

**The speech of the Chairman of the Constitutional Council of the Republic
Kazakhstan Igor Rogov on 2nd Congress of the World Conference on
Constitutional Justice “Separation of Powers and Independence of
Constitutional Courts and Equivalent Bodies”,
Rio de Janeiro, 16-18 January 2011**

Dear colleagues! Ladies and gentlemen!

Let me on behalf of the Constitutional Council of Republic Kazakhstan to welcome participants of the present conference and express gratitude to its organizers for the invitation and the fine organization of work.

The World conference is devoted to vital topic. The principle of Separation of Powers developed more than three hundred years ago, making a basis of constitutions of many states, in the modern world has faced to new challenges. Studying of laws of this tendency represents for us the big theoretical and practical interest.

The mentioned principle has found in the Constitution of the Republic of Kazakhstan. According to its article 3 the state power in the Republic of Kazakhstan is unified and executed on the basis of the Constitution and laws in accordance with the principle of its division into the legislative, executive and judicial branches and a system of checks and balances that governs their interaction.

In system of Separation of Powers the Constitutional Council of Republic Kazakhstan occupies special position. For a basis of development of the Kazakhstan body of the constitutional control the French model was taken. Thus there are some distinctions, including basic character.

The Constitutional Council of Kazakhstan consists of seven members. The Chairman and two members of the Constitutional Council are appointed by the President of the Republic, and on two members are appointed accordingly by the Senate and Mazhilis of the Parliament that provides participation of the deputies and, indirectly, the account interests of the population.

The Constitutional Council of Republic Kazakhstan is the independent state structure which is not possessing judicial functions. The constitutional proceedings can be raised only under appeals of the limited circle of subjects: the President, the Prime Minister, Chairmen of Chambers of the Parliament, not less the one fifth part from total number of deputies of Parliament, courts. The Constitutional Council controls the correspondence of the law to the Constitution of the country by realization of preliminary and subsequent constitutional control. Its decisions serve to provide the correct interpretation of principles and norms of the Constitution various subjects of public relations that is a guarantee of steady and stable development of the state. Legal positions of the Constitutional Council have an important role not only in constitutionality in corresponding legal relationship, but also experts as focusing marks in development of the current legislation and formation law enforcement practice.

The powers the Constitutional Council of Kazakhstan carries out according to principles of independence, objectivity, an irremovability, collective nature and submission only Constitution.

Resolutions of the Constitutional Council shall come into effect from the day they are adopted, shall be binding on the entire territory of the Republic, Final and not subject to appeal. Within the constitutional control they are the effective guarantor from an exit of the legislation of the country, and, indirectly, law enforcement practice, from limits of the constitutional positions. The right of entering of objection to the decision of the Constitutional Council allocates only the President of Republic. Such right of the Head of the state follows from its legal status as a symbol and the guarantor of firmness of the Constitution, the rights and freedoms of the person and the citizen. Would like to notice especially that entering of objection doesn't mean cancellation of the corresponding decision of the Constitutional Council, and is only an occasion to repeated consideration of a question. The Council decision keeps validity if objections of the President are overcome by two thirds of voices of total number of members of the Constitutional Council. If not, the decision of the Constitutional Council not accepted. Practice of the constitutional control shows viability of the given order. For these years the Head of the state on decisions of the Constitutional Council brought objections three times, and only under one decision partially its objections haven't been overcome.

Together with other state structures the Constitutional Council promotes strengthening of a legal component of a society, overcoming of legal collisions, promotes decrease in social contradictions, focuses a society on the constitutional values.

One of aim of the Constitutional Council is preparation of annual messages about a condition of the constitutional legality in Republic. In this document the Constitutional Council analyses the current legislation and practice of its application from the point of view of their conformity to norms of the Constitution, pays attention of corresponding state structures to available lacks. According to the Constitution such messages listen at joint session of Chambers of Parliament, therefore their "addressee" first of all is the higher representative body of Republic - Parliament. Certainly, the message text is represented also to the President of Republic. Besides it, the Constitutional law "About the Constitutional Council of Republic Kazakhstan" establishes that the Chairman of the Constitutional Council on request of the President of Republic represents it the information on a condition of the constitutional legality in the country.

Finishing speech, I would like to notice that in process of the further development of a society, by means of elimination inevitably arising contradictions in a legislative file, implementation of international legal norms and clarification of the national legislation from rudiments of the socialist past, in Kazakhstan there is a dynamical and confident development of modern effective legal system. In this process the Constitutional Council by means of realization of the constitutional control acts as original "keeper" of the constitutional values which are a basis of national interests of Republic.