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Main Guarantees Of The Independence Of Judges

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ABSTRACT

This article provides the theoretical and legal analysis of the ongoing judicial reforms in the Republic of Uzbekistan, the issues of the independence and inviolability of judges, the inadmissibility of interference in the administration of justice, the secrecy of judicial meeting, inadmissibility of disrespect towards judges, the liability for interference into the inviolability of judges.

KEYWORDS

Independence Of Judges, Immunity Of Judges, Justice, Disciplinary And Administrative Liability Of Judges, Humanity, Legitimacy, Fairness, Impartiality And Transparency, Protection Of Justice.

INTRODUCTION

The independence and inviolability of judges, the state's guarantee of non-interference in their activities, and the high level of material and social security are the factors that lead to a lawful, fair and just court decision.

The UN Basic Principles on the Independence of the Judiciary state the essential aspect of the Independence of judges as: "The independence of the judiciary is guaranteed by the state and enshrined in the country's constitution or laws. All state bodies and other

institutions must respect and adhere to the independence of the judiciary." [1]

The Universal Charter of the Judges, which was adopted by the International Association of Judges, states that "The independence of the judge is indispensable to impartial justice under the law. It is indivisible. All institutions and authorities, whether national or international, must respect, protect and defend that independence." [2]

The unconditional observance of the law by a judge, the honest and conscientious performance of his/her official duties are crucial in maintaining the honor, dignity and business reputation of a judge and the reputation of the court system in general.

While carrying out his/her professional activity, a judge shall strictly follow the terms of the Constitution and other laws of the Republic of Uzbekistan; prevent any external influences; resist threats, pressure and illegal influence, direct or indirect interference in the judicial process; and ensure the protection of human rights and freedoms of citizens, honor and dignity, property interests of institutions, enterprises and organizations.

The Article 112 of the Constitution of the Republic of Uzbekistan guarantees the fundamental terms such as the Independence of judges, their obedience to the law, the inadmissibility of any interference in the administration of justice and the fact that such interference is punishable by law. [3]

It should be noted that the concept of inviolability of judges play an important role in ensuring that they are independent and subject only to the law. The independence and inviolability of judges are guaranteed by the Constitution of the Republic of Uzbekistan, the Law "On Courts" and the Law "On the Supreme judicial council of the Republic of Uzbekistan". According to these provisions, the main guarantees of the Independence of judges are the establishment of strict procedures by the law of the selection, appointment, termination of judges from the office; establishment of strict procedures for the administration of judges, the safeguards of their inviolability and secrecy of the deliberations of judges in

making decisions and the prohibition of the inquiries of their disclosure; imposition of liability for the acts of interference in the administration of justice and violation of judges` integrity as well as provision of material and social security for judges at the expense of the state.

The principle of the inviolability of judges, which is one of the main guarantees of the Independence of judges, is a constitutional principle that from the basis of justice.

The inviolability of a judge plays an important role in preventing the restriction of the rights of judges in the administration of justice and limiting any interference with them in the performance of this task. Therefore, according to the current legislation, any signs of disrespect or any other actions of blatant disregard towards a judge will result in a liability under the law.

Influencing judges in any way in order to prevent a particular case from being considered comprehensively, completely, and impartially, or to obtain an illegal court decision, is punishable under the law.

The inviolability of judges applies to all judges, regardless of the level of the judiciary or the type of case.

In accordance with the new Law of the Republic of Uzbekistan "On Courts", the identity of the judge is subject to immunity. The inviolability of a judge shall apply to his residence, office, means of transport, correspondence, belongings and documents. [4]

In order to ensure the personal safety of judges, they shall be provided with service

weapons and personal protective equipment with the right to keep, carry and use them according to the list established by the Chairman of the Supreme Court of the Republic of Uzbekistan. If necessary, by the decision of the chairman of the relevant court, the body of internal affairs shall provide armed guards for the judge and his family.

Criminal proceedings against a judge may be instituted only by the Prosecutor General of the Republic of Uzbekistan. Criminal proceedings may not be instituted without the decision of the Supreme judicial council of the Republic of Uzbekistan and without the consent of the Plenum of the Supreme Court of the Republic of Uzbekistan.

The summoning of a judge to law enforcement agencies for questioning as a witness or suspect shall be allowed only with the consent of the relevant panel of judges.

A measure of restraint in the form of detention against a judge may be applied only in cases, when he has been charged with a serious crime or a crime with intention that has resulted in the death of a person. This rule also applies to a former judge, who has been accused of committing such a crime during his tenure as a judge.

If a judge is detained on suspicion of committing an offense, the Supreme judicial council of the Republic of Uzbekistan must be notified no later than three hours from the moment of his arrest, with copies of the documents on which the detention is based.

Access to the judge's residence or office or transportation, their inspection, search or seizure of items from them, accessing a telephone conversation of a judge, inspecting

a judge personally, his correspondence, belongings and documents may be performed only by a court decision or with the permission of the Prosecutor General of the Republic of Uzbekistan.

These legal norms mean that judges cannot be subjected to unjustified criminal and administrative liability or be personally searched and examined in a manner not prescribed by law.

On December 7, 2020, the Presidential Decree "On measures to ensure the true independence of judges and increase the effectiveness of prevention of corruption in the judiciary" was issued. This decree is aimed at ensuring the true independence of judges and to raise the confidence of citizens in justice to a new level.

The decree provides for the creation of legal mechanisms to protect the professional activity of judges in the administration of justice from any external influences, to maintain the transparency in the processes of selection, training, appointment of judges, to ensure impartiality and transparency in the process of evaluation of judges, to introduce the modern information technologies in these processes, as well as to prevent corruption among judges and court staff. [5]

Additionally, newly introduced measures, such as submitting annual reports to the President by the Chairman of the Supreme judicial council about the factors hindering the administration of justice as well as the establishment of the Judicial inspectorate for immunity and prevention of corruption at the Supreme judicial council of the Republic of Uzbekistan, have become important initiatives towards

ensuring the true independence of the judiciary and strengthening the confidence of citizens in justice further.

If cases of interference with the inviolability of judges occur, the Chairman of the Supreme judicial council of the Republic of Uzbekistan submits a proposal to the prosecutor's office to investigate the case. The application shall be considered by the prosecutor's office and the Prosecutor General's Office of the Republic of Uzbekistan notifies about the initiation or refusal to institute criminal proceedings.

This, in turn, plays an important role in ensuring the immunity of judges, as well as the strengthening the confidence in the judicial system by the head of the state.

In conclusion, it should be noted that the Constitution of our country and the laws adopted on this basis are important in enhancing the prestige of the judiciary in society, ensuring the true independence of judges and the fact that they act only on the basis of the law. When a citizen comes to court with the hope to find a justice, he can develop trust in the system with such qualities as true humanity, legitimacy and justice. According to the words of the head of our state, our main goal should be aimed at strengthening the confidence of our people in the judiciary by protecting the rights and freedoms of citizens and turning the court into a real "Adobe of justice".

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