

## AS A GUARANTOR OF THE CONSTITUTIONAL RIGHT OF THE DEFENSE TO RECEIVE QUALIFIED LEGAL ASSISTANCE (AT THE ACTIVITY OF ATTORNEY)

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### **Abstract:**

This article indicates that the main procedure of attorney's work in judicial system and his collaboration with customers and main principila activities of law-defenders.

### **Key words:**

Attorney, court. Procedure, legal service, justice. Obkective intepreatation of process and law

The rule of law is a principle that is directly related to the concepts of people's power and human rights. Because the power of the people means the right of citizens to participate directly or indirectly in the decision-making process. In this sense, laws that are the expression of the will of the people, passed by citizens through elected representatives in parliament or by direct referendum, are the result of popular power, figuratively speaking, the fruit. Human rights and freedoms are enshrined in law, in fact, the ultimate goal of laws is to protect man, his rights and freedoms.

In recent years, significant work has been done to strengthen the role and importance of the bar, which is one of the most effective institutions for the protection of the rights, freedoms and legitimate interests of individuals and legal entities as an important component of judicial reform.

At all stages of the proceedings, measures have been taken to ensure the proper functioning of the principle of adversarial proceedings, and the necessary legal framework for the professional activity of lawyers has been created. Only lawyers are allowed to act as defense counsel in criminal cases, due to the high importance of court decisions for the individual and society. The state guarantees the right to qualified legal assistance, provides conditions for the training of qualified personnel with the necessary professional knowledge and skills, and sets certain professional and qualification requirements for this purpose. The right of everyone to qualified legal assistance serves as a guarantee of the exercise of other rights and freedoms established by the Constitution of the Republic of Uzbekistan, including the right to defend their rights in any way not prohibited by law: judicial protection, negotiation between the parties and the consideration of a case by a court on the basis of equality, and are interrelated with them. This right should not be restricted under any circumstances.

As an example, we can cite the example of Article 27 of the Constitution. In particular, everyone has the right to protection against encroachment on his honor and dignity, to intrusion into his private life, and to the inviolability of his home. No one may enter, search or inspect a person's home, or disclose the secrets of correspondence or telephone conversations, except as provided by law. Incorporating the principles of the Universal Declaration of Human Rights and other major international instruments, our Constitution strengthens the supremacy of human rights and interests, its freedoms over the interests of the state, sets the creation of decent living conditions for our people, proclaims the principles of social justice. did.

It is also noted that lawyers can participate as defense counsel. Pursuant to Article 49 of the Code of Criminal Procedure of the Republic of Uzbekistan, a defense counsel is a person authorized to protect the rights and legitimate interests of suspects, accused persons and defendants in accordance with the law and to provide them with necessary legal assistance. The participation of one of the close relatives or legal representatives of the suspect, accused, defendant as a defense counsel may be allowed at the

request of the suspect, accused, defendant by the decision of the inquiry officer, investigator or court order. Defense counsel is allowed to participate in the case at any stage of the criminal proceedings, and when a person is detained, his right to freedom of movement is restricted in practice. In addition, Article 10 of the Law of the Republic of Uzbekistan "On Courts" provides for the right of defense of the suspect, accused, defendant. The right to qualified legal assistance is guaranteed at any stage of the proceedings and the rights of the accused or defendant are protected at any stage and in any circumstances. So at what stage should a person be considered to have the right to legal assistance? . In this regard, paragraph 8 of the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan dated December 19, 2003 No. 17 "On judicial practice in the application of the law on the protection of the suspect and the accused" According to Article 49 of the Code of Criminal Procedure, a defense counsel is allowed to be present at any stage of the criminal proceedings, and when a person is detained, from the moment when his right to freedom of movement is practically restricted. It should be noted that in cases where a person is detained on the grounds specified in Article 221 of the Criminal Procedure Code, although the law stipulates that the relevant statement must be made after the person is brought to the police or other law enforcement agency. however, he is considered a suspect from the moment his right to freedom of movement is practically restricted. From that moment on, the detainee was deprived of all the rights granted to the suspect, including the right to a lawyer, to call or send a message to a close relative or lawyer, to refuse to testify, as well as to testify against him in a criminal case. enjoys the right to know that it can be used as evidence against. Therefore, in such cases, he may not be interrogated as a witness, the decision on his involvement in the criminal case as a suspect may not be announced to him, and the relevant rights and obligations may not be explained to him. A person who has filed a confession with the relevant state body has the same legal status (Article 113 of the CPC).

In this regard, referring to international standards, it states the following in terms of protection and legal assistance:

The right to self-defense means that all persons accused of committing a crime have the right to a defense against the charge and to have sufficient time and opportunity to prepare their defense.

Defendants may defend themselves independently or through a lawyer of their choice:

I. The accused must be aware of this right;

II. These two types of protection (in person or through a lawyer) are not mutually exclusive. Defendants who use the assistance of a lawyer have the right to instruct the lawyer to conduct the case within the scope of his / her professional duties and to give instructions on his / her behalf.

While the right to self-defense implies the right not to be compelled to hire an appointed lawyer and the right to refuse the assistance of any lawyer, the right to self-defense is not absolute. Any restriction on the right of the accused to self-defense must be impartial and sufficiently serious, and must not go beyond the necessity of upholding the interests of justice. However, in some cases, the interests of justice may require the appointment of a lawyer, regardless of the defendant's will:

I. The accused obstructs the trial to a reasonable extent and on a regular basis;

II. If a person has been charged with a serious crime and is unable to act in his own interests;

III. It is axiomatic at all stages of the proceedings to provide the accused with the assistance of a qualified lawyer if there is a possibility of imposing the death penalty in the case of a conviction;

IV. Witnesses in need of protection should be protected from torture and intimidation as a result of interrogation of the accused.

In such cases, the court must appoint a lawyer, even if the defendant is opposed to the protection of his or her interests by a lawyer of his or her choice or by an appointed lawyer. If the defendant's interests are not represented by a lawyer during the pre-trial hearing of the criminal case, the court or tribunal must inform him of his right to the assistance of a lawyer. In order for such a message to be effective, it must be done in advance to ensure that there is sufficient time and opportunity to prepare the defense. In general, the defendant can choose which lawyer to defend his or her interests. However, the right to a lawyer by personal choice may be restricted if the lawyer's actions go beyond the bounds of professional ethics, if he or she is a defendant in criminal proceedings, or if he or she

refuses to follow court rules. It should be noted that there is no internationally agreed statement on the specific role of legal aid at the initial stage of criminal proceedings. However, the following principles and guidelines provide information on the use of legal aid by lawyers and the United Nations in criminal proceedings:

- Loyal respect for the interests of their clients, taking into account their age, gender, nationality or ethnicity, mental and physical disability or sexual orientation, and take all necessary measures;
- Striving to ensure that clients know and understand their rights, especially to be the first to be reminded of their constitutional rights;
- Striving to ensure that their clients are treated with respect, their human rights are respected and treated in accordance with the law;
- Provide advice and assistance and, if necessary, create a separate room for their clients and take into account their special needs, any relevant vulnerabilities
- Properly combat any illegal or unfair treatment of customers;

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