

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

Dated 25 December 2000 No. 132-II ZRK

**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.

Court decisions 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 decisions 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 an image of the State Emblem of the Republic of Kazakhstan shall be set up and 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 President of the Republic of Kazakhstan.

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 and the local 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, and a specialized court: the Court Martial of the Armed Forces of the Republic of Kazakhstan, and others);

2) district courts and courts equivalent to them (a city, interdistrict, and specialized court: a court martial of a garrison, and others).

3. Specialized courts (courts martial, commercial, administrative, juvenile courts, and other courts) may be founded in the Republic of Kazakhstan.

4. The Supreme Court of the Republic of Kazakhstan, and local 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;

Making corruption an issue in mass media. Freedom of information on decision making process in public affairs, government service, public procurement, corruption.

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. A court registry shall be established in a district court, number of members of staff of the registry to be established by an administrator of the oblast courts upon agreement with the chairman of the court.

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) maintain judicial statistics;
- 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;
- 4) organize internships of candidates for position of a judge;
- 5) organize the maintenance and analysis of judicial statistics;
- 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 of a one-member court, his duties may be assigned to one of the judges of another court by the order of the chairman of an oblast court pursuant to the proposal of the head of the territorial authorized agency.

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, the chairmen of the collegiums, and judges.

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

- 1) the supervisory collegium;
- 2) the collegium for civil cases;
- 3) the collegium for commercial cases;
- 4) the collegium for criminal cases; and
- 5) the plenary session of the court.

Article 12. Powers of an Oblast Court

An oblast court shall:

- 1) consider court cases and materials referred to its jurisdiction;

- 2) maintain judicial statistics;
- 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. Collegiums of an Oblast Court

1. The collegium for civil cases and the collegium for criminal cases of an oblast court shall be headed by the chairmen of the collegium, and the supervisory collegium shall be headed by the chairman of the court.
2. The number of judges in each collegium shall be established on a plenary session pursuant to the proposal of the chairman of the court.
3. The supervisory collegium shall consist of the judges of this court to be elected annually by secret ballot on a plenary session by majority of votes of the total number of judges.

The collegium for civil cases and the collegium for criminal cases shall consist of the judges whose persons shall be established by the chairman of the court following discussion at a plenary session.

4. The chairman of the court may form specialized panels in the collegium for civil cases and the collegium for criminal cases.

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) head the supervisory collegium, and may chair consideration of court cases in the collegiums;
 - 3) when necessary, assign judges of one collegium (except for the supervisory collegium) to consider cases in another collegium;
 - 4) convene and chair plenary sessions of the oblast court;
 - 5) in the temporary absence of the chairman of a collegium, assign his duties to one of the collegium judges;

6) initiate disciplinary proceedings against chairmen of the collegiums and judges of the oblast court, chairmen and judges of the district courts;

7) based on the recommendation of a plenary session of the court, send to the Qualification Collegium of Justice an opinion on the internship results of a candidate for the judge's position;

8) organize the maintenance of judicial statistics and studies of judicial practice;

9) issue orders;

10) carry out general management of the court registry;

11) personally receive individuals; and

12) exercise other powers stipulated by the law.

2. In the temporary absence of the chairman of an oblast court, his duties shall be assigned to one of the chairmen of the collegiums of the court, pursuant to his order.

3. If the chairman of an oblast court retires or is dismissed early, his duties shall be assigned to one of the chairmen of the collegiums of the court, pursuant to the decision of the authorized agency.

Article 15. Chairman of a Collegium of an Oblast Court

1. The chairman 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 of the collegium;

2) chair the sessions of the collegium;

3) submit his proposals to the chairman of the court concerning formation of specialized panels in the collegium;

4) organize work on studying and summarizing of judicial practice and analyzing of judicial statistics;

5) submit information to a plenary session of the court concerning the activity of the collegium; and

6) exercise other powers stipulated by the law.

2. In the temporary absence of the chairman 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 numerical strength of the collegium and elect judges to the supervisory collegium;
- 2) discuss the plan of work of the court;
- 3) hear information of the chairmen of the 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 submit to the Qualification Collegium of Justice the corresponding opinion; 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 of the Republic of Kazakhstan shall be the highest judicial body for civil, criminal and other cases which are in the jurisdiction of the general jurisdiction 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 of the Republic of Kazakhstan 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) issue regulatory resolutions which provide explanations on issues of application of the legislation in judicial practice; 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, chairmen of the judicial collegiums, and permanent 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. The bodies of the Supreme Court shall be as follows:

- 1) the supervisory collegium;
- 2) the collegium for civil cases;
- 3) the collegium for criminal cases; and
- 4) the plenary session of the Court.

3. A research and advisory council and a publication shall be created with the Supreme Court.

Article 19. The Collegiums of the Supreme Court

1. The collegium for civil cases and the collegium for criminal cases of the Supreme Court shall be headed by the chairmen of the collegiums, and the supervisory collegium shall be headed by the Chairman of the Supreme Court.

2. The number of judges in each collegium shall be established on a plenary session of the court pursuant to the proposal of the Chairman of the Supreme Court.

3. The supervisory collegium shall consist of the judges of the Supreme Court to be elected annually by secret ballot on a plenary session by majority of votes of the total number of judges.

The collegium for civil cases and the collegium for criminal cases shall consist of the judges whose persons shall be established by the Chairman of the Supreme Court following discussion at a plenary session of the Court.

4. The Chairman of the Supreme Court may form specialized panels in the collegium for civil cases and the collegium for criminal cases.

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) organize consideration of court cases by the judges;
- 2) head the supervisory collegium, and may chair consideration of court cases in the collegiums;
- 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 application of the legislation in judicial practice;
- 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 collegium (except for the supervisory collegium) to consider cases in another collegium;
- 7) approve plan of work of the Supreme Court;
- 8) coordinate work of the collegiums;
- 9) carry out general management of the apparatus of the Supreme Court and approve its structure and composition;
- 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 chairman of a district court, the chairman and chairman of a collegium of an oblast court, the chairman of a collegium and a judge of the Supreme Court;

3) based on the opinions of plenary sessions of the courts, propose the candidatures for vacant posts of the chairman of a district court, the chairman and chairman of a collegium of an oblast court, the chairman of a collegium and a judge of the Supreme Court correspondingly, to the Supreme Judicial Council or the Qualification Collegium of Justice, attaching materials concerning all candidates considered at the plenary sessions of the courts;

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 or the Qualification Collegium of Justice correspondingly, his proposals concerning discharge of chairmen, chairmen of 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) initiate disciplinary proceedings against judges of the Republic; 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, pursuant to an order of the Chairman 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 collegiums of the Supreme Court.

Article 21. Chairman of a Collegium of the Supreme Court

1. The chairman 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 judicial sessions of the collegium;
- 2) organize work on keeping judicial statistics, and studying and summarizing judicial practice of application of the legislation;
- 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 the collegium; and
- 5) exercise other powers stipulated by the law.

2. In the temporary absence of the chairman 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) establish the numerical strength of the collegiums and elect judges to the supervisory collegium;
- 2) study the judicial practice and based on the results of summarizing it, consider the issues of keeping the law by the courts of the Republic when administering justice;
- 3) issue regulatory resolutions clarifying the issues of application of the legislation in the judicial practice;
- 4) hear information of the chairmen 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 chairman and the chairman of a collegium of an oblast court, the chairman of a collegium and a judge of the Supreme Court, and issues 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; and

- 8) 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 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 judice court cases. Secrecy of retiring room must be secured in all cases without any exceptions.

4. Courts shall be financed, judges shall be materially 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, the corresponding authorities of which 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 or members of his family 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.

2. A criminal case against a judge may be initiated only by the General Prosecutor of the Republic of Kazakhstan.

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;

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 impartiality and objectiveness;

3) to oppose any 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 Candidate Judges

1. A citizen of the Republic of Kazakhstan may be appointed 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 not less than two years;

has passed the qualifying examination;

has successfully passed an internship in a court and has received a positive opinion of a plenary session of a court.

2. A citizen who meets the requirements of clause 1 of this Article, has a working experience in legal profession of not less than five years, two of which, as rule, he spent working as a judge, may be a judge at a higher court.

3. Conditions and procedure of passing an internship by a candidate judge shall be determined by the Regulations to be approved by the President of the Republic of Kazakhstan.

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 a district court judge shall be selected by the Qualification Collegium of Justice on a competitive basis from among persons meeting the requirements of Article 29.1 of this Constitutional Law, and from among current judges applying for the vacant position of a judge.

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

The Qualification Collegium of Justice shall recommend a candidate for the vacant position of the chairman or a judge of a district court to the Minister of Justice who shall, in the procedure established by the law, introduce him to the President of the Republic of Kazakhstan for appointment to office.

3. A candidate for the vacant position of an oblast court judge shall be selected by the Supreme Judicial Council on a competitive basis from among persons applying for the vacant position and meeting the requirements of Article 29.2 of this Constitutional Law.

Based on the competition results, the Supreme Judicial Council shall recommend a candidate for the vacant position of an oblast court judge to the President of the Republic of Kazakhstan for appointment to office.

4. A candidate for the vacant position of the chairman and the chairman of a collegium of an oblast 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.

The Supreme Judicial Council shall recommend a candidate for the vacant position of the chairman and the chairman of a collegium of an oblast court to the President of the Republic of Kazakhstan for appointment to office.

5. A candidate for the vacant position of the chairman of a collegium and a judge 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 position of the Chairman of the Supreme Court shall be considered by the Supreme Judicial Council.

The Supreme Judicial Council shall recommend a candidate for the vacant position of the chairman, the chairman of a collegium and 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 an oblast court shall be appointed to office by the President of the Republic of Kazakhstan pursuant to the recommendation of the Supreme Judicial Council.
3. Judges of a district court shall be appointed to office by the President of the Republic of Kazakhstan pursuant to the proposal of the Minister of Justice based on the recommendation of the Qualification Collegium of Justice.
4. The Chairman of the Supreme Court and chairmen of the collegiums of such Court shall be elected to corresponding offices by the Senate pursuant to the proposal of the President of the Republic of Kazakhstan for five years.
5. The chairman and chairmen of the collegiums of oblast 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. Chairmen of district courts shall be appointed to office by the President of the Republic pursuant to the proposal of the Minister of Justice based on the recommendation of the Qualification Collegium of Justice, for a five-year term.
7. Upon expiry of their term in office, the Chairman and chairmen of the collegiums of the Supreme Court, chairman and chairmen of the collegiums of oblast courts, and chairman of a district 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.

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 of the Supreme Court, chairmen of the collegiums 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. Chairmen of oblast courts shall take the oath at a plenary session of the Supreme Court.

4. Chairmen of the collegiums and judges of oblast courts, chairmen and judges of district courts shall take the oath at plenary sessions of the corresponding oblast courts.

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; 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 resignation or discharge 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) loss 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 the judge does not agree to take up a vacant position of a judge at another court.

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 of a court or the chairman of a collegium may be terminated 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, chairmen of the judicial collegiums and 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 chairman, chairmen of collegiums and a judge of oblast courts, chairman and a judge of a district court.

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

Discharge from office of the chairman or chairman of a collegium of the corresponding court upon expiry of their term shall not entail their discharge from office as a judge of such court.

6. In cases stipulated by subclauses 1.3) through 1.7) of this Article, no recommendation of the Supreme Judicial Council or the Qualification Collegium of Justice for discharge of a judge from office and termination of the judge's powers shall be required.

Article 35. Resignation of a Judge

1. A judge shall be discharged from office in the form of resignation on the grounds stipulated by subclauses 1.1), 1.2) and 1.8) of Article 34 of this Constitutional Law.

2. In this respect, the resigned judge shall:

1) remain a member of the judicial community and retain the guarantees of personal inviolability;

2) retain the privileges stipulated by Articles 51 and 55 of this Constitutional Law, provided that he has worked as a judge for at least fifteen years;

3) be paid lump-sum severance pay in the amount of two salaries.

Upon reaching pension age and if his time worked and length of service is sufficient, the judge shall be granted a pension on the conditions stipulated by the legislation of the Republic of Kazakhstan.

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

- he is appointed to the position of a judge or takes up any other paid position, except teaching, research or other creative activity;

- he commits a crime or misdemeanor which brings the authority of the judiciary into disrepute;

- at his own wish;

- he loses his citizenship of the Republic of Kazakhstan;

- in the event of his death.

Article 36. The Supreme Judicial Council and Qualification Collegium of Justice

1. The Supreme Judicial Council shall be headed by the Chairman to be appointed to office by the President of the Republic, and shall consist of the Chairman of the

Constitutional Council, the Chairman of the Supreme Court, the General Prosecutor, the Minister of Justice, deputies of the Senate of the Parliament, judges and other persons to be appointed by the President of the Republic.

2. The Qualification Collegium of Justice shall be an autonomous, independent institution to be formed from the deputies of the Majilis of the Parliament, judges, prosecutors, professors of law and legal scholars, and employees of the bodies of justice. The Chairman of the Qualification Collegium of Justice shall be appointed by the President of the Republic.

Status, procedure of creating and organization of work of the Supreme Judicial Council and Qualification Collegium of Justice 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 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.

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 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 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

The following shall have the right to initiate disciplinary proceedings:

1) the Chairman of the Supreme Court, with regard to any judge of the Republic;

2) the chairman of an oblast court, with regard to the chairman of a collegium and judge of an oblast court, the chairman and a judge of a district court.

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 disciplinary cases concerning chairmen of collegiums and judges of the Supreme Court, chairmen and chairmen 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 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) that a disciplinary penalty be imposed in the form of a notice and a reprimand;

2) that the disciplinary proceedings be terminated;

3) that the proposal to lower the qualification class of a judge, to discharge the chairman of a court or the chairman of a collegium from office for improperly carrying out official duties and to discharge a judge from office be forwarded to the appropriate agencies or official;

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.

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 and by the person who initiated the disciplinary case, 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.

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 Transfer

Judges who are officially transferred 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 regulatory legal acts of the Republic of Kazakhstan.

Article 54. Insurance of Judges

Judges shall be subject to compulsory insurance in accordance with the legislation from the funds of the Republic's budget.

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.

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 shall be provided by the apparatus of the Supreme Court.

Organizational, financial and technical support for the activity of local 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 analysis of judicial statistics, 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 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 and local courts of the Republic of Kazakhstan shall be financed from the funds of the Republic's budget.

2. Budget of the Supreme Court and local 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

Source: <http://www.transparencykazakhstan.org/>