



## ASSISTANT JUDGE IN ECONOMIC AND CIVIL PROCEDURE LEGAL STATUS

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### ABSTRACT

In this article, the main concepts, opinions and comments of national and foreign legal scholars regarding the assistant judge and clerk of the court session, the legal basis of the activity of the assistant judge (clerk of the court session), the necessary requirements for the assistant judge and the clerk of the court session, their relationship with the persons who implement justice, opinions on the staff of the judicial apparatus, the participation of the assistant judge and clerk of the court session in the court session, duties and powers based on the experience of foreign countries, the rights and obligations of the assistant judge (secretary of the court session), responsibility, grounds for self-rejection, court the order of the meeting, national and foreign experience, proposals for improving the legislation.

**KEYWORDS:** Assistant judge, judicial court, protocol, economic process, necessary requirements, arbitration, arbitration court, self-withdrawal.

### INTRODUCTION

The priority tasks of ensuring justice are the formation of a truly fair judicial system based on the idea of "For human dignity" and directing its activities to the effective protection of the public interest and human dignity, by achieving the adoption of fair court decisions, the people, including to strengthen the confidence of entrepreneurs in the judicial system, to ensure that every person sees his reliable defender in the form of courts and judges, to create all the opportunities for citizens and entrepreneurs to protect their rights and legal interests in courts, to resolve disputes and full implementation of the principles of equality of parties, improvement of the legislation aimed at ensuring the impartiality of the courts was determined. Therefore, it is not an exaggeration to say that the role of the assistant judge covers a large part of the court proceedings and court cases today. Just by his name, the assistant judge is considered a great power for the judge (court). Studying and researching its participation, legal status and place is of great importance for today's economic and civil process.





## **MATERIAL AND METHODS**

Historical, analytical-analytical, comparative, analogical, structural-functional, modeling methods are used within this article.

## **RESEARCH RESULTS**

The opinions of legal scholars on the participation of the assistant judge (senior assistant) - the secretary of the court session are analyzed, concepts related to the activity of the assistant judge are clarified and the author's rate is given. Based on this, suggestions and recommendations are made.

It is necessary to clarify the legal status of the assistant judge (secretary of the court session), who is considered another participant in economic court proceedings. Because the officials of the economic court, for example, the judge's assistant (secretary of the court session) form another separate procedural group of economic process participants. The peculiarity of this group is that this person enters into procedural legal relations as employees of the economic court apparatus. If we pay attention to the criminal procedural legislation, the secretary of the court session is clearly defined as the state bodies and officials responsible for conducting criminal cases. In particular, there is a chapter titled "state bodies and officials responsible for conducting criminal cases"[1]. This chapter includes exactly the judge's assistant (court clerk). And this clearly and clearly defines where his place should be. However, there are different opinions on determining its place in the Economic Procedural Law and even in the Civil Procedure Code (hereinafter referred to as the Civil Procedure Code). V.V.Petrova assessed the position and role of the judge's assistant in the arbitration (economic) court and believes that the status of the judge's assistant is not sufficiently regulated by the law. The author also believes that more procedural duties can be assigned to the judge's assistant in order to effectively assist the judge in discharging him from court cases[2].

According to M.I. Kleandrov, judges' assistants should be separated as a separate group (separate subject) or classified as a subject group like a judge[3]. Y.A.Tresheva court clerk and assistant judge are subjects of arbitration (economic) procedural relations, but he believes that court clerk and judge assistants can be included in the participants of the proceedings having procedural legal relations with the arbitration (economic) court. He emphasizes that the assistant judge, as a civil servant, exercises certain powers of the judicial body (Article 52 of the EPC)[4]. The assistant (senior assistant) of the judge acts as the secretary of the court session at the court session (Article 55 of the Civil Procedure Code). The secretary of the court session monitors the delivery of



summonses to the summoned persons. At the same time, he emphasizes that the position of assistant judge should increase the level of activity of arbitration (economic) courts and ease the burden on arbitration (economic) judges themselves. According to the Decree No. PF-4966 of the President of the Republic of Uzbekistan "On the radical improvement of the structure of the judicial system of the Republic of Uzbekistan and measures to increase the efficiency of its activity", the position of the secretary of the court session has been terminated, the positions of senior assistant judge and assistant judge was included. Even if the position of the secretary of the court session is terminated, his name is still preserved, and it is determined that the assistant judge (senior assistant) will participate as the secretary of the court session when the prescribed procedural actions are performed. The judge's assistant (senior assistant) performs the following actions to prepare the case for trial:

- 1) examines applications received by the judge and makes suggestions regarding their review, prepares drafts of court documents[5];
- 2) participates in solving the tasks of preparing the case for trial, including determining the scope of the persons participating in the case and solving the issue of involving other persons;
- 3) participates in the preparation and organization of court proceedings;
- 4) ensures the timely consideration of applications and appeals, as well as postponed or suspended cases;
- 5) informs the parties and other participants of the proceedings about the time and place of hearing the case.

The judge's assistant (senior assistant) can also perform other actions according to the judge's order (Article 206 of the Civil Procedure Code).

The following arguments can be given regarding the entry of the assistant judge (secretary of the court session) into certain official legal relations with the economic court. First, the assistant judge (secretary of the court session) can exercise his procedural rights and obligations by keeping the minutes of the court session, checking the attendance of the persons who must participate in the court session, and other procedural actions. Secondly, the assistant judge (senior assistant) acts as the secretary of the court session. It should be noted here that the secretary of the court session, although not included in the category of persons assisting justice, is mentioned in the relevant chapter. This paves the way for debates about which category of participants of the proceedings the secretary of the court session should include. As a general rule, a common criterion for persons assisting justice is that they have no legal interest in the outcome of the case. In this respect, they differ from



other participants in the proceedings. M.I. Kleandrov, assistant judge, although according to certain characteristics, belongs to persons who assist in the implementation of justice, but due to the fact that he has certain independent procedural functions assigned to him according to the law and by the judge of the arbitration (economic) court, he believes that it should be included in the group of "arbitration (economic) courts of different levels"[6].

In our opinion, another difference between the judge's assistant (secretary of the court session) and the justice assistants is reflected in the order of their involvement in the process. The preliminary selection of an assistant judge (secretary of the court session) by the court does not depend in any way on the will of the persons participating in the case. The parties have the right to propose expert or interpreter candidates to the economic court, to make a request to summon a witness, but they do not participate in the selection of the candidate of the assistant judge (secretary of the court session). The persons participating in the case have the right to reject the clerk of the court session based on the grounds provided for in the Code, which are enshrined in Article 21 of the civil procedure and economic procedure code. Just like the judge of the economic court, the assistant judge and the secretary of the court session also perform public duties within the scope of their powers. Their activities are closely related to the activities of judges, because they perform actions that are part of the court's activity of justice, but do not require the same high qualifications as judges.

The actions authorized to be performed by the judge's assistant (secretary of the court session) are aimed at freeing judges from technical and organizational tasks related to the process of administration of justice, and therefore are included in the judicial apparatus. According to Z. Esanova, it is necessary to transfer court orders to court assistants and strengthen their status (requirements for education, age, qualifications and experience)[7]. Such a feature of the functions performed by the assistant judge (secretary of the court session) determines the application of the requirement of impartiality to them. As we have noted, the procedural status of the assistant judge (secretary of the court session) has several specific features that distinguish it from those who assist justice. First, the assistant judge (secretary of the court session) participates in economic procedural legal relations, because they are employees of the judicial apparatus and have official legal relations with the court. Secondly, the activity of the assistant judge, in addition to keeping minutes of the court session, is aimed at helping the court in the implementation of procedural actions in the cases provided for in Article 58 of the EPC.





Also, the proper performance of the procedural duties of the assistant judge (secretary of the court session) is guaranteed only by disciplinary measures. M.I.Kleandrov expresses his opinion that assistant judges and secretaries of the court session should be distinguished as a separate group of participants in the arbitration (economic) process. The assistant judge (secretary of the court session) is considered to be the official of the economic court, and the procedural right does not have subjectivity, but has a scope of authority. They participate in the economic process within the scope of their professional duties and have certain legal powers consisting only of procedural obligations, not as individuals, but as public entities whose activities are limited to the scope of authority granted to them by law. they work. S.Y.Channov stated that the assistant judge enters into a legal relationship with the court, and this is "a voluntary social relationship regulated by legal norms and protected by the coercive power of the state, and arises as a type of professional activity in the process of organizing and implementing public service"[8].

The activities of the judge's assistant (secretary of the court session) can be concluded from the model official regulations that have organizational, legal, informational, documentation and other directions aimed at ensuring the activity of the judge. Therefore, the assistant judge (secretary of the court session) differs from other persons participating in the economic process by the purpose, tasks, specific features of the legal relationship with the court, the range of rights and obligations (defined in local documents), responsibility measures. Based on this, the judge's assistant (secretary of the court session) cannot be included in the list of persons assisting the justice of the economic process, as well as including in the composition of the court in EPC (as a separate subject) in compliance with legal technical rules and provided in Article 52 of EPC "Secretary of the court session" should be reflected in Article 19<sup>1</sup> of Chapter 3 "Composition of the Court" of this Code.

In addition, some work is being done to digitize the activities of the assistant judge. In this case, the assistant judge conducts court minutes using audio and video recordings, and after the court session, the clerk of the court session uploads the transcript and the parties can read and review it. If it needs to be changed, the secretary can be notified in real time through the screen and the secretary can change it. After all parties have made changes and corrections, clicked to confirm, and the clerk has saved the transcript, the judge will click "end trial" and all parties will exit the trial. At this point, it should be said that in terms of digitalization of the activities of assistant judges (secretaries of the court session), S.S. Gulyamov and A.S.Sidikov stated that if a virtual room is organized in the courts, the participation of the secretary of the court session in the virtual process is not required, because the report





is automatically saved in the chat[9]. At the end of the virtual trial, the judge uploads the chat conversation to a separate electronic file, which serves as a record of the court session.

In this regard, according to the experience of foreign countries, that is, Georgia, audio and video recordings of the court session are used in the preparation of minutes of court sessions. Copies of the audio recording will be sent to the parties within 3 days[10]. Also included is a program that allows real-time transcription of court hearings at the Singapore Supreme Court. These programs convert the audio recording into a paper recording in real time. It is also stored in works in the form of an audio protocol[11]. Since 2016, the Global Spechtex and Spechtex programs have been used in Hungarian courts, these programs make it possible to draw up a transcript of the court session[12].

All courts in Ireland are provided with digital audio recordings. These audio recordings and their transcription can be viewed with the permission of the judge[13]. According to O.Pirmatov, a robot based on artificial intelligence performs the function of the secretary of the court session in online court sessions. A robot assistant in online court sessions signs court documents with his electronic signature. Minutes of online court hearings are compiled by artificial intelligence-based programs. After the court session, the minutes are confirmed by the electronic signature of the presiding officer and the secretary of the court session.

## **CONCLUSION**

Based on the above, in conclusion, as a result of this research, we have seen that there are advantages and disadvantages associated with the participation of the assistant judge (secretary of the court session) in the economic and civil court and other courts. We analyzed it with the experience of foreign countries and the aspects encountered in practice. In order to solve these issues, we will present recommendations and suggestions for solving a number of existing problems and improving the legislation.

Firstly, there is the position of assistant judge, but it is proposed to introduce the position of court clerk and pay them according to their rank and duties.

Secondly, it is necessary to assign some tasks of the judge to the assistant judge. For example, a court order, simplified proceedings, etc.

Thirdly, it is necessary to determine the requirements for the assistant judge and reflect it in the Law "On Courts".

Fourthly, in order to determine the legal status of the assistant judge, it is necessary to clearly define his rights, duties and responsibilities in the Law "On Courts".





Fifth, it is proposed to hire assistant judges not at the rate of 0.25, 0.5, 0.75, but at the full rate of 1.

Sixth, based on the experience of foreign countries, it is necessary to create the protocol of the court session in electronic form and increase the possibilities of its electronic confirmation, but it is impossible to use all robots instead of the judge's assistant.

Seventh, it is necessary to create a digital space (ODR - Online Dispute Resolution) that allows for online consideration and resolution of cases decided by the judge's assistant, to reach an agreement in the pre-trial process, and to remotely obtain court documents (ODR - Online Dispute Resolution). It only works in online mode.

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