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THE ROLE OF A LAWYER IN CRIMINAL PROCEEDING-LAW-COURT AS A PARTICIPANT AND HIS/HER ROLE IN CRIMINAL JUVENILE PROCEEDINGS

Abstract: This article describes in detail the role of a lawyer in the trial, his/her defender, the process of proving, collecting evidence and presenting it to the court. It is legally confirmed that in these processes a lawyer can, if possible, try to create relief for his client. As well as, the article provides information about the thirteenth section of the Criminal Procedure Code of the Republic of Uzbekistan. In particular, this chapter deals with the proceedings in criminal cases of a separate category set out in Chapter 60 of this section, In accordance with the requirements of the Law On the Procedure for Criminal Proceedings in cases of juvenile crimes, which provides information about the role of a lawyer and the rights and obligations of a minor in court proceedings. Detailed information on how a lawyer protects a juvenile under his protection, with detailed legislation, is given in this article.

Key words: lawyer, the Criminal Procedure Code of the Republic of Uzbekistan, law-court, juvenile.

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Introduction

As far as we know, lawyers play a role in law-court. This, of course, is enshrined in the legislation. The participation of a defense lawyer in criminal proceedings is regulated by article 49 of the Criminal Procedure Code of the Republic of Uzbekistan. According to the constitutional requirements, from the moment of detention or indictment, a lawyer (defender) has the right to assistance. Defender - a person authorized in accordance with the procedure established by law to protect the rights and legitimate interests of suspects, accused, defendants and provide them with the necessary legal assistance. The Law of the Republic of Uzbekistan "On Advocacy" (dated December 27, 1996) states that a lawyer in the Republic of Uzbekistan can be a citizen of the Republic of Uzbekistan who has a higher legal education and has received a license to practice law in accordance with the established procedure. Also, the Law of the Republic of Uzbekistan "On Guarantees of

Advocacy and Social Protection of Lawyers" (December 25, 1998) establishes the right to practice law, the basic principles of its activity, the oath of a lawyer, powers, ensuring independence, inviolability, prevention of interference in advocacy and ensuring its protection, measures of social protection of a lawyer and all other powers granted by law. A lawyer in order to provide legal assistance to individuals and legal entities has the following powers:

- provides consultations and clarifications on legal issues, oral and written information on legislative acts;
- draws up legal statements, complaints and other documents; carries out representation in civil cases and cases of administrative offenses in court, other state bodies, before individuals and legal entities;
- defender in criminal proceedings, at the preliminary investigation and in court; victim, civil plaintiff, representative of the civil defendant;

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- acts as a defender with a decision or determination on participation in the case on the side of the suspect, the accused, the defendant or the victim, if the interests of the legal representative do not coincide with the interests of the suspect, the accused, the defendant or the victim.¹

A lawyer has no right to disclose information that he knows in connection with the exercise of his official duties in a criminal case.² The Law about Advocacy strictly defines that "a lawyer cannot be questioned as a witness about details that became known to him during the performance of the duties of a defender or representative."³ "The Law about Advocacy" of the Republic of Uzbekistan states that an assistant lawyer can be an assistant.⁴

In recent years, significant work has been carried out in our country to strengthen the role and importance of the advocacy as one of the effective institutions for ensuring an important component of judicial and legal reform the protection of the rights, freedoms and legitimate interests of individuals and legal entities. Measures aimed at organizing the proper functioning of the adversarial principle of the parties at all stages of legal proceedings were consistently implemented, the necessary legislative framework for the professional activities of lawyers was created. On the part of individual employees of the bodies of inquiry and investigation, lawyers can freely enter their proxies (persons under their protection).

In proving criminal cases carried out by a lawyer, the defendant, the suspect is aimed at protecting the rights and legitimate interests of the accused. Proof -consists in the collection, verification and evaluation of evidence in order to establish the truth about the circumstances relevant to the lawful, reasonable and fair resolution of the case.⁵ Proving is a system of actions aimed at obtaining evidence in a criminal case. Ensures the gradual transition from one stage of the procedure to another until the criminal case is resolved without interruption. It is the driving force of the criminal procedure. Knowledge carried out in the criminal proceedings is carried out in the form of proof, which in itself embodies a complex process and consists of individual elements. In turn, they determine the procedure, methods, means and conditions of proof at each stage of the criminal process. Proof serves to establish the truth. A fact in criminal proceedings is a proven opinion of the investigation and the court on the conformity of conclusions with objective reality.

The defender-the lawyer focuses his efforts on proving the innocence of the protected person in the commission of a crime, characterization of his

personality, mitigation of punishment, as well as circumstances entailing exemption from criminal liability and punishment. For more effective implementation of the protective function, lawyer carries out its activities in a certain following form:

- advising a protected person;
- development of a protective orientation;
- participation in investigative actions;
- cooperate with law enforcement agencies conducting inquiries in order to better respect the rights and interests of the protected person;
- establishing contact with a representative of the affected party, developing possible circumstances of the agreement;
- appeal against illegal actions of law enforcement officials;
- determination of the lawyer's position and conducting an inquiry in order to identify information, evidence unknown to the investigation and contributing to the establishment of the truth;
- analysis of evidence in terms of relevance, reliability, adequacy;
- participation in the proof process at the pre-trial stage and during the construction of the case in court;
- formation of defensive speech;
- appeal against sentences, rulings, court decisions if there are grounds provided for by law;
- participation of the defender in the courts of the highest instance.

In accordance with the above-mentioned laws, the lawyer carries out his/her action. of the Criminal Procedure Code of the Republic of Uzbekistan "Section thirteen, proceedings in criminal cases of a special category. 60-chapter. The Law "On the initiation of criminal proceedings in cases of crimes against juvenile" also contains specific information about the role of a lawyer in the judicial process. In particular, in article 552 of the Code, it is possible to find such proposals: "When charging a juvenile, the legal representative of the juvenile may be present along with the defender." It follows from this that at the time of the announcement of the verdict to be handed down to the defendant, the defense lawyer stands on the same line with him/her. If there is enough evidence in it, this court also has the right to appeal the verdict. Petitions filed by a lawyer at the final stage of familiarization with the materials of the preliminary criminal case may be aimed at collecting information relevant to the defense of the accused, checking evidence refuting the charges brought against the defendant, changing the classification of the accused's actions to a milder one, excluding certain episodes or parts from the prosecution,

¹ The Law's 1-part, 5-article and the Criminal Procedure Code of the Republic of Uzbekistan (CPC) - 49, 55, 59,60, 62- articles.

² 53-artcile, 3-chapter of the Criminal Procedure Code of the Republic of Uzbekistan.

³ The Law about Advocacy, 10-article, 2-chapter.

⁴ "Lawyer" UzNE. A-letter. The first chapter. Tashkent, 2000-year.

⁵ 85-article of the Criminal Procedure Code of the Republic of Uzbekistan.

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terminating the criminal case and criminal investigation.

Separately, it should be noted that this code establishes another law on the participation of a defense lawyer in the consideration of juvenile crimes. That is, article 553 of the code states "During the interrogation of a juvenile suspect and an accused, a juvenile also participates as a defender at the time of interrogation. As well as, with the permission of the inquirer, the investigator, the legal representative of the juvenile may be present during the interrogation. The defender and the legal representative have the right to ask questions to the suspect and the accused. At the end of the interrogation, the defender and the legal representative have the right to familiarize themselves with the protocol and express their comments on it. The total time spent on the interrogation of a juvenile suspect, accused, minus an hour break for rest and meals during the day, should not exceed six hours."⁶ With the help of these laws, a lawyer can in every possible way protect the protected person, for example, from psychological, physical and other pressure, to ensure that there is no pressure on him/her. Lawyers are provided with a timely and unhindered meeting with persons under their protection in special rooms not equipped with audio and video surveillance devices, and without the participation of unauthorized persons, while maintaining the possibility of their visual inspection, excluding the possibility of listening to the conversation of a lawyer and a person under their protection by third parties. The defense of a person whom a lawyer defends with the help of his/her evidence is a very delicate process. The process of proof has a complex internal structure, which manifests itself at 3 levels: informational, logical and legal. At the informational level, proof consists in verifying and evaluating the collection of concrete evidence. With this type of proof, the subject of proof comes into direct contact with the source of evidentiary information, as a result of which a set of evidence in a criminal case is formed. Logical proof means substantiating conclusions about the facts being discovered by evaluating the totality of evidence collected in the case. An example of logical proof can be cited Part 1 of Article 23 of the Criminal Procedure Code of the Republic of Uzbekistan, according to which "the suspect, the defendant or the defendant is considered innocent until his/her guilt is proved in accordance with the procedure provided for by law and is determined by a court judgment that has entered into legal force". At the logical level, proof is expressed through justification in procedural

documents (indictment, sentence), petitions and refusals. At the legal level of proof, presumptions and prejudices are applied by the subject of proof, taking into account the ineffective results of information-logical proof. In particular, the process of proving unproven guilt under the presumption of innocence is an activity carried out on the basis of the Criminal Procedure Law in order to establish the truth and correct resolution of a criminal case by proving, cognizing and documenting the facts of objective reality with the help of evidence. Innocence equated to proven. The inquirer, investigator, prosecutor, judge, court, within their competence, carry out proof. The suspect, the accused, the defendant, the defender, the public prosecutor and the public defender, as well as the victim, the civil plaintiff and the civil defendant and their representatives have the right to participate in proving. Experts, experts, impartial and other persons performing certain procedural duties established by law are involved in the collection and verification of evidence. The collection and verification of evidence is carried out by: interrogation, confrontation, presentation for identification, seizure, search, inspection, experiments, examinations and other investigative and judicial actions provided for by the Criminal Procedure Code of the Republic of Uzbekistan.

The following paragraph, set out in article 558 of the Criminal Procedure Code of the Republic of Uzbekistan, should be particularly noted: "A juvenile accused may be detained or placed under house arrest. It says that "when considering the issue of initiating a petition for the application of a preventive measure in the form of detention or house arrest against a juvenile, the prosecutor is obliged to personally familiarize himself with the case materials, check the validity of the petition, make sure of the urgency of the event and interrogate the accused on the circumstances related to the application of this preventive measure."⁷ In this process, the lawyer collects evidence that the protected person is under house arrest, in relation to his/her behavior, and presents them to the prosecutor.

It is also very important that the lawyer is involved in the judicial process. Naturally, during the interrogation, the lawyer asks questions in favor of the defendant. Therefore, it is necessary to take into account that the prosecution can use the right to simultaneous double interrogation, that is, it is better to prepare in advance for questions unpleasant to the defense in order to achieve the most acceptable and strong answers to them. The procedure established by the Criminal Procedure Code of the Republic of

⁶ 553-article, 2-chapter of the Criminal Procedure Code of the Republic of Uzbekistan. Of the Republic of Uzbekistan dated September 6, 2017. UzRD-442-number. The edition of law — UzRD, 2017-y., 36-number, 943-article.

⁷ 558-article, 2-chapter of the Criminal Procedure Code of the Republic of Uzbekistan. Of the Republic of Uzbekistan dated September 4, 2017. UzRD-373-number. The edition of law — UzRD, 2014-y., 36-number, 452-article.

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Uzbekistan for interrogating a witness provides the defense side with the greatest opportunities to establish the circumstances testifying in favor of the defendant. Success in this case will consist of four main components: knowledge of law, logic of thinking, psychological approach and oratorical skills. During the interrogation, the lawyer has the following goals and objectives:

- obtaining full, truthful, impartial testimony from a witness in accordance with the requirements of the CPC;
- explanation of the reasons for contradictions in the testimony of one witness during interrogations conducted at different stages of the inquiry;
- establishing the discrepancy between the witness's testimony and the materials of the criminal case, as well as the testimony of the accused, the victim and other participants in the process;
- obtaining testimony from witnesses justifying the defendant, mitigating his/her responsibility;
- sorting materials for defensive speech.

Article 561 of the Criminal Procedure Code of the Republic of Uzbekistan "On the removal of a juvenile defendant from the courtroom" also specifically reveals the importance of a lawyer. In

particular, "The defender, the legal representative of the juvenile defendant, as well as having heard the opinion of the prosecutor, when investigating circumstances that may have a negative impact on the juvenile, the court has the right to exclude him/her from the courtroom by its ruling.

After the **juvenile** returns to the courtroom, the presiding judge informs him/her in sufficient volume and form of the content of the discussion that took place in his/her absence and gives the juvenile the opportunity to ask questions to the persons interrogated in his absence."⁸ After the completion of these fines, if the parties do not agree with the verdict of the court, the decision on the application or non-application of a coercive measure may be appealed and protested in a general manner with the help of a lawyer. If the defendant denies the event itself or his/her involvement in the commission of a crime, in all cases the lawyer must ask the court to acquit the defendant. The defender must adhere to the position of the person under protection.

The defense speech will consist of an introductory (descriptive) part, an analysis and evaluation of evidence and data on the identity of the defendant, an analysis of the reasons that prompted the commission of the crime, as well as a conclusion.

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⁸ 561-article of the Criminal Procedure Code of the Republic of Uzbekistan.