

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI ILMIY
DARAJALAR BERUVCHI DSc.07/13.05.2020.Yu.22.03 RAQAMLI ILMIY
KENGASH ASOSIDAGI BIR MARTALIK ILMIY KENGASH**

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

MATMUROTOV ALIBEK RAVILOVICH

**O‘ZBEKISTON RESPUBLIKASIDA ADVOKAT MAQOMIGA EGA
BO‘LISH TARTIBINI TAKOMILLASHTIRISH MASALALARI**

12.00.07 – Sud hokimiyati. Prokuror nazorati. Huquqni muhofaza qilish
faoliyatini tashkil etish. Advokatura

**yuridik fanlar bo‘yicha falsafa doktori (PhD) dissertatsiyasi
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KIRISH (Falsafa doktori (PhD) dissertatsiyasi annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyoda malakali yuridik yordam ko'rsatish huquqini ta'minlashda advokat maqomiga ega bo'lish tartibiga oid masalalar muhim ahamiyatga ega. Advokat maqomiga ega bo'lish borasida keng ko'lamli ishlar amalga oshirilmoqda. BMTning Jinoyatchilikning oldini olish va huquqbuzarlar bilan muomala qilish bo'yicha sakkizinchi Kongressida qabul qilingan «Yuristlar roliga doir asosiy tamoyillar»¹ (Basic Principles on the Role of Lawyers) xalqaro hujjatida fuqarolarning huquq va erkinliklari hamda qonun bilan qo'riqlanadigan manfaatlarini samarali himoya qilishda Hukumat, advokatlarning kasbiy birlashmalari va ta'lim muassasalari advokatlarning tegishli ta'lim va tayyorgarlikka ega bo'lishini ta'minlashi kerakligi qayd etilgan. 2023-yil holatiga xorijiy davlatlarda, xususan AQSHda 248, Italiyada 260, Germaniyada 516, Hindistonda 951, Fransiyada 1221, Latviyada 1500 nafar fuqaroga bir nafar advokat yuridik yordam ko'rsatishi to'g'ri kelmoqda². Ushbu raqamlar bugungi kunda yuridik yordam olishga bo'lgan ehtiyojning tobora ortib borayotganligini ko'rsatadi.

Jahonda advokat maqomiga ega bo'lishga talabgorning bilimi, malakasiga qat'iy talablar qo'yish, yuridik mutaxassislik bo'yicha ish stajiga ega bo'lish, stajirovka o'tashning samarali mexanizmini joriy etish, zamonaviy axborot-kommunikatsiya texnologiyalarini joriy etish orqali malaka imtihonini topshirish jarayonini takomillashtirish, advokat qasamyodini qabul qilish, advokatlar to'g'risida ma'lumotlarning yagona reyestrini shakllantirish masalalariga muhim ilmiy-amaliy ahamiyat kasb etadigan tadqiqot yo'nalishi sifatida alohida e'tibor qaratilmoqda.

Respublikamizda advokaturaga yosh malakali kadrlarni jalb etish, advokatlik faoliyatiga zamonaviy axborot texnologiyalarini joriy qilish orqali ortiqcha byurokratiya va qog'ozbozlikka chek qo'yish, shuningdek, bu borada xorijiy davlatlar qonunchiligining ilg'or qoidalarini joriy etish advokatura institutini yanada isloh qilish sohasida olib borilayotgan islohotlarning ustuvor yo'nalishlari sifatida qayd etilmoqda. Shu bois «advokatura institutining inson huquqlari, erkinliklari va qonuniy manfaatlarini himoya qilishdagi salohiyatini tubdan oshirish, shuningdek, aholi va tadbirkorlik subyektlarining malakali huquqiy xizmatlarga bo'lgan talabini to'liq qondirish»³ hamda O'zbekiston Respublikasi Prezidenti Sh.Mirziyoyevning «...advokatura institutini kuchaytirish, ushbu sohalar faoliyatini raqamlashtirish bo'yicha oldimizda ko'pgina vazifalar turibdi»⁴ degan fikridan kelib chiqib, advokat maqomiga ega bo'lishning qonunchilik bazasini va uning ilmiy asoslarini chuqur tadqiq qilish dolzarb ahamiyatga ega hisoblanadi.

O'zbekiston Respublikasining «Advokatura to'g'risida»gi Qonuni (1996),

¹ <https://www.ohchr.org/en/professionalinterest/pages/roleoflawyers.aspx>

² <https://worldpopulationreview.com/country-rankings/lawyers-per-capita-by-country>

³ O'zbekiston Respublikasi Prezidentining 2022-yil 28-yanvardagi «2022 – 2026 yillarga mo'ljallangan Yangi O'zbekistonning Taraqqiyot strategiyasi to'g'risida»gi PF–60-son Farmoni // Qonunchilik ma'lumotlari milliy bazasi, 29.01.2022-y., 06/22/60/0082-son, 18.03.2022-y., 06/22/89/0227-son, 21.04.2022-y., 06/22/113/0330-son

⁴ O'zbekistonda adolat va qonun ustuvorligi – asosiy mezoniga aylanadi // https://uza.uz/uz/posts/ozbekistonda-adolat-va-qonun-ustuvorligi-asosiy-mezoniga-aylanadi_318064

O‘zbekiston Respublikasi Prezidentining «O‘zbekiston Respublikasida advokatura institutini yanada isloh qilish chora-tadbirlari to‘g‘risida»gi (2008), «O‘zbekiston Respublikasini yanada rivojlantirish bo‘yicha Harakatlar strategiyasi to‘g‘risida»gi (2017), «Advokatura instituti samaradorligini tubdan oshirish va advokatlarning mustaqilligini kengaytirish chora-tadbirlari to‘g‘risida»gi (2018), «Konstitutsiya va qonun ustuvorligini ta‘minlash, bu borada jamoatchilik nazoratini kuchaytirish hamda jamiyatda huquqiy madaniyatni yuksaltirish bo‘yicha qo‘shimcha chora-tadbirlar to‘g‘risida»gi (2019), «2022 – 2026-yillarga mo‘ljallangan Yangi O‘zbekistonning Taraqqiyot strategiyasi to‘g‘risida»gi (2022) farmonlari, «Advokatura faoliyatiga zamonaviy axborot-kommunikatsiya texnologiyalarini keng joriy etish chora-tadbirlari to‘g‘risida»gi (2022) qarori, O‘zbekiston Respublikasi Vazirlar Mahkamasining «Advokatlik faoliyatini maxsus elektron tizim orqali litsenziyalash tartibi to‘g‘risidagi nizomni tasdiqlash haqida»gi (2022) qarori, O‘zbekiston Respublikasi adliya vazirining «O‘zbekiston Respublikasi Advokatlar palatasining hududiy boshqarmalari huzuridagi malaka komissiyalari to‘g‘risidagi nizomni tasdiqlash to‘g‘risida»gi (2009) buyrug‘i hamda mavzuga oid boshqa normativ-huquqiy hujjatlarda belgilangan vazifalarni amalga oshirishda ushbu dissertatsiya ishi muayyan darajada xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo‘nalishlariga mosligi. Mazkur dissertatsiya ishi respublika fan va texnologiyalar rivojlanishining I. «Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, ma‘naviy-ma‘rifiy rivojlantirishda innovatsion g‘oyalar tizimini shakllantirish va ularni amalga oshirish yo‘llari» ustuvor yo‘nalishiga mos ravishda bajarilgan.

Muammoning o‘rganilganlik darajasi. Mamlakatimizda J.X.Abduraxmonxo‘jayev, J.A.Ne‘matov, S.B.Qodiraliyev, M.X.Rustamboyev, U.A.Tuxtasheva, D.Y.Habibullayev, S.A.Yakubovlar advokatura instituti va uning tashkiliy-huquqiy asoslari hamda advokatning kasbiy rivojlanish tendensiyalarini, D.B.Bazarova, K.K.Matkarimov, G.Z.Tulaganovlar himoyachining jinoyat protsessidagi holatini, B.Salamov advokatlik faoliyati, uning kafolatlari va advokatlarning ijtimoiy himoyasini, V.X.Davlyatov advokatura institutini takomillashtirishda advokatlik tuzilmalari va o‘zini o‘zi boshqarish organining huquqiy maqomini, D.D.Nurumov advokat tomonidan tadbirkorlik subyektlariga yuridik yordam ko‘rsatishning tashkiliy-huquqiy masalalarini tadqiq etgan.

Mustaqil Davlatlar Hamdo‘stligiga a‘zo mamlakatlar olimlaridan V.V.Zaborovskiy advokatning huquqiy maqomini, V.F.Anisimov, I.M.Perevezra xorijiy davlat advokatlarining qabul qiluvchi davlat hududida advokatlik faoliyati bilan shug‘ullanish shartlarini, T.B.Vilchik Yevropa Ittifoqiga a‘zo davlatlar va Ukraina qonunchiligida advokat maqomini olish tartibi va shartlarini, P.Y.Korotkova, Y.E.Makushkina, R.G.Melnichenkolar malaka imtihoni topshirish va unga zamonaviy axborot texnologiyalarini joriy etish masalalarini, V.Y.Abramov, S.Abdraxmanova, I.I.Belozerova, G.S.Devyatkin, D.A.Dobryakov, V.V.Golubev, I.N.Jdanov, N.A.Mamedov, Y.I.Soloveva, S.S.Yurev, O.Shvarsler advokat maqomiga ega bo‘lishning ayrim jihatlarini tadqiq etishgan.

Advokat maqomiga ega bo'lish uchun qo'yilgan talablarning ayrimlari, jumladan, oliy yuridik ma'lumot, amaliyot o'tash, nazariy va amaliy bilimlarni aniqlash bo'yicha test topshirish, advokatlik uyushmasiga a'zo bo'lish, qabul qiluvchi mamlakatlarda xorijiy davlat advokatlarining ishtirokiga M.Derra (Germaniya), Roger J. Goebel (AQSH), Kenneth S. Kilimnik (AQSH), Stefan Koriotoh (Germaniya) o'zlarining ilmiy ishlarini bag'ishlagan⁵.

Mamlakatimizda bugungi kunga qadar advokat maqomiga ega bo'lish tartibi kompleks tarzda tadqiq etilmaganligi bois mazkur masalani tadqiq etish dolzarb hisoblanadi.

Dissertatsiya mavzusining dissertatsiya bajarilgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog'liqligi. Dissertatsiya mavzusi Toshkent davlat yuridik universitetining ilmiy-tadqiqot ishlari rejasidagi «Sud-huquq tizimini isloh qilish sharoitida advokatura institutini takomillashtirishning ustuvor yo'nalishlari» doirasida amalga oshirilgan.

Tadqiqotning maqsadi advokat maqomiga ega bo'lish tartibini takomillashtirish, advokatura nazariyasini rivojlantirish bo'yicha taklif va tavsiyalar ishlab chiqishdan iboratdir.

Tadqiqotning vazifalari:

advokat maqomiga ega bo'lish tushunchasi, mazmuni va uning o'ziga xos xususiyatlarini tadqiq etish asosida unga ilmiy ta'rif berish;

O'zbekiston Respublikasida advokatura institutining rivojlanish bosqichlarida advokat maqomiga ega bo'lishga qo'yilgan talablarni o'rganish, ularning umumiy tavsifi qiyosiy-huquqiy jihatlarini tahlil qilish;

talabgorning advokat maqomini olish uchun fuqarolik va ta'lim darajasiga qo'yilgan talablarning ahamiyatini ochib berish;

advokat maqomiga ega bo'lishning zaruriy talabi sifatida yuridik mutaxassislik bo'yicha ish stajining mazmun-mohiyatini o'rganish;

advokat maqomiga talabgor tomonidan stajirovka o'tashning mohiyati va tartibini tahlil qilish;

malaka imtihonini topshirish tartibini takomillashtirish bo'yicha taklif va tavsiyalar ishlab chiqish;

advokat maqomiga ega bo'lishni rasmiylashtirishning o'ziga xos jihatlarini o'rganish va tahlil qilish.

Tadqiqotning obyekti advokat maqomiga ega bo'lish tartibi bilan bog'liq ijtimoiy-huquqiy munosabatlar tizimi hisoblanadi.

Tadqiqotning predmetini advokat maqomiga ega bo'lish tartibiga oid normativ-huquqiy hujjatlar va ularni qo'llash amaliyoti, xorijiy mamlakatlar qonunchiligi hamda tadqiqot mavzusiga oid konseptual yondashuvlar, ilmiy-nazariy qarashlar va g'oyalar tashkil etadi.

Tadqiqotning usullari. Tadqiqot olib borishda mantiqiy, tarixiy, qiyosiy-huquqiy, statistika ma'lumotlari tahlili, sotsiologik so'rovlar o'tkazish, sharhlash va kuzatuv kabi usullardan foydalanilgan.

⁵ Mazkur olimlar ishlari va boshqa manbalarning to'liq ro'yxati dissertatsiyaning foydalanilgan adabiyotlar ro'yxatida ko'rsatilgan.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

nazariy bilim va amaliy ko'nikmalarga ega bo'lgan talabgorlarning advokat maqomini olish jarayonini optimallashtirish hamda advokaturaga yosh malakali kadrlarni kengroq jalb qilish maqsadida advokat maqomiga talabgorning advokatlik tuzilmasida stajirovka o'tashning eng kam muddatini olti oydan uch oyga qisqartirish lozimligi asoslangan;

sudya, tergovchi, surishtiruvchi yoki prokuror lavozimida, shuningdek, davlat organlari, xo'jalik boshqaruvi organlari, davlat korxonalari, muassasalari va tashkilotlarining yuridik xizmati xodimi sifatida kamida uch yil ish stajiga ega bo'lgan shaxslarni stajirovka o'tashdan ozod qilib, ularga to'g'ridan to'g'ri malaka imtihonida ishtirok etish huquqini berish zarurligi asoslab berilgan;

talabgorlarning kasbga oid bilim va amaliy ko'nikmalarni hosil qilishi uchun tayyorgarlik ko'rishiga olti oy muddatning yetarli ekanligini inobatga olib, malaka imtihonini takroran topshirishga yo'l qo'yiladigan muddatni kamida bir yildan olti oyga qisqartirish zarurligi asoslangan;

advokatlik guvohnomasining shakli va uni berish tartibi O'zbekiston Respublikasi Vazirlar Mahkamasi tomonidan belgilanishi hamda ushbu qoida qonun darajasida belgilanishi zarurligi asoslantirilgan;

talabgorning malaka imtihonini topshirganligi haqidagi qaror va tegishli hujjatlar maxsus axborot tizimi orqali rasmiylashtirilishi hamda talabgorga advokatlik litsenziyasini tegishli adliya organiga murojaat qilmasdan istalgan vaqtda elektron tizim orqali olish imkoniyati yaratilishi zarurligi asoslangan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

advokat va advokat maqomiga ega bo'lish tushunchalari tahlil qilingan holda mualliflik ta'riflari ishlab chiqilgan hamda O'zbekiston Respublikasida advokat maqomiga ega bo'lishga qo'yilgan talablarning tubdan o'zgarishiga olib kelgan davrlar besh bosqichga bo'lib tadqiq etilgan;

ayrim xorijiy davlatlar tajribasi asosida advokat maqomiga ega bo'lishga qo'yilgan muayyan talablarni kuchaytirish, ba'zilarini soddalashtirish orqali advokat maqomini olish imkoniyatini kengaytirish zarurligi asoslangan;

xorijiy davlatlar (Ukraina, Litva, Moldova, Polsha) tajribasi asosida Stajirovka rahbarlari va advokat stajyorlari reyestrini joriy etish lozimligi asoslangan;

O'zbekiston Respublikasining «Advokatura va advokatlik faoliyati to'g'risida»gi Qonunini qabul qilish hamda unda «Advokat», «Benuqson obro'-e'tiborga ega bo'lish», «Advokat maqomiga ega bo'lish», «Advokat stajyori», «Advokat stajyorining stajirovka rahbari», «Malaka imtihoniga ruxsat berish», «Malaka imtihoni», «Advokat qasamyodi» kabi moddalar kiritilishi lozimligi asoslangan.

xorijiy davlatlarning advokat maqomiga ega bo'lishga oid qonunchiligi advokaturaga oid milliy qonunchilik bilan qiyosiy tahlil etilib, tizimga yosh malakali kadrlarni jalb qilish zarurligi asoslangan.

Tadqiqot natijalarining ishonchliligi. Tadqiqot natijasida olingan nazariy xulosalar, qonunchilik hujjatlarini takomillashtirish bo'yicha ishlab chiqilgan takliflar «Advokatura», «Advokatura va advokatlik faoliyati» fanlaridagi ilmiy doktrinal qarashlarga, ushbu sohadagi xalqaro hujjatlar, xorijiy mamlakatlar

qonunchiligi, milliy qonunchilik normalariga, shuningdek, ijtimoiy so‘rov natijalari (32 nafar advokatlar⁶ hamda 100 nafar Toshkent davlat yuridik universiteti professor-o‘qituvchilari va 144 nafar talabalari⁷ning (shundan 34 nafari xorijiy davlatdan o‘qish uchun kelgan) fikrini o‘rganish uchun so‘rovnoma-anketa tarqatildi), tadqiqot ishidagi axborot bazasining ishonchliligi rasmiy nashrlarda e‘lon qilingan statistika ma‘lumotlaridan, monografik tadqiqotlarda tekshirilgan va nashr etilgan adabiyotlardan foydalanilganligi bilan belgilanadi.

Shu bilan birga, tadqiqotda O‘zbekiston Respublikasi adliya vazirining 2022-yil 28-fevraldagi 30-um-son buyrug‘iga asosan, 2022-yilning mart-aprel oylarida O‘zbekiston Respublikasi Advokatlar palatasining Toshkent shahar hududiy boshqarmasida stajirovka⁸ o‘tashda o‘rganilgan amaliyot materiallari va statistika ma‘lumotlaridan foydalanilgan.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqotning ilmiy ahamiyati shundan iboratki, mazkur tadqiqot doirasida ishlab chiqilgan qoidalar «Advokatura», «Advokatura va advokatlik faoliyati» fanlari nazariyasining rivojlanishiga hissa qo‘shadi. Ilmiy izlanishlar doirasida ishlab chiqilgan xulosalardan ilmiy tadqiqot ishlarini olib borishda, oliy ta‘lim muassasalari, yuridik texnikumlarda «Advokatura» moduli bo‘yicha dars o‘tishda, o‘quv va o‘quv-uslubiy qo‘llanmalar tayyorlashda foydalanilishi mumkin. Shu bilan birga, O‘zbekistonda advokat maqomiga ega bo‘lish bilan bog‘liq muammolarning hal etilishiga xizmat qiladi.

Tadqiqotning amaliy ahamiyati advokat maqomiga ega bo‘lish tartibini takomillashtirishga qaratilgan bir qator qoida va amaliy tavsiyalar ishlab chiqilganida ifodalanadi. Tadqiqot natijalaridan advokaturaga oid qonunchilikni takomillashtirishda, shuningdek, yuridik mutaxassislik bo‘yicha ish staji mazmuni, stajirovka o‘tash, malaka imtihonini topshirish, advokat qasamyodini qabul qilish hamda advokat maqomini olish tartibini takomillashtirish bo‘yicha hujjatlarini tayyorlash amaliyotida foydalanish mumkin.

Tadqiqot natijalarining joriy qilinishi. O‘zbekiston Respublikasida advokat maqomiga ega bo‘lish tartibini takomillashtirish masalalari mavzusidagi tadqiqot ishi bo‘yicha olingan ilmiy natijalar asosida:

advokat maqomiga ega bo‘lishga talabgorning advokatlik tuzilmasida stajirovka o‘tash muddatini olti oydan uch oyga qisqartirish haqidagi taklifdan «Advokatura to‘g‘risida»gi O‘zbekiston Respublikasi Qonunining 3¹-moddasi ikkinchi qismiga o‘zgartirish kiritishda foydalanilgan (O‘zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasining Korrupsiyaga qarshi kurashish va sud-huquq masalalari qo‘mitasining 2022-yil 20-yanvardagi 06/1-05-265-son dalolatnomasi). Mazkur taklifning joriy etilishi talabgorlarning qisqa muddatda advokat maqomini olish jarayonini soddalashtirishga hamda advokatura instituti tizimiga yosh malakali kadrlarni jalb qilishga xizmat qilgan;

davlat organlari, xo‘jalik boshqaruvi organlari, davlat korxonalari,

⁶ Advokatlar palatasi Toshkent shahar hududiy boshqarmasining 2022-yil 13-maydagi 2-12-875/1192-son xati.

⁷ Toshkent davlat yuridik universitetining Devonxonasida 2022-yil 25-apreldagi 09-505-son bilan ro‘yxatga olingan murojaat.

⁸ O‘zbekiston Respublikasi Advokatlar palatasining 2022-yil 17-martdagi 07-08-425/320-son xati.

muassasalari va tashkilotlarining yuridik xizmati xodimi sifatida, sudya, tergovchi, surishtiruvchi yoki prokuror lavozimida kamida uch yil ish stajiga ega bo'lgan shaxs advokatlik tuzilmasida stajirovkadan o'tmasdan malaka imtihonida ishtirok etishga haqli ekanligi to'g'risidagi taklifdan «Advokatura to'g'risida»gi O'zbekiston Respublikasi Qonunining 3¹-moddasi uchinchi qismini to'ldirishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasining Korrupsiyaga qarshi kurashish va sud-huquq masalalari qo'mitasining 2022-yil 20-yanvardagi 06/1-05-265-son dalolatnomasi). Mazkur taklifning qabul qilinishi kasbiy bilim hamda amaliy ko'nikmalarga ega shaxslarni takroran advokatlik tuzilmasida stajirovka o'tashdan ozod qilishga xizmat qilgan;

malaka imtihonini topshira olmagan talabgor uni takroran topshirishga yo'l qo'yiladigan muddatning kamida bir yildan olti oyga qisqartirish haqidagi taklifdan «Advokatura to'g'risida»gi O'zbekiston Respublikasi Qonunining 3¹-moddasi to'rtinchi qismiga o'zgartish kiritishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasining Korrupsiyaga qarshi kurashish va sud-huquq masalalari qo'mitasining 2022-yil 20-yanvardagi 06/1-05-265-son dalolatnomasi). Mazkur taklifning joriy etilishi talabgorlarga advokat maqomini olishda qo'shimcha imkoniyat yaratilishiga xizmat qilgan;

advokatlik guvohnomasining shakli va uni berish tartibi O'zbekiston Respublikasi Vazirlar Mahkamasi tomonidan belgilanishi zarurligi to'g'risidagi taklifdan «Advokatura to'g'risida»gi O'zbekiston Respublikasi Qonunining 3¹-moddasiga qo'shimcha kiritishda foydalanilgan (O'zbekiston Respublikasi Oliy Majlisi Qonunchilik palatasining Korrupsiyaga qarshi kurashish va sud-huquq masalalari qo'mitasining 2022-yil 20-yanvardagi 06/1-05-265-son dalolatnomasi). Ushbu taklifning joriy etilishi advokat maqomiga talabgorning advokatlik guvohnomasini olishga oid aniq qoidalar belgilanishiga xizmat qilgan;

talabgorning malaka imtihonini muvaffaqiyatli topshirganligi haqidagi qaror va tegishli hujjatlar «Litsenziya» axborot tizimi orqali rasmiylashtirilishi va advokatlarning elektron reyestriga kiritilishi hamda talabgorga advokatlik litsenziyasini tegishli adliya organiga murojaat qilmasdan istalgan vaqtda ushbu axborot tizimi orqali olish imkoniyati yaratilishi haqidagi takliflardan O'zbekiston Respublikasi Prezidentining 2022-yil 30-maydagi «Advokatura faoliyatiga zamonaviy axborot-kommunikatsiya texnologiyalarini keng joriy etish chora-tadbirlari to'g'risida»gi PQ-263-son qarorining 2-bandi «a» kichik bandi uchinchi va to'rtinchi xatboshilarini ishlab chiqishda foydalanilgan (O'zbekiston Respublikasi Adliya vazirligining 2022-yil 23-noyabrdagi 8/10-0659-son dalolatnomasi). Mazkur taklifning tatbiq etilganligi advokat maqomiga talabgorlarning ortiqcha sansalorlikdan, byurokratiya hamda qog'ozbozlikdan saqlanishiga xizmat qilgan.

Tadqiqot natijalarining aprobativiyasi. Tadqiqot natijalari 7 ta ilmiy-amaliy anjumanda, jumladan, 3 ta xalqaro, 4 ta respublika ilmiy-amaliy anjumanlarida muhokamadan o'tkazilgan.

Tadqiqot natijalarining e'lon qilinganligi. Dissertatsiya mavzusi bo'yicha jami 13 ta ilmiy ish, shu jumladan, 1 ta monografiya, ilmiy jurnallarda 6 ta (4 ta respublika va 2 ta xorijiy jurnallarda) ilmiy maqola chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya kirish, sakkizta paragrafni o‘z ichiga olgan uchta bob, xulosa, foydalanilgan adabiyotlar ro‘yxati va ilovalardan iborat. Dissertatsiyaning umumiy hajmi 148 betni tashkil etgan.

DISSERTATSIYANING ASOSIY MAZMUNI

Tadqiqot ishining **kirish** (doktorlik dissertatsiyasi annotatsiyasi) qismida tadqiqot mavzusining dolzarbligi va zarurati, tadqiqotning respublika fan va texnologiyalari rivojlanishining asosiy ustuvor yo‘nalishlariga mosligi, tadqiq etilayotgan muammoning o‘rganilganlik darajasi, dissertatsiya mavzusining dissertatsiya bajarilayotgan oliy ta‘lim muassasasining ilmiy-tadqiqot ishlari bilan bog‘liqligi, uning maqsadi va vazifalari, obyekti va predmeti, usullari, ilmiy yangiligi, amaliy natijalari, tadqiqot natijalarining ishonchliligi, ilmiy va amaliy ahamiyati, amaliyotga joriy qilinganligi, aprotatsiyasi, natijalarning e‘lon qilinganligi, dissertatsiyaning hajmi va tuzilishi yoritib berilgan.

Dissertatsiyaning «**Advokat maqomiga ega bo‘lishga doir talablarning umumnazariy tavsifi**» deb nomlangan birinchi bobida advokat maqomiga ega bo‘lish tushunchasi, mazmuni va uning o‘ziga xos xususiyatlari, mamlakatimizda advokatura institutining rivojlanish bosqichlarida advokat maqomiga ega bo‘lishga qo‘yilgan talablarning umumiy tavsifi nazariy-amaliy jihatdan o‘rganilgan.

Dissertant malakali yuridik yordam ko‘rsatishning advokat maqomiga talabgorlarga qo‘yilgan talablar bilan bevosita bog‘liqligini ta‘kidlab, so‘nggi yillarda advokat maqomiga ega bo‘lish uchun qo‘yilgan amaldagi talablarni kuchaytirish o‘rniga aksincha yengillashtirish tendensiyasi kuzatilayotganligiga alohida e‘tibor qaratgan. Tadqiqotchining fikricha, O‘zbekistonda advokatlar sonini oshirish advokat maqomini olish uchun qo‘yilgan talablarni soddalashtirish evaziga amalga oshirilmasligi lozim, chunki bu yuridik yordam ko‘rsatish sifatiga salbiy ta‘sir ko‘rsatadi.

Tadqiqot ishida U.A.Tuxtasheva, G.Z.Tulaganova, B.Salamov, D.X.Davlyatov, A.D.Boykov, M.B.Smolenskiy, V.R.Dyukina, V.Zaborovskiy, A.Jalinskiylarning «advokat», «advokat maqomiga ega bo‘lish» tushunchalariga oid nazariy qarashlari o‘rganilgan va ular bilan ilmiy munozaraga kirishilgan. Ushbu masalaga oid xorijiy davlatlarning qonunchiligi tahlil qilingan holda «advokat maqomiga ega bo‘lish» tushunchasiga ilk marotaba mualliflik ta‘rifi berilgan. Shuningdek, «advokat» va «yurist» tushunchalarining o‘zaro nisbati hamda farqli jihatlari qiyosiy-huquqiy tahlil qilingan va mohiyati ochib berilgan.

Tadqiqotchi B.Salamov, V.Davlyatov, K.Matkarimovlarning advokatura institutining rivojlanish bosqichlaridagi ahamiyatga molik o‘zgarishlarga oid qarashlarini qiyosiy-huquqiy tahlil etib, advokat maqomiga ega bo‘lishga qo‘yilgan talablarning tubdan o‘zgarishiga olib kelgan davrlarini shartli ravishda quyidagi besh bosqichga bo‘lishni taklif etgan:

birinchi bosqich 1990-yildan 1996-yilgacha bo‘lgan davrni;

ikkinchi bosqich 1996 – 2007-yillarni;

uchinchi bosqich 2008 – 2017-yillarni;

to‘rtinchi bosqich 2018 – 2021-yillarni;

beshinchii bosqich 2022-yildan hozirgi kunga qadar bo'lgan davrni.

Mazkur bobda xorijiy davlatlar tajribasini o'rganish asosida advokat, advokat maqomiga ega bo'lish, malaka imtihoniga ruxsat berish, malaka imtihoni, advokat qasamyodi, advokatlar reyestrini o'z ichiga qamrab olgan «Advokat maqomi» nomli alohida bob qabul qilinishi rejalashtirilayotgan O'zbekiston Respublikasining «Advokatura va advokatlik faoliyati to'g'risida»gi Qonunida aks etishi kerak, degan xulosaga kelingan.

Tadqiqotda advokat maqomiga ega bo'lish uchun qo'yilgan talablar xorijiy mamlakatlar (AQSH, Buyuk Britaniya, Germaniya, Finlandiya, Ispaniya, Italiya, Polsha, Litva, Gruziya, Rossiya, Hindiston, Moldova, Ukraina, Qozog'iston, Ozarbayjon, Belarus, Armaniston)ning tajribasi asosida o'rganib chiqilgan va atroflicha tahlil qilingan.

Tadqiqotchi advokat maqomini olishda yuridik mutaxassislik bo'yicha ilmiy darajaga ega bo'lish, fuqarolik talabini zaruriy talab qilmaslik, malaka imtihonini ikki bosqichli qilish, stajirovka o'tashdan ozod qilinadigan shaxslar ro'yxatini kengaytirish hamda ilmiy darajaga ega talabgorlarni malaka imtihonining nazariy qismidan ozod qilish kabi ijobiy tajribalarni milliy qonunchilikka kiritish zarur, degan xulosaga kelgan.

Dissertantning fikricha, 2022-yilning 1-yanvar holatiga mamlakatimizda advokatlar soni 4211 nafarni tashkil etayotganligini (8375 nafar aholiga 1 nafar advokat to'g'ri kelmoqda), advokatlar sonini oshirish hamda O'zbekiston Respublikasi Konstitutsiyasida belgilangan malakali yuridik yordam olish huquqini kafolatlash maqsadida amaldagi talablarni (fuqarolik, yuridik mutaxassislik bo'yicha ish stajiga ega bo'lish, stajirovka o'tash) nafaqat yengillashtirish, balki ayrim talablarni (ta'lim darajasi, malaka imtihonini topshirish) kuchaytirish zarur, degan nuqtayi nazarni ilgari surgan.

Muallif tomonidan xorijiy davlatlarda advokat maqomiga ega bo'lish uchun qo'yilgan talablar qiyosiy-huquqiy tahlil qilinib, ularni umumiy va maxsus talablarga ajratish zarurligi asoslantirib berilgan.

O'zbekiston Respublikasining «Advokatura to'g'risida»gi Qonunida yuridik mutaxassislik bo'yicha ish staji, stajirovka o'tash, malaka imtihonini topshirish kabi talablar advokat maqomiga ega bo'lish uchun emas, balki advokatlik faoliyati bilan shug'ullanish huquqini beruvchi litsenziyani olish uchun qo'yilgan talab sifatida belgilangan. Dissertant ayrim xorijiy davlatlarda advokatlik litsenziya talab qilinmaydigan faoliyati turi hisoblanishini, ushbu talab advokat maqomiga ega bo'lish uchun qo'yilganligini inobatga olib, ushbu tartibni milliy qonunchiligimizga joriy etishni taklif qilgan.

Dissertatsiyada yuridik mutaxassislik bo'yicha ish stajiga ega bo'lish (Litva, Rossiya, Ukraina, Ozarbayjon, Tojikiston), stajirovka o'tash (Litva, Polsha, Rossiya, Gruziya, Moldova, Ukraina, Belarus), malaka imtihonini topshirish (Litva, Polsha, Rossiya, Gruziya, Ukraina, Moldova, Belarus, Tojikiston) talablarini advokat maqomiga ega bo'lish uchun qo'yilgan talab sifatida belgilash, shuningdek, qo'shimcha talab sifatida advokat qasamyodini qabul qilish (Litva, Gruziya, Moldova, Ukraina, Armaniston) va advokatlar uyushmasiga a'zo bo'lish (Belarus, Qirg'iziston, Armaniston) kabi talablarni advokat maqomiga ega bo'lish uchun

qo'yilgan talablar ro'yxatiga kiritish zarurligi asoslantirilgan.

Tadqiqot ishida advokat maqomiga ega bo'lish uchun qo'yilgan talablardan biri sifatida yuridik mutaxassislik bo'yicha ilmiy darajaga ega bo'lish tahlil etilib, unda talabgorga uch turdagi imtiyoz berilishi qayd etilgan. Xususan, yuridik mutaxassislik bo'yicha ilmiy darajaga ega ekanlik oliy yuridik ma'lumotga ega bo'lishning muqobili sifatida qo'llanilishi (Italiya, Rossiya, Moldova, Armaniston), stajirovka o'tashdan ozod qilinib, malaka imtihonini topshirish huquqiga ega bo'lishi (Moldova, Polsha), advokat maqomiga ega bo'lish uchun qo'yilgan talablardan to'liq ozod qilib, unga advokatlik faoliyati bilan shug'ullanish huquqi berilishi (Germaniya, Litva, Polsha) alohida ko'rsatilgan.

Mazkur bobda dissertant advokat maqomini olishning eng kichik va advokat maqomida bo'lishning eng yuqori yosh senzini belgilash masalasini o'rganib, ba'zi xorijiy davlatlar (Finlandiya, Hindiston, Kipr)da advokat maqomini olishning eng kichik yoshi belgilanganligiga e'tibor qaratgan. Tadqiqotchining fikricha, advokatura instituti doirasida amalga oshirilayotgan islohotlar tendensiyasi hamda mavjud advokatlarning 50 foizi 50 yoshdan oshgan shaxslar tashkil etishini, bugungi kunda xorijiy tillarni mukammal darajada biladigan yosh kadrlarga talabning yuqori ekanligi, ushbu sohada yuqori tajribaga ega advokatlarga ehtiyoj mavjudligi (ijtimoiy so'rovda ishtirok etgan respondentlarning 139 nafari (57,5%) eng kichik hamda 165 nafari (68,1%) advokat maqomida bo'lishning eng yuqori yosh senzi belgilamaslik kerakligini bildirganligi)ni inobatga olib, advokat maqomini olishning eng kichik va advokat maqomida bo'lishning eng yuqori yosh senzini belgilamaslik kerak, degan xulosaga kelgan.

Ilmiy ishda davlat tilini bilish advokat maqomiga ega bo'lish uchun qo'yilgan talablardan biri sifatida tahlil qilingan bo'lib, xorijiy davlatlar (Litva, Gruziya, Ukraina, Tojikiston)da mazkur talab advokat maqomini olishda talabgorlar uchun zaruriy shart sifatida belgilanganligiga, bu orqali ushbu mamlakatlar davlat tilining milliy va xalqaro miqyosidagi nufuzi, mavqeyini oshirishiga xizmat qilayotganligiga alohida urg'u berilgan.

Muallif odil sudlovning demokratik prinsiplaridan kelib chiqib, sud ishlari nafaqat o'zbek tilida, balki boshqa tillarda ham olib borilishini ta'kidlab, ushbu talabni amaldagi qonunchilikka kiritish talabgorlar sonining keskin kamayishiga olib kelishi mumkinligi, bu talabni advokat maqomiga ega bo'lish uchun qo'yilgan talablar ro'yxatiga kiritish maqsadga muvofiq emasligini asoslagan.

Tadqiqot ishida xorijiy mamlakatlar (Finlandiya, Litva, Belarus) tajribasi asosida «benuqson-obro' e'tiborga ega bo'lish» tushunchasining nazariy-huquqiy jihatlari tahlil qilinib, uni milliy qonunchilikka kiritish zarur, degan nuqtayi nazar ilgari surilgan. Bunda, tadqiqotchi talabgor benuqson-obro' e'tiborga ega shaxs hisoblanmasligiga sabab bo'ladigan asoslar, advokat maqomiga ega bo'lish yoki advokatlik faoliyati bilan shug'ullanish huquqiga ega bo'lmaslik holatlarini tahlil qilgan.

Dissertant milliy va xorijiy davlatlar tajribasini o'rganish natijasida advokat maqomiga ega bo'lish yoki advokatlik faoliyatini amalga oshirishga oid cheklovlarni ma'lum bir muddat davomida amal qiladigan (Rossiya, Gruziya, Ukraina, Armaniston, Qirg'iziston) va umrbod amal qiladigan (Litva, Moldova,

Belarus, Tojikiston) shakldagi ikki guruhga ajratish lozimligini asoslantirgan. Bunda cheklovlarining amal qilish muddati guruhlariga ajratishning asosiy mezon sifatida e'tiborga olingan.

Tadqiqot ishida advokatura institutini moliyalashtirishning yangi manbasi sifatida malaka imtihonini topshirish uchun to'lov to'lash masalasi xorijiy davlatlar (AQSH, Buyuk Britaniya, Polsha, Litva) tajribasi asosida o'rganilgan hamda Advokatlar palatasi Konferensiyasi malaka imtihonini topshirish uchun to'lov miqdori va uni to'lash tartibini belgilashi kerakligi asoslantirib berilgan.

Dissertatsiyaning ikkinchi bobi «**Advokat maqomiga ega bo'lish uchun qo'yilgan talablarni takomillashtirish masalalari**» deb nomlangan bo'lib, unda talabgorning advokat maqomini olishda fuqarolik va ta'lim darajasiga qo'yilgan talablarning ahamiyati, yuridik mutaxassislik bo'yicha ish stajiga ega bo'lish zaruriyati, talabgor tomonidan stajirovka o'tashning mohiyati va tartibi tahlil qilingan.

Amaldagi qonunchilikka muvofiq, O'zbekistonda fuqarolik senzi advokat maqomini olishda majburiy talab hisoblanadi. Biroq, dissertant fuqarolik majburiy talab bo'lmasligi kerakligini, bu borada advokatura instituti rivojlangan davlatlar (AQSH, Buyuk Britaniya, Fransiya, Germaniya, Italiya, Shvetsiya, Rossiya, Yaponiya, Koreya, Ukraina, Ozarbayjon, Armaniston)da fuqarolik advokat bo'lish uchun qo'yilgan zaruriy shart (talab) sifatida nazarda tutilmaganligiga e'tibor qaratgan. Tadqiqot doirasida o'tkazilgan ijtimoiy so'rovda ishtirok etgan respondentlarning 137 nafari (49,6%) chet davlat fuqarosiga, 129 nafari (46,8%) fuqaroligi bo'lmagan shaxslarga ham ayrim shartlar (ushbu davlatning yurisprudensiyasi bo'yicha bakalavriat ta'lim yo'nalishini tamomlash, malaka imtihonini topshirish va h.k.) mavjud bo'lganida O'zbekiston Respublikasida advokat maqomini olish huquqini berish kerak, degan fikrni bildirgan.

Dissertatsiyada xorijiy davlat advokatlarining O'zbekiston hududida advokatlik faoliyati bilan shug'ullanish imkoniyatlari xususida so'z yuritilib, D.Nurumov, I.Pereverza, V.Anisimov, Kenneth S. Kilimnik bilan ilmiy munozaraga kirishilgan hamda tadqiqotchi tomonidan xorijiy davlat advokatlarining qabul qiluvchi davlat hududida yuridik yordam ko'rsatishga ruxsat etilishi mezoniga ko'ra quyidagi modellarga ajratilgan:

- 1) taqiqlovchi (O'zbekiston);
- 2) cheklovchi (AQSh, Rossiya, Turkiya, Xitoy, Ozarbayjon, Vetnam, Yaponiya, Moldova, Qirg'iziston, Tojikiston);
- 3) erkin (Singapur va Yevropa Ittifoqiga a'zo davlatlar).

Tadqiqotchi respondentlarning 169 nafari (61,3%) ayrim cheklovlar bilan xorijiy davlat advokatlariga mamlakatimizda advokatlik faoliyati bilan shug'ullanish huquqini berish kerakligini bildirgani, mamlakatimizda investitsiyaviy muhitni yanada yaxshilash, chet el investorlarining o'z advokatlari bilan kirib kelishini ta'minlash hamda bu advokatlar o'rtasida sog'lom raqobat darajasining oshishiga olib kelishini inobatga olib, ayrim cheklovlar (faqat ushbu xorijiy davlatning qonuni masalalari hamda davlat va harbiy sirlar bilan bog'liq bo'lmagan ishlar bo'yicha, belgilangan tartibda ushbu mamlakatlarda advokatlik faoliyati bo'yicha kamida uch yil davomida shug'ullangan bo'lish) bilan xorijiy

davlatlarning advokatlariga O‘zbekiston hududida advokatlik faoliyatini amalga oshirish huquqini berish lozim, degan xulosaga kelgan.

Tadqiqot ishida advokat maqomini olishda talabgorning ta’lim darajasiga oid talab tahlil etilib, bugungi kunda noyuridik tayanch oliy ma’lumotli shaxslar yurisprudensiya mutaxassisligi bo‘yicha magistratura bosqichida ta’lim olayotganligi, ularning soni ortib borayotganligi ta’kidlangan. Toshkent davlat yuridik universitetida ushbu ko‘rsatkich 2019/2020 o‘quv yilida 31 nafarni, 2020/2021 o‘quv yilida 137 nafarni, 2021/2022 o‘quv yilida 69 nafarni tashkil etganligini, mazkur shaxslar O‘zbekiston Respublikasining «Ta’lim to‘g‘risida»gi Qonuniga ko‘ra, oliy yuridik ma’lumotga ega hisoblanib, ularda advokat, surishtiruvchi, tergovchi, prokuror, sudya maqomini olish huquqi mavjudligini ko‘rsatgan.

Dissertant o‘z fikrini davom ettirib, quyidagi savolni qo‘yadi, noyuridik tayanch oliy ma’lumotga ega bo‘lgan va yurisprudensiya mutaxassisligi bo‘yicha magistratura bosqichini tamomlagan shaxslar advokat maqomini olgan taqdirda ular tomonidan yuridik yordam ko‘rsatishning sifati qanday bo‘ladi? Bunga javoban tadqiqotchi magistratura bosqichi atigi bir yil davom etishini, ushbu vaqt davomida yurisprudensiyaga oid asosiy qoidalarni egallash imkonsiz ekanligini qayd etib, mazkur holatda malakali yuridik yordam ko‘rsatish sifati shubha ostida qoladi, degan xulosaga kelgan. Ijtimoiy so‘rovda ishtirok etgan 242 nafar respondentlarning 138 nafari (57%) tayanch oliy ta’lim yo‘nalishi noyuridik bo‘lgan shaxslarga advokat maqomini olish huquqini bermaslik kerak, degan fikrni bildirishgani ham muallif fikrining to‘g‘riligini tasdiqlaydi.

Tadqiqotchi talabgor advokat maqomiga ega bo‘lishi uchun milliy oliy ta’lim muassasalari tayanch oliy yuridik ma’lumot to‘g‘risidagi diplomiga yoki O‘zbekistondagi xorijiy davlatlar oliy ta’lim muassasasi (filiali)ning tayanch oliy yuridik ma’lumoti to‘g‘risidagi diplomiga yoxud xorijiy davlatlarda tayanch oliy yuridik ta’lim olganlik to‘g‘risidagi hujjat bilan birga uni O‘zbekistonda tan olish haqidagi guvohnomaga ega bo‘lish lozimligini asoslagan.

Dissertatsiya ishida yuridik mutaxassislik bo‘yicha ish stajiga ega bo‘lish talabining zarurligi, mazmun-mohiyati to‘g‘risida olimlar va amaliyotchi mutaxassislar (S.Yakubov, J.Ne‘matov, D.Habibullayev, V.Davlyatov, D.Nurumov, S.Qodiraliyev, V.Abramov)ning qarashlari hamda xorijiy davlatlar (Litva, Rossiya, Tojikiston, Ozarbayjon) qonunchiligi o‘rganilgan va tahlil qilingan.

Tadqiqotchi yuridik mutaxassislik bo‘yicha ish staji mavjud bo‘lishi zarurligi haqidagi talabni bekor qilmaslikni, balki uning muqobili sifatida stajirovka o‘tash talabini qonunchilikka kiritish maqsadga muvofiqligini asoslagan. O‘tkazilgan ijtimoiy so‘rovda ishtirok etgan respondentlarning 146 nafari (60,3%) muallifning fikrini qo‘llab-quvvatlagan.

Dissertant o‘z fikrini davom ettirib, yuridik mutaxassislik bo‘yicha ish stajining boshlanish vaqti va yuridik mutaxassislik bo‘yicha ish staji hisoblanadigan ishlar (faoliyat turlari) amaldagi qonunchilikda aniq belgilanmaganligini ta’kidlab, bu hol mamlakatimizda ushbu masala bo‘yicha turlicha amaliyot shakllanishiga sabab bo‘layotganligini ko‘rsatgan.

Shu bois, xorijiy mamlakatlarning tajribasi asosida yuridik mutaxassislik bo'yicha ish staji hisoblanadigan ishlar (faoliyat turlari) ro'yxatini va uning boshlanish vaqtini Hukumat qarori asosida aniq belgilash taklif etilgan. Bunda, yuridik staj oliy yuridik ma'lumot yoki xorijiy davlatlarda oliy yuridik ta'lim olganlik to'g'risidagi hujjat bilan birga uni O'zbekistonda tan olish haqidagi guvohnoma olingan hamda yuridik staj hisoblanadigan ishga kirgan vaqtdan boshlab hisoblanishi asoslab berilgan.

Mazkur bobda advokat stajyori va stajirovka rahbariga qo'yilgan talablar, stajirovka o'tash muddatlari, stajirovkadan ozod qilish hamda stajirovka o'tash bilan bog'liq masalalar tahlil qilinib, stajirovka o'tayotgan talabgorlarning aksariyati advokatlik kasbiga oid bilim va ko'nikmalarni egallash uchun emas, balki ushbu talab faqat qonunchilikda belgilanganligi uchun bajarayotganligi qayd etilgan. Masalan, 2021-yilda 351 nafar malaka imtihonini topshirgan talabgorning 147 nafari (41,8%) 3 oy davomida stajirovka o'tash orqali minimal talabni bajargan. Dissertant stajirovka o'tashni zaruriy talab sifatida belgilanmasligi kerakligi to'g'risida xulosaga kelib, stajirovka o'tash tartibini tubdan qayta ko'rib chiqish zaruriyati mavjud ekanligini ko'rsatgan.

Dissertantning fikricha, advokat stajyori sifatida ishga qabul qilishda taqdim etiladigan hujjatlarning ayrimlarini amaldagi qonunchilikka muvofiqlashtirish, ba'zilariga o'zgartish kiritish zarur. Jumladan, «O'zbekiston Respublikasi fuqarosi pasportining nusxasi» so'zlarini «shaxsni tasdiqlovchi hujjat nusxasi» degan so'zlar bilan, «mehnat daftarchasi, birinchi marta ishga kirayotgan talabgorlar bundan mustasno» so'zlarini «mehnat daftarchasi yoki xodimning elektron mehnat daftarchasi, birinchi marta ishga kirayotgan talabgorlar bundan mustasno» so'zlari bilan almashtirish bo'yicha takliflarni ishlab chiqqan.

Tadqiqotchi talabgorning advokat maqomini olishida stajirovka rahbarining o'rni muhim ahamiyatga ega ekanligidan kelib chiqib, stajirovka rahbari bo'lish uchun ham muayyan talablar qo'yilishi zarur, degan xulosaga kelgan. Shuningdek, talabgorlar uchun stajirovka rahbarini tanlashda kengroq imkoniyat berish maqsadida «Stajirovka rahbarlari va advokat stajyorlari reyestri»ni (Polsha, Xorvatiya, Litva, Rossiyadagi kabi) yaratish hamda ushbu reyestrga kirish uchun stajirovka rahbari benuqson obro'-e'tiborga ega bo'lishi, amalda intizomiy jazo chorasi olmaganligi, advokat sifatida kamida 3 yillik ish stajiga ega bo'lishi va stajyor bilan ishlash uchun lozim darajada sharoitga ega bo'lishi talablarini qonunda aniq belgilash lozimligi asoslab berilgan.

Muallifning fikricha, malaka imtihonini muvaffaqiyatli topshirgan advokat stajyori rahbarini rag'batlantirish, aksincha bo'lganida uni bir yilga qadar stajirovka rahbari bo'lish huquqidan mahrum etish mexanizmini joriy etish zarur. Shu bilan birga, stajirovkani muvaffaqiyatli o'tagan advokat stajyori stajirovka muddati tamomlangan vaqtdan boshlab ikki yil ichida advokat maqomini olish uchun malaka imtihonini topshirishi lozimligi, ushbu muddat o'tkazib yuborilganida, uning umumiy asoslarda yana stajirovkadan takroran o'tishi zarurligi haqidagi normani qonunchilikka kiritish taklifi berilgan.

Stajirovka o'tashni samarali tashkil etish maqsadida dissertant stajyor tomonidan ikkita referat tayyorlash va uni himoya qilish mexanizmidan voz kechish

lozimligini ta'kidlab, mazkur tartib o'rniga stajirovka rahbari tomonidan haftalik beriladigan moddiy huquq va protsessning dolzarb masalalari bo'yicha beshta mantiqiy savol va ikkita muammoli holatga (keys) protsessual hujjat namunalari asosida yozma javoblarni tayyorlash hamda advokatlik tuzilmasining rahbar organi oldida stajirovka yakunlanmasdan oldin ularni himoya qilish mexanizmini joriy etish bo'yicha taklifni ilgari surgan.

Ushbu bobda stajirovka o'tashdan ozod qilish masalasi tizimli yondashuv asosida tahlil qilinib, ayrim xorijiy davlatlar (Belarus, Ozarbayjon)da advokat sifatida uch yillik ish stajiga ega bo'lgan shaxsga, shuningdek, yurisprudensiya yo'nalishidagi oliy ta'lim muassasalari, yuridik kadrlar malakasini oshirish va qayta tayyorlash muassasalarining kamida uch yil yuridik mutaxassislik bo'yicha ish stajiga ega bo'lgan pedagog kadrlarini stajirovkadan ozod qilish lozim, degan xulosa asoslantirilgan. Bunda, salbiy sabablarga ko'ra lavozimdan chetlashtirilgan shaxslar stajirovka o'tashdan ozod qilinmasligi kerakligi isbotlangan.

Dissertatsiyaning «**Advokat maqomiga ega bo'lish tartibini takomillashtirish istiqbollari**» deb nomlangan uchinchi bobida malaka imtihonini topshirish, uning ayrim bosqichlarini raqamlashtirish, advokatlik faoliyati uchun litsenziyani olish, advokat qasamyodini qabul qilish, advokatlik guvohnomasini olish hamda Advokatlar palatasiga majburiy a'zo bo'lishga oid masalalar tahlil qilingan.

Tadqiqotchi B.Salamov, V.Davlyatov, D.Habibullayev, Stefan Koriotoh, O.Shvars, A.Gevorgiz, D.Dobryakov, V.Zaborovskiy, Y.Soloveva, M.Kosenko, P.Korotkovalarning malaka imtihoniga oid qarashlariga o'z munosabatini bildirib, xorijiy mamlakatlar (Germaniya, Polsha, Litva, Rossiya, Gruziya, Ukraina, Belarus, Moldova, Ozarbayjon)ning qonunchiligi tahlili asosida bir qator taklif va mulohazalarni ilgari surgan. Jumladan, talabgor tomonidan malaka imtihonini topshirish uchun taqdim qilinadigan hujjatlar ro'yxati o'rganilib, shaxsni tasdiqlovchi hujjat nusxasi, tayanch oliy yuridik ma'lumot to'g'risidagi diplom yoki xorijiy davlatlarda oliy ta'lim olganlik to'g'risidagi hujjat (uni O'zbekistonda tan olish haqidagi guvohnoma) yoxud yuridik mutaxassislik bo'yicha ilmiy daraja to'g'risidagi diplom, mehnat daftarchasi yoki elektron mehnat daftarchasi (nusxasi olinib, asli qaytariladi) yoxud ulardan birining ish joyida tasdiqlangan nusxasi yoki yuridik mutaxassislik bo'yicha ish stajini tasdiqlovchi boshqa hujjat nusxasi taqdim etish tartibini qonunchilikda belgilash lozim. Bundan tashqari, talabgorning muomalaga layoqatliligi to'g'risidagi ma'lumotni davlat xizmatlari markazlari orqali olish zarurligi asoslantirilgan.

Dissertant talabgor tomonidan taqdim etilgan hujjatlarni o'rganish natijasiga ko'ra, unga qaytarib berish amaliyotini bekor qilib, buning o'rniga topshirilgan tegishli hujjatlarni o'rganish va uning natijasi bo'yicha malaka imtihoniga ruxsat berish yoki rad etish mexanizmini joriy etish maqsadga muvofiqligi asoslantirilgan.

Taqdim qilingan hujjat (ma'lumot)larning to'liqligi va haqiqiylikini tekshirish masalasida esa Oliy malaka komissiyasi va hududiy boshqarmalar huzuridagi malaka komissiyalariga ayrim vakolatlarni berish, malaka imtihoni majlislarini zaruriyatga qarab, ammo ikki oyda kamida bir marotaba o'tkazilishini qonunda belgilash, malaka imtihonida tushadigan savollarni xorijiy tajriba (Qozog'iston)

asosida mustaqil ekspertlarni jalb qilgan holda tuzish zarurligi haqidagi takliflar ilgari surilgan.

Ilmiy ishda malakali yuridik yordam ko'rsatish talabgorlarning nazariy bilim va amaliy ko'nikmalari bilan bevosita bog'liqligiga e'tibor qaratilib, malaka imtihonini ikki bosqichli qilish zarurligi haqidagi B.Salamov va V.Davlyatovlarning fikrlariga qo'shilgan holda, xorijiy davlatlar (Polsha, Rossiya, Gruziya, Belarus, Armaniston, Qozog'iston)ning tajribasi asosida test bosqichini qonunchilikka kiritish kerakligi ta'kidlangan. Ijtimoiy so'rovda ishtirok etgan respondentlarning 142 nafari (58,7%) dissertantning malaka imtihonini ikki bosqichli (test va og'zaki suhbat) shaklda o'tkazilishiga oid bo'lgan nuqtayi nazarini ma'qullagan.

Tadqiqotda Rossiya Federatsiyasi tajribasi, o'tkazilgan ijtimoiy so'rov natijasiga (242 nafar respondentning 70 nafari yoki ularning 28,9%i) asoslanib, yuridik fanlar bo'yicha falsafa doktori (PhD) yoki fan doktori (DSc) ilmiy darajalariga ega bo'lgan nomzodlarni malaka imtihonining test va nazariy savollar qismidan ozod qilish lozim, degan xulosaga kelingan.

Dissertant advokatlik qasamyodini qabul qilish masalasida fikr yuritib, bir turdagi litsenziyaga ega bo'lgan advokat ikkinchi ixtisoslik bo'yicha malaka imtihonini muvaffaqiyatli topshirgan taqdirda takroran qasamyod qabul qilmasligi, advokat qasamyodi matnini «advokatning kasb etika qoidalariga qat'iy rioya etish» so'zlari bilan to'ldirish zarurligi, reyestrda kiritilishi nazarda tutilgan ma'lumotlar O'zbekiston Respublikasining «Shaxsga doir ma'lumotlar to'g'risida»gi Qonuni talablarini buzmasligi lozimligi bo'yicha takliflarni ilgari surgan.

Dissertatsiyada talabgorning advokat maqomini olishiga oid ikki xil yondashuv mavjudligi ta'kidlanib, Mustaqil Davlatlar Hamdo'stligiga a'zo davlatlar (Rossiya, Ukraina, Qozog'iston, Tojikiston)da advokatlik guvohnomasini olgan vaqtdan boshlab, Yevropa davlatlari (Daniya, Litva, Polsha)da advokatlar reyestriga kiritilgandan so'ng advokatlik faoliyati bilan shug'ullanish mumkinligi qayd etilgan. Muallif bu borada MDHga a'zo davlatlar tajribasini ma'qullab, amaldagi mavjud tartibni saqlab qolish maqsadga muvofiq, degan fikrni asoslagan.

XULOSA

O'zbekiston Respublikasida advokat maqomiga ega bo'lish tartibini takomillashtirish masalalari mavzusidagi dissertatsiya bo'yicha olib borilgan tadqiqot ishlari natijasida nazariy va ilmiy-amaliy ahamiyatga ega bo'lgan quyidagi xulosalar ishlab chiqildi:

I. Advokatura institutini takomillashtirishga qaratilgan ilmiy-nazariy xulosalar:

1. «Advokat», «advokat maqomiga ega bo'lish» tushunchalariga quyidagicha mualliflik ta'rifi berildi:

«Advokat – qonunda belgilangan tartibda advokat maqomi va advokatlik faoliyati bilan shug'ullanish huquqini olgan hamda huquqiy masalalar bo'yicha mustaqil professional maslahat beruvchi jismoniy shaxs»;

«Advokat maqomiga ega bo'lish – talabgorning advokat maqomini olish uchun qonunda belgilangan talablarni to'liq bajarishi, advokatlik litsenziyasini olishi,

advokat qasamyodini qabul qilishi, advokat maqomini tasdiqlovchi advokatlik guvohnomasini belgilangan tartibda olishi, advokatlar reyestriga kiritilishi hamda Advokatlar palatasiga a'zo bo'lishi nazarda tutiladi».

2. O'zbekiston Respublikasida advokat maqomiga ega bo'lishga qo'yilgan talablarning sezilarli o'zgarishlarga olib kelgan davrlarni shartli ravishda besh bosqichga bo'lindi hamda xorijiy davlatlar tajribasi asosida advokat maqomiga ega bo'lish uchun qo'yilgan talablar umumiy va maxsus guruhga ajratildi.

3. Xorijiy davlatlar tajribasini o'rgangan holda advokat maqomiga ega bo'lish uchun qo'yilgan talablar doirasi kengaytirilishi va qonunda aniq belgilanishi kerakligi asoslantirildi. Xususan, advokatlik faoliyati bilan shug'ullanish huquqini beruvchi litsenziya olish uchun qo'yilgan yuridik mutaxassislik bo'yicha kamida ikki yillik ish stajiga ega bo'lish, advokatlik tuzilmasida kamida uch oy muddat stajirovka o'tagan bo'lish hamda malaka imtihonini topshirish, shuningdek, advokat qasamyodini qabul qilish, advokatlik guvohnomasini olish va Advokatlar palatasiga a'zo bo'lish talablarini advokat maqomiga ega bo'lish uchun qo'yilgan talablar ro'yxatiga kiritish kerak. Litva, Gruzija, Rossiya, Ukraina, Belarus, Ozarbayjon, Moldova, Armaniston, Tojikiston davlatlarida bunday talablar mavjud.

4. Xorijiy davlatlarning qonunchiligini tahlil qilish natijasida xorijiy davlat advokatlarining qabul qiluvchi davlat hududida yuridik xizmatlar ko'rsatishga ruxsat etilishi mezonini bo'yicha quyidagi modellarga ajratildi: 1) taqiqlovchi model; 2) cheklovchi model; 3) erkin model.

II. O'zbekiston Respublikasining advokaturaga oid qonunchiligini takomillashtirishga doir takliflar:

5. O'zbekiston Respublikasining «Advokatura to'g'risida»gi Qonuni 3-moddasini quyidagi tahrirda bayon etish taklif etilgan:

«3-modda. Advokat

Advokat qonunda belgilangan tartibda advokat maqomi va advokatlik faoliyati bilan shug'ullanish huquqini olgan jismoniy shaxsdir. Advokat huquqiy masalalar bo'yicha mustaqil professional maslahatchi hisoblanadi.

O'zbekiston Respublikasining amaldagi xalqaro shartnomalariga muvofiq, O'zbekiston Respublikasi hududida xorijiy davlatlarning advokatlari O'zbekiston Respublikasi Adliya vazirligi tomonidan belgilangan tartibda maxsus reyestrda ro'yxatga olinganidan so'ng advokatlik faoliyati bilan shug'ullanishi mumkin.

Xorijiy davlatlarning advokatlari O'zbekiston Respublikasi hududida O'zbekiston Respublikasining davlat yoki harbiy sirlari bilan bog'liq masalalar bo'yicha yuridik yordam ko'rsatishga ruxsat etilmaydi.

Maxsus reyestrda ro'yxatdan o'tmasdan turib, O'zbekiston Respublikasi hududida xorijiy davlatlarning advokatlari tomonidan advokatlik faoliyatini amalga oshirish taqiqlanadi.»

6. O'zbekiston Respublikasining «Advokatura to'g'risida»gi Qonuni 3¹-moddasini quyidagi tahrirda bayon etish taklif etilgan:

«3¹-modda. Advokat maqomiga ega bo'lish

Talabgor advokat maqomini olish uchun quyidagi talablarga muvofiq bo'lishi kerak:

O‘zbekiston Respublikasi fuqarosi, O‘zbekiston Respublikasida yashash guvohnomasiga ega bo‘lgan chet el fuqarosi va fuqaroligi bo‘lmagan shaxs bo‘lishi; tayanch oliy yuridik ma‘lumotga yoki yuridik mutaxassislik bo‘yicha ilmiy darajaga ega bo‘lishi yohud xorijiy mamlakatlarda olingan va qonunchilik hujjatlarida belgilangan tartibda O‘zbekistonda tan olingan oliy yuridik ma‘lumotga ega bo‘lishi;

yuridik mutaxassislik bo‘yicha kamida ikki yillik ish stajiga ega bo‘lishi yoki ushbu Qonunda belgilangan muddatlarda stajirovka o‘tagan bo‘lishi lozim. Yuridik mutaxassislik bo‘yicha ish staji hisoblanadigan ishlar (faoliyat turlari) ro‘yxati O‘zbekiston Respublikasi Vazirlar Mahkamasi tomonidan belgilanadi. Yuridik mutaxassislik bo‘yicha ish staji shaxslar uchun birinchi marotaba tayanch oliy yuridik ma‘lumot olgan va yuridik mutaxassislik bo‘yicha ish staji hisoblanadigan ishga kirgan vaqtdan boshlanadi;

benuqson obro‘-e‘tiborga ega bo‘lishi;

malaka imtihonini topshirgan bo‘lishi;

advokatlik faoliyati bilan shug‘ullanish huquqini beruvchi litsenziyani olgan bo‘lishi;

advokat qasamyodini qabul qilgan bo‘lishi;

advokatlik guvohnomasini olgan bo‘lishi;

O‘zbekiston Respublikasi Advokatlar palatasining a‘zosi bo‘lishi lozim.

Davlat organlari, xo‘jalik boshqaruvi organlari, davlat korxonalari, muassasalari va tashkilotlarining yuridik xizmati xodimi, sudya, tergovchi, surishtiruvchi yoki prokuror lavozimida kamida uch yil yuridik mutaxassislik bo‘yicha ish stajiga ega bo‘lgan shaxs, shuningdek, yurisprudensiya yo‘nalishidagi oliy ta‘lim muassasalari, yuridik kadrlar malakasini oshirish va qayta tayyorlash muassasalarining kamida uch yil yuridik mutaxassislik bo‘yicha ish stajiga ega bo‘lgan pedagog kadrlari hamda ilgari uch yil davomida advokatlik faoliyati bilan shug‘ullangan va o‘z ixtiyori bilan advokatlik maqomi tugatilgan shaxs advokatlik tuzilmasida stajirovkadan o‘tmasdan malaka imtihonida ishtirok etishga haqli, bundan salbiy sabablarga ko‘ra ishdan bo‘shatilganlar mustasno.

Bunda, ushbu shaxslar advokat maqomiga ega bo‘lish uchun hujjatlarni hududiy boshqarmaga topshirishi ularning lavozimdan ozod qilingan vaqtdan boshlab uch yildan oshib ketmasligi lozim.

Yuridik fanlar bo‘yicha falsafa doktori (PhD) yoki fan doktori (DSc) ilmiy darajalariga ega bo‘lgan shaxslar malaka imtihonining test va nazariy savollar qismidan ozod qilinadi.

Advokat advokatlik faoliyatini O‘zbekiston Respublikasining butun hududida hech qanday qo‘shimcha ruxsatnomasiz amalga oshiradi.

Ushbu Qonunda belgilangan tartibda advokat maqomini olgan O‘zbekiston Respublikasida yashash guvohnomasiga ega bo‘lgan chet el fuqarosi va fuqaroligi bo‘lmagan shaxslarga, agar qonunlarda boshqacha tartib nazarda tutilgan bo‘lmasa, O‘zbekiston Respublikasining butun hududida advokatlik faoliyati bilan shug‘ullanishga ruxsat beriladi.»

7. O‘zbekiston Respublikasining «Advokatura to‘g‘risida»gi Qonunini quyidagi 3²-modda bilan to‘ldirish taklif etilgan:

«3²-modda. Benuqson obro‘-e‘tiborga ega bo‘lish

Advokat maqomiga ega bo‘lish va advokatlik faoliyati bilan shug‘ullanish uchun talabgor yoki advokat benuqson obro‘-e‘tiborga ega bo‘lishi lozim.

Quyidagilar benuqson obro‘-e‘tiborga ega hisoblanmaydi:

O‘zbekiston Respublikasi qonunchiligida belgilangan tartibda muomalaga layoqatsiz yoki muomala layoqati cheklangan deb topilgan shaxs;

qasddan ijtimoiy xavfi katta bo‘lmagan yoki uncha og‘ir bo‘lmagan, shuningdek og‘ir yoki o‘ta og‘ir jinoyat sodir qilganligi uchun sudlanganlik holati tugallanmagan yoki sudlanganligi olib tashlanmagan shaxs;

psixiatriya yoki narkologiya muassasalarida hisobda turgan shaxs.»

8. O‘zbekiston Respublikasining «Advokatura to‘g‘risida»gi Qonunini quyidagi 3³-modda bilan to‘ldirish taklif etilgan:

«3³-modda. Advokat maqomini olish jarayonini to‘xtatib turish

Talabgor jinoyat sodir etganlikda ayblanayotgan bo‘lsa, uning advokat maqomini olish jarayoni to‘xtatib turiladi.

Talabgorning advokat maqomini olish jarayoni ushbu moddaning birinchi qismida nazarda tutilgan holatlar bartaraf etilgunga qadar to‘xtatib turiladi.»

9. O‘zbekiston Respublikasining «Advokatura to‘g‘risida»gi Qonuni 8¹-moddasini quyidagi tahrirda bayon etish taklif etilgan:

«8¹-modda. Advokat stajyori

Tayanch oliy yuridik ma‘lumotga yoki xorijiy mamlakatlarda olingan va qonunchilik hujjatlarida belgilangan tartibda O‘zbekistonda tan olingan oliy yuridik ma‘lumotga ega bo‘lgan O‘zbekiston Respublikasi fuqarosi hamda O‘zbekiston Respublikasida yashash guvohnomasiga ega bo‘lgan chet el fuqarosi va fuqaroligi bo‘lmagan shaxs advokat stajyori bo‘lishi mumkin.

Ushbu Qonunning 3²-moddasi ikkinchi qismida nazarda tutilgan shaxs advokat stajyori bo‘lishi mumkin emas.

Stajirovka advokatlik tuzilmasida o‘taladi. Advokat stajyori o‘z faoliyatini advokatning rahbarligida, uning alohida topshiriqlarini bajargan holda amalga oshiradi. Advokat stajyori advokatlik faoliyati bilan mustaqil ravishda shug‘ullanishga haqli emas.

Stajirovka uch oydan kam bo‘lmagan muddat davom etishi mumkin. Stajirovkaning eng uzoq muddati ikki yilni tashkil qiladi.

Advokat stajyorining mehnat sharoitlari qonunchilikda belgilangan tartibda tuziladigan mehnat shartnomasi bilan belgilanadi.

Stajyorga nisbatan Advokatning kasb etikasi qoidalari va advokatlik sirini saqlash to‘g‘risidagi talablar qo‘llaniladi.

Advokat stajyorining faoliyatini tashkil etish tartibi Advokatlar palatasi tomonidan belgilanadi.»

10. O‘zbekiston Respublikasining «Advokatura to‘g‘risida»gi Qonunini quyidagi 8²-modda bilan to‘ldirish taklif etilgan:

«8²-modda. Advokat stajyorining stajirovka rahbari

Stajirovka rahbarlari reyestriga kiritilgan advokat stajirovka rahbari bo‘lishi mumkin.

Advokat tomonidan rahbarlik qilinishi mumkin bo‘lgan advokat stajyorlari soni

Advokatlar palatasi tomonidan belgilanadi.

Stajirovka rahbari tomonidan stajirovkani muvaffaqiyatli o'taganligi to'g'risida ijobiy xulosa olgan advokat stajyori malaka imtihonini topshira olmagan taqdirda ushbu advokat Advokatlar palatasining tegishli hududiy boshqarmasi qaroriga asosan bir yilgacha bo'lgan muddatga Stajirovka rahbarlari reyestrndan chiqariladi.

Stajirovka rahbari Advokatlar palatasining ustavida nazarda tutilgan ishlarni bajarganligi uchun moddiy rag'batlantirilishi mumkin.

Stajirovka rahbarlari reyestrini yuritish tartibi Advokatlar palatasi tomonidan belgilanadi va tasdiqlanadi.»

11. O'zbekiston Respublikasining «Advokatura to'g'risida»gi Qonunini quyidagi 8³-modda bilan to'ldirish taklif etilgan:

«8³-modda. Malaka imtihoniga ruxsat berish

Ushbu Qonunning 3¹-moddasi va 3²-moddasi talablariga javob beradigan shaxslar O'zbekiston Respublikasi Advokatlar palatasining hududiy boshqarmalariga malaka imtihonini topshirish to'g'risidagi ariza bilan murojaat qilishga haqli.

Noto'g'ri ma'lumotlarning taqdim etilishi talabgorni malaka imtihoniga kiritishni rad etish uchun asos bo'lishi mumkin.

Malaka komissiyasi zarur hollarda ikki oy muddatda talabgor tomonidan taqdim etilgan hujjatlar va ma'lumotlarning haqiqiylikini tekshirishni tashkil etadi. Malaka komissiyasi ko'rsatilgan hujjatlar va ma'lumotlarning haqiqiylikini tekshirish yoki tasdiqlash uchun so'rov bilan murojaat qilishga haqli. So'rov yuborilgan organlar malaka komissiyasining so'rovi olingan kundan boshlab o'n besh ish kundan kechiktirmay hujjatlar va ma'lumotlarni tekshirish natijalari to'g'risida malaka komissiyasini xabardor qilishi yoki ularning haqiqiylikini tasdiqlashi shart.

Ariza va unga ilova hujjatlarni ko'rib chiqish natijalariga ko'ra, malaka komissiyasi quyidagi qarorlardan birini qabul qiladi:

talabgorni malaka imtihoni topshirishga ruxsat berish to'g'risida;

talabgorni malaka imtihoni topshirishga ruxsat berishni rad qilish to'g'risida.

Qabul qilingan qaror to'g'risida talabgorga qaror qabul qilingan kundan e'tiboran uch ish kuni ichida yozma ravishda xabar qilinadi.

Talabgorni malaka imtihoni topshirishga ruxsat berishni rad qilish to'g'risidagi qaror qabul qilinganda bunday rad etish sabablari ko'rsatilishi kerak.

Malaka imtihoni topshirishga ruxsat berishni rad qilish to'g'risidagi qaror ustidan Oliy malaka komissiyasi yoki sudga shikoyat berilishi mumkin.»

12. O'zbekiston Respublikasining «Advokatura to'g'risida»gi Qonunini quyidagi 8⁴-modda bilan to'ldirish taklif etilgan:

«8⁴-modda. Malaka imtihoni

Malaka imtihonini qabul qilish va o'tkazish tartibi hamda malaka imtihoni dasturi Advokatlar palatasi Konferensiyasi tomonidan belgilanadi va tasdiqlanadi.

Malaka imtihoni zaruriyatga qarab, lekin har ikki oyda kamida bir marta o'tkaziladi.

Malaka imtihoni savollarga yozma javoblar (test) va og'zaki suhbatdan iborat.

Test sinovlari natijalarini anonim tekshirishni ta'minlaydigan yagona avtomatlashtirilgan axborot tizimi yordamida amalga oshiriladi. Sinovning yagona avtomatlashtirilgan axborot tizimiga qo'yiladigan talablar Advokatlar palatasi Konferensiyasi tomonidan belgilanadi.

Malaka imtihonini topshirish uchun to'lov to'lash tartibi va miqdori Advokatlar palatasi Konferensiyasi tomonidan tasdiqlanadi.

Malaka komissiyasi yoki Oliy malaka komissiyasi malaka imtihonini topshirgan kundan e'tiboran yetti ish kun muddatda malaka imtihonini topshirgan shaxsga malaka imtihonini topshirganligi to'g'risidagi guvohnomani bepul beradi.

Malaka imtihonini topshirganligi to'g'risidagi guvohnoma imtihon topshirilgan kundan boshlab bir yil davomida amal qiladi. Malaka imtihonidan o'tganligi to'g'risidagi guvohnoma namunasi Advokatlar palatasi Konferensiyasi tomonidan tasdiqlanadi.

Tanlangan ixtisoslik bo'yicha malaka imtihonini topshira olmagan talabgor xuddi shu ixtisoslik bo'yicha takroran malaka imtihonini topshirishga olti oydan keyin ruxsat beriladi.

Malaka imtihonini topshira olmagan shaxslar tomonidan malaka komissiyalarining qarorlari ustidan malaka komissiyasi majlisining bayonnomasidan ko'chirma olingan kundan e'tiboran bir oy ichida Oliy malaka komissiyasi yoki sudga shikoyat berilishi mumkin.»

13. O'zbekiston Respublikasining «Advokatura to'g'risida»gi Qonunini quyidagi 8⁵-moddasi bilan to'ldirish taklif etilgan:

«8⁵-modda. Advokat qasamyodi

Malaka imtihonini muvaffaqiyatli topshirgan talabgor malaka imtihoni o'tkazilgan malaka komissiyasining majlisida quyidagi mazmunda qasamyod qiladi:

«O'z kasbiy burchimni halol va vijdonan bajarishga, inson huquqlari va erkinliklarini hamisha himoya qilishga, advokatlik sirini saqlashga, O'zbekiston Respublikasining Konstitutsiyasi, qonunlari va advokatning kasb etika qoidalariga qat'iy rioya etishga tantanali qasamyod qilaman».

Talabgor advokat qasamyodi matnini ovoz chiqarib o'qiydi va talabgor to'g'risidagi ma'lumotlar, qasamyod qabul qilingan sana va joy bayon etilgan tegishli hujjatni imzolaydi. Mazkur hujjat malaka komissiyasi majlisining bayonnomasiga ilova qilinadi.

Talabgor advokat qasamyodini qabul qilganligi natijalari bo'yicha malaka komissiyasi talabgor tomonidan advokat qasamyodi qabul qilinganligini tasdiqlash to'g'risida qaror qabul qiladi.

Advokat maqomiga ega bo'lgan shaxs ikkinchi ixtisoslik bo'yicha malaka imtihonini muvaffaqiyatli topshirganda takroran qasamyod qabul qilmaydi.»

III. Advokat maqomiga ega bo'lish tartibini takomillashtirishga oid taklif va tavsiyalar:

14. Advokat stajyorining stajirovka rahbari reyestrini joriy etish va bu orqali advokat maqomiga talabgor shaxslarga stajirovka rahbarlarini tanlashda kengroq imkoniyat yaratish maqsadga muvofiq.

15. Hozirda malaka imtihoni topshirish uchun tuzilgan savollar va muammoli holatlar talab darajasida emasligi bois, malaka imtihoni uchun tuziladigan test va

muammoli holat (keys)lar hamda ularning javoblarini shakllantirish maxsus ekspertlar bilan tuziladigan shartnoma asosida amalga oshirish mexanizmi joriy etilishi zarur.

16. O‘zbekiston Respublikasida to‘g‘ridan to‘g‘ri amal qiluvchi O‘zbekiston Respublikasining «Advokatura va advokatlik faoliyati to‘g‘risida»gi O‘zbekiston Respublikasi Qonunini ishlab chiqish va qabul qilish zarurligi asoslantirildi.

17. Advokat stajyorining faoliyatini tashkil etish tartibi to‘g‘risidagi nizom (2009-yil 14-mart, ro‘yxat raqami 1921) hamda O‘zbekiston Respublikasi Advokatlar palatasi hududiy boshqarmalari huzuridagi malaka komissiyalari to‘g‘risidagi nizom (2009-yil 27-mart, ro‘yxat raqami 1928)ga tegishli o‘zgartirish va qo‘shimchalar kiritish bo‘yicha takliflar tayyorlandi.

**ONE-TIME SCIENTIFIC COUNCIL UNDER SCIENTIFIC COUNCIL
DSc.07/13.05.2020.Yu.22.03 FOR AWARDING SCIENTIFIC DEGREES AT
TASHKENT STATE UNIVERSITY OF LAW**

TASHKENT STATE UNIVERSITY OF LAW

MATMUROTOV ALIBEK RAVILOVICH

**ISSUES OF IMPROVING THE PROCEDURE FOR ACQUIRING THE
STATUS OF AN ADVOCATE IN THE REPUBLIC OF UZBEKISTAN**

12.00.07 – Judicial power. Prosecutorial supervision. Organization of law enforcement activity.
Advocacy

ABSTRACT
of doctoral thesis (PhD) on legal sciences

Tashkent – 2023

The theme of the doctor of philosophy (PhD) dissertation was registered at the Supreme Attestation Commission of the Cabinet of Ministers of the Republic of Uzbekistan under number B2021.3.PhD/Yu593.

The doctoral dissertation has been prepared at the Tashkent State University of Law.

The abstract of the dissertation is posted in three (Uzbek, English Russian (summary)) languages on the website of the Scientific Council (<https://tsul.uz/uz/fan/avtoreferatlar>) and on the website of Ziyonet information and educational portal (www.ziyonet.uz).

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The defence of the dissertation will be held on February 21, 2023 at 15:00 at the meeting of the one-time Scientific Council on the basis of Scientific Council № DSc.07/13.05.2020.Yu.22.03 at the Tashkent State University of Law (Address: 100047, Sayilgoh str., 35 Tashkent, Uzbekistan. Phone: (99871) 233-66-36; Fax: (99871) 233-37-48, e-mail: info@tsul.uz).

The doctoral dissertation is available at the Information Resource Center of the Tashkent State University of Law (registration number - 1091). (Address: 100047, Sayilgoh str., 35 Tashkent, Uzbekistan. Phone: (99871) 233-66-36).

The abstract of the dissertation is distributed on February 6, 2023.

(Registry protocol № 1 dated on February 6, 2023).

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INTRODUCTION (Abstract of doctoral (PhD) dissertation)

Relevance and necessity of the dissertation topic. In the world issues pertaining the procedure for acquiring the status of an advocate are crucial to guaranteeing the right to provide qualified legal assistance. Extensive work is underway concerning acquiring the status of an advocate. The international document Basic Principles on the Role of Lawyers, adopted at the eighth UN Congress on the Prevention of Crime and the Treatment of Offenders, highlights that Governments, professional associations of lawyers and educational institutions shall ensure that lawyers (advocates) have appropriate education and training for the effective protection of human rights, their legitimate interests and fundamental freedoms. As of 2023, there is one lawyer (advocate) for every 248 residents in the United States, this figure accounts for 260 citizens in Italy, 516 citizens in Germany, 951 citizens in India, 1221 citizens in France and 1500 citizens in Latvia, accordingly⁹. These numbers show that today the need for legal assistance is increasing.

Around the world, a special attention is being paid to the following issues as a research direction of significant scientific and practical importance: imposing strict requirements on the knowledge and qualifications of the applicant (candidate) for acquiring the status of an advocate, having professional experience in a legal specialty, implementing of an effective mechanism of internship, improving the process of taking the qualification examination by introducing modern information and communication technologies, introducing the procedure for taking an oath by advocates, as well as forming a single registry of information about advocates.

In Uzbekistan, a number of focused actions have been made in this regard. For instance, attracting young qualified personnel to advocacy, putting an end to excessive bureaucracy and red tape by introducing modern information technologies to the activities of advocates, introduction of advanced norms of the legislation of foreign countries in this regard can be highlighted as the priority directions of the reforms being carried out in the field of further reform of the institute of advocacy. Thus, as we focus on the state policy – «fundamentally increasing the capacity of the institute of advocacy to protect human rights, freedoms and legitimate interests, as well as to fully satisfy the demand of citizens and business entities for qualified legal services»¹⁰ as well as the opinion of the President of the Republic of Uzbekistan Sh.Mirziyoyev «...we have many tasks ahead of us in terms of strengthening the institute of advocacy, digitizing the activities of this area»¹¹, it is considered relevant to conduct in-depth study of the legal and scientific basis for acquiring the status of an advocate.

The dissertation will serve to a certain extent in the implementation of the tasks set out in the law of the Republic of Uzbekistan «On Advocacy» (1996), Presidential

⁹ <https://worldpopulationreview.com/country-rankings/lawyers-per-capita-by-country>

¹⁰ Decree of the President of the Republic of Uzbekistan dated January 28, 2022 «On the Development Strategy of New Uzbekistan for 2022-2026» No. PD-60 // National database of legislative information, 29.01.2022, 29.01.2022., 06/22/60/008, 18.03.2022., 06/22/89/0227, 21.04.2022., 06/22/113/0330

¹¹ Justice and the rule of law will become the main criteria in Uzbekistan // https://uza.uz/uz/posts/ozbekistonda-adolat-va-kanun-ustuvorligi-asosiy-mezonga-aylanadi_318064

Decrees such as «On measures to further reform the the institute of advocacy in the Republic of Uzbekistan» (2008), «On the Strategy of Actions for Further Development of the Republic of Uzbekistan» (2017), «On measures to fundamentally increase the efficiency of the institute of advocacy and expand the independence of advocates» (2018), «On additional measures to ensure the constitution and the rule of law, strengthening public control in this regard and improving legal culture in the society» (2019), «On the Development Strategy of New Uzbekistan for 2022-2026» (2022), Presidential Resolution «On the measures of widespread introduction of modern information and communication technologies in the activities of advocates» (2022), Resolutions of the Cabinet of Ministers of the Republic of Uzbekistan such as «On approval of the regulation on the procedure for licensing the activities of advocates through a special electronic system» (2022), «On the improvement of the procedure for the licensing of advocacy activities and the organization of advocacy structures» (2009), order of the Minister of Justice of the Republic of Uzbekistan «On approval of the regulation on qualification commissions under the regional offices of the Chamber of Advocates of the Republic of Uzbekistan» (2009) and and other legislative acts related to the topic.

Connection of the research with the main priority directions of development of science and technology in the republic. The research was carried out in the framework of the priority direction I. «Formation of a system of innovative ideas and ways to implement them in the social, legal, economic, cultural, spiritual and educational development of an informed society and a democratic state» of the development of science and technology of the republic.

The extent of analysis of the problem. Some aspects of this topic are covered in the scientific works and textbooks of some national legal scholars. In particular, J.Kh.Abdurakhmonkhojaev, J.A.Ne'matov, S.B.Kadiraliyev, M.Kh.Rustamboev, U.A.Tukhtasheva, D.Y.Khabibullaev, S.A.Yakubov studied the institute of advocacy and its organizational and legal basis as well as trends in professional development of advocates. D.B.Bazarova, K.K.Matkarimov, G.Z.Tulaganova examinationined the status of advocated (defenders) in the criminal proceedings, B.Salamov put some light on the activity of advocates, its guarantees and social protection of advocates, V.Kh.Davlyatov researched the legal status of advocacy structures and self-governing body in the improvement of the institute of advocacy, D.D.Nurumov studied the organizational and legal issues of providing legal assistance to business entities by a lawyer.

In the CIS member countries scientific scholars such as V.V.Zaborovskiy studied the legal status of advocates, V.F.Anisimov, I.M.Perevezra examinationined the conditions for advocates of foreign countries to engage in legal activities in the territory of the receiving (host) country, T.V.Vilchik studied the procedure and conditions for acquiring the status of an advocate in the legislation of the European Union member states and in Ukraine, P.Y.Korotkova, Y.E.Makushkina, R.G.Melnichenko discussed the issues of taking the qualification examination and introducing modern information technologies in this regard, V.Y.Abramov, S.Abdrakhmanova, I.I.Belozerova, G.S.Devyatkin, D.A.Dobryakov, V.V.Golubev, I.N.Zhdanov, N.A.Mamedov, Y.I.Soloveva, S.S.Yurev, O.Schwarz studied some

aspects of acquiring the status of an advocate.

Foreign scholars such as M.Derra (Germany), Roger J. Goebel (USA), Kenneth S. Kilimnik (USA), Stefan Koriath (Germany) devoted their scientific works to some of the requirements for acquiring the status of an advocate including mandatory higher legal education, the requirement to undergo an internship, the need to take a test to determine theoretical and practical knowledge, the need to be a member of association of advocates, as well as involvement of advocates from foreign state in the legal activities conducted in receiving (host) countries¹².

However, in our country, the topic of the research is considered to be urgent since the procedure for acquiring the status of an advocate has not been thoroughly researched so far.

Connection of the dissertation topic with the research works carried out at the higher educational institution. The topic of the dissertation is included in the research plan of the Tashkent State University of Law and is carried out within the research priorities of «Priorities for improving the institute of advocacy in the context of judicial reform».

The aim of the research is to improve the procedure for acquiring the status of an advocate as well as development of proposals and recommendations for the development of the theory of advocacy.

Objectives of the research:

development of a scientific definition to the concept of acquiring the status of an advocate, its content and specific features;

studying the requirements for acquiring the status of an advocate, analysis of comparative legal aspects of their general description in the context of development stages of the institute of advocacy in the Republic of Uzbekistan;

revealing the importance of requirements in terms of citizenship and educational level for the applicant to acquire the status of an advocate;

examining the essence of professional (work) experience in legal specialty as a necessary requirement for acquiring the status of an advocate;

conducting analysis of the nature and procedure of internship by a person who applied for acquiring the status of an advocate;

development of proposals and recommendations on improving the procedure for taking the qualification examination;

studying and analyzing the specific aspects of formalization of acquiring the status of an advocate.

The object of the research is the system of social and legal relations associated with the procedure of acquiring the status of an advocate.

The subject of the research is the normative legal acts aimed regulation of the procedure of acquiring the status of an advocate, practice of their application, the legislation of foreign countries, and conceptual approaches, scientific and theoretical views and ideas related to the research topic.

Research methods. The research used such methods as logical, historical, comparative-legal, analysis of statistical data, sociological surveys, interpretation of

¹² This literature and other sources are shown in the list of references used in the dissertation.

legislation and observation of relevant practices.

The scientific novelty of the research is as follows:

justified the need to reduce the minimum period of internship from six months to three months in the advocacy of an applicant who applied for acquiring the status of an advocate, which will serve to optimize the process of acquiring the status of an advocate for applicants with theoretical knowledge and practical skills, as well as and to attract young qualified personnel to advocacy;

justified the need to grant the right to take qualification examination by exempting from internship for applicants who have at least three years of work experience as a judge, investigator, enquiry officer or prosecutor, and as an employee of the legal service of state bodies, economic management bodies, state enterprises, institutions and organizations;

justified the need to reduce the period for retaking the qualification examination (for the applicants who previously failed the examination) from one year to at least six months considering that six months is sufficient for applicants to prepare and gain professional knowledge and practical skills;

justified the need that the form (format) of a advocate's ID and the procedure for issuing should be determined by the Cabinet of Ministers of the Republic of Uzbekistan and this provision should be defined at the level of law;

justified the need for issuance and entry of the resolution on successful pass of an applicant from the qualification examination and related documents through a special information system and that the applicant should have the opportunity of obtaining the advocate's license through an electronic system at any time without contacting the relevant department of justice

The practical results of the research are as follows:

author's definition was developed for the concept of an advocate as well as the concept of acquiring the status of an advocate, in addition, research has been conducted on division into five stages of the periods that led to fundamental changes (improvements) in the requirements for acquiring the status of an advocate in the Republic of Uzbekistan;

justified the need to, based on the experience of selected foreign countries, impose some stricter requirements for acquiring the status of an advocate and to expand the possibility of acquiring the status of an advocate by simplifying some of them;

justified the need to introduce the register of internship supervisors and advocate's intern based on the experience of foreign countries such as Ukraine, Lithuania, Moldova, and Poland;

justified the need to pass a Law of the Republic of Uzbekistan «On Advocacy and Advocacy activities» and include in it the articles entitled as «Advocate», «Holding an flawless reputation», «Acquiring the status of an advocate», «Advocate's intern», «Supervisor of the intern», «Allowing for the qualification examination», «Qualification examination», and «Advocate's oath».

justified the need to attract young qualified personnel to advocacy based on the examination and comparative analysis of the legislation of foreign countries on acquiring the status of an advocate and the national legislation on advocacy.

The reliability of the research results. The theoretical conclusions developed in the research, proposals to improve legislative acts are based on existing scientific and doctrinal views of the disciplines of «Advocacy», «Advocacy and advocacy activities», international documents in this field, legislation of foreign countries, national legislation, as well as the results of a social survey (32 advocates¹³ and 100 professors and teachers of Tashkent State University of Law as well as 144 students¹⁴ (34 of them are foreign students - a questionnaire was distributed to study their opinion). Furthermore, the dissertation's data credibility is determined by the statistical data published in official publications as well as by the use of verified and published literature in monographic studies.

In addition, in the research work have been used practical materials and statistical data learned during an internship¹⁵ for the period of March-April 2022 at the Tashkent regional office of the Chamber of Advocates of the Republic of Uzbekistan organized based on the order No. 30 of the Minister of Justice of the Republic of Uzbekistan dated February 28, 2022.

Scientific and practical significance of the research results. The rules developed as a result of this research will contribute to the development of theory in disciplines such as advocacy disciplines of «Advocacy», «Advocacy and advocacy activities». The findings of the study can be applied to future research, teaching on the module «Advocacy» at higher education institutions, law (high) schools as well as the development of teaching and methodological manuals. At the same time, it serves to solve problems related to acquiring the status of an advocate in Uzbekistan.

The practical value of the research is evident in the establishment of a set of guidelines and suggestions aimed at improving the procedure of acquiring the status of an advocate. The results of the study can be used to improve the legislation in the field of advocacy, as well as in the practice of preparation of documents on the content of work experience in the legal specialty, internship, taking the qualification examination, taking the advocate's oath, and improving the procedure of acquiring the status of an advocate.

The implementation of research results. On the basis of the scientific results obtained on the research work on issues of improving the procedure for acquiring the status of an advocate in the Republic of Uzbekistan:

proposal on the reduction of the minimum period of internship from six months to three months in the advocacy structure of an applicant who applied for acquiring the status of an advocate was used to amend the second part of Article 3¹ of the Law of the Republic of Uzbekistan «On Advocacy» (Reference of the Committee on Combating Corruption and Judicial Issues of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan No. 06/1-05-265 dated January 20, 2022). The implementation of this proposal has served to simplify the process of acquiring the status of an advocate in a short period of time for applicants and to attract young qualified personnel to the advocacy institute;

proposal on granting the right to take the qualification examination by exempting from internship for applicants who has at least three years of work

¹³ Letter No. 2-12-875/1192 dated May 13, 2022 of the Tashkent City Regional Office of the Chamber of Advocates.

¹⁴ Application No. 09-505 registered at the Registry of Tashkent State Law University dated April 25, 2022.

¹⁵ Letter of the Chamber of Advocates of the Republic of Uzbekistan dated March 17, 2022 No. 07-08-425/320.

experience as a judge, investigator, enquiry officer or prosecutor, and as an employee of the legal service of state bodies, economic management bodies, state enterprises, institutions and organizations was used to make addendum to the third part of Article 3¹ of the Law of the Republic of Uzbekistan «On Advocacy» (Reference of the Committee on Combating Corruption and Judicial Issues of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan No. 06/1-05-265 dated January 20, 2022). The implementation of this proposal has served to exempt practitioners with professional knowledge and practical skills from repeated internships in the advocacy structure;

proposal on reduction of the period for retaking the qualification examination for applicants who failed to pass the qualification examination from one year to at least six months was used to amend the fourth part of Article 3¹ of the Law of the Republic of Uzbekistan «On Advocacy» (Reference of the Committee on Combating Corruption and Judicial Issues of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan No. 06/1-05-265 dated January 20, 2022). The implementation of this proposal has served to create an additional opportunity for applicants in acquiring the status of an advocate;

proposal that the determination of the form (format) of a advocate's ID and the procedure for issuing should be carried out by the Cabinet of Ministers of the Republic of Uzbekistan was used to make addendum to the Article 3¹ of the Law of the Republic of Uzbekistan «On Advocacy» (Reference of the Committee on Combating Corruption and Judicial Issues of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan No. 06/1-05-265 dated January 20, 2022). The implementation of this proposal has served to establish specific rules in respect of obtaining an advocate's license for an applicant who applied for acquiring the status of an advocate;

proposals on the issuance and entry of the resolution on successful pass of an applicant from the qualification examination and related documents through a special information system and that the applicant should have the opportunity of obtaining the advocate's license through an electronic system at any time without contacting the relevant department of justice were used in the development of Clause 2 (sub-clause «a», third and fourth paragraphs) of the Presidential Resolution PD-263 of the Republic of Uzbekistan dated May 30, 2022 «On measures for the widespread introduction of modern information and communication technologies into the activities of advocacy» (Reference of the Ministry of Justice of the Republic of Uzbekistan No. 8/10-0659 dated November 23, 2022). The implementation of these proposals has served to put an end to excessive bureaucracy and red tape in the process of acquiring the status of an advocate.

Approbation of the research results. The results of this research were discussed at 7 scientific conferences, including 3 international and 4 national scientific conferences.

Publication of research results. A total number of 13 scientific papers on the topic of the dissertation, including 1 monograph, 6 (4 national and 2 foreign journals) scientific articles were published.

The volume and structure of the dissertation. The dissertation consists of an introduction, three chapters including eight paragraphs, conclusion, list of references and applications. The total volume of the thesis is 148 pages.

MAIN CONTENT OF THE DISSERTATION

The **introduction** of the dissertation (annotation of the doctoral dissertation) presents the relevance and necessity of the research topic, its relevance with the main priorities of the development of science and technology of the republic, degree of study of the problem, connection of the topic with the research work of the higher education institution where the dissertation was prepared, its goals and objectives, the object and the subject, methods, the scientific novelty and practical result, the reliability of research results, the scientific and practical significance, introduction, approbation, publication of research results, the scope and structure of the dissertation.

The first chapter of the dissertation is entitled as «**General description of the requirements for acquiring the status of an advocate**», which discloses theoretical and practical research on the concept, content, and specifics of acquiring the status of an advocate, as well as the general description of the requirements for acquiring the status of an advocate in the context of development of the institute of advocacy in our country.

Highlighting that the provision of qualified legal assistance is directly related to the requirements placed on applicants who applied for acquiring the status of an advocate, the author emphasizes that in recent years, instead of strengthening the current requirements for acquiring the status of an advocate, there is a tendency to ease them. According to the researcher, increasing the number of advocates in Uzbekistan should not be done at the expense of simplifying the requirements for acquiring the status of an advocate, as this may have a negative impact on the quality of legal assistance.

The author studied the theoretical views developed by U.A.Tukhtasheva, G.Z.Tulaganova, B.Salamov, D.Kh.Davlyatov, A.D.Boykov, M.B.Smolensky, V.R.Dyukina, V.Zaborovsky, A.Jalinsky on the concepts of «advocate» and «acquiring the status of an advocate» and entered into a scientific discussion with them. Analyzing the legislation of foreign countries on this issue, the concept of «acquiring the status of an advocate» was given the author's definition for the first time. Also, the relationship between the concepts of «advocate» and «lawyer» (jurist) and their differences have been analyzed in comparative legal terms and their essence has been revealed.

The researcher by conducting comparative legal analysis of the views of B.Salamov, V.Davlyatov, K.Matkarimov on significant changes in the stages of development of the institute of advocacy, proposed to conditionally divide the periods that led to a fundamental changes in the requirements for acquiring the status of an advocate into the following five stages:

- the first stage covers the period from 1990 to 1996;
- the second stage – 1996-2007;
- the third stage – 2008-2017;

the fourth stage – 2018-2021;

the fifth stage is the period from 2022 to the present.

In this chapter, based on the study of the experience of foreign countries, the author came to a conclusion that separate chapter entitled «Status of an advocate» which includes the concept of an advocate, conditions of acquiring the status of an advocate, norms about allowing for the qualification examination, qualification examination, advocates's oath, registry of advocates should be reflected in the Law of the Republic of Uzbekistan «On Advocacy and advocacy activities», which is proposed to be passed.

In the research, the experience of foreign countries in terms of the requirements for acquiring the status of an advocate (USA, Great Britain, Germany, Finland, Spain, Italy, Poland, Lithuania, Georgia, Russia, India, Moldova, Ukraine, Kazakhstan, Azerbaijan, Belarus, Armenia) has been studied and thoroughly analyzed.

The researcher came to the conclusion that it is necessary to include such positive experiences regarding acquiring the status of an advocate in the national legislation as having a scientific degree in a legal specialty, not requiring a citizenship attributes, having a two-stage qualification examination, expanding the list of persons exempted from internship and exempting applicants from the theoretical part of the qualification examination.

According to the research findings, as of January 1, 2022, the number of advocates in Uzbekistan is 4,211 (1 advocate per 8,375 citizens). With this in mind, the researcher believes that in order to increase the number of advocates (lawyers) and guarantee the right to receive qualified legal assistance enshrined in the Constitution of the Republic of Uzbekistan, it is necessary not only to ease the current requirements (citizenship related requirements, mandatory work experience in a legal specialty, completing an internship), but also to strengthen some requirements (level of education, passing a qualification examination and so on).

The author made a comparative legal analysis of the requirements for acquiring the status of an advocate in foreign countries, and justified the need to divide them into general and special requirements.

According to the Law of the Republic of Uzbekistan «On Advocacy», requirements such as work experience in a legal specialty, internship, and taking a qualification examination are not outlined to acquire the status of an advocate, rather, they are defined as a requirement for obtaining a license to practice advocacy. Taking into account the fact that in some foreign countries, advocacy is considered a type of activity that does not require a license, and this requirement is imposed to acquire the status of an advocate, the author proposed to introduce this procedure into our national legislation.

In the dissertation, the researcher substantiated that it is necessary to include in the list of requirements for acquiring the status of an advocate such requirements as having work experience in a legal specialty (Lithuania, Russia, Ukraine, Azerbaijan, Tajikistan), mandatory internship (Lithuania, Poland, Russia, Georgia, Moldova, Ukraine, Belarus), taking a qualification examination (Lithuania, Poland, Russia, Georgia, Ukraine, Moldova, Belarus, Tajikistan) as well as an additional requirement taking the advocate's oath (Lithuania, Georgia, Moldova, Ukraine, Armenia) and becoming a member of the association of advocates (Belarus, Kyrgyzstan, Armenia).

In the research work, one of the requirements for acquiring the status of an advocate - having a degree in a legal specialty was analyzed, in which three types of benefits are given to the applicant. In particular, having a scientific degree in a legal specialty is used as an alternative to having a higher legal education (Italy, Russia, Moldova, Armenia). On the other hand, to be exempted from internship and having the right to take the qualification examination (Moldova, Poland), to be fully exempted from the requirements for acquiring the status of an advocate and to be given the right to practice advocacy (Germany, Lithuania, Poland) are presented separately.

In this chapter, researcher examines the issue of determining the minimum age for acquiring the status of an advocate and the highest age for being an advocate (holding the status of an advocate), drawing attention to the fact that in some foreign countries (Finland, India, Cyprus) the minimum age for acquiring the status of an advocate is established. The researcher, based on the findings that the trend of reforms being carried out within the institute of advocacy and the fact that 50% of the existing advocates are over 50 years old, and taking into account that today there is a high demand for young personnel who has perfect command of foreign languages as well as for advocates with high experience in this field, the author came to the conclusion that the minimum age for acquiring the status of an advocate and the maximum age for practicing advocacy should not be determined. As, 139 respondents (57.5%) of the respondents who took part in the public survey said that there should not be restrictions with the minimum age and 165 respondents (68.1%) said that there should not be restrictions with the maximum age for acquiring the status of an advocate.

The author analyzed the command of the official state language as one of the requirements for acquiring the status of an advocate. In foreign countries (Lithuania, Georgia, Ukraine, Tajikistan), this requirement is defined as a prerequisite for applicants to acquire the status of an advocate. Through this, special emphasis is placed on the fact that these countries serve to increase the prestige and position of the state language at the national and international level.

Based on the democratic principles of justice, the author notes that court proceedings are conducted not only in Uzbek but also in other languages as well, and states that the introduction of this requirement into the current legislation may lead to a sharp decrease in the number of applicants. As a result, the author justified that it is inappropriate to include this requirement in the list of requirements for acquiring the status of an advocate.

In the research work, based on the experience of foreign countries (Finland, Lithuania, Belarus), the author analyzed the theoretical and legal aspects of the concept of «having a flawless reputation» and found it necessary to include it in the national legislation. In doing so, the researcher analyzed the reasons why the candidate cannot be considered a person of flawless reputation, as well as the cases of not having the right to acquire the status of an advocate or to practice advocacy.

As a result of studying the experience of national and foreign countries, the author justified the necessity of separation of restrictions on acquiring the status of an advocate or practicing advocacy are divided into two groups: those valid for a certain period of time (Russia, Georgia, Ukraine, Armenia, Kyrgyzstan) and those valid for life (Lithuania, Moldova, Belarus, Tajikistan). In this case, the validity period of the

restrictions was taken into account as the main criterion in dividing into groups.

In the research work, the issue of paying a fee for taking the qualification examination as a new source of funding for the institute of advocacy was studied based on the experience of foreign countries (USA, Great Britain, Poland, Lithuania). And it is justified that the Conference of the Chamber of Advocates should determine the amount of the fee for taking the qualification examination and the procedure for its payment.

The importance of the requirements for the applicant's citizenship and educational level in acquiring the status of an advocate, the need to have work experience in a legal specialty, as well as the nature and procedure of an internship by the applicant were analyzed in the second chapter of the dissertation – **«Issues of improving the requirements for acquiring the status of an advocate»**.

According to the current legislation, citizenship is a mandatory requirement for acquiring the status of an advocate in Uzbekistan. However, the researcher highlighted that citizenship should not be a mandatory requirement. In this regard, this is not provided as a prerequisite (requirement) for becoming an advocate in developed countries (USA, Great Britain, France, Germany, Italy, Sweden, Russia, Japan, Korea, Ukraine, Azerbaijan, Armenia). As a result of the findings based on the survey, 137 respondents (49.6%) are for granting the right to be an advocate for citizens of a foreign country, 129 (46.8%) respondents also approved this opinion for stateless persons, providing that certain conditions are met (having a bachelor's degree in the jurisprudence of this country, taking a qualification examination, etc.). So, according to the survey results, citizens of a foreign countries and stateless persons should be given the right to acquiring the status of an advocate in the Republic of Uzbekistan.

The author put some light on the opportunities of advocates of foreign countries to engage in legal activities in the territory of Uzbekistan and enters into a scientific discussion with D.Nurumov, I.Pereverza, V.Anisimov, Kenneth S.Kilimnik. In accordance with the criterion of permitting advocates of foreign countries to provide legal assistance in the territory of the receiving (host) country, the researcher divided this into the following models:

- 1) banning model (Uzbekistan);
- 2) restrictive model (USA, Russia, Turkey, China, Azerbaijan, Vietnam, Japan, Moldova, Kyrgyzstan, Tajikistan);
- 3) free access model (Singapore and EU member states).

According to the researcher, 169 of the respondents (61.3%) stated that foreign advocates should be given the right to practice law in our country with some restrictions, and taking into account that this leads to an increase in the level of healthy competition among advocates, and will serve to further improve the investment environment in our country, by encouraging foreign investors to come to Uzbekistan with their own advocates, the author came to the conclusion that advocates of foreign countries should be given the right to practice law in the territory of Uzbekistan with some restrictions (only regarding issues not related to state and military secrets).

The researcher analyzed the requirement of the applicant's level of education in acquiring the status of an advocate, and it was noted that today people with non-

legal higher education are studying at the master's courses in the field of jurisprudence, and their number is increasing. At the Tashkent State University of Law, this figure was 31 in the 2019/2020 academic year, 137 in the 2020/2021 academic year, and 69 in the 2021/2022 academic year. According to the Law of the Republic of Uzbekistan «On Education», these persons are considered to have a higher legal education and have the right to acquire the status of an advocate, work as an investigator, an enquiry officer, a prosecutor, or a judge.

In keeping with his opinion, the author asks the following question: what will be the quality of legal assistance provided by persons with a non-legal higher education and a master's degree in jurisprudence, if they acquire the status of an advocate? In response, the researcher noted that the master's degree courses last only one year, during this time it is impossible to master the basic rules of jurisprudence, and concluded that the quality of providing qualified legal assistance in this case is questionable. The author's opinion is substantiated by the results of survey, in which 138 of 242 respondents (57%) of the 242 respondents expressed the opinion that persons with non-legal majors should not be given the right to acquire the status of an advocate.

The researcher justified that in order to acquire the status of an advocate, the applicant must have a diploma of the basic higher legal education of national higher education institutions or the diploma of the basic higher legal education of the higher educational institution (branch) of the foreign countries in Uzbekistan or a document proving basic higher legal education in foreign countries, together with a certificate on its recognition in Uzbekistan.

Furthermore, the author studied and analyzed the necessity and essence of the requirement to have work experience in legal specialty, the opinions of scientists and practicing specialists (S.Yakubov, J.Ne'matov, D.Habibullayev, V.Davlyatov, D.Nurumov, S.Kadiraliyev, V.Abramov) in this regard, and the legislation of foreign countries (Lithuania, Russia, Tajikistan, Azerbaijan).

The researcher justified the need for not canceling the requirement to have work experience in a legal specialty, but instead introducing the requirement of an internship into the legislation. The opinion of the author is supported by 146 (60.3%) respondents who took part in the public survey.

In addition, the author emphasized that the starting time of the work experience in the legal specialty and the works (types of activity) that are considered the work experience in the legal specialty are not clearly defined in the current legislation. As a result, this situation is causing the formation of different practices regarding this issue in our country.

Therefore, based on the experience of foreign countries, it is proposed to determine the list of jobs (types of activity) considered work experience in the field of legal speciality and its starting time based on the decision of the Government. In this case, legal work experience is counted from the time of obtaining higher legal education, or from the time of obtaining a document proving higher legal education in foreign countries (with the certificate of recognition in Uzbekistan), or from the

time entered a job that is considered a legal work experience.

In this chapter, the requirements for the advocate's intern and the internship supervisor, the terms of the internship, the exemption from the internship, and the issues related to the internship are analyzed. It was noted that most of the applicants who are undergoing internship are not doing it to acquire knowledge and skills related to advocacy, but only because this requirement is stipulated by the law. For example, in 2021, 147 (41.8%) of the 351 applicants who passed the qualification examination fulfilled the minimum requirement by doing an internship for 3 months. The author concluded that the internship should not be defined as a necessary requirement, and justified that there is a need to fundamentally revise the internship procedure.

The researcher highlights that it is necessary to revise some of the legislation regarding the documents submitted for employment as an advocate's intern, and make relevant amendments. In particular, the author developed proposals on replacing the wording «copy of the passport of a citizen of the Republic of Uzbekistan» with the wording «copy of the identity document», the wording «employment book, except for applicants entering work for the first time» with the wording «employment book or the employee's electronic work book, with the exception of first-time job applicants».

Based on the fact that the position of the internship supervisor is important for the applicant to acquire the status of an advocate, the author came to the conclusion that it is necessary to set certain requirements to become the internship supervisor. Moreover, it is justified that the following requirements should be defined clearly in the law: to create a «register of internship supervisor and advocate's intern» (as in Poland, Croatia, Lithuania, Russia) in order to provide applicants with a wider opportunity to choose the internship supervisor. And in order to enter this register, the internship supervisor must have a flawless reputation, no record of disciplinary action in practice, have at least 3 years of experience as an advocate and have the necessary conditions to work with the intern.

The author states that it is necessary to give financial rewards to the internship supervisor whose intern successfully passed the qualification examination. On the contrary, it is necessary to introduce the mechanism of depriving him of the right to be the internship supervisor for up to one year (if his intern fails the examination). At the same time, the advocate's intern who successfully completed the internship must take the qualification examination to acquire the status of an advocate within two years from the end of the internship period. If this period is missed, it is proposed to include in the legislation the norm that it is necessary to repeat the internship on general grounds.

The researcher proposes to cancel the mandatory mechanism of preparing two papers and its protection, which will serve to effectively organize the internship. Instead of this procedure, the researcher puts forward a proposal to introduce the mechanism which includes preparation of written answers to five logical questions and two problematic situations (cases) based on samples of procedural documents on current issues of substantive law and procedure, given weekly by the internship supervisor. At the end of the internship, the intern will defend them before the governing body of the

advocacy structure.

In this chapter, the issue of exemption from internship is analyzed based on a systematic approach. As a result, the author came to a conclusion by justifications that and a person who has three years of work experience as an advocate in some foreign countries (Belarus, Azerbaijan), as well as teaching staff with at least three years of experience in the field of jurisprudence, at the institutions of professional development and retraining of legal personnel, should be exempted from internship. In this case, it was proved that the persons dismissed from the post due to negative reasons should not be exempted from the internship.

The dissertation's third chapter is entitled as «**Prospects for the improvement of the procedure for acquiring the status of an advocate**», and it examinationines issues such as taking the qualification examination, digitilizing some of its stages, obtaining a license to practice advocacy, taking the advocate's oath, obtaining advocate's ID and becoming a member of the Chamber of Advocates.

The researcher expressed his opinions regarding the views on the qualification examination of legal scholars such as B.Salamov, V.Davlyatov, D.Habibullayev, Stefan Koriotoh, O.Schwarz, A.Gevorgiz, D.Dobryakov, V.Zaborovsky, Y.Soloveva, M.Kosenko, P.Korotkova. Thus, based on the analysis of the legislation of foreign countries in this regard (Germany, Poland, Lithuania, Russia, Georgia, Ukraine, Belarus, Moldova, Azerbaijan) developed several proposals and comments. In particular, the author examinationined the list of documents to be submitted by the applicant for taking the qualification examination, and proposed to establish in the national legislation the procedure for submitting a copy of the identity document, a diploma of basic higher legal education or a document of higher education in foreign countries (a certificate of its recognition in Uzbekistan) or a diploma of a scientific degree in a legal specialty, an employment book or an electronic employment record (a copy is taken and the original is returned) or a certified copy of one of them at the workplace, or another document proving work experience in a legal specialty. In addition, justified the need to obtain information about the applicant's legal capacity from public service centers.

The researcher examinationined the documents submitted by the applicant, and as a result, proposed to cancel the practice of returning the documents. Instead, it is justified to study the submitted relevant documents and introduce a mechanism to allow or refuse the qualification examination.

With respect of checking the completeness and authenticity of the submitted documents (information), the author proposed granting certain powers to the Higher Qualification Commission and qualification commissions under regional administrations, determining in the legislation the procedure for holding the meetings of the qualification examination as necessary, but at least once every two months, preparing the questions for the qualification examination based on foreign experience with the involvement of independent experts (Kazakhstan).

According to research, the provision of qualified legal assistance is directly related to the theoretical knowledge and practical skills of applicants. In agreement with

B.Salamov and V.Davlyatov's views that a two-stage qualification examination is necessary, it was emphasized that the test stage should be included in the legislation based on the experience of other jurisdictions (Poland, Russia, Georgia, Belarus, Armenia, and Kazakhstan). A total of 142 respondents (58.7%) who took part in the sociological survey agreed with the author's viewpoint on the two-stage qualification examination (test and oral interview).

Candidates who hold a Doctor of Philosophy (PhD) or Doctor of Science (DSc) degree in legal sciences should be exempt from the test and theoretical questions part of the qualification examination, according to the Russian Federation's experience and the findings of a public survey (70 out of 242 respondents, or 28.9% of them).

The author examining the issue of taking the advocates's oath proposed that if an advocate with a type of license successfully passes the qualifying examination for the second specialty, he does not have to take the oath (repeatedly). In addition, the text of the advocates's oath should be amended in wording «strict adherence to the rules of professional ethics of the advocate». What is more, the information to be included in the register should not violate the requirements of the Law of the Republic of Uzbekistan «On Personal Information».

In the dissertation, it is emphasized that there are two different approaches for the applicant to acquire the status of an advocate. It is possible to practice advocacy after obtaining a advocate's ID in the member states of the Commonwealth of Independent States (Russia, Ukraine, Kazakhstan, Tajikistan) and after being entered in the register of advocates in European countries (Denmark, Lithuania, Poland). In this sense, the author endorsed the CIS member states' experience and supported to maintain the current order.

CONCLUSION

As a result of the research work carried out on the issues of improving the procedure for acquiring the status of an advocate in the Republic of Uzbekistan the following conclusions of theoretical and scientific-practical importance were developed:

I. Scientific and theoretical conclusions aimed at improving the Institute of Advocacy:

1. The author's scientific definition of the concepts «Advocacy» and «acquiring the status of an advocate» are stated as follows:

«Advocate – a natural person who has acquired the status of an advocate and has obtained the right to practice advocacy in accordance with the procedure established by law and provides independent professional advice on legal issues»;

«Acquiring the status of an advocate – refers to the applicant's full meeting the requirements established by law for acquiring the status of an advocate, obtaining advocate's license, taking the advocate's oath, obtaining advocate's ID which proves the status of an advocate in the prescribed manner, being included in the register of advocates and joining the Chamber of Advocates as a member».

2. The periods that led to significant changes in the requirements for acquiring the status of an advocate in the Republic of Uzbekistan were conditionally divided into five stages, and based on the experience of foreign countries, the requirements for acquiring the status of an advocate were divided into general and special requirements.

3. Based on the experience of foreign countries, it was justified that the scope of requirements for acquiring the status of an advocate should be expanded and clearly defined in the law. In particular, the followings should be included in the list of requirements for acquiring the status of an advocate: having at least two years of work experience in the given legal specialty and at least three months of internship in the legal structure and taking the qualification exam, as well as taking the advocate's oath, obtaining an advocate's ID and joining the Chamber of Advocates. Such requirements exist in Lithuania, Georgia, Russia, Ukraine, Belarus, Azerbaijan, Moldova, Armenia, and Tajikistan.

4. In accordance with the criterion of permitting advocates of foreign countries to provide legal assistance in the territory of the receiving (host) country, the researcher divided them into the following models: 1) banning model; 2) restrictive model; 3) free access model.

II. Proposals for improving the legislation of the Republic of Uzbekistan on advocacy:

5. It is proposed to state Article 3 of the Law «On Advocacy» in the following wording:

«Article 3. Advocate

Advocate is a natural person who has acquired the status of an advocate and has obtained the right to practice advocacy in accordance with the procedure established by law and provides independent professional advice on legal issues.

In accordance with the current international agreements of the Republic of Uzbekistan, advocates of foreign countries can engage in legal practice on the territory of the Republic of Uzbekistan after being registered in a special register in accordance with the procedure established by the Ministry of Justice of the Republic of Uzbekistan.

Advocates of foreign countries shall not be allowed to provide legal assistance on the territory of the Republic of Uzbekistan on issues related to state or military secrets of the Republic of Uzbekistan.

Advocates of foreign countries shall be prohibited from practicing law on the territory of the Republic of Uzbekistan without registration in the special register».

6. It is proposed to state Article 3¹ of the Law «On Advocacy» in the following wording:

«Article 3¹. Acquiring the status of an advocate

The applicant must meet the following requirements to acquire the status of an advocate:

being the citizen of the Republic of Uzbekistan, being a foreign citizen and a stateless person with a residence permit in the Republic of Uzbekistan;

having a basic higher legal education or a scientific degree in a legal specialty or having a higher legal education obtained in foreign countries and recognized in

Uzbekistan in accordance with the procedure established by legislation;

must have at least two years of work experience in a legal specialty or have completed an internship within the terms specified in this Law. The list of jobs (types of activity) considered seniority in legal specialty is determined by the Cabinet of Ministers of the Republic of Uzbekistan. For individuals the length of service in a legal specialty starts from the time of first obtaining a basic higher legal education and starting a job, which is considered a work experience in a legal specialty;

having an flawless reputation;

having passed the qualification examination;

having received a license giving the right to practice advocacy;

having taken the advocates's oath;

having received a advocate's ID;

be the Chamber of Advocates of the Republic of Uzbekistan.

Persons who have at least three years of legal experience as an employee of the legal service of state bodies, economic management bodies, state enterprises, institutions and organizations, as a judge, investigator, enquiry officer or prosecutor, as well as pedagogical personnel of higher educational institutions in the field of jurisprudence, institutions of professional development and retraining of legal personnel, and persons who have previously worked as an advocate for three years and voluntarily terminated the status of an advocate have the right to participate in the qualification examination without undergoing an internship in the legal structure, except for those dismissed for negative reasons.

In this situation, it shouldn't take longer than three years from the date of their release from office for these persons to submit the documents to the regional office for acquiring the status of an advocate.

Persons with a Doctor of Philosophy (PhD) or Doctor of Science (DSc) degree in jurisprudence are exempted from the test and theory part of the qualification examination.

The advocate carries out advocacy activities in the entire territory of the Republic of Uzbekistan without any additional authorization.

Foreign citizens and stateless persons who have a residence permit in the Republic of Uzbekistan and have acquired the status of an advocate in the manner prescribed by this Law shall be allowed to engage in advocacy activities on the entire territory of the Republic of Uzbekistan, unless otherwise provided by laws».

7. It is proposed to supplement the Law of the Republic of Uzbekistan «On Advocacy» with Article 3² as follows:

«Article 3². Having a flawless reputation

An applicant or an advocate must have a flawless reputation in order to acquire the status of an advocate and engage in advocacy activities.

The followings are not considered to be a flawless reputation:

A person who has been declared incompetent or has limited legal capacity in accordance with the procedure established by the legislation of the Republic of Uzbekistan;

a person whose criminal record has not been terminated or whose conviction has

not been removed for intentional commission of a minor crime or a crime with minor social risk, as well as a serious or extremely serious crime;

a person who is registered in psychiatric or narcological institutions».

8. It is proposed to supplement the Law of the Republic of Uzbekistan «On Advocacy» with Article 3³ as follows:

«Article 3³. Suspension of the process of acquiring the status of an advocate

If the applicant is accused of committing a crime, the process of acquiring the status of an advocate shall be suspended.

The process of acquiring the status of an advocate of the applicant shall be suspended until the circumstances provided for in the first part of this article are eliminated».

9. It is proposed to state Article 8¹ of the Law «On Advocacy» in the following wording:

«Article 8¹. Advocate's intern

A citizen of the Republic of Uzbekistan with a basic higher legal education or a higher legal education obtained in foreign countries and recognized in Uzbekistan in accordance with the procedure established by legislation, and a foreign citizen with a residence permit in the Republic of Uzbekistan and a stateless person can be advocate's intern.

The person referred to in the second part of Article 3² of this Law cannot be advocate's intern.

Internship is carried out in the advocacy structure. Advocate's intern performs his activities under the guidance of an advocate through fulfilling special assignments. Advocate's intern does not have the right to independently practice advocacy.

Internship cannot be less than three months. The longest period of internship is two years.

The working conditions of a advocate's intern are determined by the employment contract, which is drawn up in accordance with the law.

The rules of professional ethics of the advocate and the requirements for keeping the advocate's secret are applied to the advocate's intern.

The procedure for organizing the activity of a advocate's intern is determined by the Chamber of Advocates».

10. It is proposed to supplement the Law of the Republic of Uzbekistan «On Advocacy» with Article 8² as follows:

«Article 8². Internship supervisor of advocate's intern

Advocate included in the register of internship supervisors can be an internship supervisor.

The number of advocate's interns that can be supervised by an advocate is determined by the Chamber of Advocates.

In the event that a advocate's intern who has received a positive conclusion of successful internship from the internship supervisor fails to pass the qualification examination, internship supervisor will be removed from the register of internship supervisors for a period of up to one year based on the resolution of the relevant regional

department of the Chamber of Advocates.

Internship supervisor may be financially rewarded for performing the tasks provided for in the charter of the Chamber of Advocates.

The procedure for keeping the register of internship supervisors is determined and approved by the Chamber of Advocates».

11. It is proposed to supplement the Law of the Republic of Uzbekistan «On Advocacy» with Article 8³ as follows:

«Article 8³. Allowing for the qualification examination

Persons who meet the requirements of Article 3¹ and Article 3² of this Law have the right to apply to the regional offices of the Chamber of Advocates of the Republic of Uzbekistan with an application to take the qualification examination.

Submission of incorrect information may serve as a ground for refusing to admit the applicant to the qualification examination.

If necessary, the qualification commission will verify the authenticity of the documents and information provided by the applicant within two months. The qualification commission is entitled to make a request to verify or confirm the authenticity of the specified documents and information. The bodies to which the request was sent must notify the qualification commission or confirm their authenticity not later than fifteen working days from the date of receipt of the request of the qualification commission.

Based on the results of review of the application and accompanying documents, the qualification commission will pass one of the following resolutions:

- allow the applicant to take the qualification examination;
- refuse to allow the applicant to take the qualification examination.

The applicant will be notified of the resolution in writing within three working days from the date of the resolution.

When a resolution is passed to refuse to allow an applicant to take a qualification examination, it must be supported by specific justifications.

The resolution to refuse permission to take the qualification examination can be appealed to the Higher Qualifications Commission or the court».

12. It is proposed to supplement the Law of the Republic of Uzbekistan «On Advocacy» with Article 8⁴ as follows:

«Article 8⁴. Qualification examination

The procedure for admitting for the qualification examination, holding it and the program of the qualification examination are determined and approved by the Conference of the Chamber of Advocates.

The qualification examination is held as needed, but at least once every two months.

The qualification examination consists of written answers to questions (test) and interview.

Test results are checked using a single automated information system that provides anonymous verification. The requirements for the unified automated information system of the test are determined by the Conference of the Chamber of Advocates.

The procedure and amount of fees for taking the qualification examination shall be approved by the Conference of the Chamber of Advocates.

The Qualification Commission or the Higher Qualification Commission issues a certificate of taking the qualification examination to the person who has passed the qualification examination within seven working days from the date of taking the qualification examination.

The certificate of passing the qualification examination is valid for one year from the date of taking the examination. A sample certificate of qualification examination is approved by the Conference of the Chamber of Advocates.

An applicant who fails to pass the qualification examination in the chosen specialty is allowed to retake the qualification examination in the same specialty after six months.

Persons who failed to pass the qualification examination may file an appeal against the resolutions of the qualification commissions to the Higher Qualification Commission or the court within one month from the date of receipt of the extract from the minutes of the meeting of the qualification commission».

13. It is proposed to supplement the Law of the Republic of Uzbekistan «On Advocacy» with Article 8⁵ as follows:

«Article 8⁵. Advocate's oath

An applicant who has successfully passed the qualification examination shall take the following oath at the meeting of the qualification commission where the qualification examination was held:

«I solemnly swear to fulfill my professional duty honestly and conscientiously, to always protect human rights and freedoms, to keep the secret of advocacy, to strictly observe the Constitution and laws of the Republic of Uzbekistan and the rules of professional ethics of an advocate».

The applicant reads aloud the text of the advocate's oath and signs the relevant document, which contains information about the applicant, the date and place of taking the oath. This document is attached to the minutes of the meeting of the qualification commission.

Based on the results of the candidate taking the advocate's oath, the qualification commission pass a resolution to confirm that the candidate has taken the advocate's oath.

A person with the status of an advocate does not take the oath again when he successfully passes the qualification examination for the second specialty».

III. Proposals and recommendations for improving the procedure of acquiring the status of an advocate:

14. It is appropriate to introduce the register of internship supervisors and thereby create a wider opportunity for applicants who applied for acquiring the status of an advocate to choose internship supervisors.

15. Due to the fact that the questions and cases prepared for the qualification examination are not up to the demand, it is necessary to introduce a mechanism for the formation of tests and cases for the qualification examination and their answers with the help of special experts.

16. Justified the need to develop and adopt the Law of the Republic of Uzbekistan «On Advocacy and advocacy activities» which is directly applicable in the Republic of Uzbekistan.

17. Proposals have been developed to make amendments and additions to the Regulation on the procedure for organizing the activity of an advocate's intern (March 14, 2009, number 1921) and the Regulation on qualification commissions under the regional offices of the Chamber of Advocates of the Republic of Uzbekistan (March 14, 2009 March 27, number 1928).

**РАЗОВЫЙ НАУЧНЫЙ СОВЕТ ПРИ НАУЧНОМ СОВЕТЕ
DSc.07/13.05.2020.Yu.22.03 ПО ПРИСУЖДЕНИЮ УЧЕНЫХ
СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ
ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ**

**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ
УНИВЕРСИТЕТ**

МАТМУРОТОВ АЛИБЕК РАВИЛОВИЧ

**ВОПРОСЫ СОВЕРШЕНСТВОВАНИЯ ПОРЯДКА ПРИОБРЕТЕНИЯ
СТАТУСА АДВОКАТА В РЕСПУБЛИКЕ УЗБЕКИСТАН**

**12.00.07 – Судебная власть. Прокурорский надзор. Организация правоохранительной
деятельности. Адвокатура**

**АВТОРЕФЕРАТ
диссертации на соискание ученой степени
доктора философии по юридическим наукам (PhD)**

Ташкент – 2023

Тема диссертации доктора философии (PhD) зарегистрирована Высшей аттестационной комиссией при Кабинете Министров Республики Узбекистан за номером B2021.3.PhD/Yu593.

Диссертационная работа выполнена в Ташкентском государственном юридическом университете.

Автореферат диссертации размещен на трех языках (узбекском, английском, русском (резюме)) на веб-сайте Научного совета (<https://tsul.uz/uz/fan/avtoreferatlar>) и Портале Информационной образовательной сети «Ziyonet» (www.ziyonet.uz).

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Ведущая организация:	Центр повышения квалификации юристов при Министерстве юстиции Республики Узбекистан

Защита диссертации состоится 21 февраля 2023 года в 15:00 часов на заседании разового Научного совета при Научном совете DSc.07/13.05.2020.Yu.22.03 при Ташкентском государственном юридическом университете. Адрес: 100047, г. Ташкент, ул. Сайилгох, 35. Тел.: (99871) 233-66-36; факс: (998971) 233-37-48; e-mail: info@tsul.uz.

С диссертацией можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрировано за № 1091). (Адрес: 100047, г. Ташкент, ул. Амира Темура, 13. Тел.: (99871) 233-66-36).

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(протокол реестра № 1 от 6 февраля 2023 года).

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ВВЕДЕНИЕ (Аннотация докторской (PhD) диссертации)

Цель исследования состоит в разработке предложений и рекомендаций по совершенствованию порядка приобретения статуса адвоката, развития теории адвокатуры.

Объектом исследования является система общественно-правовых отношений, связанных с порядком приобретения статуса адвоката.

Научная новизна исследования заключается в следующем:

в целях оптимизации процесса приобретения статуса адвоката претендентами, обладающими теоретическими знаниями и практическими навыками, а также расширения привлечения в адвокатуру молодых квалифицированных кадров обоснована необходимость сокращения минимального срока прохождения стажировки претендента в адвокатских формированиях с шести месяцев до трех месяцев;

обоснована необходимость освобождения от прохождения стажировки в адвокатском формировании лиц, имеющих стаж по юридической специальности не менее трех лет в качестве работника юридической службы государственных органов, органов хозяйственного управления, государственных предприятий, учреждений и организаций, в должности судьи, следователя, дознавателя или прокурора с предоставлением права напрямую участвовать в квалификационном экзамене;

принимая во внимание, что для подготовки к формированию профессиональных знаний и практических навыков претендентов достаточно шести месяцев, обоснована необходимость сокращения срока повторной пересдачи квалификационного экзамена с одного года до шести месяцев;

обоснована необходимость определения формы удостоверения адвоката и порядка его выдачи Кабинетом Министров Республики Узбекистан и закрепления этого положения на уровне закона;

обоснована необходимость оформления решения об успешной сдаче претендентом квалификационного экзамена и соответствующих документов посредством специальной информационной системы, а также предоставления претендентам возможности получения адвокатской лицензии посредством электронной системы в любое время без обращения в соответствующий орган юстиции.

Внедрение результатов исследования. По результатам научных исследований по вопросу совершенствования процедуры приобретения статуса адвоката в Республике Узбекистан:

предложение о сокращении срока стажировки претенденту для приобретения статуса адвоката с шести месяцев до трех месяцев было использовано для внесения изменений в часть вторую статьи 3¹ Закона Республики Узбекистан «Об адвокатуре» (акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательной палаты Олий Мажлиса Республики Узбекистан от 20 января 2022 года №06/1-05-265). Внесение данного предложения послужило упрощению процесса приобретения статуса адвоката в сжатые сроки для претендентов и

привлечению в систему института адвокатуры молодых квалифицированных кадров;

предложение о необходимости освобождения от прохождения стажировки в адвокатском формировании лиц, имеющих стаж по юридической специальности не менее трех лет в качестве работника юридической службы государственных органов, органов хозяйственного управления, государственных предприятий, учреждений и организаций, в должности судьи, следователя, дознавателя или прокурора с предоставлением права напрямую участвовать в квалификационном экзамене, использовано при дополнении части третьей статьи 3¹ Закона Республики Узбекистан «Об адвокатуре» (акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательной палаты Олий Мажлиса Республики Узбекистан от 20 января 2022 года №06/1-05-265). Принятие этого предложения послужило освобождению лиц, обладающих профессиональными знаниями и практическими навыками, от прохождения повторной стажировки в адвокатском формировании;

предложение о сокращении срока повторной пересдачи квалификационного экзамена претендентом, не сдавшим квалификационный экзамен, с одного года до шести месяцев, использовано при внесении изменения в часть четвертую статьи 3¹ Закона Республики Узбекистан «Об адвокатуре» (акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательной палаты Олий Мажлиса Республики Узбекистан от 20 января 2022 года №06/1-05-265). Внедрение данного предложения послужило созданию дополнительной возможности для претендентов при приобретении статуса адвоката;

предложение о необходимости определения Кабинетом Министров Республики Узбекистан формы и порядка выдачи адвокатского удостоверения было использовано при внесении изменения статью 3¹ Закона Республики Узбекистан «Об адвокатуре» (акт Комитета по противодействию коррупции и судебно-правовым вопросам Законодательной палаты Олий Мажлиса Республики Узбекистан от 20 января 2022 года №06/1-05-265). Введение этого предложения послужило установлению четких правил касательно получения адвокатского удостоверения претендентом на приобретение статуса адвоката;

предложение об оформлении решения об успешной сдаче претендентом квалификационного экзамена и соответствующих документов посредством специальной информационной системы, а также предоставлении претендентам возможности получения адвокатской лицензии посредством электронной системы в любое время без обращения в соответствующий орган юстиции, использовано при разработке абзацев третьего и четвертого подпункта «а» пункта 2 Указа Президента Республики Узбекистан от 30 мая 2022 года № ПП-263 «О мерах по широкому внедрению современных информационно-коммуникационных технологий в деятельность адвокатуры» (акт Министерство юстиции Республики Узбекистан от 23 ноября 2022 года № 8/10-0659). Реализация данного предложения послужила защите претендентов на статус адвоката от бюрократии и излишней бумажной волокиты.

Структура и объем диссертации. Диссертация состоит из введения, 3 глав, включающих в себя восемь параграфов, заключения, списка использованной литературы и приложений. Объем диссертации составляет 148 страниц.

E'LON QILINGAN ISHLAR RO'YXATI
LIST OF PUBLISHED WORKS
СПИСОК ОПУБЛИКОВАННЫХ РАБОТ

I bo'lim (I част; I part)

1. Matmurotov A.R. O'zbekiston Respublikasida advokat maqomiga ega bo'lish tartibini takomillashtirish masalalari. Monografiya. – Toshkent: TDYU, 2022-yil. – 151 bet.

2. Matmurotov A.R. Advokat maqomiga ega bo'lish uchun qo'yilgan talablardan biri sifatida fuqarolikka ega bo'lish: milliy va xorijiy tajriba // Advokat. 2022. – №2. – B.2–6. (12.00.00; № 16).

3. Matmurotov A.R. Malaka imtihonini topshirish tartibini takomillashtirish masalalari // Jamiyat va innovatsiyalar. 01 (2022). –B. 205-221 (12.00.00; OAK rayosatining 2020-yil 31-dekabrda 290/10-son qarori).

4. Matmurotov A.R. O'zbekistonda advokatura institutini takomillashtirish masalalari // Odil sudlov. 2020. №2. –B. 29-31 (12.00.00; №3).

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6. Matmurotov A. Analysis Of The Requirement Having Work Experience In The Legal Profession For A Person Applying For The Status Of An Advocate In Order To Obtain A License For The Right To Practice Law // The American Journal of Political Science Law and Criminology/ Vol. 3 No. 12 (2021) Volume03 Issue12. p. 50-55. (SJIFactor: SJIF2021 = 5.952).

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9. Matmurotov A.R. Advokatlik maqomiga ega bo'lish tartibini takomillashtirish masalalari // «Ijro ishi yuritish sohasini yanada takomillashtirish masalalari: nazariya va amaliyot uyg'unligi» mavzusida o'tkazilgan Respublika ilmiy-amaliy konferensiyasi maqolalar to'plami. – Toshkent: TDYU, 2019. – B. 123–129.

10. Matmurotov A.R. Advokat maqomiga ega bo'lish tushunchasi, mazmuni va uning o'ziga xos xususiyatlari // «Sudlar faoliyatini raqamlashtirish: joriy va istiqboldagi vazifalar» mavzusida o'tkazilgan xalqaro ilmiy-amaliy seminari materiallari to'plami // T.: TDYU, 2022-y., – B. 97–107.

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II bo‘lim (II част; II part)

12. Matmurotov A.R. Advokat maqomiga ega bo‘lish tartibi: milliy va xorijiy tajriba // «Korrupsiyaga qarshi kurashish va komplaens nazorat tizimini joriy etish istiqbollari» mavzusidagi xalqaro onlayn ilmiy-amaliy konferensiya materiallari to‘plami. – Toshkent: TDYU, 2020. – B. 643–653.

13. Matmurotov A.R. O‘zbekistonda advokatura institutining rivojlanish bosqichlarida advokat maqomiga ega bo‘lishga qo‘yilgan talablar tahlili // «Advokatura institutini takomillashtirishda Toshkent davlat yuridik universiteti va Advokatlar palatasining hamkorligi» mavzusida o‘tkazilgan respublika ilmiy-amaliy konferensiya materiallari to‘plami // T.: TDYU, 2022-y., –B. 18–28.

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