



## SPECIFICS OF LEGAL ASSISTANCE UNDER AN AGREEMENT OF LEGAL AID CONCLUDED BY AN ATTORNEY

Khakimova Kamola <sup>1</sup>

<sup>1</sup> Masters student in Tashkent state University of Law

<https://doi.org/10.5281/zenodo.4729720>

### ARTICLE INFO

Received: 25<sup>th</sup> April 2021

Accepted: 27<sup>th</sup> April 2021

Online: 29<sup>th</sup> April 2021

### KEY WORDS

qualified legal aid, legal services, notary, attorney, quality claims, quality of the lawyer's work

### Introduction

The legal aid market in the Republic of Uzbekistan is considered quite young and emerging in comparison with foreign countries. In this regard, there is a lack of a theoretical and practical basis for regulating relations arising from the provision of legal services and aid within the framework of agreements. The increased interest in the exchange of goods and services leads to the expansion of legal relations, contributing to an increase in the demand for qualified professionals providing high-quality legal aid. Today, legal aid provided by a lawyer on a professional basis is qualified. In accordance with the latest official data, it is noted that significant factors affect the lack of appropriate full and free exercise of the rights of lawyers, as well as the lack of facilitation of the provision of high-quality legal aid by lawyers. For this reason, the creation of a clear legal mechanism for the implementation of the right to qualified legal aid is directly related to the proper legal consolidation of the relationship between the lawyer and the client.

### ABSTRACT

*This article is devoted to the study of legal aid by various subjects. The author analyzes the criteria for legal aid provided within the framework of a legal aid agreement, as well as the correlation of legal services as part of the aid. The question of the limits of the lawyer's liability for low-quality legal aid and the solution is considered.*

### Main part

Legal aid is considered to be powerless professional qualified aid in order to realize the rights and freedoms of the individual, to overcome a problematic legal situation, carried out by means of a legal nature. In the Republic of Uzbekistan, there is no legislative consolidation of the list of entities that are authorized to provide qualified legal aid, however, in the literature, scientist Kucherena A.G. distinguishes a classification by groups of entities that provide legal assistance[1. p. 34-35]. One such group is legal assistance provided by lawyers and notaries, implying legal aid as their main activity. In accordance with the Act "On Notaries" of the Republic of Uzbekistan (hereinafter referred to as the Law on Notaries), a notary is obliged to ensure the protection of the rights and legitimate interests of individuals and legal entities by performing notarial actions provided for by law and actions of a legal and technical nature directly related to them[2]. However, it should be noted that the implementation of notarial actions may not always be of the



nature of legal aid. The main legal aid provided by a notary is consultation on the essence of notarial actions and its consequences so that legal ignorance is not used to harm, clarification of rights and obligations, and the peculiarity of such legal assistance is that the notary provides assistance to everyone impartially. Providing legal assistance to one person who applied, a notary cannot refuse to others, that is, legal aid in the interests of all participants in a notarial act. Despite the fact that legal aid can also be provided by notaries, an agreement on the provision of legal aid is a fundamental element in the activities of a lawyer. Consequently, when a person needs to protect his rights and interests, he often turns to a lawyer for legal aid.

A lawyer within the framework of the agreement provides legal aid as a specific characteristic of the lawyer's activities, as a result of which it is understood that the subject of the agreement describes the actions that the lawyer undertakes to perform in the interests of the person who applied for his help. Legal aid provided by a lawyer in accordance with Article 5 of the Act "On the advocacy" of the Republic of Uzbekistan consists of legal advice and explanations, drafting legal documents, representation in courts in courts of general jurisdiction and administrative courts, other state bodies, investigative bodies, implementation of legal servicing business entities, as well as representation in arbitration and international commercial arbitration[3]. The possibility of obtaining legal aid is first of all enshrined in the Constitution of the Republic of Uzbekistan, which says that the institute of the Bar functions in order to provide legal aid to citizens, enterprises, institutions and organizations. It should be noted that the special status of a lawyer places a great responsibility on him for the quality of the

legal aid provided to him. In practice, one may encounter a number of cases of poor-quality assistance provided, as a result of which the parties to the agreement (principals) are inclined to initiate the imposition of criminal liability on a lawyer, in particular, assessing the unfair assistance provided by him as fraud.

The scientist I.S. Tokmakov identifies several types of claims to the quality of the legal aid provided by the lawyer to the client. These include: "the lawyer's failure to fulfill his professional duties (for example, the lawyer did not appeal against the verdict; did not file a motion; did not provide the court with the evidence in the case, etc.); improper performance by a lawyer of his professional duties (for example, a lawyer misinterpreted and applied the norms of the law when providing legal aid; incorrectly substantiated his position; did not demand the necessary evidence; filed a statement of claim in violation of the rules on jurisdiction, etc.)"[4]. Analyzing these claims and the specifics of the legal aid provided by lawyers in the Republic of Uzbekistan, it would be advisable to highlight the signs of poor-quality work of a lawyer within the framework of an agreement on the provision of legal aid the lawyer's incorrect definition of the legal position on the case; inconsistency of the actions of a lawyer with procedural legislation; by passing and non-compliance by a lawyer with the norms of the Rules of professional ethics of lawyers of the Republic of Uzbekistan; dishonest attitude to the fulfillment of contractual obligations - misleading the principal regarding the state of affairs.

In legal circles, the question arose whether they could be called the services of a lawyer. Professor V.Yu. Panchenko in his work noted "... much of what is called services in the economic and legal sense, in



particular the legal services of a lawyer, in essence, is a kind of personal assistance"[5]. This is due to the fact that the service involves retribution, that is, within the framework of an agreement on the provision of legal aid, in most cases there is retribution. With regard to aid, it is provided free of charge to those in need. That is, within the framework of the agreement, such a case is possible in criminal proceedings, when the participation of a defense lawyer is mandatory, but the client does not have the funds to pay for the services of a lawyer. In addition, the service can also carry a social meaning, through social assistance in order to obtain a useful effect from the work, for example, representation in a civil or economic court, according to the

results of which the violated rights of the client are restored.

### **Conclusion**

Based on the foregoing, it follows that "legal aid" is a general concept that characterizes the activities of a lawyer under an agreement, which may also include the services of a lawyer on a reimbursable basis. The quality of the legal aid provided by a lawyer is of great importance, as a result of which it is recommended to introduce a separate section "The quality of legal aid of a lawyer" into the Rules of Professional Ethics of a Lawyer, the provisions of which would cover the signs of a high-quality work of a lawyer.

### **REFERENCES:**

1. Kucherena A.G. The role of the legal profession in the formation of civil society in Russia: Author's abstract. Diss. ... Doctor of Law – M.: 2002 – 175 p.
2. The Act "On Notaries" of the Republic of Uzbekistan [Electronic resource]: <https://lex.uz/docs/58372> Date of the application: 28.04.2021
3. The Act "On the advocacy" of the Republic of Uzbekistan [Electronic resource]: <https://lex.uz/docs/57043> Date of the application: 28.04.2021
4. Tokmakov I.S. "Agreement on the provision of legal assistance: theory and practice of advocacy." - Moscow: 2003 –22 p.
5. Panchenko V.Yu. Legal assistance to the person: Dissertation for the degree of candidate of legal sciences. Krasnoyarsk: 2004.S. – 174 p.
- 6.. I. G. Nikonov, S. Mirzaev, F. Fazilov, U. Zakirova, F. Ramazanova, Z. Israilova, S. Negmatova. The advocacy. textbook for universities - T .: TSUU Publishing House, 2019 - 267 p.