

## Analysis of the Activities That Can Be Done Simultaneously with the Position of a Judge

*Saddam Qodiraliyev*<sup>1</sup>

**Аннотация:** This article discusses the types of activities that can be carried out simultaneously with the position of a judge in the legislation of the Republic of Uzbekistan, their legal basis and content. Also, information is given on the Code of Ethics of Judges and the differences in the main law on the activity of courts, their content, and the experience of foreign countries in this field. Also, based on the analysis of the legislation of foreign countries, suggestions and recommendations were made to our national legislation.

**Ключевые слова:** judge, right to work, market relations, labor activity, scientific activity, creative activity, pedagogical activity, justice, political party.

According to Article 42 of the Constitution of the Republic of Uzbekistan, everyone has the right to decent work, free choice of profession and type of activity, to work in comfortable working conditions that meet safety and hygiene requirements, without any discrimination for their work and to be paid less than the specified minimum wage. It has been established that he has the right to receive a fair wage, as well as to be protected from unemployment in accordance with the law.

Also, Article 62 of our Basic Law states that the state must create conditions for the development of market relations and fair competition, and guarantee the freedom of economic activity, entrepreneurship and labor, taking into account the priority of consumers' rights.

Article 62 of the Law of the Republic of Uzbekistan "On Courts" deals with the duties of a judge, according to which a judge cannot engage in paid activities other than the position of a judge.

It is allowed to engage in pedagogical, scientific and other creative activities that do not interfere with the performance of the judge's duties.

Article 18 of the Code of Ethics of Judges, approved by the decision of the Supreme Council of Judges of the Republic of Uzbekistan No. 490 dated January 29, 2018, refers to the types of activities that judges are allowed to engage in simultaneously with the position of judge. These activities include:

scientific activity;

pedagogical activity;

creative activity;

social activity.

We can see the difference between the above two documents. That is, it is stated in the code of ethics that judges can engage not only in the types of activities specified in the Law of the Republic of Uzbekistan "On Courts", but also in "social activities".

Based on the norms defined in the above two documents, it can be concluded as follows. That is, a judge can engage in scientific, pedagogical, creative and social activities in paid state or non-state agencies, if this does not contradict the laws of the Republic of Uzbekistan and does not prevent the administration of justice.

---

<sup>1</sup> Senior Lecturer of the Department Judicial, Law Enforcement Agencies and Advocacy, Tashkent State University of Law



Therefore, during the term of office, a judge will be able to work on the basis of the above-mentioned activities at the same time as a judge and receive additional financial income for his work.

First of all, a judge is a person, a part of society, and he constantly works on himself, creates, engages in scientific-pedagogical and social activities in the judicial system.

A judge may engage in scientific, pedagogical, creative and social activities during his term of office, provided that it does not contradict the legal documents and does not prevent the administration of justice.

This rule applies only to practicing judges.

Article 12 of the Law of the Republic of Uzbekistan "On Science and Scientific Activity" defines the concept of scientific activity as follows: "Scientific activity is considered to be an activity aimed at the study of existence and the practical application of acquired knowledge in order to determine the characteristics, peculiarities and laws of objects, phenomena (processes), and consists of fundamental and applied research.

Fundamental research is a theoretical and (or) practical activity aimed at obtaining new knowledge about the basic laws of nature, the construction, formation and development of society and man, the relationship between them, as well as the study of objects created as a result of certain activities.

Practical research is mainly aimed at applying new knowledge and the results of fundamental research to achieve practical goals and solve specific problems.

A judge, in the performance of his duties, can engage in scientific activities, that is, write a doctoral dissertation, have academic degrees of Doctor of Philosophy (PhD) and Doctor of Science (DSc), academic titles of associate professor, professor, academician, publish articles in various publications, carry out pedagogical activities, as well as unpaid on a voluntary basis - judges of the judicial system can be members of the qualification collegium, trade union.

A judge may carry out his activities only if the above does not contradict the legislation of the Republic of Uzbekistan and does not interfere with the administration of justice.

When carrying out scientific, pedagogical, creative and social activities, a judge is obliged to comply with the generally recognized ethics and code of ethics of judges.

Another type of activity that can be engaged simultaneously with the judicial position is pedagogical activity. Article 14 of the abovementioned Law outlines the rights and obligations of persons carrying out scientific activities, according to which pedagogical activity is defined as the right of a person carrying out scientific activities.

Article 44 of the Law of the Republic of Uzbekistan "On Education" regulates the right to engage in pedagogical activities. In particular, persons with appropriate education, vocational training and moral qualities have the right to engage in pedagogical activities.

The teaching activity of a judge is understood as engaging in teaching activities in public and private schools, boarding schools, colleges, technical schools, higher educational institutions, related to the teaching of students, students outside the service and in their free time, in particular, teaching and performing other works related to teaching activities.

By the Decree of the President of the Republic of Uzbekistan "On measures to radically improve the system of training candidates for judicial positions, retraining and advanced training of judges and employees of the court apparatus" the Higher School of Judges under the Supreme Judicial Council of the Republic of Uzbekistan is entrusted with several powers, tasks and duties. In particular, in paragraph 11 of the Charter of the Higher School of Judges under the Supreme Judicial Council of the Republic of Uzbekistan, adopted on the basis of a resolution, the Higher School of Judges jointly or hourly work of judges, law enforcement officials, lawyers, specialists of research and higher educational institutions, ministries, departments and other specialists involvement in the implementation of pedagogical activities on payment terms. This norm also enshrines the right of



judges to engage in pedagogical activities simultaneously with their posts and opens up a new direction for them.

It should be noted that pedagogical activity is a profession that encourages a person to constantly work on himself, acquire new knowledge, develop professional speech and other similar abilities. In turn, giving judges the opportunity to engage in pedagogical activities simultaneously with the judicial position is an achievement not only for the judge himself, but also for the education system. Teaching in combination with practice and theory allows you to conduct high-quality classes from an experienced teacher (judge).

According to the Code of Ethics for Judges, creative activity is defined as an activity that can simultaneously engage in the judicial profession.

Creative activity is a form of human or collective activity - the creation of a qualitatively new, useful object for society, which did not exist before. This is not against the law if the judge himself or in a community is trying to create this product of creative activity. The creative activity of a judge means the creation of musical works, prose and poetic works and other works of art during off-duty hours.

According to the United States Code of Judicial Morality, a judge may be a member, officer, or director of a nonprofit organization as long as it does not interfere with the legal system or the administration of justice. This code prohibits a judge from being a personal advocate for an individual family.

In the activities of judges of international courts, in particular the US Supreme Court, it can be noted that every autumn month the composition of the US Supreme Court goes on a full sabbatical for three months. At this time, applications and complaints to the Supreme Court are not accepted. During this period, they are completely engaged in creativity.

A study of the experience of foreign countries shows that in the legislation of many countries, judges, like our national legislation, have the right to engage in scientific, pedagogical and creative activities.

In particular, according to Article 28 of the Constitutional Law of the Republic of Kazakhstan "On the Judicial System and the Status of Judges," the professional activities of judges are assessed by the Commission on the Quality of Justice under the Supreme Court in cases provided for by this Constitutional Law. The Law states that a judge may not hold a paid position other than teaching, scientific or other creative activity, and that judges may not be members of parties, trade unions, support or oppose any political party.

Article 94 of the Law of the Republic of Latvia "On Judicial Power" is called "Assessment of the Professional Activities of Judges" and on the basis of the law, judges are given the right not only to engage in pedagogical, scientific or other creative activities, but also is considered as an activity to improve the qualifications of a judge, the use of the right is considered as a positive circumstance when assessing the professional activities of judges.

In accordance with article 104 of the Law of the Republic of Azerbaijan "On Courts and Judges," it is established that judges cannot occupy any elected or appointed positions, engage in entrepreneurial, commercial or other paid activities, except for scientific, pedagogical and creative activities.

The Code of Judicial Ethics of the Russian Federation establishes several fundamental restrictions and requirements for judges. In particular:

- these activities, apart from the judge, cannot be engaged in by other persons and the possibility of the judge's participation in mass events that prevent him from fulfilling his professional duties that negatively affect the independence of the judge is limited;
- in the course of judicial activity does not have the right to engage in other legal practice, engage in advocacy or provide legal services to citizens;
- limits itself in public assessment, statements, sentences concerning the tasks and activities of local government bodies, as well as the heads of these bodies;



- not entitled to engage in entrepreneurial activity;
- not to participate in duties related to political activities.

The Code of Ethics of Judges of the Republic of Tajikistan also regulates the activities of judges of this state, who can engage in the judicial profession at the same time. Article 14 of this code is called "Participation in activities related to the development of law and legislation," according to which a judge has the right to participate in activities aimed at improving the legal system, judicial and legal reforms, legislation and justice. If this activity does not contradict the legislation of the Republic of Tajikistan, a judge can participate in scientific conferences and conferences, write articles and books, engage in scientific and pedagogical activities, as well as other activities in the field of law, legislation, and justice. It should also be noted that the normative acts of the Republic of Tajikistan describe relatively general types of activities that can be engaged in simultaneously with the judicial position.

The above analysis, study of the experience of foreign countries and CIS countries prompted to develop the following proposals for types of activities that can be carried out simultaneously with the judicial position.

Firstly, it is necessary to harmonize Article 62 of the Law of the Republic of Uzbekistan "On Courts" and Article 3 of the Code of Judicial Ethics, approved by Decree of the Supreme Judicial Council of the Republic of Uzbekistan of May 15, 2024 No. 1903.

Secondly, based on the experience of the Republic of Latvia, it is necessary to introduce a system for assessing the pedagogical, scientific or other creative activity of a judge as an improvement in his qualifications. In addition, one of the main criteria for a positive assessment of the activities of judges is the implementation by a judge of scientific activities, as a result of which it is necessary to take into account the preparation of scientific works aimed at improving the legal foundations of justice. This will contribute not only to increasing the knowledge of the judge as a specialist, but also to improving the legal foundations of justice.

Thirdly, in order to increase the coverage of pedagogical activities, which can be carried out simultaneously with the judicial position, 50 percent of the teaching staff involved in the training of candidates for judges at the Higher School of Judges under the Supreme Judicial Council of the Republic of Uzbekistan have experience in this position for at least 10 years. This change does not mean that the person holding the judicial position has the right to simultaneously engage in teaching activities, but means that future judges will be trained by an educator (judge) who has extensive experience in this area.

In conclusion, the fact that the judge is engaged in the above and analyzed activities does not violate the requirements of the law. However, it should not be forgotten that the activities of a judge should not contradict the legislation of the Republic of Uzbekistan and impede the administration of justice in the main profession of a judge.

#### REFERENCES:

1. <https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges#:~:text=A%20judge%20may%20participate%20in,management%20and%20investment%20of%20funds.>
2. [https://online.zakon.kz/Document/?doc\\_id=1021164&pos=426;-35#pos=426;-35](https://online.zakon.kz/Document/?doc_id=1021164&pos=426;-35#pos=426;-35)
3. <https://lawyer-khroulev.com/wp-content/uploads/2019/09/Zakon-Latvii-o-sudebnoj-vlasti-ru.pdf>
4. [https://republic.preslib.az/ru\\_d4-61.html](https://republic.preslib.az/ru_d4-61.html)
5. Code of Judicial Ethics of the Russian Federation. Approved by the VI All-Russian Congress of Judges of the Russian Federation on December 2, 2004. [https://base.spinform.ru/show\\_doc.fwx?rgn=7639](https://base.spinform.ru/show_doc.fwx?rgn=7639)
6. CODE OF ETHICS FOR JUDGES OF THE REPUBLIC OF TAJIKISTAN. Adopted by the Conference of Judges of the Republic of Tajikistan on November 29, 2013. <https://sud.tj/upload/documents>

