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Article



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THE STATUS OF THE DEPUTY: THEORETICAL AND LEGAL ANALYSIS

Abstract: Councils of People's Deputies in districts and cities (except cities under the district) are representative bodies of state power. The Council of People's Deputies and the mayor ensure the implementation of social and economic development tasks common to the region, district and city, local laws, relations between state authorities and self-government bodies of citizens, and the involvement of residents in the management of the region, district and city. The role of deputies, who are considered the main subjects of representative bodies, is incomparable in ensuring these issues. A citizen elected to the respective People's Deputies to the District and City Council and registered by the District and City Election Commission is a deputy. The status of a deputy can be determined directly by the fact that his activity is guaranteed by legislation and by the rights and powers given to the deputy. The deputy has the right to vote on all issues discussed at the meetings of the relevant Council of People's Deputies. A deputy must participate in the meetings of the relevant Council of People's Deputies and any commission formed by this Council, participate in the meetings of that commission, participate in voting in accordance with the procedure established by the Regulations of the relevant Council of People's Deputies. Based on this, in this scientific article, the issue of the category of the deputy's status has been given a sufficient legal basis with the legislation, along with a scientific analysis. Also, in this article, the author's definitions of the concepts of the status of the deputy were developed and given scientific and legal reasons. The article contains a scientific discussion with the opinions of scientists and researchers regarding the status of the deputy.

Key words: deputy, council, status, law, state, decision, authority, right, immunity.

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Introduction

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People's Deputies District, City Council consists of People's Deputies elected by residents of the district, city in accordance with the law. Deputies are one of the important entities that perform representative activities of the government. Their activities in this regard are directly related to the status of deputies and are determined by their rights and obligations.

The legal status of any entity is determined by its tasks and powers, as well as the system of activity guarantees. That is, these elements within the framework of the legal status, in turn, are the main means of ensuring the activity of the subject.

In particular, there are specific scientific views and concepts in the constitutional-legal theory regarding the status of the deputy of the District and City Council of People's Deputies covering the rights, obligations and guarantees of the deputy's activities as well as other issues.

The lack of a unified approach to the status of a deputy of the local council requires a more extensive study of this scientific category and, as a result, the development of proposals and theoretical rules for the current legislation. It depends on the qualitative and comprehensive implementation of the tasks by the deputy, the extent to which his legal status and guarantees are defined.

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Main part

An important issue is the legal status of a deputy of the Council of People's Deputies. The legal status determines the totality of their tasks, rights and duties and the system of guarantees of their activity" [1].

According to legal scholar A. Tolaganov, "the legal status of deputies is the scope of their rights and duties, as well as the scope of their powers. The main part of the powers of the deputy is implemented through the activity of the body to which he was elected" [2].

R. Qayumov stated that the legal status of a deputy is the sum of the rights, obligations and duties of deputies, the forms of their activity and powers[3].

In our opinion, it is impossible to agree with the opinions of legal scholars A. Tolaganov and R. Qayumov regarding the legal status of the deputy, based on the legislation, it should be noted that within the framework of the concept of the legal status of the deputy, it is appropriate to understand the legal status of the deputy, which includes only the rights and obligations of the deputy, the right to immunity. The status of a deputy is a broader concept, and it is appropriate to understand the general status of the deputy in relation to all the powers, obligations, immunity, guarantees of activity, professional ethics and provisions given to the deputy by law.

Professor O. Khusanov also touched on the issue of the status of the deputy and noted that "the status of the deputy is characterized by the existence of special guarantees for his activity and these guarantees enable the deputy to carry out his activities independently without any hindrance" [4].

Sh. Zulfikarov, in his research work, touched on the legal status of the deputy and its socio-political nature in detail, and cited the following, i.e.: "the socio-political nature of the legal status of the deputy is that the deputy is, first of all, an authorized representative of the people, secondly, a representative of the state power, and thirdly, a collegial member of the representative body. The legal regulation of issues related to the status of a deputy ensures the unhindered and effective implementation of the deputy's activities, in addition to guaranteeing its socio-legal protection, it strengthens the deputy's obligation to the people and society" [5].

Some foreign legal scholars have pointed out other aspects of the category of legal status of the deputy of local representative bodies.

For example, according to A. Ya. Sukharev, the concept of "deputy status" is the political and legal nature of the mandate of the deputies of representative bodies of state power, its origin, termination and validity period, and the legal status of the deputies, which is determined by the set of legal norms that regulate social relations related to the powers of the deputies. can be defined as [6].

M.A. Radjabova and A.A. Makhmudov stated that "the deputy must have thoroughly studied the

situation in the district where he was elected, the mood of the population, the lack of socio-economic development of that district, the issues that are waiting for their solution and the opportunities that are not fully used, and he has a clear idea about them. it is important to have. In a word, people's deputies must be able to effectively use their rights and fulfill their obligations under the Law "On the Status of Regional, District and City Council Deputy". Only then, the deputy can identify territorial problems, consider them through the permanent commission of which he is a member, and bring them up to the Council session" [7].

It should be noted that theoretical scientists have not sufficiently analyzed the differences between the concepts of "status of the deputy" and "legal status of the deputy" and the scientific-theoretical description of these categories in their research work.

In our opinion, in a general sense, that is, regardless of affiliation to local or higher representative bodies, the term "status of a deputy" can be understood as the general status of a deputy in relation to all the powers, obligations, immunity, guarantees of activity, professional ethics and provisions given to a deputy by law.

The legal status of the deputy is the legal status of the deputy, which includes only the rights and obligations of the deputy, the right to immunity.

Based on the description of these concepts, it can be noted that the fact that all general issues related to the activity of a deputy are presented within the scope of his status is also reflected in the current legislation, in particular, in the name of the Law of the Republic of Karakalpakstan "On the status of the deputy of the district and city council of people's deputies" dated May 14, 2005. the status of the deputy" is presented in the style.

Based on the above, the elements related to the status of the deputy of the local council can be analyzed as follows:

1) Rights and obligations of the deputy. According to the Law of the Republic of Karakalpakstan dated May 14, 2005 "On the Status of People's Deputies of District and City Councils", a local council deputy has the following rights:

- "to elect and be elected to permanent and temporary commissions of the relevant Council of People's Deputies;
- to propose issues for consideration at the meeting of the relevant Council of People's Deputies;
- to submit suggestions and comments on the agenda of the meeting of the relevant Council of People's Deputies, the procedure for considering the discussed issues, and the essence of these issues;
- to express an opinion on the candidates of officials elected, appointed or approved by the relevant Council of People's Deputies;

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- to participate in discussions at the meeting of the relevant Council of People's Deputies, to ask questions to the speaker and chairman;

- to address the request of the deputy;
- to speak in order to justify their proposals and to comment on the reasons for voting;

- to submit the text of his speech, proposal or opinion on the issue discussed at the meeting to the chairperson of the meeting of the relevant Council of People's Deputies;

- in case of disagreement with the decision of the body of which he is a member of the relevant Council of People's Deputies, to state his point of view at the meeting of the relevant Council of People's Deputies or to inform the head of the said Council of People's Deputies about it in writing;

- control over the implementation of development programs of the respective regions;

- to submit a proposal to the relevant Council of People's Deputies to hear the report or information of any body or official accountable to or under his control at the meetings of the Council of People's Deputies;

- to propose issues for review on the implementation of the Laws of the Republic of Uzbekistan and Karakalpakstan, as well as the implementation of relevant decisions of the Council of People's Deputies;

- to get acquainted with transcripts of meetings of the relevant Council of People's Deputies;

- to hold meetings with voters, citizens' self-management body, political party organization;

- has the right to appeal to relevant bodies and officials in case of violations of citizens' rights and interests protected by law or other cases of violation of laws and regulations, with the demand to take immediate measures to put an end to them."

1) In this regard, A. Tolaganov stated that the most important part of the powers of the deputy is exercised through the activity of the elected body. Since the deputy is a member of the community body, his constant and disciplined participation in the work of this body is of great importance[8].

2) According to the Law of the Republic of Karakalpakstan dated May 14, 2005 "On the Status of the Deputy of the District and City Council of the People's Deputies", according to the Law "On the Status of the Deputy of the District and City Council of the People's Deputies" elected for the term of office. The powers of the deputy are terminated before their term in the following cases: if he submits a written application to abdicate his powers; if he is elected or appointed to a position that is inconsistent with the exercise of his powers as a deputy according to the law; in the event that the court's conviction against him enters into legal force; if it is recalled; if he is found incompetent by the court; if he is declared missing or declared dead based on a legally binding

court decision; if he loses the citizenship of the Republic of Uzbekistan; in the event of his death.

3) According to the Law of the Republic of Karakalpakstan dated May 14, 2005 "On the Status of People's Deputies of the District and City Councils", the powers of the deputy may be terminated earlier by the decision of the relevant Council of People's Deputies. Behavior that tarnishes the high title of deputy may be the basis for consideration of such a matter. The powers of the deputy cannot be transferred to another person. Within the scope of the powers assigned to the deputy, the deputy of the relevant Council of People's Deputies communicates with the voters of his district, the political party that nominated him as a deputy and the self-government body of citizens, represents their interests in the relevant Council of People's Deputies. The deputy considers appeals received from voters in accordance with the procedure established by law, takes measures to resolve them, accepts individuals and representatives of legal entities. The MP periodically, but at least four times a year, informs the voters about his activities.

4) According to the Law of the Republic of Karakalpakstan dated May 14, 2005 "On the Status of the Deputy of the People's Deputies of the District and City Councils", the following can be specified as the duties of the deputy, that is, the deputy participates in the meetings of the relevant Council of People's Deputies and in the meetings of any commission formed by this Council, if elected, must personally participate in the voting in accordance with the procedure established by the regulations of the relevant Council of People's Deputies. If the deputy is not able to participate in the meeting of the relevant Council of People's Deputies and any commission he is part of, the deputy must inform the Council of People's Deputies or the head of the commission about this in advance.

Guarantees of deputy activity. The set of conditions that make it possible to implement parliamentary guarantees are called guarantees of parliamentary activities [9].

S. Nietullaev touched on the issue of guaranteeing the activities of the deputies and said, "Each deputy is guaranteed the conditions for the unhindered and effective exercise of his powers, his rights, honor and dignity are protected. Those who harmed his honor and dignity will be held administratively, criminally or otherwise liable in accordance with the law" [10].

Sh. Zulfikarov suggested that "guarantees of deputies' activities should be studied into the following types: immunity of deputies; labor rights guarantees; material guarantees; organizational and legal guarantees; social guarantees" [11].

When the guarantees of the deputy's activity are interpreted more broadly, it includes the rights (powers) of the deputy and the conditions for their implementation, while when they are narrowly

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interpreted, the rights (powers) themselves are meant. Guarantees of the deputy's activity can be divided into organizational, material guarantees, labor rights, personal privacy guarantees[12].

In our opinion, the guarantees of the deputy's activity can be divided into 2 types, i.e. legal and organizational guarantees.

In particular, the legal guarantees of the deputy's activity can include issues such as "protection of the rights, honor and dignity of the deputy", "right to immunity of the deputy", "exemption from military training".

The organizational guarantees of the deputy's activity include: "the right of the deputy to be immediately accepted by officials", "conducting the deputy's activity in a manner consistent with production or the performance of official duties", "informational and material-technical support of the deputy's activity", "the right of the deputy to travel for free in transport" " can be entered.

Legal guarantees of deputy activity. Every deputy is guaranteed conditions for the unhindered and effective exercise of his powers, his rights, honor and dignity are protected. Persons who attack the honor and dignity of the deputy shall be held administratively, criminally or otherwise liable in accordance with the law. Insulting a deputy, as well as slandering him, is a cause of liability established by law. It is not allowed to influence the deputy in any way in order to prevent him from exercising his powers as a deputy. Officials who do not fulfill their duties to the deputy, obstruct his work, knowingly provide him with false information, violate the guarantees of the deputy's activity are liable according to the law[13].

This type of responsibility is defined in Article 193 of the Code of Administrative Responsibility of the Republic of Uzbekistan, according to which: "non-fulfillment of their duties to deputies by officials of state bodies, citizens' self-government bodies, enterprises, institutions and organizations regardless of the form of ownership, obstructing their work, deliberately providing them with false information, violating the guarantees of the deputy's activity, as well as leaving the deputy's request without consideration by officials or violating the terms of their consideration without good reason, or knowingly providing false information about them, shall be the cause of appropriate administrative responsibility" [14].

Also, deputies of district and city councils of People's Deputies are exempted from military training during the period of their powers.

Organizational guarantees of deputy activity. According to the Law of the Republic of Karakalpakstan dated May 14, 2005 "On the Status of People's Deputies of District and City Council Deputies", a deputy has the right to unimpeded access to enterprises, institutions and organizations located in

the relevant district and city territory, as well as their leaders and other uses the right to be immediately accepted by officials. The procedure for a deputy's access to enterprises, institutions, organizations whose activities are state secrets and other secrets protected by law is determined by law. The issue of carrying out deputy's activities in harmony with production or performance of official duties is clearly expressed in the legislation. The deputy performs his powers without separation from production or service duties. Heads of enterprises, institutions and organizations must release a deputy from work while he is performing his duties as a deputy, keeping his workplace (position). The average salary of a deputy is maintained while performing the duties of a deputy. The issues of informational and material-technical support of the deputy's activities are entrusted to district and city hokims in the regions. In particular, the district and city governments provide the deputy of the relevant Council of People's Deputies with documents, necessary information and reference materials, and also organize expert consultations on issues related to the activities of the deputy. Also, the deputy enjoys the right to travel for free in railway, automobile passenger transport (except for taxis and city passenger transport) in the territory of the relevant district and city, as well as to buy road tickets without waiting in line.

5) Immunity of the deputy. Immunity is the legal expression of the most important guarantee of the status of a deputy, which means that he cannot be prosecuted, arrested or subjected to administrative punishment imposed by the court without the consent of the representative body that elected the deputy. The parliamentary immunity is effective during the entire term of office of the deputies, and after the end of this term, it is terminated. Such a guarantee of the status of a deputy is aimed at preventing unjustified criminal or administrative prosecution of a person who is a deputy. However, it should not be understood as a means of saving the deputy from certain punishment[15].

The issue of immunity of the deputy has been scientifically analyzed by legal scholars as one of the guarantees of the deputy's activity.

In particular, according to Sh. Zulfikarov, "deputy immunity is a unique legal system of the activity of a deputy, which means not to shirk responsibility, as well as not to allow groundless accusations" [16].

According to legal scientist S. Nietullaev, "immunity is the legal expression of the inviolability of the deputy, that is, the most important guarantee of the deputy service" [17].

According to Article 11 of the Law of the Republic of Karakalpakstan dated May 14, 2005 "On the Status of the Deputy of People's Deputies, District and City Councils", the deputy has the right to immunity during his term of office. Without the

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consent of the relevant Council of People's Deputies, a deputy may not be held criminally responsible, detained, imprisoned or subject to administrative punishment imposed by the court. A deputy cannot be held responsible for expressing an opinion or expressing a point of view during the voting in the relevant Council of People's Deputies, or for other actions related to the exercise of his powers. Including, they cannot be held accountable even after the expiration of their powers. If, in connection with such actions, the deputy committed insults, slanders or other violations for which liability is provided by law, he shall be held liable in case of deprivation of the right to immunity.

Immunity of MPs is expressed in the fact that it is forbidden to arrest or bring to court responsibility for all actions of the MP, including those committed while he is not performing his parliamentary duties. The deputy enjoys immunity only during the term of the deputy's mandate. A deputy may be deprived of immunity by the chamber of which he is a member. Immunity is automatically waived if the deputy is caught in the act of committing a crime (in which case the chamber can only demand that the prosecution of the deputy cease) [18].

According to the Law of the Republic of Karakalpakstan dated May 14, 2005 "On the Status of Deputy of People's Deputies, District and City Councils", clear procedures for depriving a deputy of the right of immunity are established, according to which the issue of depriving a deputy of the right of immunity is determined by the district, city or higher prosecutor's office. will be decided within ten days by the Council of People's Deputies based on the presentation of the standing prosecutor. A presentation submitted by a lower prosecutor on obtaining consent to prosecute a deputy can be summoned by a higher prosecutor. The prosecutor's submission on obtaining consent to prosecute, detain, imprison a deputy or to apply an administrative punishment against him in a judicial procedure is considered by the relevant Council of People's Deputies, and during the period between sessions, it is considered by the head of the said Council of People's Deputies or an official who performs his duties, the adopted decision is later approved by the relevant Council of People's Deputies. The decision of the Council of People's Deputies on the issue of consent to the deprivation of immunity of a deputy is immediately sent to the relevant prosecutor. The prosecutor, who has received consent to deprive the deputy of immunity, must inform the relevant Council of People's Deputies about the results of the investigation and court hearing within three days from the end of the proceedings. Refusal of the relevant Council of People's Deputies to give consent to the deprivation of the right of immunity of a deputy is considered a case that excludes the conduct of a criminal case against him or the case of an

administrative offense involving an administrative punishment imposed in a court of law, and is the reason for the termination of such cases. In case of disagreement with the decision of the Council of People's Deputies, the senior prosecutor has the right to make a submission to the Dzhokorg Council of the Republic of Karakalpakstan to cancel the decision and submit the matter for reconsideration by the relevant Council of People's Deputies. If a deputy has committed a crime or an administrative offense outside the district or city where he is a deputy of the Council of People's Deputies, it is not required to obtain consent to bring the deputy to criminal responsibility, detain, imprison him, or apply an administrative punishment against him in court."

Also, the Criminal Procedure Code of the Republic of Uzbekistan

According to Article 223, a deputy may not be included in the category of persons enjoying the right of immunity during arrest, detained and brought to the internal affairs body or other law enforcement body.

5) Deputy request. It is known that in the legislation, there is an institution of a deputy's request to the executive bodies for explanation and clarification of problems in the regions, that is, "deputy request". The request of the deputy is a public request, according to which it is an appeal of a representative body to organizations and agencies for the purpose of solving various issues that are bothering the population in the region.

According to the Law of the Republic of Karakalpakstan "On the status of a deputy of the district and city council of people's deputies", the deputy has the right to send a request to the officials of the state power and management bodies located in the relevant area with the request to give a reasoned explanation or to state their point of view. The officials of the state power and management bodies shall send the answer to the deputy's request no later than ten days from the date of receipt of the said request. Deputies' requests addressed to presidents of courts, prosecutors, heads of inquiry and investigative bodies cannot be related to specific cases and materials in their work. Information on deputy requests can be discussed at a meeting of the relevant Council of People's Deputies.

Deputies of the local Councils of People's Deputies are not able to effectively use the institution of deputation polls, which is considered an important tool for resolving issues of urgent importance in the regions and solving problems raised by citizens' appeals. Researches have shown that the officials of the local executive authorities in many cases do not take appropriate measures to eliminate the problems raised by the requests of the deputies, and the requests of the deputies are not answered in time or in full. The results of a public survey conducted among the chairmen of the local Councils of People's Deputies confirm this.

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However, in practice, there are cases in which the heads of regional executive bodies resolve the issues raised in the request for a deputy, leave the request of a deputy without consideration or violate the terms of their review without valid reasons, as well as knowingly provide incorrect information regarding the request for a deputy.

Accordingly, leaving a deputy's request unconsidered by officials, or violating the terms of their consideration without good reason, or knowingly providing false information about them, entails the appropriate responsibility according to Article 193 of the Code of Administrative Responsibility of the Republic of Uzbekistan.

6) Deputy etiquette. A deputy must strictly observe the rules of etiquette. It is not allowed for a deputy to use his position in a way that harms the legitimate interests of citizens, society and the state. In case of violation of deputy's etiquette, the issue of deputy's behavior may be considered by the relevant Council of People's Deputies or by the body of the relevant Council of People's Deputies on its behalf.

In the case of behavior by a deputy that grossly violates generally accepted norms of etiquette, deputation etiquette, tarnishes the high name of the deputy, harms the reputation of representative bodies of state power, in the event of misconduct, he will be recalled in accordance with the law, or his powers will be terminated according to the decision of the Council. may be terminated earlier.

On December 26, 2018, the Law "On Recalling the People's Deputies of the District and City Councils of the People's Deputies, District and City Councils of the Republic of Karakalpakstan" was adopted. According to this Law, the following are grounds for recalling a deputy: the deputy's violation of current

legal documents in a way that may lead to criminal, civil, administrative and other types of liability provided for by law; that the deputy has committed actions and misdemeanors that grossly violate the generally recognized norms of the deputy's ethics and manners, tarnish the name of the deputy, and damage the reputation of representative bodies of state power; the fact that the deputy did not regularly perform his duties provided for by the law, without good reason, including the fact that he did not participate in the meetings of the Dzhokorgi Kenges of the Republic of Karakalpakstan and the relevant Councils of People's Deputies, in the work of their bodies, and did not fulfill their assignments; failure of the deputy to fulfill his obligations to the body (political party) that nominated him as a candidate for deputy.

Conclusion

To review the issue of recalling a deputy, the request of the law enforcement agencies, submitted in accordance with the law, as well as the proposal of the body (political party) that nominated him as a candidate for deputy, can be the basis.

According to what was mentioned, the deputies carry out consistent and systematic activities aimed at improving the living conditions of the population in each region, increasing their well-being, comprehensive development of the regions, harmonizing the interests of the regions with the processes of national growth and development.

In conclusion, it should be noted that in order for deputies to effectively perform their tasks and powers as representatives of the people, it is important to ensure the activities of deputies and to ensure their full immunity and legal status.

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