

**COMPARATIVE ANALYSIS OF THE LEGAL STATUS OF ASSISTANT JUDGES
IN THE REPUBLIC OF BELARUS AND IN FOREIGN COUNTRIES**

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In the article the task is to analyse the legal status of the assistance to the judge in the Republic of Belarus and to that in foreign countries. As a result of the analysis the imperfection of the legislation in the Republic of Belarus is viewed. The author offers to introduce a position to the assistant of the judge in the legislation and to create separate Conditions for the assistant to the judge on legal basis.

The workload of the General courts for civil claims, complaints, statements, criminal cases, administrative reports are considered as the ordinary proceedings and it is the reason for the lack of time for the preparation for a judge for each case before hearings which leads to a decrease in the level of quality and validity of decisions. For example, in 2017 there were 329 criminal cases, 1756 civil cases, 2900 administrative Affairs, 176 materials on the state bodies and other applications, complaints, statements in the court of the town of Novopolotsk. Each judge in the court of the town of Novopolotsk, with the number of other 8 judges alongside with the President of the court, has 645 cases per year. As a result some information which is needed for making decisions and judgments remains unclaimed. The above-mentioned circumstances lead to a lack of efficiency in the judicial system and demonstrate the need to assist judges in preparing each case for the hearings.

In foreign countries, on the contrary, to ensure the effectiveness of the courts judges get help from the long functioning Institute of assistants to judges. In the Russian Federation, for example, an assistant judge is a senior civil servant who holds a Federal public service post in the court's office established to directly enforce the powers of judges. The Secretary of the court session is a separate position in the court of the Russian Federation. The Secretary of court session keeps the record of a court session, checks the appearance of persons on behalf of the judge who appeared in a court session. In the US, the Institute of assistants to judges has existed for more than a hundred years. In 1886, the U.S. Congress adopted a decision approving the position of an assistant judge. In the USA the assistant judge, as a rule, is a recent graduate of the law faculty. Assistant judges can be graduates of high school with excellent performance. In England, assistant judges in the counties have the power to hear cases at a low cost. In France there is also the Institute of assistants to judges. For their appointment it is necessary to have a higher legal education, three years of practical training and to pass the exam.

In accordance with the legislation of the Republic of Belarus, the General courts of the Republic of Belarus are provided with the position of the Registrar of a court session-an assistant judge who comprises two positions: the Registrar of a court session and the assistant judge[1], [2], [6]. We believe that it is necessary to consolidate the position of an assistant judge by the legislation of the Republic of Belarus which will help to ensure the efficient work of the courts and to improve the judicial system as a whole. In the Republic of Belarus there is an assistant to the President of the Court in the courts where the number of judges is six or more. Its legal status is governed by a separate Condition. We consider it's rational that the legal status of assistant judges should also be regulated by a separate Condition for assistant judges. In this Condition it is necessary to fix the legal status. The candidate for the position of an assistant judge should be subject to the following requirements: the presence of higher legal education, the experience in the field of judicial activity for at least 2 years. Preference should be given to people who have passed the qualification examination for the position of a judge [3], but this is an optional criterion. In case of passing the qualification examination of an assistant judge to the position of a judge, with further transfer of such assistant judge to a judicial position, he or she will be exempt from passing the qualification exam.

For an assistant judge it is required to state the following responsibilities:

- the study of claims, applications, complaints, criminal cases that are received;
- the drawing up process of a plan for the necessary measures in each case: the establishment of the necessary documents for the consideration of the case must be requested, call specialists, experts, witnesses to confirm the circumstances set out in the case;

- the reclamation of documents for a particular case, the warning of the participants about the process itself, the date of the hearings of the case;
- the control of the requested documents, the responsibility to check the appearance of the participants of the trial in the hearings, to be aware about the reason for their absence and reporting them to the judge;
- to maintain records on cases that were under consideration with the particular judge: the suturing of the documents attached to the case materials, the inventory list, the numbering of sheets of the case;
- the monitoring of the status of proceedings that have been suspended;
- the preparation of legal documents and reports related to ongoing proceedings;
- the preparation of materials necessary for reports and public reports on the work done.

The rights of an assistant should be enshrined in the Conditions also:

- to improve the level of their professional qualifications in public educational institutions;
- to study materials on records management stored in the state archives;
- to obtain the necessary information from law enforcement or any other services;
- those assistants of judges who have passed the qualification examination for a judge are entitled to procedural rights, they can consider applications in order proceedings, which will significantly facilitate the work of judges and reduce their workload.

The direction and coordination of an assistant judge should be carried out directly by the judge.

An important issue of the legal status of an assistant is the possibility of assigning this position to public service. In connection with the recent optimization of the public service, we believe that it would not be rational to assign the position of an assistant judge to public service, but in connection with the responsibility assigned to this position, it is necessary to consider the question of the offset of the work of an assistant in the experience of public service [4].

In support of the need to clarify the legal status of the Secretary of a court session-assistant judge, whose position currently exists in the Republic of Belarus, and the need to consolidate the position of an assistant judge in the law, we draw attention to current trends in informational support of justice. In his interview, February 15, 2017, summarizing the results of the judicial reform of the President of the Supreme Court of the Republic of Belarus Valentin O. Sukalo noted that the introduction of information technology, which was one of the tasks of the judicial reform, was active, and was actively applied not only in pre-trial procedure, notice of trials, and in near future informational technology will be introduced in the process itself, that is, the conduct of the hearings without the court clerk- an assistant to the judge, off the record – with fixation by means of audio recordings [7].

Based on this new trend it is advisable to withdraw the position of Secretary of the court session from the legislation of the Republic of Belarus, as its main function is to maintain the record of the court session. The remaining functions of Registrar of the hearings should be assigned to an assistant judge.

Thus, the courts have long felt the need to increase the number of qualified employees who can be entrusted with the analysis of the materials coming to the court. The introduction of the Institute of assistant judges is relevant and necessary for further improvement of the judicial system. The assistant judge will duly assist the judge in the exercise of his / her powers, provide the judge with the necessary and complete information in the timely manner in the administration of justice in order to improve the speed of decision-making. For this purpose we offer to:

- 1) adopt Regulations on an assistant to the judge in which its legal status will be fixed;
- 2) amend article 30 of the code of Civil procedure of the Republic of Belarus by fixing the rights and duties of an assistant judge in it;
- 3) exclude article 113, 174, 175, 176 of the civil procedure code of the Republic of Belarus, since the record keeping of the court session will be replaced with the audio recording of the trial;
- 4) amend article 99 of the code of Criminal procedure of the Republic of Belarus, namely, to exclude the maintenance of the records of the court session, article 291 of the code of Criminal procedure of the Republic of Belarus, which will contain the powers of an assistant judge, not the Secretary of the court session, as well as article 309, article 310 of the code of Criminal procedure of the Republic of Belarus;
- 5) amend article 175 in the Code on the judicial system and status of judges by adding to the right of each judge to an assistant, as well as to fix this position in a separate article, which will define their rights and duties;
- 6) fix the norm in the Law "On public service in the Republic of Belarus" that will be counted in length of service of the public service working time as the assistant to the judge at further its appointment to the position of the judge;

We believe that the introduction of an appropriate position in courts will solve the problem of delays in trials, delays in starting court sessions and hearings of cases, insufficient level of preparation of cases for court hearings. The above-mentioned innovations will contribute to the efficiency of the work of judges and improve the quality of court decisions.

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