

PARTICIPATION OF AN ADVOCATE AS A REPRESENTATIVE IN CIVIL PROCEEDINGS: RIGHTS AND OBLIGATIONS

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ABSTRACT *This thesis explores the role of advocates as representatives in civil proceedings, emphasizing their rights and obligations. It highlights how advocates influence the judicial process by ensuring fair representation of litigants' interests. Key duties, such as loyalty, confidentiality, and competence, are discussed alongside rights like accessing case files and presenting evidence. The balance between effective client representation and adherence to legal and ethical standards is examined, as well as challenges like conflicts of interest. This analysis aims to deepen understanding of advocates' roles and contribute to improving civil justice.*

Key words: *Advocate, civil proceedings, representation, rights, obligations, judicial process, ethical standards, client representation, conflict of interest, civil justice.*

Advocates for the protection of citizens' rights participate in different courts under various statuses. In criminal courts, an advocate acts as a defender, while in civil and economic courts, they serve as representatives. As participants in the process, they have certain rights and obligations established in the Civil Procedure Code of the Republic of Uzbekistan. Additionally, the law of the Republic of Uzbekistan "On Advocacy" outlines the rights and functions of advocates. Individuals, both legal and physical, who wish to defend their rights in court through an advocate, enter into a relationship with the advocate by contract. Therefore, in court proceedings, the advocate's representation

is considered contractual representation. A person who expresses confidence, that is, the plaintiff or the defendant, submits to the representative on the basis of voluntary representation for the protection of their rights and interests in court. Only advocates can engage in professional activities as representatives in court proceedings [1]. According to Article 9¹ of the law of the Republic of Uzbekistan "On Advocacy" the practice of law providing legal assistance, which is formalized between an advocate and a person who expresses confidence, is carried out on the basis of an agreement [2]. However, this agreement alone does not give the advocate the right to conduct proceedings in court. For court proceedings, an advocate's order and certificate are required. Any special permit (except for the order and lawyer's certificate) or other obstacles is prohibited [3].

When does an advocate need a Power of Attorney?

According to procedural norms, the authority of the representative is established in the Power of Attorney issued by the person who expresses confidence. According to Article 69 of the Civil Procedure Code, the Power of Attorney must specifically specify the authority for complete or partial disclaimer of requirements, changes in their basis or subject, increasing or decreasing amounts, recognizing claims, settlement agreements, mediative agreements, transferring powers to another person, appealing court documents, signing applications, submitting execution sheets, and obtaining levied property or money. An advocate cannot use these rights without a Power of Attorney. However, as a representative, an advocate has rights and obligations prescribed by the Civil Procedure Code. Persons participating in proceedings have the right to familiarize themselves with the materials of the case, obtain copies, present evidence, participate in investigations, question other persons involved, file petitions, give explanations to the court, present arguments, file objections, and appeal court documents. They also have the right to demand the execution of court documents and exercise their rights during actions by state executives. According to Article 39 of the Civil Procedure Code, the representative is included in the category of persons involved in the case. Another discrepancy in our legislation is related to citizenship as highlighted in Articles 39 and

69 of the code. Both articles address the right to appeal court documents. An advocate can file petitions in court without a Power of Attorney, but any signed petitions must be accompanied by a Power of Attorney. There are several other rules that a lawyer must follow. The "Professional Ethics of a Lawyer" approved by the II Conference of the Chamber of Advocates of the Republic of Uzbekistan in 2013 states that an advocate must not make unreasonable promises about the outcome of a case or guarantee success. An advocate should not accept a case if it prevents them from executing a prior assignment. Also, the assignment of participation in the case or the transaction (contract) an advocate who accepts a motion of confidence (defence to refuse protection, vaying the incompetence of the person below) to pay it is not justified and the person who expresses the trust to which the appeal is made (under protection of the person) to prepare an appeal against the judicial verdict in the case and to make it the defender must perform his duties until the submission stage [4]. These rules are refers to the activities of an advocate in criminal proceedings. In civil proceedings representation before the stage of preparation and issuance of an appeal to an advocate there is no obligation to do. However, if an illegal decision is issued, as defined in Article 4 of the Law "On Guarantees of Advocacy and Social Protection of Lawyers," the advocate must file a formal complaint in all types of proceedings. In recent years, significant efforts have been made to develop the advocacy institute, and responsibility for illegal interference in advocacy activities has been established. The freedom of activity of lawyers is strengthened by laws. In the newly adopted Constitution of the Republic of Uzbekistan, the status of advocates has been further strengthened, and reforms in this direction are continuing rapidly. The "Uzbekistan - 2030" strategy includes the radical enhancement of the Advocacy Institute's potential and the development of a system for providing qualified legal assistance. The following priority tasks have been defined:

- Transferring the Advocacy Institute to a self-management system and ensuring its true independence from state bodies and other structures.

- Implementing a system of lawyer training in accordance with modern and international standards based on the principle of alternative.

- Increasing the number of lawyers by at least 2000.

- Bringing the level of electronic document exchange between lawyers and courts, law enforcement agencies, and other state bodies to at least 50% in civil, administrative, and economic cases [5].

The participation of an advocate in civil proceedings is considered an important stage in implementing the rights of citizens defined in the Constitution. Ensuring the right of citizens to receive free legal aid in accordance with the law will increase legal awareness among citizens. Therefore, it is important to rapidly implement reforms for the development of the representative institution.

THE LIST OF USED LITERATURE:

1. Civil procedure code of the Republic of Uzbekistan.
<https://lex.uz/docs/5535095>
2. Law of the Republic of Uzbekistan “On advocacy” from 27.12.1996 г. № 349-I.
3. Law of the Republic of Uzbekistan, “On guarantees of advocate activity and social protection of Advocates” dated December 25, 1998 No. 721-I.
4. "Professional Ethics Rules of a Lawyer" approved as an appendix to the decision of the II Conference of the Chamber of Advocates of the Republic of Uzbekistan dated September 27, 2013.
5. "Uzbekistan - 2030" strategy <https://lex.uz/ru/docs/-6600413>.