

Zhushman Illia,
student of Law Faculty
Science supervisor – **Eleonora Skiba,**
professor of the Social and Humanities
Department
*(the Dnipropetrovsk State
University of Internal Affairs)*

COMPETENCE OF A LAWYER

Competence - is the property of legal practice, which is derived from the competence, which usually refers to a set of professional functions, tasks, powers of an official or another subject of professional activity, defined or enshrined by law, another normative act. Accordingly, competence is the possession of the subject by the special theoretical and practical knowledge, skills and abilities that allow to fully, accurately, effectively implement the competence, qualitatively and professionally carry out professional activities.

The competence of an attorney means the availability of legal and other special knowledge, skills and abilities, professional experience acquired through professional training and professional activities. Competent legal proceedings consist of investigation and analysis of factual information, legal elements of the problem, application of necessary methods and procedures, adequate training, meeting the standards of professional activity.

An incompetently considered legal case may imperil the interests of the client, so a lawyer cannot deal with a case that, as he knows or should know, is not competent to engage. Already in the process of familiarizing with legal affairs, the lawyer must determine his ability to prepare for the case, study it, provide the necessary and comprehensive qualified assistance to the client, or, conversely:

- Refuse to do so and pass it on to a more competent lawyer;
- Invite another lawyer as a partner;
- Contact another lawyer for advice.

The complexity and specialized nature of legal cases determine the special requirements for the training and experience of a lawyer. To maintain the necessary level of knowledge and skills, a lawyer must constantly engage in his education and training.

The level of competence of a lawyer is determined by the relevant subjects when appointing to a position or election when granting licenses for the right to practice legal practice, as well as periodically - when conducting certification of lawyers. For example, the right to hold positions of judges and prosecutors or to practice legal practice has persons who have a higher legal background and, as a rule, experience in the legal profession. A necessary condition for the post of a

judge of any court is the qualification examination. The selection of candidates for a judge is based on the results of the qualifying examination.

Qualification examinations for judges are accepted by the qualification commissions of the judges of the respective courts and the High Qualifications Commission of Judges of Ukraine. The Qualification Commission of Judges conducts a qualifying examination and, based on its results, gives a conclusion on the recommendation for a judge's position. Qualification attestation of judges may be regular or pre-term. As a result of the conducted certification, the Qualification Commission of Judges makes a decision on the award of a judge of a qualification class; assigning a judge of a higher qualification class; leaving the judge in a previously awarded qualification class.

Depending on the position, seniority, experience, and level of professional knowledge for judges, six qualification classes are established: higher, first, second, third, fourth and fifth. Judges who have qualification classes are charged with additional salaries in the amount stipulated by the legislation of Ukraine.

For a mismatch of the level of professional knowledge, the judge may be dismissed from office. In the event of the finding of a judge's inadequate level of professional knowledge for a judge, the qualification commission of judges by its decision postpones the attestation and provides the judge with a time limit for the improvement of professional qualification and acquisition of the relevant knowledge.

If, after the expiration of the established deadline, the qualification commission again concludes that the level of professional knowledge of the position of judge is inconsistent, it shall take a decision, which shall inform the head of the relevant court and the judge elected to decide on the issue of dismissal of the judge from office.

Similarly, the level of competence and other categories of lawyers is determined and controlled. In particular, a lawyer may be a citizen of Ukraine who has higher legal education, experience in the profession of a lawyer or a lawyer's assistant for at least two years, passed qualifying exams, received a certificate of the right to practice lawyers and took the Oath of the Attorney of Ukraine.

In order to determine the level of professional knowledge of persons intending to engage in advocacy, the resolution of issues concerning the disciplinary liability of lawyers creates qualification-disciplinary commissions of advocacy consisting of two chambers - attestation and disciplinary, who make decisions on issuing a certificate for the right to practice advocacy or refuse to issuing a certificate, bringing a lawyer to disciplinary responsibility.