

# The powers of presidents of general jurisdiction courts in the Russian Federation: Classification issues

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Based on the practical experience of the retired court president, the article covers the issues of systematizing the powers of presidents of general jurisdiction courts in Russia through creating their classification. The material is presented in a problematic manner. The author identified four key issues related to the powers of presidents of general jurisdiction courts: the compliance of powers with new tasks and challenges that arise before the justice system; the binding nature of the powers of presidents of general jurisdiction courts; differences in the powers of presidents of general jurisdiction courts, despite the consolidation of the principle of unity of the system of general jurisdiction courts; distribution of powers between, on the one hand, the court president and, on the other hand, the Chief Justice of the Supreme Court of the Russian Federation, bodies of the judiciary and administrator — a professional manager, who is not a judge. It is shown that the powers of presidents of general jurisdiction courts are governed by various regulatory sources, which differ considerably in terms of their legal nature: the Constitution, federal constitutional laws, federal laws, presidential decrees, orders of the Judicial Department at the Supreme Court of the Russian Federation and decisions of the Council of Judges of the Russian Federation. The author considers the procedural powers divided into general powers and special procedural powers and the nonprocedural powers of presidents of general jurisdiction courts which are grouped into the powers related to personnel matters, the powers broken down by subjects and the powers categorized by the nature of actions. The article promotes the idea of interaction between the court president and judges following the principle of *primus inter pares* (first among equal) and the partnership model in the distribution of powers between the court president and the court administrator (professional manager), who is offered to take over all operational functions.

*Keywords:* general jurisdiction courts, court president, procedural powers, nonprocedural powers, legal status, Supreme Court of the Russian Federation, judiciary bodies, court administrator.

## 1. Introduction

The 1990s marked the start of judicial reform, which continues to this day. One of its tracks is the determination of the legal status of presidents of general jurisdiction courts, the elements of which are: the procedure for filling a post; competence reflecting the balance of procedural, organizational-dispositive, administrative rights and obligations, the procedure and methods of their implementation; the procedure for termination of activi-

ties; responsibility; guarantees of the independence of the court president, distinguishing him/her from other public subjects — bearers of state power.

It is quite difficult to determine the powers of presidents of general jurisdiction courts, despite their external obviousness. First, as the organization of the justice system is constantly faced with new challenges, the powers of court presidents can change over time, usually towards their expansion. Digitalization, for instance, has become such a challenge. Second, there is no classification of the powers of presidents of general jurisdiction courts, whose uniqueness would allow researchers to speak about their binding nature. Back in the 1950s, S. F. Kechek'ian pointed out to this feature of officials consisting in the fact that the ability to act, given by the norms of law, is also a duty. The powers of officials, comprising both rights and duties, define their competency (Kechek'ian 1958, 58). Third, despite the principle of unity of the system of general jurisdiction courts, the powers of presidents of different courts may vary somewhat, and, consequently, they are governed by numerous regulations with the quite diverse legal origins. Fourth, the distribution of powers between, on the one hand, the court president and, on the other hand, the Chief Justice of the Supreme Court of the Russian Federation, bodies of the judiciary and administrator, i.e. a professional manager, who is not a judge, poses another challenge.

The provisions of Art. 12 of the Federal Constitutional Law No. 1-FKZ on the Judicial System of the Russian Federation dated December 31, 1996<sup>1</sup> determines that all judges in the Russian Federation have universal status and differ from one another only by their powers and their competence.

The powers of presidents of general jurisdiction courts are primarily governed by the Law of the Russian Federation No. 3132-1 on the Status of Judges in the Russian Federation dated June 26, 1992, which clearly distinguishes between the powers of the judge of the relevant court, the procedural powers granted for court presidents, the powers of court president (organizational-dispositive and other ones) as well as other powers.

Court management is complicated by the need to take into account such a peculiarity as the constitutional status of the independence of the courts and the independence of judges, which, in turn, requires determining the correct relationship between the legal factor and information processes in the mechanism for managing the courts, setting its tasks and goals and using permissible techniques of managerial influence (Makarova 2017, 169).

Considering on the duality of the status of court president as a judge and as the head of court, it is necessary to create a special classification of powers of court president to understand the legal significance and legal consequences due to their non-implementation or improper implementation, which is directly related to the assessment of the court president activities as a leader, the quality and efficiency of its work, as well as legal responsibility, including issues on the termination of powers as the head of court.

This classification is necessary, since there is a huge range of sources determining the powers of presidents of general jurisdiction courts. Moreover, at least 55 different verbs of a similar imperative nature are used when fixing them. For example, verbs such as: to sign, to endorse, to approve, to put a resolution, to certify, to agree upon, to attest and others — to provide, to represent, to organize, to make decisions, to make arrangements (to give permits, instructions), to make calculations, to entrust, to set, to assign, to authorize,

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<sup>1</sup> Hereinafter all the Russian acts and court decisions are cited from SPS "ConsultantPlus". Accessed March 30, 2022. <http://www.consultant.ru>.

to familiarize, to develop, to determine, to submit, to issue orders, to direct, to refuse, to appoint, to use, to carry out, to distribute, to cancel, to establish commissions, etc.

## 2. Basic research

According to their nature, the numerous powers of presidents of general jurisdiction courts can be divided into two large groups: procedural and nonprocedural.

### 2.1. Procedural powers of presidents of general jurisdiction courts

Procedural powers of the court president are derived from his official position and are in any case predetermined by it (Iudin 2018). There are two types of procedural powers that general jurisdiction court presidents may exercise: general and special.

*General procedural powers* include: applications for acceleration, nonprocedural written and oral appeals, signature of documents, writs of execution in the absence of a judge, issues of extending the period for appeal and restoration of the period.

*Special procedural powers* are divided by the sources of their consolidation. In particular, the Code of Criminal Procedure provides the following powers — to issue writs of entry of a sentence into force, to change the jurisdiction; the Civil Procedure Code and the Code of Administrative Proceedings offer additional powers — to extend the period for consideration of cassation appeals, and decisions on collegial consideration of cases, etc.

As noted by Ia. V. Zaichikov and D. A. Avdeev, the key functions of the court president in any given case proceedings are aimed at resolving issues to optimize the course of the case consideration. Such questions may be raised by the interested parties (including the judges themselves in some cases). Therefore, it is undeniable that “the idea of participation of the court president as a procedural subject boils down to... providing operational procedural assistance” to the interested parties (Zaichikov, Avdeev 2020).

Additionally, special procedural powers can be classified by judicial instances. Particularly, the presidents of appeal, city, regional, district courts may adopt decisions on collegial consideration (Arts. 29, 307 of the Administrative Procedure Code of the Russian Federation), preside over the court sitting (Art. 156 of the Civil Procedure Code of the Russian Federation), grant relatives a meeting with a convict (Art. 395 of the Criminal Procedure Code of the Russian Federation). The powers of presidents of cassation courts include the extension of the term for considering the cassation appeal (Art. 327 of the Administrative Procedure Code of the Russian Federation, Art. 379.4 of the Civil Procedure Code of the Russian Federation), revision of the decisions that have entered into force (Art. 30.13 of the Code of Administrative Offences of the Russian Federation).

In addition to distributing court cases and replacing judges, the court president can organize the work of the court when it is necessary to decide whether there are grounds to consider the case as part of a collegial composition of the court and, if so, to form a judicial panel to address a particular case (Panchenko 2016, 89).

By organizing the work of the court, the president exercises general leadership over the activities of the court apparatus, but does not interfere with the activities of judges in the administration of justice, does not have the right to give them instructions on their functional activities, the organization of the process of considering cases, apply measures of encouragement and punishment to them, as well as initiate disciplinary proceedings

against them by applying to the Qualification Board of Judges of the constituent entity of the Russian Federation (which is left to the court president of the constituent entity of the Russian Federation under par. 8 of Art. 29 of the Law on Courts of General Jurisdiction) (Kudriashova 2019, 167).

## *2.2. Nonprocedural powers of presidents of general jurisdiction courts*

Along with the powers of a judge and the procedural powers provided by federal constitutional laws and federal laws, the presidents of general jurisdiction courts exercise the following nonprocedural powers:

- to organize the work of the court;
- to set up the standing orders of the courts based on the relevant guidelines approved by the Council of Judges of the Russian Federation and monitor their implementation;
- to allocate duties between deputy presidents as well as between judges as stipulated by federal law;
- to organize additional professional education of judges;
- to carry out general management of the activities of the court apparatus, including appointing and dismissing employees of the court apparatus, allocate duties between them, make decisions on incentivizing employees of the court apparatus or on bringing them to disciplinary responsibility, organizing additional professional education of employees of the court apparatus;
- to regularly inform judges and employees of the court apparatus about their activities and those of the court.

The Law No. 3132-1 on the Status of Judges in the Russian Federation dated June 26, 1992 additionally defines some other organizational-dispositive powers of the court president, namely:

- to issue the motivated decree to transfer a share of statements of claims, a share of criminal cases, civil cases and cases regarding administrative offences from one justice of the peace of a judicial sub-district to a justice of the peace of another judicial sub-district of the same district, if the workload of the former justice of the peace is higher than the average workload of justices of the peace within the judicial district. Furthermore, this power is similarly reflected in Article 4 of the Federal Law No. 188-FZ on Justices of the Peace in the Russian Federation dated December 17, 1998 stipulating that the court president may issue the motivated decree to transfer the cases to justices of the peace of the same judicial sub-district, if he/she is temporarily unable to perform his/her duties due to business trip, illness or leave;
- to allow the judge of the relevant court to engage in any other type of the remunerated activities, except for teaching, scientific and other artistic activities. Such engagement must not hinder the performance of judicial duties (for a justice of the peace — by the president of the corresponding district court, for a court president — by the presidium of the corresponding court or, in the absence of such a presidium — by the presidium of a higher court) (subpar. 5 of par. 3 of Art. 3);
- to inform the corresponding qualification board of judges about the opening of the vacant position of a judge no later than 10 days after the opening of the position (par. 2 of Art. 5). Guided by this information the qualification board of judges announces the

opening of the vacancy in the media. Due to the widespread use of the Internet, the spread of information on judicial vacancies has gained a strong impetus (Borzykh, Nagornova, Orlova 2020, 262);

- to make submissions on the termination of the resignation of a judge or on the suspension of the resignation of a judge as well as submissions on the appointment of the recommended person to the position of a judge. In case of disagreement with the decision of the qualification board of judges, the court president returns it with the reasoned justification for his/her opinion for re-consideration to the same qualification board of judges;

- to make submissions to the relevant qualification board of judges on the qualification attestation of the newly appointed judge after eight months of his/her work as well as the judge appointed to the position of a judge in the court of another level, which provides for the assignment of a higher qualification class, and at least two months before the expiration of the period of tenure in the qualification class (Art. 20.2);

- to sign and issue the identity documents for the retired judges of the relevant court (Art. 21);

- to exercise other powers to organize the court work.

Therefore, the nonprocedural powers of presidents of general jurisdiction courts can be classified according to the following three criteria.

As per *areas of exercise*, they distinguish powers in the personnel sphere (awarding, organizing additional professional education for judges and court employees, admitting and dismissing employees of the court apparatus, submitting personnel to a higher authority); organizational-managerial powers (setting up the court schedule, distributing and redistributing the cases, exercising the control functions, working in the system “GAS Pravosudie”); procurement powers. The latter can be categorized by judicial instances and by the nature of material objects. Experts note that in most courts of the Russian Federation it is the court president who deals with the issue of sharing the workload among judges. The legislation lacks the methodology and criteria for distributing the cases, which results in the absence of the unified procedure in law enforcement practice. Courts have developed and are still improving an autonomous system for distributing the cases automatically; this system is highly sought after in small district courts. Unfortunately, due to technical limitations and shortage of funds, this system can only be implemented in some districts (Galkina, Machushkina, Shumova 2019, 414).

As per *subjects*, they distinguish the powers of court presidents with respect to participants in the process, persons who are not participants in the process, bailiffs, employees of the court apparatus, judges, bodies of the judiciary, the media, etc.

As per *the nature of actions*, they divide the powers of court presidents into obligatory ones (giving instructions to the deputy presidents and employees of the court apparatus, judges, appointing those responsible for interaction with other bodies, etc.); consenting ones (giving permissions to engage in teaching and others) and representative ones.

As already noted, another challenge is that the powers of court presidents of different courts may vary to some extent, despite the principle of unity of the system of general jurisdiction courts.

After the judicial system reform, the powers of presidents of the relevant courts (in comparison with the powers of presidents of the district courts, the supreme courts of

republics, courts of territories, regions, federal cities, autonomous regions, autonomous circuits) were expanded. Namely, the court president is required to carry out the following tasks:

- to manage the organizational issues related to the work of the boards of judges at the relevant court;
- to convene the presidium of the court and presides over its meetings;
- to organize work on the study and consolidation of judicial practice, analysis of judicial statistics;
- to make submissions on the qualification attestation of judges of the relevant court, as well as on the suspension or termination of their powers to the Higher Qualification Board of Judges of the Russian Federation;
- to organize the work of the court to receive citizens and consider their proposals, applications and complaints.

A unique feature of the powers of the president of the supreme court of a republic, a court of a territory, region, federal city, autonomous region and autonomous circuit is the ability to organize enquires following the applications and complaints of citizens about the work of lower courts and judges.

The peculiarities of the legal standing of presidents of military courts are reflected in the powers enshrined in the Federal Constitutional Law No. 1-FKZ on Military Courts of the Russian Federation dated June 23, 1999. Furthermore, these powers are thoroughly elaborated.

Particularly, despite the fact that in the powers of all presidents of general jurisdiction courts, the Law of the Russian Federation No. 3132-1 on the Status of Judges in the Russian Federation dated June 26, 1992 stipulates that the powers of court presidents are exercised “along with the exercise of the powers of a judge”, the presidents of circuit (fleet) and garrison military courts are empowered to participate in the consideration of cases by the relevant court and preside over court hearings.

This law separately specifies the organizational-dispositive powers of presidents of circuit (fleet) and garrison military courts as regards monitoring the work of the administrator and approving the statute of the apparatus of the court.

Other legal acts also define the nonprocedural and procedural powers of presidents of general jurisdiction courts.

As an example, the Federal Law No. 262-FZ on Ensuring Access to Information on the Activities of Courts in the Russian Federation dated December 22, 2008 empowers the court president to act as an official representative of the court when interacting with media editorial offices. Additionally, the court president ensures that information about the activities of the court is accessible.

Meanwhile, the Federal Law No. 30-FZ on Bodies of the Judiciary in the Russian Federation dated March 14, 2002 sets out a number of powers relating to interaction with the following bodies of the judiciary: the All-Russian Congress of Judges; conferences of judges of constituent entities of the Russian Federation; councils of judges of constituent entities of the Russian Federation; general assemblies of judges of courts; the High Qualification Board of Judges of the Russian Federation; qualification boards of judges and examination commissions of constituent entities of the Russian Federation tasked with conducting judicial qualification examination.

The above-mentioned law confers the following powers on the presidents of the supreme courts of republics, courts of territories, regions, federal cities, autonomous regions and autonomous circuits:

— to make submissions for nominees to members of examination commissions at a conference of judges of a constituent entity of the Russian Federation, including submissions on the early termination of the powers of a member of the examination commission and on the election of another person to the examination committee between congresses (conferences) of judges;

— to submit proposals to approve the appointment of presidents of judicial chamber for civil cases, criminal cases, other judicial chambers for consideration by the qualification boards of judges of constituent entities of the Russian Federation.

Moreover, the presidents of all general jurisdiction courts may request to review the decision previously adopted by the qualification board on the newly discovered facts.

The Federal Law No. 45-FZ on State Protection of Judges, Officials of Law Enforcement and Regulatory Bodies dated April 20, 1995 grants the court president the right to appeal for the application of security measures against the protected person, given the sufficient data indicating a real security threat, further, the refusal to apply such measures can be appealed by the court president to the higher security body in the chain of command, to the prosecutor's office or to the court.

Upon enactment of the Federal Law No. 7-FZ on the Judicial Department at the Supreme Court of the Russian Federation on January 8, 1998, the president of the relevant court has been given the powers to implement personnel policy, organize the activities of judges and the court apparatus as well as administer the judicial activities.

Hence, the president of a general jurisdiction court makes a submission on the appointment and dismissal of the administrator of the relevant court, manages his work.

Additionally, the presidents of the supreme courts of republics, courts of territories, regions, federal cities, autonomous regions and autonomous circuits, along with the council of judges of the constituent entity of the Russian Federation, agrees upon the appointment and dismissal of the head of the judicial department.

The president of general jurisdiction courts of cassation and appeal, the supreme courts of republics, courts of territories, regions, federal cities, courts of autonomous regions and autonomous circuits, military and specialized federal courts agrees upon the redistribution of the vacancies of judges opened in the relevant courts.

The president of the relevant court also agrees upon requests for awarding employees of the apparatus of district courts and garrison military courts with state awards and honorary titles with the administration of the judicial department.

Regarding the finances, the presidents of general jurisdiction courts approve the draft estimates of the court expenditure.

Furthermore, under the Federal Law of No. 118-FZ on Enforcement Bodies of the Russian Federation dated July 21, 1997, the court president interacts with the senior bailiff and gives orders to bailiffs to ensure the established procedure for the court activities is followed and the public order in the court building and its premises is maintained.

The powers of the court president as regards the interaction with jurors are determined by the Federal Law No. 113-FZ on Jurors of Federal Courts of General Jurisdiction in the Russian Federation dated August 20, 2004.

The president of the supreme court of a republic, a court of a territory, region, federal city, autonomous region and autonomous circuit makes submissions on the number of candidates for jurors necessary for the work of the relevant courts as well as on the formation of a district from several municipalities with insufficient population to draw up the lists of candidates for jurors to the highest executive body of state power of the relevant constituent entity of the Russian Federation.

The court president also plays a crucial role in the administration of juvenile justice. The Federal Law No. 120-FZ on the Foundations of the System for the Prevention of Neglect and Juvenile Delinquency dated June 24, 1999 empowers him/her to restore the missed period for appealing to a higher court an order of placing the minor aged 14 or over, who is not subject to criminal responsibility, in a special educational institution of custodial type.

According to the Decree of the President of the Russian Federation No. 567 on Coordinating the Activities of Law Enforcement Agencies to Combat Crime dated April 18, 1996, the court president may participate in coordinating meetings of law enforcement agencies to increase their effectiveness.

As the bearer of the judicial power who performs justice, the court president primarily focuses on protecting and securing the legitimate rights and interests of citizens, therefore, he/she is endowed with procedural powers.

Following Art. 6.1 of the Civil Procedure Code of the Russian Federation, Art. 10 of the Code of Administrative Proceedings of the Russian Federation, Article 6.1 of the Criminal Procedure Code of the Russian Federation, the court president reviews applications to speed up the consideration of the case if, after the adoption of the statement of claim or its acceptance for hearing, the case has not considered for a long time, and the trial has been delayed.

The procedural legislation, in particular part 4 of Art. 7 of the Civil Procedure Code of the Russian Federation, Art. 7 of the Code of Administrative Proceedings of the Russian Federation, Art. 8.1 of the Criminal Procedure Code of the Russian Federation, Art. 24.3.1 of the Code of Administrative Offenses of the Russian Federation, empowers the court president to make public the nonprocedural appeals of state bodies, local self-government bodies, other bodies, organizations, officials or citizens received by the court and inform the participants in the trial about them by posting this information on the official website of the court.

The Civil Procedure Code of the Russian Federation also empowers the court president to take part in the collegial consideration of the case in the relevant court (Art. 156 of the Civil Procedure Code of the Russian Federation).

The Code of Administrative Proceedings of the Russian Federation empowers the court president to decide on the collegial consideration of administrative cases due to their particular complexity (Art. 29 of the Code of Administrative Proceedings of the Russian Federation).

As outlined in the Criminal Procedure Code of the Russian Federation, the court president may take the following actions:

— to initiate a change in the territorial jurisdiction of a criminal case (Art. 35 of the Criminal Procedure Code of the Russian Federation);

— to send a copy of the conviction to the institution or body entrusted with the execution of the punishment for enforcement of the sentence, determination, court order (Art. 393 of the Criminal Procedure Code of the Russian Federation);



— to offer the close relatives, relatives of the convict in custody an opportunity to meet with him, at their request, before the enforcement of the sentence (Art. 395 of the Criminal Procedure Code of the Russian Federation).

The Code of Administrative Offenses of the Russian Federation also stipulates that the court president, when considering an administrative offense case, may review the judge motion for recusal (Art. 29.3 of the Code of Administrative Offenses of the Russian Federation). Furthermore, the presidents of general jurisdiction courts of cassation, including cassation military courts, are entitled to revise the judgments in the cases of administrative offenses and the decisions following the consideration of complaints, objections that have entered into force.

Additionally, the institutional regulations of the Supreme Court of the Russian Federation and the Judicial Department at the Supreme Court of the Russian Federation govern the powers of presidents of general jurisdiction courts.

The regulation on creating and maintaining official websites of general jurisdiction courts of the Russian Federation approved by the Decree of the Presidium of the Supreme Court of the Russian Federation dated November 24, 2004 empowers the court president to monitor the operation of the website, including the establishment of an editorial board and the appointment of a person responsible for preparing and updating the information posted on the court website.

The Order No. 36 of the Judicial Department at the Supreme Court of the Russian Federation on Approval of the Instructions for Judicial Proceedings in the District Court dated April 29, 2003 additionally secures the powers of the court president to regulate the standing orders of the court, as well as to resolve other organizational issues.

The court president must ensure the clear implementation of the main provisions and requirements of the above Instructions to create the unified system for organizing paperwork, procedures for dealing with procedural and other documents.

Along with this, the court president approves and sets out:

— the standing orders securing the powers, rights and responsibility of employees of the court apparatus;

— the regulation on the reception office of the federal court of general jurisdiction, as well as the standing orders for organizing the activities of the reception office of the relevant court;

— the procedure for working with incoming correspondence, including in the relevant modules of the system “GAS Pravosudie”, where the court president considers, puts under control, determines the responsible person and the term of consideration of the registered appeals, decides on the removal of the appeal from control.

Particularly, while organizing judicial paperwork, the court presidents approve the job instructions for the court personnel, and the sections related to “official duties” should collectively reflect all areas of the court paperwork (Latysheva 2020, 5).

In order to effectively implement justice, the court president, by the Order No. 36 of the Judicial Department at the Supreme Court of the Russian Federation dated April 29, 2003, is empowered to determine:

— the procedure for making and handing over an audio record of the court session, handing over the court cases (other materials) for familiarization and original documents, their certified copies, the written certificates, handing over copies of judicial acts in other

instances, except as provided for by the legislation of the Russian Federation, keeping keys from the storage chamber of material evidence (special storage) and their duplicates, etc.;

— the persons responsible for posting information about the court cases and downloading the texts of judicial acts to be placed on the Internet, keeping record of the material evidence in criminal cases taken for storage in court as well as composing the commission for destroying material evidence, if necessary.

Important to note that the powers of the court president have been expanded by the distribution of all statements of claim and other applications received by the court, including through the module for distributing cases of the system “GAS Pravosudie”.

During the work with jurors, the court president signs cover letters requesting compensation fees and reimbursements for the remaining expenses to jurors and other procedural costs.

One should note that a number of intrinsic powers of the court president is also enshrined in other orders of the Judicial Department at the Supreme Court of the Russian Federation, for example: the Order No. 224 on Approval of the Instruction on Judicial Paperwork in General Jurisdiction Courts of Cassation dated October 1, 2019, the Order No. 225 on Approval of the Instruction on Judicial Paperwork in General Jurisdiction Courts of Appeal dated October 1, 2019, the Order No. 161 on Approval of the Instruction on Judicial Paperwork in the Supreme Courts of Republics, Courts of Territories, Regions, Federal Cities, Autonomous Regions and Autonomous Circuits dated December 15, 2004, the Order No. 219 on Approval of the Instruction on Paperwork in Military Courts dated October 9, 2014, etc.

Another institutional regulatory act that governs the powers of the presidents of the supreme courts of republics, courts of territories, regions, federal cities, autonomous regions, autonomous circuits, district courts, city and interdistrict courts for organizational support of activities is the Order No. 238 of the Judicial Department at the Supreme Court of the Russian Federation on Approval of the Regulation on the Apparatus of the Federal Court of General Jurisdiction dated December 21, 2012. In accordance with it, the court president manages the activities of the court apparatus, determines the number and names of departments, their structure, the interaction and subordination of divisions and positions, and the number of employees. He/she also monitors the activities of the court's divisions and departments, as well as their heads.

The Law of the Russian Federation No. 3132-1 on the Status of Judges in the Russian Federation dated June 26, 1992 stipulates that the court president, along with the exercise of the powers of a judge of the relevant court and the procedural powers established for the court president by federal constitutional laws and federal laws, establishes the standing orders of the court on the basis of the model rules of the standing orders of the courts approved by the Council of Judges of the Russian Federation and monitors their implementation. Specifically, the Resolution No. 101 of the Council of Judges of the Russian Federation on Approval of the Model Rules of Standing Orders of Courts dated April 18, 2003 empowers the court president to regulate the standing orders.

Namely, apart from the previously designated powers provided for by the current legislation, the court president has the following ones:

— to select candidates for admission to the civil service (work) to the court and appoint civil servants and other employees, to ensure their continued professional training and determine the level of their competence and compliance with the occupied position in

the civil service sector, as well as to resolve issues of assigning class ranks to civil servants, to conduct attestation;

- to approve the job instructions of the court personnel;
- to distribute duties between the court employees, promote them to other jobs in accordance with the current legislation on labor and public service, including ensuring strict observance of official and labor discipline, to carry out the activities aimed at eliminating losses of working time, optimizing the use of labor resources, forming a close-knit team of the court employees;
- to make decisions to encourage court employees or to bring them to disciplinary responsibility, as well as to take measures to ensure the safety of judges and other employees in the courthouse;
- to create the necessary conditions to ensure the efficiency of the work of judges, court employees and the court administrator using modern office equipment, as well as methods of scientific organization of labor;
- to take measures to equip the specially designated places for smoking tobacco, to organize briefing and training of employees in fire safety rules;
- to ensure compliance with the legislation on public service and labor, improve working conditions, provide judges and court employees with the annual basic and additional paid leave, pay temporary disability benefits as established by law;
- to contribute to the creation of a productive, creative environment in the court, fully support and promote the initiatives and activities of judges and court employees, timely consider critical remarks and inform the court personnel about the measures taken.

The Resolution No. 101 of the Council of Judges of the Russian Federation dated April 18, 2003 specifies the following powers of the court president:

- to approve the schedule of reception of citizens by the court employees;
- to shift the time of the beginning (end) of the working day for individual judges and court employees in agreement with them;
- to establish the priority of allocating annual leave to judges and employees of the court, taking into account the need to ensure the uninterrupted operation of the court and favorable conditions for the rest of its employees;
- to give permission for granting access to judges, court employees and other persons to the courthouse during non-working hours, weekends and non-working holidays.

The president of the supreme court of a republic, a court of a territory, region, federal city, autonomous region and autonomous circuit, by virtue of the powers assigned to him/her, is a subject of corruption prevention, since he/she participates in the formation of the staff of the court, namely, his/her opinion must be taken into account by the qualification board of judges of the constituent entity of the Russian Federation when deciding on the recommendation of a citizen to the position of judge of the relevant court (Fatkhutdinov 2020, 120).

Another challenge is the distribution of powers between, on the one hand, the court president and, on the other hand, the Chief Justice of the Supreme Court of the Russian Federation, bodies of the judiciary and administrator — a professional manager, who is not a judge.

The court presidents may be elected to all bodies of the judiciary (a delegate to the All-Russian Congress of Judges of the Russian Federation or a conference of judges of a constituent entity of the Russian Federation, the Council of Judges of the Russian Federation or the council of judges of a constituent entity of the Russian Federation, a member of the examination commission), except for qualification boards of judges (par. 7 of Art. 11 of Federal Law on Bodies of the Judiciary in the Russian Federation).

This exception is primarily due to the provision of the principle of independence of judges and the maximum reduction in the possible influence on judges by the court president, since it is the qualification boards of judges that make the key personnel decisions: to conduct a competition for the position of a judge and the court president; to select candidates for the post of a judge; to suspend, renew or terminate the powers of judges or their resignation; to conduct attestation; to impose disciplinary penalties; to give opinions on the possibility of involving judges and court presidents in the discharge of the duties of judges and court presidents (Arts. 17, 19 of the Federal Law on Bodies of the Judiciary in the Russian Federation).

The difficulty for composing the qualification board of judges can only lie in the fact that they have to make decisions on the court presidents and their deputies, since it is simply difficult for judges, members of the public and the Plenipotentiary Representative of the President of the Russian Federation to fully determine, analyze and evaluate all the powers and responsibilities of the court presidents, given a huge number of legal acts defining them, and the features that only court presidents can be aware of.

Therefore, it seems necessary to expand the powers of the qualification boards by forming an expert group consisting of presidents of other courts and representatives of the Judicial Department and its divisions, which would include officials from the verification commissions themselves. A decision against the court president cannot be based solely on the conclusions of such a commission. Currently, par. 6 of Art. 21 of Federal Law on Bodies of the Judiciary in the Russian Federation permits only court presidents to participate in meetings of qualification boards with the possibility to express their opinions. They cannot, however, replace the expert review.

An analysis of changes in the powers of presidents of general jurisdiction courts shows that as judicial reform was carried out in the Russian Federation, to ensure the principle of independence of judges and the judiciary, gradually part of the powers of presidents of general jurisdiction courts have been transferred to other officials, bodies of the judiciary and the judicial system: the Judicial Department at the Supreme Court of the Russian Federation, the court administrator, the Council of Judges of the Russian Federation and the councils of judges of constituent entities of the Russian Federation, the Higher Qualification Board of Judges of the Russian Federation, and the qualification boards of judges in the constituent entities (Appendix 3).

The court president's official status and powers differ greatly from those of other heads of state, since it is based not on the unity of command and subordination to the head, but on strict observance of the principle of independence of judges and the court as a whole, with the distribution of power among various bodies and officials of the judicial system. Furthermore, even the latter do not have the right to interfere with the activities of a judge.

Collegiality is essential for resolving many important judicial issues, such as taking exams from candidates for judges, checking each candidate and providing an appropri-

ate opinion, assigning qualification classes, conducting attestation, reviewing complaints against judges, bringing them to disciplinary responsibility, awarding, terminating powers, etc. Currently, the court president does not have such powers.

Additionally, the Chief Justice of the Supreme Court of the Russian Federation has a number of powers in relation to judges and presidents of general jurisdiction courts. Particularly, he/she makes submissions to the President of the Russian Federation on candidates for these positions and on honoring judges with state awards based on the decisions of the Higher Qualification Board of Judges of the Russian Federation. The Chief Justice of the Supreme Court submits attestation requests for all court presidents and their deputies, except for district (city) courts and garrison military courts, to the Higher Qualifications Board of Judges and arranges for the verification of information about judges' judicial misconduct that do not comply with the Law of the Russian Federation on the Status of Judges in the Russian Federation and the Code of Judicial Ethics and impedes judicial authority<sup>2</sup>.

Also worth noting is that the Chief Justice of the Supreme Court of the Russian Federation is required to decide which of the court president deputies or judges can carry out his/her duties when his/her powers are suspended or terminated.

Thus, part of the personnel powers are conferred on the President of the Russian Federation and the Federation Council (Art. 128, pars. "e" and "e.3" of Art. 83, par. "1" of Art. 102 of the Constitution of the Russian Federation). Meanwhile, the President of the Russian Federation exercises his powers to appoint judges and to terminate the powers of a separate category of judges based on recommendations of the Commission under the President of the Russian Federation on the Preliminary Consideration of Issues of Appointing Judges and Terminating Their Powers<sup>3</sup>.

Meanwhile, such a position as an office manager appeared in the cassation and appeal courts. Office managers are full-time employees of the court, not of the judiciary department. Their maximum class rank is the State Adviser of the Russian Federation of the 3<sup>rd</sup> class, therefore, they are lower in status than administrators of general jurisdiction courts of cassation and appeal, which can be assigned the maximum class rank of the State Adviser of the Russian Federation of the 1<sup>st</sup> class, and lower than administrators of the supreme courts of republics, court of territories, regions and equal courts of general jurisdiction (the State Adviser of the Russian Federation of the 2<sup>nd</sup> class). Hierarchically, only administrators of district courts and of those equal to them are inferior to office managers of general jurisdiction courts of cassation and appeal.

It is preferable to choose the position of the administrator (a professional manager, who is not a judge), who can be fully responsible for the economic-administrative functions of the court. From a linguistic perspective, the office manager can handle both economic and administrative tasks simultaneously, while the court administrator can only perform administrative duties.

Moreover, the concept of "administrator" has a different meaning in other areas than in the judiciary. From the Qualification Directory of Managers, Specialists, and Other

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<sup>2</sup> The subpars. 11, 15, 16, 17, 19 of par. 3 of Art. 12 of the Federal Constitutional Law No. 3-FKZ on the Supreme Court of the Russian Federation dated February 5, 2014 (as amended on April 16, 2022).

<sup>3</sup> The Decree No. 97 of the President of the Russian Federation on the Commission under the President of the Russian Federation on the Preliminary Consideration of Issues of Appointing Judges and Terminating Their Powers dated February 17, 2021 (as amended on October 25, 2021).

Employees approved by Decree No. 37 of the Ministry of Labor of the Russian Federation dated August 21, 1998, the position of administrator appears in section 2 "Positions of Specialists". The administrator is primarily responsible for providing effective and cultural services for visitors, creating comfortable conditions for them, monitoring the safety of material assets, and implementing necessary organizational and technical measures. However, secondary vocational education without work experience or primary vocational education and at least two years of work experience in a specialty are the key requirements for his qualification.

Thus, court administrators are perceived by other bodies, including control and supervisory bodies, not as a leader capable of making relevant decisions, signing contracts, agreements, and performing other legally significant actions, but simply as administrators without any real independent governing powers. Due to the large amount of powers, court administrators today often perform only the duties of delivering the materials and technical means to the court, their accounting and control over their use and safety, while the rest of the issues are handled by them as they know and are qualified to do (for example, drafting estimates of the court expenditure, planning the construction of the building<sup>4</sup>) or by fulfilling some instructions of the court president.

Additionally, to guarantee the court independence of the court, judges, including the court president, in each court, there should be a specific official who can perform legally significant actions: to conclude contracts, to ensure every type of safety (fire, sanitary, epidemiological, technical, physical), including labor protection, etc. Consequently, this official could assume a certain burden of legal responsibility if controversial civil issues arise during the resolution of administrative matters, protecting the court president and judges from possible pressure and manipulation not directly related to the administration of justice.

The position of office manager may be the correct name for such a governing and legal responsibility position. The office manager refers to the senior positions, if you look at the relevant qualifications outlined in the above-mentioned Qualification Directory. Besides higher professional education, he/she must possess at least five years of experience in the dedicated senior positions. The job duties of this position include managing the production, economic, and financial activities of the enterprise, while establishing responsibility for the outcomes of the decisions made, the preservation and effective use of the enterprise property, as well as the financial and economic results of its activities.

Also, in analogy with the Administrative Directorate of the President of the Russian Federation, the office manager provides material-technical support, social, medical, and sanatorium-resort services, and financial support to the President of the Russian Federation, the Government, the Presidential Administration, and the Government apparatus. This equates to a fairly high status as an office manager and covers a wide range powers that allow this particular official and management to enter into all civil and administrative relations concerning service contracts, security contracts, training contracts, etc.

Therefore, the court president is exempt from disputes and conflicts of interest arising from contractual relationships with other entities (cleaning of the court premises, supply of components and consumables, maintenance of telecommunication networks, security, and fire safety, etc.). Today, presidents of general jurisdiction courts (except for district

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<sup>4</sup> The Federal Law No. 7-FZ on the Judicial Department at the Supreme Court of the Russian Federation dated January 8, 1998, Art. 223, par. 7, 8 of Art. 19.

and garrison military courts, where these functions are performed by officials of the divisions of judicial departments in the constituent subjects of the Russian Federation) declare tenders and auctions, conclude and sign relevant contracts, which means that they can be brought to civil, administrative and criminal responsibility for certain even unintentional violations. Obviously, this cannot but affect the independence of the court president, the court and the judicial system in general.

Since the powers of the office manager and the court administrator currently include both the selection of personnel and the organization of the paperwork, repair and construction issues, the maintenance of the automated computer equipment and safety and security systems, etc., such an official should be charged with the procurement duties, which are related to direct interaction with other organizations and institutions, the announcement and arrangement of the relevant tenders, auctions, and the subsequent signing of contracts.

Consequently, a position of professional manager, who is not a judge, should be offered in all general jurisdiction courts, with higher qualification requirements and the possibility of assigning the class ranks up to the State Adviser of the Russian Federation of the 3<sup>rd</sup> class and the State Adviser of the Russian Federation of the 1<sup>st</sup> class, depending on the relevant court level.

The classifications and characteristics of the powers of presidents of general jurisdiction courts demonstrate the extent of their rights and obligations under constitutional guarantees.

In our belief, improving the status of the court president and broadening the scope of his/her powers will reflect the expansion and sophistication of the duties of the president of a general jurisdiction court as a governing body of the court due to the complication of state and public life. In the framework of determining the competence of the internal management subjects, the powers of the judiciary bodies and the court administrator court should be fully secured. Because the court president is a universal and main governing body of the court, a list of his/her powers cannot be exhaustive.

The regularity in the formation of the court president competence is the securing of his/her powers through an open list with the clear boundaries of the competence of internal judicial management subjects and the legal forms of interactions between them and the court president. This pattern determines the procedure for distributing managerial powers, which allows promptly considering issues arising in the activities of the court.

As the judicial system develops, powers are distributed between the court president and the administrator (a professional manager, who is not a judge). In accordance with the partnership model, which allows you to quickly distribute the duties of organizing the work of the court, taking into account the peculiarities of each court, the exclusive competence of the president of a general jurisdiction court includes: addressing the issues related to legal proceedings, appointing and dismissing the court employees, encouraging and bringing them to responsibility. The administrator of the relevant general jurisdiction court (except for district and military garrison courts) is the head of the court apparatus responsible for all economic activity powers transferred from the court president. Joint competence means that the court president and the professional manager interact and coordinate, and it also involves other issues of managing the general jurisdiction court apparatus that are not limited to their exclusive responsibilities.

### 3. Conclusions

The key powers of the court president, defining his position as the court governing body, are: to guide the court in ensuring the effectiveness of judicial administration and the unity of judicial practice by interacting with judges, in accordance with the principle of *primus inter pares* (first among equals), to manage the court apparatus activities, to represent the court. The nonprocedural powers of the court president determine the need to regulate the workload for considering the cases, which should be controlled by a collegial body (for example, a council of judges of a constituent entity of the Russian Federation), according to the volume of management tasks and participation in the judicial bodies' activities.

Today, new duties and legal forms of interaction between the president of a general jurisdiction court and the judiciary bodies have appeared: 1) the duty of considering an advisory opinion of the court self-administration bodies (general assemblies of judges) when making organizational decisions, namely on the specialization of judges, their distribution by judicial composition, changes in the structure of the court apparatus, allocation of resources, setting out of the court working conditions; 2) the duty of attributing measures to verify appeals of citizens and legal entities to the competence of the judiciary bodies.

The optimal ways to implement the administrative function based on the distribution of powers between the court president and the administrator, a professional manager, who is not a judge, are: 1) the institutionalization of the court administrator as the head of the general jurisdiction court apparatus (except for district and military garrison courts) with subordination to the court president; 2) the limitation the administrator competence to a range of the everyday administrative and economic issues determined by law and categorized on similar grounds (clusters of powers); 3) the limitation of the court president competence to resolving the issues of legal proceedings and personnel management (appointment and dismissal of employees of the court apparatus, their encouragement and bringing to responsibility, distribution of duties). In addition to the exclusive responsibilities of the court president, the administrator exercises his/her powers independently and/or in agreement with the court president (partnership model), which helps distribute duties effectively, taking into account the peculiarities of a particular court. This model entails the transfer of all economic powers from the presidents of regional, cassation, appeal and military courts to the administrators, i.e. the heads of the court apparatus.

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