



DOI: 10.54919/physics/56.2024.161hd0

## Status of a defence attorney in criminal proceedings: Comparative legal analysis of countries' experience

**Arnur Abzelov\***

Law Enforcement Academy under the Prosecutor General's Office of the Republic of Kazakhstan  
021804, 16 Respublika Str., Kosshy, Republic of Kazakhstan

**Assyl Sabitova**

Sarsen Amanzholov East Kazakhstan University  
070002, 34 30th Gvardeiskoy Divisii Str., Ust-Kamenogorsk, Republic of Kazakhstan

**Yuliya Gavrilova**

Kazakh-American Free University  
070000, 76 M. Gorky Str., Ust-Kamenogorsk, Republic of Kazakhstan

**Indira Smailova**

Sarsen Amanzholov East Kazakhstan University  
070002, 34 30th Gvardeiskoy Divisii Str., Ust-Kamenogorsk, Republic of Kazakhstan

**Kairat Alembayev**

Kazakh-American Free University  
070000, 76 M. Gorky Str., Ust-Kamenogorsk, Republic of Kazakhstan

### Abstract

**Relevance.** The relevance of this study is due to the fact that, at the moment, the protection of the rights of the parties in legal proceedings is not effective and or high quality.

**Purpose.** The purpose of the work is to analyse the activities of the institution of representation in Kazakhstan, namely the legal profession.

**Methodology.** A number of methods were used, including logical analysis, formal legal, dogmatic, legal hermeneutics, deduction, induction and others.

**Results.** The norms regulated by the current legislation of Kazakhstan on the institution of representation were studied. This provided an opportunity to differentiate terms such as "defence", "lawyer" and "legislative institution", and such concepts were defined as the concepts of "lawyer", "attorney" were defined. The foreign experience of countries in regulating the activities of a lawyer in criminal proceedings was reviewed, in particular in the USA, Great Britain, Germany, and France. This helped to conduct a comparative legal analysis of Kazakhstan's experience with those listed above to highlight features, similarities, and differences.

**Conclusions.** Kazakhstan has experienced a significant decrease in criminal activity and continues to develop its legal system. However, challenges persist in areas such as access to qualified legal representation, entry into the legal

### Suggested Citation:

Abzelov A, Sabitova A, Gavrilova Y, Smailova I, Alembayev K. Status of a defence attorney in criminal proceedings: Comparative legal analysis of countries' experience. *Sci Herald Uzhhorod Univ Ser Phys.* 2024;(56):1610-1617. DOI: 10.54919/physics/56.2024.161hd0

\*Corresponding author



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profession, and organization of legal services, indicating a need for improvements based on international best practices to enhance the country's legal institutions.

**Keywords:** lawyer; institution of representation; problematic aspects; international practice; protecting people's rights.

## **Introduction**

The process of development and establishment of a civilized society in the world has shown that achieving democracy in a country is possible subject to respect, guarantee and protection of the rights and interests of the population. Every country has a responsibility and a core mission to ensure respect and protection of human rights. Since the independence of the Republic of Kazakhstan, many positive changes have occurred in all aspects of public life. In this context, the issues of ensuring, guaranteeing and protecting fundamental human rights and freedoms become relevant. In the context of building the Republic of Kazakhstan as a democratic country and its entry into the civilized world, it is necessary to comply with certain conditions, which, first of all, are aimed at protecting violated and contested human rights. If a person in need of a lawyer does not have the financial means to hire a lawyer, that person must be notified of the right to receive legal assistance at state expense. It is worth noting that at this stage of the activity of the institution of representation of Kazakhstan, there are some problematic issues that are caused by conflicts of legislation, difficulties in regulating the procedure, and low wages for lawyers. This has an impact on the insufficient level of efficiency of criminal proceedings, the activities of the institution of advocacy and the protection of the rights and freedoms of citizens. In this regard, it is important to study this procedure in accordance with current legislation and provide recommendations for eliminating problematic aspects.

As S.E. Satybaldiev [1] writes, attracting qualified specialists to ensure the protection of the rights of citizens is a rather difficult task. This author's work does not consider the aspect of the quality of qualified specialists hired to ensure the protection of citizens' rights. The author only states that attracting qualified specialists is a difficult task. However, it does not disclose what exactly is meant by the qualifications of a specialist in this context. To ensure effective protection of citizens' rights, a qualified specialist must have not only professional knowledge and skills, but also certain personal qualities. As the legal landscape evolves, lawyers are playing an increasingly important role in representing citizens in court [2]. Therefore, according to K. Mushatova [3], one of the fundamental rights is the right to have a lawyer to represent and protect one's rights and interests at all stages of the legal process. The author's study does not consider such aspects as the impact of legal reforms on the effectiveness of the legal profession in protecting the rights and interests of individuals. Zh. Kegembaeva and Zh. Zhanatuly [4] argue that the level of protection of individuals' rights, interests, and legal guarantees in a country depends on the effectiveness of its human rights bodies and their ability to respond to modern threats.

It is worth noting that the author does not analyse the institution of the legal profession in the context of studying its structure, regulation and effectiveness of protecting the rights and interests of the individual. The strength of

individual rights and protections in a country is directly related to the development of the legal profession [5]. In turn, the development of the institution of the legal profession in each country is determined by the legislative support of the institution, organizational principles and structure of this Institute, as noted by E.B. Ablaeva [6]. The Institute of Legislation of the Republic of Kazakhstan is designed to regulate and structure the functions of lawyers involved in the protection of violated and disputed rights in various spheres of public life, including criminal, civil, family, administrative and other spheres, according to the opinion of D.D. Nurumov [7]. The aspect that the author does not disclose in his work is the effectiveness of the Institute of Legislation of the Republic of Kazakhstan in regulating and structuring the functions of lawyers involved in the protection of violated and disputed rights in various spheres of public life.

Based on the above, the purpose of the study is to analyse the legislative framework regulating the role of a lawyer in legal proceedings in Kazakhstan. For this purpose, a set of tasks was implemented, namely the definition of the concept of "institution of legislation", a study of the main problems and directions for improving the institution of legislation in the Republic of Kazakhstan, as well as an analysis of international experience. This will provide an opportunity to increase the level of ensuring the legal rights of citizens when participating in criminal proceedings, regulate legislation and improve the mechanism of activity of the institution of the legal profession.

## **Materials and Methods**

This study was carried out using different types of analysis method. Thus, the method of functional analysis provided an opportunity to study the functions of the institution of representation in criminal proceedings, to determine the features of this procedure and its impact on ensuring access to justice. The method of logical analysis helped to analyse such key concepts as "defender", "lawyer", "representation". This method also helped to determine the characteristic features of obtaining the status of a lawyer, to ensure the rights of citizens to obtain a lawyer in the implementation of criminal proceedings, and to highlight the principles and features of the functioning of this mechanism. In turn, the method of statistical analysis helped to consider data that indicates the number of pre-trial criminal proceedings initiated in Kazakhstan in the period from 2018 to 2022 in order to identify the effectiveness of legal mechanisms in the state. The method of comparative legal analysis was used to highlight the inherent features, similarities and differences in the legal regulation of Kazakhstan and other countries, namely the USA, France, Great Britain and Germany.

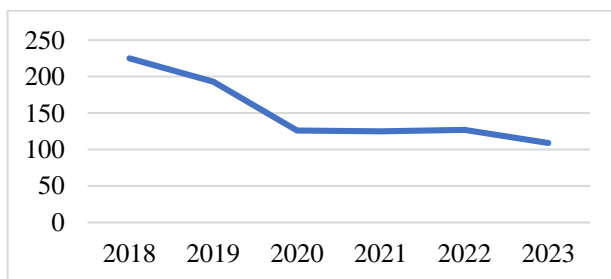
The method of legal hermeneutics was also used, thanks to which the legal acts regulating the institution of representation both in Kazakhstan and in foreign countries were studied. Thus, the Constitution of the Republic of Kazakhstan [8], Criminal Procedure Code of the Republic

of Kazakhstan [9], Law of the Republic of Kazakhstan No. 176-VI “On protection and legal assistance” [10], Federal Regulations of the Bar (Bundesrechtsanwaltsordnung) [11], The Alabama rules of professional conduct [12], Rechtsanwaltsvergütungsgesetz (RVG) [13], New Bar Council Standard Conditions of Contract [14] and Courts and Legal Services Act [15] were considered. The formal legal method provided an opportunity to characterize the norms regulated by these acts, highlight the features of regulating the activities of a lawyer, as well as a mechanism for legal support of this activity. In turn, the dogmatic method was used for a more detailed examination of the texts of the provisions, which made it possible to identify a larger range of features for regulating the procedure for citizens to apply for lawyers in criminal proceedings, as well as in the context of studying issues of payment for these services and their key features.

The deduction method helped to characterize the institution of representation based on the identified inherent features. Using the induction method, the regulation of the specified institution in various countries based on its characteristics was examined. A synthesis method was used to combine the findings, based on which recommendations were provided to address problematic aspects.

## Results

The Constitution of the Republic of Kazakhstan states that every person is guaranteed the right to receive professional legal assistance, and in certain cases provided for by law, such assistance is provided without payment [8]. Providing qualified legal support to citizens of Kazakhstan is one of the fundamental principles of the normal functioning of society and reflects the democratic nature of the country. In accordance with the provisions of the Criminal Procedure Code, the concept of defence means procedural activities aimed at protecting human rights during criminal proceedings [9]. In Kazakhstan, lawyers are the founders of the defence in accordance with the law. However, a court order may also allow close relatives or others requested by the accused or suspect to provide protection in criminal proceedings. It is worth considering the statistics on pre-trial investigations of criminal offenses in Kazakhstan by year (Figure 1).



**Figure 1.** Number of pre-trial investigations into criminal offenses in Kazakhstan, thousand

**Source:** [16].

As can be noted from the statistics provided, the number of pre-trial investigations into criminal offenses decreased significantly from 2018 to 2023 (data as of October 2023), namely by almost 52%. This indicates the success of the work of law enforcement agencies, as well

as the institution of representation. In accordance with this, it is necessary to consider in more detail the provisions regulated by law on the legal profession.

The institution of legislation is understood as a legal institution focused on democratic principles and intended for the professional protection of violated and contested human rights and freedoms. In Kazakhstan, the full development of this institution is possible only under the condition of equality and competitiveness of the parties in criminal proceedings, as well as in the presence of an independent and impartial court. Among the legal instruments regulating the activities of lawyers in the Republic of Kazakhstan, the Constitution, the Criminal Procedure Code, the Law “On advocacy and legal assistance” No. 176-VI and international legal acts ratified by Kazakhstan [10]. It is worth noting that the Law No. 176-VI “On advocacy and legal assistance” regulates the activities of lawyers and related legal relations. It was adopted in accordance with the Constitution and the Program for Reforming State Legislation. The main goals of the institute of legislation in Kazakhstan include supporting the implementation and protection of human rights and freedoms, providing qualified legal assistance to those who need it, organizing the activities of all lawyers, as well as other areas of development of the institute of legislation and the provision of legal services that do not contradict the law.

Note that the term “lawyer” refers to a highly qualified legal professional who provides legal and human rights assistance to clients [17]. According to the Law No. 176-VI “On advocacy and legal assistance”, a lawyer is considered a citizen of the Republic of Kazakhstan who has a higher legal education and a license to practice law, as well as a corresponding institute of legislation. The law also determines that a person who has a criminal record, has been expelled from a legislative institution, has been declared incompetent, or has lost his license to practice law due to dismissal from law enforcement for a disciplinary violation, does not have the right to engage in legal practice [10].

In criminal proceedings, a lawyer has a number of rights granted to more effectively represent and protect human rights. In his work to protect the client’s rights, the lawyer establishes close procedural ties and cannot carry out individual actions without the client’s consent, so as not to violate his rights. The legislation establishes the following restrictions that a lawyer has no right to violate: commit actions that are contrary to the interests of citizens or cause harm to the defendant; admit a civil claim; disclose information obtained during the defence of the defendant; admit the guilt of the defendant without his consent, if he did not consent to such an action or reconciliation with the other party to the criminal process; withdraw the complaints and petitions submitted to the defendant.

A lawyer is involved in criminal proceedings at the request of the suspect, accused, their legal representatives, the victim or the legal representatives of the victim. The defence attorney begins to participate in the criminal process from the beginning of the inspection against the person, whose representative and defender is the lawyer participating in the investigation and consideration of the criminal case; from the moment of detention of the person

whose interests will be represented by a lawyer; from the moment the competent authority makes a decision to serve a suspicion of committing a crime; and in other cases, provided for by law.

The Code of Criminal Procedure also provides for cases where it is necessary to hire a lawyer to investigate and consider a criminal case. These provisions guarantee the right of every person to protection. Timely contacting a lawyer when attracting a citizen to legal services plays an important role. In Kazakhstan, there are serious difficulties in obtaining access for a lawyer to law enforcement premises when his client is there. A solution to this problem could be to change the legislation regulating the activities of lawyers in order to ensure free access for lawyers to the premises of law enforcement and judicial authorities upon presentation of the appropriate warrant and identification for effective protection of rights. defendant. In addition, there is a practice of confiscating mobile phones, laptops and other devices upon entering these bodies.

An important aspect is also the issue of paying for a lawyer, since many people cannot afford to hire a lawyer due to lack of funds. However, the legislation provides for the possibility of hiring a lawyer at public expense, which means that the lawyer's services will be free for the person whose rights the lawyer is protecting. A person who decides to hire a lawyer has the right to refuse his services at any time, but this does not deprive him of the opportunity to subsequently contact a lawyer to protect his rights in criminal proceedings. At the same time, hiring a new lawyer does not entail repeating all procedural actions performed previously.

In criminal proceedings, it is important to maintain equality between the defence lawyer and the lawyer. This equality of status is not always observed, since a lawyer, at a minimum, has a higher legal education, which allows him to engage in legal activities. This provision requires further study and clarification. In this regard, it is proposed to reconsider the concepts of "defender" and "lawyer" in criminal procedure legislation, distinguishing them from a professional prosecutor and a professional defender. This, in turn, will increase efficiency and ensure the principles of competition, equality, rule of law and fairness. However, such changes and improvements require significant financial resources, since not everyone can afford professional legal assistance from a lawyer.

When protecting the rights of a defendant in criminal proceedings, a lawyer must take into account and respect the interests and positions of the defendant. According to the Code of Criminal Procedure, at the beginning of the judicial investigation, the judge examines the position of the defendant in a specific criminal case [9]. The agreement with the defendant and the development of convincing arguments by the defence attorney are aimed at the final result of the criminal case, namely the adoption by the judge of a legal and informed decision in the criminal case.

The protection of persons in criminal proceedings in Kazakhstan is characterized by certain shortcomings and inefficiencies, primarily due to problems associated with the regulation of the legal profession. The set tasks and goals in the field of advocacy were not fully realized. The insufficient efficiency of the Bar Association is associated

with an insufficient number of lawyers, their low level of compliance with professional and moral standards, as well as the high demand for legal assistance. The main problems in the field of advocacy can be divided into three main aspects: access of citizens to highly qualified legal assistance provided by professional lawyers; access to the legal profession; organization of legal services and advocacy. Each aspect is interconnected, and solving problems in one of them is impossible without taking into account the others. Problems associated with access to the legal profession are primarily due to the low level and insufficient qualifications of legal education. As for the organization of advocacy and the provision of legal services, there are misunderstandings in the legislative regulation of this activity and the disciplinary liability of lawyers for violating the law.

Currently, the most developed legal systems are in France, Germany, Great Britain and the United States of America. Already from the 12th to the 14th centuries, English and Welsh lawyers acted separately, and the two categories of advocates and solicitors that exist to this day were separated [18]. Dividing lawyers into two categories ensures more effective representation of clients' interests and more effective implementation of legal protection. An important element of the Anglo-American legal system are court decisions, which serve as the main source of formation of the institution of lawyers.

In Germany, the main legal act regulating the activities of the bar is the Federal Regulations of the Bar of 1959 [11]. It defines the framework of legal activities aimed at protecting human rights and interests. The German Bar Institute plays an important role in the justice system. In turn, in France the Bar Association is also a key law enforcement agency. Here, lawyers are given the right to unite to exercise their professional rights, as well as to effectively and efficiently protect the rights and interests of their clients, both in criminal and other cases. In this context, the participation of a lawyer, especially a professional one, plays a vital role in ensuring effective, high-quality legal proceedings in the Republic of Kazakhstan, since it contributes to the protection of human rights and interests.

An interesting aspect is the determination of the cost of providing legal services by lawyers in the United States. This cost can be calculated hourly, as a fixed amount, or according to specified conditions. It is important to note that fees may be governed by ethical standards. For example, the Rules of Professional Conduct in Alabama and other states prohibit attorneys from charging excessive fees for their services [12]. When determining the fee, criteria such as the time spent, the volume of work, the lawyer's workload, his ability to take on additional cases, as well as the usual prices for such services are taken into account. The amount of the fee depends on the amount of time the lawyer spends on the case, and the exact time cannot be determined in advance. The client receives an invoice for all costs of the case, including consultations, telephone conversations, preliminary investigation, trial preparation, documentation, correspondence, court time, and travel to and from the office [19]. Jobs are usually billed per quarter hour, meaning the minimum time that can be billed is a quarter hour.

In Germany, special attention is paid to the issue of paying a lawyer. According to the German Lawyers' Remuneration Act (RVG) 2004, lawyers have the right to enter into remuneration agreements with clients [13]. This is because the principal is responsible for paying the agreed remuneration and therefore individual contracts detail how payment will be made for services provided. The amount of a lawyer's remuneration in Germany is regulated by the tariffs specified in the appendices to the Law. However, the parties can independently agree on the cost of services, but it should not be lower than the established tariffs, with the exception of certain out-of-court cases, when the fee can be reduced taking into account the labour and risk of the lawyer [20]. It is prohibited to demand an unjustified increase in remuneration that does not comply with established standards, and in such cases liability for unjust enrichment is provided.

In England, according to the New Standard Conditions of Contract for the Supply of Legal Services by Barristers to Authorized Persons 2012, the principal's obligation is to pay the barrister an agreed fee, which is governed by agreement of the parties [14]. Also, as in many other countries, the amount of remuneration can be agreed upon as a fixed cost of services, an hourly rate or depending on the result in favour of the principal (success fee). The Courts and Legal Services Act 1990 regulates how remuneration is determined based on various conditions, including remuneration based on success and time-based remuneration [15]. Under such terms, the remuneration may be increased if the situation is successfully resolved, and the extent of this increase must be specified in the agreement.

It is worth emphasizing that regardless of how fees are determined, remuneration for the provision of legal services is one of the most important aspects in the relationship between an attorney and a client. When concluding an agreement, it is necessary to clearly state the elements of payment for the work of a lawyer and reimbursement of expenses associated with the provision of legal assistance. In many foreign countries, payment terms occupy a key place in the contractual relationship between lawyer and client, so agreements are most often concluded for payment rather than for the provision of legal services.

In general, the provision of legal services in different countries follows the same general standards established internationally. In the Republic of Kazakhstan, the possibility of determining the amount of remuneration depending on the successful completion of a case in favour of the client has its positive aspects, since it can help improve the quality of legal services provided, since the actions of a lawyer always have certain consequences. However, it should be noted that the use of this method should be considered as appropriate only in property matters. To eliminate possible violations in the application of the law, the use of this method in criminal cases should be excluded and the following provision should be clearly defined in the Rules of Professional Ethics for Lawyers: "An agreement (agreement) on the amount of payment for legal assistance or on additional monetary rewards depending on the outcome of the case in favour of the client can only be used in property disputes".

## Discussion

The essence of justice, regardless of a specific state, its form and procedures, is to establish the factual circumstances of the case and apply the rules of law to them to make a judicial decision. The actions of the parties and the court to collect evidence during the judicial investigation are subject to certain standards of evidence, and participants in the trial are required to prove the relevant circumstances. The party representing the defence also bears this responsibility.

However, problems associated with the distribution of the burden of proof, especially in the context of advocacy, and the concept of evidentiary standards are often underestimated in both the theory and practice of criminal proceedings. The importance of the standard of evidence institution is especially great in countries belonging to the Anglo-Saxon legal tradition, such as the UK and the USA. One of these standards of proof used in legal proceedings is known as the "preponderance of evidence", as D.E. Melnikoff and N. Strohminger [21] write. Based on the authors' stated position, it is worth noting that this standard implies that the court or jury protects the rights and freedoms of the party that presents more convincing evidence, although it does not have to be absolutely convincing. This approach makes maximum use of the adversarial principle and reduces the likelihood of judicial errors. In criminal trials in the countries of the Anglo-American legal system, the standard of proof is "beyond reasonable doubt" in the UK and the "balance of probabilities" in the USA, in accordance with the position of M. Minow [22]. It should be mentioned that both of these standards have approximately the same meaning: in order to achieve an acquittal, the degree of conviction in the guilt of the accused must be such that no obvious, direct doubt remains. This does not mean that any doubts are completely excluded. Rather, it means that while there may be some doubt, it may not be significant enough to justify the charge. The court or jury, based on the evidence presented, concludes that the fact is more likely to have occurred than not to have occurred.

On the contrary, in modern continental European law, as noted by J. Murray [23], the principle of assessing evidence by internal conviction is one of the fundamental provisions of the law, the purpose of which is to protect the object of assessment from negative factors that could lead to an incorrect or biased assessment. It is worth add to the author's position that if this principle is considered an evidentiary standard, then it cannot be considered similar to the Anglo-Saxon standards. This is due to the fact that the principle of evaluating evidence by inner conviction is not based on objective criteria (from the point of view of probability), like Anglo-American standards, but clearly expresses a subjective nature. A.J. Davis [24] writes that compliance with the standards of evidence is intended to ensure a certain degree of unification of the process of presenting evidence while ensuring compliance with the legally established degree of reliability of the evidence on the basis of which the court makes a decision. It is worth agreeing with this position, but at the same time mentioning that in the Romano-Germanic the legal system does not have the concept and criteria of the standard of proof, since a judicial decision in most countries is made

on the basis of a free assessment of evidence and the internal conviction of the judge.

P.R. Metzger and J.C. Hoefel [25] express an opinion on the need to reduce the level of subjective discretion of judges (in order to ensure the objectivity of the judicial process). To this position it is worth giving an example of how, under certain circumstances, reconciliation of the parties in a criminal case should be considered not as a right of the court, but as its duty. An important element of assessing evidence in criminal proceedings is the institution of the burden of proof. Determining who bears the burden of proof and what that burden is determined by the principles of the presumption of innocence and the adversarial principle [26].

It is important to remember that the burden of proof of a charge includes not only the duty to provide evidence in support of the charge, but also to provide evidence refuting arguments of the defence and helping to resolve doubts that may arise during the criminal process. However, as I. Schoultz and J. Flyghed [27] emphasize, the burden of proof cannot be considered as a purely absolute responsibility of the prosecutor, since he can share this burden within the framework of the trial, including refusing to support the prosecution in whole or in part or not challenging the information presented in the interrogation materials of the defence, agreement with some facts is not an argument. In accordance with the constitutional principle of the presumption of innocence, the prosecution has the burden of proving the charge, and the suspect (accused) is not required to prove their innocence or subject to negative punishment [28]. Legal consequences failure to provide exculpatory evidence. Providing evidence to that participant is a subjective right and not a legal obligation, according to J.I. Turner [29]. It is worth agreeing with this statement, since a conviction cannot be made solely on the basis that the accused, for example, cannot provide evidence in support defence arguments or refuses to testify at all.

Thus, a lawyer who protects the rights and interests of suspects and accused bears certain responsibilities and has certain powers to fulfil them. The use of these powers by a lawyer is his integral responsibility in order to provide successful legal assistance. The standard for a lawyer in criminal proceedings, aimed at stimulating the active actions of a lawyer, determines that the defence attorney takes measures to collect and present evidence necessary for the defence, including filing petitions and sending petitions on behalf of the lawyer. However, the lawyer decides how to exercise these powers, independently choosing the most effective, economical and efficient methods of protecting rights and legitimate interests.

A lawyer's responsibilities to a client and to the court can potentially vary, especially when a conflict of interest

arises, such as when the lawyer is faced with a choice between maintaining confidential information and fulfilling his professional duty. Which professional standards should be adhered to first in a situation where a lawyer is in a difficult position between the principle of "representative of the court" and loyalty to his client depends on each specific case. To resolve this dilemma, it is necessary to understand which party (attorney or client) makes the final decision regarding the choice of defence strategy, which may include misconduct or allegations.

## **Conclusions**

This study examines the status of representatives in criminal proceedings. Thus, as a result, it was revealed that at this stage, criminal crime in Kazakhstan has decreased significantly over the years, namely in the context of the number of pre-trial investigations it has decreased by 52%. A number of terms were defined, according to which it was established that protection in criminal proceedings should be understood as procedural activities aimed at implementing the protection of human rights in criminal proceedings; In most cases, the power to defend a person in criminal proceedings rests with a lawyer. He is engaged on the basis of a reasoned statement from a person whose interests and rights he is called upon to protect, or at the request of a representative of such a person. And also, in some laws in cases of coercion, when this is necessary for the effective and legal administration of justice and the protection of human rights.

It was noted that the institution of legislation in Kazakhstan is developing, but there are a number of problems that arise when hiring a lawyer to protect the rights of citizens. In particular, three main blocks of problems were identified: access of citizens to qualified legal assistance provided by professional lawyers; access to the legal profession; organization of legal services and advocacy.

To identify ways to overcome the above problems, the experiences of countries such as the USA, Great Britain, France, Germany, and others were studied. This provided an opportunity to highlight the features of this experience and ways to improve the effectiveness of this institution in Kazakhstan. Subsequent studies will be aimed at studying the status of a lawyer in civil proceedings.

## **Acknowledgements**

None.

## **Conflict of Interest**

None.

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## **Статус захисника у кримінальному провадженні: Порівняльно-правовий аналіз досвіду країн**

### **Арнур Абзелов**

Академія правоохоронних органів при Генеральній прокуратурі Республіки Казахстан  
021804, вулиця Республіки, 16, м. Коші, Республіка Казахстан

### **Ассіл Сабітова**

Східно-Казахстанський університет імені С. Аманжолова  
070002, вулиця 30-ї Гвардійської дивізії, 34, м. Усть-Каменогорськ, Республіка Казахстан

### **Юлія Гаврилова**

Казахсько-американський вільний університет  
070000, вулиця М. Горького, 76, м. Усть-Каменогорськ, Республіка Казахстан

### **Індіра Смаїлова**

Східно-Казахстанський університет імені С. Аманжолова  
070002, вулиця 30-ї Гвардійської дивізії, 34, м. Усть-Каменогорськ, Республіка Казахстан

### **Кайрат Алембаєв**

Казахсько-американський вільний університет  
070000, вулиця М. Горького, 76, м. Усть-Каменогорськ, Республіка Казахстан

### **Анотація**

**Актуальність.** Актуальність цього дослідження зумовлена тим, що наразі захист прав сторін у судовому процесі не є ефективним та якісним.

**Мета.** Метою роботи є аналіз діяльності інституту представництва в Казахстані, а саме адвокатури.

**Методологія.** Було використано низку методів, серед яких логічний аналіз, формально-юридичний, догматичний, юридична герменевтика, дедукція, індукція та інші.

**Результати.** Досліджено норми, що регулюють чинне законодавство Казахстану щодо інституту представництва. Це дало можливість розмежувати такі терміни, як “захист”, “адвокат” і “законодавчий інститут”, а також були визначені такі поняття, як “юрист”, “адвокат”. Розглянуто зарубіжний досвід країн щодо регулювання діяльності адвоката у кримінальному провадженні, зокрема США, Великої Британії, Німеччини, Франції. Це дозволило провести порівняльно-правовий аналіз казахстанського досвіду з вищезазначеними країнами з метою виявлення особливостей, схожості та відмінностей.

**Висновки.** Казахстан пережив значне зниження кримінальної активності і продовжує розвивати свою правову систему. Однак, залишаються проблеми в таких сферах, як доступ до кваліфікованого юридичного представництва, вступ до юридичної професії та організація юридичних послуг, що вказує на необхідність вдосконалення на основі найкращих міжнародних практик для зміцнення правових інститутів країни.

**Ключові слова:** адвокат; інститут представництва; проблемні аспекти; міжнародна практика; захист прав людини.