

On Introduction of Amendments and Supplements to the Constitutional Law of the Republic of Kazakhstan "On Judicial System and Status of Judges of the Republic of Kazakhstan"

Unofficial translation

Constitutional Law of the Republic of Kazakhstan dated November 17, 2008 N 80-IV

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Article 1. The Constitutional Law of the Republic of Kazakhstan dated December 25, 2000 "On judicial system and status of judges of the Republic of Kazakhstan" (Bulletin of the Parliament of the Republic of Kazakhstan, 2000, N 23, Article 410, 2006, N 23, Article 136) should be introduced with the following supplements:

1) i n A r t i c l e 2 :
i n i t e m 1 :
the word "flag" should be substituted for the word "Flag";

the word "the image of the State Emblem shall be placed" should be substituted for the words " the State Emblem shall be placed";

in item 2 the words "by the President of the Republic of Kazakhstan" should be substituted for the words "by the plenary session of the Supreme Court";

2) i n A r t i c l e 3 :
in item 1 the words " and local" should be substituted for the words ", local and other";
i n i t e m 2 :

in sub-item 1) the words ", specialised court - the Military Court of the Republic of Kazakhstan, specialised financial courts and others" should be deleted;

sub-item 2) should be worded as follows:

"2) district courts and courts equivalent to them (a city, inter district court).";

item 3 should be worded as follows:
"3. In the Republic of Kazakhstan other courts may be created, including specialised courts (military, financial, economic, administrative, juvenile, and others)"; and
should be supplemented with the following item 3-1:

"3-1. Specialised courts shall be created by the President of the Republic of Kazakhstan with the status of a regional or a district court":

i n i t e m 4 :
the words "and local" should be substituted for the words "local and other";
the words "the coat-of-arms" should be substituted for the word "the Coat-of-Arms";

3) i n A r t i c l e 9 :
item 1 should be supplemented with the following sub-item 3-1):
"3-1) approve the plan of work of a district court";

part two should be worded as follows:

"In the absence of the Chairman and the judges of the district court, their duties may be assigned to the judges of another court by the order of the Chairman of a regional court"; and

should be supplemented with the following part three:

"In the case of early termination or expiration of the term of office of a district court chairman, the interim duties of the chairman shall be assigned to one of the judges of the court by the order of the chairman of a regional court";

4) Article 11 should be worded as follows:

"Article 11. The Structure and Composition of a Regional Court

1. A regional court shall consist of the chairman and judges.
2. The judicial collegiums shall be and specialized panels may be set up by a regional court .

3. The bodies of the regional court shall be as follows:

- 1) the plenary session;
- 2) judicial collegium of appeal;
- 3) judicial collegium of cassation.

The judicial collegium shall be headed by the chairman, assigned to the position in the procedure stipulated by this Constitutional Law.

4. Numerical and personnel membership of a judicial collegium shall be determined by the plenary session of a regional court pursuant to the proposal of the chairman of the regional court .

5. Specialised panels shall be formed by the Chairman of a regional court.

5) Article 13 should be deleted;

6) Article 14 should be worded as follows:

"Article 14. The Chairman of a regional court

1. The chairman of a regional court shall be a judge, and alongside the performance of his duties as a judge he shall:

- 1) organise consideration of legal proceedings by judges;
- 2) have the right to chair the meetings of a judicial collegium and a specialised panel;
- 3) convene and chair the plenary sessions of a regional court;
- 4) provide the work on anti-corruption and compliance with the rules of judicial ethics;
- 5) based on the conclusion of the 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 for a regional court;

7) organise study of judicial practice;

8) issue orders;

9) carry out general administration of the court registry; 10) personally receive individuals and

11) exercise other powers stipulated by the law.

2. In the case of early termination or expiration of the term of the chairman of the regional court, temporary performance of the chairman's duties shall be assigned to the chairman of a judicial collegium (judge) of the regional court by the Chairman of the Supreme Court. In the temporary absence of the chairman of a regional court, the performance of duties shall be assigned by the chairman of a regional court";

7) in Article 15

the title should be worded as follows:

"Article 15. The Chairman of the Judicial Collegium of a regional court";

in item 1:

the first paragraph after the words "the Chairman" should be supplemented with the words "of a judicial";

sub-item 1) the words "by judges" should be supplemented with the words "of a judicial";

in sub-item 2) the words "at the meetings" should be substituted for the words "at the meetings of a judicial";

in sub-item 3) the words "in the membership of a collegium" should be deleted;

sub-item 5) the words "the activity" should be supplemented with the words "of a judicial

"

item 2 the words "of the chairman" should be supplemented with the words "of a judicial

"

;

8) in item 1 of Article 16

sub-item 1) should be worded as follows:

"1) establish the numerical and personal membership of the corresponding collegium";

sub-item 2) should be deleted;

sub-item 3) should be worded as follows:

"3) hear information of the chairman of the regional court and the chairmen of the judicial collegiums;

in sub-item 9) the words "propose to the Qualification Collegium of Justice" should be substituted with the word "provide";

9) in Article 17

in item 1:

the words "of the Republic of Kazakhstan" should be deleted;

the words "courts of general jurisdiction" should be substituted with the words "of the local and other courts";

in item 2:

the words "of the Republic of Kazakhstan" should be deleted;

sub-item 3) should be worded as follows:

"3) issue regulatory resolutions and provide explanations on the issues of judicial practice

"

;

10) Article 18 should be worded as follows:

"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. The judicial collegiums shall be and specialised panels may be set up by the Supreme Court .

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

1) the plenary session;

2) the supervisory collegium for civil and administrative cases;

3) the supervisory collegium for criminal cases.

The judicial collegium shall be headed by the chairman, appointed to the post in the procedure stipulated by the Constitutional Law.

4. The numerical and personnel membership of the judicial collegium shall be determined by the plenary session of the Supreme Court pursuant to the proposal of the Chairman of the Supreme Court .

5. Specialised panels shall be formed by the Chairman of the Supreme Court.

6. The research advisory council and printed organ shall be formed with the Supreme Court ' ;

11) Article 19 should be deleted;

12) in Article 20

in item 1 :

sub-items 1) and 2) should be worded as follows:

"1) head the Supreme Court as a high judicial body;

2) have the right to chair the meetings of the judicial collegiums and specialised panels;

sub-item 6) :

the words "of one" should be supplemented with the word "judicial";

the words "of another" should be supplemented with the word "judicial";

sub-item 9) should be worded as follows:

"approve the Regulation on the Executive Office of the High Court, its structure and staff and carry out general administration of the Office activity; "

in item 2 :

sub-items 2) and 3) should be worded as follows:

"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 the judicial collegiums of local and other courts, the chairmen of the judicial collegiums and judges of the Supreme Court;

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

Council; should be supplemented with the following sub-item 3-1):

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

in sub-item 5):

the words "respectively", "and the Qualification Collegium of Justice" should be deleted;

the word "proposals" should be supplemented with the words "and materials";

the words "of the chairmen of the collegiums" should be substituted for the words "chairmen of the judicial collegiums";

in item 3:

the words "pursuant to the order" should be substituted for the words "by the order";

the words "of chairmen" should be supplemented with the words "of judicial"

in sub-item 4 the words "of collegiums" should be substituted for the words "of the judicial collegiums (a judge)";

13) in Article 21:

the title after the words "The Chairman" should be supplemented with the words "of a Judicial";

in item 1:

paragraph one after the words "The Chairman" should be supplemented with the words "of a judicial"

sub-item 1) should be worded as follows:

"1) chair the sessions of the judicial collegium"; and should be supplemented with the following sub-item 1-1):

"1-1) organise consideration of legal proceedings by judges";

sub-item 4) the words "the activity" should be supplemented with the words "of the judicial";

in item 2 the words "of the chairman" should be supplemented with the words "of the judicial";

14) in item 1 of Article 22:

sub-item 1) should be worded as follows:

"1) establish the numerical and personnel membership of the corresponding judicial collegiums pursuant to the proposal of the Chairman of the Supreme Court;

in sub-item 3) the word "providing" should be substituted for "provide";

in sub-item 4) the words "of the chairmen" should be supplemented with the words "of the judicial";

sub-item 6) should be worded as follows:

"6) discuss candidates for vacant positions of the chairmen and the chairmen of the judicial collegiums of the regional courts, the chairmen of the judicial collegiums and the

judges of the Supreme Court, and issue corresponding opinions;" ;
should be supplemented with the following sub-item 7-2):

"7-2) approve the form and description of the judge's gown";
1 5) i n A r t i c l e 2 9 :

paragraph four of item 1 should be worded as follows:

"has passed the qualifying examination as well as in the specialised magistracy";

in the item 2 the words "ten years, of which, as a rule, not less than five years as a judge"
should be substituted for the words "than fifteen years or has a working experience as a judge
o f n o t l e s s t h a n f i v e y e a r s " ;

in item 3 the words "fifteen years, of which, as a rule, not less than ten years as a judge"
should be substituted for the words "twenty years or has a working experience as a judge of
n o t l e s s t h a n t e n y e a r s " ;

item 4 should be supplemented with the following sentence:

"Candidates for the position of a judge shall pass an internship in court on a permanent
b a s i s " ;

16) in item 2 of Article 29-1 the words " of local" should be supplemented with the words
" a n d o t h e r " ;

17) Article 30 should be worded as follows:

"Article 30. Selection of Candidates for Position of a Judge

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

2. Selection of candidates for the vacant positions of the judges of the local and other
courts shall be carried out by the Supreme Judicial Council on a competitive basis from the
persons applying for the vacant positions and meeting the requirements of Article 29 of this
C o n s t i t u t i o n a l L a w .

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

3. A candidate for the vacant position of a chairman of a district court shall be considered
by the Supreme Judicial Council pursuant to the proposal of the Chairman of the Supreme
Court submitted by it on the basis of the plenary session's opinion of the corresponding
r e g i o n a l c o u r t .

Candidates for the vacant positions of chairmen and chairmen of the judicial collegiums
of the regional courts, chairmen of the judicial collegiums and judges of the Supreme Court
shall be considered by the Supreme Judicial Council pursuant to the proposal of the Chairman
of the Supreme Court submitted by it on the basis of plenary session's decision of the
S u p r e m e C o u r t .

A candidate for the position of the Chairman of the judicial collegium of the Supreme

Court shall be recommended from amongst the judges of the Supreme Court.

The Supreme Judicial Council shall recommend candidates for the vacant positions of chairmen, 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 a p p o i n t m e n t .

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.";

1 8) i n A r t i c l e 3 1
in item 2 the words "of the regional court" should be substituted for the words "of local and other courts";

items 3 and 4 should be worded as follows:

"3. Chairmen of judicial collegiums of local and other courts, chairmen of judicial collegiums of the Supreme Court shall be appointed 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 opinion of the plenary session of the Supreme Judicial Council for a five-year term.

4. The Chairman of the Supreme Court 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 for a five-year term.

in item 5 the words "and the chairmen of collegiums of the regional" should be substituted for the words "of local and other";
item 6 should be deleted;
i n i t e m 7 :

in part one the words "the Chairman and chairmen of collegiums of the Supreme Court, the chairman and chairmen of collegiums of the regional courts, the chairman of a district court" should be substituted for the words "chairmen and chairmen of the judicial collegiums of local and other courts, the Chairman and chairmen of the judicial collegiums of the Supreme Court";

in part two the words "the chairman and chairman of a collegium" should be substituted for the words "the chairmen and chairmen of the judicial collegiums of local and other courts";

item 8 the words "abolishing of the court" should be supplemented with the words ", reducing the total number of judges";
1 9) i n A r t i c l e 3 2

in item 2 the words "of the Supreme Court, chairmen of collegiums" should be deleted;
i t e m 3 s h o u l d b e d e l e t e d ;

item 4 should be worded as follows:

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

In appointing a judge the oath shall not be taken repeatedly by the chairman or the chairman of judicial collegium or the judge of another court";

20) item 1 of Article 33 should be supplemented with the following sub-item 3-2):

"3-2) there is an opinion of the Trial Jury on a judge's non-compliance with the position due to professional incompetence.

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;

21) in Article 34
in item 1:

sub-item 8) the word "if" should be supplemented with the words "chairman of a court, chairman of a judicial collegium or";

sub-item 10) should be worded as follows:

"10) coming of limit age of being in the office of a judge";
item 3:

the words " or the chairman" should be supplemented with the words "of a judicial";

the word "terminated" should be supplemented with the words " on his own wish";
in item 4:

in sub-item 1) the words " the chairmen of collegiums" should be deleted;

sub-item 2) should be worded as follows:

"2) a decree of the President of the Republic of Kazakhstan, against the chairmen of the judicial collegiums of the Supreme Court, chairmen, chairmen of judicial collegiums and judges of local and other courts";

in item 5:

in part one the words "of a collegium" should be substituted for the words " of a judicial collegium " ;

in part two:

the words "of a collegium" should be substituted for the words " of a judicial collegium";

the words "of the corresponding court" should be supplemented with the words "on their own wish or " ;

item 6 should be worded as follows:

"6. In cases stipulated by sub-items 1-1) through - 7), 10) of item 1 of this Article, and upon expiry of the powers of the chairman or chairman of the judicial collegium on their own wish, no recommendation of the Supreme Judicial Council for discharge from office or termination of the judge's powers shall be required";

22) should be supplemented with the following article 34-1:

"Article 34-1. The Limit Age of Tenure in the Position of a Judge
Tenure in the position of a judge shall be allowed until reaching by him of the age limit of 65 years, which in exceptional cases may be prolonged for not more than five years by the Chairman of the Supreme Court with the consent of the Supreme Judicial Council.

23) item 1 of Article 35 should be worded as follows:

"Resignation shall be recognised as a special form of termination of powers of the judge who has an impeccable reputation and will continue to retain the title of judge, belonging to the judicial community with guarantees of personal inviolability and other material and social guarantees stipulated by this Constitutional Law.

A judge shall be discharged from office by form of resignation pursuant to the written application of the judge to resign";

24) Article 36 should be worded as follows:

"Article 36. The Supreme Judicial Council

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

2. The status and organisation of work of the Supreme Judicial Council shall be determined by the law." ;

25) in item 2 of Article 39 the words "and chairmen" should be supplemented with the words "of a judicial" ;

26) in sub-item 4) of item 1 of Article 40 the words "or chairman" should be supplemented with the words "of a judicial" ;

27) in item 1 of Article 43 the words "against the chairmen", "and chairmen" should be supplemented with the words "of a judicial" ;

28) in item 1 of Article 46 the words "and the person who initiated the disciplinary case" should be deleted ;

29) Article 50

in the title the words "for Transfer" should be substituted for the words "for Relocation";
in the text the word "transferred" should be substituted for the words "appointed (elected) judge, judges, reassigned (re-elected);" ;

30) the title of Article 51 should be worded as follows:

Article 51. "Housing Provision"

31) in item 2 of Article 53, the words "by the regulatory legal acts" should be substituted for the words "by the Government" ;

32) Article 55 should be supplemented with the following part two:

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

33) in Article 56 :

part two of item 1 the words "of the local" should be supplemented with the words "and others" ;

item 7, the words "of the local" should be supplemented with the words "and others";
34) in items 1 and 2 of Article 57, the words "and local" should be substituted for the
words ", of local and other."

A r t i c l e 2 .

1. This Constitutional Law shall come into force in ten calendar days after its first
p u b l i c a t i o n .

Chairmen of collegiums of regional courts and courts equivalent to them and the Supreme
Court of the Republic of Kazakhstan shall retain their powers until the creation of judicial
collegiums of courts of the Republic of Kazakhstan provided by the Constitutional Law.

2. Procedural powers of the courts and judicial collegiums determined by the
Constitutional Law, on consideration of criminal, civil and administrative cases shall be
established by corresponding procedural laws.

P r e s i d e n t o f
the Republic of Kazakhstan N. Nazarbayev