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# **SOME ASPECTS OF ADVOCATES ACTIVITY IN FOREIGN COUNTRIES**

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### **Abstract**

This article examines some aspects of advocates activity in foreign countries. The procedure and specific features of obtaining the status of advocate in foreign countries. According to the legislation of the Republic of Uzbekistan, citizens of the Republic of Uzbekistan can engage in advocacy. Therefore, it is necessary to give foreign lawyers an opportunity to practice professional activities in the Republic of Uzbekistan. Opinions and comments on the possibility of achieving positive results in the provision of legal assistance and legal consulting services were expressed.

**Keywords:** The concept of advocacy, legal aid and legal consulting services, rule of law, human rights, trustee, protected person.

### **Introduction**

In a democratic legal state and a just civil society, a lawyer plays a special role. The Bar is a democratic legal institution that ensures the constitutional right of every person to receive qualified legal assistance on a professional basis.

In the course of the consistent implementation of the reforms being implemented in our country at the initiative of the President of the Republic of Uzbekistan Sh.M. Mirziyoyev, the Development Strategy of Uzbekistan for 2022–2026 was approved and a number of tasks were set to create the necessary political, legal, socio-economic and scientific and educational foundations for the reforms to be implemented in the next five years. Goal 19 of the Development Strategy sets a number of tasks to radically increase the capacity of the Bar to protect human



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rights, freedoms and legitimate interests, as well as to fully satisfy the demand of the population and business entities for qualified legal services [1].

Also, in the past 2017-2021, systematic work was carried out on ensuring human rights, strengthening the accountability and openness of state bodies, and increasing the role of civil society institutions, the media, and the political activity of the population and public associations in five priority areas of development[2].

The goal of the reforms in the judicial and legal sphere being implemented in our country at the initiative of our President is to increase the prestige of the legal profession as the most important guarantee of the effective protection of human rights, freedoms and legitimate interests, to ensure the rule of law in the courts, and to strengthen its role in building a democratic, humane, legal state and a strong civil society.

We would also like to dwell in detail on the experience of some foreign countries in licensing the practice of law and its introduction into the legislation of the Republic of Uzbekistan, as well as advanced foreign experiences in the field of licensing the practice of law.

As social relations develop, people's thinking is changing, technologies are advancing. New entrepreneurial activities are being formed. Therefore, the scope of legal services provided is increasing day by day, and the need for lawyers is increasing even more. Currently, there are several firms. The number of legal services provided is also steadily growing.

In Western Europe, there are two different methods of training lawyers: the English method or the Romano-Germanic method.

Turning to the experience of the Russian Federation, the practice of law in the Russian Federation is regulated by the Federal Law of May 15, 2002 "On Advocacy and the Bar". According to Article 9 of this Federal Law, the following are required to obtain the status of a lawyer:

- Higher legal education obtained under an accredited educational program or an academic degree in a legal specialty;
- Work experience in a legal specialty of at least two years or internship in the field of advocacy for a period established by law.



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It is worth noting that a license is not required to practice law in the Russian Federation.

The following persons are not entitled to obtain the status of a lawyer and practice law:

- persons recognized as legally incompetent and with limited legal capacity in accordance with the procedure established by the legislation of the Russian Federation;
- persons whose criminal record has not been completed or whose criminal record has not been expunged.

The decision on granting the status of a lawyer is made by the Qualification Commission of the Chamber of Advocates of the Russian Federation.

To obtain the status of a lawyer, it is necessary to have work experience in the following legal specialties:

1. Work as a judge;
2. Work in federal state bodies, state bodies of the constituent entities of the Russian Federation, other state bodies, where higher legal education is required;
3. Work in state bodies of the USSR, RSFSR and the Russian Federation that existed on the territory of the country before the adoption of the current Constitution of the Russian Federation, where higher legal education is required;
4. Work in municipal positions where higher legal education is required;
5. Work in positions where higher legal education is required in the bodies of the Judicial Department under the Supreme Court of the Russian Federation;
6. Work as an employee of the legal services of organizations requiring higher legal education;
7. Work in research institutions requiring higher legal education;
8. Work as a teacher of legal subjects in vocational education organizations, higher educational institutions and scientific organizations;
9. Work as a lawyer;
10. Activities as a lawyer's assistant;
11. Activities as a notary.

At the same time, a lawyer has the right to practice law on the territory of the Russian Federation without additional permits.



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Foreign citizens and stateless persons who have received the status of a lawyer in the manner established by this Federal Law are allowed to practice law on the territory of the Russian Federation, unless otherwise provided for by federal laws.

It should be noted that an applicant who has failed to pass the qualification exam in the Russian Federation is allowed to retake the exam after one year.

If we compare this provision with the legislation of the Republic of Uzbekistan, in our country, based on changes in legislation, from July 1, 2018, the period for taking the requalification exam has been reduced from one year to six months.

In the Russian Federation, the Qualification Commission makes a decision on granting or refusing the status of a lawyer within three months from the date of submission of the applicant's application for granting the status of a lawyer.

The decision of the Qualification Commission to grant the applicant the status of a lawyer shall enter into force on the date of the applicant's taking the oath.

The Qualification Commission shall not have the right to refuse to grant the applicant the status of a lawyer who has successfully passed the qualification examination, unless circumstances preventing him from taking the examination are identified after passing the qualification examination. In such cases, the decision to refuse to grant the status of a lawyer may be appealed to the court.

The status of a lawyer is granted to the applicant for an indefinite period and is not limited to a certain age of the lawyer. [3]

To sum up, with a population of 146,793,744 in the Russian Federation, there are 78,491 lawyers, which is 1 lawyer for every 1,870 people. In this Federal Law, we can see many similarities with the legislation of Uzbekistan, as well as differences. It is worth noting that in the Russian Federation, obtaining a license in accordance with the established procedure is not provided for in order to obtain the status of a lawyer. In our opinion, this, in turn, plays an important role in strengthening the principle of independence of a lawyer.

In the UK, a law degree is not required to become a lawyer, meaning that people without a law degree can become lawyers. However, people without a law degree must complete a one-year course of study. This course covers the "core subjects" of law, such as criminal, corporate, administrative, property and similar areas. At the end of this course, students sit an examination in the subjects



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they have studied, known as the Common Professional Exam (CPE).[4] The CPE is designed to provide candidates with the academic background necessary to continue their legal education. The CPE is also known as the "Legal Conversion Course" or the "Graduate Diploma in Law" (GDL). The CPE course usually lasts about 1 academic year and can be quite demanding due to the large amount of material covered during the course. Students should expect a high workload and are expected to complete extracurricular work. Most of the material covered in the LL.B (Hons) Law degree is covered in these courses; however, the conversion course takes up a third of the time. If you choose a part-time form of study, obtaining CPE can take up to 2 years. [5] In England, lawyers are called solicitors and their training usually consists of several stages. First, they study at university for 3 years, after which they undergo a practical course under the guidance of an experienced lawyer. This practical course lasts twelve months and is called a Legal Practice Course in English. At the end of the course, they pass the Solicitor Final Exam and receive a "special certificate". This certificate is renewed once a year. During this course, practitioners acquire necessary and necessary knowledge, such as negotiation processes, the formation of skills in working with documents, and contract law. [6]

If you want to become a qualified solicitor, one of the final steps you will need to take is to complete the Professional Skills Course (PSC). This course builds on the prerequisite subjects you have completed earlier in the qualification process and will enable you to practice law independently, in other words, you will begin to act independently. Completion of this course is mandatory and candidates must complete it before they are fully qualified to practice law. [7] To complete the PSC, candidates will need to complete three core modules, followed by 24 hours of optional additional courses. The core modules include a two-day course on "Client Service and Professional Standards", a three-day course on "Advocacy and Communication Skills" and a three-day course on "Financial and Business Skills". There is also an examination related to the economics module. The optional courses offered may vary depending on the institution where you are completing your course of study, but they generally cover a range of topics that will help you develop professional and business-related skills. Up to 50% of the subjects you choose can also be completed



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remotely. Some candidates may also choose their electives based on the needs of the company they are contracted to. The PSC course builds on the legal knowledge you have gained in the past and provides you with the professional skills you need to practice law. This includes the skills to communicate with clients and other individuals. These skills are essential in the UK if you want to become a successful and respected lawyer. As lawyers may work with a wide range of clients, it is important that they understand what is acceptable and what is not. By developing these skills, the course will help candidates to develop their legal skills in the legal context of their work. It not only improves their skills in various aspects, but also allows them to provide better service. PSC courses are available in various locations across the country and the cost can vary depending on which provider you choose to attend. Some providers are university law departments and some are private training institutions. Only providers who are approved and registered by the Solicitors Regulation Authority (SRA) can offer these training courses to candidates, so it is important to make sure that the provider offering these courses is approved by the SRA before starting a course. A list of approved venues can be found on the SRA website. This site can also help you find training providers who can offer crash courses.

France also has its own unique aspects of the formation of lawyers. Lawyer training is usually divided into three periods, each lasting two years. Each period ends with examinations, both written and oral, and students who successfully pass the exams are awarded a diploma at the end of the examination. [8]

During the first two years, students study general subjects at the university, and upon successful completion, they are awarded the Diploma (Diplome d'Etudes universitaires Generales), which allows them to proceed to the next stage. During the next two years, students master more complex subjects and, based on the results of the examination, can obtain the Diploma (Diplome d'Etudes universitaires Scientifiques). However, these diplomas alone do not provide them with the basis for full-time legal practice. Students must then obtain the "Licence en Droit" and "Maitrise" diplomas, which allow them to fully engage in legal practice. [9]



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Only students who have shown themselves well, mastered the lessons well, and defended their scientific work very well are allowed to continue their studies in the third period. In the third period, students are offered the following optional areas: training with practice, Specialized Higher Education or specialized training for conducting scientific research. At the end of the educational process, students can obtain special diplomas in their areas of specialization.

In France, the main category of lawyers (avocats) is that of lawyers. Lawyers (referred to as lawyers in this chapter) are external consultants who provide legal advice to clients on all legal matters and act as their clients' trusted representatives in court or in other dispute resolution proceedings (arbitration, mediation, etc.). This profession is subject to a specific code of ethics and is supervised by a professional body. Some lawyers, once they have acquired certain qualifications, can work in the Supreme Courts (the Council of State (Conseil d'Etat) and the Court of Cassation (Cour de Cassation)). Intellectual property (IP) lawyers, after passing a professional examination and, of course, having acquired certain qualifications and experience, can assist and represent clients in IP matters before the French National Institute of Intellectual Property (INPI) and the European Patent Office (EPO), as prescribed by law.

There are also organizations that provide legal assistance in certain specific matters, such as:

Bailiffs, who have exclusive authority to enforce court decisions and serve legal documents;

Notaries, who provide legal assistance in the execution of documents. [10] In France, there are two paths to becoming a lawyer, educational and professional. Educational Path

The most common path is the educational path. Law students take the Bar exam at the end of their master's degree. To register for the Bar exam, a candidate must have at least a Master's degree in Law (a four-year law degree or equivalent) and have graduated from the Institut d'études judiciaires (IEJ) affiliated with it. Students must pass two state exams, an entrance exam and a final exam. The entrance exam can only be taken three times. Most candidates take classes at specific schools (private or public) to prepare for this exam. Once a candidate has successfully passed the entrance exam, they must register at a Bar School



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(Ecole des Avocats) (EDA) and complete an 18-month training period. There are 15 Bar Schools (EDA) in France.

The 18 months are divided into three periods:

Six months of classes provided by the EDA, dedicated to the study of the fundamentals and practical aspects of legal practice (a part-time internship may be carried out simultaneously during this period).

A six-month internship dedicated to an individual learning project. This internship is not carried out in a law firm, but in a public or non-public institution, a private company, an international organization or a court, in France or abroad.

A six-month internship in a law firm in France.

At the end of this 18-month period, the trainee lawyer must pass a final exam to obtain the Certificate of Aptitude for the Legal Profession (Certificat d'aptitude à la profession d'avocat) (CAPA).

### **Professional path**

Another way to qualify is to choose a professional path. Candidates with certain qualifications can join the EDA without taking the entrance exam (for example, PhD students) or even qualify as a lawyer without joining the EDA but by taking the final exam directly. Under this path, law professors, magistrates, Supreme Court lawyers and qualified judges can apply for admission to the French bar under certain conditions.

Some legal professions can also apply for admission to the French bar after several years of legal practice, after passing a test of professional ethics. In this case, IP lawyers, court clerks, bailiffs and notaries can apply to become lawyers after five years of practice, and senior civil servants, deputy assistants and in-house counsel after eight years of practice.

After passing the final examination or its equivalent, candidates must take the oath before the Court of Appeal and register with the bar of their choice to practice as a lawyer. The candidate may take the oath only if he has signed a contract with a law firm and meets the applicable ethical conditions. The certificate/license to practice does not have to be renewed in France. However, lawyers must undergo continuing legal education. In particular, they must



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complete 20 hours of continuing legal education during the year of practice, including at least ten hours of professional ethics courses in the first two years. Lawyers may advise, represent their clients and conduct cases in court throughout France without any restrictions in terms of geographical area or expertise. However, if a case is referred to a court outside the lawyer's respective bar association, clients must appoint a local lawyer admitted to the local bar of the relevant court (postulation). The local lawyer (avocat postulant) deals only with the procedural aspects of the case, while the initial lawyer chosen by the client remains responsible for preparing the pleadings and presenting the case to the court. In addition, lawyers may only appear before the courts of first instance and appeal. Only lawyers admitted to the Bar of the Supreme Courts of France (Avocats aux Conseils) may represent clients before these courts. Lawyers may also advise on any legal matter referred to them. However, they may only be called "specialists" if they have obtained a certificate of specialization (certificate de spécialisation). The legal profession is governed by the National Internal Regulations (Règlement Intérieur National) (RIN). Some bar associations have adopted additional rules. For example, the Paris Bar has its own internal rules that combine the RIN with other rules. These rules and regulations define the ethical rules applicable to lawyers, their general obligations and the disciplinary powers of the bar associations. The European Code of Conduct for Lawyers, which applies to cross-border activities in the European Union, is incorporated into the RIN and is therefore applicable to all lawyers.

Law firms can be organized in seven different forms:

- Professional Partnership (Société Civile Professionnelle) (SCP).
- Independent Professional Company (Société d'Exercice Libéral) (SEL).
- Lawyers' Joint Venture (Société En Participation) (SEP).
- Independent Professional Holding Company (Société de Participation Financière de Professions Libérales) (SPFPL).
- Lawyers' Association with Limited Professional Liability (Association d'Avocats à Responsabilité Professionnelle Individuelle) (AARPI).
- Multi-Professional Practice Company (Société Pluriprofessionnel d'Exercice) (SPE).



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- Ordinary Partnership (Société d'Exercice de Droit Commun) (SEDC).
- Most law firms are organized as SEPs or AARPIs.

### **Registration**

EU lawyers and foreign lawyers wishing to practice in France must apply to the CNB to register with the local bar association of the district in which they decide to reside.

### **Admission to the bar**

EU lawyers must prove that they meet the conditions for becoming a lawyer in another Member State, the European Economic Area (EEA) or the Swiss Confederation, or that they are registered as lawyers with a bar association in one of these countries.

Foreign lawyers must prove that they are registered with a foreign bar association on the date of application and that their country of origin allows French lawyers to practice their profession on reciprocal terms.

Since 2009, under a mutual recognition agreement with Quebec, applicants must have an LLB in law or equivalent in Quebec, or be licensed to practice law in Quebec, or be registered as a practicing lawyer with the Quebec Bar Association, and demonstrate that their practice is covered by professional liability insurance at least equivalent to that applicable to French lawyers.

In Switzerland, students complete their university law studies by passing a special licensing exam, called the "Lizenziatexamen".[11] However, this does not entitle students to practice law. This allows for a certificate called "Fahigkeitszeugnisses" to be obtained in several cantons. In addition, in several cantons, a PhD is also required to become a lawyer. [12] After graduating from university, students must complete an internship with a lawyer or judge or with a relevant government agency. The length of the internship varies depending on the legislation of each canton, but in general, the internship can last from six months to two years. For example, in the canton of Bern, the internship is eighteen months, with half of the internship being spent at the bar and the other half, i.e. the remaining nine months, at the court. After this internship, the candidate must work in the bar's chancellery for one year. After completing the internship, the candidate must pass an examination by a nine-member



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commission. Candidates who successfully pass this exam can obtain a patent allowing them to practice law and operate fully independently.

In Greece, legal education is provided at a number of universities. Students study at universities for four years. After graduating from university, candidates undergo an eighteen-month internship. This internship is called a referenariat. A candidate lawyer must practice in a law firm called a "practicante procuratore". After 2-6 years of internship, the candidate must pass a special exam to obtain the title of "esame di procuratore". This exam is held every December and is taken in one of the twenty-six regional courts in the country. Lawyers working in public institutions and private enterprises under an employment contract cannot become lawyers. To be admitted to the Italian Supreme Courts (Supreme Court, Court of Cassation, Constitutional Court, Court of Auditors, Council of State), candidates must have 8 years of practical experience as a lawyer. If the applicant meets these conditions, he is included in a special register of lawyers maintained by the Bar Council. In Italy, there are 53,000 lawyers for more than 60 million people, of which 6,000 work in Rome. [13]

In conclusion, any person, including a lawyer who has a lawyer's license in another country, can obtain a license to practice law in the manner described above. According to the legislation of the Republic of Uzbekistan, citizens of the Republic of Uzbekistan can practice law. Therefore, it is necessary to provide foreign lawyers with the opportunity to practice their profession in the Republic of Uzbekistan. In our opinion, the following positive results can be achieved in terms of the provision of legal assistance and legal consulting services:

**Firstly**, it will increase the indicators of the implementation of our national legislation in the field of international law;

**Secondly**, it creates a healthy competitive environment between foreign lawyers and our national lawyers in economic and other areas (except for criminal cases) and will have a positive impact on the future improvement of the professional skills of local lawyers, as well as the quality and efficiency of the legal assistance provided.

**Thirdly**, the establishment of guaranteed quality legal services will create a legal basis for further attracting foreign investments.



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**Fourthly**, there will be an opportunity for local lawyers to improve their knowledge and skills in the field of international law and participate in the courts of foreign countries within the framework of mutual cooperation (permission).

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