appears to be more liberal than in other countries, a result of the prevalence of various violations of professional duties by lawyers and their less institutional affiliation. Therefore, the bar association can comment, fine or expel the lawyer after investigating the violation. The latter is used relatively rarely and mainly for political reasons. The exception for non-payment of membership fees is widely used. More severe sanctions are imposed by the courts in cases of "contempt of court" or "unprofessional conduct". In this case, the lawyer may not only be dismissed from work, deprived of practice or fined, but also deprived of liberty.

The key part of our article is focused on suggestions. The preliminary proposal for taking the qualification exam from applicants for the status of a lawyer (hereinafter referred to as applicants) consists of the following:

1. The first proposal is that the members of the qualification commission should be elected following world standards only among lawyers who have reached the age of 35 and have 5 years of continuous work experience in the bar. Because the participation of the members of other bodies in the application of punishment to the lawyer, awarding qualification level or election affects the independence of lawyers in some sense. Therefore, the commission should be made up of only lawyers, and in this way, the reputation of lawyers will increase in some sense.

2. Our second proposal is related to the application for the bar exam. According to our current legislation, the applicant must submit the following documents to pass the qualification exam:

application for passing the qualification exam;

A copy of the passport of a citizen of the Republic of Uzbekistan;

diploma of higher legal education (a copy is taken and the original is returned);

workbook (a copy is taken and the original is returned) or a certified copy of it at the place of work;

a personal sheet containing information about the applicant;

a description is given by the legal structure where the applicant has completed an internship;

2 colour photographs of 3 x 4 cm in size (taken within the last 12 months);

information about the applicant's conviction or non-conviction and legal capacity.

I offer the following: In our current technological age, it is not a very reasonable requirement to present some of the above documents in paper form, because a common base of adults is being formed in our country. If the Chamber of Advocates establishes cooperation with relevant state bodies, the applicant will be able to obtain some information only through the database. For example, by entering the applicant's JSH SHIR into the database, a diploma of higher legal education, a workbook, a personal sheet containing information about the applicant, and the applicant's conviction or non-conviction and legal capacity can be checked. will get the opportunity to get information about it, which will certainly prevent heart failure. In addition, it is necessary to make an addition to the order, in front of the paragraph requiring the passport of a citizen of the Republic of Uzbekistan, add the current ID card and add the electronic labour record or its replacement to the paragraph requiring the labour record. It is a requirement of the present time to enter the words of the pressing document.

3. Moving on to the third proposal, it is necessary to improve the examination of applicants. The applicant is currently tested as follows: The qualification test is held in one room for all applicants, in oral and written forms. The qualification exam is conducted based on examination papers made up of questions from the list approved by the Chamber of Advocates of the Republic of Uzbekistan.

Exam papers should contain no more than five questions, including questions on the field of practical application of law, and at least half of them on the theory of various branches of law.

The candidate's answers to the questions on the exam paper are reflected in the exam sheets.

The candidate answers the questions on his exam paper orally. Members of the qualification commission may ask additional questions to the applicant to clarify the questions on the exam paper.

The members of the qualification commission will evaluate the applicant's answers in the evaluation bulletin on a ten-point system.

In our opinion: In all developed countries, in particular, in the USA, the exams taken from applicants are currently held in specially equipped rooms and using technologies. It is possible to apply the world standard in our country as follows: For this, the bar association should organize rooms equipped with computers and equip them with cameras, as this allows to establish real-time public control during the examination. In addition, it prevents human intervention and the bar exam is transparent.

4. The fourth proposal is related to the form of questions. Currently, candidates write their answers on the answer sheet signed by all members of the commission participating in the meeting of the qualification commission, and the first page of the

exam paper is confirmed by the seal of the regional office, and the candidate answers the questions on his exam paper orally. In addition, the members of the qualification commission may ask additional questions to the applicant to clarify the questions on the exam paper.

The proposal is as follows: the applicant must pass the qualification exam in two stages, in the first stage the candidate must answer multiple choice questions on the computer given to him, as in foreign countries, where the number of questions is ten, and the candidate must get at least eight of them correctly. must answer. If two wrong answers are selected, the computer should be automatically shut down and in such a situation, it is appropriate that the candidate's key is given to the exam only after one week with an additional fee. In this situation, after passing the computer exam, the key must pass the exam within 15 days, otherwise, it should be considered necessary to take the computer exam again. The next stage should be to check his practical skills, that is, he will answer the given problematic situation verbally. In this case, the problem situation is not assigned by the qualification commission but randomly selected by the computer. Evaluation continues in the ten-point system. This type of exam is full of corruption and familiarity. However, if you fail to pass the exam in the second stage, then the transfer should be done not after six months, but after one month with an additional fee. Of course, this serves to prevent corruption and increase the status of the legal profession, because in this situation, only qualified lawyers will be able to obtain a lawyer's license, and the rights of citizens will be well protected. The additional fees proposed to be paid will increase the material and technical aspects of the bar structure.

5. The last suggestion is that the qualification commission should be allowed to fine, reprimand and ban the lawyer from working as a defence attorney in some areas of justice because this is how some lawyers respect the qualification commission and also pay the mandatory contributions. pays on time. In addition, increasing the sanctioning power of the qualification commission encourages the lawyer to be more responsible.

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