

## On the Prospects of the Organization of Private Detective and Security Activities in the Republic of Uzbekistan

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**ABSTRACT:** The article deals with issues related to the development of the draft Law of the Republic of Uzbekistan «On private detective and security activities». The author analyzed the positive and negative aspects of this activity in the case of its legislative regulation. In this regard, the experience of foreign countries and countries of the post-Soviet space was studied. Based on the results of the study, an opinion was expressed on the need to adopt the above law, taking into account the positive foreign experience and the peculiarities of the national mentality.

**KEYWORD:** Law, private detective, detective activity, security activity, de facto, draft, licensing.

In the current conditions, political, economic, social and legal reforms and changes in the Republic of Uzbekistan, carried out in all spheres of public life, are aimed at the formation of a democratic civil society and a strong rule of law state.

The proclamation of freedom of private property and entrepreneurship, the protection and protection of all forms of property, the desire to ensure human rights and freedoms are the main priorities of our state. It is thanks to legal guarantees that the classes of owners and entrepreneurs, who are the backbone of any modern, successfully developing state, have appeared and are being strengthened in our society.

In addition, at the present stage of development, the role of the state is not only to ensure the rights and interests of the individual, but also to recognize the right of citizens to self-development and self-realization, providing each of them with equal opportunities and conditions for engaging in certain professional activities that benefit the state, society and personality.

The legislative consolidation of norms that promote the self-realization of the individual will not only contribute to the emergence of a competitive environment in some social and legal relations, which is an important factor, but also consolidate society itself, citizens to joint and several responsibility for the welfare and development of the state as a whole. This condition also applies to law enforcement as a type of state activity, which is inextricably linked with changes and transformations in social relations that arise in the sphere of state life.

At present, the function of law enforcement in Uzbekistan is provided not only by the law enforcement system of state authorized bodies, but also by individual subjects of private (non-state) organizations. Thus, the responsibility for observing and ensuring the rights and interests of the individual, public security and law and order is assigned not only to law enforcement agencies, but also to society itself, including persons exercising private (non-state) law enforcement and other functions and providing legal services to citizens

and organizations, including in the areas of advocacy, notarial, expert and security activities. An example is the provision of the rights and legitimate interests of the individual by private notaries, experts, lawyers and «private security organizations».

Whereas outside the framework of rule-making activities remain private (non-state) forms of law enforcement and public relations associated with private detective and security activities. Meanwhile, the main purpose of private detective activity is to provide legal assistance in the interests of protecting individual rights and ensuring the security of property and property of citizens and legal entities, including assisting law enforcement agencies in the fight against crimes.

It should be noted that the legal basis for private detective and security activities is not formally regulated in the Republic of Uzbekistan. At the same time, in the latent form of public relations, the provision of private investigation and security services to commercial and other organizations, including individual citizens, exists de facto. These services are provided, in particular, in such areas as the detection of commercial espionage, the search for stolen valuables, vehicles and other property, when hiring in organizations and enterprises associated with commercial or managerial activities, etc.

It is alarming that, without a legal permit for the right to carry out private detective activities, private security companies and other organizations, individual citizens in an illegitimate form provide such services to legal entities and individuals. At the same time, private investigation services are provided by these entities on a reimbursable basis, and they receive monetary or other material rewards for the assistance provided. The absence of legal regulation of private detective activity allows persons providing such services to evade tax, license and other obligatory payments to the state budget, responsibility to clients and controlled by state bodies.

In addition, the vulnerability of this kind of public relations can involve criminal structures in this area, which in a veiled form will be able to use the services of private investigation for criminal purposes.

And most importantly, the danger of providing such services, where there are no norms, control and legal responsibility in the activities of a private investigation, can lead to irreversible consequences as a result of violation of the constitutional rights and freedoms of a person.

There is a demand for private detective and security services among the population. The creation of private detective and security agencies is due to the small number of law enforcement officers and their workload, where the main task and target was the successful fight against crime. Therefore, in our opinion, there is a need for legalization and legal regulation of private detective and security activities in Uzbekistan. The adoption of legal norms related to the entry into legal relations of a private investigation will reflect new approaches to the problems of ensuring the public and personal safety of citizens, society, protecting their life and health, rights and legitimate interests from unlawful encroachments.

Legal regulation of private investigation will allow citizens to activate their human potential and carry out this type of activity in the interests of the state, society and the individual, which will help, in turn, to form a civilized and legitimate market for detective and security services.

For the first time, private detective bureaus (agencies) began to be used in the United States in the early 1930s. XX century., When the level of the fight against crime assumed alarming proportions. After World War II, other countries followed suit due to the rise in crime [1, 647] .

The activities of private detective and security structures in the late 80s and early 90s. XIX century firmly entered the life of many states of Western Europe, including England, Germany, France and Italy, as well as the USA and Canada. Private investigation has become widespread in the United States, Canada, Europe, Japan and other countries due to the emergence of large private commercial and industrial enterprises (banks,

factories, etc.). In addition, in some countries, private detectives are actively involved in the process of investigating crimes, up to the production of individual investigative actions.

A wide range of problems related to law enforcement and crime investigation in the UK is solved with the help of employees of private detective agencies (services, bureaus). There is no regulation requiring the official registration of a person who is engaged in private detective work in the UK. As shown by the results of a study conducted by the Netherlands Office for the Prevention of Crime, the UK does not have any special legal rules and regulations governing the activities of private security and detective firms [2, 36-39].

In 2001, a law was passed that introduced mandatory licensing of private detective activities and, accordingly, registration of private detectives. To carry out tasks in the field of licensing and verification of private detective activity, the UK Industrial Safety Authority was created [3].

A private detective in the UK has a fairly wide range of special (technical) tools to carry out their activities. Even the crime laboratory of the London police is available for the detective. Persons who have passed a background check by government agencies for integrity and professional suitability have the right to access the database of the national police computer system.

There are many private detective agencies in the UK today. The most complete list of such bureaus (with contact information) is presented on the official website of the Association of British Investigators. About 70% of English private detectives used to work in the police. Therefore, it is no coincidence that there is close contact between private detective agencies and state law enforcement agencies (police) in investigating crimes and protecting human rights and freedoms [4, 122].

The emergence of private investigation in the United States was due to several reasons, the main of which is that the variety of forms of ownership required effective protection and security of the enterprise, which caused the need for private investigation services.

The idea of organizing a private investigation in the United States belongs to Allan Nat Pinkerton. He opened the first private detective agency in the United States, consisting of nine people, whose emblem was the image of a wide open eye, and the motto was the expression "We never sleep".

In American regulatory legal acts, two similar concepts are used: "private detective" (private detective) and "private investigaton" (private detective, investigator). In most cases, these concepts are interchangeable, but in some states there are real differences. For example, the New Jersey Law on Private Investigation actually fills them with different content. A private detective, according to this law, is a person who has received a private detective license. The owner of a licensed detective agency may employ assistants who are classified by the licensing authority as a private investigator or private investigator[5, 10].

Private detective activity in the USA is conceptually based on the following provisions of legal regulation, namely, the presence of three main types of private law enforcement organizations: 1) search bureaus; 2) security agencies; 3) security service in various industrial and commercial structures.

The study of foreign experience indicates that the state encourages this type of activity, creates favorable conditions for the work of private detectives and security agencies by adopting relevant legislation and providing the necessary information.

In the post-Soviet space, in particular, in the Russian Federation, the institution of private detective and security activities began to develop actively since the 1990s, which was due to the expansion of the private sector of the economy and the criminalization of business. Private detective activity, as an independent socially useful type of labor activity, appeared in Russia after the adoption on March 11, 1992 of the Law "On Private Detective and Security Activities in the Russian Federation".

The state was aware that without the help of non-state law enforcement agencies, it would not be able to ensure the safety of business activities and the protection of property. As the practical experience of Russia shows, private detective activity has successfully passed the stage of formation and is developing in the direction of the active formation of a civilized market of detective services. There is a progressive process of its transformation into an independent industry, claiming a worthy place in ensuring business security and having its own corporate interests [6, 19-23].

Focusing on a number of basic features of private detective work, V.G. Semenov offers the following definition: "...private detective activity is a special type of legal licensed activity provided for by law to provide services to legal entities and individuals on a reimbursable contractual basis in order to protect their rights and legitimate interests [7, 25].

According to S.M. Sabitova, "Private detective activity is a legally licensed type of private detective activity of individuals and associations that provides services to citizens, organizations, commercial enterprises on a contractual basis in order to protect the rights and legitimate interests of an individual, society and the state" [8, 73].

In the regulatory legal acts of individual countries, where this activity is regulated at the legislative level, the following definitions are given:

According to Russian law, a private detective is a citizen of the Russian Federation, registered as an individual entrepreneur, who has received, in accordance with the procedure established by law, a license to carry out private detective (detective) activities and provides services in accordance with the procedure established by law [9].

According to the legislation of the Kyrgyz Republic "On private detective and security activities", private detective activity is the provision of services on a paid contractual basis to individuals and legal entities by private detectives in order to protect the legitimate rights and interests of clients [10].

The CIS model law "On non-state (private) detective activity" indicates that this is a licensed type of activity for the provision of detective services provided for by this Law to individuals and legal entities on a contractual (paid) basis by non-state (private) detective organizations and detectives (individual entrepreneurs) [11 ].

One can observe a similar situation in the Republic of Kazakhstan, that is, private detective activity remains outside the scope of the law, which de facto continues to exist. However, in recent years, attempts have been made to legislatively regulate private detective activities in the Republic of Kazakhstan, in particular, a draft Law of the Republic of Kazakhstan "On Private Detective Activities" was prepared, however, this document was withdrawn without any motivation from the Parliament of the Republic of Kazakhstan by a decree of the Government of the Republic of Kazakhstan dated June 30 2017 No. 404).

The study of the problem of organization and legislative regulation of private detective and security activities showed that the legal regulation of this institution of public relations is not limited to the framework of one or more laws. This procedure is also associated with the adoption and addition of by-laws to address issues of civil law, criminal, criminal procedure, administrative (licensing, permitting, supervisory) tax and financial activities of a private investigation.

A study of the experience of individual countries of the post-Soviet space has shown that private security firms are legally granted the right to carry and use service weapons when providing security services to legal entities and individuals, but the possibilities of private detectives to use this right are severely limited [12].

Of course, the issue of granting the right to carry and use service weapons to employees of private security agencies, as well as private detectives, is a long-term and comprehensively discussed process, the adoption of a decision by the government can lead to a fundamental change in state policy in this area.

It can be said that many of the legal acts of the states of the post-Soviet space adopted in this area are very similar, since they regulate the procedure for its organization and maintenance, the creation and competence of private detective and security companies, the powers of private detectives, state control in this area. Enterprises engaged in security activities and private detectives have the right to assist law enforcement agencies in maintaining law and order. Individuals and legal entities that do not have the legal status of a private detective or a private security company are prohibited from providing the services listed by law.

Thus, the internal content of the conceptual apparatus of private detective activity is: firstly, a licensed type of activity based on the law; secondly, a law enforcement function aimed at providing services to individuals and legal entities, including in civil and criminal cases; thirdly, the subject engaged in private investigation may be subjects that meet all the requirements established by law; fourthly, the legal relationship between a private detective and a client arises on the basis of a bilateral agreement (agreement) concluded between them; fifthly, the activity is carried out exclusively, on a commercial basis, aimed at making a profit; sixth, the activity of a private detective is aimed at ensuring the protection of the rights and legitimate interests of the individual, society and the state.

The legalization of the institute of private detective activity today is one of the acute problems very relevant for the Republic of Uzbekistan, since in most countries of the European Union and the United States there are relevant special laws regulating detective and security activities at the legislative level, and the information obtained by private detectives is effectively used not only private companies, but also participants in the justice of these countries.

Based on the results of studying foreign regulations governing this activity, their experience, as well as expert assessments, positive aspects can be identified in the case of legislative regulation of this activity in the Republic of Uzbekistan.

The adoption of the law of the Republic of Uzbekistan "On private detective and security activities will allow de facto legalization of existing public relations. It is no secret that, despite the absence of legislative norms, certain persons are engaged in these activities, mainly former law enforcement officers with experience in investigative and criminal investigation work, despite the fact that security activities are the prerogative of law enforcement agencies of the Republic of Uzbekistan, the implementation which is prohibited by non-governmental organizations and individuals by the Decree of the Cabinet of Ministers of the Republic of Uzbekistan dated January 24, 2014 No. 16 "On measures to streamline the engagement in security activities in the Republic of Uzbekistan" [13]. However, in many non-state large commercial structures there are already security services, the so-called "security", that is, not all business entities use state security services.

In addition, the legislative regulation of private detective and security activities creates the opportunity, on the one hand, to control the activities of state entities providing private detective and security services, on the other hand, the receipt of additional sources of income in the state budget in the form of income taxes and state duties for its licensing.

In particular, according to information posted on Internet browsers (<https://dalegion.com/georgrafiya/363-uzbekistan.html>, <https://c-b-b.ru/detektiv-tashkent-agentstvo.html>, <http://uzbekistan.iapd.info/>, <https://stepandemura.ru/Private-detective-Tashkent>, <https://trudowiki.ru/tashkent/detektiv>, <https://ar-ar.facebook.com/privatedetektive/posts/2003772243031120/> and other sites ) you can make sure that private detective services are provided to consumers of the Uzbek society by private detectives, mainly from the Russian Federation.



The author supports the opinion of the Kazakh scientist A.N. Akhpanova, noting the presence of a similar problem in a neighboring state, according to which "... the adoption of a law on non-state detective activity will provide an opportunity to develop market services for small and medium-sized businesses in the field of private investigation, and without attracting public funds, which will create jobs and additional sources of tax revenue . For example, there are about 40 thousand pensioners in the system of internal affairs bodies, many of whom are employed in the provision of private security services" [14, 10-12].

It should be pointed out that the issue of legislative regulation of private detective activity in Uzbekistan was not raised, however, by citizen I.U. Khodzhimuratov posted in the electronic portal of collective appeals "MENING FIKRIM" the initiative "Creating a legislative basis for the implementation of private investigation activities", which collected all 112 votes, where a minimum of 10,000 votes is required [15].

Undoubtedly, studying the opinions and collecting only the votes of citizens for the adoption of this law is not enough. According to the author, first of all, it is necessary to justify the creation of such an institution, to reveal its positive and useful aspects, and ultimately to form public opinion.

One of the priorities for the state is the protection of the rights and interests of its citizens from criminal encroachments, which is carried out by law enforcement agencies. In conditions when the forces and means of the state are aimed at ensuring rapid economic progress and raising the standard of living of the population, the economic and technical capabilities of law enforcement agencies and the number of their employees will be clearly insufficient. Therefore, private detective and security activities will help relieve law enforcement officers and allow them to reorient their activities to the most important areas, in particular, to combat serious and especially serious crimes. On the one hand, the creation of private detective and security institutions increases the effectiveness of state policy to combat crime. On the other hand, such private institutions that carry out law enforcement function (for a long time it was the monopoly of the state) creates a competitive environment for state bodies authorized in this area. Private detectives can work even more efficiently than operatives and investigating authorities in certain categories of crimes, in particular, kidnapping of children, pets, economic crimes.

As foreign investigative and judicial practice shows, the heads of non-state commercial enterprises, when establishing or verifying the circumstances related to the commission or non-commission of illegal actions by employees of this organization, rarely turn to law enforcement agencies for help. This situation is connected not only with the distrust of the population in the law enforcement system, but also with the fact that the heads of commercial enterprises are trying to confidentially, without the intervention of pre-trial investigation bodies, turn to the services of a private detective in order to resolve the problems that have arisen.

As one of the positive aspects of the legal regulation of this activity, it can be pointed out that it will make it possible to form new professions such as "private detective", "private security guard", "bodyguard" and find employment for many dismissed employees who are still able to benefit society and the state. It is important to note that many former law enforcement officers find it difficult to find a worthy place in society, adapt to a new life, find a suitable job in the non-state sector. Their entrepreneurial activities do not always bring success. In this regard, it is easier for former law enforcement officers to engage in activities close to the previous profession.

The participation of various non-state law enforcement actors, organizations and associations in the system of law enforcement and the division of responsibility in this area will make it possible to achieve the main goal of law enforcement - the effective implementation of law enforcement functions, including in the field of criminal procedural legal relations. According to the Code of Criminal Procedure of the Republic of Uzbekistan, the normative consolidation of the position of persons who provide assistance for compensation or provide services for collecting evidence to the victim, defense counsel, suspect (accused) is currently

minimal. Therefore, legal acts are needed that can contribute to the emergence in criminal proceedings of new subjects of criminal procedural legal relations, including a private detective, to assist in the search and collection of potentially evidentiary or other information by the above persons. Fixing the legal norms that determine the legal status of a private detective in criminal procedure legislation and allow the possible use of factual data received by him as evidence, his relationship with the defense counsel in a criminal case will increase the competitiveness of the parties.

For example, the American criminal trial is one of the adversarial ones. Therefore, the work of private detectives is especially necessary for the defense, for lawyers. A private detective conducts a parallel investigation and collects evidence for the defenders in the case. It verifies the official investigation conducted by law enforcement officials and departments, whose representatives are sometimes inclined to hush up information that is inconvenient for the prosecution. To do this, a re-interview of witnesses is conducted in order to identify new facts and contradictions, the crime scene is examined, examinations are carried out, all evidence in the case (verbal, photo, video, etc.) is checked [16].

Modern realities give rise to the need for new services, such as the participation of a private detective in debt collection, in ensuring the security of the credit policy of commercial structures. In the same row is the establishment of illegal actions in bankruptcy, the identification of facts and circumstances of the illegal use of the results of intellectual activity, the identification of facts and circumstances of violations in the issuance of securities.

In addition, the possibilities of private detective and security activities can work effectively in family matters. Here we are talking about collecting data for future related family relationships, taking into account the national mentality, and not about adultery. Since, one of the most important issues for parents is the marriage and marriage of children or the choice of a suitable candidate, as well as family relations associated with the implementation of matchmaking.

Also, at present, in the Uzbek society, during the upbringing and education of children, protecting them from various negative influences becomes an acute problem. Private detectives or security guards can play an important role in keeping children away from criminal elements or habits. For example, today in England, 16-year-old private detectives are in great demand, who, under the guise of friends of your son or daughter, spy on him and report on his every move. Security agency services include covert videotaping of a child getting cocaine, smoking marijuana, or dating someone. Especially often immigrants from Asia who profess Islam resort to their services. They are very afraid that their daughters will become Europeanized. Some pay for detectives to follow their children to popular youth resorts. Now each detective firm conducts at least 50 child spying operations a year.

As you can see, in foreign countries, private investigation is successfully developing independently and actively assisting special state bodies in the fight against crime, as well as protecting the rights and interests of vulnerable participants in the criminal process at the stage of investigating and solving crimes. In addition, the state at the same time encourages the activities of private detective structures and detectives, legally regulates it and provides them with extensive rights.

Of course, the adoption of this or that legal act always implies the achievement of certain positive results, facilitating the regulation of certain social relations or their control by the state. This does not exclude the fact that the legal regulation of a certain process in society can lead to cases of violations of the rights and interests of individuals and legal entities, including the legalization of private detective activity. But such facts of illegal actions should not be systematic. Therefore, in order to prevent violations of the law, the state needs to create a regulatory legal framework that provides for a strict separation of private detective and security activities from law enforcement activities of the state.

It should be borne in mind that with weak control by authorized state bodies, as well as in the absence of regulatory legal acts that meet all the requirements, private investigation and security services can become a source of danger to the security of society and the state.

The legal guarantees of the above provision are administrative and criminal liability. For example, in Russia, to prevent and suppress the illegal activities of a private detective, criminal liability is provided for under Art. 137 and 138 of the Criminal Code of the Russian Federation, which provide for liability for the illegal collection and dissemination of information about private life and Art. 203 for abuse of authority by private detectives or employees of private security companies.

The activities of law enforcement agencies in combating crime will be more expedient and effective if non-state structures, including private investigators and security firms, participate in this direction. The possibility of attracting such institutions will ensure the solution of the tasks of promptly and completely disclosing criminal offenses, exposing the perpetrators, compensating for the harm (damage) caused, strengthening the competitiveness of the parties in all categories of disputes (economic, civil and criminal), and will also focus the efforts of law enforcement agencies on investigating more serious and complex criminal offences.

The experience of foreign countries in private investigation is useful for the Republic of Uzbekistan and will positively affect the fulfillment of tasks in the fight against crime. In countries where private investigation is legal, law enforcement agencies, organizations, enterprises and citizens are interested in the active participation of a private detective in criminal procedural legal relations, as this improves the mechanism for the effectiveness of combating crime, protecting the rights and legitimate interests of participants in the criminal process.

When legalizing private detective (detective) activity, the state should take into account the social and legal and economic realities of objective reality, the level of development of social relations, the legal culture of the population associated with the provision of private detective services to individuals and legal entities.

When developing a draft law "On private detective and security activities in the Republic of Uzbekistan", it is necessary to take into account not only foreign experience and international standards, but also the mentality of the Uzbek society, the peculiarities of the national legislation of the Republic.

Recognizing the existence of conflicting assessments of the role of private detectives in the public mind, we tend to believe that we should not be sensitive to the emergence of a private detective as a new subject in society. Of course, there may be some difficulties in the legalization of private investigation in the Republic of Uzbekistan, but they can be gradually overcome.

These requirements are: granting the right to engage in private investigation to a citizen of the Republic of Uzbekistan; availability of a permit (license) to carry out private detective activities in accordance with the procedure prescribed by law; provision of services to individuals and legal entities on a reimbursable contractual basis; achievement by the person of the age established by the law; fitness for health reasons to carry out private detective activities; higher legal education; work experience in the investigative and operational units of law enforcement agencies of the republic for at least 3 years or special training in detective agencies.

Legal guarantees that ensure compliance with the principles of private detective activity are provisions that provide for measures of legal liability for violations of the constitutional rights and freedoms of citizens and organizations. Depending on the violation of the law, the rights and interests of citizens, organizations, the responsibility of a private detective can be in the form of administrative, civil and criminal.

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