



COUNCIL OF EUROPE CONVENTION FOR THE PROTECTION OF THE PROFESSION OF LAWYER (CETS №226): REGULATORY INNOVATION AND IMPLEMENTATION GUIDELINES FOR UZBEKISTAN

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Abstract

The article examines the European Convention on the Protection of the Profession of Lawyer (CETS №226), adopted in 2025, and its significance for reforming the legal profession in Uzbekistan. It is shown that the Convention translates existing international standards and principles of independence of the legal profession related to "soft law" into a contractual-binding regime with monitoring of implementation, securing three key blocks of guarantees: 1) institutional independence of self-government and participation of the representative body of the legal profession in the creation of norms; 2) independent admission to the profession and independent formation and activity of disciplinary commissions; 3) procedural mechanisms for protecting attorney-client privilege (including the presence of an attorney-client). In this regard, the phased guidelines for the implementation of the Convention's provisions into Uzbekistan's national legislation are substantiated: specific amendments to the special law and procedural codes, the institutional separation of qualification and disciplinary commissions, the development of external independent collegial expertise, and international cooperation. It was concluded that CETS №226 should be taken into account when preparing the draft of the new Law of the Republic of Uzbekistan "On Advocacy and Advocacy".



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Keywords: Legal profession; independence; disciplinary jurisdiction; lawyer-client privilege; CETS No. 226; implementation; Uzbekistan.

Introduction

In these conditions, the stability of key guarantees of the independence of the legal profession and advocacy, from the institutional autonomy of the Chamber of Advocates and its bodies to the real protection of attorney-client privilege and the protection of lawyers' rights, is becoming one of the important factors of trust in justice. Adoption of the European Convention for the Protection of the European Convention on the Protection of the Bar in 2025 The legal profession¹ marks a qualitative shift: for the first time, the basic guidelines that have been enshrined for decades at the level of "soft law" have taken the form of contractually binding obligations with a mechanism for monitoring implementation. In other words, recommendatory norms have been transformed into a mandatory legal structure with mechanisms for verifying and comparability of practices.

The Convention highlights the central role of the lawyer and his professional associations in ensuring access to justice and in maintaining the rule of law. The Convention extends its guarantees to both individual practice and institutional forms, forming a single conceptual framework suitable for modern forms of work, including remote communications and digital media. In this regard, the normative structure of the Convention is built around several interrelated blocks. Firstly, the Convention enshrines the requirements for the organizational independence and self-government of the Bar: the election of governing bodies without external interference, mandatory consultations with the professional community in the preparation of reforms affecting the practice of law. This part actually codifies the immunity of self-government from administrative influence and turns self-government bodies (associations, chambers) from a "participating observer" into a full-fledged institutional one partner of the legislator and law enforcer. It should be emphasized that a comparable, in many respects advanced for the region, model of participation of the Bar in the rule-making process has

¹ Council of Europe Convention on the Protection of the Profession of Lawyer (Luxembourg, 13 May 2025). — CETS № 226. — Council of Europe Treaty Series. — URL: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/226>



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already been introduced in Uzbekistan. Thus, the Decree of the President of the Republic of Uzbekistan NoUP-5441 of May 12, 2018 enshrined the mandatory coordination with the Chamber of Advocates of the Republic of Uzbekistan of draft regulatory legal acts on issues affecting advocacy and legal proceedings, and also granted the Chairman of the Chamber the right to participate in meetings of the Legislative Chamber of the Oliy Majlis when discussing draft laws and to state the position of the professional community (paragraph 7).² Thus, in Uzbekistan, the key element of the "dialogue on an equal footing" between the state and the legal profession, which the Convention formalizes as an international standard, has already been reflected at the legislative level.

The second pillar of the Convention concerns the status of lawyers: decisions on admission, suspension, termination and restoration of the status must be made by an independent professional body with the guarantee of effective judicial control. The grounds and procedures must be transparent and objective, and disciplinary jurisdiction must be based on professional standards and fair trial principles, which include the right to appeal on the merits. Taken together, this eliminates the structural conflict of interest that arises where the issues of the status and responsibility of the lawyer directly or indirectly depend on the executive authorities.

The third block relates to the professional rights of lawyers and the protection of attorney-client privilege. The Convention confirms the unconditional value of confidential communication between lawyer and client (client) and expands procedural guarantees in the conduct of investigative actions in the premises of lawyers and in relation to their information carriers. residential and office premises of lawyers; judicial control of access to information protected by secrets; special procedures for access control and isolation of protected materials in case of their accidental discovery; prohibition of arbitrary familiarization with them. It is important to emphasize that the secrecy regime applies not only to existing clients, but also to potential clients, as well as to persons who have

² Decree of the President of the Republic of Uzbekistan No UP-5441 of 12.05.2018 "On measures to radically improve the effectiveness of the institution of advocacy and expand the independence of lawyers" // National database of legislation of the Republic of Uzbekistan. – 2018. – No 05/18/5441/1342. – URL: <https://lex.uz/doacs/3731058>.



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applied for advice, and to all other participants in confidential interaction (for example, translators, assistant lawyers), regardless of the communication channel used and the type of medium. Thus, the protection of secrecy is removed from the sphere of general principles to the plane of enforceable procedural rules, which is of direct importance for strengthening citizens' confidence in the justice system. These approaches should be directly enshrined in the new Law "On the Bar and Advocacy", the development and adoption of which is provided for by the Decree of the President of the Republic of Uzbekistan. dated 22.06.2020 NoUP-6012.³ It is also necessary to synchronize this approach with the relevant provisions of the procedural legislation, which will be in line with the spirit and requirements of the updated Constitution of the country.⁴

Finally, the most important innovation of the Convention is the monitoring mechanism: a specialized expert group and a Committee of the Parties are created, which are empowered to assess the implementation of obligations, form practice-oriented recommendations and maintain interstate dialogue. The possibility of accession by third States at the invitation of the Parties is envisaged, which opens a legal channel for the countries of Central Asia. These elements give the Convention not only normative but also institutional power: compliance is the subject of regular international attention and national reforms are comparable to European best practices.

Comparison of the provisions of the Convention with the norms of the UN Basic Principles on the Role of Lawyers⁵ and the Standards of the Independent Legal Profession⁶ shows the continuity and at the same time strengthening of guarantees of the independence of the legal profession and the practice of law. As a result, the universal standards of the "soft law" era have enshrined the fundamental principles of the independence and protection of the profession, while the Convention (CETS No226) builds a contractual "layer" on top of them

³ Decree of the President of the Republic of Uzbekistan of June 22, 2020 No UP-6012 "On Approval of the National Strategy of the Republic of Uzbekistan on Human Rights" // National database of legislation of the Republic of Uzbekistan. – URL: <https://lex.uz/docs/4872357>

⁴ Constitution of the Republic of Uzbekistan: Constitutional Law of May 01, 2023 No ZRU-837 (new edition) // National database of legislation of the Republic of Uzbekistan. URL: <https://lex.uz/docs/6445147>

⁵ Basic Principles Concerning the Role of Lawyers. Adopted by the Eighth United Nations Congress on the Prevention of Crime in August 1990, Havana, Cuba. – URL: https://www.un.org/ru/documents/decl_conv/conventions/role_lawyers.shtml

⁶ Standards of the Independent Legal Profession, adopted by the International Bar Association (IBA) in September 1990, New York. – URL: <https://www.ibanet.org/MediaHandler?id=F68BBBA5-FD1F-426F-9AA5-48D26B5E72E7>



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and introduces a test loop. Those institutions that previously lived by the power of the authority and goodwill of states receive a mandatory regime with a verification procedure. For national legal orders, this means the emergence of a clear "matrix of compliance", according to which it is easy to plan legislative changes and assess their sufficiency.

In the context of our country, the importance of the Convention is manifested in three dimensions. The first is aimed at ensuring the institutional independence of self-government bodies. It is important to consistently exclude models that provide for the external influence of the judiciary in the formation of the governing bodies of the Chamber of Advocates, and to enshrine the obligation of full consultations with the professional community during reforms affecting the legal profession. This is not a matter of symbolism, but a prerequisite for trust: the Chamber of Lawyers should be a subject, not an object of the regulatory process.

The second dimension should be considered in matters of admission to the profession and disciplinary procedures in relation to lawyers. The transfer of the issue of disciplinary liability to the exclusive competence of institutionally independent self-government bodies (disciplinary commissions) with the possibility of challenging their decisions in the courts removes the systemic conflict of interest and improves the quality of law enforcement. The procedure in force in Uzbekistan since 2019, which actually transferred key decisions on the suspension and termination of the status of an advocate to administrative courts, with a high role of the judiciary, actually weakened the role of qualification commissions and the independence of lawyers' self-government, which is at odds with international standards and the provisions of the Council of Europe Convention. To bring it into compliance, it is necessary to return the authority to suspend and terminate the status of an advocate to self-government bodies represented by independent disciplinary commissions, with the right to appeal their decisions to the High Qualification Commission and the court. This should be reflected in the new Law "On the Bar and Practice of Law".

The third component is aimed at ensuring the preservation of attorney-client privilege and the rights of lawyers. The implementation of mechanisms similar to those described in the Convention, the mandatory participation of an



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independent representative during searches of a lawyer's office, judicial control of access to media with professional information, procedures for "separating flows" in case of accidental discovery of protected data are critically important for the predictability of law enforcement and strengthening the rights of lawyers. From a practical point of view, the implementation of the Convention (CETSNo226) can be implemented in stages. At the regulatory level, in the short term, it is advisable to directly enshrine in the new Law "On the Bar and the Practice of Law" the principles of the legal profession and the practice of law; mechanisms of mandatory consultations in the development of normative acts related to the legal profession; to establish that decisions on admission, restoration and disciplinary liability are within the competence of independent self-governing bodies of the legal community, with a guarantee of their appeal; to introduce provisions in the Code of Criminal Procedure on the presence of an independent observer from the Chamber of Advocates during searches and seizures in the premises of lawyers; on judicial control of access to protected data and on a special regime of professional secrecy. At the institutional level, in the medium term, it is logical to ensure the election of self-government bodies, to separate disciplinary commissions from qualification commissions, while creating a public register of disciplinary decisions, and to establish regular reporting by the Chamber of Lawyers and its bodies. At the international legal level, after the key institutional conditions are met, it is possible to initiate a request through the competent authorities for an invitation to join the Convention on the model of third countries, while building participation in the relevant programs of the Council of Europe and professional associations for external expert assessment, which will have a positive impact on the effectiveness of reforms of the legal profession in the country.

In conclusion, I would like to note that the Convention (CETS No226) must be taken into account when carrying out reforms of the legal profession in the country. This is a working roadmap built into the international verification mechanism. For Uzbekistan, it can serve as a beacon in the reform of the legal profession and should be taken into account when developing a new Law "On the Bar and Practice of Law" and introducing appropriate amendments to the legislation.



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