

The Viewpoint of the Chamber of Advocates about the Draft of the Judicial Code of the Republic of Armenia

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The Chamber of Advocates of the Republic of Armenia finds it unacceptable to impose a judicial sanction in a form of fine on advocates prescribed by the draft of the Judicial Code of RA.

According to the point 2, article 64 of the Constitution of RA , advocacy based on independence, self-governance and legal equality of advocates shall be guaranteed with a view of ensuring legal aid. The status, rights and responsibilities of advocates shall be prescribed by law.

According to the point 1, principle 1 of the Recommendation No R(2000)21 of the Committee of Ministers to member States on the freedom of exercise of the profession of lawyer all the necessary measures should be taken to respect, protect and promote the freedom of exercise of the profession of lawyer without discrimination and without improper interference from the authorities or the public, in particular in the light of the relevant provisions of the European Convention on Human Rights.

According to the point 4 of the same principle, the lawyers should not suffer or be threatened with any sanctions or pressure when acting in accordance with their professional standards.

According to the subpoint a), point 16 "Basic Principles on the Role of Lawyers", adopted by UN in 1990, governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.

Nowadays, the way of the court's impact on the lawyers has an indirect form and can have a legal consequence only if the Board of the Chamber of Advocates finds violation in the advocate's behavior.

Current legal regulation is the best guarantee of the advocate's defense against the court's baseless arbitrariness.

The reason of this legal initiative is probably the fact that the Board of the Chamber of Advocates stops most of the disciplinary proceedings initiated on the base of the court's sanction. There were cases when the Board of the Chamber of Advocates turned to the particular body to discuss the misbehavior of the judge.

Under these conditions, the current legal regulation is a very good filter in the relationship between the advocate's community and judicial system so changing it (giving the court the authority to impose fine on the advocate) may harm the independence of the advocate.

The Chamber of Advocates of the Republic of Armenia will present its comments and suggestions about the above mentioned and other regulations of the Draft of the Judicial code after receiving the opinions of the advocates.

Ara Zohrabyan

The Chairman of the Chamber of Advocates of RA

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