

# ***THE CONSTITUTION OF THE REPUBLIC OF KAZAKHSTAN***

*Adopted by the all-nation referendum on August 30, 1995*

## **DECREE OF THE PRESIDENT OF THE REPUBLIC OF KAZAKHSTAN**

On the Constitution of the Republic of Kazakhstan The President of the Republic of Kazakhstan proposed, and the people of Kazakhstan, at the republican referendum on August 30, 1995, adopted the New Constitution of the Republic of Kazakhstan. In view of the results of the republican referendum having been officially published, and the New Constitution having come into force on September 5, 1995, I RESOLVE:

1. To publish the Constitution of the Republic of Kazakhstan.
2. To stipulate that the original text of the Constitution of the Republic of Kazakhstan, adopted at republican referendum on August 30, 1995, shall be kept by the President of the Republic of Kazakhstan.
3. The original text of the Constitution of the Republic of Kazakhstan, adopted at the ninth session of the Supreme Soviet of the Republic of Kazakhstan of the twelfth convocation on January 28, 1995, shall be placed for eternal custody with the Central State Archives of the Republic of Kazakhstan.
4. The present Decree comes into effect on the day it is published.

The President of the Republic of Kazakhstan N. NAZARBAYEV  
Almaty, September 6, 1995  
№2454

*We, the people of Kazakhstan, united by a common historic fate, creating a state on the indigenous Kazakh land, considering ourselves a peaceloving and civil society, dedicated to the ideals of freedom, equality and concord, wishing to take a worthy place in the world community, realizing high responsibility before the present and future generations, proceeding from our sovereign right accept this Constitution.*

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### **Section I.**

## **GENERAL PROVISIONS**

#### **Article 1.**

1. The Republic of Kazakhstan proclaims itself a democratic, secular, legal and social state whose highest values are an individual, his life, rights and freedoms.

2. The fundamental principles of the activity of the Republic are public concord and political stability; economic development for the benefit of all the nation; Kazakhstan patriotism and resolution of the most important issues of the affairs of state by democratic methods including voting at an all-nation referendum or in the Parliament.

#### **Article 2.**

1. The Republic of Kazakhstan is a unitary state with a presidential form of government.

2. The sovereignty of the Republic extends to its entire territory. The state ensures the integrity, inviolability and inalienability of its territory.

3. The administrative-territorial division of the Republic of Kazakhstan, location and status of capital are determined by law.

4. The names "Republic of Kazakhstan" and "Kazakhstan" have the same meaning.

#### **Article 3.**

1. The people shall be the only source of state power.

2. The people shall exercise power directly through an all-nation referendum and free elections as well as delegate the execution of their power to state institutions.

3. Nobody shall have the right to appropriate power in the Republic of Kazakhstan. Appropriation of power shall be persecuted by law. The right to act on behalf of the people and the state shall belong to the President as well as to Parliament of the Republic within the limits of the constitutional powers. The government and other state bodies shall act on behalf of the state only within the limits of their delegated authorities.

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

#### **Article 4.**

1. The provisions of the Constitution, the laws corresponding to it, other regulatory legal acts, international treaty and other commitments of the Republic as well as regulatory resolutions of Constitutional Council and the Supreme Court of the Republic shall be the functioning law in the Republic of Kazakhstan.

2. The Constitution shall have the highest juridical force and direct effect on the entire territory

the Republic.

3. International treaties ratified by the Republic shall have priority over its laws and be directly implemented except in cases when the application of an international treaty shall require the promulgation of a law.

4. All laws, international treaties of which the Republic is a party shall be published. Official publication of regulatory legal acts dealing with the rights, freedoms and responsibilities of citizen shall be a necessary condition for their application.

#### **Article 5.**

1. The Republic of Kazakhstan shall recognize ideological and political diversity. The merging public and state institutions, and the formation of political party organizations in state bodies shall not be permitted.

2. Public associations shall be equal before the law. Illegal interference of the state in the affairs of public associations and of public associations in the affairs of the state, imposing the functions of state institutions on public associations, and financing of public associations by the state shall not be permitted.

3. Formation and functioning of public associations pursuing the goals or actions directed towards a violent change of the constitutional system, violation of the integrity of the Republic, undermining the security of the state, inciting social, racial, national, religious, class and tribal enmity, as well as formation of unauthorized paramilitary units shall be prohibited.

4. Activities of political parties and trade unions of other states, religious parties as well as financing political parties and trade unions by foreign legal entities and citizens, foreign states and international organizations shall not be permitted in the Republic.

5. Activities of foreign religious associations on the territory of the Republic as well as appointment of heads of religious associations in the Republic by foreign religious centers shall be carried out in coordination with the respective state institutions of the Republic.

#### **Article 6.**

1. The Republic of Kazakhstan shall recognize and by the same token protect state and private property.

2. Property shall impose obligations, and its use must simultaneously benefit the society. Subjects and objects of ownership, the scope and limits of the rights of proprietors, and guarantees of their protection shall be determined by law.

3. The land and underground resources, waters, flora and fauna, other natural resources shall be owned by the state. The land may also be privately owned on terms, conditions and within the limits established by legislation.

#### **Article 7.**

1. The state language of the Republic of Kazakhstan shall be the Kazakh language.

2. In state institutions and local self-administrative bodies the Russian language shall be officially used on equal grounds along with the Kazakh language.

3. The state shall promote conditions for the study and development of the languages of the peoples of Kazakhstan.

#### **Article 8.**

The Republic of Kazakhstan shall respect principles and norms of international law, pursue the policy of cooperation and good-neighborly relations between states, their equality and non-interference in each other's domestic affairs, peaceful settlement of international disputes and renounce the first use of the military force.

#### **Article 9.**

The Republic of Kazakhstan shall have its state symbols - the flag, emblem and anthem. Their

description and order of official use shall be established by the constitutional law.

## **Section II.**

### **THE INDIVIDUAL AND CITIZEN**

#### **Article 10.**

1. Citizenship of the Republic of Kazakhstan shall be acquired and terminated as prescribed by law, shall be indivisible and equal regardless of the grounds of its acquisition.
2. A citizen of the Republic of Kazakhstan under no circumstances may be deprived of citizens of the right to change his citizenship, and may not be exiled from the territory of Kazakhstan.
3. Foreign citizenship of a citizen of the Republic shall not be recognized.

#### **Article 11.**

1. A citizen of the Republic of Kazakhstan may not be extradited to a foreign state unless otherwise stipulated by international treaties of the Republic.
2. The Republic shall guarantee its citizens protection and patronage outside its boundaries.

#### **Article 12.**

1. Human rights and freedoms in the Republic of Kazakhstan shall be recognized and guaranteed in accordance with this Constitution.
2. Human rights and freedoms shall belong to everyone by virtue of birth, be recognized as absolute and inalienable, and define the contents and implementation of laws and other regulatory legal acts.
3. Every citizen of the Republic shall have rights and bear responsibilities owing to his citizenship.
4. Foreigners and stateless persons in the Republic shall enjoy rights and freedoms as well as responsibilities established for the citizens unless otherwise stipulated by the Constitution, laws and international treaties.
5. Exercise of a citizen's human rights and freedoms must not violate rights and freedoms of other persons, infringe on the constitutional system and public morals.

#### **Article 13.**

1. Everyone shall have the right to be recognized as subject of the law and protect his rights and freedoms with all means not contradicting the law including self-defense.
2. Everyone shall have the right to judicial defense of his rights and freedoms.
3. Everyone shall have the right to qualified legal assistance. In cases stipulated by law, legal assistance shall be provided free of charge.

#### **Article 14.**

1. Everyone shall be equal before the law and court.
2. No one shall be subject to any discrimination for reasons of origin, social, property status, occupation, sex, race, nationality, language, attitude towards religion, convictions, place of residence or any other circumstances.

#### **Article 15.**

1. Everyone shall have the right to life.
2. No one shall have the right to arbitrarily deprive a person of life. The law shall establish the death penalty as an extraordinary measure of punishment for especially grave crimes and grant the sentenced person the right to appeal for pardon.

**Article 16.**

1. Everyone shall have the right to personal freedom.
2. Arrest and detention shall be allowed only in cases stipulated by law and only with the sanction of a court or prosecutor of law. The detained person shall be provided with the right to appeal. Without the sanction of a procurator, a person may be detained for a period no more than seventy-two hours.
3. Every person detained, arrested and accused of committing a crime shall have the right to the assistance of a defense lawyer (defender) from the moment of detention, arrest or accusation.

**Article 17.**

1. A person's dignity shall be inviolable.
2. No one must be subject to torture, violence or other treatment and punishment that is cruel or humiliating to human dignity.

**Article 18.**

1. Everyone shall have the right to inviolability of private life, personal or family secrets, protection of honor and dignity.
2. Everyone shall have the right to confidentiality of personal deposits and savings, correspondence, telephone conversations, postal, telegraph and other messages. Limitation of this right shall be permitted only in the cases and according to the procedure directly established by law.
3. State bodies, public associations, officials, and the mass media must provide every citizen with the possibility to obtain access to documents, decisions and other sources of information concerning his rights and interests.

**Article 19.**

1. Everyone shall have the right to determine and indicate or not to indicate his national, party or religious affiliation.
2. Everyone shall have the right to use his native language and culture, to freely choose the language of communication, education, instruction and creative activities.

**Article 20.**

1. The freedom of speech and creative activities shall be guaranteed. Censorship shall be prohibited.
2. Everyone shall have the right to freely receive and disseminate information by any means not prohibited by law. The list of items constituting state secrets of the Republic of Kazakhstan shall be determined by law.
3. Propaganda of or agitation for the forcible change of the constitutional system, violation of the integrity of the Republic, undermining of state security, and advocating war, social, racial, national, religious, class and clannish superiority as well as the cult of cruelty and violence shall not be allowed.

**Article 21.**

1. Everyone who has a legal right to stay on the territory of the Republic of Kazakhstan shall have the right to freely move about its territory and freely choose a place of residence except in cases stipulated by law.
2. Everyone shall have the right to leave the territory of the Republic. Citizens of the Republic shall have the right to freely return to the Republic.

**Article 22.**

1. Everyone shall have the right to freedom of conscience.
2. The right to freedom of conscience must not specify or limit universal human and civil rights and responsibilities before the state.

**Article 23.**

1. Citizens of the Republic of Kazakhstan shall have the right to freedom of forming associations. The activities of public associations shall be regulated by law.

2. The military, employees of national security, law-enforcement bodies and judges must abstain from membership in political parties, trade unions, and actions in support of any political party.

**Article 24.**

1. Everyone shall have the right to freedom of labour, and the free choice of occupation and profession. Involuntary labor shall be permitted only on a sentence of court or in the conditions of state of emergency or martial law.

2. Everyone shall have the right to safe and hygienic working conditions, to just remuneration for labour without discrimination, as well as to social protection against unemployment.

3. The right to individual and collective labour disputes with the use of methods for resolving them, stipulated by law including the right to strike, shall be recognized.

4. Everyone shall have the right to rest. Working labor agreements stipulating the length of working time, days-off and holidays, and paid annual leave shall be guaranteed by law.

**Article 25.**

1. Housing shall be inviolable. Deprivation of housing shall not be permitted unless otherwise stipulated by a court decision. Penetration into housing, its inspection and search shall be permitted only in cases and according to the procedure stipulated by law.

2. Conditions shall be created in the Republic of Kazakhstan to provide citizens with housing. Citizens in need of housing shall be categorized in a manner to be prescribed by law and provided with housing at an affordable price from the state housing funds in accordance with the norms stipulated by law.

**Article 26.**

1. Citizens of the Republic of Kazakhstan may privately own any legally acquired property.

2. Property, including the right of inheritance, shall be guaranteed by law.

3. No one may be deprived of his property unless otherwise stipulated by a court decision. Forcible alienation of property for the public use in extraordinary cases stipulated by law may be exercised on condition of its equivalent compensation.

4. Everyone shall have the right to freedom of entrepreneurial activity, and free use of his property for any legal entrepreneurial activity. Monopolistic activity shall be regulated and limited by law. Unfair competition shall be prohibited.

**Article 27.**

1. Marriage and family, motherhood, fatherhood and childhood shall be under the protection of the state.

2. Care of children and their upbringing shall be a natural right and responsibility of parents.

3. Able-bodied children of age must take care of their disabled parents.

**Article 28.**

1. A citizen of the Republic of Kazakhstan shall be guaranteed a minimum wage and pension, guaranteed social security in old age, in case of disease, disability or loss of a breadwinner and other legal grounds.

2. Voluntary social insurance, creation of additional forms of social security, and charity shall be encouraged.

**Article 29.**

1. Citizens of the Republic of Kazakhstan shall have the right to protection of health.

2. Citizens of the Republic shall be entitled to free, guaranteed, extensive medical assistance established by law.

3. Paid medical treatment shall be provided by state and private medical institutions as well as persons engaged in private medical practice on the terms and according to the procedures stipulated by law.

#### **Article 30.**

1. The citizens shall be guaranteed free secondary education in state educational establishments. Secondary education shall be obligatory.

2. A citizen shall have the right to receive on a competitive basis a higher education in a state higher educational establishment.

3. The citizens shall have the right to pay and receive an education in private educational establishments on the basis and terms established by law.

4. The state shall set uniform compulsory standards in education. The activity of any educational establishment must comply with these standards.

#### **Article 31.**

1. The state shall set an objective to protect the environment favorable for the life and health of the person.

2. Officials shall be held accountable for the concealment of facts and circumstances endangering the life and health of the people in accordance with law.

#### **Article 32.**

Citizens of the Republic of Kazakhstan shall have the right to peacefully and without arms assemble, hold meetings, rallies and demonstrations, street processions and pickets. The use of this right may be restricted by law in the interests of state security, public order, protection of health, rights and freedoms of other persons.

#### **Article 33.**

1. Citizens of the Republic of Kazakhstan shall have the right to participate in the government of the state's affairs directly and through their representatives, to address personally as well as to direct individual and collective appeals to public and local self-administrative bodies.

2. Citizens of the Republic shall have the right to elect and be elected into public and local self-administrations as well as to participate in an all-nation referendum.

3. The right to elect and be elected, to participate in the all-nation referendum shall not extend to the citizens judged incapable by a court as well as those held in places of confinement on a court's sentence.

4. Citizens of the Republic shall have the equal right to serve in a public office. The requirements for candidates for public offices shall be conditioned only by the character of the office duties and shall be established by law.

*'Paragraph 4 of Article 33 is given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 №284-LRK.*

#### **Article 34.**

1. Everyone must observe the Constitution, legislation of the Republic of Kazakhstan and respect the rights, freedoms, honour and dignity of other persons.

2. Everyone must respect the state symbols of the Republic.

#### **Article 35.**

Payment of legally established taxes, fees and other obligatory payments shall be a duty and responsibility of everyone.

**Article 36.**

1. Defense of the Republic of Kazakhstan shall be a sacred duty and responsibility of its every citizen.
2. Citizens of the Republic shall perform military service according to the procedure and in the forms established by law.

**Article 37.**

Citizens of the Republic of Kazakhstan must care for the protection of historical and cultural heritage, and preserve monuments of history and culture.

**Article 38.**

Citizens of the Republic of Kazakhstan must preserve nature and protect natural resources.

**Article 39.**

1. Rights and freedoms of an individual and citizen may be limited only by laws and only to the extent necessary for protection of the constitutional system, defense of the public order, human rights and freedoms, health and morality of the population.
2. Any actions capable of upsetting interethnic concord shall be deemed unconstitutional.
3. Any form of restrictions to the rights and freedoms of the citizens on political grounds shall be permitted. Rights and freedoms stipulated by articles 10-11; 13-15 paragraph 1 of article 16; article 17; article 19; article 22; paragraph 2 of article 26 of the Constitution shall not be restricted in any event.

**Section III.****THE PRESIDENT****Article 40.**

1. The President of the Republic of Kazakhstan shall be the head of state, its highest official determining the main directions of the domestic and foreign policy of the state and representing Kazakhstan within the country and in international relations.
2. The President of the Republic shall be the symbol and guarantor of the unity of the people and the state power, inviolability of the Constitution, rights and freedoms of an individual and citizen.
3. The President of the Republic shall ensure by his arbitration concerted functioning of all branches of state power and responsibility of the institutions of power before the people.

**Article 41.**

1. The President of the Republic shall be elected by universal, equal and direct suffrage under a secret ballot for a seven-year term in accordance with the constitutional law by the citizens of the Republic who have come of age.
2. A citizen of the Republic shall be eligible for the office of the President of the Republic of Kazakhstan if he is by birth not younger than forty and has a perfect command of the state language and has lived in Kazakhstan for not less than fifteen years.
3. Regular elections of the President of the Republic shall be held on the first Sunday of December and shall not coincide with the election of a new Parliament of the Republic.
4. Excluded.
5. The candidate who receives more than 50 percent of the votes of the constituents that took part in the election shall be deemed elected. If none of the candidates receives the above number of votes, a second round of elections shall be held between the two candidates who obtained the largest number of votes. The candidate who receives the larger number of votes of the constituents who took part in the election shall be deemed elected.



part in the second round of elections shall be deemed elected'.

#### **Article 42.**

1. The President of the Republic of Kazakhstan shall take office from the moment of swearing the people the following oath: "I solemnly swear that I will faithfully serve the people of Kazakhstan, strictly observe the Constitution and the laws of the Republic of Kazakhstan, guarantee the rights and freedoms of the citizens, honestly perform the high duties of the President of the Republic of Kazakhstan entrusted to me."

2. The oath shall be taken on the second Wednesday of January in a ceremonial atmosphere in the presence of the deputies of Parliament, the members of the Constitutional Council, the judges of the Supreme Court as well as all former Presidents of the Republic. In case, stipulated by Article 48 of the Constitution, the oath shall be taken by a person who has taken the powers of the President of the Republic of Kazakhstan within one month since taking the powers of the President of the Republic.

3. The powers of the President of the Republic shall terminate from the moment the newly elected President of the Republic takes office as well as in the case of premature release from office, resignation or death. All former Presidents of the Republic except those who were discharged from office shall have the title of ex-President of the Republic of Kazakhstan.

4. Excluded.

*' Paragraphs 2,4,5 of Article 41, paragraphs 2 and 4 of Article 42 are given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 N° 284-1 of LRK.*

5. One and the same person may not be elected the President of the Republic more than two times in a row.

#### **Article 43.**

1. The President of the Republic of Kazakhstan shall not have the right to be a deputy of a representative body, hold other paid offices and engage in entrepreneurial-activity.

2. The President of the Republic shall suspend activity in any political party for the period he exercises his powers.

#### **Article 44.**

The President of the Republic of Kazakhstan shall:

1) annually address the people of Kazakhstan with a message on the state of the country and in the directions of the domestic and foreign policy of the Republic of Kazakhstan;

2) appoint regular and extraordinary elections to the Parliament of the Republic; convene the first session of Parliament and accept the oath of its members to the people of Kazakhstan; call extraordinary joint sessions of the Chambers of Parliament; sign laws submitted to the Senate of Parliament within fifteen working days, promulgate the law or return the law or its separate articles for a second discussion and vote;

3) appoint a Prime Minister of the Republic with the Parliament's consent; release him from office; determine the structure of the Government of the Republic at the proposal of the Prime Minister, appoint to and release from office its members, as well as form, abolish and reorganize central executive bodies of the Republic which are not included into the Government; accept the oaths of the members of the Government; preside at the meetings of the Government on especially important issues; charge the Government with bringing a bill into the Majilis of Parliament; annul or suspend completely or partially the effect of the Government's acts and those of the akims of the oblasts, major cities and the capital;

4) appoint the Chairperson of the National Bank of the Republic of Kazakhstan with the Parliament's consent; release him from office;

5) appoint the Procurator General and Chairperson of the Committee of National Security of the Republic with the consent of the Senate of Parliament; release them from office;

- 6) appoint and recall heads of diplomatic representative offices of the Republic;
- 7) appoint the Chairperson and two members of the Estimation Committee for control over Implementation of the Republican Budget for a five-year term;
- 8) approve state programs of the Republic;
- 9) approve a unified system of financing and labor payment for all bodies financed by the state budget of the Republic at the proposal of the Prime Minister of the Republic;
- 10) adopt a resolution on conducting the all-nation referendum;
- 11) conduct negotiations and sign international treaties of the Republic; sign ratification instruments; receive letters of credentials and recall from diplomatic and other representatives of foreign states accredited to him;
- 12) act as the Commander-in-Chief of the Armed Forces of the Republic, appoint and replace the highest command of the Armed Forces;
- 13) award state decorations of the Republic and confer-honorary, highest military and other ranked positions, diplomatic ranks and qualification degrees;
- 14) resolve issues of citizenship of the Republic, and political asylum;
- 15) exercise pardon of citizens;
- 16) in the event of a serious and immediate threat to the democratic institutions of the Republic, its independence and territorial integrity, political stability of the Republic, security of its citizens, the disruption of normal functioning of the Constitutional bodies of the state, the President shall, after official consultation with Prime Minister and Chairpersons of the Parliamentary Chambers of the Republic and take measures, caused by a state of emergency on the entire territory or in particular areas of Kazakhstan, and immediately inform the Parliament of the use of the Armed Forces of the Republic;
- 17) in the case of aggression against the Republic or immediate external threat to its security, the President shall impose martial law on the entire territory of the Republic or in particular areas, declare a partial or total mobilization and immediately inform the Parliament of the Republic to that effect;
- 18) form the Republican Guard as well as the Presidential Guard subordinated to the President;
- 19) appoint to and release from office the State Secretary of the Republic of Kazakhstan, define his status and powers; form the administration of the President of the Republic;
- 20) form the Security Council, the Higher Judicial Council and other consultative and advisory bodies;
- 21) exercise other powers in accordance with the Constitution and the laws of the Republic'.

#### **Article 45.**

1. The President of the Republic of Kazakhstan, on the basis of and with the exercise of the Constitution and the laws, shall issue decrees and resolutions which are binding on the entire territory of the Republic.
2. In the case envisioned by subparagraph 4 of Article 53 of the Constitution the President of the Republic shall issue laws, and in the case envisioned by subparagraph 2 of Article 61 of the Constitution, - the President or the Republic shall issue decrees having the force of laws in the Republic.
3. The acts of Parliament signed by the President of the Republic as well as the acts of the President issued on the initiative of the Government shall be preliminary signed respectively by the Chairperson of each Parliament's Chambers or the Prime Minister on whom bear juridical responsibility for the legality of these acts.

#### **Article 46.**

1. The President of the Republic of Kazakhstan, his honour and dignity shall be inviolable.
2. Provision, service, and guard of the President of the Republic and his family shall be carried out at the state's expense.
3. The provisions of this article shall extend to ex-Presidents of the Republic.

*' Subparagraph 7) of Article 44 is given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 N' 284-1 of LRK.*

#### **Article 47.**

1. The President of the Republic of Kazakhstan may be prematurely released from office in the case of continued incapacity to perform his duties due to illness. In this case the Parliament shall form a commission consisting of equal numbers of deputies from each Chamber and specialists of respective areas of medicine. The decision of premature release based on the conclusion of the commission and that of the Constitutional Council confirming observance of the established constitutional procedures shall be adopted at a joint sitting of the Parliament's Chambers by the majority of no less than three-fourths from the total number of deputies of each Chamber.

2. The President of the Republic shall bear responsibility for the actions performed while exercising his duties and only in the case of high treason may be discharged from office by Parliament. The decision to bring an accusation and conduct its investigation may be adopted by the majority of the deputies of the Majilis at the initiative of no less than one-third of the total number of its deputies. Investigation of the accusation shall be organized by the Senate and by the majority of votes of the total number of the deputies of the Senate its results are transferred for consideration at a joint session of the Parliament's Chambers. The final decision of this issue shall be adopted at a joint session of the Parliament's Chambers by the majority of no less than three-fourths of the total number of the deputies of each Chamber, provided the Supreme Court concludes the validity of the accusation and conclusion by the Constitutional Council that the established constitutional procedures were observed. The failure to arrive at a final decision within two months from the moment of the accusation shall result in the recognition that the accusation against the President of the Republic is rejected. Rejection of the accusation of the President of the Republic in perpetration of high treason at any stage shall result in premature termination of the powers of the deputies of the Majilis who initiated the consideration of this issue.

3. The issue of discharge of the President of the Republic from office may not be initiated in the period when the President is considering premature termination of the powers of the Parliament of the Republic.

#### **Article 48.**

1. In case of premature release or discharge of the President of the Republic of Kazakhstan from office as well as in case of his death the powers of the President of the Republic shall be transmitted to the Chairperson of the Senate of the Parliament for the rest of the term; if the Chairperson of the Senate is unable to assume the powers of the President they shall be transmitted to the Chairperson of the Majilis of the Parliament; if the Chairperson of the Majilis is unable to assume the powers of the President they shall be transmitted to the Prime Minister of the Republic. A person who has taken the powers of the President of the Republic shall correspondingly withdraw his powers of the Chairperson of the Senate, the Majilis, the Prime Minister. In this case filling of those state positions shall be carried out in the order, stipulated by the Constitution.

2. A person who has taken the powers of the President of the Republic of Kazakhstan, on the basis and in the order stipulated by Paragraph 1 of the present Article, has no right to initiate amendments and additions to the Constitution of the Republic of Kazakhstan'.

### **Section IV.**

## **PARLIAMENT**

#### **Article 49.**

1. Parliament of the Republic of Kazakhstan is the highest representative body of the Republic

performing legislative functions.

2. Parliament's powers shall begin from the opening of its first session and terminate with the session of a new convocation.

3. The powers of Parliament may be prematurely terminated in cases and according to the procedure stipulated by the Constitution.

4. The organization and activities of Parliament, the legal status of its deputies shall be determined by constitutional law<sup>2</sup>.

#### **Article 50.**

1. Parliament shall consist of two Chambers acting on a permanent basis: the Senate and the Majilis.

2. The Senate shall be composed of deputies elected in twos from each oblast, major city and the capital of the Republic of Kazakhstan, at a joint session of the deputies of all representative bodies correspondingly, the oblast, major city and the capital of the Republic. Seven deputies of the Senate shall be appointed by the President of the Republic for the term of the Senate.

3. The Majilis shall consist of seventy-seven deputies. Sixty-seven deputies shall be elected in constituencies having one mandate and formed according to the administrative-territorial division of the Republic with an approximately equal number of constituents. Ten deputies shall be elected on the basis of the Party Lists according to the system of proportional representation and in the territory of a unified national constituency.

4. A deputy of Parliament may not be a member of both Chambers simultaneously.

5. Term of the powers of Senate deputies shall be six years, term of the powers of the Majilis deputies shall be five years<sup>3</sup>.

#### **Article 51.**

1. Elections of the deputies of the Majilis shall be carried out on the basis of the universal, equal and direct right under secret ballot. Regular elections of the deputies of the Majilis shall be held no later than two months before the termination of the powers of current Parliament.

<sup>1</sup> Article 48 is given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 № 284-1 of LRK.

<sup>2</sup> Paragraph 2 of Article 49 is given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 № 284-1 of LRK.

<sup>3</sup> Paragraphs 2,3,5 of Article 50 are given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 № 284-1 of LRK.

2. The elections of the deputies of the Senate shall be carried out on the basis of indirect election right under secret ballot. Half of the elected deputies of the Senate shall be re-elected every three years. In this case, their regular elections shall be held no later than two months before the end of their term in office.

3. Extraordinary elections of the deputies of Parliament shall be held within two months from the moment of premature termination of Parliament's powers.

4. A deputy of the Senate may be a citizen of the Republic of Kazakhstan who has been a citizen of the Republic for not less than five years and who has reached thirty years of age, has a higher education and length of service of not less than five years, and has been a permanent resident for not less than three years on the territory of the respective oblast, major city or the capital of the Republic. A deputy of the Majilis may be a citizen of the Republic of Kazakhstan who has reached twenty-five years of age.

5. A candidate shall be deemed elected if he receives more than fifty percent of the votes of the constituents or electors who took part in the voting in a constituency having one mandate, at the joint session of deputies of all the representative bodies correspondingly of the oblasts, the city of republican significance and the capital of the Republic. If none of the candidates receives the above numbers of votes, a second round of elections shall be held between the two candidates who obtained the largest number of votes. The candidate who receives the larger number of votes of the constituents shall be deemed elected.

or electors who took part in the second round of elections shall be deemed elected. Only those political parties which received not less than seven percent of votes of constituents who took part in the elections, shall be admitted to distribution of deputy mandates in accordance with the results of elections to the Majilis on the basis of Party Lists. Elections to the Senate shall be deemed valid in case more than fifty percent of electors took part in the voting. Procedure of elections of the deputies of the Parliament of the Republic shall be determined by constitutional law.

6. A deputy shall take an oath before the people of Kazakhstan'.

#### **Article 52.**

1. A deputy of Parliament shall not be bound by any imperative mandate.

2. The deputies of Parliament must take part in its work. The deputies shall only vote in person at the sessions of Parliament. Absence of a deputy at sittings of the Chambers and their bodies without a good reason for more than three times as well as transferring the right to vote shall cause the imposition of penalties established by law.

3. A deputy of Parliament shall have no right to be a deputy of another representative body, hold other paid offices, except teaching, research and creative activities, engage in entrepreneurial activities, enter a managing body or a supervisory board of a commercial organization. Violation of this rule shall result in the termination of a deputy's powers.

*' Paragraphs 2 and 5 of Article 51 are given in a wording of the Law of the Republic of Kazakhstan of October 7, 1995 No 284-1 of LRK.*

4. A deputy of Parliament during the term of his office may not be arrested, subject to detention measures of administrative punishment imposed by a court of law, arraigned on a criminal charge without the consent of a respective Chamber except for the cases of being apprehended on the scene of a crime or committing grave crimes.

5. The powers of the deputies of Parliament shall be terminated in cases of resignation, being recognized as incapable, dissolution of Parliament and in other cases stipulated by the Constitution. A deputy of Parliament shall be deprived of his mandate in cases being duly convicted in a court of law, establishing permanent residency beyond the boundaries of the Republic of Kazakhstan.

6. Preparation of questions concerning the imposition of penalties on the deputies, their observance of the requirements of paragraph 3 of this article, principles of the deputies' ethics, as well as termination of the deputies' powers and deprivation of their powers and deputy immunity, shall be delegated to the Central Election Commission of the Republic of Kazakhstan.'

#### **Article 53.**

Parliament at a joint session of the Chambers shall:

1) introduce amendments and make additions to the Constitution; adopt constitutional laws, introduce amendments and make additions to the Constitution at the proposal of the President of the Republic of Kazakhstan;

2) approve the republican budget, the reports of the Government, and Estimation Committee and its implementation, and introduce changes into the budget;

3) conduct a second round of discussion and voting on the laws or articles of the law that cause objections of the President of the Republic within a month's term from the moment the objections were presented. Non-observance of this term denotes the acceptance of the President's objections. Parliament by the majority of two-thirds of votes from the total number of deputies from each Chamber confirms the decision adopted earlier, the President shall sign the law within seven days of the President's objections. If the President's objections are not overruled, the law shall be deemed not adopted or adopted in the version proposed by the President;

4) have the right to delegate legislative Powers for a term not exceeding one year to the President by two-thirds of the votes from the total number of deputies of each Chamber at the initiative of the President;

5) give consent to the appointment of the Prime Minister of the Republic and the Chairperson of the National Bank of the Republic by the President of the Republic;

6) hear the report of the Prime Minister on the Government's program and approve or reject the program. A second rejection of the program brought about by the majority of two-thirds of votes from the total number of deputies of each Chamber denotes a vote of no confidence in the Government. The absence of such a majority implies the approval of the Government's program;

7) express a vote of no confidence in the Government by the majority of two-thirds of votes from the total number of deputies of each Chamber at the initiative of no less than one-fifth of the total number of the Parliament's deputies and in cases established by this Constitution;

*' Paragraph 3 of Article 52 is given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 № 284 LRK.*

8) decide issues of war and peace;

9) adopt a decision concerning the use of the Armed Forces of the Republic to fulfill international obligations in support of peace and security at the proposal of the President of the Republic;

10) put forward an initiative calling for an all-nation referendum;

11) hear annual messages of the Constitutional Council of the Republic on the state of the constitutional legality in the Republic;

12) form joint commissions of the Chambers; elect and release from office their chairpersons; submit reports on the activity of the commissions;

13) exercise other powers assigned to Parliament by the Constitution.

#### **Article 54.**

Parliament at separate sessions of the Chambers through consecutive consideration of issues first in the Majilis and then in the Senate shall:

1) adopt laws;

2) discuss the republican budget and reports about its implementation, changes and additions in the budget, establish and annul state taxes and fees;

3) establish the procedure for resolving the issues of the administrative-territorial division of the Republic of Kazakhstan;

4) establish state awards, honorary, military and other titles, ranked positions, diplomatic ranks in the Republic of Kazakhstan, and define state symbols of the Republic;

5) decide issues of state loans and rendering of economic and other assistance by the Republic;

6) issue acts of amnesty to citizens;

7) ratify and denounce international treaties of the Republic.

#### **Article 55.**

The following shall belong to exclusive jurisdiction of the Senate:

1) election and discharge from office, the Chairperson of the Supreme Court, the Chairpersons of the Collegium of Justice, and judges of the Supreme Court of the Republic at the proposal of the President of the Republic of Kazakhstan, and swearing them into office;

2) approval of the appointment of the Procurator General and the Chairperson of the Committee for National Security by the President of the Republic of Kazakhstan;

3) deprivation of inviolability of the Procurator General, the Chairperson and judges of the Supreme Court of the Republic;

4) premature termination of the powers of local representative administrative bodies in accordance with the legislation of the Republic;

5) delegation of two deputies to the Highest Judicial Council of the Republic of Kazakhstan;

6) consideration of the issue raised by the Majilis about the discharge from office of the President of the Republic and submitting the results for consideration at a joint session of the Chambers.

**Article 56.**

The following belongs to exclusive jurisdiction of the Majilis:

- 1) accepting drafts of laws for consideration and consideration of the drafts of laws;
- 2) preparation of suggestions concerning the objections of the President of the Republic of Kazakhstan to laws adopted by Parliament of the Republic;
- 3) election and discharge from office of the Chairperson, Deputy Chairperson, Secretary and members of the Central Election Commission of the Republic at the proposal of the President of the Republic of Kazakhstan;
- 4) announcing regular elections of the President of the Republic;
- 5) delegation of two deputies to the Qualification Collegium of Justice;
- 6) bringing an accusation of high treason against the President of the Republic'.

**Article 57.**

Each Chamber of the Parliament independently, without participation of the other Chamber shall:

- 1) appoint three members for a five-year term to the Estimation Committee for control over implementation of the republican budget;
- 2) delegate half of the members of the commission formed by Parliament in the case envisaged in paragraph I of article 47 of the Constitution;
- 3) elect half of the members of joint commissions of the Chambers;
- 4) terminate powers of the deputies of the Chambers, as well as resolve the issues of depriving deputies of their deputy immunity at the proposal of the Procurator General of the Republic of Kazakhstan;
- 5) hold Parliamentary hearings on the issues of its jurisdiction;
- 6) have the right to hear reports of the members of the Government of the Republic on the issues of their activities, at the initiative of no less than one-third from the total number of the deputies of the Chambers, and adopt an appeal by a majority of two-thirds of the total number of the deputies of the Chambers to the President of the Republic of Kazakhstan to discharge a member of the Government from office in the case of nonobservance of the laws of the Republic, if the President of the Republic refuses such appeal, then the deputies, by majority of not less than two-thirds of vote of the total number of deputies of the Chamber, shall possess the right to put a question to the President of the Republic on release from the position of a member of the Government on expiration of six months since the first appeal. In this case the President of the Republic shall release from the position of a member of the Government.
- 7) form coordinating and working bodies of the Chambers;
- 8) adopt procedural orders of their activities and other decisions on the issues connected with organization and the internal routine of the Chambers".

*' Subparagraph 4) of Article 56 is given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 № 284-1 of LRK.*

*" Subparagraphs 1) and 6) of Article 57 are given in a wording of the Law of the Republic of Kazakhstan of October 1998 № 284-1 of LRK.*

**Article 58.**

1. The Chambers shall be headed by their chairpersons who are elected by the Senate and the Majilis from among the deputies who have a perfect command of the state language, under secret ballot by a majority of votes from the total number of the deputies of the Chambers. The candidacy for the Chairperson of the Senate shall be nominated by the President of the Republic of Kazakhstan. The candidacy for the Chairperson of the Majilis shall be nominated by the deputies of the Chamber.

2. The Chairpersons of the Chambers may be recalled from office and also have the right to submit their resignation if the majority of the total number of the deputies of the Chambers have voted against them.

3. The Chairpersons of Parliament's Chambers shall:

- 1) convene sessions of the Chambers and preside over them;

- 2) exercise general supervision in preparation of the issues under consideration by the Chambers;
  - 3) nominate the candidacies of Deputy Chairpersons to the Chambers;
  - 4) ensure the observance of the procedural orders in the activities of the Chambers;
  - 5) supervise the activities of the coordinating bodies of the Chambers;
  - 6) sign acts issued by the Chambers;
  - 7) each appoint two members to the Constitutional Council of the Republic of Kazakhstan;
  - 8) fulfill other duties assigned to them by the procedural orders of Parliament.
4. The Chairperson of the Majilis shall:
- 1) open sessions of Parliament;
  - 2) convene regular joint sessions of the Chambers, preside at regular and extraordinary joint sessions of the Chambers.
5. The chairpersons of the Chambers shall issue instructions on the items of their jurisdiction.

#### **Article 59.**

1. Parliament's sessions shall proceed in the form of joint and separate sessions of its chambers
2. The first session of Parliament shall be convened by the President of the Republic of Kazakhstan no later than thirty days from the day of publishing of the election results.
3. Regular sessions of the Parliament shall be held once a year from the first working day of September to the last working day of June.
4. Session of Parliament shall be opened by the President of the Republic and closed at joint sessions of the Senate and Majilis. In the period between Parliament's sessions, the President of the Republic of Kazakhstan may call an extraordinary joint session of the Chambers on his own initiative, at the suggestion of the chairpersons of the Chambers or no less than one-third from the total number of the deputies of Parliament. Only the issues that were the reason for convocation shall be reviewed at this session.
5. Joint and separate sessions of the Chambers shall be held on condition that no less than two-thirds from the total number of the deputies of each Chamber are present.
6. Joint and separate sessions of the Chambers shall be open. In cases stipulated by the procedural orders, sessions may be closed. The President of the Republic, the Prime Minister and members of the Government, the Chairperson of National Bank, the Procurator General, the Chairperson of the Committee of National Security shall have the right to be present at any session and be heard.

#### **Article 60.**

1. The Chambers shall form standing committees, the number of which shall not exceed seven each Chamber.
2. The Senate and Majilis shall have the right to form joint commissions on a parity basis for solution of issues dealing with the joint activity of the Chambers.
3. The committees and commissions shall issue resolutions on items of their jurisdictions.
4. The procedure of formation, the powers and organization of the activities of the committees and commissions shall be determined by law.

#### **Article 61.**

1. The right of a legislative initiative shall belong to the deputies of Parliament of the Republic of Kazakhstan, the Government of the Republic and shall be realized exclusively in the Majilis.
2. The President of the Republic of Kazakhstan shall have the right to determine priority consideration of draft of laws as well as to declare consideration of a draft of law urgent signifying that Parliament must consider this draft within a month from the day of its submission. If the Parliament does not meet this requirement, the President of the Republic shall have the right to issue a decree having the force of law which shall be in effect until Parliament adopts a new law as established by the Constitution.
3. Parliament shall have the right to issue laws that regulate the most important public relations, establish fundamental principles and standards dealing with:



- 1) legal capacity of individuals and legal entities, civil freedoms and rights, obligations and responsibility of individuals and legal entities;
- 2) conditions of ownership and other rights of property;
- 3) foundations of organization and activity of state bodies and bodies of local self-administration, state and military service;
- 4) taxation, establishment and levying of duties and other obligatory payments;
- 5) the republican budget;
- 6) issues of the judicial system and legal proceedings;
- 7) education, health care and social provision;
- 8) privatization of enterprises and their property;
- 9) environmental protection;
- 10) administrative-territorial structure of the Republic;
- 11) ensuring defense and security of the state. All other relations shall be regulated by legislative acts.

4. A draft of law considered and approved by the majority of votes from the total number of the deputies of the Majilis shall be transmitted to the Senate where it shall be considered for no more than sixty days. A draft of law approved by the majority of votes of the total number of deputies of the Senate shall become the law and shall be submitted to the President to be signed within ten days. A draft of law rejected as a whole by the majority of votes from the total number of the Senate's deputies shall be returned to the Majilis. If the Majilis approves the draft of law again by the majority of two-thirds of votes from the total number of its deputies, it shall be transferred to the Senate for second discussion and voting. A twice-rejected draft may not be submitted again during the same session.

5. Amendments and additions to a draft of law proposed by the majority of votes from the total number of the Senate's deputies shall be sent to the Majilis. If the Majilis by the majority of votes from the total number of its deputies agrees with the proposed amendments and additions, the law shall be deemed to be adopted. If the Majilis by the same majority of votes objects to the amendments and additions proposed by the Senate, the disagreement between the Chambers shall be resolved through conciliatory procedures.

6. Drafts of law envisioning reduction of state revenues or increase in state expenditures may be submitted only when supplied with the positive resolution of the Government of the Republic.

7. In the case when of a draft of law submitted by the Government is not adopted, the Prime Minister shall have the right to raise an issue of nonconfidence in the Government at a joint session of the Chambers. Voting on this issue shall be held not earlier than within forty-eight hours from the moment of calling for a vote of confidence. If the call for a vote of no confidence does not receive necessary number of votes established by this Constitution, a draft of law shall be deemed adopted without voting. However, the Government may not use this right more than twice a year.

## **Article 62.**

1. The Parliament shall adopt legislative acts in the form of laws of the Republic of Kazakhstan, resolutions of the Parliament, resolutions of the Senate and the Majilis having obligatory force on the entire territory of the Republic.

2. Laws of the Republic shall come into effect after they are signed by the President of the Republic.

3. Amendments and additions to the Constitution shall be introduced by the majority of no less than three-fourths of votes from the total number of the deputies of each chamber.

4. Constitutional laws shall be adopted on the issues stipulated by the Constitution by the majority of no less than two-thirds of votes from the total number of the deputies of each Chamber.

5. Legislative acts of the Parliament and its Chambers shall be adopted by the majority of votes from the total number of the deputies of the Chambers unless otherwise stipulated by the Constitution.

6. No less than two readings introducing amendments and additions to the Constitution, adopted

constitutional laws or introducing of changes and additions into them shall be obligatory.

7. Laws of the Republic, resolutions of the Parliament and its Chambers must not contradict the Constitution. Resolutions of the Parliament and its Chambers must not contradict laws.

8. The procedure for development, submission, discussion, bringing into effect and promulgation of legislative and other regulatory legal acts of the Republic shall be regulated by a special law and the procedural orders of Parliament and its Chambers.

#### **Article 63.**

1. The President of the Republic of Kazakhstan may dissolve Parliament in cases:  
expressing by Parliament of a vote of no confidence in the Government, twice refusal of Parliament to give consent to the appointment of the Prime Minister, political crisis resulting from insurmountable differences between the Chambers of Parliament or Parliament and other branches of state power.

2. The Parliament may not be dissolved in the period of a state of emergency or martial law, during the last six months of the President's term, as well as within a year after a previous dissolution.

### **Section V.**

## **GOVERNMENT**

#### **Article 64.**

1. The Government shall implement the executive power of the Republic of Kazakhstan, head the system of executive bodies and exercise supervision of their activity.

2. The Government in its entire activity shall be responsible before the President of the Republic as well as accountable to the Parliament of the Republic in the case stipulated by paragraph 6 of article 53 of the Constitution.

3. Members of the Government shall be accountable to the Chambers of Parliament in the case stipulated by paragraph 6 of Article 57 of the Constitution.

4. The jurisdiction, the procedure of organization and activity of the Government shall be determined by constitutional law.

#### **Article 65.**

1. The Government shall be formed by the President of the Republic of Kazakhstan according to the procedure stipulated by this Constitution.

2. Suggestions about the structure and composition of the Government shall be submitted to the President of the Republic of Kazakhstan by the Prime Minister of the Republic within ten days after his appointment.

3. The members of the Government shall take an oath to the people and President of Kazakhstan.

#### **Article 66.**

The Government shall:

1) develop the main directions of the social-economic policy of the state, its defence capability and security, guarantee of public order and organize their realization;

2) present to the Parliament the republican budget and a report about its performance, ensure implementation of the budget;

3) introduce draft of laws into the Majilis and ensure enforcement of laws;

4) organize management of state property;

5) develop measures for the conduct of the foreign policy of the Republic of Kazakhstan;

6) manage the activity of ministries, state committees, other central and local executive bodies;

7) annul or suspend completely or partially, the effect of acts of ministries, state committees, other central and local executive bodies of the Republic;

- 8) appoint to and release from office heads of central executive bodies not encompassed by the Government;
- 9) excluded;
- 10) perform other functions assigned to it by this Constitution, laws and acts of the President'.

#### **Article 67.**

The Prime Minister of the Republic of Kazakhstan shall:

- 1) organize and supervise the work of the Government, personally answer for its work;
- 2) within a month after his appointment, present to the Parliament a report about the Program of the Government and in the event of its rejection, present a new report about the Programme within two months;
- 3) sign resolutions of the Government;
- 4) report the main directions of the Government's activity and all of its important decisions to the President;
- 5) perform other functions connected with organization and supervision of the Government's activity.

#### **Article 68.**

- 1. Members of the Government shall be independent in making decisions within their competence and bear personal responsibility before the Prime Minister for the activity of bodies subordinated to them. A member of the Government who does not agree with the policy, pursued by the Government, or who does not pursue it shall resign or be subjected to release from his office.
- 2. Members of the Government shall not have right to be deputies of a representative body, hold other paid offices except teaching, scientific and other creative activities, engage in entrepreneurial activity, enter governing body or a supervisory board of a commercial organization.

#### **Article 69.**

- 1. The Government of the Republic of Kazakhstan shall issue resolutions on the items of its jurisdiction having obligatory force on the entire territory of the Republic.
- 2. The Prime Minister of the Republic shall issue directions having mandatory force on the entire territory of the Republic.

*' Subparagraphs 2) and 9) of Article 66 are given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 N° 284-1 of LRK. 2 Paragraph 1 of Article 68 is given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 N° 284-1 of LRK.*

- 3. Resolutions of the Government and directions of the Prime Minister must not contradict the Constitution, legislative acts, decrees and resolutions of the President of the Republic.

#### **Article 70.**

- 1. The Government shall resign its powers to the newly elected President of the Republic of Kazakhstan.
- 2. The Government and any of its members shall have the right to submit a resignation to the President of the Republic of Kazakhstan if they consider further performance of the functions assigned to them to be impossible.
- 3. The Government shall submit its resignation to the President of the Republic of Kazakhstan in the event that Parliament passes a vote of no confidence in the Government.
- 4. The President of the Republic within a period of ten days shall consider the issue of accepting or declining the resignation.
- 5. Acceptance of the resignation shall denote the termination of the powers of the Government and its respective member. Acceptance of the resignation of the Prime Minister shall denote the termination of the powers of the entire Government.

6. In the event that the resignation of the Government or its member is declined, the President shall charge the Government or its member with continued performance of their responsibilities. In the event that the resignation of the Government owing to the passage of a vote of no confidence is declined, the President shall have the right to dissolve Parliament.

7. The President of the Republic shall have the right on his own initiative to adopt a decision to terminate the powers of the Government and to release any of its members from their offices. The release of the Prime Minister from office shall denote the termination of the powers of the entire Government.

## **Section VI.**

### **THE CONSTITUTIONAL COUNCIL**

#### **Article 71.**

1. The Constitutional Council of the Republic of Kazakhstan shall consist of seven members whose powers shall last for six years. The ex-Presidents of the Republic shall have the right to be life-long members of the Constitutional Council.

2. The Chairperson of the Constitutional Council shall be appointed by the President of the Republic, and in case the votes are equally divided, his vote shall be decisive.

3. Two members of the Constitutional Council shall be appointed by the President of the Republic, two - by the Chairperson of Senate, and two - by the Chairperson of the Majilis. Half of members of the Constitutional Council shall be renewed every three years.

4. The Chairperson and members of the Constitutional Council shall not be deputies, hold paid offices except teaching, scientific or other creative activities, engage in entrepreneurial activity, or be a governing body or a supervisory board of a commercial organization.

5. The Chairperson and members of the Constitutional Council during their term in office may be arrested, subject to detention, measures of administrative punishment imposed by a court of law arraigned on a criminal charge without the consent of Parliament, except in cases of being apprehended on the scene of a crime or committing grave crimes.

6. Organization and activity of the Constitutional Council shall be regulated by Constitutional Law.

#### **Article 72.**

1. The Constitutional Council by appeal of the President of the Republic of Kazakhstan, the Chairperson of the Senate, the Chairperson of Majilis, not less than one-fifth of the total number of deputies of Parliament, the Prime Minister shall:

1) decide on the correctness of conducting the elections of the President of the Republic, deputies of Parliament, and conducting an all-nation referendum in case of dispute;

2) consider the laws adopted by Parliament with respect to their compliance with the Constitution of the Republic, before they are signed by the President;

3) consider the international treaties of the Republic with respect to their compliance with the constitution, before they are ratified;

4) officially interpret the standards of the Constitution;

5) conclude in cases stipulated by paragraphs 1 and 2 of Article 47 of the Constitution.

2. The Constitutional Council shall consider the appeals of courts of law in cases stipulated by Article 78 of the Constitution.

#### **Article 73.**

1. The inauguration of the President, registration of the elected deputies of Parliament or result of an all-nation referendum shall be suspended in cases of appeal to the Constitutional Council on issues mentioned in subparagraph 1) of paragraph 1 of Article 72 of the Constitution.

2. The term of signing or ratifying of the corresponding acts shall be suspended in case of appeal to the Constitutional Council on issues mentioned in subparagraphs 2 and 3 of paragraph 1 of Article 72 of the Constitution.

3. The constitutional Council shall pass a resolution within one month from the day of appeal. This period of time, at the demand of the President or the Republic, may be shortened by 10 days if the issue is urgent.

4. The President of the Republic may object, as a whole or in part to the resolutions of the Constitutional Council. These objections shall be overruled by two-thirds of the votes of the total number of the members of the Constitutional Council. If the objections of the President are not overruled, the resolution of the Constitutional Council shall be considered not adopted.

#### **Article 74.**

1. Laws and international treaties recognized not to be in compliance with the Constitution of the Republic of Kazakhstan, may not be signed or, accordingly, ratified and brought into effect.

2. Laws and other regulatory legal acts, recognized as infringing on the rights and freedoms of individual and citizen secured by the Constitution, shall be cancelled and shall not be in effect.

3. Resolutions of the Constitutional Council shall come into effect from the day they are adopted and shall be binding on the entire territory of the Republic, final and not subject to appeal.

### **Section VII.**

## **COURT AND JUSTICE**

#### **Article 75.**

1. Justice in the Republic of Kazakhstan shall be exercised only by the court.

2. Judicial power shall be exercised through the constitutional, civil, administrative, criminal and other forms of judicial procedure as established by law. In cases, stipulated by law, criminal procedure shall be carried out with participation of jurymen.

3. The courts of the Republic shall be the Supreme Court of the Republic and local courts of the Republic established by law.

4. The judicial system of the Republic shall be established by the Constitution of the Republic and the constitutional law. The establishment of special and extraordinary courts under any name shall not be allowed.

#### **Article 76.**

1. Judicial power shall be exercised on behalf of the Republic of Kazakhstan and shall be intended to protect the rights, freedoms, and legal interests of the citizens and organizations for ensuring the observance of the Constitution, laws, other regulatory legal acts, and shall ensure international treaties of the Republic.

2. Judicial power shall be extended to all cases and disputes arising on the basis of this Constitution, laws, other regulatory legal acts, international treaties of the Republic.

3. Decisions, sentences and other judgments of courts shall have an obligatory force in the entire territory of the Republic.

#### **Article 77.**

1. A judge when executing justice shall be independent and subordinate only to the Constitution and the law.

2. Any interference in the activity of the court in the exercise of justice shall be inadmissible and not accountable by the law. Judges shall not be held accountable with regard to specific cases.

3. In application of law a judge must be guided by the following principles:

1) a person shall be considered to be innocent of committing a crime until his guilt is established.

by a court's sentence that has come into force;

2) no one may be subject twice to criminal or administrative prosecution for one and the same offense;

3) no one may have his jurisdiction, as stipulated by law changed without his consent;

4) everyone shall have the right to be heard in court;

*Paragraph 2 of Article 75 is given in a wording of the Law of the Republic of Kazakhstan of October 1, 1998 № 284-LRK.'*

5) the laws establishing or intensifying liability, imposing new responsibilities on the citizens or deteriorating their conditions shall have no retroactive force. If after the commitment of an offense accountability for it is canceled by law or reduced, the new law shall be applied;

6) the accused shall not be obligated to prove his innocence;

7) no person shall be compelled to give testimony against oneself, one's spouse and close relatives whose circle is determined by law. The clergy shall not be obligated to testify against those who confided in them with some information at a confession;

8) any doubts of a person's guilt shall be interpreted in the favour of the accused;

9) evidence obtained by illegal means shall have no juridical force. No person may be sentenced on the basis of his own admission of guilt;

10) application of the criminal law by analogy shall not be allowed.

4. The principles of justice established by the Constitution shall be common and uniform for all courts and judges in the Republic.

#### **Article 78.**

1. The courts shall have no right to apply laws and other regulatory legal acts infringing on the rights and liberties of an individual and a citizen established by the Constitution. If a court finds that a law or other regulatory legal act subject to application infringes on the rights and liberties of an individual and a citizen it shall suspend legal proceedings and address the Constitutional Council with a proposal to declare that law unconstitutional.

#### **Article 79.**

1. Courts shall consist of permanent judges whose independence shall be protected by the Constitution and law. A judge's powers may be terminated or suspended exclusively on the grounds established by law.

2. A judge may not be arrested, subject to detention, measures of administrative punishment, imposed by a court of law, arraigned on a criminal charge without the consent of the President of the Republic of Kazakhstan based on a conclusion of the Highest Judicial Council of the Republic or case stipulated by paragraph 3 of Article 55 of the Constitution; without the consent of Senate except for the cases of being apprehended on the scene of a crime or committing grave crimes.

3. Judges may be citizens of the Republic who have reached twenty-five years of age, have a higher juridical education, length of service of not less than two years in the legal profession and have passed a qualification examination. Additional requirements to the judges of the courts of the Republic may be established by law.

4. The office of a judge shall be incompatible with a deputy's mandate, holding other paid office except teaching, research or other creative activity engaging in other entrepreneurial activity, or being a member of a managing body or supervisory board of a commercial enterprise.

#### **Article 80.**

Financing of courts, provision of judges with housing shall be performed from the republican budget and must ensure the possibility of complete and free exercise of justice.

#### **Article 81.**

The Supreme Court of the Republic of Kazakhstan shall be the highest judicial body for civil, criminal and other cases which are under the courts of general jurisdiction; exercises the supervision over their activities in the forms of juridical procedure stipulated by law, and provide interpretation on the issues of judicial practice.

#### **Article 82.**

1. The Chairperson of the Supreme Court, the Chairpersons of the Collegiums and judges of the Supreme Court of the Republic of Kazakhstan shall be elected by the Senate at the proposal of the President of the Republic based on a recommendation of the Highest Judicial Council of the Republic.

2. The Chairpersons of oblast and equivalent courts, the Chairpersons of the Collegiums and judges of the oblast and equivalent courts shall be appointed by the President of the Republic at the recommendation of the Highest Judicial Council of the Republic.

3. The Chairperson and judges of other courts of the Republic shall be appointed by the President of the Republic at the proposal of the Minister of Justice based on a recommendation of the Qualification Collegium of Justice.

4. The Highest Judicial Council shall be headed by the Chairperson who is appointed by the President of the Republic and consist of the Chairperson of the Constitutional Council, the Chairperson of the Supreme Court, the Procurator General, the Minister of Justice, deputies of the Senate, judges and other persons appointed by the President of the Republic. The Qualification Collegium of Justice shall be an autonomous, independent institution formed from deputies of the Majilis, judges, public prosecutors, teachers and scholars of law and workers of the bodies of justice.

5. The status of the Highest Judicial Council and the Qualification Collegium of Justice, and the procedure of formation and organization of their work shall be determined by law'.

#### **Article 83.**

1. The procurator's office on behalf of the state shall exercise the highest supervision over exact and uniform application of law, the decrees of the President of the Republic of Kazakhstan and of regulatory legal acts on the territory of the Republic, legality of preliminary investigation, inquest and inspection, administrative and executive legal procedure; and take measures for exposure and elimination of any violations of the law, the independence of courts as well as the appeal of laws and other regulatory legal acts contradicting the Constitution and laws of the Republic. The Procurator's office of the Republic shall represent interest of the state in court as well as conduct criminal prosecution in cases using procedures and within the limits, stipulated by law.

*' Paragraph 4 of Article 82 is given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 N° 284 of LRK.*

2. The procurator's office of the Republic shall be a unified centralized system with subordination of junior procurators to their seniors and the Procurator General of the Republic. It shall exercise its authorities independently of other state bodies and officials and be accountable only to the President of the Republic.

3. The Procurator General of the Republic during the term of his office may not be arrested, subject to detention, measures of administrative punishment imposed by a court of law, arraigned on a criminal charge without the consent of the Senate except for the cases of being apprehended on the scene of a crime or committing grave crimes. The term of the Procurator General shall be five years.

4. The jurisdiction, organization and procedure of the activity of the procurator's office of the Republic shall be determined by law.

#### **Article 84.**

1. Inquiry and preliminary investigation of criminal cases shall be carried out by special bodies and be separated from the court and the procurator's office.

2. The powers, organization and procedure of the activity of the inquest and investigation bodies on other questions of preliminary investigation in the Republic of Kazakhstan shall be regulated by law.

## **Section VIII.**

### **LOCAL PUBLIC ADMINISTRATION AND SELF-ADMINISTRATION**

#### **Article 85.**

Local public administration shall be exercised by local representative and executive bodies which are responsible for the state of affairs of the respective territory.

#### **Article 86.**

1. Local representative bodies - maslikhats - shall express the will of the population of corresponding administrative-territorial units and with regard to the common public interests shall determine the measures needed for its realization, and control their implementation.

2. Maslikhats shall be elected by the population on the basis of universal, equal suffrage under secret ballot for a four - year term.

3. A deputy of a maslikhat may be a citizen of the Republic of Kazakhstan who has reached twenty years of age. A citizen of the Republic may be a deputy of only one maslikhat.

4. The jurisdiction of maslikhats shall include:

1) approval of plans, economic and social programs for development of the territory, local budget and reports of their performance;

2) decision of issues of local administrative-territorial organization in their jurisdiction;

3) consideration of reports by heads of local executive bodies on the issues delegated by law to the jurisdiction of a maslikhat;

4) formation of standing commissions and other working bodies of a maslikhat, hearing reports about their activity, decision of other issues connected with organization of the work of a maslikhat;

5) exercise other authorities for insuring of the rights and legitimate interests of citizens in accordance with the legislation of the Republic.

5. The powers of a maslikhat shall be prematurely terminated by the Senate on the grounds and according to the procedure established by law as well as in the case of adoption of a decision about self-dissolution.

6. The jurisdiction of maslikhats, procedure of their organization and activity, and legal status of their deputies shall be established by law.

#### **Article 87.**

1. Local executive bodies shall be a part of a unified system of the executive bodies of the Republic of Kazakhstan, and ensure conduct of the general state policy of the executive power in conjunction with the interests and development needs of the corresponding territory.

2. The jurisdiction of local executive bodies shall include:

1) development of drafts of plans, economic and social programs for development of the territory, local budget and provision of their realization;

2) management of public property;

3) appointment to and release from office the heads of local executive bodies, resolution of other issues connected with organization of the work of local executive bodies;

4) exercise other powers delegated to local executive bodies by the legislation of the Republic in the interests of local public administration.

3. A local executive body shall be headed by an akim of the corresponding administrative-territorial unit who is a representative of the President and the Government of the Republic.

4. Akims of the oblasts, the major city and the capital shall be appointed to office by the President of the Republic on the recommendation of the Prime Minister. Akims of other administrative-



territorial units shall be appointed or elected to office in the order, determined by the President of Republic of Kazakhstan. The President of the Republic shall have the right to release akims from office at his own discretion.

5. A maslikhat shall have the right by two-thirds of votes from the total number of its deputies express non-confidence in the akim and raise the issue of his release from office correspondingly before the President of the Republic or a senior akim. The powers of akims of the oblasts, the major cities and the capital shall terminate when a newly elected President assumes office.

6. The jurisdiction of local executive bodies, organization and procedure of their activity shall be established by law'.

#### **Article 88.**

1. Maslikhats shall adopt decisions on the issues of their jurisdiction, akims shall adopt decisions and resolutions which are binding on the territory of the corresponding administrative-territorial unit.

*' Paragraph 4 of Article 87 is given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 № 284 LRK.*

2. Drafts of decisions of maslikhats envisioning a reduction of local budgetary revenues or an increase of local budgetary expenditures may be submitted for consideration only with a positive resolution of the akim.

3. Decisions of maslikhats not corresponding to the Constitution and the laws of the Republic of Kazakhstan may be annulled by a legal process.

4. Decisions and resolutions of akims may be correspondingly annulled by the President, the Government of the Republic of Kazakhstan or a senior akim, as well as by a legal process.

#### **Article 89.**

1. In the Republic of Kazakhstan, local self-administration which ensures that the issues of local significance shall be resolved independently by the population, shall be recognized.

2. Local self-administration shall be exercised by the population directly through elections as well as through elective and other bodies of local self-administration in rural and urban local communities covering the territories on which groups of the population live compactly.

3. The procedure or organization and activity of the bodies of local self-administration shall be determined by citizens themselves within the limits of their powers established by law.

4. The independence of the bodies of local self-administration shall be guaranteed within the limits of their powers established by law.

### **Section IX.**

## **CONCLUDING AND TRANSITIONAL PROVISIONS**

#### **Article 90.**

1. The Constitution of the Republic of Kazakhstan adopted at an all-nation referendum shall come into effect from the day of official publication of the results of the referendum with the simultaneous termination of the functioning of the previously adopted Constitution of the Republic of Kazakhstan.

2. The day of adoption of the Constitution at the all-nation referendum shall be proclaimed a national holiday - the Constitution Day of the Republic of Kazakhstan.

#### **Article 91.**

1. Amendments and additions to the Constitution of the Republic of Kazakhstan may be introduced only by an all-nation referendum held by the decision of the President of the Republic made on his own initiative, at the recommendation of Parliament or the Government. The draft of

amendments and additions to the Constitution shall not be submitted to an all-nation referendum if the President decides to pass it to the consideration of Parliament. In this case, Parliament's decision shall be adopted according to the procedure established by this Constitution. In case the President of the Republic refuses the proposal of the Parliament on submission of amendments and additions to the Constitution for the consideration of the Republican referendum, the Parliament has the right by a majority of not less than four-fifths of votes of the total number of deputies of each Chamber of the Parliament to adopt the law on making of these amendments and additions to the Constitution. In such case the President of the Republic shall sign this law or submit it for the consideration of the Republican referendum which shall be deemed valid if more than half of the Republican citizens, possessing the right to participate in the Republican referendum, take part in it. Amendments and additions to the Constitution, which are submitted for the consideration of the Republican referendum, shall be deemed adopted, if more than half of citizens, taking part in it, vote for it.

2. The unitary status and territorial integrity of the Republic, the forms of government may not be changed'.

#### **Article 92.**

1. The constitutional laws must be adopted within a year from the day of enactment of the Constitution. If the laws called constitutional in the Constitution or the acts having the force thereof have been adopted by the moment of enactment of the Constitution, they are brought into accordance with the Constitution and deemed to be the constitutional laws of the Republic of Kazakhstan.

2. Other laws named in the Constitution must be adopted according to the procedure and within the terms determined by the Parliament but no later than two years after the enactment of the Constitution.

3. The decrees of the President of the Republic published within the term of his exercise of additional powers in accordance with the law of the Republic of Kazakhstan from December 10, 1993 "On Temporary Delegation of Additional Powers to the President of the Republic of Kazakhstan and Heads of Local Administration\*" and having the force of law shall attain the force of law and may not be altered, amended or annulled according to the procedure stipulated for alteration, amendment or annulment of the laws of the Republic. The decrees of the President of the Republic published within the term he exercises additional powers on the issues stipulated by paragraphs 12-15, 18 and 20 of article 64 of the Constitution of the Republic of Kazakhstan adopted on January 28, 1993 shall not be subject to approval by Parliament of the Republic.

4. The legislation of the Republic of Kazakhstan functioning at the moment of enactment of the Constitution shall be applied in the part that does not contradict it and within two years from the day of the adoption of the Constitution must be brought into accordance with it.

#### **Article 93.**

With the purpose of implementation of article 7 of the Constitution, the Government, local representative and executive bodies must create all necessary organizational, material and technical conditions for fluent and free-of-charge mastery of the state language by all citizens of the Republic of Kazakhstan in accordance with a special law.

*\* Paragraph 1 of Article 91 is given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 № 284-LRK.*

#### **Article 94.**

1. The President of the Republic of Kazakhstan elected in accordance with the legislation of the Republic of Kazakhstan functioning at the moment of enactment of this Constitution shall acquire powers of the President of the Republic of Kazakhstan stipulated by it and exercise them during the term established by the decision adopted at the all-nation referendum of April 29, 1995. By consent of the President of the Republic of Kazakhstan the present term of the powers of the President of the Republic may be reduced by resolution of the Parliament of the Republic, adopted at the joint session.

of its Chambers by the majority of votes of the total number of deputies of each Chamber. In such case the Majilis of the Parliament within one month shall order elections of the President of the Republic of Kazakhstan. The President of the Republic, elected according to the results of these elections, shall take the oath within one month since the day of publication of the results of elections and exercise his duties before taking office of the President of the Republic, elected in regular Presidential elections, which shall be held after the expiration of a seven-year term on the first Sunday of December.

2. The Vice-President of the Republic of Kazakhstan elected in accordance with the legislation of the Republic of Kazakhstan functioning at the moment of enactment of this Constitution shall preserve his powers until the expiration of the term for which he was elected'.

#### **Article 95.**

One half of the deputies of the Senate of the first convocation shall be elected for a four-year term, the other half of the deputies shall be elected for a two-year term in the procedure, established by Constitutional Law. 2. Provisions of the Constitution of the Republic of Kazakhstan on elections of deputies of the Majilis of the Parliament on the basis of Party Lists shall be applied from the beginning of elections of deputies of the Majilis of the Parliament of the second convocation.

#### **Article 96.**

The Cabinet of Ministers of the Republic of Kazakhstan from the day of enactment of this Constitution shall acquire the rights, obligations and responsibility of the Government of the Republic of Kazakhstan.

#### **Article 97.**

The first composition of the Constitutional Council of the Republic of Kazakhstan shall be formed in the following manner: the President of the Republic, the Chairperson of the Senate of the Parliament, the Chairperson of the Majilis of the Parliament shall each appoint one member to the Constitutional Council for a three-year term and shall each appoint one member to the Constitutional Council for a six-year term. The Chairperson of the Constitutional Council shall be appointed by the President of the Republic for a six-year term.

*' Paragraph 1 of Article 94 is given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 № 284-LRK.*

*2 Paragraph 2 of Article 95 is given in a wording of the Law of the Republic of Kazakhstan of October 7, 1998 № 28-LRK.*

#### **Article 98.**

1. The justice and investigation bodies stipulated by this Constitution shall be formed according to the procedure and within the terms stipulated by the respective laws. The functioning judicial and inquiry bodies shall retain their powers until new bodies are formed.

2. Judges of the Supreme Court and the Highest Arbitration Court and local courts of the Republic of Kazakhstan shall retain their powers until the formation of courts, as stipulated by the Constitution. Vacant offices of judges shall be filled according to the procedure, established by the Constitution.