



## **On the Constitutional Council of the Republic of Kazakhstan**

### *Non-official translation*

Constitutional Law of the Republic of Kazakhstan N 2737 dated December 29, 1995

#### Unofficial translation

Footnote. Form of the act and title are in the new edition, preamble is excluded, the words "by this Decree," "to this Decree," "this Decree" in the text has been replaced accordingly by the words "by this Constitutional Law," "to this Constitutional Law", " This Constitutional Law " by the Constitutional Law of the Republic of Kazakhstan N 604 dated November 24, 2004 (entered into force on January 1, 2005).

### **Chapter I. General Provisions**

#### **Article 1. Status of the Constitutional Council**

The Constitutional Council as a state body which provides for the supremacy of the Constitution of the Republic of Kazakhstan in the entire territory of the Republic shall:

- 1) be independent and separate from state bodies, organizations, official persons and citizens, subordinated only to the Constitution of the Republic and may not use political or any other motives when exercising its powers;
- 2) exercise its powers, guided by the Constitution of the Republic and this Constitutional Law, abstaining from establishing and examining any other issues in any other cases when those are under the jurisdiction of the Courts or any other state bodies.

#### **Article 2. Membership of the Constitutional Council**

The Constitutional Council shall consist of seven members including the Chairman of the Constitutional Council. Moreover, ex-Presidents of the Republic shall be life-long members of the Constitutional Council.

#### **Article 3. Formation of the Constitutional Council**

1. The Chairman of the Constitutional Council shall be appointed and dismissed by the President of the Republic.

2. Two members of the Constitutional Council shall be appointed by the President of the Republic, Chairmen of Chambers of the Parliament, Senate and Mazhilis shall accordingly be appointed by two members. Half of the members of the Constitutional Council shall be renewed every three years.

Footnote. Article 3 as amended by the Constitutional Law of the Republic of Kazakhstan N 41-IV dated 17.06.2008 (the entry into force order, see Article 2).

#### **Article 4. Requirements Applicable to Candidate Members to the Constitutional Council**

1. A citizen of the Republic of Kazakhstan, not younger than thirty years who resides in the territory of the Republic and has higher legal education and the length of service in the legal profession for not less than five years may be appointed as a member of the Constitutional Council.

2. The requirements established in paragraph 1 of this Article shall not apply to the ex-Presidents of the Republic.

#### **Article 5. Term of Powers of the Constitutional Council Members**

1. Powers of the Chairman and members of the Constitutional Council shall last for six years.

2. In case of the exit or expiry of the tenure, the Chairman and members of the Constitutional Council shall be replaced in accordance with the procedure established by the Constitution and this Constitutional Law.

3. Positions of the Chairman and members of the Constitutional Council shall be replaced within one month from the date of the exit or expiry of the tenure of persons being in those positions.

4. When the term of powers of the Chairman or members of the Constitutional Council expires within the period of consideration with their participation of an issue which is handled by the Constitutional Council, then their powers shall be retained until the final decision is taken.

#### **Article 6. The Oath of the Chairman and Members of the Constitutional Council**

The Chairman and members of the Constitutional Council after their appointment, in a solemn event at the joint session of the Chambers of the Parliament shall be brought by the President of the Republic to swear an oath as follows: I solemnly swear to conscientiously discharge the duties of the Chairman (member) of the Constitutional Council of the Republic of Kazakhstan, to be impartial and subordinated only to the Constitution of the Republic of Kazakhstan and nobody and nothing aside from it.

#### **Article 7. Sessions of the Constitutional Council**

1. Session of the Constitutional Council shall be valid if not less than two thirds of the membership of the Constitutional Council is present.

2. Sessions of the Constitutional Council shall be called when necessary by the Chairman of the Constitutional Council and if he is absent - by the member of the Constitutional Council who substitutes for the Chairman of the Constitutional Council with his authorization.

#### **Article 8. Constitutional Proceedings**

Deliberation and adoption of decisions on the issues which are fall within the authority of the Constitutional Council shall be carried out in accordance with Constitutional proceedings as established by the Constitution and this Constitutional Law.

#### **Article 9. Legislation Concerning the Constitutional Council**

1. The status, jurisdiction, organization and operating procedures of the Constitutional Council shall be determined by the Constitution of the Republic and this Constitutional Law.

2. With regard to issues of organization and operating procedures that are not regulated by the Constitution and this Constitutional Law, the Constitutional Council shall adopt Regulations of the Constitutional Council.

## **Chapter II. The Status of the Chairman and Members of the Constitutional Council of the Republic**

### **Article 10. Chairman and Members of the Constitutional Council as Officials of the State**

1. The Chairman and members of the Constitutional Council shall be state officials whose status is defined by the Constitution and this Constitutional Law, as well as regulatory legal acts concerning the state service to the extent not regulated by the Constitution and this Constitutional Law.

2. Positions of the Chairman and members of the Constitutional Council shall not be compatible with the deputy` mandate, engagement in any other paid jobs except for teaching, science or creative activities, nor with performance of entrepreneurial activities, a membership in governing bodies or supervisory council of a commercial organization.

### **Article 11. Independence of the Chairman and Members of the Constitutional Council**

1. The Chairman and members of the Constitutional Council when they exercise their duties shall be independent and subordinated only to the Constitution and this Constitutional Law. No other acts shall be obligatory for them. Any interference with their activities as well as rendering of pressure or any other influence on them in any other form shall not be allowed and shall entail liability in accordance with the law.

2. Activities of the Chairman and members of the Constitutional Council with regard to issues of constitutional proceedings shall not be accountable. No one shall have the right to require from them reports on issues of their duties performance.

3. No one shall have the right to require, and the Chairman and members of the Constitutional Council shall not have the right, except at a session of the Constitutional Council, to express opinion or advice on issues which are subject to consideration of the Constitutional Council prior the adoption of final decision on them.

4. During the period of powers, the members of the Constitutional Council shall not be replaceable. Their powers may not be terminated or suspended, except for the cases provided for by this Constitutional Law.

5. The Chairman or a member of the Constitutional Council shall be obliged to announce his self-dismissal which is subject to satisfaction by the Constitutional Council, if his objectivity may cause doubts related to direct personal or indirect interest in the issue under consideration by the Constitutional Council.

6. A member of the Constitutional Council shall not have the right to carry out defence or representation, except for legitimate representation in the court or any other law-applying bodies, render patronage to any persons with regard to the exercise of rights or release from duties.

### **Article 12. Inviolability of the Constitutional Council Members**

1. The Chairman and members of the Constitutional Council during the term of their powers may not be arrested, subjected to detention and measures of administrative penalty which are imposed in a judicial procedure, brought to trial without consent of the Parliament, except for the cases when they are caught in flagrant delict or in commission of grave crimes.

2. A criminal case with regard to the Chairman or a member of the Constitutional Council may be filed only by the head of a National/State body which carries out inquiry and investigation. Supervision of compliance with the law in the course of case investigation shall be carried out by the Prosecutor General of the Republic who shall submit to the Parliament proposals issuing consent for prosecution of the Chairman or members of the Constitutional Council. A criminal case with regard to the Chairman or a member of the Constitutional Council shall be in the jurisdiction of the Supreme Court of the Republic.

3. The Chairman and members of the Constitutional Council shall not be a subject to disciplinary punishments.

4. No one shall have the right to remove a member of the Constitutional Council from participation in a session of the Constitutional Council, unless his powers are suspended in accordance with this Constitutional Law.

### **Article 13. Equality of Rights of the Chairman and Members of the Constitutional Council**

The Chairman and members of the Constitutional Council shall have equal rights with regard to consideration of issues which are handled by the Constitutional Council and in the adoption of decisions on them, except for the cases provided for by paragraph 3 of Article 33 of this Constitutional Law.

### **Article 14. Suspension of Powers of the Chairman or a Member of the Constitutional Council**

1. Powers of the Chairman or a member of the Constitutional Council may be suspended pursuant to the petition from the Constitutional Council, by the person who appointed him, in the cases when he:

- 1) fails to participate in sessions of the Constitutional Council without a reasonable excuse not less than three times in a row;
- 2) is not capable to carry out his duties for a long time due to conditions of health;
- 3) is recognized as missing in accordance with the decision of a court, which entered into legal force.

2. Powers of the Chairman or member of the Constitutional Council may be suspended also in the case where in accordance with the procedure established by law, the consent is issued for his arrest, subjection to administrative or criminal liability, for filing in a court an appropriate petition to apply compulsory measures of medical nature, recognition as incapable, or restriction of competency.

3. A decision to suspend powers of the Chairman or a member of the Constitutional Council shall be adopted not later than one month after the date of establishing the bases for the suspension of these powers.

4. Powers of the Chairman or member of the Constitutional Council shall be suspended until the bases for their suspension cease.

### **Article 15. Termination of Powers of the Chairman or a Member of the Constitutional Council**

1. Powers:

1) of the Chairman of the Constitutional Council shall be terminated by the President of the Republic;

2) of a member of the Constitutional Council shall be terminated by the President of the Republic of Kazakhstan, the Senate of the Parliament, Mazhilis of the Parliament.

2. Powers of the Chairman or a member of the Constitutional Council shall be terminated in consequence of the following:

1) satisfaction of a resignation tender;

2) accusative verdict on him is adopted by the Supreme Court and entered into legal force

;

3) he is recognized as incapable by a court decision which entered into legal force;

4) he is recognized as deceased by a court decision which entered into legal force;

5) his demise;

6) failure to comply with the provisions specified by paragraph 2 of Article 10 of this Constitutional Law;

7) breach of the oath, failure to comply with the Constitution of the Republic and this Constitutional Law, commission of a vicious act incompatible with his high status;

8) appointment in violation of requirements established by the Constitution and this Constitutional Law;

9) expiry of the tenure established by the Constitution;

10) (is excluded according to Constitutional Law of the Republic of Kazakhstan N 41-IV dated 17.06.08 (the entry into force order, see Article 2)).

11) joining a political party or any other public association which pursues political objectives.

Footnote. Article 15 as amended by the Constitutional Law of the Republic of Kazakhstan N 41-IV dated 17.06.2008 (the entry into force order, see Article 2).

## **Article 16. Providing of the Activities of the Chairman and Members of the Constitutional Council**

1. The salary of the Chairman and members of the Constitutional Council shall be established by the President of the Republic in accordance with the procedure established in subparagraph 9) of Article 44 of the Constitution of the Republic.

2. Housing, transport and any other services as well as medical services, sanatorium and resort treatment of the Chairman and members of the Constitutional Council shall be carried out in accordance with the procedure established by the President of the Republic.

## **Chapter III. Jurisdiction of the Constitutional Council of the Republic and its officials**

### **Article 17. Jurisdiction of the Constitutional Council**

1. In cases of dispute, the Constitutional Council in accordance with subparagraph 1) of paragraph 1 of Article 72 of the Constitution shall decide with regard to the propriety the following:

1) election of the President of the Republic;

2) election of deputies of the Parliament;

3) republic`s referendum.

2. The Constitutional Council in accordance with subparagraphs 2), 2-1), 3) of paragraph 1 of Article 72 of the Constitution shall consider on compliance with the Constitution:

- 1) laws adopted by the Parliament, prior to the President`s signing;
  - 2) decisions adopted by the Parliament and its Chambers;
  - 3) international agreements of the Republic, prior to their ratification.
3. The Constitutional Council in accordance with subparagraphs 4) and 5) of paragraph 1 of Article 72 of the Constitution shall provide the following:
- 1) official interpretation of provisions of the Constitution;
  - 2) report on compliance with the procedures established by the Constitution until the Parliament adopts an appropriate decision on early dismissal of the President of the Republic, final decision on dismissal of the President of the Republic.
4. The Constitutional Council in accordance with the following:
- 1) paragraph 2 of Article 2 of the Constitution, shall consider appeals from Courts concerning the recognition of acts as non-constitutional where the Court in accordance with Article 78 of the Constitution believes that the law or any other regulatory legal act is applicable, violates the rights and freedoms of individuals and citizens which are provided for by the Constitution;
  - 2) subparagraph 6) of Article 53 of the Constitution, on the basis of results of summarizing the practice of constitutional proceedings, shall annually send to the Parliament a message on the status of the compliance of laws with the Constitution of the Republic.
- Footnote. Article 17 as amended by the Constitutional Law of the Republic of Kazakhstan N 41-IV dated 17.06.2008 (the entry into force order, see Article 2).**

## **Article 18. Other Powers of the Constitutional Council**

The Constitutional Council shall:

- 1) within the bounds of its authority, have the right to require and receive documents, materials and any other information from all state bodies, organizations and the right to engage, in accordance with the established procedure, specialists for expert evaluations and scientific research work;
- 2) make a petition for suspension of powers of the Chairman and members of the Constitutional Council and exercise any other powers established by this Constitutional Law.

## **Article 19. Powers of the Chairman of the Constitutional Council**

1. The Chairman of the Constitutional Council shall:

- 1) direct the preparation of issues for consideration which is accepted by the Constitutional Council for processing;
- 2) call sessions of the Constitutional Council, submit issues which are accepted for processing to be considered at those sessions, and chair the sessions of the Constitutional Council;
- 3) assign duties to the members of the Constitutional Council and organize the work of the members of the Constitutional Council and its apparatus;
- 4) define measures to provide for holding sessions;
- 5) announce the message from the Constitutional Council on the status of constitutional legitimacy of the Republic at a joint session of the Chambers of the Parliament;
- 6) pursuant to the demand of the President of the Republic, submit to him information on the status of constitutional legitimacy of the Republic;
- 7) sign decisions and minutes of meetings of the Constitutional Council;
- 8) submit to the Constitutional Council Rules of the Constitutional Council for its approval;
- 9) approve Regulations on the apparatus of the Constitutional Council as well as the structure and the personnel of the apparatus of the Constitutional Council within the allocated budget;

10) appoint and dismiss employees of the apparatus of the Constitutional Council;  
11) exercise any other powers in accordance with this Constitutional Law and Rules of the Constitutional Council.

2. Within his authority the Chairman of the Constitutional Council shall adopt orders and ordinances.

## **Chapter IV. Constitutional Proceedings**

### **Article 20. Participants of Constitutional Proceedings**

1. The participants of constitutional proceedings shall be recognized as persons and bodies pursuant to whose appeals constitutional proceedings are instituted as follows:

- 1) the President of the Republic;
- 2) the Chairman of the Senate of the Parliament;
- 3) the Chairman of the Mazhilis of the Parliament;
- 4) deputies of the Parliament where they are not less than one fifth of the total number;
- 5) the Prime - Minister;
- 6) the Courts of the Republic;
- 7) the State Bodies and officials whose acts are reviewed with regard to their compliance with the Constitution.

2. Where it is appropriate, the participants of constitutional proceedings may have their representatives in the Constitutional Council and their powers shall be formulated in accordance with the procedure as provided for by civil procedural legislation.

### **Article 21. Rights and Obligations of Participants of Constitutional Proceedings**

1. Participants of constitutional proceedings within the bounds of their authority shall enjoy equal procedural rights.

2. Participants of constitutional proceedings shall have the following rights:

- 1) to peruse materials of proceedings, to make extracts from them and to take photocopies ;
- 2) to submit evidences, participate in their investigation and to prove those circumstances to which they refer as the basis for their appeals and objections;
- 3) to submit their arguments and thoughts on all the issues which emerge in the course of the constitutional proceedings to the Constitutional Council;
- 4) file petitions and express their opinion on petitions filed;
- 5) provide oral and written explanations to the Constitutional Council.

3. A participant of constitutional proceedings shall:

1) on whose appeal the constitutional proceedings are instituted, have the right prior to the beginning of the session of the Constitutional Council at which a final decision is to be adopted, to change the basis of the petition, increase or reduce its volume or repudiate the petition.

2) have the right to recognize claims filed in the petition fully or partially or to object against them, with regard to acts on which constitutional proceedings are instituted.

4. Participants of constitutional proceedings shall be obliged as follows:

1) conscientiously exercise their rights. Report to the Constitutional Council deliberately false information or failure to file documents, materials and other information required by the Constitutional Council, shall be considered as disregard to the Constitutional Council and it shall entail liability in accordance with the law;

- 2) respect the Constitution of the Republic, the Constitutional Council, its requirements , and procedures adopted by the Constitutional Council;
- 3) obey ordinances of the Chairman with regard to compliance with the order at sessions.

## **Article 22. Form and Contents of Appeal to the Constitutional Council**

1. Appeals of the Constitutional Council shall be submitted in writing.
2. The following must be indicated in appeal:
  - 1) name of the Constitutional Council;
  - 2) name, place, address and other appropriate information on the applying;
  - 3) name, address and other information concerning the representative of the applying and his powers except when representation is carried out in accordance with the position;
  - 4) name, location and addresses of state bodies, officials who signed or issued acts associated with election of the President, deputies of the Parliament and national referendum if the appeal raises the issues of accuracy of conducting them;
  - 5) name, date of adoption of laws if the appeal raises the issue of compliance the laws adopted by the Parliament with the Constitution of the Republic;
    - 5-1) name, date of adoption of decisions of the Parliament and its Chambers if the appeal raises the issue of compliance the decisions of the Parliament and its Chambers with the Constitution of the Republic;
  - 6) name, date and place of signing international agreements of the Republic, officials who has signed those on behalf of the Republic of Kazakhstan or its official bodies if the appeal raises the issue of compliance international agreements of the Republic with its Constitution;
  - 7) provisions of the Constitution of the Republic which official interpretation is raised in the appeal;
  - 8) name, location and address of the state body, officials who signed or issued act; name , number and date of adoption, the sources of publication and other details of law or any other regulatory legal acts if the appeal raises the issue to recognize that act as non-constitutional, if the court finds applicable law or other regulatory legal act violates the rights and freedoms of individuals and citizens as provided by the Constitution;
  - 9) name and membership of a commission to be formed by the Parliament in accordance with paragraph 1 of Article 47 of the Constitution and its report; name, date of adoption and contents of acts associated with the consideration by the Parliament of the issue on early release of the President of the Republic from the position;
  - 10) information on the number of deputies who initiated an issue of release of the President from the position; information on results of voting at the Chambers of the Parliament ; information on results of investigating accusations brought up against the President; information on the report on the Supreme Court on the substance of accusations brought up; name , date of adoption and contents of acts relating to the consideration by the Parliament of the issue concerning the release of the President of the Republic from the position;
  - 11) essence of the appeal;
  - 12) other acts, circumstances and evidences which serve as the basis for the appeal and which confers its substance;
  - 13) provisions of the Constitution of the Republic and of this Constitutional Law which give the right to appeal to the Constitutional Council;
  - 14) the list of attached documents.
3. The Appeal must be signed by appropriate individual and appeals of a court shall be signed by the Chairman of that court.
4. The following shall be attached to the appeal:
  - 1) copy texts of acts to which the individuals of the appeal referred to;
  - 2) documents on the powers on the representative, except for the cases when representation is carried out in accordance with the position;



3) copy of the appeal and supplements to it in a number of ten.

5. The documents which are not in the languages of constitutional proceedings must have translation into the Kazakh and Russian languages.

Footnote. Article 22 as amended by the Constitutional Law of the Republic of Kazakhstan N 41-IV dated 17.06.2008 (the entry into force order, see Article 2).

### **Article 23. Consequences of Appeal to the Constitutional Council**

In case of appeal to the Constitutional Council on issues specified in:

1) subparagraph 1) of paragraph 1 of Article 72 of the Constitution, inauguration of the President, the registration of elected deputies of the Parliament or drawing results of national referendum shall be suspended;

2) subparagraphs 2) and 3) of paragraph 1 of Article 72 of the Constitution duration of terms of signing or ratification of the relevant acts shall be suspended;

3) Article 78 of the Constitution, proceedings on case shall be suspended.

### **Article 24. Terms of Consideration of Appeals by the Constitutional Council**

The Constitutional Council shall consider the appeal accepted for processing and it shall make final decision within one month from the date the appeal is received. This term may be reduced to ten days at the request of the President set forth in writing if the issue is urgent

### **Article 25. Acceptance or Refusal to Accept an Appeal for Processing**

Received appeal shall be submitted by the Chairman of the Constitutional Council to the Constitutional Council for its consideration and its session shall be held within three days from the date of receiving the appeal. The Constitutional Council upon reviewing an appeal shall reject the acceptance of appeal for processing and return it if:

1) the appeal does not comply with the form and contents of appeals as established by this Constitutional Law or it is initiated by inappropriate subjects;

2) the subject matter of the appeal is not within the jurisdiction of the Constitutional Council;

3) constitutional legitimacy of the issue indicated in the appeal has already been reviewed by the Constitutional Council and a valid decision of the Constitutional Council exists;

4) issue indicated in the appeal is not settled by the Constitution;

5) the act constitutional legitimacy of which is challenged was abolished or became invalid.

### **Article 26. The Procedure for Preparation of Materials for Consideration of Appeal Accepted for Processing at a Session of the Constitutional Council**

1. The Chairman of the Constitutional Council by his ordinance shall define a member of the Constitutional Council who carries out preparation of materials for the session of the Constitutional Council. Due to a special complexity of received appeal or its exceptional significance of urgency the preparation of materials may be entrusted to several members of the Constitutional Council.

2. When several associated appeals are submitted to the Constitutional Council the Constitutional Council may take a decision on their unification into one constitutional

proceeding. When deciding on the issue of accepting for processing of several associated appeals amongst which some are in the jurisdiction of the Constitutional Council and other - in the jurisdiction of other state bodies, power only those appeals shall be subject to consideration which are in the jurisdiction of the Constitutional Council.

3. With regard to appeal which accepted for the proceeding the member of the Constitutional Council within the deadline established by the Chairman shall be obliged to prepare materials to consideration at the session of the Constitutional Council. For these purposes he shall:

- 1) define the participants of the constitutional proceedings, explain to them their rights and obligations as provided by this Constitutional Law;
- 2) obtain the documents and other information relating to the subject matter of appeal;
- 3) where appropriate inquire relevant officials, engage scientists, practitioners as specialists as well as experts and entrust to them to performance of reviews, research and expert evaluation;
- 4) no later than two days prior the beginning of a session shall hand copies of materials to the Constitutional Council members;
- 5) prepare draft decision of the Constitutional Council;
- 6) perform any other functions to provide appropriate handling of appeals.

4. After the completion of preparatory work the Chairman of the Constitutional Council by his ordinance shall define the date for the session of the Constitutional Council where issues of the appeal will be considered.

#### **Article 27. The Procedure for Holding the Sessions of the Constitutional Council With Regard to Consideration of Appeal Accepted for Processing**

1. Consideration of appeals by the Constitutional Council shall be carried out at a meeting under the chairmanship of the Chairman of the Constitutional Council.

2. At the appointed time the Chairman shall:

- 1) ascertain the availability of members of the Constitutional Council which is required for holding a session and ensuring minutes keeping;
- 2) announce the Constitutional Council session open;
- 3) read the issues which are subject to consideration;
- 4) give the floor to the Constitutional Council member who reports on availability of session participants, specialists and experts who were invited and on the reasons of those absences;
- 5) explain to the participants of constitutional proceedings their rights and obligations ;
- 6) inquire participants of the session on having petitions and set this issue for solution by the Constitutional Council;
- 7) announce the beginning of consideration of issues which are subject to consideration.

3. Consideration on each issue shall begin with the speech of the Constitutional Council member who is the reporter outlining the essence of an issue, the causes and reasons for its consideration, the contents of available materials. Members of the Constitutional Council shall have the right to set specifying questions.

4. Subjects of appeal as well as representatives of the state bodies and officials (their representatives) the compliance with Constitution of whose acts and actions as well as compliance with constitutional procedures by whom is being reviewed and where appropriate pursuant to his own decision or pursuant to the requirement of the Constitutional Council, may participate in the session of the Constitutional Council at which the appeal accepted for proceedings is considered. In case if appropriate explanations, speeches of participants of the constitutional proceedings, experts, specialists and other invited persons may be heard.

5. If an issue is clarified sufficiently, the Chairman shall announce the opening of the meeting of the Constitutional Council members to elaborate final decision. During the meeting

the presence of outsiders shall not be allowed. Divulging of judgments which took place during meeting, the procedures and results of voting shall be prohibited. During the meeting members of the Constitutional Council may freely outline their own positions on considerate issues and to require other members of the Constitutional Council to specify their positions.

#### **Article 28. Minutes of the Constitutional Council Sessions**

1. Session of the Constitutional Council shall be recorded and where appropriate be shorthand.

2. Minutes of the sessions of the Constitutional Council shall be kept in the language of constitutional proceedings.

3. The procedure for keeping meetings of the Constitutional Council sessions, the requirements applicable to its contents as well as other issues of compiling minutes of the sessions of the Constitutional Council shall be defined by the Chairman of the Constitutional Council.

#### **Article 29. The Language of Constitutional Proceedings**

1. Constitutional proceedings shall be carried out and the decisions adopted by the Constitutional Council shall be in the Kazakh language or in the Russian language.

2. Participants of constitutional proceedings who do not speak the language of the constitutional proceedings shall be provided by the Constitutional Council with translation into their native language or the language which they know.

#### **Article 30. Termination of the Constitutional Proceeding**

1. Constitutional proceeding shall be subject to termination at any stage but prior to the passing of final decision on the following cases:

1) the refusal of the subject from filed appeal;

2) abolition or loss of legal force of the act which constitutional legitimacy is challenged;

3) appeal filed to the Constitutional Council is not in the jurisdiction of the Council.

2. A decision of the Constitutional Council to terminate constitutional proceedings on filed appeal shall deprive entities of appeal of the possibility to re-apply to the Constitutional Council on the same issues.

### **Chapter V. The Decisions of the Constitutional Council of the Republic**

#### **Article 31.s of Decisions of the Constitutional Council**

1. Any act which is adopted at the session of the Constitutional Council shall be a decision of the Constitutional Council.

2. The decisions of the Constitutional Council shall be subdivided into final decisions by which the constitutional powers of the Constitutional Council are administered and other decisions which exercise other powers of the Constitutional Council.

#### **Article 32. The Form of Decisions of the Constitutional Council**

The decisions of the Constitutional Council shall be taken in the following forms:

- 1) decrees, including regulatory decrees which are a constituent part of the current law of the Republic of Kazakhstan;
- 2) reports;
- 3) messages.

### **Article 33. Adoption of Decisions by the Constitutional Council**

1. The Constitutional Council shall have collective decision-making.

2. The Constitutional Council shall take decisions by majority of votes of the total number of its members by open ballot and on demand of at least one member - by secret ballot.

3. In case of equal split of votes when adopting a decision of the Constitutional Council members, the vote of the Chairman of the Constitutional Council who in any cases gives his vote the last shall be the casting vote. When the Chairman of the Constitutional Council is substituted in accordance with his authorization by appropriate member of the Constitutional Council this rule shall not apply. In this case another voting shall take place with the participation of the Chairman or a member of the Constitutional Council who was not present at the first voting.

4. During the session of the Constitutional Council none of its members who participate in its session shall have the right to abstain or not participate in the voting.

5. The decision adopted by the Constitutional Council prior to the time when they are signed by the Chairman shall first be attested by the signatures of the Constitutional Council members who participated in the voting.

### **Article 34. A Different Opinion of a Constitutional Council Member**

A member of the Constitutional Council who disagrees with its final decision shall have the right to have his opinion and to outline it in writing.

### **Article 35. Additional Decision of the Constitutional Council**

1. The Constitutional Council shall take additional decisions in events, if:

1) the issue is raised on interpretation of a decision of the Constitutional Council. In this case the additional decision is adopted under the petition of participants of the constitutional manufacture or state bodies and officials, obliged to execute the final decision of the Constitutional Council;

2) it is necessary to correct discrepancy and mistakes of editorial character admitted in the decision of the Constitutional Council. In this case the additional decision is accepted by the Constitutional Council under own initiative.

2. Additional decision must not contradict actual contents, essence and purpose of the decision of the Constitutional Council.

3. Additional decisions shall be adopted by the Constitutional Council on a session, the holding procedure of which shall be defined by the Rules of the Constitutional Council.

### **Article 36. Revision of Decisions of the Constitutional Council**

1. The decision of the Constitutional Council may be revised by it under the initiative of the President of the Republic of Kazakhstan or under own initiative in cases, if:

1) the provision of the Constitution on the basis of which the decision was taken has been changed;

2) new circumstances which are significant for the issue have been discovered.

2. In interests of protection of the rights and freedom of the person and the citizen, maintenance of national safety, the sovereignty and integrity of the state, the decision of the Constitutional Council can be reconsidered by it under the initiative of the President of the Republic of Kazakhstan.

3. A decree shall be passed on revision of the decision of the Constitutional Council by which that decision shall be abolished.

4. In the event of revising of final decision the Chairman of the Constitutional Council shall define the date and the procedure for holding a new session on that issue by his ordinance.

Footnote. Article 36 as amended by the Constitutional Law of the Republic of Kazakhstan N 41-IV dated 17.06.2008 (the entry into force order, see Article 2).

## **Article 37. Contents of the Final Decision of the Constitutional Council**

The following must be indicated in the final decision of the Constitutional Council:

- 1) name, date and place where it was passed;
- 2) the composition of the Constitutional Council who passed it;
- 3) entities of appeal and their representatives;
- 4) subject matter of appeal;
- 5) provisions of the Constitution and this Constitutional Law which establish the right of the Constitutional Council to consider appeal accepted for processing;
- 6) circumstances established by the Constitutional Council;
- 7) name of the act the constitutional legitimacy of which was reviewed with the indication of the source of its publication or receipts;
- 8) decisions of the official person the constitutional legitimacy of which is under review;
- 9) districts, administrative and territorial units where the accuracy of elections of the President or deputies of the Parliament or national referendum was reviewed;
- 10) the contents of the provisions (provision) of the Constitution which are subject to official interpretation;
- 11) proceedings established by paragraphs 1, 2 of Article 47 of the Constitution the compliance with which was reviewed;
- 12) arguments in favour of decision of the Constitutional Council;
- 13) provisions of the Constitution by which the Constitutional Council was guided;
- 14) formulation of the decision;
- 15) the procedure and the period for the implementation and publication of the decision;
- 16) the final nature of the decision.

## **Article 38. The Legal Force of the Decision of the Constitutional Council**

1. A final decision of the Constitutional Council shall enter into force from the date of its adoption, it shall be obligatory in the entire territory of the Republic, it shall be final and it shall not be subject to appeal. The procedure entering into force of any other decisions shall be defined by the Constitutional Council.

2. The President may file objections against a final decision of the Constitutional Council as a whole or its part which shall be:

1) submitted no later than in a month from the date the President received the text of the decision;

2) overridden by two thirds of the votes of the total number of members of the Constitutional Council.

3. In case of a failure to override the objections of the President of the Republic the

decision of the Constitutional Council shall not be accepted and the Constitutional proceedings shall be terminated.

Footnote. Article 38 as amended by the Constitutional Law of the Republic of Kazakhstan N 41-IV dated 17.06.2008 (the entry into force order, see Article 2).

## **Article 39. The Consequences of Adoption of Final Decisions of the Constitutional Council**

1. The laws and international agreements of the Republic of Kazakhstan which are recognized as non-consistent with the Constitution may not signed or accordingly ratified and putting into implementation. The recognition of laws as consistent with the Constitution shall resume the measurement of the period of their signing. The recognition of international agreements of the Republic as consistent with the Constitution shall resume the process of their ratification.

2. Laws and other regulatory legal acts which are recognized unconstitutional, including restraining fixed Constitution of the rights and freedoms of individuals and citizens of this shall lose their legal force and they shall not be applied. The decision of courts and other law applying bodies based on such law or other regulatory legal acts shall not be implemented.

3. The election of the President of the Republic which are recognized as not consistent with the Constitution, by decision of the Central Election commission at appropriate election districts (administrative and territorial units) shall be recognized as invalid. The recognition of election of the President as consistent with the Constitution shall entail the registration of elected President of the Republic.

4. Elections of the deputies of the Senate and the Mazhilis of the Parliament which are recognized as not consistent with the Constitution by a decision of the Central Election commission in the relevant administrative and territorial units and election districts shall be recognized as invalid. The recognition of elections of deputies of the Senate and the Mazhilis of the Parliament as consistent with the Constitution shall entail the registration of elected deputies.

5. The results of national referendum which are recognized as not consistent with the Constitution by a decision of the Central commission of the referendum in the relevant districts of voting (administrative and territorial units) shall be recognized as invalid. The recognition of the referendum which was held as consistent with the Constitution shall entail the resumption of drawing the results of the referendum.

6. A report on non-compliance with the procedures established by a Constitution before the adoption by the Parliament in accordance with paragraphs 1 and 2 of Article 47 of the Constitution a decision on premature discharge from the position, final decision on impeachment of the President of the Republic shall entail a termination of consideration of the issue accordingly on premature discharge from the position or impeachment of President. The report on compliance with established constitutional procedures shall entail continuation of consideration of the issue accordingly on premature discharge from the position of the President of the Republic or impeachment of the President of the Republic.

Footnote. Article 39 as amended by the Constitutional Law of the Republic of Kazakhstan N 41-IV dated 17.06.2008 (the entry into force order, see Article 2).

## **Article 40. Execution of Decisions of the Constitutional Council**

1. The Constitutional Council may define the procedures and term of execution of decisions adopted by it.

In case if the decision of the Constitutional Council shall demand to increase in the state expenditure or reduction of public revenues, the Constitutional Council determines terms of execution of the decisions accepted by it as agreed with the Government of the Republic of

Kazakhstan.

2. The state bodies and officials within the deadlines established by the Constitutional Council shall notify the Constitutional Council on the measures adopted to execute its decisions.

3. Recommendations and offers on perfection of the legislation contained in decisions of the Constitutional Council shall subject to obligatory consideration by the authorized state bodies and officials with the obligatory notice of the Constitutional Council on the accepted decision.

Footnote. Article 40 as amended by the Constitutional Law of the Republic of Kazakhstan N 41-IV dated 17.06.2008 (the entry into force order, see Article 2).

## **Article 41. Mailing and Publishing Decisions of the Constitutional Council**

1. The final decision of the Constitutional Council shall be:

1) mailed in two weeks after the adoption of the decision to entities established by the Constitution, petitions or their representatives as well as in all cases to the President, the Chairman of the Parliament, the Supreme Court, the Prosecutor General, the Minister of Justice of the Republic of Kazakhstan;

2) published in the Kazakh and the Russian languages in the official national newspapers.

2. Other decisions where appropriate shall be published and forwarded to the relevant state bodies and officials in the cases and in accordance with the procedure as established by the Rules of the Constitutional Council.

## **Chapter VI. Concluding and Transitional Provisions**

### **Article 42. Financing of the Constitutional Council**

Financing of the Constitutional Council shall be carried at the expense of the republic's budget funds.

### **Article 43. Administration of the Constitutional Council**

The information, reference, scientific, advisory and other accessory work shall be performed by the administration of the Constitutional Council whose activities shall be regulated by current legislation, Rules of the Constitutional Council and Regulations of the administration of the Constitutional Council.

### **Article 44. Symbols and the Seal of the Constitutional Council**

1. On the building of the Constitutional Council, the National flag of the Republic of Kazakhstan shall be hung.

2. In the room where the sessions of the Constitutional Council take place the State symbol of the Republic of Kazakhstan, the State flag of the Republic of Kazakhstan and the Constitution of the Republic of Kazakhstan shall be placed.

3. In the office of the Chairman of the Constitutional Council shall be the State flag of the Republic of Kazakhstan.

4. The Constitutional Council shall have a seal with the picture of the State symbol of the Republic of Kazakhstan and its name.

## **Article 45. Identification Documents of the Chairman and the Members of the Constitutional Council**

The Chairman and the members of the Constitutional Council shall be granted identification documents in accordance with the established proforma and signed by the President of the Republic.

## **Article 46. The Procedure for the Formation and Period of Power of the First Membership of the Constitutional Council**

The procedure for the formation and period of power of the first membership of the Constitutional Council shall be determined by Article 97 of the Constitution of the Republic.

## **Article 47. Entering into Force and Implementation of this Constitutional Law**

This Decree shall:

- 1) enter into force from the moment of its publication;
- 2) apply to disputes and legal relations which emerge after its entering into force.

*The President of  
the Republic of Kazakhstan*