

Requirements for the presidents of general jurisdiction courts in the Russian Federation and the procedure for their appointment

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The article provides a comprehensive analysis of the legal framework governing the qualification requirements and appointment procedure for the presidents of general jurisdiction courts in the Russian Federation. Specifically, individuals applying for the role of a judge, and subsequently, the court president, are subject to strict requirements. These include having a specialized legal education, relevant work experience in the field, etc. However, the analysis of these requirements reveals several challenges in this domain. Particularly, the training of the future court leaders poses a crucial question regarding how to address the fact that, as the leader, they must possess not only extensive procedural powers but also organizational-dispositive and administrative-economic ones, which was not previously possible as a judge. In this regard, the authors propose that such training should be split into four stages, starting with a psychological screening of the candidates. Following that, they participate in a specialized advanced training course and then complete an internship as a court leader. Finally, they must pass an examination to demonstrate their proficiency in organizational-dispositive and administrative-economic skills. Separately, the article examines the challenging aspects of appointing court presidents. Specifically, it discusses the lengthy process of considering appointments, the suggestion to transition from appointments to elections for presidents of general jurisdiction courts and other related issues. The article concludes that Russian legislation lacks specific qualification requirements for court presidents, who serve as the governing body of the court. However, the current requirements for judges do not allow identifying and evaluating the organizational skills required for a candidate to become the court president.

Keywords: court, general jurisdiction court, judge, court president, judicial system, court proceedings, appointment, qualification requirements.

1. Introduction

While presidents of general jurisdiction courts in the Russian Federation have substantial authority in both procedural and non-procedural issues, there are no specific legislative prerequisites for individuals seeking these positions (Kankulova, Markina 2020, 155). Currently, there is no established process for choosing a president for a general court, making it challenging to assess the necessary qualifications of potential candidates.

Consequently, individuals applying for the role of court presidents must meet the same criteria as judges. While this helps maintain the unity of judge' status and the derived nature of the court president's status from that of a judge, it fails to assess the applicant's organizational abilities and managerial skills. Concurrently, court presidents have numerous responsibilities in overseeing the administration of justice, managing cases, handling non-procedural and other appeals and performing the regular duties of a judge. This demanding role necessitates significant effort, specific professional skills in leadership, and a systematic and creative approach (Reshetnikova 2019, 472).

It is important to mention that different aspects of the activities of court presidents in the Russian Federation have already been discussed in scientific literature. This includes topics such as their powers (Moskvina 2023; Koroleva 2021a; Terekhova 2021; Mitashova, Ivanenko, Zinisha 2023; Latysheva 2020; Tuganov 2021), competence (Skorev 2023) and legal status (standing) (Tuganov 2022). Some studies also cover the status of judges in general (Neverov 2023). A separate analysis is conducted to examine the role of a court administrator and its effects on the responsibilities of court presidents (Koroleva 2021b). Nonetheless, in light of the continuous enhancements in the domestic judicial system, it is important to address the need for revising the qualifications and appointment process for presidents of general jurisdiction courts. This is particularly significant as their role plays a pivotal part in the legal proceedings in the Russian Federation.

2. Basic research

The constitutional requirements for judges and, thus, for presidents of general jurisdiction courts are outlined as follows:

- to be a citizen of the Russian Federation;
- to meet the age criteria (25 years of age);
- to have necessary educational qualification (higher legal education);
- to have at least five years of experience in the legal profession;
- to reside permanently in the Russian Federation¹.

Article 4 of the Law of the Russian Federation No. 3132-1 on the Status of Judges of the Russian Federation dated June 26, 1992 (hereinafter — Law No. 3132-1) details these specific provisions.

The position of judge has certain requirements that are common across all general jurisdiction courts.

It is not permissible for a judge to possess citizenship of another state or hold a residence permit. The candidate for a judicial position may actively participate in the rigorous assessment of compliance with this requirement. As an illustration, given the proximity of the Kurgan region to the Republic of Kazakhstan, individuals applying for a judicial role who were born in the territory of the former Soviet republic and subsequently relocated to Russia as permanent residents, are required to provide a certificate confirming the absence of Kazakh citizenship².

¹ Article 119 of the Constitution of the Russian Federation. Hereinafter all references to Russian normative legal acts are provided according to the SPS "ConsultantPlus". Accessed November 5, 2024. <http://www.consultant.ru>.

² Higher Qualification Board of Judges of the Russian Federation. 2020. "The Qualification Board of Judges of the Kurgan region: There is a reserve, and it is being used". *Vestnik Vysshiei kvalifikatsionnoi kollegii sudei Rossiiskoi Federatsii* 5 (73): 7–10.

In order to become a judge, one must hold either a Specialist's diploma in jurisprudence or a combination of a Master's degree and a Bachelor's degree in the same field. The fact that the Russian Federation is currently implementing programs specifically focused on judicial and prosecutorial activity (specialty 40.05.04) is not considered.

For a judge, it is imperative to have no criminal record or, if there has been a criminal prosecution, it must have been terminated due to rehabilitative reasons. A candidate for the position of judge must not be subject to suspicion or accusation of any criminal wrongdoing.

A judge cannot be an individual who has been officially acknowledged by a court as having impaired or restricted legal capacity, who is enlisted in a clinic specializing in narcology or psychoneurology for conditions such as alcoholism, drug dependency, substance abuse, persistent mental disorders, or any other ailments that may impede the performance of judicial responsibilities.

For judges of general jurisdiction courts of cassation and appeal, military courts of cassation and appeal, supreme courts of republics, courts of territories, courts of regions, courts of federal cities, courts of an autonomous region, courts of autonomous circuits, circuit (fleet) military court, an increased age threshold of 30 years was introduced and the length of tenure in jurisprudence was raised to 7 years. The length of tenure incorporates state and municipal roles, positions within legal services of organizations and scientific institutions that necessitate higher legal education, teaching legal disciplines under professional educational programs, as well as employment as an attorney or notary.

Concurrently, the constitutionally mandated age of 25 and requisite five years of tenure were maintained by judges of district courts, garrison military courts, and justices of the peace (Law No. 3132-1).

Nevertheless, there is an additional criterion that can be seen as a requirement for candidates applying for the role of president of a general jurisdiction court. This is the introduction of an age threshold for the appointment of court presidents, a practice already observed in numerous countries globally.

According to Art. 69 of the Model Code on the Judicature and the Status of Judges for Commonwealth of Independent States (CIS) Member Nations, the age requirement for judges is uniform across all court types and judicial positions³.

Nevertheless, the Russian Federation faces a casus that raises doubts about the fact that legal status of a court president is derived from that of a judge since, under para. 1 of Art. 23.7 of the Federal Constitutional Law No. 1-FKZ on General Jurisdiction Courts in the Russian Federation dated February 7, 2011, the age threshold for the tenure of the president of a general jurisdiction court of cassation is 76 years, while the age threshold for the tenure of a judge is 70 years (Art. 14 of the Federal Constitutional Law No. 1-FKZ on the Judicial System of the Russian Federation dated December 31, 1996).

Furthermore, the established age threshold for judges does not apply to both the Chief Justice of the Supreme Court of the Russian Federation (para. 2 of Art. 12 of the Federal Constitutional Law No. 3-FKZ on the Supreme Court of the Russian Federation dated February 5, 2014) and the Chairman of the Constitutional Court of the Russian

³ The Model Code on the Judicature and Status of Judges for the CIS Member Nations (Adopted by the Resolution No. 36-12 at the 36th Plenary Session of the Interparliamentary Assembly of the CIS member states in St. Petersburg on May 16, 2011). 2011. *Information Bulletin. Interparliamentary Assembly of the Member Nations of the Commonwealth of Independent States* 51: 269–348.

Federation (Art. 12 of the Federal Constitutional Law No. 1-FKZ on the Constitutional Court of the Russian Federation dated July 21, 1994).

A comprehensive analysis of the requirements for presidents of general jurisdiction courts highlights a significant challenge within the Russian legal framework and its implementation. The appointment of a court president is not restricted to individuals with judicial experience.

This situation is unsatisfactory because the court president is primarily a judge, and his/her position is derived from his/her role as a judge. Consequently, the court president must possess both theoretical understanding of a judge's powers and practical experience in utilizing them. Additionally, as the court leader, he/she possesses unique procedural powers, such as reviewing requests for expediting cases, and these powers can only be effectively utilized with the necessary judging experience. Without it, he/she will be unable to accurately and effectively assess the procedural powers of judges, for instance.

The idea of court presidents having mandatory judicial experience is recognized globally. Thus, para. 14 of the Opinion No. 19 on the Role of Court Presidents prepared by of the Consultative Council of European Judges (CCJE)⁴ in 2016 highlights the importance of having “an extensive experience in adjudicating cases” for court presidents.

In this regard, it seems necessary to make an addition to para. 2 of Art. 4 of the Law on the Status of Judges in the Russian Federation, which contains the requirements for candidates for the position of court president, namely: to have at least five years of work experience as a judge for the president of a district or garrison military court and seven years for the presidents of higher courts, by analogy with the work experience in jurisprudence for candidates for judges.

Additionally, given that the future court leaders, in addition to the judge's powers, will be required to possess and effectively utilize a wide range of procedural, organizational, administrative-economic powers that were previously beyond the scope of his/her role as a judge, it becomes necessary to consider how to adequately train individuals for this leadership position.

Currently, when qualification boards of judges recommend a candidate for the position of court president or deputy court president, they consider leadership experience either in judicial community bodies, which is distinct from the hands-on experience of the court leader, or in other non-judicial roles (in the prosecutor's office, investigative bodies, state and non-state structures), where the administration system is built on different principles that do not prioritize the fundamental principles of the judiciary, such as independence, impartiality, and autonomy.

Therefore, it is crucial to devise a process to choose candidates for the roles of court leaders (specifically court presidents and their deputies) from the pool of serving judges.

The recommended training pathway for court leaders should encompass four distinct stages.

The first stage is psychological screening (testing), which assesses the candidate's aptitude in acquiring the skills of management, communication and teamwork following the fundamental principles of administration of justice.

The second stage involves offering advanced training courses for individuals interested in becoming court leaders. These courses would delve into the powers and duties of

⁴ The CCJE Opinion No. 19 (2016) on the Role of Court Presidents. *Council of Europe*. Accessed November 5, 2024. <https://rm.coe.int/1680748232>.

court leaders, while also providing practical skills necessary for the position. For example, the Russian State University of Justice has a successful experience of training court leaders in service, which could be used to train candidates for such positions.

The third stage is to participate in an internship program as a court leader. However, to be eligible for such an internship, appropriate legitimization is required, as possessing procedural powers and a variety of organizational-administrative powers are essential for the effective administration of justice and directly impact the ability of individuals to access justice.

The fourth stage includes the introduction of an examination aimed at testing the abilities in organizational, dispositive, administrative-economic management. This examination will be conducted at different levels — at the district level by the examination commission entitled to conduct qualification examinations for judges in the constituent entities of the Russian Federation and at higher levels, such as the republics, regions, — by the higher examination commissions of the judicial community bodies).

Implementing these changes to the requirements for candidates seeking the position of the president of a general jurisdiction court would greatly enhance the current judicial system and elevate the performance of the judiciary.

The procedure for the appointment of presidents of general jurisdiction courts, the length of tenure, the scope of powers and grounds for termination of their legal status are defined by the Law No. 3132-1, the Federal Constitutional Law No. 1-FKZ on the Judicial System in the Russian Federation dated December 31, 1996, the Federal Constitutional Law No. 1-FKZ on Military Courts of the Russian Federation dated June 23, 1999, the Federal Constitutional Law No. 1-FKZ on General Jurisdiction Courts in the Russian Federation.

In Russia, the presidents of general jurisdiction courts of cassation and appeal, as well as courts of constituent entities and courts of equivalent status, are appointed by the President of the Russian Federation for a term of six years on the proposal of the Chief Justice of the Supreme Court of the Russian Federation and with an affirmative opinion of the Higher Qualification Board of Judges of the Russian Federation; the presidents of district courts are appointed in a similar manner, but with an affirmative opinion of the qualification board of judges of the relevant constituent entity of the Russian Federation, and no more than two times consecutively (Art. 35 of the Federal Constitutional Law No. 1-FKZ on General Jurisdiction Courts in the Russian Federation dated February 7, 2011).

Additionally, as per the provisions of the Model Code on the Judicature and Status of Judges for the CIS Member Nations, the presidents of a general jurisdiction court is appointed by the head of state from among the judges of the relevant court for a certain period of time (Art. 32, 45). However, it is only the Chief Justice of the Supreme Court of the state who is being considered for the introduction of reappointment restrictions (Art. 58 of the Model Code on the Judicature and Status of Judges for the CIS Member Nations).

It is important to remember that prior to the implementation of the Federal Constitutional Law No. 2-FKZ on Amending the Federal Constitutional Law on the Constitutional Court of the Russian Federation dated June 2, 2009, the Russian Federation used to have a process of selecting the Chairman of the Constitutional Court of the Russian Federation, which involved a plenary session where the judges would elect the Chairman through a secret ballot, with a majority vote, for a three-year term. It is possible that the legislator in-

tended for this procedure to be incorporated into the process for acquiring the presidency powers in other courts.

The topic of transitioning from appointing to electing presidents of general jurisdiction courts has been consistently brought up in recent years. Therefore, on August 3, 2017, the Presidential Council for Civil Society and Human Rights introduced several measures to ensure the autonomy of judges, the openness and transparency of the judicial system. These initiatives include a suggestion to make court presidents elected officials, restrict their powers and implement compulsory rotation⁵.

The Constitutional Court of the Russian Federation has dealt with issues regarding the legal status of the president of a federal court. The legal perspective outlined in the determinations of the Constitutional Court of the Russian Federation No. 3-O dated March 11, 2005⁶ and No. 535-O dated December 21, 2006⁷, is that establishing a specific length of tenure for the president of a federal court should not be seen as a violation of the constitutional guarantees of judges. Moreover, the legal status of the court president is derived from that of a judge (Bondar', Dzhagarian 2018).

One should point out that the matter of how long it takes to appoint a court president remains unresolved. Typically, this period lasts for at least one year. This is the reason why the Chief Justice of the Supreme Court of the Russian Federation holds special authority to determine the temporary delegation of the court president's responsibilities to a deputy court president or judge in the event of the powers of the serving president of a general jurisdiction court being terminated or suspended.

Currently, there is a specific procedure in place for appointing the court president.

No later than six months prior to the expiration of the powers of the court president or a deputy court president, and in the event of early termination of the powers of these persons — no later than 10 days from the date of the vacancy, the relevant qualification board of judges shall announce the vacancy in the mass media, indicating the time and place of receipt of applications from applicants for the position of the court president or a deputy court president, as well as the time and place of consideration of received applications (para. 12 of Art. 6.1 of the Law No. 3132-1).

Typically, the application deadline for a vacancy is within a month, but there is no specific time limit for this matter.

Upon receipt of applications from applicants, the qualification board of judges shall verify the information in the submitted documents by sending appropriate requests to the Ministry of Internal Affairs of the Russian Federation, the Federal Security Service of the Russian Federation, the Ministry of Justice of the Russian Federation, the Federal

⁵ Lawyers have argued in favour of restricting the powers of court presidents. *Pravo.ru*. Accessed June 18, 2024. <https://pravo.ru/news/view/143315>.

⁶ The Determination of the Constitutional Court of the Russian Federation No. 3-O dated March 11, 2005, on the complaint of citizen Smakov Rinat Mirgalimovich on the violation of his constitutional rights by the provisions of Art. 14 of the Federal Constitutional Law on the Judicial System of the Russian Federation (as amended on December 15, 2001), para. 3 of Art. 6.1 and para. 2 of para. 1 of Art. 11 of the Law of the Russian Federation on the Status of Judges in the Russian Federation (as amended on December 15, 2001).

⁷ The Determination of the Constitutional Court of the Russian Federation No. 535-O dated December 21, 2006, on refusal to accept for consideration the complaint of citizen Anishina Elena Aleksandrovna concerning the violation of her constitutional rights by the provisions of part 3 of Art. 13 of the Federal Constitutional Law on the Judicial System of the Russian Federation, para. 8 of Art. 6.1 of the Law of the Russian Federation on the Status of Judges in the Russian Federation and Art. 3 of the Federal Law on Amendments and Additions to the Law of the Russian Federation on the Status of Judges in the Russian Federation.

Tax Service of Russia, the Prosecutor's Office, the Federal Financial Monitoring Service (Rosfinmonitoring) and other bodies, which shall be obliged to give a response within the period established by the board not later than two months from the date of receipt of the request.

The Chief Justice of the Supreme Court of the Russian Federation shall submit a proposal for the appointment of the court president to the President of the Russian Federation not later than two months before the expiration of the powers of the president, deputy president of the relevant court, and in the event of early termination of the powers of these persons — not later than three months from the date of opening of the vacancy (para. 6, 8 of Art. 6.1 of the Law No. 3132-1).

The Commission under the President of the Russian Federation for Preliminary Consideration of the Issues of Appointment of Judges and Termination of Their Powers will review materials on candidates for judge and court president positions within two months, as mandated by the Decree of the President of the Russian Federation No. 97 dated February 17, 2021⁸. The Commission has the authority to delay the review of candidacy materials for the mentioned positions, but the delay cannot exceed one month. The proposals must be submitted to the President of the Russian Federation within a month after the Commission meeting where the relevant materials were discussed (Art. 7, 8, 9 of the Regulations on the Commission under the President of the Russian Federation for Preliminary Consideration of the Issues of Appointment of Judges and Termination of Their Powers).

This situation fails to consider the factors that affect document transfer between organizations, such as regional variations and technical limitations, which can impact the expenses. To overcome this challenge, one should implement electronic document distribution not just within one organization but also across all government agencies.

Furthermore, it is crucial that document verification with law enforcement agencies, special services, registration authorities and oversight bodies only needs to be done once. Currently, both the qualification board of judges and the aforementioned Commission under the President of the Russian Federation have the authority to carry out such an examination. Given that this matter affects not only court presidents and their deputies but also judges, it necessitates a dedicated and thorough investigation.

In the past, it was common practice to appoint judges from higher courts as court presidents due to their advanced qualifications, experience in handling appellate and cassation cases (they hear cases not in one district or constituent entity, but either in the whole constituent entity, or in several judicial districts, which include many constituent entities), broad understanding of judicial practices, and strong organizational skills in both individual and team settings. Currently, experienced judges from higher courts are reluctant to take on senior positions in lower courts due to changes in the evaluation of their work and the implementation of a new system for awarding qualification classes.

⁸ The Decree of the President of the Russian Federation No. 97 on the Commission under the President of the Russian Federation for Preliminary Consideration of the Issues of Appointment of Judges and Termination of Their Powers dated February 17, 2021 (as amended on June 11, 2024) (together with the Regulations on the Commission under the President of the Russian Federation for Preliminary Consideration of the Issues of Appointment of Judges and Termination of Their Powers).

The qualification attestation and assignment of qualification classes to judges are important criteria for assessing their professional knowledge and ability to apply it in the administration of justice (Art. 20.2 of the Law No. 3132-1).

Currently, presidents and judges of cassation, appeal courts, supreme courts of republics, as well as the courts of equivalent status, are assigned to the first, second, third, fourth and fifth qualification classes. Presidents, deputy presidents, and judges of district, city, interdistrict and garrison courts are assigned to the fifth, sixth and seventh qualification classes. However, a judge who has made a significant contribution to the administration of justice and has special merits to the judicial system, may be assigned a higher qualification class by the Higher Qualification Board of Judges of the Russian Federation on the proposal of the Chief Justice of the Supreme Court of the Russian Federation, without observing the sequence of assignment and the period of stay in the assigned qualification class.

The issue is that judges in higher courts are reluctant to become the leader of a lower court, such as a district court, because they cannot be assigned a higher qualification class for that position than what is allowed by the law for that specific judicial instance. When a judge of a higher court becomes the court president, he/she not only gains additional organizational-dispositive and administrative-economic powers, taking on a greater responsibility, but also experience a decrease in financial security and qualification due to the corresponding monetary allowance for each qualification class being a percentage of the official salary.

It is only hypothetically possible to imagine that a judge of a regional court or a court of equivalent status, as well as cassation and appellate courts, having worked for a long time and having earned the highest second qualification class, may, without loss of his/her professional level and with insignificant financial losses (since the allowance for qualification class is calculated based on the official salary), agree to be appointed to the position of the leader of a lower court. However, in practice, an individual who has come a long way and is getting ready for an honorable retirement no longer thinks about assuming a position with a huge amount of powers, such as being the leader of a lower court. The candidate understands that if he/she fails to perform the assigned duties, his/her tenure as court leader may be terminated or after the first six-year term he/she may not be reappointed, then his/her only option would be to remain as a judge within the same court where he/she held the position of court leader. Since an individual was promoted from a higher court, this situation poses a risk of both downgrading and reducing his/her financial security (as official salaries vary across judicial instances) and lifetime allowance.

Therefore, when selecting candidates for the role of court president or deputy court president, the usual practice is to consider judges from the same court or court of equivalent status, resulting in a decrease in the expected level of professionalism and experience for those aspiring to the leadership position.

3. Conclusions

To improve the qualifications of the court leader, his/her actual professional authority and high level of responsibility and to broaden the pool of possible candidates for these positions with the involvement of judges and higher courts, it is necessary to amend the

legislation and acts of the judicial community bodies regarding increasing the levels of qualification classes for court leaders at every level.

The Russian legislation does not provide specific qualification requirements for the court president, who serves as its governing body. At the same time, the existing requirements for judges do not allow identifying and evaluating the specific organizational skills needed in a candidate for the court president position. Although such requirements are contained in the legislation of a number of foreign countries (for example, in Art. 169–170 of the Bulgaria Judicial System Act⁹).

Hence, one can conclude that the necessary qualification requirements for court presidents should revolve around their organizational and managerial skills, as well as the nature of their prior activities, rather than solely their length of tenure. We propose to supplement part 8 of Art. 5 of the Law of the Russian Federation on the Status of Judges in the Russian Federation with the following provision: “When making a decision to recommend a citizen for the position of court president, the qualification board of judges shall take into account the previous experience of the candidate, his/her efforts to improve of his/her qualifications and his/her possession of organizational skills necessary for the court leader”.

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⁹ Bulgaria Judicial System Act (SG No. 64/2007, as amended up to August 5, 2022). WIPO. Accessed November 5, 2024. <https://www.wipo.int/wipolex/en/legislation/details/21818>.

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