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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**CONSTITUTIONAL LAW**  
**OF THE REPUBLIC OF KAZAKHSTAN ON**  
**THE JUDICIAL SYSTEM AND STATUS OF JUDGES**  
**OF THE REPUBLIC OF KAZAKHSTAN**

**CONSTITUTIONAL LAW OF THE REPUBLIC OF KAZAKHSTAN  
ON JUDICIAL SYSTEM AND STATUS OF JUDGES  
OF THE REPUBLIC OF KAZAKHSTAN**

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Translated for Transparency Kazakhstan Civic Foundation by Dr. Leonid Dzhepko,  
Lawyer-Translator

**Section 1. GENERAL PROVISIONS**

**Article 1. Judicial Power**

1. Judicial power in the Republic of Kazakhstan belongs only to the courts in the face of permanent judges, and jurors engaged in the criminal court proceedings in the cases and in the procedure stipulated by the law.

Justice in the Republic of Kazakhstan shall be administered only by a court.

It is prohibited to issue any legislative acts providing for transfer of exclusive powers of a court to any other agencies.

No other agencies, or persons shall have the right to assume the powers of a judge or the functions of judicial power.

Petitions, applications and complaints, which are subject to consideration in the course of court proceedings, may not be considered or monitored by any other agencies, officials or other persons.

2. Judicial power shall be exercised on behalf of the Republic of Kazakhstan and is intended to protect the rights, freedoms and lawful interests of individuals and organizations, and to ensure the implementation of the Constitution, laws, other regulatory legal acts, and international treaties of the Republic.

Everyone shall be guaranteed judicial defense against any unlawful decisions and acts of state agencies, organizations, officials and other persons which infringe or restrict the rights, freedoms and lawful interests provided by the Constitution and the laws of the Republic.

No one may be deprived of the right to have his case considered in compliance with all the requirements of the law and fairness by a competent, independent and impartial court.

Judicial power shall be exercised by means of civil and criminal court proceedings and other forms of court proceedings established by the law.

3. In the administration of justice, judges shall be independent and subordinate only to the Constitution and the law. It shall not be allowed to adopt any laws or other regulatory legal acts impairing the status and independence of judges.

Any interference in the court's activity concerning administration of justice shall not be allowed and shall entail liability pursuant to the law. Judges shall not be accountable for specific cases. Any claim filed in violation of the established court procedure, and also on issues which do not come within the competition of court, shall be left without handling or forwarded to the relevant bodies.

Any contempt of a court or a judge shall entail liability stipulated by the law.

Court acts and demands of judges in exercising their powers shall be binding on all state agencies and their officials, natural persons and legal entities. Failure to implement court acts and demands of a judge shall entail liability stipulated by the law.

**Article 2. Symbols of State Power**

1. The State Flag of the Republic of Kazakhstan and the State Emblem of the Republic of Kazakhstan shall be placed on court buildings and in the courtrooms.

2. Judges shall administer justice in their gowns, design and description of which shall be approved by the plenary session of the Supreme Court.

### **Article 3. The Judicial System**

1. The judicial system of the Republic of Kazakhstan shall consist of the Supreme Court of the Republic of Kazakhstan the local and other courts established in accordance with the Constitution of the Republic of Kazakhstan and this Constitutional Law.

The establishment of special and extraordinary courts under any name shall not be permitted.

2. The local courts shall include:

1) oblast courts and courts equivalent to them (the city court of the Republic's capital, city courts of the cities of Republic's significance);

2) district courts and courts equivalent to them (a city, interdistrict court).

3. Other courts, including specialized courts (courts martial, financial, economic, administrative, juvenile courts, and other courts) may be formed in the Republic of Kazakhstan.

3-1. Specialized courts with the status of an oblast or district court shall be constituted by the President of the Republic of Kazakhstan.

4. The Supreme Court of the Republic of Kazakhstan, local and others courts shall have a seal depicting the State Emblem of the Republic of Kazakhstan and their names.

### **Article 4. The Unity of the Judicial System**

The unity of the judicial system of the Republic of Kazakhstan shall be ensured by:

1) the principles of justice general and uniform for all courts and judges and established by the Constitution, this Constitutional Law, procedural and other laws;

2) the exercise of judicial power within the forms of court proceedings uniform for all courts and established by the laws;

3) the application of the current law of the Republic of Kazakhstan by all courts;

4) the legislative enactment of the single status of judges;

5) the obligatory enforcement of judicial acts which have entered into legal force throughout the entire territory of Kazakhstan; and

6) the financing of all courts only from the Republic budget.

### **Article 5. Legislation Determining Procedure of the Activity of Courts and Status of the Judges in the Republic of Kazakhstan**

Judicial system and status of the judges, as well as the procedure of the administration of justice in the Republic of Kazakhstan shall be determined by the Constitution, this Constitutional Law, and other legislative acts of the Republic of Kazakhstan.

## **SECTION 2. THE JUDICIAL SYSTEM**

### **Chapter 1. District Courts and Courts Equivalent to Them Article**

#### **6. Establishment of District Courts and Courts Equivalent to Them**

1. District courts and courts equivalent to them (hereinafter referred to as the district courts) shall be established, reorganized and abolished by the President of the Republic of Kazakhstan pursuant to the proposal of the authorized agency agreed with the Chairman of the Supreme Court.

The President of the Republic of Kazakhstan may establish one district court in several administrative-territorial areas, or several district courts in one administrative-territorial area.

2. The total number of judges for the district courts shall be approved by the President of the Republic of Kazakhstan pursuant to the proposal of the authorized agency.

3. The number of judges for each district court shall be established by the authorized agency based on the proposal of the chairman of that court.

**Article 7. The Composition of a District Court**

1. A district court shall consist of the chairman and judges to be appointed in the procedure stipulated by the Constitution and this Constitutional Law.

If there is one judge on the staff of a district court (one-member court), he shall exercise the powers of the chairman of the court.

2. Deleted.

**Article 8. The Powers of a District Court**

1. A district court shall be a court of first instance.

2. A district court shall:

- 1) consider court cases and materials referred to its jurisdiction;
- 2) deleted;
- 3) exercise other powers stipulated by the law.

**Article 9. Chairman of a District Court**

1. The chairman of a district court shall be a judge and alongside with performance of the functions of a judge he shall:

- 1) organize consideration of court cases by judges of the court;
- 2) carry out general management of the court registry;
- 3) receive individuals;
- 3-1) approve a work plan of a district court;
- 4) organize internships of candidates for position of a judge;
- 5) ensure measures on preventing corruption and meeting the judicial ethics standards;
- 6) issue orders; and
- 7) exercise other powers granted to him by the law.

2. In the temporary absence of the chairman of a district court, his duties shall be assigned to one of the judges of that court pursuant to the order of the chairman of that court.

In the absence of the chairman and also judges in the district court, their duties shall be assigned to judges of another court pursuant to the order of the chairman of an oblast court.

In case of early termination or expiration of the term of powers of the district court's chairman, temporary duties of the chairman shall be assigned to one of the judges of that court pursuant to the order of the chairman of the oblast court.

**Chapter 2. Oblast Courts and Courts Equivalent to Them****Article 10. Establishment of Oblast Courts and Courts Equivalent to Them**

1. Oblast courts and courts equivalent to them (hereinafter referred to as the oblast courts) shall be established, reorganized and abolished by the President of the Republic of Kazakhstan pursuant to the proposal of the authorized agency agreed with the Chairman of the Supreme Court.

2. The total number of judges for the oblast courts shall be approved by the President of the Republic of Kazakhstan pursuant to the proposal of the authorized agency.

The number of judges for each oblast court shall be established by the authorized agency based on the proposal of the chairman of that court.

**Article 11. The Structure and Composition of an Oblast Court**

1. An oblast court shall consist of the chairman and judges.

2. At an oblast court, court collegiums shall be formed and specialized panels may be established.

3. The bodies of an oblast court shall be as follows:

- 1) the plenary session of the court;
- 2) the appellate collegium;

3) the cassational collegium.

The judicial collegium shall be headed by the chairman appointed to the position pursuant to the procedure established by this Constitutional Law.

4. The total number of members and membership of the collegium shall be established on a plenary session of the oblast court pursuant to the proposal of the chairman of the oblast court.

5. Specialized panels shall be formed by the chairman of the oblast court

#### **Article 12. Powers of an Oblast Court**

An oblast court shall:

- 1) consider court cases and materials referred to its jurisdiction;
- 2) deleted;
- 3) study judicial practice and based on the results of summarizing it, consider the issues of keeping the law by the courts of the oblast when administering justice;
- 4) supervise the activities of the administrator of the courts of the oblast; and
- 5) exercise other powers stipulated by the law.

**Article 13.** Deleted.

#### **Article 14. The Chairman of an Oblast Court**

1. The chairman of an oblast court shall be a judge, and alongside with performance of the duties of a judge he shall:

- 1) organize consideration of court cases by the judges;
- 2) have the right to preside over sessions of the collegium and specialized panel;
- 3) convene and chair plenary sessions of the oblast court;
- 4) ensure the prevention of corruption and upholding code of ethics;
- 5) based on the recommendation of a plenary session of the court, send to the Supreme Judicial Council an opinion on the internship results of a candidate for the judge's position;
- 6) approve a work plan of an oblast court;
- 7) organize case study;
- 8) issue orders;
- 9) carry out general management of the court registry;
- 10) personally receive individuals;
- 11) exercise other powers stipulated by the law.

2. In case of early termination or expiration of the term of the chairman of the oblast court, temporary performance of chairman's duties shall be assigned to the chairman of a collegium (judge) of the oblast court pursuant to the order of the chairman of the Supreme Court. In the temporary absence of the chairman of an oblast court, his duties shall be assigned by the chairman of an oblast court.

#### **Article 15. Chairman of a Collegium of an Oblast Court**

1. The chairman judicial of a collegium of an oblast court shall be a judge, and alongside with performance of the duties of a judge he shall:

- 1) organize consideration of court cases by the judges judicial of the collegium;
- 2) chair the sessions of judicial the collegium;
- 3) submit his proposals to the chairman of the court concerning formation of specialized panels Delel;
- 4) organize work on studying and summarizing of judicial practice;
- 5) submit information to a plenary session of the court concerning the activity of the judicial the collegium; and
- 6) exercise other powers stipulated by the law.

2. In the temporary absence of the chairman judicial of a collegium, the chairman of the court shall assign his duties to one of the judges of the collegium.

**Article 16. Plenary Session of an Oblast Court**

1. Whenever necessary, but no less than twice a year, the oblast court shall hold plenary sessions, on which it shall:

- 1) establish the total number of members and membership of the corresponding judicial collegium;
- 2) deleted;
- 3) hear information of the chairman of the oblast court and chairmen of the judicial collegiums;
- 4) discuss the judicial practice and based on the results of summarizing it, consider the issues of keeping the law by the courts of the oblast when administering justice;
- 5) issue his consent to the authorized agency for appointment of a person to the position of an administrator of the oblast courts;
- 6) hear report of the administrator of the oblast courts on his activity;
- 7) consider candidates for vacant position of the chairman of a district court and issues corresponding opinions based on its results;
- 8) submits his proposal to dismiss the administrator of the oblast courts to the authorized agency;
- 9) consider results of internship of the candidates for the position of a judge and provide the corresponding opinion;
- 9-1) discuss the referral to Judicial jury of materials against a judge having low justice performances or two or more disciplinary sanctions for violation of law in legal proceeding, and based on the results of discussion make an appropriate decision; and
- 10) exercise other powers stipulated by the law.

2. A plenary session shall be quorate if no less than two thirds of the total number of the judges of the oblast court attend it.

3. The procedure of work of a plenary session of an oblast court shall be determined by the rules approved by it.

**Chapter 3. The Supreme Court of the Republic of Kazakhstan****Article 17. The Powers of the Supreme Court**

1. The Supreme Court shall be the highest judicial body for civil, criminal and other cases which are in the jurisdiction of local and other courts, and shall supervise their activity within the procedural forms provided for by the law and gives clarifications concerning issues of judicial practice.

2. The Supreme Court shall:

- 1) consider the court cases and materials referred to its jurisdiction;
- 2) study the judicial practice, and based on the results of its summarizing, consider the issues of keeping the law by the courts of the Republic when administering justice;
- 3) adopt regulatory resolutions, provide the judicial practice explanations; and
- 4) exercise other powers stipulated by the law.

**Article 18. The Structure and Composition of the Supreme Court**

1. The Supreme Court shall consist of the Chairman and judges. The total number of Supreme Court judges shall be established by the President of the Republic of Kazakhstan pursuant to the proposal of the Chairman of the Supreme Court.

2. Under the Supreme Court, judicial collegiums shall be established and specialized panels may be set up.

3. The bodies of the Supreme Court shall be as follows:

- 1) the plenary session;
- 2) the supervisory judicial collegium for civil and administrative cases;
- 3) the supervisory judicial collegium for criminal cases.

The judicial collegium shall be headed by the Chairman appointed to office in accordance with the procedure stipulated by this Constitutional Law.

4. The total number of members and membership of the judicial collegium shall be established on a plenary session of the Supreme Court pursuant to the proposal of the Chairman of the Supreme Court.

5. The Chairman of the Supreme Court may form specialized panels

6. A research and advisory council and a press organ shall be created under the Supreme Court.

**Article 19.** Deleted.

**Article 20. The Chairman of the Supreme Court**

1. The Chairman of the Supreme Court shall be a judge, and alongside with performance of the duties of a judge he shall:

1) head the Supreme Court as the highest judicial body;

2) may chair sessions of judicial collegiums and specialized panel;

3) convene and chair plenary sessions of the Supreme Court;

4) submit to a plenary session of the Supreme Court materials for consideration, in order for the Supreme Court to issue regulatory resolutions on issues of judicial practice and information about supervisory review of a judicial act on the grounds stipulated by the law;

5) nominate for approval of a plenary session of the Supreme Court candidates for the positions of a secretary of a plenary session of the Supreme Court and members of the research and advisory council;

6) when necessary, assign judges of one judicial collegium to consider cases in another judicial collegium;

7) approve plan of work of the Supreme Court;

8) coordinate work of the collegiums;

9) approve the statute on the apparatus of the Supreme Court, its structure and composition and also carry out general management of the apparatus of the Supreme Court;

10) personally receive individuals; and

11) issue orders.

2. The Chairman of the Supreme Court shall represent the interests of the judicial system of the Republic in mutual relations with the agencies of other branches of state power of the Republic and international organizations, and shall:

1) propose to the President of the Republic of Kazakhstan the candidature of the head of the authorized agency;

2) submit for consideration of the corresponding plenary sessions of the courts on an alternative basis the candidatures for vacant posts of the chairmen and chairmen of judicial collegiums of local and other courts, the chairmen of judicial collegiums and judges of the Supreme Court;

3) based on the opinions of plenary sessions of local and other courts, propose the candidatures for vacant posts of the chairmen of district courts to the Supreme Judicial Council;

3-1) based on the opinions of plenary sessions of the Supreme Court, propose the candidatures for vacant posts of the chairmen and chairmen of the judicial collegiums of oblast courts, chairmen of judicial collegiums and judges of the Supreme Court to the Supreme Judicial Council;

4) submit to President of the Republic of Kazakhstan his proposals to improve the legislation;

5) if any grounds stipulated in this Constitutional Law arise, submit to the Supreme Judicial Council, his proposals and materials concerning discharge of chairmen, chairmen of judicial collegiums and judges of the Republic's courts;

6) submit to the President of the Republic of Kazakhstan his proposals concerning awarding state awards and confer honorary titles to judges;

7) confer to judges the title of Honorary Judge, and approve the Regulations on the Procedure of Conferring of this Title;

8) deleted; and

9) exercise other powers stipulated by the law and other regulatory legal acts.

3. In the temporary absence of the Chairman of the Supreme Court, his duties shall be assigned to one of the chairmen of the collegiums, by order of the Chairman's judicial of the Supreme Court.

4. If the Chairman of the Supreme Court retires or is dismissed early otherwise, the President of the Republic of Kazakhstan shall temporarily assign the Chairman's duties to one of the chairmen of the judicial collegiums (judge) of the Supreme Court.

#### **Article 21. Chairman judicial of a Collegium of the Supreme Court**

1. The chairman judicial of a collegium of the Supreme Court shall be a judge, and alongside with performance of the duties of a judge he shall:

- 1) chair the sessions of the judicial collegium;
- 1-1) organize consideration of court cases by judges;
- 2) organize work on studying and summarizing judicial practice;
- 3) ensure preparation by judges of the corresponding documents for consideration at a plenary session of the Supreme Court;
- 4) submit information to a plenary session concerning the activity of judicial the collegium; and
- 5) exercise other powers stipulated by the law.

2. In the temporary absence of the chairman judicial of a collegium, his duties shall be assigned to one of the judges of the collegium, pursuant to an order of the Chairman of the Supreme Court.

#### **Article 22. Plenary Session of the Supreme Court**

1. A plenary session of the Supreme Court shall:

- 1) pursuant to a proposal of the Chairman of the Supreme Court establish the numerical strength and membership of the corresponding judicial collegium;
- 2) establish the total number of members and membership of the collegiums;
- 3) issue regulatory resolutions, provide the issues of judicial practice and make recommendations on improvement of the legislation;
- 3-1) shall proceed in the order of supervision as by law enacted;
- 4) hear information of the chairmen judicial of the Supreme Court collegiums and the head of the authorized agency;
- 5) issue its opinion in the case stipulated by Article 47.2 of the Constitution of the Republic of Kazakhstan;
- 6) discuss candidates for vacant positions of the chairmen, the chairmen of judicial collegiums of oblast courts, the chairmen of judicial collegiums and judges of the Supreme Court, and issue corresponding opinions;
- 7) approve the secretary of a plenary session and members of the research and advisory council, pursuant to a proposal of the Chairman of the Supreme Court;
- 7-1) discuss the referral to Judicial jury of materials against a judge having low justice performances or two or more disciplinary sanctions for violation of law in legal proceeding, and based on the results of discussion make an appropriate decision;
- 7-2) approve a uniform and description of a judge's gown; and
- 8) exercise other powers stipulated by the law, and also elect Judicial jury by ballot.

2. A plenary session shall be quorate if no less than two thirds of the total number of the judges of the Supreme Court attend it.

3. The procedure of work of a plenary session of the Supreme Court shall be determined by the rules approved by it.

### **Section 3. THE STATUS OF JUDGES**

#### **Chapter 1. The Legal Status of Judges**



### **Article 23. The Status of a Judge**

1. Judges of all courts of the Republic of Kazakhstan shall have a uniform status and shall differ among themselves only by their powers.

A judge shall be vested in the procedure established by the Constitution of the Republic of Kazakhstan and this Constitutional Law with the power to administer justice, shall carry out his duties on a permanent basis, and shall be a bearer of judicial power.

The legal status of judges shall be determined by the Constitution of the Republic of Kazakhstan, this Constitutional Law and other laws.

2. A judge may not be assigned any non-judicial functions and duties, which are not stipulated by the law. A judge may not be a member of state structures on issues of crime control, and keeping the law and peace.

### **Article 24. Irremovability of a Judge**

1. Judges shall be elected or appointed in accordance with the Constitution of the Republic of Kazakhstan and this Constitutional Law and vested with the power on a permanent basis.

2. Powers of the judges may be terminated or suspended only on the grounds and in the procedure stipulated this Constitutional Law.

### **Article 25. Independence of a Judge**

1. Independence of a judge shall be protected by the Constitution and the law. In the administration of justice judges shall be independent and subordinate only to the Constitution of the Republic of Kazakhstan and the law.

2. No one may interfere in the administration of justice or exert any influence over a judge or jurors. Such acts shall be prosecuted according to the law.

3. A judge shall not be obliged to provide any explanations on the essence of considered or sub judicial court cases. Secrecy of retiring room must be secured in all cases without any exceptions.

4. Courts shall be financed, judges shall be material and social secured and housing shall be provided to them from the Republic's budget in the amounts sufficient for full and independent administration of justice.

### **Article 26. Guarantees of Judge's Independence**

1. The independence of a judge shall be ensured by the following:

- 1) the procedure stipulated by the law for the administration of justice;
- 2) the liability stipulated by the law for any interference in the judge's activity associated with the administration of justice and for contempt of court and judges;
- 3) the inviolability of a judge;
- 4) the procedure stipulated by the Constitution of the Republic of Kazakhstan and this Constitutional Law for the election, appointment, termination and suspension of the powers of a judge, and the judge's right to resign; and
- 5) the provision to judges, at the expense of the state, of financial support and social security appropriate to their status, and prohibition to deteriorate it.

2. Judges, members of their family and their property shall be under the protection of the state.

Law-enforcement bodies shall take timely and exhaustive measures to provide for security of a judge and members of his family, safety of their property, if the judge file the corresponding application.

Any harm inflicted to a judge and his property in connection with his professional activity shall be reimbursed from the Republic's budget.

### **Article 27. The Inviolability of Judges**

1. A judge may not be arrested, taken into custody, subjected to administrative punishments imposed in the judicial procedure, or charged with criminal liability without the consent of the President of the Republic of Kazakhstan, based on the opinion of the

Supreme Judicial Council of the Republic, and in the case stipulated by Article 55.3) of the Constitution, without the consent of the Senate of the Parliament of the Republic of Kazakhstan, except for cases of detention at the scene of the crime or the commission of a serious crime. Inviolability of the judge shall include inviolability of his/her personality, property, private premises and offices, both personal and office vehicles used by him/her, documents belonging to him/her, luggage and other property.

2. A criminal case against a judge may be initiated only by the General Prosecutor of the Republic of Kazakhstan. Special investigative measures against a judge may be initiated only by sanction of prosecutor.

3. A judge shall be issued an ID card.

#### **Article 28. Requirements to a Judge**

1. A judge shall be obliged:

1) to strictly observe the Constitution and laws of the Republic of Kazakhstan, remain faithful to the oath of the judge;

2) in carrying out his constitutional duties associated with the administration of justice, and in unofficial relations, to comply with the requirements of judicial ethics and to avoid anything which might denigrate the authority or dignity of the judge or cause doubt about his integrity, justice, impartiality and objectiveness;

3) to oppose any corrupt practices and attempts of illegal interference in his activity associated with the administration of justice; and

4) to observe the secret of judges' council.

2. The office of a judge shall be incompatible with a deputy's mandate, any paid position except teaching, research or other creative activity, business activity, or being a member of the management body or supervisory board of a commercial organization.

Judges may not be members of parties or trade unions, and may not come out in support or opposition of any political party.

#### **Article 29. Requirements to be met by the Candidate Judges**

1. Any citizen of the Republic of Kazakhstan may be appointed to a post of a judge of a district court who:

is at least twenty-five years of age; has a higher education in Law, an impeccable reputation, and has a working experience in legal profession of no less than two years;

has passed the qualifying examination at the Justice Qualifying Board or completed the specialized Master's program course;

has passed the qualifying examination, including at specialized Magistracy;

has successfully completed training on probation in the court and has received a positive opinion of a plenary session of a court. No training on probation in the court shall be required for a candidate who completed the specialized Master's program course.

2. Any citizen who meets the requirements of clause 1 of this Article, having working experience in legal profession of no less than fifteen years or work experience as a judge not less than five years, may be appointed a judge of a regional court.

3. Any citizen who meets the requirements of clause 1 of this Article, having working experience in legal profession of no less than twenty years or work experience as a judge not less than ten years as a judge may be appointed a judge of the Supreme Court.

4. Conditions and procedure of having training on probation in the court by a candidate judge shall be determined by the Regulations to be approved by the President of the Republic of Kazakhstan. Candidate judges shall pass an internship at courts on a regular basis.

#### **Article 29-1. Medical examination of a candidate judge**

1. Medical examination of a candidate shall be carried out to confirm absence of the diseases interfering execution of professional duties as a judge.

2. List of the diseases interfering execution of professional duties of a judge, shall be developed pursuant to the regulatory act issued by the authorized government body

providing logistic support of local courts, and by the authorized public health body and others.

### **Article 30. Selection of Candidates for Position of a Judge**

1. Candidates for the position of a judge shall be guaranteed equal right for the position irrespective of their background, social and property status, race and ethnic origin, sex, political views, religious beliefs, and any other circumstances.

2. A candidate for the vacant position of judges of local and other courts shall be selected by the Supreme Judicial Council on a competitive basis from among persons meeting the requirements of Article 29 of this Constitutional Law, and from among persons applying for the vacant positions.

Based on the competition results, the Supreme Judicial Council shall recommend candidates for the vacant positions of the judges of local and other courts to the President of the Republic of Kazakhstan for appointment to office.

3. A candidate for the vacant position of a chairman of a district court shall be considered by the Supreme Judicial Council pursuant to a proposal of the Chairman of the Supreme Court made subject to an opinion of a plenary session of a corresponding oblast court.

Candidates for the vacant positions of the chairmen and the chairmen of judicial collegiums of oblast courts, chairmen of judicial collegiums and judges of the Supreme Court shall be considered by the Supreme Judicial Council pursuant to a proposal of the Chairman of the Supreme Court made subject to an opinion of a plenary session of the Supreme Court.

A candidate for the vacant position of the chairman of a judicial collegium of the Supreme Court shall be recommended from among judges of the Supreme Court.

The Supreme Judicial Council shall recommend candidates for the vacant positions of the chairmen, the chairmen of judicial collegiums of local and other courts, chairmen of judicial collegiums of the Supreme Court to the President of the Republic of Kazakhstan for appointment to office.

A candidate for the position of the Chairman of the Supreme Court shall be considered by the Supreme Judicial Council.

The Supreme Judicial Council shall recommend candidates for the vacant positions of the Chairman, a judge of the Supreme Court to the President of the Republic of Kazakhstan for introduction to the Senate of the Parliament of the Republic of Kazakhstan.

### **Article 31. Procedure for Vesting Powers in a Judge**

1. Judges of the Supreme Court of the Republic of Kazakhstan shall be elected by the Senate pursuant to the proposal of the President of the Republic of Kazakhstan based on the recommendation of the Supreme Judicial Council.

2. Judges of local and other courts shall be appointed to office by the President of the Republic of Kazakhstan pursuant to the recommendation of the Supreme Judicial Council.

3. Chairmen of judicial collegiums of local and other courts, chairmen of judicial collegiums of the Supreme Court shall be appointed to office by the President of the Republic of Kazakhstan pursuant to the recommendation of the Supreme Judicial Council based on the proposal of the Chairman of the Supreme Court and the decision of plenary sessions of the Supreme Court for five years.

4. The Chairman of the Supreme Court shall be elected pursuant to the proposal of the President of the Republic of Kazakhstan based on the recommendation of the Supreme Judicial Council for five years.

5. The chairman of local and others courts shall be appointed to office by the President of the Republic pursuant to the recommendation of the Supreme Judicial Council of the Republic of Kazakhstan for a five-year term.

6. Deleted.

7. Upon expiry of their term in office, the chairmen and chairmen of judicial collegiums of local and other courts, the chairman and chairmen of the judicial collegiums of

the Supreme Court shall continue performing the powers of the judge of the corresponding court, unless they have been re-elected or re-appointed correspondingly to their former position or to a similar position in another court.

In case of absence of vacant positions of judges in a corresponding court the chairmen and chairmen of judicial collegiums of local and other courts who were not re-elected or re-appointed to a similar position, by their consent, shall be recommended for the position of the judge of equivalent or subordinate court out of competition.

8. In case of reorganization or abolition of court, abolishment of the court the judges of this court by their consent may be recommended for the position of the judge of equivalent or subordinate court out of competition.

### **Article 32. The Judge's Oath**

1. A person elected or appointed to the position of a judge for the first time shall take the following oath:

"I solemnly swear honestly and conscientiously to carry out my duties, to administer justice subject only to the Constitution and the laws of the Republic of Kazakhstan, and to be impartial and fair as my duty of a judge tells me."

2. The Chairman and judges of the Supreme Court shall take the oath at a session of the Senate of the Parliament of the Republic of Kazakhstan.

3. Deleted.

4. 4. A person appointed to the position of a chairman, chairman of the judicial collegium, and judge of an oblast court, chairman and judge of a district court for the first time shall take the oath at a plenary session of the oblast court.

### **Article 33. Suspension of the Powers of a Judge**

1. The powers of a judge shall be suspended if:

1) the judge has been registered as a candidate for the President of the Republic of Kazakhstan, for a deputy of the Parliament or maslikhats of the Republic of Kazakhstan;

2) the judge has been recognized as missing by a court decision which has entered into legal force;

3) a consent has been given to charge the judge with criminal liability;

3-1) there is a decision made by disciplinary and qualifications judicial Collegium on necessity of suspension of the power of a judge on the grounds provided for by Clause 2 Article 34 of the present Constitutional law;

3-2) There is an opinion of the Jury on a judge's inconsistency with the position due to the professional impropriety.

When suspending the powers of a judge, his powers as a chairman or chairman of a judicial collegium of a corresponding court shall be suspended; and

4) in case of his transfer to another job.

2. The powers of a judge shall be suspended:

by the President of the Republic of Kazakhstan with regard to the Chairman of the Supreme Court;

by the Chairman of the Supreme Court with regard to all other judges of the Republic.

3. The powers of a judge shall be renewed if the circumstances, which served as the grounds for making decision to suspend the powers of a judge, are no longer relevant.

### **Article 34. Discharge from Office and Termination of Powers of a Judge**

1. The grounds for termination of the powers of a judge are as follows:

1) judge's retirement;

1-1) judge's dismissal from office pursuant to his own wish;

2) state of health impeding further performance of professional duties, in accordance with a medical opinion;

3) entering into legal force of a court decision recognizing the judge as legally incapable or restrictedly incapable, or applying compulsory measures of a medical nature to him;

- 4) entering into legal force of a conviction in respect of this judge;
- 5) termination of citizenship of the Republic of Kazakhstan;
- 6) death of the judge or entering into legal force of a court decision recognizing him as deceased;
- 7) appointment, election of the judge to another position or his transfer to another job;
- 8) abolishment of the court or expiry of powers, if chairman of a court, chairman of a judicial collegium or the judge does not agree to take up a vacant position of a judge at another court;
- 9) conclusion made by the Judicial jury;
- 10) 10) reaching the judges' compulsory retirement age.

2. The powers of a judge may be terminated due to a decision of a disciplinary and qualification collegium of judges on the need of discharge from the judge's office for his disciplinary misconducts or failure to meet the requirements stipulated in Article 28 of this Constitutional Law.

3. The powers of the chairman judicial of a court or the chairman of a collegium may be terminated at his own wish early if they fail to meet the requirements stipulated in Articles 9, 14, 15, 20, 21 and 28 of this Constitutional Law.

4. Decision to discharge a judge from office shall be made by:

1) a resolution of the Senate of the Parliament of the Republic of Kazakhstan, with regard to the Chairman, judges of the Supreme Court, pursuant to the proposal of the President of the Republic of Kazakhstan;

2) a decree of the President of the Republic of Kazakhstan, with regard to the chairmen of the judicial collegiums of the Supreme Court, chairmen, chairmen of judicial collegiums and judges of local and other courts.

5. Discharge from office as a judge shall entail at the same time termination of powers of the chairman or chairman of judicial collegium of the corresponding court.

Discharge from office of the chairman or chairman of judicial collegium of the corresponding court pursuant to his own wish upon expiry of their term shall not entail their discharge from office as a judge of such court.

6. In cases stipulated by subclauses 1-1) through - 7), 10) of this Article, and also upon expiry of the powers of the chairman or chairman of the judicial collegium pursuant to his own wish", no recommendation of the Supreme Judicial Council for discharge of a judge from office and termination of the judge's powers shall be required.

#### **Article 34-1. The judges' compulsory retirement age**

Judicial tenure shall be allowed until the judges' compulsory retirement age – 65 years, which in exceptional circumstances may be extended by the Chairman of the Supreme Court with consent of the Supreme Judicial Council but for not more than five years.

#### **Article 35. Judge's retirement**

1. A special form of termination of the judge's powers having an impeccable reputation, retaining the judicature, remaining a member of the judicial community, reserving the guarantees of personal inviolability and other material and social guarantees stipulated by this Constitutional Law shall be recognized the resignation.

A judge shall be discharged from office in the form of resignation upon the application of a judge's resignation in writing.

2. At retirement, the judge shall be paid a lump-sum retirement pay at the amount of twenty four monthly official salaries if length of court service is twenty or more years, and eighteen monthly official salaries (last position salary) if length of court service is fifteen-twenty years.

3. A judge's retirement shall be terminated in the following cases :

conducting business, being a member of a managing or supervisory board of the profit making organization, taking up any paid position, except for teaching, research or other creative activity;

committing a crime or misdemeanor which brings the authority of the judiciary into disrepute;

at his own wish;

cessation of citizenship of the Republic of Kazakhstan; and

his/her death or the entry into force of a court decision to declare him/her dead.

4. In case of termination of retirement the judge shall forfeit the guarantees of personal inviolability and the guarantees pursuant to Articles 51, 53 and 55 of the present Constitutional law.

#### **Article 35-1. The judge's pension provision**

1. The judge's pension provision shall be ensured pursuant to the terms and procedures set forth in the legislation of the Republic of Kazakhstan "On Pension".

2. Additional compulsory pension payments out of the funds of the republican budget shall be established for the judge in the amount stipulated by the legislation of Republic Kazakhstan "On Pension".

At the judge's dismissal from office on the negative grounds the above specified payments shall be withdrawn and returned to the republican budget.

#### **Article 36. The Supreme Judicial Council**

1. The Supreme Judicial Council shall consist of shall consist of the Chairman, the secretary and other members to be appointed by the President of the Republic.

2. Status and organization of work of the Supreme Judicial shall be determined by the law.

#### **Article 37. Judicial Community and its Bodies**

1. In order to exercise and protect common interests of judicial community, judges shall have the right to create public associations.

2. Judicial associations shall, where necessary, represent and protect interests of their members in the procedure established by the legislation and may not influence the administration of justice, and shall not pursue any political goals.

#### **Article 38. Disciplinary and Qualification Collegiums of Judges**

In cases stipulated by this Constitutional Law, the Republican and Oblast Disciplinary and Qualification Collegiums shall be created to award qualification classes confirmation of the right of the judge of retirement and its termination, to judges and to resolve issues of disciplinary liability of judges or to terminate the powers of a judge.

Procedure of creating and organizing work of the Disciplinary and Qualification Collegiums, and the procedure for consideration of disciplinary cases shall be determined by the Regulations to be approved by the President of the Republic of Kazakhstan.

#### **Article 38-1. Judicial jury**

To evaluate professional competence of an operating judge the Judicial jury of seven judges shall be organized.

The grounds for consideration of materials against the judge by the Judicial jury shall be the decision of the plenary session of the regional or Supreme Court.

Procedure of consideration of materials by the Judicial jury shall be determined by the Regulation approved by the President of Republic Kazakhstan.

### **Chapter 2. Disciplinary Liability of Judges**

#### **Article 39. Grounds for Disciplinary Liability of Judges**

1. A judge may be charged with disciplinary liability:

1) for breaching the law in the consideration of court cases;

2) for committing a misdemeanor which imports disrepute and contradicts judicial ethics; and

3) for a gross breach of the labor discipline.

2. Chairmen of courts, and chairmen judicial of collegiums of courts may be charged with disciplinary liability for improperly carrying out their official duties as stipulated by this Constitutional Law.

3. The reversal or amendment of a judicial act shall not entail per se the liability of the judge, unless he committed gross violations of the law, which are indicated in a judicial act of a higher court instance.

#### **Article 40. Types of Penalties Applied to a Judge**

1. The following disciplinary penalties may be applied to judges:

1) notice;

2) reprimand;

3) lowering of their qualification classes;

4) discharge of the chairman of a court or chairman judicial of a collegium from office for improperly carrying out official duties;

5) discharge of a judge from office on the grounds stipulated by this Constitutional Law.

2. Only one disciplinary penalty shall be imposed for each breach subject to the nature of the disciplinary misdemeanor, data on the judge's personality and degree of his guilt.

#### **Article 41. Right to Initiate Disciplinary Proceedings**

Power to Initiate Disciplinary Proceedings shall be vested in:

1) The Republican Disciplinary and Qualification Collegium, as far as any judge of the Republic is concerned;

2) Regional Disciplinary and Qualification Collegium, as far as any judge of the regional court, the chairman and the judge of the district court is concerned.

#### **Article 42. Deadlines for the Institution and Consideration of a Disciplinary Case**

1. Disciplinary proceedings against a judge may be initiated not later than three months after the discovery of the misdemeanor, not counting the time of official investigation and the judge's absence from work for a good reason, but not later than one year after the misdemeanor was committed.

The day of the discovery of a disciplinary misdemeanor related to breach by a judge of the law when considering a court case, shall be the day of entering into legal force of the judicial act of a higher court instance, which has established the fact of breach of the law, and the day of committing such misdemeanor shall be the day of issuing of the illegal judicial act.

2. A disciplinary case must be considered within two months of the date of its institution.

#### **Article 43. Agencies for the Consideration of Disciplinary Cases**

1. The Republican Disciplinary and Qualification Collegium shall consider a question on instituting a disciplinary proceeding, disciplinary cases concerning chairmen judicial of collegiums and judges of the Supreme Court, chairmen and chairmen judicial of collegiums of oblast courts, as well as complaints concerning decisions of oblast disciplinary and qualification collegiums.

2. Oblast disciplinary and qualification collegiums shall consider a question on instituting a disciplinary proceeding, disciplinary cases concerning judges of oblast courts, and chairmen and judges of district courts.

3. The procedure for considering disciplinary cases, and the activities of the disciplinary and qualification collegiums shall be regulated by the Regulations to be approved by the President of the Republic of Kazakhstan.

**Article 44. Decisions Made on Disciplinary Cases**

A disciplinary and qualification collegium shall issue one of the following decisions on a disciplinary case:

- 1) to impose a disciplinary sanction under Clause 1 Article 40 of the present Constitutional law;
- 2) that the disciplinary proceedings be terminated;
- 3) deleted;
- 4) that the decision of the lower disciplinary and qualification collegium be modified, or cancelled and that the case be forwarded for a new consideration, or about affirmance of decisions.

**Article 45. Term of a Disciplinary Penalty**

1. If for one year from the date of imposition of a penalty a judge is not subjected to another disciplinary penalty, he shall be deemed not to have been subjected to any disciplinary penalty.

2. Upon the expiry of six months from the date of imposition of a disciplinary penalty, the penalty may be remitted early if the judge's behavior has been irreproachable and the judge's attitude towards his duties has been conscientious.

A disciplinary penalty may be remitted early by the disciplinary and qualification collegium, which imposed it.

**Article 46. Appealing against Decisions of Disciplinary and Qualification Collegiums**

1. A decision of an oblast disciplinary and qualification collegium may be appealed by the judge against whom it was made, to the Republican Disciplinary and Qualification Collegium.

2. A decision of the Republican Disciplinary and Qualification shall be final and not subject to appeal.

**Chapter 3. Financial Support and Social Security for Judges****Article 47. Financial Support for Judges**

1. Financial support for a judge must conform to his status and ensure the possibility of full and independent administration of justice, and may not be reduced.

2. Judges' remuneration shall be determined by the President of the Republic of Kazakhstan in accordance with Article 44.9) of the Constitution taking into account the status of the judge, procedure of his/her assignment and election, and also functions he/she exercises.

**Article 48. Qualification Classes of Judges**

1. Depending upon the position occupied, level of professional training, length of service and other circumstances, judges shall be awarded qualification classes.

2. Procedure for awarding and withdrawing qualification classes to and from judges shall be stipulated by this Constitutional Law and the Regulations to be approved by the President of the Republic of Kazakhstan.

**Article 49. Judges' Annual Leave**

Judges shall be granted annual leave of thirty calendar days with payment of a recuperation allowance in the amount of twice their monthly wage.

**Article 50. Compensation for move**

Judges who are officially appointed" (elected) judge, judges reappointed (reelected) from one region of Kazakhstan to another and members of their families shall be paid the relocation costs actually incurred in full.



### **Article 51. Housing Privileges**

1. Housing shall be provided to judges from the funds of the Republic's budget.
2. Judge and members of his family shall, ahead of the queue but within six months from the day of assumption of his office, be provided comfortable housing as applies to the specific area from the state housing fund based on the norms excluding referring a judge to the category of individuals who need to improve their housing conditions. Official housing occupied for permanent residence by a judge who has been working as a judge for more than ten calendar years may be purchased by him at its residual value if the judge wishes.
3. If a judge has been discharged from office, he and his family members may not be evicted from official housing without being granted other housing.

### **Article 52. Providing Gowns to Judges**

Judges of all courts shall be provided with judge's gowns from the funds of the Republic's budget.

### **Article 53. Medical Care for Judges**

1. Judges and members of their families who live together with them shall be supplied with medical care at the relevant state health care institutions in the established procedure.
2. The procedure and conditions of medical care for judges shall be stipulated by Government of the Republic of Kazakhstan.

### **Article 54. Compensation in the event of injury (trauma, injury, contusion, occupational disease) or death of the judge**

1. in the event of injury (trauma, injury, contusion, occupational disease) in the performance of his/her official duties, he/she shall be paid a lump-sum compensation in the amount established by the present Article.
2. In the event of death of the judge in the performance of duties or within a year after the termination of his/her powers as a result of injury (trauma, wound, contusion, occupational disease) sustained in the performance of duties, those who entitled to compensation, shall be paid lump sum compensation in the amount of sixty monthly official salary (last position salary).
3. If disability of the judge resulted from injury (trauma, wound, contusion, occupational disease) sustained in the performance of duties was established, he/she shall be paid lump sum compensation in the following amounts:
  - 1) disabled person of group I –thirty monthly official salary;
  - 2) disabled person of group II – eighteen-monthly official salary;
  - 3) disabled person of group III - six monthly official salary.
4. If severe injury sustained by the judge in the performance of duties (trauma, wound, contusion, occupational disease) does not entail assessment of disability, he/she shall be paid lump sum compensation in the amount of one and half-month official salary, if the injury is slight - a half-month official salary.
5. Procedure for payment of lump sum compensation is determined by the Government of the Republic Kazakhstan.
6. The lump sum compensation shall not be paid, if the procedure stipulated by the legislation of the Republic of Kazakhstan, shall prove, that the injury (trauma, wound, contusion, occupational disease) or death of the judge occurred in connection with the circumstances not related to the performance of official duties.

### **Article 55. Compensation of Funeral Costs**

Lump-sum monetary compensation in the amount of three months' judge's salary at the corresponding office as of the moment of the judge's death shall be paid for the funeral of deceased or dead judges and pensioners who retired from the office of judge.

The procedure on payment of lump-sum monetary compensation shall be determined by the Government of the Republic of Kazakhstan.

**Article 55-1. Deprivation of judges of guarantees of the material and social security**

If the judge terminated his/her power in compliance with the opinion of the Disciplinary and Qualification Collegium of Judges in connection with commission of a crime or slanderous misconduct that would impair the authority of the judiciary, breach of judicial ethics and not meeting other requirements specified in Article 28 of this Constitutional law, as well as according to decision of the Judicial jury in connection with professional impropriety shall be deprived of:

- 1) the right to retirement and the guarantee of personal integrity ;
- 2) all the material and social guarantees provided for in Articles 51, 53, 54 and 55 of this Constitutional Law.

**Section 4. SUPPORT FOR COURTS' ACTIVITY****Article 56. Organizational, Financial and Technical Support for Courts' Activity**

1. Organizational, financial and technical support for the activity of the Supreme Court of the Republic of Kazakhstan, and also conducting judicial statistics shall be provided by the apparatus of the Supreme Court.

Organizational, financial and technical support for the activity of local and others courts, and also conducting judicial statistics in the courts shall be provided by the authorized state agency to be created by the President of the Republic of Kazakhstan.

2. The corresponding central state agency and court administrators in oblasts, the capital and cities of the Republic's importance shall form a single system of authorized agencies.

3. Activity of the authorized agency shall be carried out observing the principles of the independence of the court and non-interference with the judges' activity.

4. The competence and organization of the authorized state agency's activity shall be stipulated by the Regulations to be approved by the President of the Republic of Kazakhstan.

5. A court registry shall be created at courts supporting the work of the judges with regard to the administration of justice, summarizing of judicial practice, and the performance of other functions of the court.

6. The legal status and remuneration of court registry employees shall be regulated by the legislation on civil service.

7. The structure and staff of the apparatus of the Supreme Court shall be approved by its Chairman, while the structure and staff of court registries of local and others courts shall be approved by the authorized agency pursuant to the proposal of the corresponding chairman of a court within the staff limits to be approved by the President of the Republic of Kazakhstan.

**Article 57. The Financing of Courts**

1. The Supreme Court, local and others courts of the Republic of Kazakhstan shall be financed from the funds of the Republic's budget.

2. Budget of the Supreme Court, local and others courts must fully provide for the courts' exercise of their constitutional powers.

**Section 5. CONCLUDING AND INTERIM PROVISIONS****Article 58. Invalidated Legislative Acts**

The following shall be invalidated:

1. Law of the Kazakh SSR On Judicial System of the Kazakh SSR dated November 23, 1990 (Bulletin of the Supreme Soviet of the Kazakh SSR, 1990, No. 48, Item 443; Bulletin of the Supreme Court of the Republic of Kazakhstan, 1992, No. 8, Item 206; No. 11-12, Item 293; 1993, No. 8, Item 161; 1995, No. 23, Item 140).

2. Resolution of the Supreme Soviet of the Kazakh SSR On the Procedure of Giving

Effect to the Law of the Kazakh SSR On Judicial System of the Kazakh SSR dated November 23, 1990 (Bulletin of the Supreme Soviet of the Kazakh SSR, 1990, No. 48, Item 444).

3. Edict No. 1545 of the President of the Republic of Kazakhstan Having Force of Law On Organizational Issues of Activity of the Supreme Court of the Republic of Kazakhstan dated February 7, 1994 (Collection of Acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan, 1994, No. 6, Item 62).

4. Edict No. 1670 of the President of the Republic of Kazakhstan Having Force of Law On Further Measures to Increase the Level of Financial and Social Support for Judges of the Courts of the Republic of Kazakhstan dated 18 April 1994 (Collection of Acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan, 1994, No. 18, Item 182).

5. Edict No. 2125 of the President of the Republic of Kazakhstan Having Force of Law On the Procedure of Forming Lower Courts of the Republic of Kazakhstan dated March 17, 1995 (Collection of Acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan, 1995, No. 10, Item 113).

6. Edict No. 2581 of the President of the Republic of Kazakhstan Having Force of Law On Courts of the Republic of Kazakhstan dated October 20, 1995 (Bulletin of the Supreme Court of the Republic of Kazakhstan, 1995, No. 21, Item 128; No. 22, Item 134).

7. Edict No. 2694 of the President of the Republic of Kazakhstan Having Force of Constitutional Law On Courts and Status of Judges in the Republic of Kazakhstan dated December 20, 1995 (Bulletin of the Supreme Court of the Republic of Kazakhstan, 1995, No. 23, Item 147; Bulletin of the Parliament of the Republic of Kazakhstan, 1997, No. 7, Item 78; No. 11, Item 156; No. 13-14, Item 194; 1999, No. 4, Item 100; No. 23, Item 915; 2000, No. 10, Item 231).

#### **Article 59. Giving Effect to this Constitutional Law and Related Peculiarities of Judges' Activity**

1. This Constitutional Law shall become effective as of the day of its official publication, except for Article 11.2, Article 13, Article 18.2, Article 19, Article 30 and

Article 36.2 part two, which shall become effective as the corresponding legislation is enacted, but not later than July 1, 2001.

2. Existing chairmen and judges of the courts of the Republic who were appointed or elected to their offices before this Constitutional Law becomes effective, shall retain their powers.

3. The five-year term of powers of the courts' chairmen who were elected or appointed to their offices before this Constitutional Law becomes effective, shall be calculated from the moment of their election or appointment.

4. Chairmen of judicial collegiums of oblast and equivalent courts, and the Supreme Court of the Republic of Kazakhstan shall retain their powers until collegiums of the courts of the Republic of Kazakhstan stipulated by this Constitutional Law are formed.

**President of the Republic of Kazakhstan Nursultan Nazarbaev**

Astana, December 25, 2000 No. 132-II ZRK

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