



OPPORTUNITIES FOR THE IMPROVEMENT OF THE REQUIREMENTS APPLIED TO THE CANDIDATE FOR THE POSITION OF JUDGE

Matkarimov Kudrat Kalandarovich,
Acting Associate professor of the Department
of Judicial, Law Enforcement Agencies and Advocacy
of Tashkent State University of Law, DSc
E-mail: matkarimovkudrat@gmail.com

Article history:	Abstract:
Received: April 6 th 2023 Accepted: May 6 th 2023 Published: May 8 th 2023	In the article, the requirements for the position of judge (citizenship, age and education) are studied and analyzed based on the legislation of foreign countries (Russian Federation, Tajikistan, Kazakhstan, Georgia, Azerbaijan, Belarus and Lithuania). In addition, the Law of the Republic of Uzbekistan "On Courts" states that certain terms defined as requirements for the position of judge need to be clearly explained in the law.
Keywords: citizen, foreign citizen, age, education, conviction, a person recognized by the court as incompetent or with limited legal capacity.	

The legislation of the Republic of Uzbekistan on courts is being harmonized with international documents along with the step-by-step work on ensuring the true independence of judges in our country, improving the system of selection of qualified personnel, training and appointment to the judicial profession, as well as increasing citizens' trust in justice. In particular, the Law of the Republic of Uzbekistan "On Courts"¹ and the Decree of the President of the Republic of Uzbekistan of December 7, 2020 "On measures to ensure the true independence of judges and increase the effectiveness of prevention of corruption in the judicial system"² are among them.

It should also be noted that the purpose of the Decree No. PF-60 of the President of the Republic of Uzbekistan dated January 28, 2022 "On the Development Strategy of New Uzbekistan for 2022 – 2026" is to further increase the role of the bodies of the judicial community in ensuring the true independence of the judiciary, the judges themselves the necessity of wide implementation of the principle of management and creation of effective mechanisms to prevent illegal influence on judges is stated.

It is noteworthy that Chapter 23, covering Articles 130-140 of the Constitution of the Republic of Uzbekistan, is dedicated to the Judiciary, which shows how much attention is paid to this institution.

In our national legislation on the court, there are separate requirements for the candidate for the position of judge and the persons who are elected and appointed to the position of judge.

According to Article 67 of the Law of the Republic of Uzbekistan "On Courts", the following are the requirements for a candidate for the position of judge:

- thirty-five years old;
- has a higher legal education;
- Citizen of the Republic of Uzbekistan.

In addition, part 2 of this article states that some persons cannot be candidates for the post of judge. Especially:

Accused of committing a crime;

Previously convicted or in respect of which the criminal case was terminated on non-rehabilitating grounds;

Having the citizenship of a foreign state or a residence permit or other document confirming the right to permanent residence in the territory of a foreign state;

Recognized by the court as incapable or partially incapacitated;

Registered in psychiatric or narcological institutions;

Having another disease that prevents the exercise of the powers of a judge.

In our opinion, there is a need to analyze the requirements for a candidate for the position of a judge and to study the legislation of foreign countries in this regard.

First of all, let's talk about age. According to the current legislation, the requirement to be a judge in the Republic of Uzbekistan is 35 years old.

¹ Қонунчилик маълумотлари миллий базаси, 29.07.2021 й., 03/21/703/0723-сон

² Қонун ҳужжатлари маълумотлари миллий базаси, 07.12.2020 й., 06/20/6127/1609-сон



In accordance with the legislation of the Russian Federation³, the age limit is set at 4 different categories.

First category: a judge of the Constitutional Court of the Russian Federation can be a citizen who has reached the age of 40 and has at least 15 years of work experience in the field of jurisprudence;

Second category: a judge of the Supreme Court of the Russian Federation may be a citizen who has reached the age of 35 and has at least 10 years of work experience in the field of jurisprudence;

Third category: judge of the cassation court of general jurisdiction, court of appeal of general jurisdiction, military court of cassation, military court of appeal, supreme court of the republic, regional, regional, federal city court, autonomous regional court, autonomous regional courts, military judge districts (sea) court, district arbitration court, appellate arbitration court, specialized arbitration court may be a citizen who has reached the age of 30 and has at least 7 years of experience in the field of jurisprudence;

The fourth category: judge of the arbitration court of a constituent entity of the Russian Federation, judge of the constitutional (statutory) court of a constituent entity of the Russian Federation, district court, garrison military court may be a citizen who has reached the age of 25 and has at least 5 years of experience in the field of jurisprudence.

The legislation of the Republic of Tajikistan sets the age limit in 2 different categories, 30 years – for high court today and 25 years – for other court days⁴.

In this regard, if we study the legislation of the republics of Kazakhstan⁵, Georgia⁶, Azerbaijan⁷, it is stated that the candidate must be at least 30 years old, while the legislation of Belarus states that he must be at least 25 years old.

The study and analysis of the legislation of Uzbekistan shows that the requirement to know the state language is not included in the list of requirements for candidates for the position of judge. But in the legislation of some foreign countries, knowledge of the state language is clearly defined as a mandatory requirement. For example, in the legislation of Tajikistan, Georgia, Belarus⁸ (Belarusian and Russian

languages), the requirement to know the state language is also mentioned as a mandatory requirement.

One of the next issues to be discussed is the educational level requirement for a candidate for the position of judge. According to the legislation of Uzbekistan, the candidate must have a higher legal education.

The analysis of Article 67 of the Law of the Republic of Uzbekistan "On Courts" shows that the requirement for a candidate for the position of a judge to have a higher legal education is established, but this level of education (bachelor's, master's) is not specified.

According to Article 11 of the Law of the Republic of Uzbekistan "On Education", higher education is divided into bachelor's (primary higher education) and master's (higher education) stages⁹. Therefore, we believe that the concept of "higher legal education" should be clearly defined at the level of the law.

As of January 1, 2022, Uzbekistan has determined the parameters for admission to training on a state order for the direction of jurisprudence in full-time and/or part-time undergraduate studies of higher educational institutions in the 2021/2022 academic year. According to him, to accept for training by state order Tashkent State Law University, Namangan State University, Termez State University, Samarkand State University, Karakalpak State University, Andijan Institute of Agriculture and Agrotechnologies, Tashkent State Transport University for the direction of jurisprudence in full-time and/or part-time education in law. Also preparing personnel with higher legal education: University of World Economy and Diplomacy, Tashkent International University of Westminster, Academy of the Ministry of Internal Affairs, Customs Institute, University of Public Security.

Analysis shows that there are only about 20 higher education institutions in Uzbekistan that have the right to provide higher legal education.

If we compare this situation with Kazakhstan (as of 2016), there are 127 legal education institutions that train 30,000 legal personnel every year. To conclude, systematic work should be done to increase the number of educational institutions that train future lawyers in our country¹⁰.

³ https://www.consultant.ru/document/cons_doc_LAW_648/

⁴ [ncz.tj/content/конституционный-закон-республики-таджикистан-о-судах-республики-таджикистан](https://content.конституционный-закон-республики-таджикистан-о-судах-республики-таджикистан)

⁵ https://online.zakon.kz/Document/?doc_id=1021164

⁶

<https://matsne.gov.ge/en/document/download/90676/29/ru/pdf>

⁷ <https://www.legal-tools.org/doc/e1ab39/pdf/>

⁸ <https://pravo.by/document/?guid=3871&p0=hk0600139>

⁹ Қонун ҳужжатлари маълумотлари миллий базаси, 24.09.2020 й., 03/20/637/1313-сон; Қонунчилик маълумотлари миллий базаси, 21.04.2021 й., 03/21/683/0375-сон, 12.10.2021 й., 03/21/721/0952-сон

¹⁰ Abdrakhmanova S.Zh. Improving advocacy in the Republic of Kazakhstan // Bulletin of the Institute of Legislation of the Republic of Kazakhstan, No. 4 (45) 2016, -P.59.



Uzbekistan, the list of related higher education courses for admission to the master's degree of state higher education institutions of the Republic is approved every year. According to it, starting from the academic year 2021/2022, management (organization and management of sports events), sports activities (by types of activities), military education before the draft, political science, economics (by branches and sectors), regional economy, world economy and international economic relations (by regions and types of activities), human resource management, computer science and programming technologies (by areas), information systems and technologies (by networks and sectors), information security (by sectors), digital economy (by networks and sectors), e-commerce, philology and language teaching (by languages), information service and public relations, journalism, foreign language and literature: English language, history, history (by countries and directions) and having completed the relevant and similar fields of study and having a basic higher education students were given the right to take the exam for admission to the magisterial specialty of jurisprudence.

As a result of this, the number of people who have successfully completed basic higher education in a field other than jurisprudence and entered the master's specialty of Tashkent State Law University is increasing year by year. For example, in the 2019/2020 academic year, 31 out of 124 master's students graduated from a non-jurisprudence (law) major, and in the 2020/2021 academic year, 137 out of 259 master's students received a non-jurisprudence (law) major.

In the 2021/2022 academic year, 69 out of 251 master's degree students graduated from other fields of study other than jurisprudence.

When entering a master's degree in law, the successful completion of which a person with a basic higher education (undergraduate) also has a higher legal education and has the right to work in such professions as judge, prosecutor, lawyer, interrogator, investigator.

In our opinion, legal scholars should fully understand the knowledge of jurisprudence and have the skills of their full application in practice. However, during one academic year, you can notice a significant difference between theoretical knowledge of the specialty and the practical skills of students who have a neuride basic higher education and have successfully completed a master's degree, and students who have a basic direction of jurisprudence for 4 years.

In our view, in order for a person with a non-law major to become a judge, the major must be jurisprudence. Because neither the time nor the scope

of the subjects provide an opportunity for a master's student to master the basic rules of jurisprudence during one academic year. Therefore, it is necessary to include in the Laws of the Republic of Uzbekistan "On Courts" and "On Prosecutor's Office" the norm that only persons with basic higher legal education can have the status of judge, prosecutor, lawyer, investigator, investigator.

Recognition of the legal education of candidates who graduated from an educational institution in a legal specialty abroad is another important and urgent issue. It is necessary to discuss two sides of this issue. The first issue is the recognition of the diploma of a person who graduated from a higher educational institution abroad in the territory of the Republic of Uzbekistan, the second issue is the degree to which this person knows the national legislation and the level of their use in law enforcement practice. Therefore, it is necessary to further study and analyze this issue in the future.

One of the following issues discussed is the length of service in this legal specialty. It is advisable to study this issue based on the positive experience of the Russian Federation and the Republic of Lithuania.

The specific definition at the legislative level of work, which is the length of service in the legal specialty, as well as the clarification of the timing of the start of the length of service in the legal specialty is one of the issues that await the decision of the national judicial legislation.

In addition, our national legislation does not describe whether Uzbekistan takes into account work experience if it is legal experience in the country.

In our opinion, it is advisable to introduce the existing practice in Lithuanian legislation into national legislation. At the same time, the types of work (activities) that are legal specialties should be clearly determined on the basis of a government decree. This would solve the problem related to the types of work (activities), which is the experience of the legal specialty, and its beginning.

Another important issue is that the meaning of the term "of impeccable reputation" is not clarified in our current legislation. If we pay attention to the legislation of foreign countries in this regard, in Lithuania, the Russian Federation and other Baltic states, the term "having an impeccable reputation" is fully explained in terms of content. Therefore, it would be appropriate to clearly define the criteria (content) of the term "having an impeccable reputation" in order to prevent different understandings.

According to the above, strengthening some of the requirements for candidates for the post of judge and approving some of the requirements lays the



groundwork for the formation of a corps of judges who will implement a truly fair judiciary.

REFERENCES:

1. Қонунчилик маълумотлари миллий базаси, 29.07.2021 й., 03/21/703/0723-сон
2. Қонун ҳужжатлари маълумотлари миллий базаси, 07.12.2020 й., 06/20/6127/1609-сон
3. https://www.consultant.ru/document/cons_doc_LAW_648/
4. ncz.tj/content/конституционный-закон-республики-таджикистан-о-судах-республики-таджикистан
5. https://online.zakon.kz/Document/?doc_id=1021164
6. <https://matsne.gov.ge/en/document/download/90676/29/ru/pdf>
7. <https://www.legal-tools.org/doc/e1ab39/pdf/>
8. <https://pravo.by/document/?guid=3871&0=hk0600139>
9. Қонун ҳужжатлари маълумотлари миллий базаси, 24.09.2020 й., 03/20/637/1313-сон; Қонунчилик маълумотлари миллий базаси, 21.04.2021 й., 03/21/683/0375-сон, 12.10.2021 й., 03/21/721/0952-сон
10. Abdрахманова S.Zh. Improving advocacy in the Republic of Kazakhstan // Bulletin of the Institute of Legislation of the Republic of Kazakhstan, No. 4 (45) 2016, -P.59.
11. Nurumov D. Role and importance of advocacy in legal support of business entities //The American Journal of Political Science Law and Criminology. – 2020. – Т. 2. – №. 12. – С. 117-122.
12. Matmurotov A. Issues of improving the procedure for passing the qualifying exam //Society and Innovation.//Society and innovation. – 2021. – Т. 2. – С. 205-221.
13. Мардонов К. Суд ҳужжатлари ва бошқа органлар ҳужжатларини ижро этишда қонунларга риоя қилиниши устидан прокурор назоратининг устувор йўналишлари //Общество и инновации. – 2023. – Т. 4. – №. 1. – С. 15-21.
14. Qodiraliyev S. Issues of improving the activities of the chamber of advocates. – 2021.