



# Constitutional foundations of legal regulation of judges' labor in the republic of Uzbekistan

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**Abstract:** This article examines topical issues concerning the constitutional foundations of legal regulation of judges' labor in the Republic of Uzbekistan.

The principles and guarantees of judges' labor enshrined in the Constitution are identified and analyzed.

**Keywords:** Judge, judges' labor, constitutional foundations, labor-legal status, constitutional principles.

**Introduction:** The legal regulation of judges' labor relations represents one of the most complex and controversial problems of contemporary labor law. The special constitutional-legal status of the judicial corps creates a unique situation in which classical institutions of labor law require substantial adaptation to ensure the principle of judicial independence enshrined in Article 130 of the Constitution of the Republic of Uzbekistan [1].

The question of the legal nature of judicial activity and judges' place in the system of labor relations represents a complex theoretical-legal problem requiring comprehensive analysis of constitutional principles and labor legislation.

The special status of judges enshrined in the Constitution of the Republic of Uzbekistan creates a unique legal construct that combines elements of public-legal regulation with labor law institutions.

The relevance of studying the constitutional foundations of legal regulation of judges' labor is determined by the necessity of creating an effective system of guarantees for judicial independence while simultaneously ensuring the social-labor rights of persons administering justice. The Constitution of the Republic of Uzbekistan, adopted in 2023, lays

fundamental groundwork for the formation of a special legal regime of labor relations in the judicial system.

First and foremost, it should be understood that judges in the Republic of Uzbekistan are persons vested with authority to administer justice in accordance with law. Accordingly, all judges in the Republic of Uzbekistan possess unified status [2].

The principle of judicial independence enshrined in the Constitution of the Republic of Uzbekistan directly relates to labor law, as it determines the special nature of judges' labor relations, excluding the possibility of applying traditional mechanisms of worker subordination to employer.

Speaking of judicial independence directly affecting labor relations, we need to highlight several important aspects.

### **1. Functional Independence**

This aspect is enshrined in Article 136 of the Constitution of the Republic of Uzbekistan and presupposes that a judge in administering justice is subject only to the Constitution and law [1]. This creates a unique situation in labor law where an employee (judge) cannot receive mandatory instructions from an employer (state) regarding the content of their work activity.

### **2. Procedural Independence**

Procedural independence means inadmissibility of interference in the consideration of specific cases. In the context of labor law, this excludes the possibility of applying disciplinary measures for judicial decisions made, which represents a significant departure from general principles of labor discipline. Furthermore, Article 9 of the Law of the Republic of Uzbekistan «On Courts» states that «any interference in judges' activities in administering justice is inadmissible and entails liability in accordance with law» [2].

Thus, procedural independence enshrined in the Constitution for this category of workers not only creates special legal relations with the employer but also guarantees liability for persons interfering in judges' exercise of their powers. Moreover, it is not permitted to impose on judges any duties not related to the administration of justice.

### **3. Organizational Independence**

This manifests in the special procedure for appointment, transfer, and dismissal of judges from office, which fundamentally differs from ordinary labor relations regulated by the Labor Code of the Republic of Uzbekistan. Moreover, the state has delegated corresponding functions for selection, appointment, transfer, and dismissal of judges to specific state bodies, one of which is the Supreme Judicial Council of

the Republic of Uzbekistan, which bears the status of a constitutional body.

When analyzing problems regarding the labor-legal status of judges in the Republic of Uzbekistan, we need to determine its constitutional-legal foundations, the fundamental base for which is formed by constitutional norms. These norms, based on basic principles of judicial power, subsequently find reflection in laws and special subordinate acts regulating specific legal relations.

Various constitutions include numerous constitutional-legal principles; they may differ in scope and content, yet it is still possible to identify the most general ones.

For example, E.B. Abrosimova identifies such principles as universality of judicial protection, or free access to justice, independence of judicial power, administration of justice only by proper judges and appropriate courts, existence of constitutional prohibition on establishment of extraordinary and special courts, transparency (publicity, openness, accessibility) of judicial activity, people's participation in administration of justice, and other principles [3].

In this context, it would be appropriate to pay special attention to and analyze principles arising from the norms of our Constitution.

The principle of judges' irremovability is a fundamental principle and represents a specific modification of the fundamental labor right to protection from unjustified dismissal. Unlike ordinary labor relations where protection from dismissal bears a relative character and permits termination of employment contract on certain grounds, judges' irremovability establishes absolute protection from termination of powers without compliance with a strictly defined procedure enshrined in law.

From a functional standpoint, we could compare this principle with the institution of stability of labor relations in labor law, which is strengthened by the supreme legal force of the Basic Law.

The institution of judges' immunity represents a qualitatively new level of protection of labor rights, extending beyond the framework of traditional worker guarantees. Immunity ensures not only protection from unlawful dismissal but also creates a comprehensive system of protection from any forms of influence that may affect the independence of judicial activity.

Labor legislation of Uzbekistan provides for protection of workers from discrimination and unlawful actions of employers; however, judges' immunity extends these guarantees to the level of protection from any forms of coercion or pressure, including criminal prosecution without compliance with special procedure.

International practice confirms the possibility of considering judges as special subjects of labor law. The European Charter on the Status of Judges, recommendations of the Council of Europe, and practice of European states testify that the special status of judges does not exclude application of labor guarantees but, on the contrary, requires their strengthening.

In legal systems of developed states, judges are considered as employees with special status, which ensures them enhanced protection of labor rights for the purpose of guaranteeing independence of justice.

For instance, the Basic Law of the Federal Republic of Germany (Grundgesetz) in Article 97 establishes the principle of judicial independence, which has been developed in the Judges Act (Deutsches Richtergesetz). The German model is characterized by clear separation of judges' service relations and labor relations in the private sector [4].

The Constitution of the French Republic of 1958 in Article 64 proclaims independence of judicial power and establishes that the President of the Republic is the guarantor of judicial independence. The Organic Law on the Status of Magistracy details constitutional principles as applied to judges' labor relations [5].

A peculiarity of the French model is the creation of the High Council of the Judiciary as a constitutional body ensuring judges' independence in matters of appointment, career advancement, and disciplinary liability. This creates an autonomous system of judicial personnel management, excluding application of general labor law norms.

The U.S. Constitution does not contain direct norms on judges' labor relations; however, Article III, Section 1, establishing that federal judges hold their offices «during good behavior», creates a unique system of lifetime appointment excluding application of ordinary labor standards.

The main problem of contemporary legal regulation is the absence of clear definition of the legal nature of relations between the state and judge. Current legislation of the Republic of Uzbekistan does not provide an unambiguous answer to the question of whether these relations are labor relations in the classical sense or represent a special type of public-legal relations.

However, judges in Uzbekistan, in our view, should be classified among special subjects of labor law, which is confirmed by Article 11 of the Labor Code of the Republic of Uzbekistan and Article 86 of the Law of the Republic of Uzbekistan «On Courts», which state that labor legislation extends to judges in parts of relations

not regulated by court legislation.

Nevertheless, the necessity of constitutional and legislative consolidation of peculiarities of judges' legal status is determined by the need to create a stable and effective system of legal regulation that will ensure balance between requirements of justice independence and principles of labor law.

Thus, constitutional regulation of judges' status as special subjects of labor law is necessary for:

- a) establishing basic principles of independence and irremovability of judges;
- b) determining special procedure for appointment and dismissal from office;
- c) consolidating a system of material and social guarantees;
- d) creating legal foundations for detailed regulation in sectoral legislation.

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