

## 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 on 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 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;
  - 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 favor 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.

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### 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 in a 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 who 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 offices 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 Court 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 Collegiums 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 Collegiums 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 Collegiums of Justice, and their 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 other 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.
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.

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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, other questions of preliminary investigation in the Republic of Kazakhstan shall be regulated by law.

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