

On practice of rendering by courts private rulings in civil cases

Unofficial translation

Normative Decree of the Supreme Court of the Republic of Kazakhstan dated June 25, 2010
No. 1.

Unofficial translation

Footnote. Throughout the text, the figures "253" as amended by the figures "270" respectively in accordance with the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.03.2017 № 2 (shall be enforced from the day of its first official publication).

For the purpose of unified implementation by courts of the standards of the Civil Procedure Code of the Republic of Kazakhstan when rendering private rulings, the plenary session of the Supreme Court of the Republic of Kazakhstan

hereby RESOLVED as follows:

1. Private rulings rendered in accordance with the procedure established by Article 270 of the Civil Procedure Code of the Republic of Kazakhstan (hereinafter referred to as the Civil Procedure Code) shall be acts of the courts' response to cases of violation of legality.

2. The grounds for rendering private rulings shall be the cases of violation of legality identified in the court hearing.

Violation of legality should be understood as acts that shall not meet the requirements of regulatory legal acts.

There shall be no sufficient basis for rendering private rulings of improper performance by persons involved in the case of procedural obligations of proof.

3. The courts shall render private rulings to organizations, officials and other persons performing management functions.

Officials shall be persons who permanently, temporarily or under special authority exercising the functions of a representative of the authorities or performing organizational and administrative functions or administrative and economic functions in state bodies, local self-government bodies, as well as in the Armed Forces, other troops and military formations of the Republic of Kazakhstan.

Other persons performing management functions should be understood as heads of executive bodies of commercial and non-commercial legal entities.

4. A private ruling is issued by the court in the form of a separate procedural document simultaneously with the judicial act on the case under consideration.

Footnote. Paragraph 4 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 29.09.2022 No. 8 (effective from the date of the first official publication).

5. The content of the private rulings must meet the requirements of Article 269 of the Criminal Procedure Code, taking into account the nature of the cases resolved and committed violations of legality.

The motivational part of the private rulings should state the arguments on which the court have concluded that committed violations of legality, revealed the essence of the committed violations, specified the specific regulatory legal acts whose requirements have been violated, as well as persons whose actions (omissions) have led to violation of legality.

The private rulings should not contain specific regulations or proposals on the activities of persons concerned, as well as it should not establish the type and measures of legal liability of those liable.

The operative part of the private rulings should indicate the name and residence of the organizations, as well as explain the provisions of part 2 of Article 270 of the Criminal Procedure Code on the consequences of non-performance, non-response or late response to the private rulings, on the right and procedure of appeal against the private determination.

Footnote. Paragraph 5 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.03.2017 № 2 (shall be enforced from the day of its first official publication).

6. Rendered private rulings shall be announced in the court hearing in the case under consideration.

7. According to part 1 of Article 270 of the Criminal Procedure Code, organizations, officials and other persons performing management functions shall be obliged to inform the courts of taken measures within one month from the date of receipt of the private rulings.

Footnote. Paragraph 7 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.03.2017 № 2 (shall be enforced from the day of its first official publication).

8. In the event of the abandonment of private rulings or the failure to take measures to eliminate the violations of the law mentioned therein, as well as the late response to private rulings without valid reasons, the courts have the right to bring officials to administrative liability under Article 664 of the Code of Administrative Offences of the Republic of Kazakhstan.

The imposition of administrative penalty shall not exempt the officials concerned from the obligation to report to the court on measures taken by private rulings.

Footnote. Paragraph 8 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 24.12.2014 № 3 (shall be enforced from the day of its first official publication).

9. In the event that the court has not rendered the private rulings, despite the existence and adequacy of the grounds for it, the subsequent court, in verifying the legality of the judicial act, has the right to render the private rulings itself in accordance with the procedure established by Article 270 of the Criminal Procedure Code.

10. Private rulings may be subject to private complaints, a request by a prosecutor or protests in accordance with the procedure established by law.

If persons whose rights and legitimate interests being affected by private rulings have not participated in the case, have been unaware of the private rulings rendered to them and (or) missed the legal appeal period, they shall be also entitled to appeal the private rulings.

Footnote. Paragraph 10 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 20.04.2018 № 7 (shall be enforced from the day of its first official publication).

11. The annulment of a judicial act shall not result in the annulment of the private rulings unless the violation of the legality specified in the private rulings has been established.

12. In accordance with Article 5 of the Law of the Republic of Kazakhstan dated November 18, 2015 No. 410-V "On Combating Corruption" and Article 4 of the Criminal Procedure Code, the courts shall carry out state functions aimed at protecting the rights and freedoms of citizens and legal entities by preventing corruption-related offences, eliminating their consequences and bringing those liable to justice.

In case of detection of signs of criminal offence in the actions of the parties, other participants of the process, officials and other persons, the courts report this to prosecutors.

Footnote. Paragraph 12 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 29.12.2012 № 6 (shall be enforced from the day of its first official publication); dated 31.03.2017 № 2 (shall be enforced from the day of its first official publication).

13. Excluded by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 29.12.2012 № 6 (shall be enforced from the day of its first official publication).

14. To recognize as invalid:

1) parts 2 and 3 of paragraph 30 of the resolution of the Plenum of the Supreme Court of the Republic of Kazakhstan dated December 22, 2000 № 16 "On practice of enforcement by courts of environmental protection legislation";

2) paragraph 20 of the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated December 22, 2000 № 17 "On some issues of enforcement by courts of legislation on marriage and family in cases of adoption of children" (as amended and added by the regulatory resolution dated December 25, 2006 № 10 and dated December 22, 2008 № 14);

3) paragraph 21 of the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated July 16, 2007 No. 6 "On some issues of enforcement by courts of land legislation ".

15. According to Article 4 of the Constitution of the Republic of Kazakhstan, this regulatory resolution shall be included in the law, as well as shall be generally binding and put into effect from the date of its official publication.

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