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Unofficial translation!

SECTION 1. GENERAL PROVISIONS

Chapter 1. CIVIL PROCEDURAL LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN

Article 1. Civil legal proceedings legislation of the Republic of Kazakhstan

1. Procedure for legal proceedings concerning civil cases in the territory of the Republic of Kazakhstan shall be determined by constitutional laws of the Republic of Kazakhstan, Civil procedural law of the Republic of Kazakhstan, which is based on the Republic of Kazakhstan Constitution, and generally accepted principles and standards of international law. Provisions of other laws regulating procedure of legal proceedings shall be subject to inclusion into this Law.

2. International contractual and other obligations of the Republic of Kazakhstan as well as regulatory resolutions of the Constitutional Council and Supreme Court of the Republic of Kazakhstan shall be an integral part of the civil procedural law.

3. Civil legal proceedings legislation of the Republic of Kazakhstan establishes the procedure for consideration of cases pertaining to disputes arising out of civil, family, employment, housing, financial, economic, land and other law relations as well as special proceedings cases.

Article 2. Application of law provisions of preferential force in civil legal proceedings

1. Constitution of the Republic of Kazakhstan has the highest legal effect and direct application in the whole territory of the Republic. In case of contradictions between provisions of this Law and Constitution of the Republic of Kazakhstan the provisions of the Constitution shall apply.

2. In case of contradiction between provisions of this Law and Constitutional law of the Republic of Kazakhstan the provisions of the Constitutional law shall apply. In case of contradiction between provisions of this Law and other laws the provisions of this Law shall apply.

3. International agreements ratified the Republic of Kazakhstan shall have priority over this Law and shall apply directly except for cases when an international agreement implies that its application requires issue of a law.

Article 3. Validity of civil legal proceedings law in the course of time

1. Civil legal proceedings shall be carried out in accordance with the civil legal proceedings law effective as of the moment of holding of proceedings or adopting of a decision after proceedings.

2. Civil legal proceedings law, which imposes new obligations, waives or derogates rights belonging to parties of the proceedings, limits application thereof by additional conditions, shall not have retroactive effect.

3. Admissibility of evidence is determined in accordance with law applicable at the moment of receiving thereof.

Chapter 2. OBJECTIVES AND PRINCIPLES OF CIVIL LEGAL PROCEEDINGS

Article 4. Objectives of civil legal proceedings

The objectives of civil legal proceedings shall be protection and restoration of violated or disputed rights, liberties and legal interests of citizens, state and legal entities, observation of

legitimacy in civil commerce and public relations, fostering amicable settlement of dispute, prevention of law offenses and formation of respectful attitude towards law and court in the society.

Article 5. Principles of civil legal proceedings

1. Civil legal proceedings shall be held on the basis of principles stated in this chapter.

2. Violation of principles of civil legal proceedings in terms of nature and significance thereof shall entail waiver of issued court rulings.

Article 6. Legitimacy

1. Court in case of consideration and settlement of civil cases shall strictly comply with requirements of the Constitution of the Republic of Kazakhstan, constitutional laws of the Republic of Kazakhstan, this Law, other regulatory legal acts, international agreements of the Republic of Kazakhstan subject to application.

2. Courts shall not be entitled to apply laws and other regulatory legal acts infringing rights and liberties of person and citizen provided for by the Constitution. If court believes that a law or other regulatory legal act subject to application infringes rights and liberties of person and citizen provided for by the Constitution it shall suspend case hearings and address the Constitutional Council of the Republic of Kazakhstan with a petition for recognition of such act as unconstitutional. Upon receipt by the court of a final decision of the Constitutional Council the case proceedings shall be resumed.

3. Court having found out an act of state or other authority contradicting with a law or an act issued with overreach of powers the court shall apply provisions of law.

4. In case of lack of law provisions regulating disputable legal relations the court shall apply law provisions regulating similar relations, in case of lack of such provisions the court shall settle the dispute based on general principles and meaning of the Republic of Kazakhstan legislation.

5. If law or agreement between the parties to a dispute doe not stipulate settlement of the relevant disputes in court the court shall settle such issues based on criteria of justice and reasonability.

Article 7. Administration of justice only by court

1. Justice concerning civil cases shall be administered only by court according to rules established by this Law.

2. Assuming of court powers by whosoever shall entail responsibility provided for by law.

3. Rulings of extraordinary as well as of other illegally established courts shall not have legal effect and shall not be subject to enforcement.

4. Rulings of court, which performs civil legal proceedings concerning a case out of its jurisdiction, which has overreached its powers or has otherwise materially violated principles of civil legal proceedings stipulated by this Law, shall be illegal and shall be subject to waiver.

5. Rulings of court concerning a civil case may be checked and re-considered only by the relevant courts according to procedure stipulated by this Law.

Article 8. Judicial protection of rights, liberties and legal interests of a person

1. Everyone shall be entitled to address the court according to procedure established by this Law with the purpose of protecting violated or disputed rights, liberties or legal interests.

2. State authorities within their competence, citizens and legal entities shall be entitled according to procedure established by this Law to address a court with an application about protection of violated or disputed legal interests of other persons or an indefinite scope of persons.

Prosecutor shall be entitled to address a court with a lawsuit (application) with the purpose of performing obligations imposed on him and with the purpose of protecting rights of citizens and legal entities, public and state interests.

3. Court jurisdiction stipulated for them by law may not be changed to anyone without their consent.

4. Refusal from the right to address court is invalid if it contradicts the law or violates anyone's rights, liberties or legal interests.

5. Lawsuit (application) may be filed to court in writing or in electronic form with consideration of peculiarities stipulated by this Law.

6. If law or an agreement provides for pre-judicial procedure for dispute settlement for certain category of cases address to court may be after compliance with such a procedure.

Article 9. Respect of honor and dignity, business reputation of persons, who are parties to a case

1. In the course of civil proceedings it is prohibited to take actions humiliating honor or dignity, derogating business reputation of a person participating in civil proceedings.

2. Moral damage inflicted on a physical individual, losses inflicted on a physical individual or a legal entity in the course of civil proceedings by illegal actions of state authorities and officials as well as moral damage related to committing of actions indicated in the first part of this article by other persons shall be subject to indemnification according to procedure established by law.

Article 10. Privacy protection. Confidentiality of correspondence, telephone conversations, post, telegraph and other messages

Private life, personal and family secret are under protection of law.

Everyone shall have the right to confidentiality of personal deposits and savings, correspondence, telephone conversations, mail, telegraph and other messages. Limitations of this right in the course of civil legal proceedings shall be allowed only in cases and as per procedure directly provided by law.

Article 11. Inviolability of property

1. Property title is guaranteed by law. Nobody may be deprived of their property otherwise than by ruling of court.

2. Arrest of property with the purpose of securing a lawsuit may be performed on basis and according to procedure stipulated by this Law.

Article 12. Independence of judges

1. Judge in the course of justice administration shall be independent and shall obey only the Constitution of the Republic of Kazakhstan and law.

2. Judges consider and settle civil cases under conditions excluding any outside influence on them. Any intervention in justice administration by judges shall be prohibited and shall entail responsibility established by law. Judges shall not be reporting in specific cases.

3. Guarantees of independence of judges are established by the Constitution of the Republic of Kazakhstan and by law.

Article 13. Equality of all before the law and in court

1. Justice in civil cases shall be administered on the basis of principle of equality of all before the law and court.

2. In the course of civil legal proceedings none of:

citizens shall be preferred, nobody of them may be discriminated for origin, social, job title and financial situation, sex, race, nationality, language, attitude towards religion, convictions, place of residence or for any other circumstances;

legal entities shall be preferred and none of them may be discriminated for place of location, organizational-legal form, subordination, form of ownership and other circumstances.

3. Conditions of civil legal proceedings in regard to persons, who have legal immunity against civil-legal liability, shall be defined by the Constitution of the Republic of Kazakhstan, by this Law, laws and international agreements ratified by the Republic of Kazakhstan.

Article 14. Language of legal proceedings

1. Legal proceedings regarding civil cases shall be held in Kazakh language; Russian language shall be officially used equally with the Kazakh language; also other languages shall be used in cases established by law.

2. Language of court legal proceedings shall be determined by ruling of court depending on the language, in which a lawsuit (application) has been filed to court. Legal proceedings concerning the same civil case shall be administered in the language of legal proceedings, which has been chosen initially.

Upon written petition of both parties the court shall be entitled to change the language of legal proceedings through a ruling at the stage of preparing the case for court hearings.

If in the course of preparation for consideration of the case in the first instance court it has been found out that claimant does not speak the language, in which his representative has filed the lawsuit (application), then upon a written petition of the claimant the court shall issue a ruling about change of the language of legal proceedings.

3. Persons, who participate in the case and do not speak or insufficiently speak the language, in which case hearings are held, shall be explained and provided with the right to submit applications, give explanations and testimonies, file petitions, submit complaints, appeal against court rulings, read case documents, speak in court in native or other language, which they speak; to avail themselves of translator's services free of charge according to procedure established by this Law.

4. In the course of civil legal proceedings the persons, who do not speak the language of court hearings, shall be provided by court with free translation of case documents, which they need due to law requirements. The persons, who participate in the case, shall be provided by court with free translation to the language of legal proceedings of that part of court hearings, which is held in another language.

5. Court documents, which are requested from the case in writing by a person, who participates in the case and does not speak the language of legal proceedings, shall be handed in to them in translation to their native language or other language, which they speak.

6. To documents composed not in the language of legal proceedings to be submitted by the parties and other persons participating in the case upon completion of preparation of the case for legal proceedings a translation in the language of legal proceedings shall be attached.

Article 15. Adversarial principle and equality of rights of the parties

1. Civil legal proceedings shall be carried out based on the adversarial principle and equality of rights of the parties. This law vests in the parties participating in the civil legal proceedings equal opportunities to defend their standpoint.

2. In the course of civil legal proceedings the parties shall choose their standpoint, ways and means for defending thereof independently and irrespective of court and other persons participating in the case.

3. Court is completely relieved from collection of evidence upon own initiative with the purpose of establishing actual circumstances of the case, however upon motivated petition of a party the court shall provide it with assistance in receiving of necessary documents according to procedure stipulated by this Law.

4. Court while retaining objectivity and impersonality shall carry out management of the process, shall create necessary conditions for exercising by the parties of procedural rights to complete and objective study of case circumstances. The court shall explain to persons participating in the case their rights and obligations, shall warn of consequences of taking or omitting procedural acts and in cases stipulated by this Law shall assist them in exercising of their rights. The court shall base the ruling only on that evidence, participating in study of which was secured on equal basis by each of the parties.

5. The court shall show equal and respectful attitude towards the parties.

Article 16. Assessment of evidence according to inner conviction

1. Judge shall assess evidence according to his inner conviction based on impersonal, comprehensive and complete consideration of aggregate evidence available in the case being governed in this situation by law and conscience.

2. No circumstances shall have pre-determined effect for the court.

Article 17. Relief from obligation to give testimony

1. Nobody shall be obliged to give testimony against themselves, their husband (wife) and close relatives, the scope of which is determined by law.

2. Religious ministers shall not be obliged to testify against persons, who placed confidence in them during confession.

3. In cases stipulated by the first and second parts of this article the indicated persons shall be entitled to refuse from giving testimony and may not be drawn to liability.

Article 18. Provision of rights to professional legal assistance

1. Everyone shall have the right to receiving professional legal assistance in the course of civil legal proceedings in accordance with provisions of this Law.

2. In cases stipulated by law legal assistance shall be provided free of charge.

Article 19. Publicity of legal proceedings

1. Hearings of civil cases in all judicial instances shall be held open. Court rulings shall be declared publicly.

2. At closed court hearings in accordance with law the cases are considered and settled including declaration of ruling, which contain data constituting a state secret.

A civil case may be considered and settled upon petition of a person participating in the case at the closed court hearing if it is necessary to ensure confidentiality of child adoption, privacy of life, protection of personal, family, commercial or other secret protected by law or there are other circumstances available, which prevent from open proceedings as well as in the case stipulated by part four of article 188 of this Law.

3. Personal correspondence and other personal messages may be announced in an open court hearing only upon consent of persons, between whom such correspondence has taken place and to whom such personal messages concern. In case of unavailability of such a consent correspondence and messages shall be announced and studied in a closed court hearing.

The indicated rules shall be applied during study of audio and video records, photos and motion picture records and other data on electronic, digital and other tangible media containing data of personal nature.

4. In the course of case consideration in a closed court hearing the following persons shall be present: persons who participate in the case, their representatives, in necessary cases also witnesses, experts, specialists, translators, who are warned by court of responsibility for disclosure of data indicated in part two of this article.

5. Citizens younger than sixteen years shall not be allowed to the hall of legal proceedings if they are not persons, who participate in the case or witnesses.

6. Hearing of a case in closed court proceedings shall be held in compliance with all rules established by this Law.

7. Persons participating in the case and other persons including representatives of mass media present in open court proceedings shall have the right to take notes in the course of court hearings, record it by means of audio recording and digital media from seats occupied by them in the hall. Motion picture and photo shooting, video record, live radio and television broadcast, video broadcast in the Internet information-communication system are allowed in legal proceedings hall upon permission from court and with consideration of opinion of persons participating in the case. This shall be stated in the ruling of court, which shall be included into the minutes of court hearings. These activities shall not interfere with regular course of court hearings and their duration may be limited by court.

8. Court shall issue a ruling concerning legal proceedings on the case held in a closed court hearing concerning whole or a part of legal proceedings, which ruling shall be included into the minutes of court hearing.

9. Legally effective court rulings shall be published on the Internet-resource of court and may be publicly discussed with consideration of limitations established by part two of this article and other laws.

10. Information about addresses filed to court concerning civil cases under court consideration shall be subject to publicity and communication to proceedings participants through posting of this information on an official Internet-resource of court.

Article 20. Provision of safety during court hearings

1. Legal proceedings concerning a case shall be held under conditions ensuring regular work of court and safety of persons present in court hearing hall. Maintaining of public order in the hall during court hearings shall be ensured by court bailiff.

2. With the purpose of ensuring safety of judge and citizens present in court hearings hall the chairperson may issue an order about security check of persons, who desire to be present during legal proceedings including examining of their identity documents, personal search and search of things carried by them.

Article 21. Binding power of court rulings

1. Court of first instance shall issue court acts concerning civil cases in form of court orders, resolutions, rulings, ordinances.

Court of appeal, cassation instances shall issue court acts in form of rulings and ordinances.

2. Legally effective court acts as well as orders, demands, instructions, summons, requests and other addresses of courts and judges in the course of justice administration shall be binding for all state authorities, local government authorities, legal entities, officials, citizens and shall be subject to enforcement in the whole territory of the Republic of Kazakhstan.

Court acts based on law or other regulatory legal act, which is recognized by the Constitutional Council of the Republic of Kazakhstan as unconstitutional, shall not be subject to enforcement.

3. Failure to enforce court acts as well as other disrespect towards court shall entail responsibility provided for by law.

4. Binding power of a court act does not deprive concerned persons, who have not participated in case, of opportunity of addressing the court for protection of violated or disputed rights, liberties and legal interests.

Article 22. Right to appeal against court rulings

Court rulings may be appealed against according to procedure established by this Law by persons participating in the case as well as by persons, whose rights and obligations are affected by court rulings.

Chapter 3. JURISDICTION AND COMPETENCE

Article 23. Court jurisdiction over civil cases

1. Courts according to procedure of civil legal proceedings shall consider and settle cases about protection of violated or disputed rights, liberties and legal interests if protection thereof is not carried out otherwise in accordance with this Law.

2. Courts shall have jurisdiction over litigation civil cases concerning disputes resulting from civil, family, employment, housing, financial, economic, land and other legal relations.

3. Courts shall have jurisdiction over special litigation cases arising out of public-legal relations in the field of governmental management, categories of which are stipulated by this Law.

4. Courts shall have jurisdiction over special proceedings cases, categories of which are stipulated by this Law.

5. Courts shall have jurisdiction over cases with participation of foreigners, persons without citizenship, foreign organizations as well as with participation of international organizations if it has not otherwise been stipulated by law, international agreements ratified by the Republic of Kazakhstan or agreement between the parties.

6. Courts shall have jurisdiction over cases about recognition and enforcement of resolutions, orders of foreign courts and arbitration resolutions.

7. Courts shall have jurisdiction over cases about cancellation of arbitration resolutions and about bringing of such resolutions to compulsory enforcement.

8. Also other categories of civil cases may be referred to court jurisdiction in accordance with law.

9. Lawsuits about exemption from property arrest (exclusion from inventory) regarding property of persons shall not be subject to consideration as per civil legal proceedings procedure, if arrest has been imposed by:

1) criminal prosecution authority in the course of criminal case investigation;

2) based on sentence (resolution) of court about forfeiture of property, which specifies things subject to forfeiture as well as turning to state income of property gained illegally or purchased for money received illegally as well as which property is a means or device for committing of a criminal offense.

3) on the basis of court resolution about forfeiture of a thing or means for committing of an administrative offense.

Legitimacy of actions of the authority, which is in charge of criminal process, a case of administrative offense concerning issues pertaining to imposing of arrest, forfeiture, turning of property to state income shall be subject to examination as per procedure established by Criminal-procedural law of the Republic of Kazakhstan and Republic of Kazakhstan Law on administrative law offenses.

Article 24. Settlement of dispute (conflict) according to mediation procedure or participative procedure. Transfer of dispute to arbitration for settlement

Dispute (conflict) subject to court jurisdiction arisen out of civil-legal relations upon written consent of the parties may be settled as per mediation procedure, participative procedure or transfer of dispute for consideration by arbitration, when it is not prohibited by law.

Article 25. Precedence of court jurisdiction

1. In case of unifying several interrelated requirements, some of which are in jurisdiction of court, the other ones are in jurisdiction of non-judicial authorities all demands shall be considered in court.

2. In case of doubt in interpretation or of availability of collision between laws concerning jurisdiction of certain dispute it shall be considered by court.

Article 26. Civil cases under jurisdiction of district (city) courts and courts with equal status

Civil cases shall be considered and settled by district (city) courts and by courts with equal status except for cases stipulated by part four of article 27 and article 28 of this Law.

Footnote. Article 27 as amended by Republic of Kazakhstan Law No.91-VI dated 11.07.2017

Article 27. Jurisdiction of specialized courts, specialized compositions of court and Astana city court over civil cases

1. Specialized inter-district economic courts shall consider and settle civil cases concerning property and non-property disputes, in which participate physical individuals, who carry out individual entrepreneurship activity without foundation of a legal entity, participate legal entities as well as concerning corporate disputes except for cases, which fall to jurisdiction of other court according to law.

To corporate disputes shall be referred disputes, in which participate commercial organization, association (union) of commercial organizations, association (union) of commercial organizations and (or) individual entrepreneurs, non-profit organization, which has status of self-governed organization in accordance with laws of the Republic of Kazakhstan and (or) its shareholders (participants, members) including former ones (hereinafter referred to as corporate disputes) related to:

1) creation, reorganization and liquidation of a legal entity;

2) ownership of joint stock companies' shares, of shares in charter capital of economic partnerships, equity interests of cooperatives members, establishing of encumbrances thereof and realization of rights resulting therefrom including recognition of transactions with them as invalid except for disputes arising in connection with partition of inheritable property or partition of common property of spouses, which includes joint stock company shares, shares in charter capital of economic partnerships, equity interests of cooperatives' members;

3) demands for indemnification of losses inflicted on legal entity by actions (omissions) of officials, founders, shareholders, participants (hereinafter referred to as shareholders of legal entity) and other persons;

4) recognition of transactions as invalid and (or) application of consequences of invalidity of such transactions;

5) appointment or election, termination, suspension of powers and responsibility of persons, who are or were members of legal entity's management body as well as disputes arising out of civil legal relations between such persons and legal entity in connection with execution, termination, suspension of their powers;

6) emission of securities;

7) keeping of a system of registers of security holders with consideration of title in shares and other securities as well as disputes related to placement and (or) circulation of securities;

8) recognition of state registration of shares emission as invalid;

9) convening and holding of general meeting of shareholders of legal entity and decision s adopted there;

10) appealing against decision s, actions (omissions) of legal entity's executive bodies.

Specialized inter-district economic courts also consider cases about re-structuring of financial organizations and organizations, which are members of a bank conglomerate in the capacity of parent organization and which are not financial organizations in cases stipulated by the Republic of Kazakhstan laws, cases related to bankruptcy of individual entrepreneurs and legal entities and rehabilitation of legal entities.

2. Military courts consider civil cases of appealing by military service men of Armed Forces, other troops and military units, by citizens, who undergo military training against actions (omissions) of officials and military management authorities. Military courts shall consider also other civil cases if one of the parties is a military service man, military management authorities, military base except for cases, which are under jurisdiction of other specialized courts.

3. Specialized inter-district courts for cases of minors shall consider and settle civil cases concerning determination of child's place of residence; determination of the procedure for communication of parent with child and taking away of child, who is with other persons; about determination of place of residence of child in case of child exit with one of parents outside of the Republic for permanent residence; about deprivation (limitation) and restoration of parental rights; about child adoption and cancellation thereof; about sending of minors to special educational organizations or organizations with special regimen of staying; concerning disputes arising out of wardship and guardianship (patronage) over minors; about establishment of fatherhood of a minor and recovery of alimony from him; as per applications for limitation or deprivation of a minor (at the age of fourteen to eighteen) of the right to dispose of his income independently; concerning declaration of a minor to be completely legally capable to act (emancipation); concerning establishment of fatherhood and recovery of alimonies in percent or fixed monetary amount for support of the child; concerning reduction of alimonies amount; concerning protection of employment, residential rights of minors; concerning indemnification of damage inflicted jointly by minors and adults including with participation of legally incapable or partially legally capable adults.

Upon petition of legal representatives of a minor the cases referred to jurisdiction of specialized inter-district court for minors may be considered or may be transferred to district (city) court at the place of residence (location) of the child except for cases subject to jurisdiction of district (city) courts, which are within boundaries of a National status city and the capital city, regional centers. The petition may be submitted prior to completion of preparation of a case for legal proceedings.

4. The court of Astana city as per rules of first instance court shall consider civil cases concerning investment disputes except for cases subject to jurisdiction of Supreme Court of the Republic of Kazakhstan.

The court of Astana city shall consider also other disputes between investors and state authorities pertaining to investment activity of an investor with participation of:

1) a foreign legal entity (branch, representative office thereof), which carries out entrepreneurship activity in the territory of the Republic of Kazakhstan;

2) a legal entity founded with foreign participation according to procedure established by legislation of the Republic of Kazakhstan, fifty and more percent of voting shares (shares in charter capital) of which legal entity belong to a foreign investor;

3) investors if there is a contract signed with the state for making of investments.

5. Other disputes resulting from legal relations with participation of an investor and not pertaining to investment activity as well as disputes with participation of investor subject to

consideration as per simplified proceedings shall be referred to jurisdiction of district (city) courts and courts with equal status in accordance with jurisdiction stipulated by chapter 3 of this Law.

Article 28. Jurisdiction of the Supreme Court of the Republic of Kazakhstan over civil cases

The Supreme Court of the Republic of Kazakhstan shall consider and settle the following cases as per rules of first instance court:

1) concerning appealing against decision s and actions (omission) of the Republic of Kazakhstan Central election committee, decision s and actions (omission) of Referendum Central committee;

2) concerning investment disputes, a party to which is a major investor.

Article 29. Filing of a lawsuit at the place of defendant's location

1. Lawsuit shall be filed to court at the place of defendant's residence.

Place of residence of a physical individual including the one carrying out individual entrepreneurship activity without foundation of a legal entity shall be determined as per rules provided for by the Republic of Kazakhstan Civil Code.

2. Lawsuit against a legal entity shall be filed to court at the place of legal entity location in accordance with foundation documents and (or) address included into the National register of business identification numbers. Lawsuit against an organization without formation of a legal entity shall be filed at the place of location thereof.

Article 30. Jurisdiction at option of claimant

1. Lawsuit towards defendant, whose place of residence is unknown or who does not have a place of residence in the Republic of Kazakhstan, may be filed at the place of location of his real estate or at the last known place of its residence.

2. Lawsuit to legal entity may be filed also at the place of its property location.

3. Lawsuit resulting from operation of a branch or representative office of legal entity may be filed also at the place of branch or representative office location.

4. Lawsuits about establishment of fatherhood and recovery of alimonies may be filed by claimant at the place of her residence.

5. Lawsuits about indemnification of damage inflicted by permanent injury or other health damage as well as inflicted by death of bread winner may be filed by claimant at the place of her residence or at the place of damage infliction. In case of liquidation of a legal entity, which was recognized as per established procedure as responsible for damage inflicted on life and health, the lawsuits shall be filed at the place of location of the relevant administrator of budget program.

6. Lawsuits resulting from agreements, which specify place of performance, may be filed also at the place of agreement performance.

7. Lawsuits about marriage termination may be filed at the place of claimant's residence if minor children live together with him/her.

8. Lawsuits about restoration of property and non-property rights violated by illegal drawing to criminal or administrative liability, by illegal application of procedural compulsion measure or of a measure of proceedings performance concerning administrative offense case may be filed at the place of residence or location of defendant.

9. Lawsuits about protection of consumer rights may be filed at the place of claimant's residence or at the place of signing or performance of agreement.

10. Lawsuits about indemnification of losses inflicted by collision of vessels as well as about recovery of indemnification for provision of aid and salvage at sea may be filed also at the place of defendant's location or vessel registration port.

11. Lawsuits concerning recovery of insurance payment under insurance agreement may be filed at the place of claimant's residence or at the place of defendant's location.

12. Lawsuits with several defendants may be filed at the place of residence or location of one of the defendants at option of claimant.

13. Selection between several courts, which according to this article have jurisdiction over a case, shall be claimant's except for jurisdiction stipulated by article 31 of this Law.

Article 31. Exclusive jurisdiction

1. Lawsuits about title in land plots, buildings, spaces, facilities, other objects tightly connected with land (real estate), about exemption of real estate from arrest shall be submitted at the place of location of such facilities.

If real estate facilities are in different residential areas the lawsuit shall be filed to court at the place of location of one of the facilities.

If real estate facilities are in the territory of one residential area, the lawsuit shall be filed to court at the place of location of one of the facilities.

2. Lawsuits of creditors of legators to be filed against heirs, devise executive (trust manager of inheritance) shall be referred to jurisdiction of court at the place of location of inheritable property in accordance with rules stipulated by part one of this article.

3. Lawsuits about recognition of an heir as unworthy, recognition of inheritance as escheated, prolongation or recovery of a period for acceptance of inheritance, refusal from inheritance shall be filed at the place of succession commencement.

4. Lawsuits against carriers resulting from agreements on transportation of cargo, passengers or luggage shall be filed to court at the place of carrier's location (transportation organization, individual entrepreneur).

5. Lawsuits about indemnification of losses inflicted due to violation by foreign state of jurisdiction immunity of the Republic of Kazakhstan and its property shall be filed to court at the place of claimant's location if it is not provided for otherwise by an international agreement ratified by the Republic of Kazakhstan.

Article 32. Agreed jurisdiction

Parties may upon agreement between each other change territorial jurisdiction for a given case including concerning cases, which are under court proceedings, at the stage of case preparation for legal proceedings. Jurisdiction stipulated by article 31 of this Law may not be changed by agreement between parties.

Article 33. Jurisdiction of several interrelated cases

1. Lawsuit of a third person, who files an independent demand and a counter lawsuit regardless of jurisdiction thereof, shall be filed to court at the place of initial lawsuit consideration.

2. When filing several lawsuits to one defendant the court shall be entitled to combine them in one proceeding if the subject of dispute or basis are connected with subject of dispute or basis available in case proceedings and jurisdiction of such lawsuits does not violate jurisdiction of case under court consideration.

3. Lawsuit resulting from a criminal case if it has not been filed or has not been settled as civil lawsuit in the course of proceedings under criminal case or left by court without consideration except for cases stipulated by part nine of article 23 of this Law shall be filed against a person sentenced to imprisonment for consideration according to procedure of civil legal proceedings at the place of his/her residence prior to sentence or at the place of claimant's residence or location.

Lawsuit resulting from criminal case about socially dangerous act of an insane person, if it has not been filed or has not been settled as a civil lawsuit during proceedings on the case or has been

left by court without consideration during proceedings on the case, shall be filed for consideration according to procedure of civil legal proceedings at the place of residence of the person materially responsible for actions of the insane person or at the place of claimant's residence or location.

Footnote. Article 34 as amended by Republic of Kazakhstan Law No.91-VI dated 11.07.2017

Article 34. Transfer of case from proceedings in one court to the other court

1. A case accepted by court for proceedings in compliance with rules of jurisdiction shall be settled thereby effectively even if it falls in jurisdiction of the other court in the future.

2. Court shall transfer a case for consideration by the other court if:

1) defendant, whose place of residence was not known before, files a petition about transfer of the case to court at the place of his/her residence

2) after disqualification of one or several judges consideration of a case in this court becomes impossible;

3) in the course of case consideration in this court it was found out that it was taken for proceedings in violation of rules of jurisdiction;

4) basis arise stipulated by part three of article 27 of this Law;

5) basis arise stipulated by article 32 of this Law.

3. Applications of parties about incorrect jurisdiction of the given court over a case shall be settled by such a court. A ruling shall be issued concerning transfer of a case to another court. The ruling may be appealed against by a private complaint, by prosecutor's petition to the court of appeal, the ruling of which shall be final and shall not be subject to appeal, protest.

4. In cases stipulated by sub-paragraph 2) of part two of this article a ruling shall be issued about transfer of the case to superior court for determination of jurisdiction thereof. The issue of transfer of a case to another court shall be considered by judge of superior court single handedly without advising of persons participating in the case and without holding of court session. According to results of consideration a ruling shall be issued, which shall be final and shall not be subject to appeal, protest.

5. Transfer of a case from one court to another shall be carried out upon expiry of the period for appeal against this ruling, and in case of appeal submission - upon issue of a ruling about leaving the appeal unsatisfied.

6. Disputes about jurisdiction between courts shall be settled by superior court, the ruling of which shall be final and shall not be subject to appeal, protest.

Chapter 4. COMPOSTION OF COURT PANEL, DISQUALIFICATION

Article 35. Composition of court

1. Civil cases in first instance court shall be considered and settled by judge single handedly, who acts on behalf of the court.

2. Civil cases stipulated by part four of article 27 of this Law shall be considered and settled in Astana city court single handedly by the judge according to first instance court.

3. Civil cases stipulated by article 28 of this Law shall be considered and settled in the Supreme Court of the Republic of Kazakhstan single handedly by the judge according to rules of first instance court.

4. Consideration of cases in court of appeal shall be carried out by court panel consisting of odd number (not less than three) of judges of regional court or court with equal status, one of which is chairing, or - single handedly by the judge in accordance with article 402 of this Law.

5. Consideration of cases in court of cassation shall be carried out by court panel consisting of odd number (not less than three) of judges of the Supreme Court of the Republic of Kazakhstan chaired by court panel chairperson or by one of judges upon his instruction.

6. Consideration of cases pertaining to re-consideration of rulings of court of cassation shall be carried out by court panel consisting of odd number (not less than seven) of judges chaired by Chairperson of the Supreme Court of the Republic of Kazakhstan or by one of judges upon his instruction.

7. Composition of court for consideration of a specific case shall be formed with consideration of workload and specialization of judges according to procedure excluding influence on its formation of persons interested in outcome of the legal proceedings including with application of automated information system.

8. A case, consideration of which has been commenced by one of judges or by court panel, shall be considered by the same judge or court panel.

Cases concerning disputes arising within frames of rehabilitation procedure and bankruptcy procedure including concerning recognition of transactions signed with debtor as invalid, concerning return of debtor's property, concerning recovery of accounts receivable under lawsuits of bankruptcy or rehabilitation manager shall be considered by the same judge, who has issued resolution about application of rehabilitation procedure or about recognition of debtor as bankrupt except for cases related to disputes, which fall to jurisdiction provided by article 31 of this Law.

9. Replacement of judge or one of judges is possible in case of:

1) self-disqualification or disqualification of judge declared and satisfied according to procedure provided by this Law;

2) prolonged absence of judge due to sickness, vacation, study, service secondment.

10. Replacement of a judge shall be carried out also in case of termination or suspension of his/her powers on the basis provided for by law.

11. In case of judge replacement in the course of case consideration the court proceedings shall be carried out from the very beginning. Committing of procedural actions in cases allowing no delay including acceptance of lawsuit application or application and initiation of case proceedings, consideration of application about lawsuit security, deferral of legal proceedings by one of judge instead of the other judge according to procedure of substitutability shall not be considered replacement of the judge.

Article 36. Procedure for settlement of disputes by court panel

1. All judges when considering and settling cases by court panel shall avail themselves of equal rights. All issues arising during consideration and settlement of a case by court panel shall be settled by judges through majority of votes. When settling each issue nobody from among judges shall be entitled to refrain from voting.

2. Chairperson shall make proposals, shall convey his/her judgments and vote last.

3. Judge, who does not agree with decision of the majority, shall sign this decision and may state his/her special opinion in writing, which shall be included into the case in sealed envelop. Court of cassation shall be entitled to familiarize itself with the special opinion in the course of consideration of the given case. Persons participating in the case shall not be advised of availability of judge's special opinion, special opinion shall not be announced in court hearing hall.

Article 37. Inadmissibility of recurring participation of a judge in consideration and settlement of case

1. A judge participated in consideration and settlement of a civil case in first instance court may not participate in consideration of this case again in first instance court as well as in courts of appeal, cassation as well as may not participate in new consideration of the case in case of waiver of decision taken with his/her participation.

2. A judge participated in consideration of a case in court of appeal may not participate in consideration of this case in first instance court, in court of cassation as well as may not participate

in new consideration of the case in court of appeal in case of waiver of court ruling adopted with his/her participation.

3. A judge participated in consideration of a case in court of cassation may not participate in consideration of the same case in first instance court, court of appeal as well as may not participate in new consideration of the case in court of cassation in case of waiver of court ruling adopted with his/her participation.

Article 38. Basis for disqualification (self-disqualification) of judge

1. Judge may not participate in consideration and settlement of a case and shall be subject to disqualification (self-disqualification) if he/she:

1) in the course of previous consideration of this case participated in the capacity of judge, who performed mediation, in the capacity of prosecutor, witness, expert, specialist, translator, representative of a party or of a third person, secretary of educational institution, bailiff;

2) is a relative, husband (wife) or in-law relative of any of persons participating in a case or of their representatives;

3) personally, directly or indirectly interested in outcome of a case if there are other circumstances giving rise to motivated doubts in his/her impartiality.

2. Court panel considering a case may not include judges, who are relatives, spouses or in-law relatives towards each other.

Article 39. Basis for disqualification (self-disqualification) of prosecutor, expert, specialist, translator, secretary of educational institution

1. Basis for disqualification (self-disqualification) indicated in sub-paragraphs 2), 3) of part one of article 38 of this Law shall apply also to prosecutor, secretary of educational institution, specialist, translator, expert participating in court hearings.

2. Besides, expert, specialist, translator may not participate in court hearings in the course of consideration and settlement of a case by court if:

1) he is or was in service or other kind of dependency on persons participating in the case or their representatives;

2) he performed audit or inspection, the results of which served as a basis for addressing the court or are used in the course of consideration of the given civil case;

3) his incompetence has become obvious, plus finding out of circumstances significant to the case goes beyond the area of his special knowledge.

3. Participation of prosecutor, specialist, translator, secretary of educational institution in court hearings during preceding consideration and settlement of a case by court in the capacity of prosecutor, specialist, translator, secretary of court hearings respectively shall not be the basis for their disqualification. Previous participation of a person in a case in the capacity of expert shall not be the circumstance, which excludes commissioning to him of an additional expert's assessment concerning the case except for cases when assessment is prescribed again after expert's assessment held with his participation.

Article 40. Application for disqualification (self-disqualification)

1. If there are circumstances indicated in articles 38, 39 of this Law judge, prosecutor, expert, specialist, translator, secretary of educational institution shall announce self-disqualification. Persons participating in the case shall announce disqualification for the same reasons.

2. Disqualification (self-disqualification) shall be motivated and announced in writing prior to commencement of consideration on case merits. In the course of case consideration, the announcement about disqualification (self-disqualification) shall be allowed only in case the basis

for disqualification (self-disqualification) has become known to court or a person, who announces disqualification (self-disqualification) after commencement of case consideration.

3. Repeated announcement of disqualification to judge on previously announced basis shall not be allowed.

4. Self-disqualification announced by judge on basis stipulated by sub-paragraphs 1), 2) of part one of article 38 of this Law shall serve as an unconditional basis for satisfaction thereof.

Footnote. Article 41 as amended by Republic of Kazakhstan Law No.91-VI dated 11.07.2017

Article 41. Procedure for consideration of application about disqualification (self-disqualification)

1. Disqualification (self-disqualification) announced to prosecutor, secretary of court hearings, specialist, expert, translator shall be considered and settled by court in the same court hearings, in which disqualification (self-disqualification) was announced.

2. Disqualification (self-disqualification) announced to judge of first instance court shall be considered and settled by chairperson or other judge of this court without notification of parties not later than the other business day since the day of announcement thereof, in case of their absence - a judge of the relevant regional court and a court with equal status not later than the following business day since the day of receipt thereof.

3. Disqualification (self-disqualification) announced to judge of court of appeal shall be considered and settled by chairperson of court of appeal single handedly without notification of parties not later than the following business day since the date of announcement thereof, in case of his absence - by other judge of this court of appeal.

4. When considering of a case by court panel disqualification (self-disqualification) announced to one of judges shall be considered by other judges of court panel. The court according to announced disqualification shall hear opinion of persons participating in the case, an opinion of judge being disqualified, if he/she wants to give explanation. Disqualification (self-disqualification) shall be settled in consultation room without participation of judge, to whom disqualification (self-disqualification) was announced. In case of equal number of votes cast for and against disqualification (self-disqualification) the disqualification (self-disqualification) shall be considered as satisfied.

5. Disqualification (self-disqualification) announced to two and more judges or to all judges of court panel, which considers the case in court hearing, shall be settled by the same court in banc by simple majority of votes.

6. In case of rejection of announcement about disqualification (self-disqualification) the case shall be considered and settled in the same court hearing and by the same court panel.

7. In case of satisfying an application for disqualification (self-disqualification) consideration of the case shall be deferred. Persons participating in the case and their representatives shall be advised of time and place for case consideration in a new court hearing.

8. Ruling of court as per results of consideration of application about disqualification (self-disqualification) shall not be subject to appeal, review as per prosecutor's petition. Arguments about disagreement with the ruling may be included into appeal petition, prosecutor's petition of appeal, petition about review of court ruling as per cassation procedure or cassation protest.

Article 42. Consequences of satisfaction of application about disqualification (self-disqualification)

1. In case of disqualification (self-disqualification) of judge, who considers a case single handedly in district court or a court with equal status, this case shall be considered in the same court by the other judge. The case shall be transferred to the other first instance court through superior court if in court, which carries out case proceedings, replacement of judge is impossible.

2. In case of disqualification (self-disqualification) of a judge or disqualification of all court panel during consideration of a case in regional court or in a court with equal status, in the Supreme Court of the Republic of Kazakhstan the case shall be considered in the same court by the other judge or other panel of judges.

3. Case shall be transferred to the Supreme Court of the Republic of Kazakhstan for issuing of a ruling of court, in which the case will be considered, if it is impossible in a regional court or a court with equal status after satisfaction of self-disqualifications or disqualifications to form a new court panel for consideration of this case.

Chapter 5. PERSONS PARTICIPATING IN CASE

Article 43. Persons, who participate in case

1. Persons participating in a case shall be considered third parties, prosecutor, state authorities, local authorities, legal entities or citizens, who get involved into the process due to basis stipulated by articles 55 and 56 of this Law; applicants and other concerned persons under cases to be considered by court as per procedure of special proceedings listed in article 302 of this Law.

2. Persons participating in a case shall be determined by the subject and basis of demands, objections of parties and other persons participating in the case and subject to application of laws.

Article 44. Civil procedural legal standing

Ability to have civil procedural rights and obligations (civil procedural legal capacity) shall be equally recognized as available with all citizens and legal entities, who are subjects of material law.

Article 45. Civil capacity to sue

1. Capacity through own actions to exercise its rights and perform obligations in court (civil capacity to sue) shall fully belong to citizens, who reached the age of eighteen, to legal entities.

2. Rights, liberties and legal interests of minors at the age of fourteen to eighteen as well as citizens recognized as the ones with limited capacity to sue shall be protected in court by their parents or other legal representatives. Court shall draw to participation in such cases the minors themselves or citizens recognized as the ones with limited capacity to sue. Upon petition of legal representatives of minors or citizens recognized as the ones with limited capacity to sue the court may involve a prosecutor into the case.

3. Rights, liberties and legal interests of minors, who have not reached the age of fourteen, as well as of citizens recognized as the ones with limited capacity, shall be defended in court by their legal representatives, prosecutor.

4. In cases stipulated by law concerning cases arisen out of civil, family, employment, cooperative and other legal relations and out of transactions related to disposal of received salary or income from entrepreneurship activity the minors at the age of fourteen to eighteen shall have the right to personally protect their rights and legal interests in court.

5. Minors emancipated for reasons stipulated by law shall acquire full capacity to sue from the moment of emancipation.

6. Court shall be entitled to involve at its discretion for participation in cases legal representatives of minors indicated in parts four and five of this article with the purpose of providing them with assistance.

Footnote. Article 46 as amended by Republic of Kazakhstan Law No. 49-VI dated 27.02.2017

Article 46. Rights and obligations of persons participating in case

1. Persons participating in a case shall be entitled to familiarize themselves with materials of the case, to take notes therefrom and to make copies; to announce disqualifications; to provide evidence and to participate in study thereof; to ask questions from other persons participating in a case, witnesses, experts and specialists; to file petitions including about taking of measures as to securing of lawsuit, as to ensuring of evidence, about demand for additional proofs, about application of reconciliation procedures; to give verbal and written explanations to court; to give own arguments concerning all issues arising in the course of judicial proceedings; raise objection against petitions and arguments of other persons participating in case; participate in legal pleadings; familiarize themselves with minutes of court hearing and file written notes concerning the minutes; appeal against decision s, rulings and resolutions of court; avail themselves of other procedural rights provided by the Republic of Kazakhstan legislation on civil legal proceedings. They shall avail themselves in good faith of all procedural rights belonging to them without abusing rights of other persons, without infringing their interests and not allowing intentional delay in consideration and settlement of case.

2. Persons participating in case shall announce to court actual circumstances of case completely and honestly, speak out or provide court with written documents refuting facts stated by the other party. Failure of persons participating in case to perform procedural obligations shall entail procedural consequences stipulated by this Law.

3. Parties participating in a corporate dispute shall be entitled to request from each other and from witnesses the documents, which are significant for case without listing each specific document.

Parties may not request from each other and from witnesses the documents containing state secrets or other secret protected by law.

4. Actions indicated in parts one and two of this article may be taken through filing applications and petitions, documents in writing or in electronic form.

Article 47. Parties

1. Claimant and defendant shall be the parties in civil legal proceedings.

Claimants shall be citizens and legal entities, which filed a lawsuit with the purpose of protecting their violated or disputed rights and liberties, legal interests, or for protection of which a lawsuit has been filed by other persons according to procedure stipulated by this Law.

Defendants shall be citizens and legal entities, to which a legal claim has been raised.

2. In cases stipulated by law the parties may be also organizations, which are not legal entities.

3. A person, for the benefit of whom a case has been initiated upon application of persons, who have the right to address court for protection of rights, liberties and interests of other persons protected by law, shall be notified by the court of initiated proceedings and shall participate therein as defendant.

4. The state may be a party to civil legal proceedings.

5. Parties shall have equal procedural rights and shall bear equal procedural obligations.

Article 48. Change of basis or subject of lawsuit, refusal from lawsuit, recognition of lawsuit, amicable agreement, dispute (conflict) settlement agreement as per mediation procedure or dispute settlement agreement as per participative procedure.

1. Claimant shall be entitled to change the basis or subject of lawsuit, increase or reduce extent of claim or refuse from lawsuit; defendant shall be entitled to recognize lawsuit, the parties may finalize the case with an amicable agreement or a dispute (conflict) settlement agreement as per mediation procedure or a dispute settlement agreement as per participative procedure according to rules stipulated by articles 169, 170, 171 and chapter 17 of this Law.

2. Court shall not be entitled to change subject or basis of lawsuit upon its initiative. Court shall not accept claimant's refusal from lawsuit, recognition of lawsuit by defendant and shall not approval amicable agreement of parties or agreement between parties on settlement of dispute (conflict) as per mediation procedure or agreement on settlement of dispute as per participative procedure if such actions contradict the law or violate anybody's rights, liberties and legal interests.

3. In case of change of basis or subject of lawsuit, increase or reduction of claim extent the period for case consideration shall be calculated from the date of submission of initial claim.

Article 49. Participation of several claimants and defendants in case

1. Law may be filed jointly by several claimants to one or to several defendants. Each of claimants or defendants shall act in relation to the other party independently in the course of proceedings. Parties may commission running of a case to one of co-claimants or co-defendants respectively on the basis of power of attorney.

2. Participation in a case of several claimants or defendants shall be allowed if:

1) subject of dispute are general rights and obligations of several claimants or several defendants;

2) rights and obligations of several claimants or several defendants shall have one basis;

3) homogeneous (identical) rights and obligations of several claimants or several defendants shall be the subject of dispute.

Article 50. Replacement of a wrong defendant

1. Replacement of defendant shall be allowed prior to consideration of case on merits in first instance court. Court having established that a lawsuit has been filed against a person, who shall not respond on the lawsuit, may upon defendant's petition without termination of the case allow replacement of a wrong defendant with a correct one. After replacement of a wrong defendant preparation of a case and consideration thereof in court proceedings shall be carried out from the very beginning. The period for case consideration shall be calculated from the date of completion of case preparation for legal proceedings.

2. If claimant does not agree with replacement of a wrong defendant with a correct defendant the court shall consider and settle the case on the basis of the filed lawsuit.

Article 51. Third parties claiming independent demands on the subject of dispute

1. Third parties claiming independent demands with respect to the subject of dispute may intervene in the proceedings before the case is fully prepared for trial by filling a claim to one or both parties. They shall enjoy all the rights and bear all the obligations of a plaintiff.

2. The court, when preparing a case for trial and having reliable data that the demands may affect the rights, freedoms and legitimate interests of the third parties, shall notify the said persons about the adoption of such a statement.

3. If the third party has not exercised the right to be involved in the case or to file an independent claim in the first instance court, the court shall consider and solve the case on the basis of the demand made by the plaintiff.

Article 52. Third parties not claiming independent demands with respect to the subject of dispute

Third parties not claiming independent demands with respect to the subject of dispute may intervene in the proceedings before the first instance court passes a judgment in the case, if it can affect their rights or obligations towards one of the parties on the side of a plaintiff or a defendant. They may be involved in the proceedings at the request of the parties and other persons involved in the proceedings, or at the initiative of the court.

The court, when preparing a case for trial and having reliable data that the demands may affect the rights, freedoms and legitimate interests of third parties, shall notify the said persons about the adoption of such a statement.

The court shall make a decision on intervention of a third party not claiming an independent demand with respect to the subject of dispute in the proceedings at the stage of preparing the case for trial, as indicated in the ruling on the preparation of the case for trial, or at the court hearing by the ruling, which is recorded in the court record.

Third parties not claiming independent demands shall enjoy procedural rights and bear procedural obligations of the party from which side they are involved in the proceedings. These persons shall not have the right to change the ground or subject of a claim, increase or decrease the amount of demands, waive a claim, acknowledge a claim, conclude a settlement agreement or an agreement on settlement of disputes (conflicts) in accordance with the mediation procedure or an agreement on settlement of disputes in accordance with the participatory procedure, file a counterclaim, demand the compulsory enforcement of court decision.

When a third party, not claiming independent demands, intervenes in the proceedings, the case shall remain ongoing and this party shall be given an opportunity to study the case file, including the explanations given earlier by the parties participating in the trial.

Article 53. Procedural legal succession

1. In the event that one of the parties leaves in case of contentious relationships or legal relationships established by the court (death of a party, reorganization, liquidation of a legal entity, assignment of demand, transfer of debt and other cases of substitution of parties in contentious material relationships), the court shall allow substitution of this party for its legal successor. The succession shall be possible at any stage of the proceedings.

2. All actions committed prior to the intervention of the successor in the proceedings shall be binding for him/her/it to the extent that they would be binding for the party replaced by the successor.

3. In the event that one of the parties leaves during the consideration of the case in the first instance court and the appellate court, the proceedings shall be suspended in accordance with subparagraph 1) of the first part of Article 272 of this Code.

4. In the event that one of the parties leaves at the stage of review of judicial acts in the cassation court, the request for review of the judicial acts of the leaving party and other parties participating in the proceedings shall be left without consideration. The request may be re-filed by the successor.

The objection is subject to be left without consideration, if it is brought at the request of the party that left the proceedings, another party involved in the proceedings, except in cases of objection initiated by the prosecutor.

5. Requests of a successor, prosecutor for the restoration of the period for appeal, protest of judicial acts shall be considered by the cassation court in the manner prescribed by this Code.

Footnote. Article 54 as amended by the Laws of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 54. Participation of a prosecutor in civil proceedings

1. On behalf of the state the General Prosecutor of the Republic of Kazakhstan both directly and through subordinate prosecutors shall carry out supreme supervision over the legality of judicial acts in civil matters that have entered into legal force.

2. The prosecutor shall have the right to enter the process to give an opinion on the case in order to fulfill the duties provided for by this Code.

Participation of the prosecutor in civil proceedings shall be mandatory in matters affecting the interests of the state, when it is necessary to protect public interests or interests of the citizens who cannot defend themselves, as well as when the need for the prosecutor's participation is recognized by the court.

These powers of a prosecutor shall be provided by timely notification of the prosecutor by the court about all cases assigned for consideration by posting relevant information on the court's Internet resource.

3. In accordance with the legislation, a prosecutor shall have the right to file a claim or application to the court for restoration of the violated rights and protection of the interests of the following persons:

1) persons who, due to physical, mental and other circumstances, are not able to independently protect themselves;

2) unlimited number of persons;

3) persons, society and state, if it is necessary to prevent irreversible consequences for life, health of people or security of the Republic of Kazakhstan.

3-1. In cases provided for in the third part of this Article, the statement of claim may be filed by the prosecutor to the court regardless of the request and statement of the person concerned.

4. If a plaintiff does not support the demands asserted by the prosecutor, the court shall leave the claim (application) without consideration, if it does not affect the rights, freedoms and legitimate interests of third parties.

5. The prosecutor who filed a claim shall enjoy all the procedural rights and bear all the procedural obligations of a plaintiff, except for the right to enter into a settlement agreement, an agreement on the settlement of dispute (conflict) in accordance with the mediation procedure and an agreement on the settlement of dispute in accordance with the participatory procedure. The prosecutor's abandonment of a claim (statement) filed to defend the interests of another person shall not deprive that person of the right to demand consideration of the case on the merits after paying a state fee in accordance with the requirements of the Code of the Republic of Kazakhstan «On Taxes and Other Obligatory Payments to the Budget» (the Tax Code).

6. The prosecutor, representing the interests of the prosecution authorities in the dispute brought before the court as a plaintiff or a defendant, shall enjoy the procedural rights and obligations of the party.

Article 55. Judicial recourse to protect rights of other persons, public and state interests

1. In cases stipulated by the law, state bodies and local self-government bodies, legal entities or citizens may apply to court in defense of the rights, freedoms and legitimate interests of other persons at their request, as well as public or state interests.

2. A claim to protect the interests of disabled citizens may be filed regardless of the request of the person concerned.

3. The persons who filed a claim to protect another person's interests shall enjoy all the procedural rights and bear all the procedural obligations of a plaintiff, except for the right to abandon a claim, conclude a settlement agreement or an agreement on settlement of disputes (conflicts) in accordance with the mediation procedure or an agreement on settlement of disputes in accordance with the participatory procedure.

4. If the person in whose interests the case is initiated does not support the stated demand, the court shall leave the claim (application) without consideration, if it does not affect the rights, freedoms and legitimate interests of third parties.

Article 56. Participation of state and local self-government bodies in providing an opinion on the case

1. In cases stipulated by the law, state bodies and local self-government bodies before finalization of the case consideration on their own merits may intervene in the proceedings at their own initiative, at the request of the persons participating in the case, and at the initiative of the court to give a written opinion on the case.

State bodies and local self-government bodies shall be sent the questions that require a conclusion.

2. Opinion shall be given in order to fulfill the obligations assigned to these bodies to protect the rights, freedoms and legitimate interests of citizens, public or state interests and within the competence of a state or local self-government body and shall be entered into the case file.

Opinion of state bodies, local self-government bodies shall not have a predetermined force. The court's disagreement with the opinion should be indicated in the court decision.

3. The bodies specified in this Article through their representatives shall enjoy all the rights of persons participating in the case, as provided for in Article 46 of this Code.

Chapter 6. REPRESENTATION IN COURT

Article 57. Conduct of a case by representatives

Citizens shall have the right to conduct their cases in court in person or through representatives. Personal participation in the case shall not deprive a citizen of the right to have a representative in this case.

Cases of legal entities shall be conducted in court by their leaders, acting within the limits of authorities granted to them by the law, other regulatory legal acts or constituent documents, and (or) their representatives. Head of a legal entity shall submit to the court documents confirming his/her official position or authority.

Any legally capable person may be a representative in court in accordance with part three of this Article if he/she has duly established authorities to conduct a case in court, based on a Power of Attorney, legislation of the Republic of Kazakhstan, a court decision or an administrative act.

3. Representatives of the persons, specified in the first and second parts of this Article are:

1) in the first instance courts and appellate courts, the persons indicated in the first part of Article 58 of this Code;

2) in the cassation court, the persons referred to in subparagraphs 1), 2), 3), 4) and 6) of the first part of Article 58 of this Code.

Article 58. Representation under instructions

1. The following persons can be representatives under instructions in court:

1) lawyers;

Footnote. Subparagraph 2) is provided as amended by the Law of the Republic of Kazakhstan dated No. 177-VI June 5, 2018

2) employees of legal entities - with regard to the cases of these legal entities, and state bodies - with regard to the cases of these state bodies and their territorial subdivisions;

3) authorized representatives of trade unions - with regard to the cases of workers, employees, as well as other persons whose rights and interests are protected by these trade unions;

4) authorized organizations that are entitled by the law, charter or regulation to protect the rights and interests of the members of these organizations, as well as the rights and interests of other persons;

5) one of the participants under instructions of other co-participants;

Footnote. Subparagraph 6) is provided as amended by the Law of the Republic of Kazakhstan No. 177-VI dated June 5, 2018

6) other persons with a higher legal education, admitted by the court at the request of the persons participating in the case.

2. The procedural powers of the representative shall be confirmed by a duly executed Power of Attorney.

Footnote. Part 3 is provided as amended by the Law of the Republic of Kazakhstan No. 177-VI dated June 5, 2018 (shall be enforced since January 1, 2019)

3. In accordance with the warrant, a lawyer shall have the right to perform the necessary procedural actions in case of representation, with the exception of the actions listed in Article 60 of this Code. The right to perform each of them should be specified in the Power of Attorney.

Article 59. Persons who cannot be representatives in court

1. Judges, investigators, prosecutors and members of the Parliament of the Republic of Kazakhstan or local representative bodies cannot be representatives in court, unless they participate in the proceedings as the representatives of relevant organizations or legal representatives.

Footnote. Paragraph 2 is provided as amended by the Law of the Republic of Kazakhstan No. 177-VI dated June 5, 2018

2. Representatives under instructions in court cannot be the lawyers who have accepted instructions for the provision of legal assistance in violation of requirements of the legislation of the Republic of Kazakhstan on advocacy.

3. A person cannot be a representative under instructions if:

1) in this case he/she provides or has previously provided legal assistance to the persons whose interests are contrary to the interests of the person represented;

2) he/she earlier during consideration and adjudgment of the case participated as a judge, prosecutor, expert, specialist, translator, witness, or attesting witness;

3) he/she is a relative of another party or a third party, judge, prosecutor, secretary of judicial session, expert who gave an opinion on the case, specialist, translator;

4) due to mental health or age, and for other reasons, he/she is not independently able to exercise representation.

4. Representatives under instructions listed in the first, second and third parts of this Article shall be excluded from participation in the case by the court at the request of the person participating in the case, or at the initiative of the court. The court shall render a determination about this, which shall be recorded in the court record.

5. When representatives under instructions are dismissed of their participation in the case, the court shall postpone the proceedings for a period necessary for formalizing the powers of another representative and his/her familiarization with the case materials, but not more than five working days.

Footnote. Article 60 as amended by the Law of the Republic of Kazakhstan No. 177-VI dated June 5, 2018

Article 60. Powers of a representative

1. Representative under instructions shall have the right on behalf of the represented person to represent all procedural actions provided for in this Code, except for signing a claim, transferring a case to the arbitration court, concluding a settlement agreement, agreement on settlement of dispute (conflict) in accordance with the mediation procedure or an agreement on settlement of dispute in accordance with the participatory procedure, full or partial abandonment of a claim or adoption of a claim, increasing or decreasing the subject of a claim, changing the subject or basis of a claim, transferring authorities to another person (trust); appealing a judicial act in accordance with the appellate, cassation procedure, filing an application for revising the judicial act upon

newly discovered evidence or new circumstances, demanding compulsory execution of a judicial act, receiving an adjudged property, refusing to admit an appellate complaint, request.

2. Representative under instructions, specified in subparagraph 1) of the first part of Article 58 of this Code, along with the rights provided for in the first part of this Article, shall have the right to request certificates or other documents from the state bodies, public associations, legal entities, as well as to perform other actions for the provision of legal assistance in the manner prescribed by the legislation of the Republic of Kazakhstan on advocacy and legal assistance.

3. Representative's powers to perform each of the procedural actions referred to in the first part of this Article shall be specifically provided for in the Power of Attorney issued by the person represented.

Footnote. Article 61 as amended by the Law of the Republic of Kazakhstan No. 177-VI dated June 5, 2018

Article 61. Registration of representative's powers

1. The representative's powers shall be expressed in a Power of Attorney issued and executed in accordance with the law.

The Power of Attorney shall be submitted to the court in writing or in the form of an electronic document certified by a digital signature of the principal.

2. Authorized persons of the trade unions and other organizations in accordance with subparagraphs 3), 4) of the first part of Article 58 of this Code should submit to the court the documents certifying instructions for implementation of representation in this case.

Footnote. Paragraph 3 is provided as amended by the Law of the Republic of Kazakhstan No. 177-VI dated June 5, 2018 (shall be enforced since January 1, 2019)

Footnote. Sub-paragraph 1 of the part 3 shall be in force up to January 1, 2019 in accordance with the Law of the Republic of Kazakhstan No. 177-VI dated June 5, 2018

3. The lawyer's powers to conduct a particular case shall be certified by a warrant issued in the manner prescribed by the Law of the Republic of Kazakhstan «About Lawyer Activities».

Fulfillment by a lawyer of the procedural actions provided for in the first paragraph of Article 60 of this Code shall be certified by a Power of Attorney.

4. The Power of Attorney on behalf of the legal entity shall be issued by the head or other authorized person of the relevant legal entity.

Footnote. Paragraph 5 as amended by the Law of the Republic of Kazakhstan No. 177-VI dated June 5, 2018.

5. The representatives' powers referred to in subparagraphs 5) and 6) of the first part of Article 58 of this Code may be expressed in the Power of Attorney or in case of personal participation in the court hearing in an oral statement of the principal recorded in the court record. The representative indicated in subparagraph 6) of the first part of Article 58 of this Code shall submit a certified copy of a diploma of higher legal education.

Article 62. Legal representatives

1. Rights, freedoms and legitimate interests of legally incapable citizens, minors and persons recognized as legally restricted shall be protected in court by their parents, adoptive parents, caretakers, trustees, foster parents, or other persons replacing them, who submit documents to the court certifying their authority.

2. As for the case in which a citizen recognized to be missing in the prescribed manner should participate, a person having a custody over the missing person shall have the right to be his/her representative.

3. As for the case in which a heir of the person who has died or declared dead in accordance with the law, taking into account that his/her inheritance has not yet been accepted by anyone, a

person to whom hereditary property has been transferred into trust management shall be a representative of the heir.

4. Legal representatives shall perform on behalf of the represented person all the procedural actions, for which the represented person has the right, with the restrictions provided for by the law. Legal representatives may entrust the conduct of the case in court to another representative.

The legal representative of a minor, person, recognized to be incapable in a judicial proceeding, or a person recognized in court as missing, shall perform in the interests of the represented person all the procedural actions when dealing with disputes involving the property of the ward.

The legal representative of a minor, a person recognized to be partially incapacitated, shall independently perform all procedural actions in the course of proceeding on cases the subject of which are the obligations derived from the scope of limited rights. In other disputes, a partially incapacitated person shall perform procedural actions and bear independent procedural obligations.

5. Legal representatives and representatives under instructions shall have no rights to perform procedural actions in their own interests or contrary to the interests of the represented person.

Chapter 7. EVIDENCE AND PROOF

Article 63. Evidence

1. Evidence in the case shall be a legally obtained information about the facts on the basis of which the court establishes the presence or absence of circumstances substantiating the demands and objections of the parties, as well as other circumstances that are important for correct consideration and adjudgement of the case.

2. Information about the facts can be obtained from the explanations of the parties and third parties, testimonies of witnesses, expert opinions, material evidence, minutes of proceedings, court records, audio, video, data obtained by using video conferencing systems, reflecting the progress and results of the legal proceedings and other sources.

Article 64. Relevance of evidence

Evidence shall be recognized by the court as relevant if it contains information about the facts that confirm, refute or call into question the existence of circumstances relevant to the case.

Article 65. Admissibility of evidence

1. Evidence shall be recognized by the court as admissible if it is obtained in the manner provided for by this Code.

2. Audio and video recordings, including those obtained by observation and/or fixation devices, photo and/or filming materials, other materials on electronic, digital and other material media may be recognized as admissible evidence.

3. Facts of the case, which by the law should be supported by certain evidence, cannot be supported by any other evidence.

Article 66. Information in admissible as evidence

1. Information about facts shall be recognized by the court as inadmissible as evidence if it is obtained with violations of the requirements of this Code by depriving or limiting the rights of the persons involved in the case, who have influenced or could have affected the accuracy of information received about the facts, including:

1) use of violence, threats, deception, as well as other illegal actions;

2) by misleading a person participating in the case regarding his/her rights and obligations arising from the lack of explanation, incomplete or incorrect explanation to this person;

3) in connection with the procedural actions conducted by a person who has no right to conduct the procedural actions in this civil case;

4) in connection with participation in the procedural actions of the person subject to disqualification;

5) with a significant violation of the procedure for conduct of a procedural action;

6) from an unknown source or from a source that cannot be established at the court hearing;

7) use of methods contradicting modern scientific knowledge in the course of proving;

8) by making special or changing the content in order to substantiate or refute the arguments of a party or other persons involved in the case.

2. Inadmissibility of using information as evidence in the proceedings shall be established at the discretion of the court or at the request of the persons involved in the case.

3. The evidence obtained in violation of the law shall be deemed to have no legal force and cannot be used as a basis for a court decision, as well as cannot be used in proving any circumstance relevant to the case. Such evidence can be used in proving the fact of violations and guilt of the persons who committed them.

4. In the event that the dispute (conflict) is not resolved in accordance with the mediation procedure, the evidence obtained by the judge during mediation in court cannot be presented to them by the judge who is handling the case.

Article 67. Credibility of evidence

The evidence shall be considered as reliable if, as the result of verification, it turns out that it is true.

Article 68. Evaluation of evidence

1. Each evidence shall be assessed taking into account relevance, admissibility, reliability, and all collected evidence in aggregate - taking into account sufficiency for the resolution of a civil case.

2. In accordance with Article 16 of this Code, a judge shall evaluate the evidence according to his or her inner conviction.

3. Circumstances shall be deemed to be established if one party does not dispute and acknowledges the evidence submitted by the other party or disputing the evidence shall not directly follow from the objection of a defendant or from a plaintiff’s objection to the arguments of the defendant.

4. In the event of an application for fraud of the evidence submitted by the other party, the person who made such a statement shall be obliged to indicate the evidence of falsification of the evidence.

If the person who submitted the evidence recognizes the statement about fraud as justified, the court shall exclude the evidence from the number of admissible and resolve the case based on other evidence.

5. Circumstances cannot be considered as established if only copies of documents are presented in confirmation, when the need to present the original follows from the requirements of the law.

The court also cannot consider as proved the circumstances, confirmed only by a copy of the document or other written evidence when challenging its content, if:

1) the original document has been lost and not submitted to the court;

2) copies of this document submitted by each of the parties to the dispute are not identical with each other;

3) it is impossible to establish the contents of the original document with the help of other evidence.

6. Cumulative evidence shall be deemed sufficient to resolve a civil case if the relevant admissible and reliable evidence relating to the case is collected, indisputably confirming the circumstances relevant to the case and not disproved by the other party.

Article 69. Securing of evidence

1. The persons involved in the proceedings and having a reason to fear that the submission of the evidence necessary for them will subsequently become impossible or difficult may ask the court to secure this evidence.

2. Securing of evidence by the court shall be carried out by questioning witnesses, appointing and carrying out expert examination, examining evidence at the places where it is stored, sending a court order and in other ways.

Securing of evidence prior to the initiation of proceedings in court shall be carried out in the manner prescribed by the legislation of the Republic of Kazakhstan on notariate.

Footnote. Article 70 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated July 11, 2018

Article 70. Application on securing of evidence

1. Application on securing of evidence shall be brought to the court in which the case is located.

2. Application on security of evidence should indicate the evidence that should be provided, circumstances of the case, to confirm or refute which such evidence is necessary, information confirming that it is difficult to present the necessary evidence. The application should indicate the case in which it is necessary to provide evidence, the presentation of which was refused.

3. Based on the results of consideration of the application on security of evidence, the court shall make a decision, according to which it shall take procedural actions to secure evidence or refuse it. A private complaint may be submitted to determination; request by the prosecutor shall be brought to the appellate court, the decision of which is final and not subject to revision. With the private complaint, the prosecutor’s request to the appellate court separated from the case material concerning the decision made is sent.

Article 71. Procedure for securing evidence

1. The judge shall secure the evidence during preparation of the case for trial or during consideration of the case in the first instance court no later than three working days from the date of receipt of the application.

2. The applicant and other persons involved in the case shall be notified of the time and place of securing the evidence, but their non-appearance shall not be an obstacle for the court to perform a separate procedural action to secure evidence.

3. The records and all the evidence collected in order to secure evidence shall be submitted to the court considering the case, with notification of the persons involved in the case.

Article 72. Evidential burden of proof

1. Each party shall prove the circumstances to which it refers according to the grounds of their claims and objections, use remedies, assert and dispute facts, present evidence and objections against the evidence in a timeframe set by the judge, which corresponds to the timely conduct of the proceedings and shall be submitted to ensure the proceedings.

2. Burden of evidence in cases specified in Chapter 29 of this Code shall be imposed on the state authorities, local self-government bodies, public associations, organizations, officials and state employees whose acts, and actions (inaction) are appealed.

Article 73. Presentation of evidence

1. Evidence shall be presented by the parties and other persons involved in the case to the first instance court at the stage of pre-trial preparation of the case.

Evidence may be presented at the trial stage if the impossibility of presenting at the stage of pre-trial preparation will be justified by the persons who presented the evidence.

In the case provided for by the second part of Article 404 of this Code, evidence may be presented to the appellate court.

Failure to submit to the court the available evidence by the parties shall exclude the possibility of submitting this evidence to the appellate and cassation courts.

2. Circumstances important for the correct resolution of the case shall be determined by the court on the basis of the demands and objections of the parties and other persons involved in the case, taking into account the norms of substantive and procedural law to be applied. A person shall have the right to refer only to the evidence that was disclosed during the pre-trial preparation of the case or during the trial in cases specified in the first part of this Article.

3. The court shall have the right to offer the parties and other persons involved in the case to present the additional evidence necessary for the proper resolution of the case.

4. In case if it is difficult to the parties and other persons involved in the case to present the evidence, the first instance court upon their request shall assist them in obtaining the evidence.

Request for rendering assistance in obtaining the evidence necessary for a party, which was left without satisfaction by the first instance court, may be submitted to the appellate court as an appeal petition or during the court hearing.

5. Request for assistance in obtaining evidence shall indicate the evidence and circumstances relevant to the case that can be established or refuted by this evidence, the reasons that prevent obtaining the evidence independently, as well as its location.

6. If necessary, the court shall issue to the person involved in the case an inquiry for obtaining evidence. The person who has the evidence sought by the court shall send it directly to the court or hand it over to the person who has the relevant request of the court to present the evidence to the court. Evidence on corporate disputes shall be sought only by the court and sent directly to the court.

7. In case of failure to notify the court of the reasons for the failure to submit the requested evidence, as well as failure to submit the evidence within the time limit established by the court for reasons deemed disrespectful by the court, guilty officials or other persons not involved in the case shall be subject to administrative offenses in accordance with the Code of the Republic of Kazakhstan on Administrative Offenses according to the rules established by Chapter 9 of this Code.

8. Imposition of an administrative penalty shall not relieve the person holding the evidence requested by the court from the obligation to submit it to the court. In the event of malicious failure to comply with the requirements of the court, these persons shall be criminally responsible.

9. If a party retains the evidence requested by the court and does not submit it at the request of the court within the time limit established by the court, it shall be assumed that the information contained in it is directed against the interests of this party and shall be considered as recognized by it.

10. The parties to the arbitration proceedings with the consent of the arbitration may apply to the court for assistance in obtaining evidence, which is considered in accordance with the first paragraph of part four of this Article.

Footnote. Article 74 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated July 11, 2018

Article 74. Court orders

1. The court hearing the case, in case of satisfying the request of the person involved in the case, about the need to secure (collecting, examination) evidence from another city or region, shall instruct the relevant court to take certain procedural actions.

2. The court hearing the case, in case of satisfying the requests of the persons involved in the case, about the need to secure (collecting, examination) evidence from another state with which the Republic of Kazakhstan has an agreement on the provision of legal assistance in civil matters, shall send a court order in accordance with the provisions of this contract.

3. Court order ruling shall briefly outline the substance of the instant case, information about the parties, circumstances to be investigated, and evidence that should be collected by the court executing the order. This definition shall be mandatory for the court to which it is addressed. The court order ruling shall not be subject to appeal, revision at the request of the prosecutor.

Article 75. Procedure for execution of court order

1. Court order shall be executed during the court hearing according to the rules established by this Code. The persons involved in the case shall be notified of the time and place of the court hearing, but their non-appearance shall not be the obstacle to execution of the order.

2. Court order shall be executed by the court to which it is addressed, within a month from the date of its receipt.

3. The records and all materials collected during execution of the court order shall be immediately sent to the court hearing the case.

4. If the persons participating in the case, or the witnesses, who gave explanations or testimony to the court that carried out the order, appear in the court hearing the case, they shall give explanations and testimony in a general manner.

Article 76. Grounds to release from proving

1. The circumstances recognized by the court as publicly available shall not need to be proved.

Publicly available circumstances shall be the circumstances that are not part of the circumstances in proof because they are widely known in a particular area, including to the court and the persons involved in the case.

2. Circumstances established by the court decision that has entered into legal force or by the court ruling on a previously considered civil case shall be binding for the court. Such circumstances shall not be proved again in the proceedings of other civil cases in which the same persons are involved.

3. The court sentence in the criminal case that has entered into legal force, recognizing the right to satisfy a claim, shall be binding for the court hearing the case on the civil law consequences of the person’s actions against whom the court sentence has been pronounced. The court sentence that has entered into legal force shall be binding for the court hearing such a civil case, also regarding the issues whether there have taken place such acts and whether they have been committed by this person, as well as in relation to other circumstances established by the sentence and their legal evaluation.

4. Civil legal consequences of the act committed by a person exempted from criminal liability on the grounds provided for in subparagraphs 3), 4), 9), 10), 11) and 12) of the first part of Article 35 and Article 36 of the Criminal Procedure Code of the Republic of Kazakhstan shall not be proved again in case of a claim under civil legal proceedings.

5. The guilt of a person in committing an administrative offense, established by the court decision that has entered into legal force in the case of an administrative offense, shall not be proved again in the case of civil law consequences of the same offense committed by this person.

6. The facts that, according to the law, shall be deemed to be established, shall not be proved in the civil proceedings.

7. Circumstances shall also be deemed as established without evidence, unless the contrary is proved in the framework of due process of law:

1) correctness of research methods generally accepted in modern science, engineering, art, craft;

2) knowledge of the law by the person;

3) knowledge of official and professional obligations by the person;

4) lack of specialized training or education, the person failed to submit documents confirming passing of the training course or having education and not indicated the educational institution or other institution where he/she received specialized training or education.

Article 77. Involvement of experts for participation in legal proceedings

1. The court can involve a full-aged person with special knowledge, not interested in the outcome of the case, to participate in the court hearing or procedural actions in order to assist in collection, examination and evaluation of evidence by giving advice (clarification) and providing assistance in application of scientific and technical means.

The court also shall have the right to involve experts at the request of the party. The persons involved in the case may request the court to involve a particular person with special knowledge as a specialist.

2. Appointment of an expert during the court hearing shall be indicated in the ruling on the preparation of the case for trial, and during the court hearing- in the court record.

3. The person involved as an expert shall have the right to: know the purpose of his/her involvement; refuse to participate in the proceedings if he/she does not possess the relevant special knowledge and skills; to pose questions to the participants of the procedural actions with the permission of the court; to draw attention of the participants of the procedural actions to the circumstances related to his/her actions in assisting collection, examination and evaluation of evidence when applying scientific and technical means and preparing materials for commissioning of expert evidence; get acquainted with the protocol of the procedural actions in which he/she took part, as well as the relevant part with the court records and make statements and comments to be recorded in the court records regarding the completeness and correctness of the recording of the course and results of actions taken with his/her participation; receive reimbursement of expenses incurred by him/her in connection with participation in the procedural actions, and receive remuneration for the work performed, if participation in the proceedings is not part of his/her official duties.

4. The person appointed by the expert should: appear at the call of the court; participate in the procedural actions and legal proceedings, use special knowledge, skills, scientific and technical means; give advice; give explanations about the actions he/she performs. The expert conclusion on all issues that arise should be submitted to the court in writing.

5. Participation of a teacher and/or a psychologist shall be binding when during the procedural actions it is necessary to determine the opinion of a minor child that has reached the age of ten years on the subject of dispute.

6. A teacher and (or) a psychologist shall have the right to get acquainted with the materials of the civil case characterizing the personality of a minor, prior to the beginning of the examination, with the permission of the presiding judge, to ask the minor some questions for

clarification of his/her opinion on the subject of the dispute, and when the procedural action is over to reflect his/her participation in the court hearing.

7. Examination of a child over ten years old shall be carried out with the participation of a teacher and/or a psychologist. At the time of the child's examination, his/her legal representatives may be removed from the courtroom according to the protocol-related court decision. After the return of legal representatives to the courtroom, they should be informed of the content of the child's opinion and given the opportunity to ask him/her questions. After finding out the child's opinion on the subject of the dispute, the child shall be removed from the courtroom.

8. When considering investment disputes, the court shall have the right to request the opinion of experts of the International Council at the Supreme Court of the Republic of Kazakhstan.

Article 78. Scientific and technical means in the process of proving

1. Scientific and technical means in the process of proving in the case can be used by the court, parties, as well as an expert and specialist in the performance of their procedural duties provided for by this Code.

2. An expert may be invited by the court to assist in the use of scientific and technical means.

3. The use of scientific and technical means shall be recognized as admissible if:

1) it is expressly provided for by the law or does not contradict its norms and principles;

2) scientifically sound;

3) ensures the proceedings efficiency;

4) safe.

4. The results of covert application of scientific and technical means may not be used as evidence in the civil proceedings, unless this application is permitted by the law and (or) this evidence is recognized and not contested by the party against whom they are directed.

5. The use of scientific and technical means shall be recorded in the certificate submitted by a party, or the record of the relevant procedural actions, or the court hearing record. Certificate or record shall indicate the name of the scientific and technical means, conditions and order of their use, the objects to which these means were applied, and the results of their use.

6. Examination, storage of documents and other materials obtained using scientific and technical means, and their use shall be carried out in the manner provided for in Articles 96 and 98 of this Code.

Article 79. Explanations of persons involved in the case

1. Explanations of the persons involved in the case about the circumstances known to them that are relevant to the case shall be subject to investigation and evaluation along with other gathered evidence.

Explanations of these persons may be oral and written.

2. Recognition of the facts by a party upon which the other party bases its claims or objections shall release the latter party from the need to further prove these facts. The recognition of the fact by the party shall be entered in the court record. If the recognition of the fact is set forth in a written statement, it shall be attached to the case.

3. The court shall not accept the recognition of facts if there are doubts that it has been committed with the aim of concealing the actual circumstances of the case or under the influence of fraud, violence, threat or delusion, as indicated in the court decision. In this case, these facts shall be subject to proof on a general basis.

Article 80. Testimony

1. Any person who knows any information about the circumstances relevant to the case may be a witness. The testimony of a person shall not be deemed as proof if the person cannot specify the source of information.

2. The person requesting to call a witness should inform the court of his/her last name, first name, patronymic and place of residence or place of work, and justify the need to examine this witness.

3. The following persons are not subject to be examined as a witness:

1) persons who, due to their young age, physical or mental disabilities, are not able to correctly perceive facts and provide accurate testimony about them, except for cases involving disputes on raising children;

2) representatives in the civil case or representatives, criminal defence lawyers, administrative lawyers - about the circumstances that became known to them in connection with performance of the duties of a representative or a lawyer;

3) judge - about the issues that arose in the conference room during discussion of the case circumstances when making a decision or sentence;

4) arbitrator, juror - about the circumstances that became known to them in connection with performance of their duties;

5) mediator, judge who conducted the mediation procedure - about the circumstances that became known to them in connection with the conduct of the mediation procedure, except in cases provided for by the law;

6) clergymen - about the circumstances that became known to them from the persons who trusted them during confession;

7) other persons specified in the law.

4. A person shall have the right to refuse to testify in court against himself/herself, his/her wife/husband and close relatives, as defined by the law.

Article 81. Obligations and rights of witness

1. A person summoned to the court as a witness shall be obliged to appear in court at the appointed time and give truthful testimony.

2. Witness may be questioned by the court at his/her place of residence if, due to illness, old age, disability or other valid reasons, he/she is unable to appear in court.

3. For giving a false testimony and refusing to give testimony on the grounds not provided by the law, the witness shall be liable under the Criminal Code of the Republic of Kazakhstan.

4. Witness shall have the right for reimbursement of expenses related to summons and receive monetary compensation in connection with the loss of time. The amount of expenses and compensation shall be determined by the budget legislation of the Republic of Kazakhstan.

Footnote. Article 82 as amended by the Law of the Republic of Kazakhstan No. 45-VI dated February 10, 2017 (shall be enforced upon expiry of one year from the date of entry into force of this Law), No. 177-VI, dated July 11, 2018 (shall be enforced upon expiry of one year from the date of entry into force of this Law).

Article 82. Commissioning of a forensic examination

1. Forensic examination shall be appointed in cases where circumstances relevant to the case can be established as a result of the study of the objects, conducted by an expert on the basis of special scientific knowledge. Possession of such knowledge by other persons involved in the civil proceedings shall not exempt the court from the need to appoint an examination in appropriate cases.

2. The presence in the case of certificates of audits, inspections, findings of departmental inspections, as well as written consultations of experts, reports of valuers shall not replace the

expert's opinion and shall not exclude the possibility of commissioning of a forensic examination on the same issues.

3. The court shall force commissioning of a forensic examination at the request of a party or at its own initiative.

4. At the request of a party and other persons involved in the case, about falsification of written evidence, the court shall have the right to appoint a relevant examination.

5. A person not interested in the case and having special scientific knowledge may be summoned as an expert. Commissioning of a forensic examination may be entrusted to:

1) employees of the forensic bodies;

2) individuals engaged in forensic activities on the basis of a license;

3) in a single order to other persons with special scientific knowledge, in accordance with the requirements of the Law of the Republic of Kazakhstan «On Forensic Expert Activity».

6. The persons involved in the case may request the court to assign a forensic examination to a specific person who has the necessary special scientific knowledge.

The court order to summon a person who is entrusted to conduct examination in a one-time procedure shall be obligatory for the head of the organization where the person works.

7. Each person involved in the case shall have the right to submit to the court questions that should be put to the expert. Finally, the range of questions on which the expert should give an opinion shall be determined by the court. The court is obliged to motivate the rejection of the proposed questions in the determination of commissioning of a forensic examination.

8. If a party refuses to participate in the expertise or puts obstacles in its conduct (does not appear for examination, does not provide the experts with materials necessary for examination, does not provide opportunities for examination of objects belonging to him/her that are impossible or difficult to submit to the court), but due to circumstances without the participation of this party, it is impossible to conduct an examination, the court, depending on the fact which party evades the examination, shall have the right to admit the fact for which the examination was appointed as established or refuted.

9. The court shall make a decision on commissioning of the examination, explain to the expert the rights and obligations provided for in Article 91 of this Code, and warn about criminal liability for giving a false testimony.

Determination of commissioning of a forensic examination shall include: name of the court; time, location of the examination; name of the parties involved in the case; type of examination; grounds for commissioning of an examination; questions posed to experts; case materials and objects sent for examination, and information about their origin; permission for possible complete or partial destruction of objects, changing their appearance or basic properties during the examination; name of the examination body and (or) name of the person who is entrusted the carry outa forensic examination in a one-time procedure; name of the party that should pay for it. The court ruling on the commissioning of a forensic examination shall be binding for the authorities or persons to whom it is addressed, and is within their competence.

The examination shall be carried out in the terms established by the Law of the Republic of Kazakhstan «On Forensic Expert Activity» dated February 10, 2017. The definition of commissioning of an examination shall not be subject to appeal and review at the request of the prosecutor. Arguments of disagreement with the definition can be included in the appeal, request of the prosecutor.

Article 83. Obtaining of samples

1. Judge shall be entitled to obtain the necessary samples for examination, which reflect the properties of a living person, corpse, animal, substances and materials, for the expert examination

in order to establish the circumstances that are important for the proper consideration and resolution of the case.

Samples shall also include samples of materials, substances, raw materials, finished products.

2. Reasoned determination on obtaining samples shall be made, which indicates: the person who will obtain samples; the person (organization) from whom samples should be obtained; which samples and in what quantity should be obtained; when and to whom the person should come to obtain samples; when and to whom samples should be submitted after they are obtained.

3. Samples can be obtained by the judge personally, and, if necessary, with the participation of an expert, if this does not involve exposing a person of the opposite sex from whom the samples are taken, and does not require special professional skills. In other cases, samples may be obtained by an expert on the instructions of the judge.

4. Samples can be obtained from the parties, as well as from the third parties.

5. Expert on behalf of the judge shall take the necessary actions and obtain samples. Samples shall be packed and sealed, and then sent to the judge along with an official document drawn up by an expert.

6. In cases where the obtainment of samples is part of an expert study, the specialist can carry out the obtainment of samples.

7. Protocol for obtaining samples shall describe the actions taken to obtain samples, sequence of actions, scientific and research methods and other methods and procedures applied, as well as the samples themselves, conditions for their packaging and storage.

Article 84. Samples obtaining by a specialist or an expert from a living person

1. Judge shall send to a specialist a person from whom samples should be obtained, as well as the definition with the appropriate instruction. The definition should indicate the rights and obligations of all participants in these procedural actions.

2. Expert on the instructions of the judge shall take the necessary actions and receive the samples required for the forensic study. Samples shall be packed and sealed, and then sent to the judge along with the official document drawn up by the expert.

3. After conducting the study, the expert shall attach the samples to his/her opinion in a packaged and sealed form.

4. In the process of studying by an expert, experimental samples can be made, and he/she should report about it in the conclusion.

5. If samples are obtained on the instructions of the judge by a specialist or an expert, he/she shall draw up an official document, which shall be signed by all participants in the procedural actions and transferred to the judge for inclusion in the case file.

The received samples in the packed and sealed form shall be attached to the case file.

Article 85. Obtaining handwriting samples for comparative studies

1. In case of an appeal against the authenticity of a person’s signature in the document on whose behalf it is executed, the court is entitled to receive handwriting samples and signature from that person for comparative studies.

2. The court shall make a decision on receipt of handwriting samples and signature from the person that is recorded in the court record.

A person’s failure to submit handwriting and signature samples for a comparative study shall be regarded as recognition by the person of the circumstances to which the party refers in support of its claims or objections.

Handwriting samples and signatures shall be obtained at the court hearing that is reflected in the court record.

Article 86. Protection of rights of the individual upon obtainment of samples

1. Methods, scientific and technical means of obtaining samples should be safe for human life and health.

2. The use of complex medical procedures or methods that cause pain or possible negative health effects shall be allowed only after explaining such effects to the person and only with the written consent of the person from whom the samples should be obtained, and if he/she has not reached the full age or has a mental illness, then samples should be obtained with the consent of its legal representatives.

Footnote. Article 87 as amended by the Law of the Republic of Kazakhstan dated February 10, 2017 No. 45-VI (shall be enforced upon expiry of one year from the date of entry into force of this Law).

Article 87. Examination procedure

1. Examination shall be carried out in the court or out of court, depending on the nature of the examination or impossibility or difficulty of delivering the objects for investigation at the court hearing.

2. During the examination carried out with the permission of the court that ordered the examination, the objects may be damaged or used only to the extent necessary for conducting examination and giving an opinion. The specified permission should be contained in the definition on commissioning of a forensic examination or in a reasoned definition on satisfaction of a forensic expert request or on a partial refusal of the satisfaction.

3. Reliability and admissibility of the expert study objects shall be guaranteed by the court.

4. Objects of the expert study, if their dimensions and properties allow it, shall be transferred to the expert in a packaged and sealed form. In other cases, the court that appointed the examination should ensure the transfer of the expert to the location of the objects of study, unimpeded access to them and the conditions necessary for conducting the study.

5. Persons involved in the case shall have the right to be present during the examination, unless such presence during the examination outside the court may interfere with the normal work of the experts. When the court satisfies the request for the presence during the examination of the persons involved in the case, the said persons shall be notified of the place and time of the examination. Failure to notify persons shall not preclude carrying out the examination.

If the persons involved in the case are present during the examination out of court, the mandatory participation of the bailiff shall be determined by the court.

7. When instructing a forensic examination body to carry out the examination, the court shall send the decision on appointment of the examination and necessary materials to its supervisor. Examination is carried out by the employee of the forensic examination body that is specified in the definition. If a particular expert in the definition on commissioning of an examination is not specified, the choice is made by the head of the forensic examination body. The head should inform about it the court that appointed the examination.

8. The head of the forensic examination body is entitled:

1) having specified the motives, to return to the court without execution the definition on commissioning of an examination, the objects presented for its production in cases if: there is no expert in the forensic examination body with the necessary specialized scientific knowledge; the material and technical base and conditions of this body do not allow solving specific expert tasks; the questions posed to the expert go beyond his/her competence; materials for examination are presented in violation of the requirements provided for by this Code;

2) to request for inclusion in the judicial experts commission of the persons who do not work in this forensic examination body, if their special scientific knowledge is necessary for giving an opinion;

3) to submit to the court that appointed the forensic examination, a motivated application for the extension of the period of the forensic examination.

The head of the forensic examination body shall also have other rights provided for by the Law of the Republic of Kazakhstan «On Forensic Expert Activity».

9. The head of the forensic examination body should:

1) upon receipt of the definition on commissioning of a forensic examination and objects of research, entrust the production to a specific forensic expert or a commission of the forensic experts of the given forensic examination body, taking into account the requirements of the law;

2) without violating the principle of independence of a forensic expert, to ensure control over the observance of the period for conducting a forensic examination, comprehensiveness, completeness and objectivity of the study conducted, preservation of forensic examination objects;

3) not disclose information that became known to him/her in connection with the organization of a forensic examination.

10. If the examination is supposed to be entrusted to a person who is not an employee of the forensic examination body, the court, before deciding on the commissioning, should verify its identity and the absence of grounds for challenging the expert, provided for in Article 39 of this Code.

11. Reimbursement of expenses related to the examination, as well as the remuneration of the expert shall be made according to the rules established by Articles 110 and 111 of this Code.

Article 88. Sole and single-discipline expert panel

1. Expert examination shall be performed by the single expert or expert panel.

2. Single-discipline expert panel shall be appointed if complex expert investigations are required, and shall be performed by at least two experts of one specialty.

3. Each forensic expert shall conduct legal forensic investigation independently to the full extent in case of single-discipline expert panel. Members of expert panel shall analyze received results and having reached a consensus, shall sign a conclusion or message on impossibility to provide a conclusion. In the event of differences between the experts, each of them shall provide a separate conclusion, or expert, which conclusion is different from conclusions of other members, shall form it in the conclusion separately.

4. Court decision on single-discipline expert panel shall be binding on chief of legal expertise authority. Chief of legal expertise authority shall be entitled to make an independent decision on single-discipline expert panel according to submitted materials and to organize its performance.

Article 89. Comprehensive expert examination

1. Comprehensive expert examination shall be assigned when investigations on the basis of various subject areas are required for establishment of facts related with the case, and shall be conducted by experts of various specialties within their competences.

2. Following information shall be stated in the conclusion of the comprehensive expert examination: what expert examinations, in what scope they were conducted by each expert and what conclusions he received. Each expert shall sign part of conclusion, where these investigations are contained.

3. Based on the results of investigations, conducted by each expert, they shall form a general conclusion (conclusions) on circumstance, for establishment of which the expert examination was assigned. General conclusion (conclusions) shall be formulated and signed by the experts, which are qualified in evaluation of received results. If argument for final conclusion of the panel or its part is facts, established by one of the experts (separate experts), such information shall be stated in the conclusion.

4. If there are differences between the experts, investigation results are executed pursuant to third part of article 88 of the present Code.

5. Comprehensive expert examination, entrusted to legal expertise authority, shall be entrusted to its chief. Chief of legal expertise authority shall be entitled to make a decision on comprehensive expert examination according to submitted materials and to organize it.

Article 90. Supplementary and repeated expert examination

1. Supplementary expert examination shall be assigned in case of insufficient clarity or completeness of conclusion, and also if it is necessary to solve additional issues, related to previous investigation.

2. Supplementary expert examination can be entrusted to the same or other expert.

3. Repeated expert examination shall be assigned for investigation of the same objects and getting answers on earlier raised questions, if expert conclusion is insufficiently substantiated, or its conclusion causes doubts, or procedures of expert examination were violated.

4. Motives of disagreement with the results of previous expertise shall be stated in decision on assignment of the repeated expert examination.

5. Repeated expert examination shall be performed by the expert panel. Experts, who performed previous expert examination, can attend repeated expert examination; however, they do not participate in expert investigation and conclusion drawing up.

6. Expert (experts) shall be provided with conclusions of the previous experts for supplementary and repeated expert examinations.

7. If second or subsequent expert examinations are assigned by several causes, one of which is related to supplementary expert examination, and others to repeated expert examination, such expert examination shall be conducted according to rules of repeated expert examination.

Article 91. Expert rights and obligations

1. An expert shall be entitled to: familiarize with case materials, related to object of expert examination; make an application on submission of additional materials, required for expert examination; participate in legal proceedings and court session, ask questions, related to object of expert examination, to persons participated in it, with the permission of the court; familiarize with protocol of separate procedural action, where it participated, and also with appropriate part of court records and to make notes concerning completeness and accuracy of performed actions and received results; make a conclusion on circumstances, detected during legal expert examination; present conclusion and give evidences against on native language or language in possession; use free services of interpreter; propose a disqualification of interpreter; appeal against actions of persons, violating legal practices during expert examination; get reimbursement of expenditures, incurred during expert examination; get a remuneration for performed work, if legal expertise is not within its official duties.

2. Expert shall not be entitled to: negotiate with persons, participating in the case, on issues, related to expert examination, besides court; select materials for expert investigation independently; conduct investigations, which can lead to complete or partial objects destruction, change of their appearance or principal properties, if there is no special permission of the court, which assigned expert examination.

3. Expert shall be obliged to: appear on call of the court; conduct comprehensive, complete and objective investigation of submitted objects, provide justified written conclusion on raised questions; refuse in conclusion provision and draw up a reasoned written message on impossibility to provide a conclusion and send it to the court in cases, provided for articles 93 of the present Code; bear evidences on issues, related to the investigation and this conclusion; ensure safety of

researchable objects; not to disclose information about circumstances of the case and other information, which became known to him due to expert examination.

4. Expert bears criminal responsibility for provision of deliberately false conclusion.

5. Expert, who is employee of legal expertise authority, is considered as acquainted with his rights and obligations and notified about criminal responsibility for provision of deliberately false conclusion.

Footnote. Article 92 as amended by the Law of the Republic of Kazakhstan No. 45-VI dated 10.02.2017

Article 92. Expert conclusion

1. Expert conclusion is conclusions on issues, raised for expert court or parties, submitted in written form, provided for the present Code, and based on investigation of expertise objects, performed using special scientific knowledge.

Expert conclusion shall be drawn up within the term, established by the Law of the Republic of Kazakhstan «On legal examination activity». If there are circumstances, preventing expert examination within the established period, the expert shall be obliged to inform the court in written.

2. The conclusion shall be drawn up by the expert (experts) after performance of necessary investigations on its behalf taking into account its results, certified by his (their) signature and personal stamp and sent to the court, which assigned the expert examination. If expert examination is performed by the legal expertise authority, signature of the expert (experts) is certified with stamp of the mentioned authority.

3. Following information shall be stated in the expert conclusion: date of its execution, terms and place of expert examination; causes of expert examination; information about court, information about legal expertise authority and (or) expert (experts), which are entrusted to perform an expert examination (full name (if it is given in identity card), education, specialty, relevant professional experience, academic degree and rank, current position); mark, certified with expert signature that it was informed on criminal responsibility for deliberately false conclusion; issues, raised for expert (experts); information on participants of the process, presented during expert examination, and their explanations; research objects; content and results of investigations with used methods; assessment of the results of performed researches, justification and drawing of conclusion on issues, raised for expert (experts).

4. A conclusion shall contain justification of impossibility to answer on all or some questions, if circumstances, stated in article 93 of the present Code, were detected during the investigation.

5. Materials, demonstrating expert conclusion (photo boards, schemes, graphs, tables and other materials), certified in accordance with the procedure specified in part 2 of the present article, are attached to the conclusion and are its element. Objects, remained after the investigation, including samples, shall be attached to the conclusion.

6. Expert evidences, submitted during the enquiry, performed in accordance with the procedure specified in article 94 of the present Code, are evidences only in part of explanation, amendment or specification of earlier conclusion.

7. Expert conclusion is not binding upon the court, but it shall be stated in court decision in case of disagreement with it.

Article 93. Message on impossibility to provide a conclusion

If expert assures that raised issues are outside his special knowledge or submitted materials are inapplicable or insufficient for conclusion and cannot be compensate, or state of science and expert practice do not allow answering on raised questions, he draws up a reasoned message on impossibility to make a conclusion and sends it to the court.

Article 94. Expert interrogation

1. Expert interrogation shall be performed only after publication of the expert conclusion, if it is insufficiently clear, with gaps, for implementation of which supplementary researches are not required, or it is necessary to specify methods and terms, used by the expert.

2. Expert cannot be interrogated on circumstances, not related to his conclusion, which became known to him due to performance of forensic psychiatric examination and forensic medical examination in respect of live people.

3. Party, at the request of which an expert examination was assigned, will be the first in case of party interrogation. If expert examination was performed upon agreement of the parties, or upon court initiative, plaintiff shall be the first, who will ask questions to the expert, and then the defendant. The court shall be entitled to ask questions to the expert at any moment of the interrogation.

Article 95. Material evidences

Material evidences are objects, if there are causes to suppose that they can be mean for establishment of circumstances, which are important for the case, by their appearance, properties or other features.

Article 96. Storage and inspection of material evidences

1. Material evidences are kept on file or given to luggage room of material evidences of the court. The court takes measures on protection of material evidences in unchanged state.

2. Objects, which cannot be delivered to the court, are kept at place of their location. They shall be inspected by the court during the case preparation to litigation or in the course of a judicial proceeding. Appearance, properties and state of objects shall be recorded in the protocol of separate procedural act, and if necessary, these objects can be depicted, recorded on video and sealed.

3. Material evidences are inspected by the court with the participation of the persons, taking part in the case, and experts, if necessary. Protocol of material evidences inspection is attached to the case.

4. Expenses on material evidences keeping shall be allocated between the parties pursuant to article 109 of the present Code.

Article 97. Inspection of material evidences subject to quick spoiling

1. Material evidences, which are subject to quick spoiling, shall be inspected and investigated by the court not later than the next working day after making an application, and then are returned to person, who submitted them for inspection.

2. Persons, participating in the case, shall be informed on place and time of inspection and investigation, if they can arrive at location of the material evidences before their inspection. Non-attendance of notified persons, participating in the case, shall not prevent inspection and instigation of material evidences. Data of inspection and instigation are recorded in the protocol.

3. Inspection of material evidences, which are subject to quick spoiling, and recording of its results, shall be performed in order, provided for parts 2 and 3 of article 96 of this Code.

Footnote. Article 98 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 98. Material evidence disposal

1. Material evidences shall be returned to persons, from whom they were received, or transferred to persons, who are owners of these objects, or sold in order, determined by the court,

besides objects, provided for first part of article 97 of the present Code, after coming into legal force of court decision.

2. Objects, which cannot belong to citizens in accordance with the law, shall be transferred to appropriate organizations.

3. Material evidences shall be returned to persons, from whom they were received after their inspection and investigation by the court before completion of proceedings, if the last make an application and satisfaction of such application will not prevent correct adjudication.

4. The court shall make a decision on disposal of material evidences, which are subject to quick spoiling, which is not subject to appeal, review upon the request of the prosecutor.

Article 99. Evidences on material objects

1. Evidences shall be submitted on material objects, containing: audio-, video records, including received using surveillance and record deices, materials of photo and shooting, and other materials on electronic and digital media, which are important for the case and corresponding to relevance and admissibility criteria.

2. Person, submitting evidences on tangible media, or made an application on rendering of assistance in their requisitioning, shall indicate when, who and in what conditions made records.

Failure to inform such information excludes possibility of such evidences investigation before the court in session.

Article 100. Written evidences

1. Written evidences are acts, documents, personal or business letters, containing information about circumstances, which are important for the case.

2. Written evidences can be presented by the parties and other persons, participating in the case, and can be requested by the court upon their request.

3. Persons, who cannot provide written evidence, requested by the court, or provide it within the period, established by the court, shall inform the court, stating causes of failure to fulfill requirements of the court.

4. Written evidences, requested by the court from citizens and legal entities, shall be sent to the court. The court may issue a request to person, making an application on requisitioning of material evidences, for the right of its receipt for the subsequent submission to the court.

5. Written evidences shall be submitted in the original. If copy of the document was submitted, the court shall be entitled to request for submission of the original, if necessary and pursuant to fifth part of article 68 of the present Code.

If it is difficult to submit the original of the written evidence to the court, the court shall be entitles to request for submission of certified copies and extract from such document or to inspect and investigate such document and other written evidences at place of their storage.

6. Evidences in form of electronic documents or their copies shall be certified with electronic signature of the person, submitting them, with obligatory mark «copy of electronic document» and representation of the results of his electronic digital signature verification. Mentioned evidences are equal to written documents in the original, except cases, when usage of electronic document is not allowed pursuant to the legislation of the Republic of Kazakhstan.

Article 101. Return of written evidences

1. Original written evidences and also personal letters shall be returned upon the request of persons, provided them, after court decision coming into legal force.

2. Written evidences can be returned to persons, who submitted them, before court decision coming into legal force, if the court considers this possible.

3. Copy (Xerox copy) of the written evidence, certified by the court, shall be left if original written evidence is returned.

4. Evidences on physical media shall be kept in file. They can be returned to the person, who submitted it upon the application, after court decision coming into legal force.

Copy of record, made at his expense, can be issued upon the application of the person, participating in the case. Receipt on record copy receipt is withdrawn.

Chapter 8. COURT COSTS

Article 102. Court costs concept and composition

Court costs consist of state duty and charges, related to proceedings.

Article 103. State duty

Procedure for payment and amount of state duty and also causes for exemption from its payment shall be determined by the Code of the Republic of Kazakhstan «On Taxes and other Obligatory Payments to the budget» (Tax Code).

Payment of state duty to the budget shall be confirmed by payment or cash documents, and in case of making payment using cash terminals, electronic terminals, remote communication channels and payment gateway of «e-gov» - by cheques and receipts on paper or in electronic form.

Footnote. Article 104 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated 27.02.2017

Article 104. Amount of the claim

1. Amount of the claim shall be determined in:

1) in legal action for recovery of monetary funds - presented for amount charge;

2) in legal action for recovery of compensation for moral harm in monetary terms, caused by dissemination of information, discrediting honor, dignity and business reputation, - presented for amount charge;

3) in legal action for recovery of amount of losses, incurred due to distribution of information, discrediting business reputation, - presented for amount charge;

4) in actions for partition of property, which is joint or common property, on determination or allocation of share in property, which is common property, - by cost of requested property, determined by market prices at place of property at the moment of claim filing;

5) in claims for alimony payments - by total payment per one year;

6) in claims for periodic urgent payments and deliveries - total of all payments and deliveries, but no more than per three years;

7) in claims for unlimited or payments for life - total of payments and deliveries, but no more than per three years;

8) in claims for decrease or increase of payments or deliveries - total amount on decrease or increase of which an applicant pretends, but no more than per one year;

9) in claims for suspension of payments and deliveries - total of remained payments or deliveries, but no more than per one year;

10) in claims for early termination of tenancy agreement, except dwelling rate, - total of payments for property use within remained duration of the contract (agreement), but no more than three years;

11) in claims for ownership for real estate units - by market value of such objects at their location at the date of claim filing;

12) in claims for request of immovable and movable property from unlawful possession by other persons - by market value of property under search, but no lower than estimation by insurance contract, concluded by citizen, and no lower than balance sheet value of the property of legal entity, at the date of claim submission to the court;

13) in claims for cancellation of purchase and sale contracts, pledge agreement, donation agreement of movable and immovable property, other contracts, related to subsequent return of received property on transactions as provided in third part of article 157-1 of the Civil Code of the Republic of Kazakhstan, - market value of property at the date of claim submission to the court. Amount of the claim shall not increase cost of property, stated in the contract, in case of pledge agreement contestation;

14) in claims, consisting of several independent requirements, - total amount of all requirements.

2. Amount of the claim shall be stated by the plaintiff. If price does not correspond to actual price of property under the search, amount of the claim shall be determined by the judge.

Article 105. Additional payment of state duty

1. If it is difficult to determine amount of the claim at the moment of its filing, amount of state duty shall be preliminary established by the judge during case preparation to proceeding and it shall be stated in decision on case preparation to proceeding.

2. If the court determines amount of the claim, considering and resolving the case on collecting of unpaid amount of the state duty, amount of the state duty subject to additional payment shall be specified in the court decision.

3. If amount of the claim is increased, consideration of the case concerning increased claims shall continue when the plaintiff provides evidences for payment of the state duty within the period, established by the court.

If document on payment of the state duty was not submitted, the case is considered and resolved within the initial limits, indicating this in the court decision. Application on increase of claims shall be returned to the plaintiff without consideration. Arguments on disagreement with court conclusions on payment of state duty shall be included into the appeal.

Footnote. Article 106 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 106. Exemption from payment of the state duty. Deferral of state duty repayment

1. The plaintiff’s exemption from the payment of the state duty of claim, filed to the court, shall be carried out on causes, stipulated by the Code of the Republic of Kazakhstan «On Taxes and other Obligatory Payments to the budget» (Tax Code).

2. If persons, specified in articles 54 and 55 of this Code, are refused from the claim filed by them, the plaintiff, in whose interests the claim was filed, shall be obliged to pay the state duty according to the standard procedure within the period, established by the court, if he insists on consideration of the claim and is not exempted from payment of the state duty. In this case, the court shall defer consideration of the case.

If state duty is not paid, the claim shall not be considered and returned to the plaintiff. A private complaint may be filed on decision of the court, a petition may be filed by the prosecutor to the Court of Appeal, which decision is final.

3. The court on Protection of Consumers' Rights, filed by a citizen, shall defer payment of the state duty till making the relevant decision, on which a decision is made. The decision is not subject to appeal, revision upon the request of the prosecutor. Arguments on disagreement with the decision can be included into the appeal, petition of the prosecutor. Making a decision, the court

shall assign expenses, related to payment of the state duty to party, in favor of which the decision was not made.

Article 107. Repayment of state duty

Repayment procedure of the state duty shall be determined in the Code of the Republic of Kazakhstan «On Taxes and other Obligatory Payments to the budget» (Tax Code).

Article 108. Expenses related to the proceedings

Expenses related to the proceedings include:

1) amounts payable to witnesses, experts and specialists;

2) expenses, related to on-site inspection;

3) expenses, related to storage of material evidences;

4) expenses on search of defendant and (or) child;

5) expenses, related to publication and announcement by the case;

6) expenses related to notification and call of parties and other persons, participating in the case, to the court;

7) travel expenses of the parties and third parties and rent of residential premises, incurred by them due to appearance in the court;

8) expenses on payment of assistance of the representative;

9) other expenses, recognized by the court as reimbursable, including incurred by the parties during obligatory mediation of the dispute upon subsequent appeal to the court.

Article 109. Apportionment of court fees between parties

1.The party in favor of which the decision was made, the court shall adjudge all court expenses, incurred during the case. If the claim was satisfied partially, expenses shall be adjudged to the plaintiff in proportion to amount of the claim, satisfied by the court, and to the defendant in proportion to part of the claim, in which the plaintiff was refused.

2. If dispute arose in the result of violation by a person, participating in the case, letter-of-claim or other pre-action protocol, stipulated by the law or agreement, including violation of time limit for provision of a response to the claim, failure to provide a response to the claim, the court shall adjudge such court expenses to this person regardless of the results of the case.

The court is entitled to charge all court expenses by the case to a person, abusing procedural laws or not performing procedural duties, including violation of time limit, established by the court, and procedure on provision of evidences without good cause, established by this Code, if it led to delay of court process, prevention of the case consideration and adoption of legal and justified judicial act.

3. If courts of appeal, cassation instances change their decision or make a new decision, not transferring the case for a new consideration, they shall change apportionment of court expenses if the party provides evidences of the expenses, incurred in relevant court instances.

4. Court of first instance makes a decision on the application of the party on collection of the court expenses, incurred during consideration of the case in courts of appeal, cassation instances, if the petition was discussed during the consideration of the case in judicial instances, but court expenses were not collected due to the need of verification of the authenticity of the submitted documents and this shall be indicated in the decision of the court of the relevant instance.

5. Application on recovery of legal costs shall be considered by the court during court session with notification of the parties. Failure to appear by the parties, which were duly notified about time and place of the court session, is not an obstacle to consideration of the application. The application may be filed within one month from the date of the last judicial act entry into legal force.

6. Copy of the judicial act shall be sent to the tax authority at place of registration (citizen) or location (legal entity) of legal representative, expenses on payment of which services were compensated by the court, within five working days.

Article 110. Amount, subject to payment by experts, specialists, witnesses, and interpreters

1. Witnesses, experts, specialists and interpreters are compensated for expenses, incurred due to appearance to the court, on travel, rent of premises, and daily benefits are paid to persons, sent to business trips, in the established amounts. Expert and specialist are also compensated for cost of their chemical reagents and other consumables, spent by them during performance of the assigned work, and payment for using of equipment, and utilities.

2. Salary is preserved for employees, which are called to the court as witnesses, during their absence due to appearance in the court. Witnesses, which are not in employment relations, shall be compensated for their withdrawing from their usual activities, taking into account actual time and in the basis of minimum monthly salary.

3. Performed work, which is not part of duty area of experts, which are attracted on a single-time basis, and specialists, shall be paid on behalf of the court. Amount of payment shall be determined by the court as agreed with the parties and shall be preliminarily transferred to the account, opened in procedure, established by the budget legislation of the Republic of Kazakhstan, by the party, making an application.

4. Payment of amounts to witnesses, experts, specialists, and payment for expertise by forensic examination bodies shall be made by the party, who made an application. If the application was filed by both parties or call of witness, appointment of expertise, attraction of specialist are performed upon the initiative of the court, the required amounts shall be paid by the parties in equal parts.

5. Amounts payable for expertise by legal expertise authority shall be paid to the relevant budget in form of preliminary payment by the party (parties, which filed an application, or by the party, entrusted by the court. If amount was not paid within the period, established by the court, expenses, related to expertise, shall be entrusted to person, who failed to pay (pay untimely), regardless of the results of the case pursuant to second part of the article 109 of this Code.

6. Payment of amounts to experts and specialists, when one or both parties are exempted from payment of costs, shall be made at the expense of the budget funds according to the results of the case consideration on the basis of court decision.

Procedure for payment of amounts due to experts and specialists shall be determined by the Government of the Republic of Kazakhstan.

Article 111. Payment of amounts to witnesses, experts, specialists and interpreters

1. Amounts due to witnesses, experts and specialists shall be paid by the court from an account, opened in accordance with the budget legislation of the Republic of Kazakhstan, when they complete their duties.

2. Payment of amounts due to translators shall be made at the expense of the republican budget in order, determined by the Government of the Republic of Kazakhstan.

Footnote. Article 112 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 112. Rendering of free legal assistance

1. Preparing of the case to the proceeding, or the judge, considering the case, shall be obliged to exempt following persons from payment of legal assistance and reimbursement of expenses, related to representation, and to charge them at the expense of budget funds:

1) plaintiffs in disputes on compensation for harm caused by death of family provider;

2) plaintiffs in disputes on compensation for harm caused by damage to health related to work, or caused by criminal offense;

3) plaintiffs and defendants in disputes, not related to business activity, who are participants in the Great Patriotic War, persons equated to them, army conscripts, disabled persons of groups I and II, retirement pensioners;

4) plaintiffs in disputes on compensation for harm, rehabilitated in accordance with the law.

2. Amount of payment for legal assistance, rendered by a lawyer, and reimbursement of expenses, related to protection and representation, shall be established by the Government of the Republic of Kazakhstan.

Payment order for legal assistance, rendered by a lawyer, and reimbursement of expenses, related to protection and representation, shall be established by regulations for payment of legal assistance, approved by the Ministry of Justice of the Republic of Kazakhstan.

3. Documents and other evidences, confirming right of the person on legal assistance at the expense of the republican budget shall be attached to the petition of the person on exemption from payment of legal assistance and reimbursement of expenses, related to his representation, in cases, stipulated in first part of this article.

4. The court makes a decision on exemption of person from payment of legal assistance and reimbursement of expenses, related to his representation, or on refusal to satisfy the application, which is not subject to appeal, review upon the request of the prosecutor. Arguments on disagreement with made decision shall be included into the appeal, petition of the prosecutor.

5. Decision of the court on exemption of person from payment of legal assistance and reimbursement of expenses, related to representation, shall be immediately sent to the territorial bar council or its structural subdivision at the location of the court considering the civil case, which shall be obliged to ensure participation of the lawyer in the court within the period, established by the court.

Article 113. Compensation of expenses on payment of representative assistance

1. At the request of the party, in favor of which the decision was made, the court shall adjudge expenses, incurred by it on payment for the assistance of a representative (several representatives), participated in the process and which is not party of labor relations, in the amount of actually incurred expenses by the party. Total amount of these expenses on recovery claims shall not exceed ten percent of the satisfied part of the claim. Amount of expenses by non-property claims shall be recovered within due limits, but shall not exceed three hundred monthly calculation indexes.

2. If the court makes a decision in favor of the party, to which qualified legal assistance was rendered by an attorney at the expense of budget funds, in the manner and on the grounds established by the law, these expenses shall be charged to the state budget.

Article 114. Recovery of damages for waste of time

1. The court can reimburse damages for actual loss of time in favor of another person, participating in the case, on application of the person, participating in the case, on the part which declared clearly unwarranted claim or dispute against substantiated claim, or systematically prevented correct and prompt consideration and resolution of the case.

2. Amount of damages shall be determined by the court, taking into account specific circumstances, including on the basis of current standards for remuneration of the relevant labor in the area.

3. Justified application for recovery of damages from the party shall be filed before completion of the case consideration and shall be considered by the court together with the basic requirement. Document, confirming payment of the state duty in accordance with the procedure, established by

the Code of the Republic of Kazakhstan «On Taxes and other Obligatory Payments to the budget» (Tax Code) shall be attached to application on reimbursement of damages.

Article 115. Allocation of court expenses in case of abandonment of a claim, settlement agreement or dispute (conflict) settlement agreement in order of mediation, dispute settlement in order of participative procedure

1. If the plaintiff refuses from the claim, court costs, incurred by the defendant, shall not be reimbursed by the respondent. The plaintiff shall compensate court costs incurred during the case.

If the plaintiff refused to support his claims in the result of their voluntary satisfaction by the defendant after the filing of the claim, the court shall recover all incurred court costs at the request of the plaintiff. If the claim is not caused by the defendant's culpable conduct, then judicial expenses are borne by the plaintiff if the defendant's claim was recognized by defendant in the court.

2. If the parties enter settlement agreement or agreement on settlement of dispute (conflict) through mediation, an agreement on settlement of dispute by means of participatory procedure, which were approved by the courts of first, appeal instances, paid state duty shall be returned from the budget.

Concluding an settlement agreement, on settlement of dispute (conflict) through mediation or agreement on dispute resolution using a participatory procedure in cassation court, paid state duty shall be returned from the budget at the amount of fifty percent of the amount, paid during appeal to the court of cassational instance.

Other court expenses are distributed by the court between the parties in accordance with the terms of the settlement agreement, agreement on dispute (conflict) settlement through mediation or agreement on dispute settlement using participatory procedure. If this is not stated in the agreements, they are considered as mutually cancelled.

3. If statement of claim was left without consideration on the grounds, stipulated in subparagraphs 6), 8) of article 279 of this Code, court costs, incurred by the plaintiff, shall not be reimbursed by the defendant. In such case, the plaintiff shall compensate all legal costs, incurred due to the proceedings, to the defendant.

Article 116. Compensation of legal expenses to the parties

1. If the claim was completely and partially rejected for persons, who make an application on protection of rights, freedoms and legal interests of other persons and the state (articles 54 and 55 of this Code) in cases, stipulated in this Code, the defendant shall be compensated for legal expenses from the budget, in proportion to part of stated claims in which the plaintiff was refused.

2. In case of satisfaction of such claim, legal expenses shall be compensated by the defendant in order, stipulated in chapter 8 of this Code.

Article 117. Compensation of legal expenses to the parties

1. State duty, from which the plaintiff was exempted, and costs, related to the proceedings, shall be recovered from the defendant, who is not exempted from payment of court expenses, to the state revenue of completely or proportionally satisfied part of the claim.

2. If the claim was satisfied partially, and the defendant is exempted from payment of court expenses, costs related to the proceedings of the case shall be recovered to the state revenue from the plaintiff, who was not exempted from payment of court expenses, in proportion to the part of rejected claims.

3. If both parties are exempted from payment of court expenses, the costs related to the proceedings of the case shall be charged to budget funds.

4. If the claim was rejected, legal costs, related to the proceedings of the case shall be recovered from the plaintiff to the state revenue.

5. If person, avoiding payments, is put into wanted list, expenses related to detection, shall be recovered from this person in revenue of the state.

Footnote. Article 118 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 118. File of individual appeal, making a petition on judicial acts, related to court expenses, by the public prosecutor

Private claim, a petition can be filed on judicial acts on issues, related to court expenses, by the prosecutor, taking into account features, stipulated in this chapter.

Chapter 9. RESPONSIBILITIES FOR CONTEMPT OF COURT

Article 119. Responsibilities for contempt of court

1. Responsibilities for contempt of court shall be applied by the court for the purpose of implementation of the constitutional equality principle of everybody before the court and the tasks of justice.

2. Guilty persons shall be brought to administrative responsibility in order, stipulated by the Code of the Republic of Kazakhstan on administrative offenses, with features, established by this chapter.

3. If there are signs of criminal offenses in actions of the violator of order, this person can be brought to criminal responsibility.

4. Only one enforcement measure and (or) one kind of responsibility can be applied for performed illegal action (inactivity).

Article 120. Procedure for bringing to responsibility for contempt of the court

1. The judge (court composition) shall establish fact of contempt of the court during the court session, if such violation was established, and it shall be declared to violator immediately without visiting of consultation room. This fact shall be recorded in record of the proceedings. Protocol on an administrative offence shall not be drawn up.

2. The person, in respect of whom the fact of contempt of the court has been established, and other persons, participating in the case, shall be entitled to present their explanations.

3. The decision on administrative offense is made by the presiding judge after completion of the court session on a civil case, signed by the judge (by court composition).

4. If contempt of the court was demonstrated on court session and violator left the hearing room, if contempt of court is demonstrated outside the court session, and if deviation on attendance was established, protocol on violation shall be drawn up by the court bailiff or other court employee in form of oral order of court chairman or presiding on court session, which shall be indicated in protocol of offense.

5. Protocol on offense together with the required materials shall be sent for consideration to the court pursuant to jurisdiction, established by the Code of Administrative Offenses of the Republic of Kazakhstan, in the cases stipulated in fourth part of this article.

6. If there are signs of criminal offense in activity of the violator of court meeting order, the court shall make a decision about it, which is given and (or) is sent to the person, in respect of whom it was made, within three working days, and sent to the prosecutor for pre-trial proceedings with supporting materials.

Chapter 10. PROCEDURAL PERIODS

Article 121. Terms of legal proceedings

1. Legal proceedings shall be performed in procedural periods, established by the present Code.

2. If period of legal proceedings was not established by this Code, it shall be assigned by the court. Procedural period, assigned by the court, shall be reasonable and sufficient for legal proceedings.

Article 122. Calculation of procedural periods

1. Periods for proceedings shall be determined by the exact calendar date, with the event which will happen, or period of time, which is calculated in years, months, or days. In the latter case, the action can be committed during the period.

2. Course of procedural period, determined by the period, shall start on the next day after calendar date or event, which defined its start.

Article 123. Completion of procedural periods

1. Period, which is calculated in years, shall expire in the relevant month and date of the last year of the period.

2. Period, calculated in months, shall expire in the relevant last month of the period. If end of the period, calculated in months, falls on the month which does not have the corresponding date, then the period shall expire on the last day of this month.

3. Period, calculated in days, shall expire on the last day of the established period.

4. When the last day of the period falls on holiday, the day of term expiry, calculated in years, months and days, shall be the next working day.

5. The procedural action for which the period was established, shall be performed up to twenty-four o'clock of the last day of the term. If complaint, documents or money were transported to the post, telegraph or transferred by other means of communication before twenty-four o'clock on the last day of the term, then the term is not considered to be missed.

6. If procedural action shall be performed directly in court, then the period expires when work on established norms and regulations is completed in the court.

7. Procedure for calculation of procedural periods, provided in this article, shall cover electronic documents submitted to the court.

Article 124. Consequences of procedure period omission

1. Right for implementation of procedural action shall be compensated with the expiration of the procedural period, established by this Code or procedural action, assigned by the court.

2. Complaints and documents, submitted upon the expiry of the procedural periods, shall be returned by the court to the person to whom they were submitted without consideration, if it was not declared on restoration of missed procedural period.

3. The expiry of the procedural period does not exempt the person, participating in the case, from procedural obligation.

Article 125. Suspension of procedural periods

1. Course of all unexpired procedural periods shall be suspended with the suspension of the proceedings. Periods shall be suspended on the day when the court makes a decision on suspension of the proceedings on causes, stipulated in this Code.

2. Procedural period shall continue from the day when the court makes a decision on resumption of the proceedings.

Footnote. Article 126 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 126. Prolongation and recovery of procedural periods

1. Periods, appointed by the court, can be prolonged by the court.

2. Periods, established by this Code, may be restored by the court if they were missed by justifiable reasons.

3. The court shall be obliged to restore the missed period, specified in second part of this article, in order to appeal judicial acts, provision of petition or protests by the prosecutor in case of violation of the law by the court or judicial acts, restricting possibility of the participant on protection of their rights and legal interests (untimely sending of copy of the judicial act to a person, participating in the case; ignorance of proceedings language, if the judicial act was not translated into the language of the person, incorrect execution on legal succession), and also if there are other circumstances, prevented timely filing of a complaint, bringing a petition or protest to the prosecutor.

4. Application on restoration of missed procedural period shall be submitted to the court, where the procedural action shall be performed, no later than one month from the day when the applicant became aware of violation of his rights or legal interests. Time and place of consideration of the application shall be informed to the persons, participating in the case, but absence of any of them is not an obstacle for consideration of the application.

5. Claim for protection of rights shall be made together with filing of an application on restoration of the term, and document, confirming validity of causes for missing of the term, shall be submitted.

6. A private complaint, petition, protest of the prosecutor may be filed to the court decision to refuse in prolongation or restoration of missed procedural period.

7. Decision of the court on prolongation or restoration of the procedural period is not subject to appeal, revision upon the request of the prosecutor.

Chapter 11. COURT NOTICES AND CALLS

Footnote. Article 127 as amended by the Law of the Republic of Kazakhstan No. 156-VI dated 24.05.2018

Article 127. Court notices and calls

1. Persons, participating in the case, their representatives, and witnesses, experts, specialists and interpreters shall be informed about time and place of court session or separate procedural act, and are called to the court by summons.

2. Persons, participating in the case, and witnesses, experts, specialists and interpreters shall be notified or called by sending a notification to email or subscriber number of mobile communications, ands using other means of communication ensuring record of the notification or call.

If there is no information about e-mail or subscriber number of mobile communication or other means of communication, ensuring recording of the notification or call, the notification shall be sent by telephone or to the last known place of residence or location, using hybrid sending or by registered mail with delivery notification.

If a person does not live at the address submitted to the court, notification or call shall be sent to the place of his work.

Persons, participating in the case, shall be entitled to publish a message on time, date and place of proceedings in mass media in cases by which notified and called persons did not appear in the court.

If there is information about electronic means of communication, referred in subparagraphs 1) and 2) of the fourth part of this article, notifications shall be sent to representatives of the parties.

3. Notifications and calls shall be sent no later than the next day from the date of making decision on preparation of the case to proceedings, or from the date of legal proceedings, that notified or called person has sufficient time to appear in the court and to prepare for the case.

4. Appropriate notification of the party is notification, sent to the party:

1) to email specified by the party, participating in the case;

2) to email, specified in electronic services of the Supreme Court of the Republic of Kazakhstan;

3) to e-mail, specified in the contract, concluded between the parties within the one year and which is matter of the dispute;

4) on subscriber number of mobile communications, submitted to the court, upon receipt of a report, confirming the delivery;

5) using other means of communication, ensuring record of the notification or call, unless it is proved that such notification was not received or will be received later;

6) to the last known place of residence or location by hybrid message or by registered mail with delivery notification.

If the party did not appear on the first notification, sent via electronic communication, referred in subparagraphs 1), 2) and 3) of this part, repeated notification is sent using other means of communication and delivery ensuring record of the court notice or call.

5. Excluded by the law of the Republic of Kazakhstan No. 156-VI dated 24.05.2018 (put into operation upon the expiry of ten calendar days after its first official publication).

6. Forms of summons, stipulated in this article, are applied and towards subjects, mentioned in fifth part of article 23 of the present Code, if other procedure was not established by international agreement, ratified by the Republic of Kazakhstan.

Article 128. Content of summon or other notification, call

1. Summon or other notification, call shall include:

1) a person being notified or called to the court (full name (if it is indicated in identity card) and place of residence or name of the legal entity and its location);

2) name and address of the court;

3) place and time of court appearance;

4) name of the case by which the notification or call of the addressee is made;

5) in what capacity the addressee is notified or called;

6) offer to persons, participating in the case, to present all available evidences in the case with the consequences of their failure to submit pursuant to the requirements of this Code;

7) rights and obligations, stipulated in article 46 of this Code;

8) obligation of the person, who accepted summon or other notification, call due to the absence of the addressee, and to give it to the addressee;

9) consequences of failure to appear in the court of the person being notified or called and his obligation to inform the court about cause of failure to appear;

10) signature of person, who sent summon or other notification, call.

The person, who sent telephone message about the notification or call, shall certify it with his signature and indicating to whom and when it was sent.

2. A message, sent by subscriber mobile number or e-mail shall include:

1) person being notified or called to the court (full name (if it is indicated in identity card) of person to whom it is addressed, or name of the legal entity);

2) name and address of the court;

3) place and time of court appearance;

4) brief name of the case, by which notification or call of the addressee is made;

5) in what capacity the addressee is notified or called;

6) full name of person, who sent a message.

Document, confirming message sending, shall be attached to the case file.

3. The parties, which received the notification, shall be entitled to study the claim and attached materials using official Internet resource of the court, except of cases, which are subject to consideration of closed judicial session.

Footnote. Article 129 as amended by the Law of the Republic of Kazakhstan No. 156-VI dated 24.05.2018

Article 129. Delivery of summon or other notification

1. Summon or other notification shall be delivered to email address or to subscriber mobile number or by mail or by the person, who is entrusted by the judge.

Time of their sending to e-mail or subscriber number of mobile communications shall be recorded in confirming report, and in case of delivery, it is marked on back of summon or copy of another notification, which shall be returned to the court.

2. The judge can issue, with the consent of the person, participating in the case, a summon or other legal notification for delivery to another person being notified or called by the case.

3. A person, who is entrusted to deliver summon or other notification, shall be obliged to return back of summon or copies of other notification to the court with the date of delivery and receipt of the addressee.

4. Summon or other notification shall be considered as delivered in case of meeting the requirements, specified in this chapter and unless the contrary is proved.

Footnote. Article 130 as amended by the Law of the Republic of Kazakhstan No. 156-VI dated 24.05.2018

Article 130. Serving of court summons or other notification

1. Summon or other notification, addressed to a citizen, shall be given to him personally against a receipt on back of summon or copy of other notification to be returned to the court.

Summon or other notification, addressed to a legal entity, shall be given to its representative or an appropriate person, performing managerial functions, security employee or another employee of the called, notified person, who shall sign on back of summon or copy of another notification of receipt, indicating their position, surname and initials.

Summon or other notification shall be considered as delivered at the address, even if the legal entity is absent at given address.

2. If person, who delivered summon, was not find by the person, notified or called in the case at his place of residence or work, the summon shall be given to one of the adult family members, living with him, or another person with their consent, and if they are absent - to the authorized person of premises (apartments) owners cooperatives, housing services, utilities services or to residential house manager, to the authorized person of local government body or relevant executive body at the place of residence of the addressee or administration at place of his work. The person, accepted the summon, shall be obliged to write its full name (if it is indicated in identity card) on back of the summon, and also relation with the addressee or position. The person, accepted the summon, shall be obliged to give it to the addressee.

In these cases summon is considered as properly delivered.

3. In case of temporary absence of the addressee, the person, who delivered the summon, shall indicate where the addressee is left for and when his return is expected, on back of the summon or other notification. This information shall be confirmed by one of the adult family members and other persons, living with him, or certified by the authorized person of premises (apartments)

owners cooperative, housing maintenance and utilities services, or residential house manager, an authorized person of the local government body or relevant executive body at the place of residence of the addressee or administration at place of his work, and by person, who delivered the summon or notification.

Footnote. Article 131 as amended by the Law of the Republic of Kazakhstan No. 156-VI dated 24.05.2018

Article 131. Consequences of the addressee refusal from acceptance of summon or other notification

1. If the addressee refuses to accept a summon or other notification, the person, who delivered it, shall make an appropriate note on summon or other notification, which shall be returned to the court, and also entitled to draw up a certificate. Note on the addressee's refusal to receive a summon or other notification shall be certified by the authorized person of premises (apartments) owners cooperative, housing and utilities services, or by residential house manager, by the authorized person of the local government body or relevant executive body at the location of the addressee or place of his work.

2. Refusal of the addressee to accept summon or other notification is not a prevention for the consideration of the case or certain legal proceedings, and the person is considered as duly notified.

Article 132. Change of full name (if it is indicated in identity card), change of address, subscriber number of mobile communication and email during case proceedings

Persons, participated in the case, and their representatives shall be obliged to inform the court in case of change of full name (if it is indicated in identity card), change of address, subscriber number of mobile communications, e-mail address during case proceedings. If such message is absent, the summon or other notification, the call shall be sent to the last known data and shall be considered as delivered, even if the addressee does not live at this address, does not use this mobile subscriber number or email address. Such notification is appropriate.

Article 133. Unknown location of defendant and (or) child and their detection

1. If actual place of residence of the defendant is unknown, the court shall proceed to consideration of the case when the court receives a summons or other notice, invitation with inscription, certifying that they were received by the cooperative premises (apartments) owners, housing maintenance and utility services, by the authorized person of the local government body or the relevant executive body at the last known place of residence of the addressee or administration at its known place of work. Such notification is appropriate.

If location of the defendant and (or) child is unknown upon the request on return of child, who was illegally transported to the Republic of Kazakhstan or withheld in the Republic of Kazakhstan or on implementation of access rights in respect of such child based on international agreement, ratified by the Republic of Kazakhstan, the judge shall be obliged to make a decision on detection of the defendant and (or) a child.

2. If location of the defendant on cases, filed in the interests of the state and on recovery of alimony, compensation for harm, caused by damage to the health or death of the family provider is unknown, the court shall be obliged to announce detection of the defendant by means of the authorized bodies. Announcement of defendant detection by the court is not an obstacle for case consideration.

3. Having received a copy of the court decision, the defendant shall be entitled to file a petition on restoration of missed procedural period for filing of an appeal pursuant to procedure, established in article 126 of this Code, and to appeal court decision.

4. Collection of expenses on detection of defendant and (or) a child is performed upon the request of the authorized body by means of court order delivery.

SECTION 2. PROCEEDING IN PRIMARY COURT

SUB-SECTION 1. SIMPLIFIED PROCEDURE

Chapter 12. WRIT PROCEEDINGS

Article 134. Debt enforcement based on court order

1. Court order is a judicial act which shall be submitted by the judge upon the plaintiff's application on recovery of money or requesting of movable property from the debtor on undisputable requirements without call of the debtor and execution creditor for the purpose of their explanations listening and proceedings.

2. Court order is as enforcement document. Levy pursuant to court order shall be implemented in order, established for court judgements implementation.

Article 135. Requirements pursuant to which court order is delivered

Court order shall be delivered pursuant to the requirements:

1) on performance of obligation based on notarial certified transaction;

2) on performance of obligation based on written transaction, which period for performance became due and non-fulfillment of obligation is recognized by the debtor, including in response to the claim, sent to execution creditor in the manner of dispute mediation;

3) on performance of obligation, based on protesting of notes and bills in default of payment, non-acceptance and failure to date acceptance, made by a notary;

4) on recovery of alimony for minor children, not related to the establishment of paternity (maternity) or necessity third parties proceedings;

5) on collection of tax arrears and other obligatory payments to the budget and penalties, and debts on customs payments, taxes and penalties from natural persons;

6) on collection of accrued but not paid salary and other payments to an employee, including on transfer of obligatory pension contributions to the Accumulated Pension Fund system;

7) on reimbursement of expenses on search of debtor, defendant and (or) child, declared by authorized bodies;

8) on enforcement of leasing subject pursuant to leasing contracts or laws of the Republic of Kazakhstan;

9) on enforcement of pledge upon the expiry of credit payment period, declared by pawnbroker's office to debtor-pledger;

10) on debt enforcement from owners of premises (apartments), which avoid participation in obligatory expenses for maintenance of common condominium property, approved by the law of the Republic of Kazakhstan «On housing relations», except the requirements on collection of extra charges;

11) on debt enforcement based on standard form contracts for actually consumed services (electricity, gas, heat, water supply, etc.), and other contracts for services pursuant to published tariffs, which date became due;

12) on collection of single monetary remuneration, stipulated in military service contract in case early termination of the contract upon the initiative of the service member;

13) on collection of amounts, spent on training of students of training establishments, who suspended their training or service voluntarily, and those, who were dismissed or exmatriculated for causes as provided by the law of the Republic of Kazakhstan before the expiry of contract time;

14) on collection of public grants from persons, who suspended their education or did not return to the Republic of Kazakhstan having graduated educational institution in the foreign state or violated contractual obligation on grant return;

15) on collection of public grants, relocation grants, benefits from young professionals, who were sent to rural areas in case of non-fulfillment or improper fulfillment of their contractual obligations;

16) on return of paid single monetary payment due to adoption of orphan child and (or) a child without parental care to the budget, in case of adoption termination;

17) on collection of rental payments due to failure to pay on due date, established by rental agreement;

18) on collection of court costs on criminal cases, ceased by criminal authority.

Article 136. Form and content of motion judgement

1. Motion for judgement shall be submitted to the court pursuant to general rules of territorial jurisdiction, established by chapter 3 of this Code.

2. Application shall be submitted in writing or in form of electronic document. Following information shall be stated in the application:

1) name of the court to which application is submitted;

2) name of the plaintiff, his birth date, place of residence or location, individual identification number, details of the legal entity, business identification number;

3) name of the debtor, his birth date, place of residence or location, individual identification number (if it is known to the applicant), details of the legal entity, business identification number;

4) claim of execution creditor and circumstances on which it is based;

5) list of attached documents, confirming asserted claim.

3. Cost of property shall be stated in the application in case of movable property request, confirmed by the relevant documents.

4. The application shall be signed by execution creditor or his representative if he is authorized to sign or file the application. The application, filed by the representative, shall be accompanied by the power of attorney, certifying his authority.

Filing the application in form of electronic document, it shall be certified by digital signature of execution creditor or his representative. Electronic copies of documents, referred in this article, shall be attached to the application, filed in form of electronic document.

5. Submitting the requirements, listed in article 135 of this Code, without their indication for writ or action proceedings, these requirements are considered pursuant to rules of this chapter.

Article 137. State duty

1. Application for court order delivery shall be paid by the state duty in the amount established by the Code of the Republic of Kazakhstan «On Taxes and other Obligatory Payments to the budget» (Tax Code).

2. If application is refused, state duty, paid by execution creditor, shall be returned.

3. If court order is canceled, state duty, paid by execution creditor, shall not be returned. When a claim is filed by the execution creditor against the debtor pursuant to procedure of claim proceedings, it is accounted towards payable state duty.

Article 138. Causes in rejection of acceptance and return of application on court order delivery

1. The judge shall refuse to accept or return the application on court order delivery on causes, provided for in articles 151, 152 of this Code.

Moreover, the judge shall return the application in cases if:

1) asserted claim is not provided for in article 135 of this Code;
2) place of residence or location of the debtor is outside the Republic of Kazakhstan;
3) documents, confirming asserted claim, were not submitted;
4) there is a dispute on the right, which shall be considered in order of claim proceedings;
5) form and content of the application do not meet the requirements of article 136 of this Code;
6) the application is not paid by the state duty.

2. The judge shall make a decision on refusal in acceptance or return of the application within three working days from the date of application submission to the court.

3. Return of the application does not prevent reapplication on delivery of court order or filing of action to the same defendant, on the same subject and by the same causes, if committed violation is eliminated.

4. The judge decision on refusal on acceptance or return of the application can be appealed in the Court of Appeal, which decision is final.

Article 139. Procedure and term of court decision delivery

Court order shall be delivered by the judge on declared unimpeachable requirement within three working days from the date of application submission to the court.

Article 140. Content of court order

1. Following shall be stated in court order:
1) number of proceeding and date of court order delivery;
2) name of court, full name of judge, delivered an order;
3) full name (if it is stated in identity card), birth date of execution creditor, his place of residence and location, individual identification number or, if execution creditor is legal entity, its name, actual location, bank details, business identification number;
4) full name (if it is stated in identity card), date of birth of the debtor, his place of residence or location, information about his place of work and bank details of the legal entity where the debtor works (if indicated in the application for court order), individual identification number (if available) or, if the debtor is legal entity, its name, location, bank details, business identification number, and information about subscriber numbers of local and/or mobile communication, e-mail (if any, and available);
5) law according to which the requirement was satisfied;
6) amount of monetary funds, which are subject to recovery, or designation of required movable property, with its cost;
7) amount of penalty, if its recovery is statutory or contractual, and period of time for which it is charged;
8) amount of state duty to be recovered from the debtor in favor of execution creditor or to the appropriate budget;
9) term and procedure for filing of an application on objection to declared requirements.

2. Name and date of birth of each child, for whom alimony payments were adjudged, amount of payments, levied monthly from the debtor and term of their levy shall be stated in court order on alimony recovery for minor children, besides information, provided for subparagraphs 1), 2), 3), 4), 5) and 8) of first part of this article.

3. Court order is signed by the judge.

Article 141.Sending a copy of the court order to the debtor. The objections against order

1. The court order shall be served or sent to the debtor using the means of communication ensuring the recording of its receipt no later than the day after its issuance.

2. The debtor shall have the right to send to the court the copy of the court order objections to the stated request within ten business days after of received receptor from the day when it became aware of its issuance.

3. The objections of the debtor shall be supported by appropriate evidence about the existence of the subject matter of the dispute referred to in the application for issuing a court order. Electronic copies of documents shall be attached to the objections filed in the form of an electronic document.

4. The objections shall be signed by the person indicated in the part two of this Article or the representative. When filing objections in electronic format document, they shall be certified by a digital signature of the debtor or the representative. The objection submitted by the representative shall be accompanied by a power of attorney certifying the authority.

5. The objections that do not meet the requirements of the part three and four of this Article shall be returned by a court ruling.

6. A period missed for reasonable excuse for filing the objection shall be reinstated by the court that issued the court order on the grounds and in the procedure provided in the Article 126 of this Code.

Footnote. Article 142 as amended by Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 142.Reversal of the court order

1. The judge shall cancel the court order if the objection is received from the debtor against a stated request or if there is another person’s application, whose rights and obligations are affected by the court order, about court order non-conformity to the requirements of the law.

2. The judge shall decide on the reversal of the court order no later than in three business days after of receipt of the objection or application. The ruling clarifies that the claim filed by the claimant shall be filed in accordance with the procedure for the suit proceedings. The copies of the ruling on cancellation of the court order shall be sent to the claimant and the debtor no later than the next day after its delivery.

The court ruling on the cancellation of the court order is not subject to appeal or revision upon request of the prosecutor.

The private petition is filed and prosecutor’s petition is brought for decision the by court to refuse to cancel the court order and prosecutor.

Article 143.The issuance of the court order to a claimant and sending it for the execution

1. If the objection is not received by the debtor within the prescribed time, the judge shall issue the court order to the claimant, certified by the court seal that shall be submitted to the relevant justice authority at the debtor’s place of residence.

2. Upon request of the claimant, as well as on the requirements subjected to immediate execution in accordance with the Article 243 of this Code, the court order shall be sent directly by the court.

3. For the collection of the state duty from the debtor to the income of the corresponding budget, a separate copy of the judicatory civil order, certified by the court seal, shall be sent directly by the court to the appropriate judicial authority on territoriality.

4. The copy of the judicatory civil court order shall remain in the proceedings of the court.

Chapter 13. SIMPLIFIED (WRITTEN) PROCEEDING

Article 144.The procedure of the simplified (written) proceeding

1. The cases in the order of the simplified (written) proceedings shall be considered by the court according to the rules of the Chapter 14 of this Code with the features established by this Chapter.

2. The cases in the procedure of the simplified (written) proceedings shall be considered by the judge within one month from the date of the adoption of the application. The term of consideration of the case in the procedure of the simplified (written) proceedings shall not be extended.

3. The court shall make a decision on the consideration of the case according to the litigation rules in a general order, if:

1) the party has filed a procedural request;

2) the procedural request of the third party to intervene is satisfied;

3) uphold a counterclaim;

4) the judicial act adopted in this case violates the rights and legitimate interests of other persons;

5) it is necessary to conduct a search and examination of the evidence at their location, to commission an expert opinion or to hear testimony;

6) it is necessary to clarify additional circumstances or search additional evidence.

4. The general procedure shall indicate the actions taken by the persons participating in the case and the time frame for the performance of these actions in the determination of the consideration of a case according to the litigation rules. The case shall be considered within the time limits established by this Code for the cases of the relevant category. The term of consideration of the case shall be calculated from the date of the initial acceptance of the claim.

5. If several requirements are simultaneously declared, when one or more does not fall under the list specified in the Article 145 of this Code and the court does not separate these requirements into separate proceedings, they shall be considered in the procedure prescribed by the Chapter 14 of this Code.

Footnote. Article 145 as amended by the Law of the Republic of Kazakhstan No. 177-VI dated 05.07.2018

Article 145.The cases considered in the simplified (written) proceedings

1. In the order of the simplified (written) proceedings the following cases shall be subjected for consideration:

1) on petitions for the collection of money, if the amount of the claim does not exceed seven hundred Monthly Calculation Index for legal entities, two hundred Monthly Calculation Index for individual entrepreneurs and citizens;

2) irrespectively the amount of the claim for petitions based on the documents submitted by the claimant, establishing the monetary obligations of the defendant and (or) on documents confirming the debt under the contract;

3) on the execution of agreements on the settlement of disputes (conflicts) in the order of mediation, concluded in the order of the pre-trial settlement in cases established by the law or provided by the contract;

4) on the execution of dispute settlement agreements, certified by a notary in the order of the pre-trial settlement in cases established by the Law of the Republic of Kazakhstan «On Notary» or stipulated by the contract;

5) on the execution of agreements on the settlement of disputes concluded with the participation of a lawyer under the contract of assignment of the parties or lawyers and the parties in the order of a participative procedure in accordance with the Law of the Republic of Kazakhstan «On lawyer activity and legal aid»;

6) on the execution of agreements on disputes related to business and investment activities concluded in the procedure of pre-trial settlement in cases established by the law or provided by the contract;

7) on the execution of agreements on insurance disputes and disputes arising from bank loan agreements concluded in the order of the pre-trial settlement in cases established by the law or stipulated by the contract;

8) on the execution of agreements on disputes in the field of consumer rights protection, concluded in the order of the pre-trial settlement in cases established by the law or stipulated by the contract;

9) on the implementation of agreements on disputes in the field of protection of intellectual property rights, concluded in the order of the pre-trial settlement in cases established by the law or stipulated by the contract;

10) on the execution of agreements on disputes connected with marital relations concluded in the order of the pre-trial settlement in cases established by the law or provided by the contract;

11) on the execution of agreements on disputes about the publication of a refutation of information discrediting the honor, dignity or business reputation of a citizen and the business reputation of a legal entity or a response in the mass media;

12) on the execution of other agreements concluded in the procedure of the pre-trial settlement of disputes in cases established by the law or stipulated by the contract.

2. petition in filing the claims listed in part one of this Article, without specifying the simplified (written) proceedings, they shall be considered according to the rules of this Chapter.

Article 146.The peculiarities of simplified (written) proceedings

1. The petition shall comply in the form and content with the requirements of the Articles 148 and 149 of this Code.

2. The court shall make a decision on the acceptance of the petition for the proceedings with an indication of the consideration of the case in the order of the simplified (written) proceeding.

3. The court shall notify the parties, establishing a deadline within fifteen business days for the defendant to submit a response (objection) to the petition with attachment of documents and evidence of the grounds. The response (objection) shall be attached with the document confirming that the copy shall be sent to the claimant.

4. The response (objection), evidence and other documents received by the court after the expiration of the deadline set by the court shall be accepted if the party proves the impossibility of submitting them by the deadline set by the court and they delivered before the court made the decision.

5. The court conducts simplified (written) proceedings without summoning the parties upon expiry of the time limits established by the court for the submission of a response, evidence and other documents.

6. The court explores the explanations, objections and / or arguments presented in the documents submitted by the parties and make a decision.

7. On simplified (written) proceeding, the rules provided by the Chapter 26 of this Code and the Article 198 of this Code shall not be applied.

Footnote. Article 147 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 147.The decision on the simplified (written) proceedings

1. A brief decision shall be made in the case considered in the procedure of the simplified (written) proceedings that shall comply with the requirements established by the Chapter 19 of this Code. The copies of the court's decision shall be sent to the parties using the means of

communication, ensuring the fixation of the receipt or issued no later than in five business days after of the decision in final form.

2. The defendant shall have the right to file a charge application with the court in the simplified (written) proceeding for the annulment of this decision within five business days after of the receipt of the copy of the court decision. The application shall be filed if the defendant was not notified properly on the petition and its consideration in the simplified (written) proceedings failed to provide a review as well as evidence that affect the content of the decision.

3. The application for the cancellation of the decision shall be considered according to the rules established by the Chapter 21 of this Code taking into account the requirements provided in the part two of this Article.

4. The decision shall be filed on appeal; an appeal procedural request shall be filed by the prosecutor upon the expiry of the time period for filing the application for the annulment of this decision, and if the application is submitted, within a month after the court has made a decision to refuse to satisfy this application.

5. In the procedure of the simplified (written) proceedings, the proceedings on the case shall be terminated; the application shall be left without consideration on the grounds established by the Articles 277, 279 of this Code, on the documents submitted by the parties without summoning the parties.

SUB-SECTION 2. SUIT PROCEEDING

Chapter 14. FILING OF SUIT

Footnote. Article 148 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017; No. 156-VI dated 24.05.2018

Article 148.The form and content of statement of claim

1. The statement of claim is filed to the court of the first instance in writing or in electronic format.

2. The statement of claim shall include:

1) the name of the court where the statement of claim is filed;

2) the surname, first name and patronymics (if it is indicated in the identity document) of the plaintiff, the date of birth, the place of residence, individual identification number, if the plaintiff is a legal entity the full name, location, business identification number and Bank details; the name of the representative and the address if the application is submitted by the representative. The application shall include the information about the telephone line number of the cellular communication and the electronic address of the plaintiff and the representative, if any;

3) the surname, first name and patronymics (if it is indicated in the identity document) of the defendant, the place of residence, individual identification number (if it's known to the plaintiff), if the defendant is a legal entity the full name, location, Bank details (if they are known to the plaintiff) and business identification number (if it is known to the plaintiff). The application shall include information about the telephone line number of the cellular communication and the electronic address of the plaintiff and the representative, if they are known to the plaintiff;

4) the essence of the violation or the threat of violation of the rights and freedoms of a citizen or the legitimate interests of the plaintiff and the plaintiff’s demands;

5) the circumstances when the plaintiff bases his claims, as well as the content of the evidence supporting these circumstances;

6) information on compliance with the pre-trial procedure for appealing to the defendant, if this is established by the law or provided by the contract;

7) the amount of the claim, if the claim is subjected to the assessment, as well as calculation of collected or disputed amounts of money;

8) the list of documents attached to the statement of claim.

3. The statement of claim brought by the prosecutor in the state or public interests shall contain a substantiation of a state or public interest that legal interests shall be violated and also the reference to the law shall be applied. In the case of the appeal of the prosecutor in the interests of a natural person or legal entity, the statement of claim shall contain a justification of the reasons for the impossibility of bringing the statement of claim by the natural person or legal entity. The statement of claim shall be accompanied by the document confirming the consent of the natural person or legal entity or his legal representative to the prosecutor's appeal to the court, except for cases where a statement of claim shall be filed in the interests of the legally incapable person.

4. The statement of claim shall be signed by the plaintiff or his representative, if he is authorized to sign the statement of claim. It is necessary to be sure in the electronic digital signature of the plaintiff or the representative when filing a claim in the form of an electronic document.

5. The rules for the technical application of the means of filing documents to the courts in the form of an electronic document, their registration, processing, familiarization with them shall be approved by the authority that provides organizational and material and technical support for the activities of the courts.

Footnote. Article 149 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated 27.02.2017; No. 91-VI dated 11.07.2017

Article 149. The documents attached to the statement of claim petition

1. Documents attached to the state of case petition are:

1) the copies of the state of case petition and the documents attached thereto by the number of defendants and the third parties;

2) the document confirming the payment of the state duty;

3) the power of attorney or other document certifying the powers of the representative;

4) the documents confirming the circumstances where the plaintiff bases his claims;

5) the documents confirming compliance with the pre-trial procedure for settling a dispute, if this procedure is established by the law or provided by the contract;

6) the procedural request of the plaintiff for taking the evidence, if the evidence is with the defendant or the third party;

7) the copies of the charter, the certificate or the certificate of state registration (re-registration), if the claim is filed by a legal person.

1-1. The statement of the case submitted in accordance with the procedure provided by the fourth part of the Article 27 and the subparagraph 2) of the Article 28 of this Code shall be attached with:

1) the copies of the investment contract concluded between the investor and the authorized state body;

2) documents confirming the investment activity of the investor.

2. The statement of the case submitted in the form of an electronic document shall be attached in electronic form to the copies of the documents referred to in the subparagraphs 2) - 7) of the first part of this Article.

Article 150.The acceptance of the statement of the case

1. A judge shall decide on the acceptance for the court proceedings within five business days after of the receipt of the statement of the case.

2. The judge shall make a decision on initiating a civil case indicating the language of the proceedings accepting the statement of the case in the proceedings of the court of the first instance.

Footnote. Article 151 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 151.The refusal to accept the statement of the case

1. The judge shall refuse to accept the statement of the case if:

1) the statement is not subjected to consideration and permission in civil proceedings;

2) there is a court decision that has entered into legal force or a court decision to discontinue the proceedings on the grounds provided in this Code, rendered in a dispute between the same parties, on the same subject and on the same grounds;

3) there is a decision of the arbitrage made on the dispute between the same parties, on the same subject and on the same grounds and this has become known to the court.

2. The judge shall make a ruling within five business days after of its receipt on refusal to accept the statement of the case that shall be served or sent to the declarant with all documents attached to the claim.

3. The refusal to accept the statement of the case prevents the claimant from re-applying to the court with the same defendant, on the same subject and on the same grounds.

4. The court’s decision on the refusal to accept the statement of the case indicates that the claimant shall apply to if the case is not subjected to consideration and resolution in civil proceedings.

5. A statement of the case shall be lodged with a decision by the prosecutor on the ruling to refuse to accept the statement of the case.

Footnote. Article 152 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 152.The return of the statement of the case

1. The judge returns the statement of the case if:

1) the plaintiff is not complied with the procedure for the pre-trial settlement of the dispute established by the law for this category of cases or stipulated by the parties' agreement and the possibility of applying this procedure has not been lost;

2) the case is not in the jurisdiction of the court;

3) the statement of the case does not meet the requirements of the Article 148, the subparagraphs 1), 2), 3) and 5) of the part one, the part 1-1 of the Article 149 of this Code and the impossibility of eliminating deficiencies at the stage of preparing a case for the court proceedings establishment;

4) the application is filed by an incompetent person;

5) the application is signed by a person who does not have the authority to sign it or to present it;

6) in the proceedings of the same or another court or arbitration there is a case in a dispute between the same parties, on the same subject and on the same grounds;

7) the parties have concluded an agreement in accordance with the law on the transfer of this dispute to the resolution of the arbitration, unless otherwise provided by the law;

8) the body authorized to manage the communal property has applied to the court for recognition of the right of communal ownership of the immovable property before the expiration of one year from the date of acceptance of this property by the authority registering the right to immovable property, except for the case specified in the paragraph 3 of the Article 242 of the Civil Code of the Republic of Kazakhstan;

9) the plaintiff announced the return of the statement of the case filed by him.

2. The judge shall make a decision on the return of the statement of the case that indicates which court the person shall apply to if the case is not in the jurisdiction of the court or how to

eliminate the circumstances preventing the initiation of the civil case. The ruling shall be made within five business days after of the receipt of the statement of the case to the court and delivered or sent to the plaintiff with all attached documents.

3. The re-admittance of the statement of the case shall not prevent the plaintiff from re-applying to the court with the same defendant, on the same subject and on the same grounds if the violation is eliminated.

4. The decision of the court on the re-admittance of the statement of the case shall be filed; the private statement of the case, the procedural request shall be brought by the prosecutor to the court of appeal, whose decision is final.

Article 153.The counter-claiming

1. The defendant shall have the right to submit a counter-claim to the plaintiff for joint consideration with the initial claim before the completion of the preparation of the case for the judicial examination. The presentation, return, refusal to accept the counter-claim shall be made according to the rules provided by the Articles 148, 151 and 152 of this Code.

2. The counter-claim shall be accepted during the court proceedings if the defendant did not participate at the stage of preparing the case for the court proceedings due to inadequate notification of the time and place of the preparation of the case for the judicial examination.

Article 154.The counter-claim allowance conditions

The judge shall accept the counter-claim if:

1) the counter-claim is directed to the offsetting of the initial claim;

2) the satisfaction of the counter-claim excludes completely or in the part of the satisfaction of the initial claim;

3) there is a mutual link between the counter-claims and the initial claims and their joint consideration lead to a faster and more correct settlement of disputes.

Chapter 15. SECURITY OF A CLAIM

Article 155.The grounds for securing of a claim

1. Upon request of the parties to the arbitral proceedings a court may take measures to secure the claim in any state of the case if non-taking such measures might make it difficult or impossible to enforce the decision of the court.

The parties shall attach to the application for securing the claim a document confirming the filing of the claim to the arbitration to the arbitration proceedings.

2. It is not allowed to take measures to secure the claim in relation to the financial organization, as well as an organization that is a part of a banking conglomerate as a parent organization and is not a financial organization, when they carry out restructuring in cases provided by the laws of the Republic of Kazakhstan.

Footnote. The second paragraph of the clause 2 provides an amend No. 168-VI in the Law of the Republic of Kazakhstan dated 02.07.2018 (shall be enforced from January 1, 2019)

It is not allowed to take measures to secure the claim in relation to the suspension of the contested legal act of the National Bank of the Republic of Kazakhstan on the suspension of actions and (or) decertification and (or) supplementary thereto for carrying out activities in the financial market, conducting the conservation of financial organizations, as well as its written regulations.

It is not allowed to take measures to secure the claim in the form of suspension of the contested legal act of the state revenue bodies that is the basis for conducting tax audits.

Footnote. Article 156 as amended by the Law of the Republic of Kazakhstan No. 12-VI dated July 26, 2016; No. 114-VI dated December 12, 2017 (shall be enforced from January 1, 2018); No. 168-VI dated 02.07.2018.

Article 156. Measures for securing the claim

1. Measures for securing the claim shall be:

1) seizure of property, belonging to a defendant and located at his/her or other persons' place (except for seizure of money in a bank account, and property, which is a subject of repo transactions, concluded in trading systems of organizers of open bid bargains).

or contributions to guarantee or reserve funds of a clearing organization (central counterparty), margin contributions that are collateral for transactions concluded in the trading systems of trade organizers using open trading and (or) with the participation of a central counterparty, as well as money held in bank accounts, where salary is received).

Seizure of obligatory pension contributions, obligatory professional pension contributions (penalties on them), pension assets and pension savings, benefits and social benefits paid from the state budget and (or) the State Social Insurance Fund, housing payments for money on bank Accounts in housing construction savings banks in the form of housing construction savings accumulated through the use of housing payments, for money deposited on a notary deposit, located in bank accounts under an agreement on educational savings deposit, concluded in accordance with the Law of the Republic of Kazakhstan «On the State Educational Savings System»; the assets of the Social Health Insurance Fund are not allowed.

Seizure of money in the territory of the Republic of Kazakhstan at a correspondent account of a foreign state shall be allowed for claims for damages, caused by violation of jurisdictional immunity of the Republic of Kazakhstan and its property by a foreign state.

The ruling on security of a claim on seizure of money, belonging to a defendant and saved in a bank, shall contain the sum of money to be seized. The amount of money, subject to seizure shall be determined by the court, taking into account the case materials;

2) the prohibition to the defendant to perform certain actions;

3) prohibiting to other persons to transfer property to the defendant or perform other obligations in relation to him/her, as provided by the law or contract;

4) suspension of sale of property in case if the claim on release of property from seizure is brought and (or) disputing the results of the evaluation of the property of a debtor;

Footnote. Subparagraph 5) provides an amend No. 168-VI by the Law of the Republic of Kazakhstan dated 02.07.2018 (shall be enforced from January 1, 2019).

5) suspension of force of the challenged legal act from a state body, body of local self-government (except for the legal act of the National Bank of the Republic of Kazakhstan on suspension of operations and (or) deprivation of licenses for financial activities, temporary suspension of financial institutions, as well as its written prescriptions);

6) suspension of recovery upon an enforcement document contested by a debtor in the court proceedings

7) suspension of bidding for out-of-court sale of the item under the loan;

8)suspension of the disputed acts and actions of the judicial executor connected with the address of collecting on the property made in the enforcement proceeding.

2. If necessary, the court may take other measures to secure the claim, meeting the goals, set in the Article 158 of this Code. The Court may take several measures to secure the claim. In case of violation of prohibitions, specified in subparagraphs 2) and 3) of part 1 of this Article, the offenders are brought to administrative responsibility. Besides, the plaintiff shall have right to bring a claim on compensation of losses, caused by non-enforcement of the ruling on security of the claim.

3. Measures for security of the claim shall be commensurate to the requested requirement.

Article 157. Consideration of application on security of a claim

1. The application on the injunctive relief shall be reviewed and delivered by a judge on the day of the ruling of the institution of the civil case, if it was attached to the petition or indicated in the petition. In other cases, the application for the security of the claim shall be resolved by the judge on the day of his receipt in the court.

2. The application on security of a claim shall be considered by the judge on the day of its receipt by the court without notice to the defendant and other persons participating in the case of arbitrary and adjudicatory proceedings. Having considered the application on security of a claim, the judge makes the decision.

The judge shall make a decision on the security of a claim with the indication of the measure for security of a claim provided in the Article 156 of this Code or on refuse to satisfy the application based on the results of consideration of the application.

Article 158. Enforcement of the decision on security of a claim

1. The determination on the security of a claim shall be sent by the court or handed to the person who filed the procedural request for taking the measures for securing of a claim for immediate submission:

1) to the relevant judicial authority on territoriality for the imposition of arrest on the property of the debtor in the procedure established by the Law of the Republic of Kazakhstan «On Enforcement Proceedings and the Status of Judicial Custodians», in the absence of information about the property;

2) to the relevant judicial authority on territoriality for the suspension of enforcement proceedings in the cases provided in the subparagraphs 6), 8) of the first part of the Article 156 of this Code;

3) to the defendant in the case provided by the subparagraph 2) of the first part of the Article 156 of this Code;

4) to the state or local authority in the case provided in the subparagraph 5) of the first part of the Article 156 of this Code;

5) to the security holder in the case provided by the subparagraph 7) of the first part of the Article 156 of this Code;

6) to the justice authority or authorized body for the sale of restricted property in the case provided by the subparagraph 4) of the first part of the Article 156 of this Code;

7) to the debtor of the defendant in the case provided by the subparagraph 3) of the first part of the Article 156 of this Code;

8) to the registering authority to impose a charge on the disputed property;

9) to the banks and organizations that carry out certain types of banking operations for imposing arrest on money belonging to the defendant and held in bank accounts, in the case where the account numbers and the specific bank are known.

2. In the absence of information about the property where the interim measures have been applied, the court's decision shall be sent for execution to the appropriate judicial authority on territoriality.

The authorities and persons to whom the determination has been sent shall be obliged to inform the court within five business days of the execution of the court’s decision to secure the claim. Failure to fulfill this obligation entails the occurrence of liability provided by the law.

3. The writ on interim measures shall not be written out.

Article 159. Replacement of one of security of a claim by another one

1. Upon request of the person participating in the case, Replacement of one of security of a claim by another one.

2. The issue of replacing one measure of the injunctive relief with another shall be resolved by the court not later than in five business days after of receipt of such an application, notifying the persons participating in the case about the time and place of considering the application; however, their non-appearance shall not preclude consideration of the matter basically.

3. The judge makes a ruling on replacement of one of security of a claim by another one.

In case of a refusal to satisfy the application, the court shall indicate the motives why it is impossible to replace the previously selected measure for securing of a claim in the ruling.

4. In securing a claim on recovery of money, the defendant shall have right to pay the plaintiff's claimed amount of money to the court bank deposit in exchange for the court's adopted measures on security of the claim.

Article 160. Cancellation of security of a claim

1. Security of a claim may be canceled by the same court at the parties' request or on its own initiative.

Persons participating in the case shall be notified of the time and place of the hearing, but their absence shall not hamper consideration of the case on cancellation of security of the claim business days.

2. In case of dismissal of the case, the measures taken to secure the claim are kept until the decision 's entry into legal force. However, the court may simultaneously with the decision or after its consideration, issue a ruling on cancellation of security of the claim. If the claim is satisfied, the taken measures keep their effect until the court decision is performed an enforcement order

3. Specialized financial court considering the case on restructuring of a financial institution or organization, a member of a banking conglomerate as a parent organization and not being a financial organization, in case of making a decision on restructuring of a financial institution or organization, a member of a banking conglomerate as a parent organization and not being a financial organization, shall be obliged to cancel the statement of the claim, adopted by the courts before the decision on restructuring of a financial organization or an organization, being a part of a banking conglomerate as a parent organization and not a financial institution, and (or) its property, is issued.

Footnote. The Article 161 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 161. Appeal, prosecutor's petition on rulings related to securing of a claim

Footnote. The title of the Article 161 of the Law of the Republic of Kazakhstan is in edition No. 91-VI dated 11.07.2017

1. A private petition and a protest can be brought to all rulings concerning the issues of securing of statement of claim.

2. If a decision on security of claim was made without notice of the complainant, the period for filing a petition shall be calculated from the day when he/she shall have learnt about the decision.

3. Filing of private petitions against a ruling on security of a claim shall not suspend fulfillment of the ruling.

4. Submission of a private petition or a protest against the ruling on cancellation of security of a claim or replacement of one of security of the claim by another one, suspends enforcement of the ruling.

5. The material separated from the case concerning the adopted ruling shall be sent with a private petition to the court of appeal.

Article 162. Compensation of damages to a defendant caused by security of a claim

1. The court admitting security of the claim, may require from the plaintiff to provide security of possible damages to the defendant. The defendant, after the decision on denial of the case enters into legal force, shall have right to bring a claim on compensation of damages, caused by measures for security of a claim, adopted at the request of the plaintiff Security of possible damages is made by deposit of the amount specified in the court's ruling to the authorized body.

2. The defendant, after the decision on denial of the case enters into legal force, shall have right to bring a claim on compensation of damages, caused by measures for security of a claim, adopted at the request of the plaintiff.

Chapter 16. PREPARATION OF A CASE FOR PROCEEDINGS

Article 163. Tasks of preparation of the case

1. The judge shall prepare the case for the court proceedings in order to ensure its timely and proper resolution after accepting the application to the court proceedings and initiating the civil case.

The judge shall make a decision on the preparation of the case for the court proceedings and indicate the actions to be taken.

2. The tasks of preparing a civil case for the court proceedings shall be obligatory in each case and as follows:

After receiving an application and initiation of a civil case, the judge prepares the case for proceedings in order to provide its timely and proper consideration and settlement.

2. The tasks for preparing the case for proceedings, mandatory for every case are:

1) clarification of circumstances, important for proper settlement of the case;

2) determination of relationships of the parties and the law to be applied;

3) settlement of the issue concerning composition of persons, participating in the case and participants;

4) determination of evidence to be submitted by each party to justify their claims.

5) assistance in facilitating the conciliation of the parties.

Footnote. Article 164 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017; No. 156-VI dated 24.05.2018

Article 164. Terms of preparation of the case for court proceedings

1. Preparation of civil cases for court proceedings shall be held not later than twenty business days after the date of application's acceptance, unless otherwise stipulated by this Code and other laws.

In exceptional cases of particular complexity, except for cases involving alimony, compensation for damage, caused by injury or other harm to health, as well as loss of a breadwinner, and on requirements, arising from employment relationships, this period may be extended up to one month on the judge's motivated ruling.

1-1. Preparation of the civil cases in disputes provided in the Part four of Article 27 and subparagraph 2) of Article 28 of this Code, proceedings shall be held no later than one month after the date of the acceptance of the claims in the court proceedings. In cases of particular complexity this period may be extended by the additional month according the ruling of the judge.

2. The decision on the extension of the term for preparing the case for the proceedings is not subject to appeal or revision upon the prosecutor's request.

Footnote. Article 165 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated 27.02.2017; No. 156-VI dated 24.05.2018

Article 165. Actions of the judge on preparing the case for the proceedings

In order to prepare the case for the proceedings, taking into account the circumstances of the case, the judge shall take the following actions:

1) within three business days after the date of acceptance of the claim, send the claim in accordance with the procedure provided by the Chapter 11 of this Code or hand over to the respondent and to the third parties copies of the claim and documents attached to it substantiating the plaintiff's requirements and also oblige the defendant to submit a written notice response to the claims submitted by the plaintiff with the statement of evidence supporting the arguments;

2) if the defendant or other persons participating in the case declare to the court that the documents attached to the claim are not received, the court shall ensure that the plaintiff is with them in the court and upon the procedural request of these persons for delivery the plaintiff shall provide copies of the mentioned documents;

3) clarify to the parties their procedural rights and obligations, suggest clarifying the procedural documents submitted and circumstances mutually disputed by the parties;

4) explain the parties the legal consequences of the late submission of evidence within the time limit established by the court and unjustifiable delays in the process established by this Code;

5) clarify the parties the right to resolve the dispute by settlement, an agreement on the settlement of a dispute (conflict) in the process of mediation or an agreement on the settlement of a dispute in the order of a participative procedure or to apply for a resolution of the dispute to arbitration and their legal consequences;

6) clarify the legal representatives of minors of the plaintiff or the defendant the right to file a procedural request for the transfer of the case on jurisdiction to the district and equivalent court at the place of residence (location) of the child;

7) deliver the issue of the composition of the persons participating in the case, including the entry of the third party into the case and also decide on the replacement of the inappropriate defendant;

8) notify on receipt of the claim to the court to the persons interested in the outcome of the proceedings in the case;

9) appoint an expert examination and also resolve the issue of involving a specialist or an interpreter in the case at the procedural request of the party or on its own initiative;

10) resolve the issue of summoning witnesses to the court session;

11) oblige citizens and legal entities to provide evidence relevant to the proper consideration and resolution of the case at the procedural request of the party, explain the legal consequences established by the part seven of the Article 73 of this Code;

12) produce the notice of the persons participating in the case, on-site inspection of written and physical evidence in cases that do not tolerate delay;

13) send court requests;

14) make a decision on the return of the claim submitted by him upon request of the plaintiff;

15) oblige the parties to submit documents and evidence obtained in the course of its conduct if the parties in the pre-trial settlement conducted a participative procedure; interrogate the plaintiff on the basis of his claims, find out his contested facts, possible objections from the defendant, offer, if necessary, to provide additional evidence, explain the procedural rights and obligations to the parties;

16) perform other procedural actions necessary for the correct and timely consideration and resolution of the case.

Footnote. Article 166 as amended by the Law of the Republic of Kazakhstan No. 49-VI dated 27.02.2017

Article 166. Statement of defense to the statement of claim

1. 1. The defendant shall submit to the court a statement of defense with documents, supporting his objections to the claim, as well as documents, confirming sending of copies of the statement of defense and the attached documents. The judge shall send or hand the plaintiff and other persons participating in the case copies of the answer and the documents attached to it within three business days.

2. The withdrawal shall be submitted no later than in ten business days after of receipt of the copy of the petition.

3. A written statement of defense to the statement of claim can be brought by other persons participating in the case

4. The statement of defense shall include:

1) the name of the plaintiff, his location or place of residence;

2) the name of the defendant, his location; if the defendant is a citizen, then his place of residence is indicated;

3) the arguments on the basis of the stated claims with the reference to the evidence substantiating them;

4) the list of the documents attached to the answer.

The answer shall include phone numbers, fax numbers, email addresses and other information necessary for the correct and timely consideration of the case.

5. The failure of the defendant to submit the answer and evidence shall not preclude the examination of the case on the evidence in the case.

6. The statement of defense shall be signed by the defendant or his representative. The power of attorney or another document confirming his authority shall be attached to the answer signed by the representative.

The answer submitted in the form of an electronic document shall be certified by the electronic digital signature of the respondent or the representative. The submitted answer shall be attached in an electronic form with the copies of the documents referred to in this Article.

Footnote. Article 167 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 167. Consolidation and dissolution of several statements of claims

1. The judge allocates one or several of the requirements consolidated by the plaintiff to a separate proceeding, if the separate consideration of the requirements will be more appropriate.

2. In case of bringing of the requirements by several plaintiffs or to several defendants, the judge has right to allocate one or more claims to a separate proceeding, if separate consideration will be more appropriate.

3. The judge, having established that the Court considers several homogeneous cases, involving the same parties, or several cases on claims of a plaintiff to different defendants or different plaintiffs to the same defendant, shall be entitled to bring these cases into one case for joint consideration, if such consolidation will be appropriate.

4. The time period for consideration of the case after the separation of one claim from another shall be calculated from the date of the completion of the preparation of the case for the court proceedings on the highlighted claim.

The term of consideration of the case after consolidation of the cases in one proceeding is calculated from the date of the completion of the preparation of the case for the court proceedings upon requested earlier.

5. The definition on joinder or severance of several claims shall not be subjected to appeal, revision upon request of the prosecutor. Arguments of disagreement with the definition shall be specified in the appeal, the procedural request of the prosecutor.

Article 168. Suspension, termination of proceedings upon the case and leaving of a claim without consideration while preparing the case for court proceedings

1. In case of circumstances stipulated by the Articles 272, 273, the subparagraphs 1), 2), 3), 4) and 5) of the section 277 and the subparagraphs 1), 2), 3), 4), 5), 8) and 9) of the Article 279 of this Code, the proceedings in the case of its the preparation of a case for proceedings may be suspended or terminated or left without consideration.

2. The parties shall be explained the consequences of such procedural act.

Article 169. Change in the subject or grounds of the claim, increase or decrease of the relief demanded in the claim

1. The plaintiff shall have the right to change the grounds or subject of the claim, to increase or decrease the size of the claim requirements by submitting a written application before the completion of the preparation of the case for the trial or until the court is removed to the deliberation room in the absence of the need for additional legal proceedings.

On the change in the grounds or subject of the claim, increase or decrease in the size of the claim requirements it may be declared after the pre-trial procedure for settlement the dispute, if such procedure is established by law or provided for in the contract.

2. Simultaneous or in any sequence change of the subject and the basis of the claim shall mean that the plaintiff submits a new claim and the plaintiff’s refusal of the previously filed claim results the termination of the proceedings on the previously filed claim. Simultaneous or in any sequence change of the subject and the basis of the claim is allowed in case of conclusion of an agreement on the settlement of the dispute (conflict) in the procedure of mediation.

3. The court shall not, on its own initiative, change the subject or cause of the claim.

Footnote. Article 170 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 170.Abandonment of a claim by a plaintiff

1. The plaintiff shall have the right to refuse the claim during the preparation of the case for the court proceedings or until the court retires to the chambers by submitting a written application to the courts of the first and appeal instances.

2. Before the nonsuit, the court shall explain the plaintiff or the parties the consequences of the relevant legal proceedings.

3. In case of acceptance of the nonsuit, the court shall issue a decision on the termination of the proceedings, where a private petition shall be filed or the procedural request shall be brought by the prosecutor to the court of appeal.

4. If the court shall not accept the nonsuit on the grounds stipulated by the second part of the Article 48 of this Code or if the requirements of the first paragraph of this Article, the court shall continue the case on the merits and indicate the reasons for not accepting the nonsuit in the court decision or order.

Article 171.The acceptance of claim by the defendant

1. The defendant has the right to accept the claim in full or in part when preparing the case for the court proceedings or before the court’s removal to the chamber by submitting a written application to the courts of the first and appeal instances.

2. The acceptance of the claim by the defendant shall relieve the court from the obligation to search the evidence. In the case of the acceptance of the claim in the part of the search, the evidence shall be delivered only in the part where the claim is not recognized by the defendant.

3. Before the acceptance of the claim, the court shall explain the plaintiff, the defendant or the parties the consequences of the relevant procedural actions.

4. On acceptance of the claim by the defendant in full or in part or on non-acceptance of such recognition on the grounds provided in the part two of the Article 48 of this Code and shall be indicated in the decision or order of the court.

Article 172.The preliminary court hearing

1. According to the results of the preparation of the case for the court proceedings a preliminary court hearing shall be held with a view to procedurally consolidating the administrative actions of the parties and other persons participating in the case, made during the preparation of the case for the judicial examination, the study of the omission of terms of appeal to court and limitation periods.

2. The parties and other persons participating in the case shall be notified about the time and place of the preliminary court hearing. The absence of any of the summoned persons is not an obstacle for holding the preliminary court hearing.

3. During the preliminary court session, the court shall discuss the circumstances of the case with the parties, ask questions and determine the nature of the disputed legal relationship and circumstances conducive to reconciliation of the parties. The parties present and other persons participating in the case shall be heard.

4. In accordance with this Code, the judge shall take all measures that are still required to prepare the case for the judicial examination. In the extraordinary complexity of the case the judge shall extend the time for preparing the case for the court proceedings in accordance with the requirements of this Code.

5. The court shall set a deadline for submitting a written answer to the petition, if the defendant did not submit it by the deadline set earlier or submitted the answer on all the requirements and grounds for the petition. Upon request of the court the answer shall be submitted directly to the preliminary court hearing.

6.If the period of limitation or the period of appeal to the court is missed without valid reasons, the judge shall decide to refuse the claim without searching other factual circumstances in the case. The fact of absence in the period shall be established on the basis of the plaintiff's procedural request on the restoration of the missed period or the defendant's procedural request of the limitation period.

7. If the court accepts the claim in the procedure established by the Article 171 of this Code, the judge shall decide on the satisfaction of the claim without investigation of the circumstances of the case.

In the absence of the need for additional legal proceedings or the search of the evidence, the court shall decide on the basis of the stated requirements.

8. If there are grounds provided by this Code, the proceedings in the preliminary court hearing shall be suspended or terminated, the application shall be left without consideration.

9. The court records shall be kept according to the rules provided by the second part of the Article 281 of this Code.

10. The prosecutor shall participate in the preliminary hearing in cases when the obligation to participate is established by this Code.

Footnote. Article 173 is in the edition of the Law of the Republic of Kazakhstan No. 156-VI dated 24.05.2018

Article 173.The assignment of case for judicial examination

The judge, recognizing the case prepared, shall deliver a decision on its assignment for judicial examination, notify the parties and other persons participating in the case about the time, place and proceedings in the case.

The court proceedings shall be started no later than in twenty business days from the date of the completion of its preparation.

The suspend of proceedings as a rule is not allowed, except for the cases provided by the Article 198 of this Code.

Chapter 17. SETTLEMENT ARRANGEMENTS

Article 174.The conciliation of the parties

1. The court shall take measures to reconcile the parties, assist them in resolving the dispute at all stages of the action.

2. The parties shall settle the dispute in full of mutual claims either in part by entering into a settlement arrangements, an arrangement on resolving a dispute (conflict) in mediation or an agreement on resolving a dispute in a participative procedure or using other methods in the procedure established by this Code.

3. The procedural request for the settlement of a dispute with the use of conciliation arrangements shall be filed in any case of lawsuit proceedings, except in cases arising from public-law relations, unless otherwise provided by this Code or the law.

Article 175.The settlement agreement conclusion

1. A settlement agreement shall be concluded at any stage of the proceedings before the court is removed to the chamber in the courts of the first, appeal, cassation instances, as well as during the satisfaction of the judicial act.

2. The settlement agreement shall not violate the rights and legitimate interests of other persons and be contrary to the law.

3. The settlement agreement shall be approved by the court.

Article 176.The form and content of the civil agreement

1. The settlement agreement shall be concluded in written form and signed by the parties or their representatives if they have the authority to enter into the settlement agreement specifically provided in the power of attorney.

2. The settlement agreement shall contain the terms agreed upon the parties, indicating the date and procedure for its satisfaction.

3. The conclusion of the settlement agreement under the suspense condition is not allowed.

4. The settlement agreement shall contain conditions on deferral or installment of the performance of obligations by the defendant indicating the terms of deferral or installment, assignment of the right of claim, full or partial forgiveness or recognition of the debt, distribution of court costs, conditions of compulsory satisfaction of the settlement agreement and other conditions that do not contradict the law.

If there is no condition on the distribution of court costs in the civil agreement, they shall be considered as mutually extinguished.

5. The settlement agreement shall be drawn up and signed in the number of copies, exceeding by one copy the number of persons who have entered into the civil agreement. One of these copies shall be attached to the case file by the court that approved the civil agreement.

Footnote. Article 177 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 177.The settlement agreement approval

1. The procedural request of the parties to approve the settlement agreement shall be considered by the court in a court session. The persons participating in the case shall be notified about the time and place of the court session.

In case of absence at the court session of the parties duly notified of the time and place of the court session and the absence of an application on the consideration of the procedural request without their participation, the court shall not consider the procedural request for approval of the civil agreement.

2. The court shall explain the parties the legal consequences of concluding the settlement agreement before its approval.

3. The court shall make a decision on the approval of the settlement agreement and the termination of the proceedings or the refusal to approve the settlement agreement based on the results of consideration.

4. The court shall not approve the settlement agreement if it contradicts the law or violates the rights and legitimate interests of others. In case of refusal to approve the civil agreement, the court shall make a decision about this that shall not be subjected to appeal, review upon request of the prosecutor. The arguments of disagreement with the ruling shall be specified in the appeal, the procedural request of the prosecutor.

5. The court’s ruling on the approval of the settlement agreement shall indicate:

1) the approval of the settlement agreement and termination of the proceedings;

2) the terms of the settlement agreement and the time of its satisfaction;

3) the distribution of legal costs in accordance with the fourth part of the Article 176 of this Code;

4) the return of the state duty paid by the plaintiff from the budget.

6. The settlement agreement concluded at the stage of the satisfaction of a judicial act shall be submitted for approval to the court of the first instance at the place of satisfaction of the judicial act or to the court that accepted the specified judicial act.

7. The private petition shall be submitted to the ruling of approval of the settlement agreement and the procedural request shall be brought by the prosecutor to the court of appeal.

Article 178.The settlement agreement satisfaction

1. The settlement agreement shall be satisfied by the persons who have concluded it voluntarily in the manner and terms provided by this agreement.

2. The settlement agreement that is not satisfied voluntarily shall be subjected to the enforcement on the basis of a writ issued by the court upon request of the person who concluded the civil agreement.

Article 179.Settlement of a dispute(conflict) in the procedure of mediation

1. The parties shall have the right to file a procedural request for settlement of a dispute(conflict) in the procedure of mediation prior to the removal of the court to the chamber in the courts of the first, appeal, cassation instances.

The procedural request of the parties to adjust a dispute (conflict) in the process of mediation shall be filed with the court of cassation, unless it requires additional procedural actions and the suspension of the proceedings.

The parties shall submit an agreement on the settlement of a dispute(conflict) in the procedure of mediation simultaneously with the procedural request in the court of cassation.

2. When applying for mediation by the mediator and submitting to the courts of the first and appellate instances of the agreement concluded by the parties with the mediator, the proceedings shall be suspended in accordance with the subparagraph 7) of the Article 272 of this Code for a period not exceeding one month.

3. When applying for mediation by the judge of the first or appellate instance, the court shall have the right to suspend the proceedings in accordance with the subparagraph 7) of the Article 273 of this Code for a period not exceeding ten business days.

4. The case shall be transferred to another judge to hold the mediation in the court of the first instance. The mediation shall be conducted by the judge in the charge of the case upon request of the parties.

The case shall be transferred, as a rule, to one of the collegiate judges to the mediation in the court of appeal.

5. The judge who conducts the mediation shall fix the day of the mediation and notify the parties about the time and place of its conduct. The mediation in the court shall be conducted in accordance with the Law of the Republic of Kazakhstan «On Mediation» and with the features established by this Code.

The court shall have the right to postpone the mediation procedure within the time limit established by the third part of this Article and to call other persons for mediation if their participation facilitates the settlement of a dispute(conflict) at the procedural request of the parties.

6. The record of proceedings of the mediation in the court shall not be kept.

7. If an agreement on settlement of a dispute(conflict) in the procedure of mediation is concluded at the stage of execution of a judicial act, it shall be submitted for approval to the court of the first instance at the place of satisfaction of the judicial act or to the court that accepted the specified judicial act.

Article 180.The agreement on settlement of a dispute (conflict) in the procedure of mediation and its satisfaction

1. The judge (composition of the court) in whose proceedings the case is located, shall check the content of the agreement on settlement of a dispute(conflict) in the procedure of mediation and make a decision on its approval and termination of the proceedings.

2. The agreement on settlement of a dispute (conflict) in the procedure of mediation, the ruling of approval of this agreement shall comply with the requirements of the Law of the Republic of Kazakhstan «On Mediation» and the Articles 176, 177 of this Code.

3. If the parties have not reached an agreement in the process of mediation or the terms of the agreement have not been approved by the court, the proceedings shall be conducted in a general order.

4. The satisfaction of the agreement on settlement of a dispute(conflict) in the procedure of mediation, approved by the court, shall be made according to the rules for the satisfaction of the civil agreement established by the Article 178 of this Code.

Article 181.The settlement of a dispute in the participative procedure

1. The parties shall have the right to submit an application for the settlement of a dispute in the form of a participative procedure before the removal of the court to the chamber under the rules provided in the Article 179 of this Code.

2. The participative procedure shall be conducted without the participation of a judge by means of negotiations between the parties, with the assistance of the dispute adjustment by the lawyers of both parties.

Article 182.The agreement on the settlement of a dispute by the participative procedure and its satisfaction

1. The judge (the composition of the court) in whose proceedings the case shall examine the content of the dispute adjustment agreement by way of a participative procedure and decide on its approval and termination of the proceedings in accordance with the Article 177 of this Code.

2. The agreement on the settlement of a dispute in the form of a participative procedure, the determination on the approval of the agreement shall comply with the requirements of the Articles 176 and 177 of this Code.

3. If the parties have not reached an agreement through participative procedure or the terms of the agreement have not been approved by the court, the proceedings shall be conducted in a general order.

4. The satisfaction of the agreement on the settlement of a dispute in the form of a participative procedure, approved by the court, shall be carried out according to the rules of satisfaction of the adjustment agreement, established by the Article 178 of this Code.

Chapter 18. COURT PROCEEDINGS

Article 183. Terms of consideration and settlement of civil cases

1. Terms of consideration and settlement of civil cases correspond to its actual complexity and the interests of the persons participating in the case.

2. The civil cases shall be considered and resolved by the court within two months from the date of completion of the preparation of the case for the judicial examination.

The civil cases on reinstatement in work, paternity and alimony, as well as special lawsuit and special proceedings shall be reviewed and determined by the court up to one month from the date of completion of the preparation of the case for the judicial examination. The cases over the recognition of strikes as illegal shall be considered and determined within ten business days after the date of the receipt of the claim in the court. The cases over challenging, conclusions, instructions of the authorized body on the basis of the inspection of public procurement shall be considered and resolved within ten business days after the date of completion of the preparation of the case for the judicial examination.

3. This Code may establish other terms for consideration and resolution of the certain categories of civil cases.

4. Terms of consideration and settlement of the case where the counterclaim shall be filed and calculated from the date of the completion of the preparation of the case for the court proceedings in the main claim.

The review duration shall be established by the court, taking into account reasonableness and sufficiency.

5. Terms of consideration and settlement of the case separated from the main case, as well as cases combined into one case for joint consideration shall be calculated in accordance with the fourth part of the Article 167 of this Code.

6. The review duration of consideration and determination of a case when appealing a court ruling in accordance with the procedure established by this Code shall be interrupted from the moment the case sent to a higher court until it reaches the court of first instance, except for appealing the ruling on securing a claim.

Article 184.Court session

The Public litigation of a civil case by the court shall take place in a court session with the obligatory notification of the persons participating in the case.

Article 185. Chairperson of the court session

1. Obligations of the chairperson shall be performed by the judge. The chairperson shall chair the court session by providing a complete, comprehensive and objective investigation of all circumstances, compliance with the procedure of proceedings, execution of the parties' procedural rights and performance of their obligations by them, educational impact of the process, removing all aspects not related to the case from the court proceedings.

2. In case of any objections of any of the participants of the process against the chairperson's actions, these objections shall be recorded in the minutes of the court session. The chairperson explains own actions.

3. The chairperson shall take necessary measures to provide proper order at the court session. His orders shall re obligatory for all participants, as well as for people, sitting in the court room.

Failure to comply with the requirements of the chairman related to observance of order at the court session leads to responsibility provided by the law in accordance with the requirements of the Articles 119 and 120 of this Code.

Article 186. Directness and oral nature of judicial proceedings

1. During the proceedings the judge shall directly investigate evidence of the case.

The court shall be obliged to listen to explanations of the parties and other people participating in the case, testimony of witnesses, expert opinions, conclusions of the state bodies and local authorities, to examine the documents, the evidence, listen to recording and watch videos, photographs, and read materials of other means of informational transformation. During the proceedings the court listens to consultations and explanations of the specialist, if necessary.

2. The proceedings shall be held orally. In case if the judge is replaced in the course of the case proceedings, the case shall be considered from the very beginning.

3. The hearing of the explanations of the parties, other persons participating in the case, the testimony of witnesses, expert opinions, conclusions of state bodies and local self-government bodies shall be carried out by the court via videoconferencing.

Article 187.Order in the Courtroom

1. When the judge enters the courtroom, all participants shall stand up. All persons present in the courtroom shall stand up to listen to the court decision or ruling, which ends the case without issuing a decision.

2. The persons participating in the case and the citizens who present in the courtroom address to the judge as «Honorable Court».

The judicial session participants shall give the explanations and objective evidence, questions and answers to them standing up with the permission of the presiding judge. The deviation from this rule shall be allowed only with the permission of the presiding judge.

3. The persons participating in the case, as well as the citizens who present in the courtroom shall be obliged to keep the order in the courtroom.

Article 188. Measures to be applied to violators of the order at the court session

1. The chairperson, on behalf of the court, makes a warning to a person, violating the court order.

2. A person participating in the case shall be removed from the courtroom in case of repeated violation of the order, as determined by the court, that shall be entered into in the records of the court session, for the entire duration of the judicial session or for the part of it. If later, the chair person shall acquaint the person, newly admitted to the courtroom, with the procedural actions taken in his absence. The persons returned to the courtroom shall be entitled to give explanations

on the circumstances investigated in their absence and ask questions to other persons participating in the case.

3. The persons not participating in the case and present in the courtroom, for repeated violation of the order, shall be removed from the courtroom by the order of the presiding judge.

4. In the event of a mass violation of the procedure by those who present at the judicial session, the court shall remove from the courtroom all persons not participating in the case and consider the case in closed session or postpone the judicial session. On consideration and ruling of the case in a closed court session, a decision shall be made and recorded in the records of the court session.

5. When establishing the fact of the contempt of court by a person who presents in the process during the juridical session, the court shall be entitled to impose an administrative penalty on the guilty person in accordance with the procedure established by the Article 120 of this Code.

6. If the actions of the offender of the order at the court session contain signs of a criminal offense, this person shall be brought to the criminal responsibility in the procedure established by the Article 120 of this Code.

Article 189. Opening of the court proceeding

1. At the appointed time for the hearing, the chairperson opens the hearing and announces the civil case to be considered. When using audio or video materials, the chairperson shall declare it.

Recordings the court session by means of technically faulty audio and video equipment, or lack of it or impossibility to use it for the technical reasons.

2. The impossibility of using audio and video recordings shall not preclude the continuation of the court session.

The reasons for not using audio and video shall be reflected in the minutes of the court session.

Article 190. Checking the participants' appearance

1. Court session secretary shall report to the court who are present in the court room, whether the absent persons were notified, and what information is available about the reasons for their absence.

2. The chairperson identifies the present person, and examines authorities of officials and representatives.

Article 191. Explanation of obligations to the interpreter

1. The chairperson explains to the interpreter his/her duty to translate explanations, testimonies, application of persons, who do not speak the language of proceedings, and to these individuals - content of explanation, evidence, applications of persons, participating in the case, witnesses, announced documents, sound recordings, expert conclusions, consultations, the judge orders, regulations and court decision s.

2. The chairperson warns the interpreter of the liability, stipulated by the Criminal Code of the Republic of Kazakhstan, for knowingly wrong translation. The interpreter's personal recognizance shall be attached to the minutes of the court session. In case of failure of an interpreter to appear in the court or perform his/her obligations, the interpreter may be brought to administrative responsibility in accordance with the legislation on administrative offenses.

3. Rules of this articles cover the persons having skills in finger-speech and involved by the court in the proceeding.

Article 192.Expelling of the witnesses from a courtroom

1. The appeared witnesses shall be expelled from the courtroom.

2. A chairperson shall take measures so that the questioned do not communicate with the witnesses yet not questioned by the court.

Article 193. Announcement of the court composition and explanation of the right for recusal

1. The chairperson announces the court composition, informs who is involved in the proceeding as a prosecutor, an expert, a specialist, a court secretary and explains their right for recusal to those persons, participating in the case.

2. Grounds for recusal, procedure of recusal and consequences of satisfaction of such recusals are defined by the Articles 38, 39, 40, 41 and 42 of this Code.

Article 194. Explaining to the persons participating in the case their rights and responsibilities

The chairperson explains procedural rights and obligations, including the right to bring a claim to an arbitral court or settle the dispute in mediation procedures and the consequences of such action to the persons participating in the case and their representatives.

A chairperson explains the parties their right to settle the dispute through a civil agreement, an agreement on resolving a dispute (conflict) in the mediation procedure, an agreement on resolving a dispute in a participative procedure or apply for arbitration, or settle a dispute in another way prescribed by the law and the legal consequences of such actions.

Article 195. Admittance of petitions from persons participating in the case

Petitions from persons and representatives participating in the case, related to proceedings, shall be admitted by the court after hearing the opinions of other persons participating in the case, as indicated in the minutes of the court session. The court ruling shall be issued in the cases established by this Code.

Article 196.The consequences of failure to appear of the persons participating in the case and their representatives

1. Persons participating in the case shall preliminarily notify the court about the reasons for failure to appear at the court session and present evidence justifying these reasons.

2. In case of failure to appear at the court session of any of those persons participating in the case, if there is no information on their notification, the hearing of the case shall be postponed.

3. If persons participating in the case have been properly notified of the time and place of the hearing, the court postpones the hearing if the reasons for failure are recognized to be justified.

4. The court may consider the case in absence of any persons participating in the case, if they were properly notified of the time and place of the hearing and if the reasons for their failure to appear in the court are unjustified.

5. The court may consider the case in absence of the defendant notified of the time and place of the hearing, in the order of absentia production on the grounds provided for by article 256 of this Code.

6. The parties may request the court in written form to consider the case in their absence and send them copies of the court decision.

7. Failure to appear at the court session of a representative of the person participating in the case, notified of time and place of the hearing, shall not be an obstacle to the consideration of the case. The court may postpone the hearing at the request of the person, participating in the case, in connection with absence of his/her representative for a reasonable excuse.

Article 197. Consequences of failure to appear at the court session of a witness, an expert, a specialist, an interpreter

1. In case of failure to appear in the court of a witness, expert or a specialist, the court hears opinions of those, participating in the case, on the possibility to consider the case in their absence and issues a ruling on continuation of the proceeding or its postponement.

2. In case an interpreter failed to appear at the court session, the judge issues a ruling to postpone the hearing, if replacement of the interpreter is impossible.

3. If the summoned witness, expert, specialist or interpreter failed to appear in the court for unjustified reason, they may be subjected to administrative responsibility in accordance with the legislation on administrative offenses. They may also be subjected to forced delivery to the court in accordance with Articles 119 and 120 of this Code.

Footnote. Article 198 as amended by the Law of the Republic of Kazakhstan No. 156-VI dated 24.05.2018

Article 198. Postponement of hearing of the case

1. Postponement of a hearing of the case shall be allowed only if the court finds it impossible to consider the case in this court due to absence of any of the participants of the process for reasonable excuse, bringing of a counterclaim stipulated by be second part of article 153 of this Code and necessity to submit, or request for additional evidence according to rules of article 73 of this Code.

2. The court is obliged to postpone hearing related to the dispute about the child in case of written notification from the authorized body of the Republic of Kazakhstan, for thirty days, in order to ensure the fulfillment of obligations under international treaty ratified by the Republic of Kazakhstan, on the receipt of statement on this child illegal transfer to, or retention in, the Republic of Kazakhstan. A copy of the statement shall be attached to the notification if the child has not reached the age when the specified international agreement is not applicable to this child.

3. In case if the case is postponed, a day of new court session shall be appointed, taking into account time, necessary to provide the case solution in the new proceeding that is notified against the participants' receipt. The party failed to appear and newly involved persons shall be sent notifications of the time and place of a new proceeding.

Article 199. Questioning of witnesses in case of postponement of the hearing of the case

When the hearing of the case is postponed, the court may interrogate witnesses present in the courtroom, if the parties are present in the hearing. Secondary summon of these witnesses to the new court session shall be allowed only in cases of necessity

Article 200. Explanation of the rights and responsibilities to an expert and specialist

The chairperson explains to the expert and specialist their rights and responsibilities, warns about criminal liability for giving knowingly false conclusion; the expert gives a hand receipt to be attached to the minutes of the court session.

The specialist shall be explained his procedural rights and duty to assist the court in carrying out the necessary legal actions.

Article 201. Beginning of considering the case on its merits

Consideration of the case on its merits begins with the chairperson's questions whether the plaintiff supports his/her claims, whether the defendant acknowledges the plaintiff's claims, and whether the parties wish to complete the case by a settlement agreement or submit the case to an arbitration court or settle the dispute in participative procedure, or by any other method established by the law.

Footnote. Article 202 as amended by the Law of the Republic of Kazakhstan No. 156-VI dated 24.05.2018

Article 202. Explanation of persons participating in the case and establishment of order for examining evidence

1. The court shall hear explanations from the plaintiff and a third party participating in the case on the part of the plaintiff, a defendant and a third party

The persons bringing the suit in accordance with part three of Article 54 and Article 55 of this Code in the interests of the plaintiff shall first give explanations on the circumstances of the case and present the evidence.

The persons participating in the cases have the right to ask each other questions in the order and sequence established by the chairperson. Number of questions asked shall not be limited but the chairperson has the right to exclude questions not related to the subject of the dispute and the circumstances on which the plaintiff's claims and the defendant's objections are based.

2. Written explanations of the persons participating in the case not appeared at the court session for reasonable excuse, as well as evidence obtained in the procedure provided in Articles 69, 71, 74, 75 of this Code, shall be announced by the chairperson and examined at the court session.

3. Upon hearing the explanations of the persons participating in the case and taking into account their opinions, the court establish the procedure for examining other evidence.

4. The explanations of the persons participating in the case shall be obtained and the evidence investigated by the court by means of video conferencing means through the court at the location of these persons or evidence.

5. The procedure for the technical application of video conference equipment shall be determined by the body that provides organizational and material and technical support to the courts, taking into account the requirements of this Code.

Article 203. Warning the witness about liabilities for failure to give evidence and for willful false testimony

1. Before the questioning of the witness, the chairperson establishes identity of the witness, explains his/her obligations and rights, and warns him/her of criminal liability for failure to give evidence and for willful false testimony. The witness including a witness reaching 16-year age is also explained that he/she shall have right to refuse to give evidence against himself/herself, his/her wife (husband) and close relatives, and clergy - to give evidence against the persons confessed to him.

2. The judge explains to a witness under sixteen his/her obligation to tell all he/she knows about the case, but he/she shall not be warned about criminal liability for refusal to give evidence and for willful false testimony.

Article 204. Procedure for questioning of a witness

1. Each witness shall be interrogated separately. The witnesses, who have not given evidences, cannot be present in the courtroom during the hearing.

2. The chairperson checks a witness's relation to the persons, participating in the case and offers the witness to tell the court everything what he/she personally knows about the case.

3. After giving free-form testimony, the witness may be asked questions. The first person, who asks questions, is a plaintiff, his/her representative, and then other persons participating in the case and representatives. The judge may ask questions to the witness at any time of interrogation.

4. If necessary, the court may question the witness again in the same or the next session, as well as to arrange a face-to-face confrontation between the witnesses to clarify contradictions in their testimony.

5. The questioned witness stays in the courtroom until the end of the proceedings, unless the court allows him/her to leave the courtroom earlier.

Article 205. Use of written materials by the witness

1. Witness when giving evidence can use written materials in cases when the evidence is associated with any digital or other data difficult to keep in mind. These materials shall be presented to the court and persons participating in the case, and can be attached to the case that is indicated in the minutes of court session.

2. The witness shall be permitted to read available documents related to his/her testimony and can be attached to the case that is indicated in the minutes of court session.

Article 206.The interrogation of under-age witness

1. Questioning a witness under fourteen, and at the court's discretion questioning of witnesses of 14-16 years shall be conducted at presence of a teacher summoned to the court. These persons may ask the witness questions and tell their opinions on the identity of the witness and content of his/her evidence.

2. In exceptional cases, if necessary, to establish circumstances of the case, at the time of the interrogation of under-age witness, a certain person, participating in the case, can be expelled from the courtroom by the judge's ruling, that is entered into the minutes of court section. After his/her returning to the courtroom, he/she shall be told the content of the testimony of under-age witness and have an opportunity to ask questions to the witness.

3. A witness, who is under 16, in the end of his/her interrogation, shall be expelled from the courtroom, unless the court deems this witness's presence in the courtroom to be necessary.

Article 207. Disclosure of witness's testimony

The testimony of the witnesses, collected in accordance with the procedures provided in the Articles 69, 71, 74, 75 and 199 of this Code, shall be announced at the court hearing, after that the persons participating in the case are entitled to give explanations on them.

Article 208. Inspection of documents

Documents or records of inspections, prepared in accordance with Articles 71, 75 and the subparagraph 12) of the Article 165 of this Code shall be announced at the court session and presented to the persons participating in the case, representatives, and, if necessary, to the experts, specialists and other witnesses. After that, the persons, participating in the case, may give their explanations

Article 209. Disclosure and studying of personal correspondence and telegraphic messages of citizens

In order to protect confidentiality of private correspondence and messages, the telegraph messages and correspondence may be read and studied in open court only under consent of the persons between whom these messages were sent. If these persons do not give such consent, their personal correspondence and private telegraph messages shall be read and studied in a closed court session. After that, the persons, participating in the case, may give their explanations

Article 210. Studying of material evidence

1. Material evidence shall be studies by the court and presented to the persons participating in the case, representatives, and, if necessary, to experts, specialists and witnesses. The persons, who were given the evidence, may draw the court's attention to certain facts, related to the inspection. These statements shall be recorded in the minutes of the court session.

2. Minutes of studying evidence drawn up in accordance with Articles 71, 75, 96, 97 and the subparagraph 12) of the Article 165 of this Code, shall be announced at the court session, after which the persons participating in the case may give their explanations.

Article 211. On-site inspection

1. Documents and material evidence, which are difficult to submit or they cannot be delivered to the court, shall be examined and inspected on the site. The court issues a ruling on the inspection which is entered into the minutes of the court session.

2. The persons participating in the case, their representatives shall be notified of the time and place of examination, but their absence shall not hamper the inspection. Experts, specialists and witnesses may be summoned to the court, if necessary.

3. Results of the inspection shall be recorded in the minutes of the court session. Plans, diagrams, drawings, calculations, copies of documents, other documents and photographs of material evidence, video and film materials shall be attached to the minutes.

Article 212. Listening to sound recordings, demonstration of video and film materials and their studying

1. During demonstration of personal audio, video recordings, film materials, as well as their study, provisions of third part of Article 19 and Article 209 of this Code shall be applied.

2. Audio, video demonstrations shall be held in the courtroom or in another specially equipped room, with recording of distinctive features of the material, indicating the time of demonstration. After that the court shall listen to the explanations of the persons participating in the case.

3. Audio and video materials can be replayed fully or partially if necessary.

4. In order to elucidate the information, contained in audio and video recordings, the court may involve a specialist and appoint an expertise as well.

Article 213. Investigation of an expert's conclusion

1. The expert's conclusion shall be announced in the court. In order to clarify and add new information to the conclusion, the expert may be asked questions.

2. The first person to ask questions shall be the person at whose request the specialist was involved, and then comes his/her representative and other persons participating in the case and their representatives. The specialist, invited by the court, shall be asked by the plaintiff first and then by his/her representative. The court is entitled to question the expert at any time of interrogation.

3. In cases specified in Article 90 of this Code, the court may appoint a repeated or additional expertise.

Article 214. Consultation (explanations) of a specialist

1. In cases, when there is no need for special studies, the expert gives consultation (explanations) either orally or in written form.

The expert’s consultation, given in written form, shall be read out and studied in the court, and attached to the minutes of the court session. Oral consultation shall be recorded directly into the minute of the court session (procedural action).

2. In order to clarify and add new information to the expert’s consultation, the expert may be asked questions. The first person to ask questions shall be the person at whose request the specialist was involved, and then comes his/her representative and other persons participating in the case and their representatives. The specialist, invited by the court, shall be asked by the plaintiff first and then by his/her representative. The court may ask questions at any time.

Article 215.The conclusions of the state authorities and local self-government

Written conclusions of the state bodies and bodies of local self-government allowed by the court to participate in the case on the basis of Article 56 of this Code shall be announced and investigated at the court session. The court, as well as the persons participating in the case and their representatives shall ask questions to the authorized representatives of these bodies in order to clarify and supplement the conclusions.

Article 216. Completion of considering the case on its merits

After examining of all the evidence, the judge shall ask the persons participating in the case and representatives, whether they wish to add something to the case materials. In case of absence of such statements, the chairperson declares completion of considering the case and the court starts pleadings.

Article 217. Court pleadings

1. Pleadings consist of speeches of persons participating in the case and their representatives. The participants in pleadings shall not be entitled to refer in their speeches to circumstances that were not clarified by the court, as well as to evidence that was not examined at the court hearing.

2. The plaintiff and his/her representative shall appear first and then the defendant and his/her representative come.

3. A third party declared own claim on the subject of the dispute and his/her representative shall appear after the parties and their representatives. The third party not declared own claims and its representative shall appear after the plaintiff or the defendant as parties of the plaintiff or as parties of the defendant.

4. A prosecutor, representatives of state bodies and local self-government bodies, organizations and citizens brought a claim to the court to protect the rights, freedoms and lawful interests of other persons shall appear in the court pleadings last.

Article 218. Replicas

After delivering the speeches, the persons can speak again in connection with what was said in their speeches. The right of the last replica always belongs to the defendant and his/her representative.

Article 219. Conclusion of the prosecutor

The prosecutor not being a party in the case and joining the process in the manner stipulated by second part of Article 54 of this Code gives his/her opinion on the case after the pleadings, that is attached to minutes of the court session.

Article 220. Resumption of consideration of the case on its merits

If, during or after the court pleadings, the court finds it necessary to clarify new circumstances, relevant to the case or study new evidence, it issues a ruling on resumption of consideration of the case on its merits. Resumption of consideration of the case on its merits is reflected in minutes of the court session. After completion of considering the case, the court again hears the pleadings and, in the cases provided for by Article 219 of this Code, a prosecutor’s conclusion.

Article 221. Court’s leaving to render a decision

After the pleadings and, in the cases provided for by Article 219 of this Code, after the prosecutor’s conclusion, the court leaves to the deliberations room to render a decision. The chairperson shall announce it to the persons sitting in the courtroom and communicates the time of the court judgment announcement.

Article 222. Announcement of the decision

1. After making and signing the judgment, the judge in the courtroom announces resolution part of judgment.

2. After announcement of the resolution part the chairperson explains procedure and terms of appealing the decision and announce the time when the decision is made in final form and when the persons participating in the case and representatives can receive a copy of it.

3. After the actions, stipulated by first and second part of this Article, the chairperson announces the court session to be completed

Chapter 19. COURT'S DECISION AND PROCEDURE OF ITS ENFORCEMENT

Article 223.Rendering a decision

1. Resolution of the first instance court settling the case on its merits shall be in the form of decision.

2. The decision shall be rendered in a deliberations room. Presence of other persons in this room shall not be allowed. In the end of working hours and during the day, the court (judge) shall have right to take a break by leaving the deliberations room.

3. The decision shall be delivered immediately after the proceedings. The compilation of a reasoned decision may be postponed, but the court shall announce the resolution part of the decision at the same session where the court proceedings is completed. The declared resolution part of the decision shall be signed by the judge and attached to the case.

4. The decision in its final form shall be made no later than five business days after the announcement of the resolution part of the decision.

5. In the case on the merits resolving by way of the simplified (written) proceedings, the court renders a brief decision consisting of introduction, declaration of intent and resolution.

At the written request of the parties, declared prior to the decision enters into legal force, or at its discretion, the court renders a reasoned decision consisting of introduction, description, declaration of intent and resolution.

Article 224. Legality and reasonableness of the decision

1. The court's decision shall be legal and reasonable.

2. The court justifies the decision only on evidence that had been presented by the parties and studied at the court session.

Article 225. Issues to be settled in rendering the decision

1. In rendering the decision, the court weighs the evidence, determines which circumstances, relevant to the case, were discovered and which were not, what relationship the parties have, which law should apply to this case and whether the claim can be satisfied.

2. The court settles the case within the plaintiff’s requirements

3. The court, after going to the consultation room, shall, after recognizing the need to find out additional circumstances relevant to the case, or examining the evidence, make a decision on the resumption of the case on the merits, which is recorded in the record of the court session. After the end of the consideration of the case on the merits, the court shall hear the oral arguments again, and in the case provided in the Article 219 of this Code, and the conclusion of the prosecutor.

Article 226.The content of decision

1. The decision shall be rendered on in the name of the Republic of Kazakhstan.

2. The decision shall consist of introduction, description, declaration of intent and resolution.

3. Introduction of the decision shall indicate the date and place of the decision; name of the court that rendered the decision; composition of the court; the court session secretary, the parties, other persons participating in the case and the representatives, the subject of the dispute or the asserted claim.

4. Description of the decision shall have a brief content of the plaintiff's requirements, explanations of the defendant and explanations of the third parties involved in the case with an indication on the evidence by which they justify their arguments.

5. Declaration of intent of the decision shall briefly indicate the circumstances of the case established by the court; the evidence on which the court's findings on rights and obligations are based; the reasons for which the court rejects certain evidence, and the laws that govern the court. In the event of recognition of the claim by the defendant in the declaration of intent, only recognition of the claim and its acceptance by the court may be indicated.

6. Resolution part of the decision shall contain the court's conclusion on the claim satisfaction or the claim dismissal in full or partial, indicating the distribution of court costs for a period and procedure for appealing the decision, as well as other conclusions.

7. Cases when the court establishes a certain order and deadline for enforcement of the decision or orders the decision for immediate enforcement, or takes measures to ensure its enforcement, shall be indicated in the decision.

8. The decision shall be set forth in written form by the judge and be signed by him/her.

Article 227.The decision on an application to challenge the legality of actions (inaction) and decision s of state bodies, local self-governments, public associations, organizations, public officials and civil officers

1. Upon recognition of actions (inaction) and decision s of the state bodies, local self-governments, organizations and officials as illegal, the court renders the decision on satisfaction of the claim. In the decision it is indicated what laws these illegal actions (inaction) or decision s to are contested, and the period for enforcement of the court decision.

Court obliges the state body, local self-government, public association, organization, public official and civil officer to eliminate the violation in full and restore the violated rights, freedoms and legitimate interests of a citizen or legal entity, to cancel the measures of responsibility imposed on a person or otherwise restore the violated one's rights, freedoms and legitimate interests.

2. The court refuses satisfaction of the application, if during its consideration it establishes that the contested action (inaction) is committed and the decision is made in compliance with the competence and legislation of the Republic of Kazakhstan.

Article 228.Decision on recognition of regulatory act to be invalid

1. Upon acknowledgement of the application on recognition of regulatory act invalidity as reasonable the court renders the decision on satisfaction of the application. The decision shall indicate to what documents and in which part the questioned regulatory act contests and recognition of this to regulatory legal act as invalid in whole or in its separate part from the moment of this act adoption.

2. The court's decision on recognition of the regulatory act to be invalid shall be published in the mass media where the regulatory act was published, at the expense of the body that adopted it (issued). Publication shall be made no later than with in ten days from the date the court decision enters into the legal force.

3.Upon recognition of the application as unreasonable the court renders a decision on satisfaction refusal.

Article 229. Decision on recovery of money

When rendering a decision on recovery of money the court shall specify the amount of the recovered sum of money the currency and the party in favor of which the decision is made

Article 230. Decision on conclusion or changing of the contract

Upon the dispute occurred while concluding or changing the contract, the resolutive part of the decision shall specify the decision on each disputable provision of the contract and upon the dispute on canvassing to conclude the contract, the of the contract and conditions under which the parties shall conclude the contract.

Article 231. Decision to adjudication of the property or its cost

While adjudicating the property in kind the court specifies its individually defined attributes and value of the property to be recovered from the defendant, if when enforcing the decision, the adjudicated property is not available.

Article 232. Decision obliging the defendant to take certain actions

When making a decision obliging the defendant to undertake certain actions not related to the transfer of property or money, the court shall indicate the actions and the term of their commission, which the defendant is obliged to perform to restore the violated rights, freedoms or legitimate interests of the citizen, legal entity.

The resolutive part of the decision shall state that in case of failure to perform the court decision the plaintiff has the right to perform these actions independently with recovery from the defendant incurred costs, except for the cases when the actions may be committed only by the defendant by him-/herself.

Article 233. Decision in favor of several plaintiffs or against several defendants

1. When making a decision in favor of several plaintiffs, the court specifies proportion of relation to each of them, or specifies that the right of recovery is solidary.

2. When rendering a decision against several defendants the court specifies, in what proportion each of the defendants shall perform the decision, and specifies that their liability is solidary.

Article 234.Sending and issue the copies of the court decision to the persons participating in the case

The copies of the decision are sent or issued to the parties and other persons participating in the case failed to appear at the court session no later than three business days after date on which the decision is made in final form using the means of communication ensuring the receipt of it

Footnote. Article 235 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 235. Correction of misprints and obvious arithmetic errors in the decision

1. After the announcement of the decision on the case, the court that had made the decision shall not have the right to cancel or change it.

2. The court may on its own initiative or upon application of the persons participating in the case, correct misprints or obvious arithmetic errors made in the decision.

The court shall consider the application for correction of the misprints or obvious arithmetic errors within ten business days after the date of receipt of the application receipt by the court during proceeding. The persons participating in the case shall be notified of the time and place of the court session, but their absence does not preclude consideration of the issue on making corrections.

3. The court ruling on the corrections may be appealed or revised upon request of the prosecutor.

Footnote. Article 236 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 236. Additional decision

1. The court issued the decision upon application of the persons participating in the case or under its own initiative, may render an additional decision in the following cases:

1) if no decision was rendered upon any requirement on which the persons, participating in the case presented evidence and gave explanations;

2) if the court, having settled the issue concerning the right, did not specify the size of the adjudged sum, property to be transferred or actions to be performed by the defendant;

3) if the court have not settled the issue concerning the judicial expenses;

4) if the court have not settled the issue on overturning of enforcement of the court's decision.

2. The issue concerning rendering of the additional decision may be set within the period of the court decision 's enforcement

The court considers and resolves the issue on rendering of the additional decision within ten business days after the application receipt by the court or from the day of discovery of circumstances specified in part one of this article.

The additional decision shall be issued by the court of first instance after considering the issue at the court session. The persons participating in the case shall be notified of the time and place of the court session, but their non-appearance absence does not preclude consideration of the issue on rendering of an additional decision.

Additional decision may be appealed? A prosecutor's appeal petition may be brought.

3. A private petition or a protest may be filed against the court's decision on refusal to render an additional decision.

Footnote. Article 237 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 237. Explaining the decision

1. In case of the decision 's ambiguity, the court considered the case, may explain the decision without changing its content upon application of the persons participating in the case, as well as upon petition of enforcement agent. Explanation of the decision shall be allowed if it has not been performed yet and deadline of its forced enforcement is not expired yet.

The court shall consider the application and petition on explaining the decision within ten business days after receipt of the application by the court.

2. The issue concerning explanation of the decision shall be settled at the court session. The persons participating in the case, as well as the enforcement agent in cases when the subject of the consideration his/her petition on explanation, shall be notified of the time and place of the court session, however their absence shall not be an obstacle to considering the issue on explaining the decision.

3. A private petition or a protest may be filed against the court's decision on explaining the decision.

Footnote. Article 238 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017; No. 168-VI dated 02.07.2018

Article 238. Suspension and deferral of enforcing the decision, change of the way and order of enforcing the decision

1. The court considered the case, upon application of the persons participating in the case, taking into account their financial status or other circumstances, shall have right to suspend or defer the deadline of the enforcing the decision and change the way and order of its enforcement.

The court shall consider and resolve the application, petition on suspension and deferral, or change of the method and procedure of the court decision enforcement within ten business after the date the application receipt by the court

2. Applications specified in the part 1 of this Article shall be considered at the court session. The persons participating in the case shall be notified of the time and place of the court session, but their absence shall not be an obstacle to settle the case.

2. A private petition or a protest may be filed against the court's decision on deferral or extension of the deadline of enforcement the decision or changing of the way and order of its enforcement.

4. The rule of the first part of this Article regarding the suspension of the court decision enforcement shall not apply in relation to decision on recovery of a mortgage loan pledge of an individual not related with the entrepreneurial activities.

Footnote. Article 239 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 239. Indexation of adjudicated sums of money

1. Upon application of the concerned person the court may conduct an appropriate indexation of the amounts of money collected upon the court's act, taking into account an official refinancing rate of the National Bank of the Republic of Kazakhstan on the date of enforcement of the court's act.

2. The application on indexation of the adjudicated sums shall be considered at the court session. The persons participating in the case shall be notified of time and place of the court session, but their absence shall not be an obstacle to settle the case.

3. Against the court ruling on indexation of the adjudicated sums of money, a private petition may be filed or a prosecutor's application may be brought to the court of appeal, the decision of which shall be final.

Footnote. Article 240 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 240. Entry of court decision into legal force

1. Decision s of the first instance court shall enter into legal force upon expiration of terms for their appeal and protest by the prosecutor, unless they are appealed or protested.

2.Decision s of the court on restructuring of financial institutions or organizations being a part of a banking conglomerate as a parent organization and non-financial institutions, shall enter into legal force from the date of their adoption and shall be subject to immediate enforcement.

3. Decision of the court on deportation of a foreigner or a stateless person from the Republic of Kazakhstan shall enter into legal force with effect from the date of its adoption.

4. The court decision rendered in cases provided for in the Article 28 of this Code shall enter into force from the day of its announcement.

5. In cases of filing an appeal, bringing an appeal procedural request by the prosecutor, the decision, if it is not canceled and (or) not changed, shall come into force from the moment the ruling is announced by the court of appeal, and the cases considered according to the rules of the fourth part of the Article 27 of this Code, come into force from the date of announcement of the decision of the specialized judicial panel of the Supreme Court of the Republic of Kazakhstan.

6. When the court decision enters into legal force, the parties and other persons participating in the case, as well as their successors, shall not litigate the same claims in the court for the same reasons, as well as challenge the facts and legal relations established by the court in another process.

7. If, after the entry into force of a decision by which the payments are collected from the defendant, the circumstances affecting the determination of the amount of payments or their duration change, each party shall, by filing a new claim, demand a change in the amount and time of the periodic payments.

Article 241. Enforcement of the decision

1. The decision, in the manner prescribed by this Code, shall be enforced after its entry into legal force, except for the cases of immediate enforcement.

2. After the court decision enters into legal force enforcement the enforcement order shall be issued.

In cases of property confiscation, recovery of payments to the state budget, as well as recovery of damages, caused by the crime, collecting of alimony, compensation for harm, caused by injury or other harm to health, loss of a breadwinner, where one of the parties is the state, the court, under its own initiative, sends an enforcement document to the territoriality corresponding enforcement body not later than on the day following the day of its issuance.

3. Upon the court decision’s subject to immediate enforcement, an enforcement order shall be issued and sent for enforcement not later than on the day following the day of the decision rendering.

4. The (hereinafter referred to as the writ of execution) is issued by the court of the first instance within three business days after the decision entry into legal force or the case return from a superior court. The writ of execution may be issued in the electronic form certified by electronic digital signature of the judge.

The writ of execution shall indicate:

name of the court that rendered the decision;

case number and the date of the decision;

resolutive part of the decision (literally);

date of the decision entry into force;

date of the writ of execution issue;

surname, first name and patronymics (if indicated in the identity document), date of birth of the claimant, the place of residence or location, information about his/her registration at the place of residence and individual identification number or, if the plaintiff is a legal entity, its name, place of actual locations, Bank details and business identification number;

surname, first name and patronymic (if indicated in the identity document), date of birth of the debtor, the place of residence or location, information about his/her registration at the place of residence, information about the place of work and Bank details of the legal entity where the debtor works (if available in case materials), the Bank details and an individual identification number (if available in case files) or, if the debtor is a legal entity, its name, actual location, the Bank details and business identical number.

The form of the writ of execution is approved by the authorized body of justice to ensure the execution of writ of executions.

5. For each decision the court shall issue one writ of execution. The writ of execution shall be issued to the plaintiff or, at his request, shall be sent by the court for execution to the relevant judicial authority on territoriality or to a private judicial custodian.

On the basis of the court decision or verdict on collecting monies from joint and several defendants, upon request of the recoverer, several writs of execution shall be issued, the number of which corresponds to the number of joint and several defendants. Each execution sheet shall indicate the total amount of the penalty, all the defendants and their joint and several amenabilities.

If the court has taken measures to secure the claim, the copies of the documents on the measures taken to secure the claim and containing information about the location of the arrested

person to secure the claim of property and persons responsible for its preservation shall be attached to the enforcement document. In the case of an extract of the writ of execution in the form of an electronic writ of execution, the documents on the security of a claim shall be attached in the form of electronic documents certified by a digital signature of the judge.

If the execution has to be in different places or if the decision is delivered in favour of several plaintiffs or against several defendants, the court, upon request of the plaintiffs, shall issue several enforcement documents with precise indication of the place of execution or that part of the decision that is subjected to the execution.

The court shall attach a copy of the judicial act or an extract from it to the writ of execution, certified by the seal of the court. In the case of an extract of the writ of execution in the form of an electronic writ of execution, a copy of the judicial act or an extract from it is attached in the form of an electronic document certified by the electronic digital signature of the judge.

6. In the event that the court makes a decision on procedural succession after the court decision is made and the court appeals for execution, an writ of execution shall be issued indicating the new debtor.

7. In the case of execution of the writ of execution, the judicial executor shall be obliged to notify the court that made the decision within ten business days or upon the expiration of the period of execution established by the Law of the Republic of Kazakhstan «On executive proceedings and the status of judicial executors», shall be obliged to provide information on the reasons for non-execution. The debtor who executed the court decision before the presentation of the enforcement document for compulsory execution shall notify the court that made the decision within three business days.

If the court submits an enforcement document to the appropriate judicial authority on territoriality or if the execution document was issued to the recoverer before his notification of the execution of the court decision, the debtor shall notify the recoverer.

8. Failure to comply with a court decision that has entered into legal force shall entail amenability provided by the law.

Footnote. Article 242 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 242.The issuance of the enforcement order or a court order copies by the court

1. In case of loss of the original of the enforcement order or a court order (hereinafter referred to as writ of executions), the court that passed the decision or court order shall issue duplicates of the writ of executions upon the application of the recoverer or the representation of the judicial executor, in accordance with the procedural request of the justice authority.

2. The application for issuance of a duplicate of the writ of execution shall be filed with the court before the expiration of the time limit set for the presentation of the writ of execution for execution.

If the writ of execution was lost during the execution and the plaintiff became aware of this after the expiration of the deadline for submitting it for execution, the application for issuing a duplicate of the writ of execution shall be filed with the court within a month from the day when the plaintiff became aware of the loss of the writ of execution.

3. The court shall consider and determine the application for issuance of a duplicate of the writ of execution within ten business days after of its receipt in court.

The application for issuance of a duplicate of the writ of execution shall be considered at the court session with notification of the persons participating in the case about the time and place of the session, but their non-appearance is not an obstacle to resolving the issue of issuing a duplicate.

4. The court shall check and search the evidence of the loss of the enforcement document when considering the application for issuing a duplicate of the enforcement document.

5. The private petition shall be filed with the court; the procedural request shall be brought by the prosecutor to the court of appeal, the decision of which is final.

Article 243. Decisions subject to immediate enforcement

The following decision s shall be subject to immediate enforcement:

1) on adjudication of alimony;

2) on adjudication of salary to employee, but not more than for three months;

3) on reinstatement;

4) compensation of damage caused by injury or other harm to health, as well as loss of a breadwinner, but not more than for three months;

5) on recognition of a strike to be illegal;

6) on restructuring financial institutions and organizations within a bank conglomerate as a parent organization and non-financial institutions;

7) on recognition of an organization extremist or terrorist carrying out extremist or terrorist activities on the territory of the Republic of Kazakhstan and (or) of another state, including the establishment of a change in its name by it;

8) on recognition of extremist or terrorist information materials imported, published, manufactured and (or) distributed on the territory of the Republic of Kazakhstan;

9) on introduction, early completion and extension of the temporary management of the grain-receiving enterprise or cotton processing organization;

10) on the adjustment of insolvency;

11) on declaring the debtor bankrupt.

Footnote. Article 244 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 244. Court’s right to bring the decision to immediate enforcement

1. The court, at the request of the plaintiff, may bring the decision to immediate enforcement, if, due to special circumstances, delay of the enforcement may cause significant damage to the claimant or enforcement of the decision may become impossible.

2. When allowing the immediate enforcement of the decision, the court may require from the plaintiff to ensure restitution of the decision ’s enforcement in case if the court decision is cancelled.

3. The issue concerning admitting of immediate enforcement of the decision, if it was not allowed when rendering the decision, shall be considered at the court session. The persons participating in the case shall be notified of the time and place of court sessions, but their absence shall not be an obstacle to settle the issue on immediate enforcement of the decision.

4. A private petition or a protest may be filed against the court’s decision on immediate enforcement of the decision. Submission of a private petition or protest against the decision on immediate enforcement of the decision suspends enforcement of the decision.

Article 245. Ensuring the decision enforcement

The court may ensure the enforcement of the decision that is not brought to immediate enforcement in accordance with the chapter 15 of this Code.

These actions shall be performed by the court before sending of the enforcement order the relevant body of justice be authorized by territorial principle.

Footnote. Article 246 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated July 11 2017; No. 156-VI dated 24.05.2018

Article 246. Suspension and deferral of the court decision enforcement, changes in method and order of its enforcement, approval of settlement agreement or agreement on the dispute (conflict) settlement by mediation procedure

1. The court rendered a decision or issued an order upon the case, as well as the court at the location of enforcing the decision, upon the petition of the enforcement agent and (or) upon application of the parties, if there are circumstances, making the enforcement difficult or impossible, may, in the enforcement proceedings, defer or suspend terms of the enforcement of the court decision, change method or procedure of its enforcement and approve a settlement agreement upon application of the parties.

2. Upon the application of the parties to enforcement proceedings the court may approve conclusion of the settlement agreement or agreement on dispute (conflict) in mediation procedure.

3. The petition of the enforcement agent or application of the parties in the enforcement proceedings, as well as the settlement agreement or agreement on dispute (conflict) in mediation procedure shall be considered at the court session. The persons participating in the case shall be notified of the time and place of court sessions, but their absence shall not be an obstacle to settle the petition or application.

The court shall consider the application, the procedural request for postponement and installment plan execution of the court decision, changing the method and procedure for its execution, approval of the civil agreement or agreement on the settlement of the dispute (conflict) in the procedure of mediation within ten business days after the date of receipt of the application to the court.

4. A private petition or a protest may be filed against the court’s decision specified in part three of this article related to:

Suspension, deferral of the court decision, change of the method and procedure of its enforcement established by part three of article 238 of this Code;

Approval of settlement agreement, agreement on settlement of a dispute (conflict) in mediation procedure according to part seven of Article 177 of this Code.

Article 247. Restitution of enforcement of the court decision

1. In case of cancellation of the decision of the first instance court the decision s of the courts of appeal and cassation instance which are enforced fully or partially, and the court's new decision on dismissal of the claim fully or partially, the plaintiff shall reimburse everything received by him/her upon the cancelled decision (restitution of the decision ’s enforcement).

2. Restitution of the court decision enforcement is also effective in the case of cancellation of the fully or partially enforced decision of the court and rendering of new ruling on termination of proceedings on case or ruling on the claim dismissal without prejudice.

Footnote. Article 248 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 248. Consideration of the issue concerning restitution of enforcement of the court decision

1. The court issued a new decision upon the case, where the cancelled decision was enforced in full or partially, considers the defendants claim on restitution of enforcement in new decision upon submission of new evidences on the decision enforcement.

2. If the court while re-considering the case did not manage to settle the issue on restitution of enforcement on the canceled court decision, the defendant has a right to appeal to a court of first instance with the claim on restitution of the decision enforcement.

3. The court considers the claim on restitution of enforcement of the court decision within ten business days after its receipt in the court. The claim shall be considered at a separate court session

with notification of the persons participating in the case and, if necessary, the justice body obliged to submit to the court the actual data on enforcement of the cancelled decision of the court.

Failure of the said persons to appear in the court shall not be an obstacle to settle the case on restitution of enforcement of the court decision. If the court decision is under enforcement the enforcement agent under execution of whom the relevant case is obliged to appear at the court to present it before the court

4. A private petition or a prosecutor's petition against the court's decision on restitution of enforcement of the court decision may be filed to the court of appeal the decision of which is final.

Footnote. Article 249 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 249. Consideration of petitions of enforcement agent

1. Report of an enforcement agent shall contain the requisites and place of location of the parties to enforcement proceedings, date of its initiation, data on the course of the writ of execution enforcement and grounds for appeal.

In case of the report non-conformity with the said requirements, as well as the application on withdrawal of report filing by the enforcement agent the court returns the report with the attached documents.

2. Report of an enforcement agent is allowed by the court within ten business days after its receipt in the court. The court shall notify the debtor and the claimant of the received report of the enforcement agent, the time and place of the court session. Absence of the debtor or the claimant duly notified of the time and place of the court session shall not be an obstacle to consider the case. Upon consideration of the enforcement agent report, the judge renders a ruling against which the private petition may be filed, and prosecutor's protest may be brought.

A copy of the court ruling shall be sent to a debtor and a claimant within five business days.

Article 250. Appeal against actions (inaction) of an enforcement agent

1. The claimant or the debtor may bring a petition against actions (inaction) of an enforcement agent in enforcement proceedings, including bidding contestation, in the course of enforcement proceeding, or refusal to perform such actions.

The petition shall be brought to the district (municipal) court of the territorial unit under service of the enforcement agent or the place of the agent registration within ten days from the date of the action (or refusal to perform the action) or from the date when the claimant or the debtor, not notified of the time and place of the enforcement agent's the action, finds it out. The petition is filed at the place of enforcement actions if the territorial unit served by the enforcement agent or the place of the enforcement agent registration are located at the same settlement with the place of enforcement actions.

The preliminary appeal to a superior authority and to a higher official in the order of subordination shall not prevent the filing of a petition to the court.

2. The petition shall be considered by the court within ten business days after from the date of the completion of the preparation of the case for the trial. Preparation of the case for the trial shall be carried out within ten business days in accordance with the rules of Article 165 of this Code, the extension of which is not allowed.

The court shall notify claimant, debtor and enforcement agent about the time and place of the court session, but their non-appearance is not an obstacle to determining the petition.

3. The court, recognizing the petition justified, shall decide on the recognition of the actions (inaction) of the judicial custodian as illegal and oblige him to eliminate in full the violation or restore the violated rights, freedoms or legitimate interests of the recoverer or the debtor by other means.

A copy of the decision shall be sent to the justice authorities by territoriality.

If indicated actions committed only by the judicial custodian, the court shall set a time limit in the decision during which the violations committed shall be eliminated.

4. The court shall refuse to satisfy the petition if it determines that lodging actions (inaction) were committed in accordance with the law within the authority of the judicial custodian and the rights, freedoms and legally protected interests of the debtor and the recoverer were not violated.

5. The execution of the decision shall be reported to the court, recoverer or debtor within the time limit established by the court or no later than within one month from the date of receipt of the court decision.

6. The actions of the judicial custodian related to the valuation of the property, as well as the acceptance or refusal to accept the property valuation report shall be appealed in accordance with the procedure established by this Article.

Article 251. Protecting rights of other persons when enforcing the decision

1. If the judicial custodian shall permit a violation of law proceeding the arrest of the property, that is the basis for the cancellation of the arrest regardless the property of the debtor or alius, the applications of alius to cancel the arrest of the property are considered by the court in accordance with the Article 250 of this Code. Such applications shall be filed before the sale of distained property.

The dispute about the right associated with the ownership of the property to which the penalty is imposed shall be claimed by alius within ten business days from the day the action was committed (the denial of the action) or from the day when the person became aware of this. Such requirements shall be considered by the court according to the rules of litigation.

2. The suits to release impounded property (exclusion from the inventory) shall be filed by the owners or persons owning the property under the right of economic management, operational management, lease, permanent land use or on other grounds provided by the law or contract.

3. The suits to release impounded property from arrest shall be presented to the debtor and the recoverer.

4. If the impound of the property was made by the judicial custodian in the framework of the execution of the sentence, the order to confiscate the property, that does not indicate the items to be confiscated, the defendant and the relevant body authorized to organize the work of recording, storing, evaluating and further using the property are involved as defendants, shall be converted (received) in the state ownership.

In the event the claims recognized as valid, if the property to be confiscated is located at the authority authorized to organize work on accounting, storage, evaluation and further use of the property turned into state property and transferred to them by trade, other organizations for sale, processing or gratuitously, this property shall be subjected to return specifically. In this case, in addition to the body authorized to organize the work of accounting, storing, evaluating and further using the property turned into government property, the mentioned trading and other organizations shall be involved in the case. If the property that is to be excluded from the inventory is not sold by these organizations, then they shall be obliged to return the property specifically.

5. The judge, establishing, regardless the application of the interested persons, the circumstances specified in the first part of this Article, shall release the property from Impound (excluding from the inventory) when considering the application in the procedure prescribed by this Article and the Article 250 of this Code.

6. If the property, the impound of which was made in connection with the confiscation of property, has already been sold or converted, the plaintiff shall be reimbursed the amount received from the sale of the property when considering the application in the procedure prescribed by this Article and the Article 250 of this Code.

Footnote. Article 252 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 252. Sanctioning the enforcement agent's decree

1. In cases established by the law, the judicial custodian shall make a decision on the execution of executive actions subjected to authorization by the court. The decision shall set out the motives and grounds when it became necessary to take authorized actions.

2. The decision to be sanctioned by the court shall be submitted by the judicial custodian to the court. The decree shall be attached to the materials of the enforcement proceedings, confirming the validity of the adoption of authorized actions.

3. The ruling of the judicial custodian shall be reviewed by the court on the day the materials received by the court.

4. The court issues a sanction to carry out executive actions or refuses to give a sanction considering the resolution of the judicial custodian and the materials of the enforcement proceedings enclosed thereto.

Giving sanctions is carried out by affixing on the decision of the judicial custodian with a stamp of the court «Sanctioning», certified by the signature of the judge. In the event of a refusal to give a sanction, the judge shall issue a decision on refusal to give a sanction to conduct executive actions.

Giving sanctions to the decision of the judicial custodian, presented in the form of an electronic document, shall be carried out by the court by certifying the electronic digital signature of the judge. In case of refusal to give a sanction, the judge shall issue a reasoned decision on refusal to give a sanction in the form of an electronic document.

5. The resolution of the judicial custodian on the execution of executive actions, sanctioned by the court, shall be appealed according to the rules provided in the Article 250 of this Code.

The private petition shall be submitted to the court's decision to refuse to issue a sanction to the decision to conduct executive actions, the procedural request by the prosecutor to the court of appeal, whose decision is final.

Chapter 20. ENFORCEMENT OF ARBITRAL COURT'S DECISIONS

Footnote. Article 253 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017.

Article 253. Compulsory enforcement of arbitral court decision s

1. In the event that the arbitral award is not executed voluntarily within the time limit established therein, the party of the arbitration proceedings, in whose favor the arbitral award was made (recoverer), shall have the right to apply to the court for enforcement of the arbitration decision according the residence of the debtor or at the location of the body of the legal entity, if the place of residence or location is unknown, then at the location of the property of the debtor.

2. The application for issuance of an enforcement order shall be attached with:

1) the original or copy of the arbitral award. The copy of the permanent arbitration decision shall be certified by the head of this arbitration, the copy of the arbitration decision for the resolution of a specific dispute shall be notarized;

2) the original or a notarized copy of the arbitration agreement concluded in the procedure prescribed by the law.

3. The application for issuing an enforcement order shall be filed no later than three years from the date when the term for the voluntary execution of the arbitration award expires.

4. The application for issuance of a writ of execution, filed with the omission of the established period when the application for the restoration of the term and supporting documents were not

attached, is returned by the court without consideration, which is determined. The private petition shall be submitted to the determination and the procedural request by the prosecutor shall be brought to the court of appeal, the decision of which is final.

5. The court shall have the right to restore the time limit for filing the application for issuance of a writ of execution, if it recognizes the reasons for missing the specified term as valid.

6. The application for issuance of the enforcement order shall be considered by the judge individually within fifteen business days from the date of receipt of the application to the court.

7. The court shall notify the debtor on the incoming application of the plaintiff about the enforcement of the arbitral award, as well as the place and time of its consideration at the court session. The recoverer is also notified about the place and time of consideration of his application. The non-appearance of the debtor or recoverer at the court session shall not be an obstacle to the consideration of the application, if the debtor has not received the procedural request to postpone the consideration of the application indicating the reasonable excuse for not being able to appear at the court session.

8. The court shall not entitle to revise the arbitral award on the merits when considering an application for issuing an enforcement order to enforce an arbitral award.

9. The court shall determine whether to issue an enforcement order or to refuse to issue it in accordance with the results of the consideration of the application.

The court ruling on the issuance of an enforcement order shall be subjected to immediate execution.

Footnote. Article 254 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 254. Issuance of an enforcement order

1. When a court makes a decision on the issuance of an enforcement order for the enforcement of an arbitral award, the enforcement order shall be issued in accordance with the rules of the Article 241 of this Code.

2. The private petition shall be filed against the court's decision on the application for the issuance of an enforcement order for the enforcement of the arbitral award and the procedural request shall be filed by the prosecutor.

Footnote. Article 255 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 255. Refusal to issue an enforcement order

1. The court shall make a decision on denial of the enforcement order to enforce an arbitration award if:

1) the party against which the arbitral award was made submit to the court evidence that:

the arbitration agreement is void according to the laws of the state to which the parties have subordinated it and in the absence of such indication, according to the laws of the Republic of Kazakhstan;

the arbitral award is rendered on a dispute that is not stipulated by the arbitration agreement or is not subjected to its conditions or contains rulings on matters beyond the scope of the arbitration agreement as well as due to the arbitrary of the dispute;

one of the parties was recognized by the court as incapable or partially capable to the arbitration agreement;

the party against whom the decision was made was not duly notified on the appointment of the arbitrator or of the arbitral proceedings or for other reasons that were deemed respectful by the court and shall not present its explanations to the arbitration;

there is a legal force entered into in a dispute between the same parties, on the same subject and on the same grounds a court decision or arbitral award or a court or arbitral decision to discontinue the proceedings in connection with the plaintiff’s refusal of the claim;

the award was made possible as a result of the commission of a criminal offense established by the court judgment that has entered into legal force;

the composition of the arbitration or the arbitral proceedings did not comply with the requirements of the law;

the decision has not yet become obligatory for the parties or was canceled or its execution was suspended by the court of the country in accordance with the law of which it was rendered;

2) the court shall establish that the enforcement of this award is contrary to the public policy of the Republic of Kazakhstan or that the dispute where the award is made shall not be subjected to arbitration in accordance with the law.

2. If the arbitral award on matters covered by the arbitration agreement shall be separated from decision s on matters that are not covered by such an agreement, the issuance of an enforcement order to enforce that part of the arbitral award that is covered by the arbitration agreement shall not be denied.

3. The court shall make a decision on the issue of enforcement of an arbitration decision, where the private petition shall be filed; the procedural request shall be filed by the prosecutor in accordance with this Code.

Chapter 21. PROCEEDINGS IN ABSENTIA AND DECISION IN ABSENTIA

Article 256.The grounds for the proceedings in absentia

1. In case of failure to appear at the session of the defendant, duly notified about the time and place of the session that did not report the reasonable excuse for failure to appear and did not ask for consideration of the case in his absence, the case shall be considered in default judgment, if the plaintiff does not object.

2. Proceedings in absentia shall be possible in the case of failure to appear at the session at the same time all the defendants with the participation of several defendants in the case of consideration.

3. If the plaintiff who appeared at the session does not agree to proceedings in absentia in the absence of the defendant, the court shall postpone the proceedings and send the defendant notice about the time and place of the new session. In case of repeated absence of a duly notified defendant, the court shall consider proceedings in absentia regardless of the plaintiff's opinion.

4. If the defendant who did not appear at the court session received a statement on the consideration of the case without his participation, the case shall be considered in a general procedure and not in the default judgment.

5. The court shall make a determination on consideration of proceedings in absentia which is recorded in the record of the court session with the indication of the grounds for consideration of the default judgment.

6. If the plaintiff changes the subject or basis of the claim, increase the claims, the court shall not consider proceedings in absentia in this court session. The consideration of the case is postponed for delivery to the defendant of the statement of claim with the changed subject or the basis of the claim, the increased size of claim requirements.

In the new court session, the case shall be considered as default judgment if there are grounds established in the part one of this Article.

Article 257.The procedure of proceedings in absentia

When considering the default judgment, the court shall examine the evidence presented by the persons participating in the case, take into account their arguments and make a decision that is called default.

Article 258.The content of the decision in absentia

1. The content of the decision in absentia shall be determined by the rules of the Article 226 of this Code.

2. In the disposal part of the decision in absentia shall be indicated the date and the procedure for filing the defendant's application for cancellation of the decision.

Article 259.Sending the copy of the decision n absentia

A copy of proceedings in absentia shall be sent to the defendant, as well as the plaintiff, who was not presenting at the session, no later than five business days after of its issuance in the final form using the means of communication, ensuring the fixation of its receipt.

Article 260.The content of the application for setting aside the proceedings in absentia

1. The application for setting aside a default judgment shall contain:

1) the name of the court that delivered the default judgment;

2) the name of the party submitting the application;

3) the information about the circumstances, indicating the validity of the reasons for the defendant's failure to appear in the court and evidence, confirming these circumstances, as well as the evidence that shall affect the content of the decision in absentia;

4) the request of the party submitting the application;

5) the list of materials attached to the application.

2. The application for setting aside proceedings in absentia shall be signed by the party or its representative, if authorized, and submitted to the court with the copies of the application and attached materials according the number of persons participating in the case.

Article 261.The actions of the court after the acceptance of the application

The court shall notify the persons participating in the case about the time and place of consideration of the application for setting aside the default judgment, send them the copies of the application and attached materials.

Footnote. Article 262 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 262.Submission of application

1. The application for setting aside of the decision in absentia shall be considered by the court in the court session within ten business days from the date of its receipt in the court. The absence of persons participating in the case, notified about the time and place of the session, does not prevent the consideration of the application.

2. The court's decision to cancel the decision in absentia or to refuse to cancel the decision in absentia shall not be subjected to appeal, review at the procedural request of the prosecutor.

Article 263.The court’s powers

The court, having considered the application for setting aside the decision in absentia, shall make a decision to refuse to satisfy the application or for setting aside the decision in absentia and to resume the consideration of the case on the merits in the same or another composition of the court.

Footnote. Article 264 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 264.The appeal of proceedings in absentia

1. The defendant or his representative has the authority right to file the application to the court that issued the decision in absentia, setting aside this decision within five business days after the date of receipt of the copy of the decision in absentia.

2. In case of denial of satisfying the application filed in accordance with the first part of the Article 260 of this Code, the defendant shall have the right to appeal the decision in absentia on appellate procedure within one month from the date of the court’s decision to refuse to satisfy the application.

3. The decision in absentia shall be appealed by persons participating in the case, brought the appeal by the prosecutor after the deadline for filing the application for the cancellation of this decision, and if the application is filed - within one month from the date of the court's decision to refuse to satisfy this application.

Article 265.The grounds for the cancellation of the decision in absentia

1. Proceedings in absentia shall be set aside if the court finds a set of circumstances indicating that the defendant:

1) did not appear at the court session for valid reasons, although was informed about the time and place of the trial;

2) has presented evidence that shall affect the content of the default judgment.

2. The absence in case of accumulation of the grounds specified in the first part of this Article shall exclude the possibility of cancellation of proceedings in absentia by the court of the first instance.

Article 266.The resumption of the case

1. The court shall make determination by which resumes the case on the merits about cancellation of the default judgment.

2. In case of absence of the defendant, duly informed about the time and place of the court session, the court's decision shall be made during the new consideration of the case and it shall not be recognized as default. The defendant shall not be entitled to re-apply for cancellation of this decision.

Article 267.The legal force of the decision in absentia

Proceedings in absentia shall enter into force in accordance with the rules established by the part one of the Article 240 of this Code.

Chapter 22. COURT RULING

Article 268.The court ruling and the procedure for its delivery

1. The act of the court, which does not determine the case on the merits, shall be delivered in the form of a determination.

2. The determination shall be delivered by the court in the form of an independent procedural document in the procedure prescribed by the Article 223 of this Code.

3. When determining simple issues, the court shall make a determination without leaving the courtroom. The content of the definition shall be specified in the record of the court session.

4. The definition or its disposal part shall be announced immediately after the issuance. The determination in the final form shall be made no later than in five business days after the announcement of its disposal part.

Article 269. Content of the ruling

1. ruling delivered by the court in the chambers shall specify:

1) date and place of determination delivery;

2) name of the court that issued the ruling, the names and initials of the judge and the secretary of the court session;

3) persons participating in the case, the subject of the dispute or the claim;

4) issue on which the determination is delivered;

5) rationale for the court's findings and the reference to the laws by which the court was guided;

6) procedural decision of the court;

7) procedure and term of appeal of the determination if it is subjected to the appeal.

2. The determination delivered by the court in the courtroom shall contain the information listed in the subparagraphs 4), 5) and 6) of the first part of this Article.

Footnote. Article 270 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 270. Separate rulings of the court

1. In identifying cases of violation of the law, the court shall have the right to deliver and send a special ruling, and if violations are committed by the state bodies, officials and civil servants, the court shall deliver and send the special ruling to the relevant organizations, officials or other persons performing managerial functions, who are obliged to report on the measures taken by them within a month.

2. Failure to report on the measures taken shall entail administrative liability of persons to whom the special ruling is addressed for contempt of the court in accordance with the requirements of the Articles 119 and 120 of this Code. The imposition of an administrative penalty does not relieve the persons concerned of the obligation to report on the measures taken by the special ruling of the court.

3. If during the consideration of the case the court shall find in the actions of the party, other participants in the process, an official or other person the signs of a criminal offense, the court shall inform the prosecutor.

4. The private petition shall be filed against the special ruling by the persons whose interests it concern, in the procedure provided by the part four of the Article 429 of this Code and the procedural request brought by the prosecutor.

Article 271.Sending the copies of the court ruling to the persons participating in the case

The copies of the court ruling on suspension or termination of the proceedings or on abandonment of the application without consideration to the parties and other persons participating in the case and did not appear in court session, shall be sent no later than in five business days from the date of the ruling in the final form using means of communication, ensuring the recording of its receipt.

Chapter 23. SUSPENSION OF CASE PROCEEDINGS

Article 272. Obligation of the court to suspend the proceedings

1. The court shall be obliged to suspend in the following cases:

1) the death of a citizen or reorganization, liquidation of a legal entity, if the disputed legal relationship permits succession;

2) the recognition of a citizen as incapable in accordance with the procedure established by the law;

3) the defendant's presence in the part of the Armed Forces participating in the hostilities, other troops and military formations of the Republic of Kazakhstan or the request of the plaintiff in the part of the Armed Forces participating in the fighting, other troops and military formations of the Republic of Kazakhstan;

4) the impossibility of considering this case until the resolution of another case being considered in civil, criminal or administrative proceedings;

5) if the court sees that a law or other regulatory legal act applied in this case adversely affects the rights and freedoms of a person and citizen enshrined in the Constitution, and appeal to the Constitutional Council of the Republic of Kazakhstan with a view to declare this act unconstitutional, and if it becomes known that the Constitutional Council, on the initiative of another court, checks the constitutionality of a normative legal act to be applied in this case;

6) the request to the court of a foreign state to provide legal assistance;

7) the parties sign a mediation agreement with the mediator. The parties shall inform the court by the joint written notice when extending the period of mediation;

8) receipts in a case involving a dispute about a child, a copy of a court ruling on acceptance of proceedings filed on the basis of an international agreement ratified by the Republic of Kazakhstan, an application on the return of a child illegally transferred to the Republic of Kazakhstan or retained in the Republic of Kazakhstan access rights if the child has not reached the age when the specified international treaty, ratified by the Republic of Kazakhstan, is not applicable to this child.

Article 273. Right of the court to suspend proceedings

The court may, upon request of the persons participating in the case, or on its own initiative, suspend proceedings in the cases of:

1) of the party's being in the military service on conscription in the armed services, other troops and military formations of the Republic of Kazakhstan or attraction of it for performance of other state duty;

2) finding the party on a business trip exceeding the term of consideration of the case, except for cases of participation in the case of representatives of legal entities;

3) finding the parties in a medical institution for inpatient treatment with the exception of cases of participation in the case of representatives of a legal entity;

4) requests to the court to provide legal assistance in the case under consideration;

5) the purpose of inspection by the body performing functions on guardianship or guardianship, living conditions of adoptive parents in cases of adoption;

6) the appointment of the expertise by the court;

7) conducting the mediation in court or conducting a participative procedure;

8) the search of the defendant and (or) the child in the cases provided in the Article 133 of this Code.

Article 274. Terms of suspension of proceedings

Proceedings shall suspend:

1) in the cases provided in the subparagraphs 1) and 2) of the Article 272 of this Code, until the successor of the dismissed person is determined or the guardian is appointed as the incompetent person;

2) in the cases provided by the subparagraph 3) of the Article 272 and the subparagraphs 1), 2), 3), 5), 6) and 8) of the Article 273 of this Code, until the termination of the party's suspend in the armed service of the Republic of Kazakhstan, until the end of the state responsibility of the party, before returning from a business trip, discharge from a medical institution or termination of

the disease, before the expert's opinion is presented to the court or the body responsible for guardianship and custody is found, until the defendant is sought;

3) in the cases provided by the subparagraph 4) of the Article 272 of this Code, before the entry into force of a decision, sentence or court order;

4) in the cases provided by the subparagraph 5) of the Article 272 of this Code, until the decision of the Constitutional Council of the Republic of Kazakhstan shall come into force;

5) in the cases provided by the subparagraph 6) of the Article 272 and the subparagraph 4) of the Article 273 of this Code, until the court shall fulfill the order for rendering legal assistance;

6) in the cases provided by the subparagraph 7) of the Article 272 and the subparagraph 7) of the Article 273 of this Code, until the termination of the mediation and participative procedure;

7) before the entry into force of a court decision on the case of returning a child illegally transferred to the Republic of Kazakhstan or held in the Republic of Kazakhstan or on the exercise of rights of access for a child on the basis of an international treaty ratified by the Republic of Kazakhstan or a decision to terminate the proceedings on this case or a decision on the court leaving the application specified in the subparagraph 8) of the Article 272 of this Code, without consideration.

Footnote. Article 275 with the edition of the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 275.The appeal, bringing the procedural request by the prosecutor to the court to suspend the proceedings

The private appeal shall be filed against the court's decision to suspend the proceedings in the cases provided by this Code and the procedural request shall be brought by the prosecutor to the court of appeal, the decision of which is final.

Footnote. Article 276 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 276. Resumption of proceedings

The proceedings shall be resumed after the elimination of the circumstances that caused its suspension, upon the request of the persons participating in the case or on the initiative of the court. The court shall notify the persons participating in the case according to the general rules of civil procedure when resuming proceedings.

The court's ruling on resumption of the proceedings on the case shall not ve subjected to appeal and shall not be subjected to review upon request of the prosecutor.

The copy of the ruling shall be sent or handed to the persons participating in the case no later than in five business days from the date of its adoption in final form using the means of communication ensuring the fixation of its receipt.

Chapter 24. TERMINATION OF CASE PROCEEDINGS

Article 277. Grounds for termination of proceedings

The court shall terminate the proceedings if:

1) the case is not subjected to review in civil proceedings;

2) there is entered into legal force, delivered in a dispute between the same parties, on the same subject and on the same grounds a court decision or a court decision to discontinue the proceedings in connection with the plaintiff's refusal of the claim or approval of the civil agreement of the parties, agreement of the parties on the settlement of a dispute (conflict) in the procedure of mediation, an agreement on the settlement of a dispute in the procedure of the participative procedure;

3) there is an arbitral award adopted in a dispute between the same parties, on the same subject and on the same grounds;

4) the court accepted the plaintiff's refusal of the claim;

5) the parties entered into the civil agreement and it was approved by the court;

6) the parties entered into an agreement on the settlement of a dispute (conflict) in the procedure of mediation, an agreement on the settlement of a dispute in the procedure of the participative procedure and they were approved by the court;

7) after the death of a citizen who is one of the parties to the case, the disputed legal relationship does not allow succession;

8) the organization acting as a party in the case has been liquidated with the termination of its activities and the absence of successors;

9) it is established that a foreign state has an immunity from suit.

Footnote. Article 278 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 278. Procedure and consequences of termination of the proceedings

1. The proceedings shall be terminated by the court ruling.

2. In the event of termination of the proceedings, a secondary appeal to the court in a dispute between the same parties, on the same subject and on the same grounds shall not be allowed.

3. The court in the definition indicates the return of the state duty terminating the proceedings on the grounds provided in the subparagraphs 1), 2), 3), 5) and 6) of the Article 277 of this Code, in accordance with the requirements of the Article 107 of this Code.

The court, terminating the proceedings, shall cancel the measures taken to secure the injunctive relief.

4. The private petition shall be filed against the court's decision to terminate the proceedings in the case, and the procedural request shall be brought by the prosecutor in the cases and in the procedure provided by this Code.

Chapter 25. CONSIDERATION OF PETITION TO BE DECLINED

Article 279.The basis for consideration of petition to be declined

The court shall consider the petition to be declined if:

1) the plaintiff has not complied with the procedure for the pre-trial settlement of the dispute established by the law for this category of cases or stipulated by the contract and the possibility of applying this procedure has not been lost;

2) the petition is filed by an incompetent person;

3) the petition is signed or filed by a person who does not have the authority to sign or present it;

4) there is a previously initiated case on a dispute between the same parties, on the same subject and on the same grounds in the proceedings of this or another court or arbitration;

5) the parties have concluded an agreement in accordance with the law on the transfer of this dispute to the resolution of the arbitration, unless otherwise provided by law;

6) the plaintiff, who did not ask for the proceedings in his absence, did not appear in the court on the secondary summon;

7) the person in whose interests the case was initiated did not support the stated requirement;

8) the plaintiff submitted an application for the return of the claim;

9) the application in cases of restoration of rights missing financial credit instruments and order securities submitted before the expiration of a three-month period from the date of publication;

10) the application for recognition of the right of communal ownership of an immovable thing submitted earlier than the time established by the law or in violation of the procedures for fixing immovable property as provided by the law as ownerless;

11) the state duty has not been paid in accordance with the procedure established by the part three of the Article 105 and the part two of the Article 106 of this Code;

12) the information on publication in the media in cases of special action proceedings provided by the Chapter 34 of this Code is not delivered;

13) the existence of a dispute on the law subordinated to the court subjected to consideration in the litigation, has been established when considering a case in a special proceeding.

Footnote. Article 280 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 280.The procedure and consequences of consideration of petition to be declined

1. The proceedings in cases of abandonment of the petition without consideration ends with the ruling of the court. In this ruling the court shall be obliged to specify how to eliminate listed in the subparagraphs 1), 2), 3), 9) and 10) the Articles 279 of this Code circumstances preventing consideration of the case. In the ruling the court specifies about the return of the state duty and about cancellation of taken measures for providing the claim considering the petition to be declined on the bases provided by the subparagraphs 1), 2) and 5) of the Article 279 of this Code.

2. The court’s decision to leave the petition without consideration shall be submitted to the private petition; the procedural request shall be brought by the prosecutor to the court of appeal, whose decision is final.

3. After the elimination of the circumstances which served as the basis for consideration the application to be declined, the interested person shall have the right to appeal again to the court with the petition in the general order.

The copy of the ruling shall be sent or handed over to the plaintiff together with the materials attached to the petition.

Chapter 26. MINUTES

Article 281. Obligation to keep a minute

1. Each court session of the court of the first instance, as well as each separate procedural action performed outside the court session, shall be drawn up in written form or condensed minutes when keeping audio and video recordings of the court session.

In the case of non-attendance of all persons participating in the case in the case, the audio and video recordings are not carried out.

2. At the preliminary court hearing, when preparing a case for the trial in the court of the first instance, the record shall be conducted at the discretion of the court, except for cases when a decision on the merits of the dispute is delivered at this stage.

3. The record keeping at the court of appeal is not necessary, except for cases when the case is considered by the court of appeal according to the rules of the court of the first instance, as well as in the case of research of new evidence according to the rules provided by the second part of the Article 413 and the part four of the Article 420 of this Code.

4. In the court of cassation instance the record shall not be kept.

Article 282. Content of a minute

1. The record of the court session or a separate procedural act committed outside the session shall reflect all the essential circumstances of the proceedings of the case or the commission of a separate procedural act.

2. The record shall indicate:

1) the year, month, day and place of the court session;

2) the time of the beginning and end of the court session;

3) the name of the court considering the case, the names and initials of the judge, the court secretary;

4) the name of the case;

5) the information on the use of transcription by the court and an indication of the reasons for the impossibility of conducting an audio or video recording of the process;

6) the information on the attendance of persons participating in the case in the case, representatives, witnesses, experts, specialists, interpreter;

7) the information on clarification to the persons participating in the case in the case, the representatives, as well as the interpreter, experts and specialists on their procedural rights and obligations;

8) the orders of the chairperson and the ruling delivered in the courtroom;

9) the applications, procedural requests and explanations of the persons participating in the case and their representatives;

10) the oral testimony of witnesses, explanations of experts and specialists;

11) the information about the announcement and the results of the search of the evidence and documents, listening to the audio recordings and watching videos, film materials;

12) the information on the opinion of state bodies and local self-government bodies participating in the case on the basis of the Article 56 of this Code;

13) the content of the questions and answers that took place in the courtroom;

14) the content of the oral arguments and replies;

15) the brief conclusion of the prosecutor who participated in the case on the basis of the Article 54 of this Code;

16) the information about the announcement and explanation of the content of the decision and ruling, the time frame for making them in final form, clarification of the procedure and term for appeal;

17) the information on clarification to the persons participating in the case on the right to familiarize themselves with the record of the court session and to submit comments on it;

18) the date of the record in the final form.

3. The condensed minutes shall be drawn up in the case of recording the proceedings of the case using the means of audio and video.

4. The content of the condensed minutes shall comply with the requirements specified in the subparagraphs 1), 2), 3), 4), 6) and 18) of the second part of this Article. The court’s application of audio, video, the name of the case containing the audio, video shall be also indicated.

The audio, video and short report media shall be attached to the case.

At the procedural request of the persons participating in the case and their representatives, the court shall submit a copy of the audio and video recordings and the condensed minutes or record of the court session. In cases when the case shall be considered in a closed court session, the audio, video recording and court record are not presented to the persons participating in the case in the case, they shall be provided with the opportunity to familiarize themselves with the audio, video recording and court record in the court.

5. The audio and video records of the court sessions shall be used only for the purposes of legal proceedings to accurately record the course of judicial proceedings, as well as to establish factual data in civil, criminal proceedings, administrative proceedings or in a disciplinary proceeding.

The procedure for the technical application of audio and video recordings, ensuring the recording of the course of the court session, storage and destruction of audio and video recordings,

as well as the procedure for accessing audio and video recordings shall be determined by the body that provides organizational and logistical support for the courts, taking into account the requirements of this Code.

Article 283.Drawing up a minute

1. The record of the court session or a separate procedural action shall be drawn up by the secretary of the court session or the condensed minutes shall be kept when keeping audio and video records of the court session.

2. The record, short record shall be made by the computer, typewritten or handwritten methods.

3. The persons participating in the case and the representatives shall have the right to procedural request for the announcement of any part of the record, for recording in the record information about the circumstances which they consider essential for the case.

4. The record shall be made and signed no later than in three business days after the end of the court session and the record on a separate procedural action is no later than the next day after its completion. The court record shall be prepared and signed no later than ten business days after the end of the court session for the complex cases.

5. The record shall be signed by the chairperson and the secretary. All changes, amendments, additions shall be specified in the record and certified by the signatures of mentioned above persons.

6. Upon request of the persons participating in the case in the case, the court shall be obliged to submit for review the record in the form of an electronic document certified by an electronic digital signature by the chairperson and the secretary of the court session.

7. If the persons participating in the case in the case, their explanations, statements, petitions, conclusions, stated orally, were additionally stated in written form, the court shall attach written documents to the case without reflecting their full contents in the record.

Article 284.The comments on the record, the condensed minutes, the content of audio, video records

The persons, who participate in the case, or their representatives, shall have the right to familiarize themselves with the record, the condensed minutes, the content of the audio and video recordings of the court session within five business days from the date of their production and signing. These persons shall be entitled to submit comments on the record, condensed minutes, the content of audio and video recordings in written form or in the form of an electronic document certified by an electronic digital signature, indicating the incompleteness of the proceedings and recording their results within three business days after familiarization.

Footnote. Article 285 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 285.Consideration of comments on the record, the condensed minutes, the content of audio, video records

1. The comments on the record, the condensed minutes, the content of the audio and video recordings shall be considered by the presiding judge, who signed them, who, if he agrees with the comments, certifies their correctness with his resolution and signature.

2. In case of disagreement of the chairperson with the submitted comments, they shall be considered at the court session with notification of the persons who participated in the consideration of the case. The absence of the persons who participated in the consideration of the case is not an obstacle to the consideration of comments on the record, the condensed minutes and the content of audio and video recordings.

Based on the results of consideration of the comments, the chairperson shall decide on their satisfaction or on their full or partial rejection. All comments shall be attached to the case.

3. The court ruling, delivered on the basis of the consideration of the observations, the procedural request of the prosecutor is not subject to the appeal and review. The arguments of disagreement with the ruling shall be included in the appeal, the procedural request of the prosecutor.

4. The comments on the record, the condensed minutes, the content of the audio, video shall be reviewed within five business days from the date of their submission.

5. If the chairperson shall not consider the comments on the record, the condensed minutes, the content of the audio and video recordings for valid reasons, they shall be attached to the case file.

SUB-SECTION 3. SPECIAL ACTION PROCEEDING

Chapter 27. Proceeding on applications on protection of citizens' electoral rights and public associations, participating in elections and Republican referenda

Article 286. Submission of an application

A citizen, a public association, a member of the electoral commission, the trustees of candidates and political parties, the representatives of political parties with the right to an advisory vote, the observers of political parties, other public associations, non-profit organizations, who believe that the decision, action (inaction) of the state body, a local government and self-government body, an election commission, an enterprise, an organization, their officials shall violate the right to elect or be elected, to participate in elections, referendums, the right to file a written application to the court under the jurisdiction established by the Chapter 3 of this Code and other laws.

Article 287. Consideration of an application

1. The application received during the preparation and conduction of the elections, the Republican Referendum, as well as within a month from the date of election, shall be considered within five days and received less than in five days before election, on election day and before the announcement of the election results, in case of the Republican Referendum - immediately, unless otherwise provided by the Constitutional Law of the Republic of Kazakhstan «On Elections in the Republic of Kazakhstan», the Constitutional Law of the Republic of Kazakhstan «On the Republican Referendum».

The application to appeal the decision of the election commission on the need for correction in the lists of electors (electors) shall be considered on the day of receipt.

2. The application shall be considered by the court with the participation of the applicant, the representative of the relevant election commission or a state body, a body of local government and self-government, an enterprise, an organization, a prosecutor. Failure to appear in the court of these persons, duly notified about the time and place of the session, shall not be an obstacle to the consideration and resolution of the case.

Footnote. Article 288 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 288.The court’s decision, its appeal, the review of the appeal procedural request of the prosecutor, the protest and execution

Footnote. The title of Article 288 is in the edition No. 91-VI of the Law of the Republic of Kazakhstan dated 11.07.2017

1. The decision of the court, by which the application is recognized as justified, shall be the basis for the restoration of the violated electoral right.

2. An appeal shall be filed with the decision of the court of the first instance, an appeal filed by the prosecutor within three days from the date of delivery of the copy of the decision, unless otherwise provided by the Constitutional Law of the Republic of Kazakhstan dated September 28, 1995 «On Elections in the Republic of Kazakhstan», Constitutional Law Of the Republic of Kazakhstan dated November 2, 1995 «On the Republican Referendum».

The decision of the appellate court shall not be subjected to appeal and protest.

3. The court decision on cases challenging decision s and actions (inaction) of the Central Election Commission of the Republic of Kazakhstan, as well as the decision s and actions (inaction) of the Central Referendum Commission, delivered according to the rules of jurisdiction provided in the Article 28 of this Code, shall be appealed, protested in cassation order within three days from the date of delivery of a copy of the decision, unless otherwise provided by the Constitutional Law of the Republic of Kazakhstan «On Elections in the Republic of Kazakhstan», the Constitutional Law Kazakhstan «On the Republican Referendum».

4. The appeals, procedural requests of the prosecutor, protests of the prosecutor against the decision s specified in the second and the third parts of this Article shall be considered within three days from the date of receipt to the court and received less than in five days before the election, on the day of the election and before announcement of the results of elections, in case of the Republican Referendum - immediately, unless otherwise provided for by the Constitutional Law of the Republic of Kazakhstan dated September 28, 1995 «On Elections in the Republic of Kazakhstan», by the Constitutional Law of the Republic of Kazakhstan dated November 2, 1995 «On the Republican Referendum».

5. The court decision that has entered into legal force shall be sent to the relevant state body, local state government and self-government body, organization, to the chairman of the election commission. Officials, guilty of failure to comply with a court decision, shall be respond in accordance with the law.

Chapter 28. PROCEEDING ON APPLICATIONS FOR APPEALING OF THE DECISION, ACTIONS (INACTION) OF LOCAL ENFORCEMENT BODIES VIOLATING THE CITIZENS' RIGHTS TO PARTICIPATE IN CRIMINAL PROCEEDINGS AS A JUROR

Article 289. Submission of an application

1. A citizen who believes that a decision, action (inaction) of a local executive body violates the right of a citizen to participate in the selection procedure for participation in criminal procedure as a jury, shall have the right of filing of application to the court of competent jurisdiction in accordance with the Chapter 3 of this Code.

2. The application shall be accompanied by evidence that indicates a violation of the right of a citizen to be included in the list of candidates for jurors and to participate in criminal procedure as a jury.

3. The application shall be submitted to the court within seven business days from the moment of the expiration of the term for familiarizing citizens with preliminary lists of candidates for jury in accordance with the legislation of the Republic of Kazakhstan on jurors.

Article 290. Consideration of an application

1. The application received within the deadlines established by the Article 289 of this Code shall be considered within two business days and received on the day of the end of this period - immediately.

2. The application shall be considered by the court with the participation of the applicant, the representative of the relevant local executive body. Failure to appear in court of these persons, duly notified about the time and place of the session, shall not be an obstacle to the consideration and resolution of the case.

Article 291.Court decision on the application and its execution

1. A court decision that establishes a violation of the right of a citizen to participate in the selection procedure for participation in criminal procedure as a jury shall be the basis for making corrections to the preliminary lists of candidates for jurors.

2. The court decision shall be sent to the relevant local executive body. Officials, guilty of failure to comply with a court decision shall be respond in accordance with the law.

Chapter 29. PROCEEDINGS ON AVOIDANCE OF DECISION S AND ACTIONS (INACTION) OF THE GOVERNMENT AUTHORITIES, LOCAL SELF-GOVERNMENT AUTHORITY, PUBLIC ASSOCIATIONS, ORGANIZATIONS, PUBLIC OFFICIALS AND CIVIL OFFICERS

Article 292.Filing of the application

1. A citizen and a legal entity shall have the right to challenge the decision, actions (inaction) of a state body, local self-government authority, public association, organization, public officials and civil officers in the court. In cases when the law establishes consideration of an application by a higher body, organization, official, commission, or ombudsman, the application of a citizen and a legal entity shall be submitted to the court after observing such an order.

The prosecutor shall apply to the court in case of illegal actions to the rejection of a protest against a legal act of individual application that does not comply with the law, as well as against the actions of a state body or official by an authority or official who issued an illegal act or committed illegal acts or a higher authority or official appeals to the court for recognition of the act.

2. The applications under the rules of this Chapter in cases of appealing against actions (inaction) of the body (official) that conducts an administrative offense shall not be considered in the court.

3. The application shall be submitted to the court according to the rules of jurisdiction established by the Chapter 3 of this Code. The applications, the consideration of which is related to the jurisdiction of district courts, shall be submitted to the court at the place of residence of the citizen or to the court at the location of the state body, local self-government authority, public association, organization, public official and civil officer, whose actions are disputed.

4. The refusal of permission to leave the Republic of Kazakhstan abroad on the grounds that the applicant is aware of information constituting state secrets is challenged in the relevant district and equivalent court at the location of the authority that made the decision to leave the request for departure without satisfaction.

5. The appeal of the prosecutor to the court shall suspend the action of the protested legal act of individual application until the court considers it.

Article 293.The decision on actions (inaction) of the government authorities, local self-government authority, public associations, organizations, public officials and civil officers subjected to the court avoidance

1. The decision s, actions (inaction) of state bodies, bodies of local self-government, public associations, organizations, public officials and civil officers subjected to the judicial appeal shall be collective and individual decision s and actions (inaction), resulting:

1) the violation of rights and freedoms of a citizen and the legal interests of a legal entity;

2) the obstacles that have been created to exercise the citizen's rights and freedoms, as well as by a legal entity of legal interests;

3) any obligation illegally imposed on a citizen or a legal entity or they are illegally brought to responsibility.

2. The following shall not be avoided in the court in accordance with this Chapter:

1) the laws and other regulatory legal acts, the verification of which for compliance with the norms is on the Constitution of the Republic of Kazakhstan within the exclusive competence of the Constitutional Council of the Republic of Kazakhstan;

2) the legal acts of individual application, for which the other laws provide a different procedure for the court avoidance;

3) the international treaties;

4) the regulatory legal acts, which are checked for compliance with the laws in the procedure prescribed by the Chapter 30 of this Code;

5) the decision s, actions (inaction) of state bodies, bodies of local self-government, public associations, organizations, public officials, civil officers subjected to judicial appeal by legal entities, in the authorized capital of which there is a state share that is subjected to avoidance in the procedure for suit proceedings (corporate disputes);

6) the decision s, actions (inaction) of state bodies, bodies of local self-government, public associations, organizations, public officials, civil officers subjected to consideration by the court in the procedure specified by the Criminal Procedure Code of the Republic of Kazakhstan and the Administrative Violations Code of the Republic of Kazakhstan.

3. The application shall be submitted to the court for any reason provided in the first part of this Article.

At the procedural request of the applicant, a copy on the determination of the acceptance of the application for the court proceedings shall be issued to the applicant for submission to the body or official whose decision s, actions (inaction) are disputed.

Article 294.The term of applying to the court

1. A citizen and a legal entity shall have the right to apply to the court within three months from the date when they became aware of the violation of rights, freedoms and legitimate interests.

The prosecutor shall have the right to appeal to the court within ten days from the date of the receipt of the report on the results of the consideration of the protest or after the deadline established by the law for its consideration.

2. The omission of a three-month period for filing an application with the court shall not be a ground for the court to refuse to accept the application.

The application for the restoration of the specified period or for the application of this period shall be considered in a preliminary court session or in a court session. If the term is not restored, the court shall decide to refuse the application.

Footnote. Article 295 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 295.The preparation of the case for the judicial examination

In accordance with the procedure provided in the Article 165 of this Code, the judge shall prepare the case for the court proceedings within ten business days from the date of acceptance of the application to the court. The extension of this period shall not be permitted, except as provided for in this Code.

Footnote. Article 296 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 296.Submission of an application

1. The application shall be considered by the court within one month from the date of completion of the preparation of the case for the court proceedings with the participation of a citizen, a representative of a legal entity, the head of a state body, a local self-government body, a public association, an organization, a public official or a civil officer or their representatives, the decision s and actions (inaction) of which are litigated.

In the cases provided by the second part of the Article 54 of this Code, the participation of the prosecutor shall be obligatory.

The application for litigated decision s, actions (inaction), filed in accordance with the procedure provided by the fourth part of the Article 27 and the subparagraph 2) of the Article 28 of this Code shall be considered within the period established by the second part of the Article 183 of this Code.

The application of the prosecutor is considered by the court within ten days from the date of completion of the preparation of the case for the court proceedings with the participation of the prosecutor and with the participation of the body, the official who made the decision to reject the protest or his representative.

2. The absence of any of the listed persons, duly informed about the place and time of the court session, at the court session shall not be an obstacle to the consideration of the application. However, the court shall recognize the attendance of these persons at the court session with postpone of the examination of the case and repeated summoning of persons.

3. The court shall be entitled, on its own initiative, to demand from the persons listed in the first part of this Article all documents and materials on the basis of which the litigated decision actions (inaction) was taken.

The failure to submit the requested materials to the court without valid reason shall entail legal consequences provided by the ninth part of the Article 73 of this Code.

Article 297.The court decision and its enforcement

1. The court decision shall be delivered in accordance with the requirements of the Article 227 of this Code.

2. The court decision shall be sent to eliminate the violations of the law to the head of a state body, local self-government authority, public association, organization, public official, civil officer or superior body in the order of subordination to the body within three business days after the court decision enters into legal force. The copy of the court decision shall be sent to the higher state authority and the prosecutor.

3. The execution of the decision shall be reported to the court, citizen or legal entity not later than one month from the date of receipt of the court decision. The guilty officials shall be responsible under the law for non-fulfillment of the court decision.

4. The compensation of damage caused to a citizen or legal entity as a result of an illegal decision, illegal actions (inaction) by a government body, local self-government authority, public association, organization, public official or civil officer shall be carried out in the procedure for the suit proceedings.

Chapter 30. PROCEEDINGS IN CASE OF LITIGATION OF THE LEGALISM OF REGULATORY LAW ACT

Article 298.Filing in the application

1. A citizen or a legal entity who is subjected to a regulatory legal act, who considers that a regulatory legal act adopted and published in accordance with the law, violates their rights and legal interests guaranteed by the Constitution and laws of the Republic of Kazakhstan and shall have the right to appeal to the court for recognition this normative legal act contrary to the law fully or in a separate part.

The prosecutor shall appeal to the court to declare the regulatory legal act illegal in case of rejection of a protest against a regulatory legal act that does not comply with the law by a body or an official that issued an illegal regulatory legal act or a higher authority or official.

2. The application shall comply with the requirements provided in the Article 148 of this Code and additionally contain information about the name of the state body, local self-government body, public official who adopted the litigated sub-legal normative legal act, the date of its adoption, which rights, freedoms and legally protected interests of a citizen or legal entity is violated by this regulatory legal act or its separate provisions, which articles of the Constitution of the Republic of Kazakhstan, articles or provisions of the law in the Republic of Kazakhstan are contrary to the litigated normative legal act.

3. The application shall be accompanied by the copy of the litigated regulatory legal act or its part, indicating which body of the mass media and when the regulatory legal act was officially published.

4. Filing an application to the court shall not suspend the validity of a regulatory legal act, except in cases when the prosecutor applies to the court to declare the protested regulatory legal act illegal before being considered by the court.

Article 299.The preparation of the case to the court proceedings

The judge shall prepare the case for the court proceedings within ten business days from the date of acceptance of the application to the court in accordance with the procedure provided for in the Article 165 of this Code. The extension of this period is not allowed.

Article 300.Submission of application

1. A citizen or a legal entity, a prosecutor who has filed the application to the court, and a state body (public official) that has adopted a regulatory legal act shall be notified about the time and place of the court session.

2. The case shall be considered within one month from the date of completion of the preparation of the case for the court proceedings with the obligatory participation of a citizen or a representative of a legal entity, a prosecutor, a representative of a state body or a public official who has adopted a regulatory legal act.

The application of the prosecutor shall be considered by the court within ten days from the date of completion of the preparation of the case for the court proceedings with the participation of the prosecutor and with the participation of the body, the public official who made the decision to reject the protest or his representative.

The absence of these persons shall not be an obstacle to the consideration of the case.

3. The court checks the competence of a state or local self-government body or the authority of a public official at the court session, who has adopted a regulatory legal act, the compliance of the entire regulatory legal act or its separate part with the Constitution of the Republic of Kazakhstan, with the laws of the Republic of Kazakhstan.

4. When considering the application for recognition as contrary to the law of the regulatory legal act the obligation of proof of the circumstances, which served as the basis for adoption of the specified regulatory legal act, shall be assigned to the state body or local self-government authority or the public official who accepted the regulatory legal act.

5. The refusal of the person who applied to the court to deny his request shall not entail the termination of the proceedings. The recognition of a claim by the state body, a local self-government authority or the public official who has issued a regulatory legal act shall be optional for the court.

Article 301.The court's decision and its enforcement

1. The decision of the court shall be delivered in accordance with the requirements of the Article 228 of this Code.

2. The decision of the court, by which the normative legal act is fully or in its separate part shall be recognized as inconsistent with the law and invalid, is obligatory for the state body or official who has adopted this normative legal act. The decision shall be obligatory for an indefinite number of persons, the rights and freedoms, the legitimate interests of which were subjected to the litigated bye-law act.

3. The court's decision on compliance or non-compliance of the regulatory legal act with the laws shall have a preclusive effect. The legalism of the bye-law normative legal act shall be litigated again by other citizens or legal entities only in the part of it that has not been previously verified in court.

SUBSECTION 4. SPECIAL PROCEEDING

Chapter 31. GENERAL POSITIONS

Article 302. Special proceedings cases considered by the court

1. The cases considered by the court in the procedure of special proceedings shall include the following cases:

1) on the establishment of facts of legal significance;

2) on applications for the adoption of a child;

3) on recognizing a citizen as missing and declaring a citizen dead;

4) on limiting the capacity of a citizen, on recognizing a citizen as incapable, on limiting or depriving a minor aged fourteen to eighteen years with the right to independently manage the income;

5) to declare a minor child fully capable (emancipation);

6) on sending minors to special organizations of education for children with deviant behavior or organizations with a particular treatment;

7) on compulsory hospitalization of a citizen in a psychiatric hospital;

8) on sending a citizen to compulsory treatment for tuberculosis, alcoholism, drug addiction and drug abuse;

9) on restructuring financial organizations and organizations that are members of a banking conglomerate as a parent organization and are not financial organizations;

10) on the introduction, early completion and extension of the temporary management of the cereal receiving station or cotton processing organization;

11) on vindication and bankruptcy;

12) on recognition of choses as ownerless and recognition of the right of communal ownership of immovable property;

13) on the establishment of incorrect records of acts of the civil status;

14) on the petitions about notarial actions or refusal to commit them;

15) on the restoration of rights to forfeited financial credit instruments and order financial credit instruments (procedure to declare lost documents void);

16) on the applications for recognizing an organization engaged in extremism or terrorist activity on the territory of the Republic of Kazakhstan and (or) another state, extremist or terrorist, including the establishment of a change in its name, as well as recognition of information materials imported, published, manufactured and (or) spread on the territory of the Republic of Kazakhstan as extremist or terrorist;

17) on the applications for recognition of online casinos, products of foreign media distributed in the territory of the Republic of Kazakhstan, containing information that is contrary and illegal to the laws of the Republic of Kazakhstan;

18) on the applications for the deportation of an alien or stateless person from the Republic of Kazakhstan for violation of the legislation of the Republic of Kazakhstan.

2. The law shall also provide the consideration of other cases in the order of special proceedings.

Article 303.The preparation of the case for the judicial examination

In accordance provided by the Article 165 of this Code, with the features established by the Chapter 31 of this Code, the judge shall prepare the case for the court proceedings within ten business days from the date of acceptance of the application to the court. The extension of this period shall not be allowed.

Article 304.Special proceedings case consideration

1. The cases of special proceedings shall be considered by the courts according to the rules of suit proceedings with the features established by the Chapters 31-49 of this Code. The court shall consider cases of special proceedings with the participation of the applicant and interested persons.

2. If the application or consideration of the case in the special proceedings established the existence of a dispute on the right, subordinated to the court, the court shall make a ruling on the abandonment of the application without consideration that explains the parties and interested persons their right to appeal to the court in the proceedings.

Chapter 32. Regarding the discovery of legally significant facts

Article 305.The cases regarding the discovery of legally significant facts

1. The court establishes the facts depend on the emergence, change or termination of personal or property rights of citizens or legal entities.

2. The court shall consider the fact finding cases:

1) ancestral relationship of persons;

2) finding a dependent person;

3) registration of birth, adoption, marriage, divorce and death;

4) recognition of paternity;

5) accessory of the documents of title (with the exception of military documents, passport, identity card and certificates issued by the civil registration authorities) to the person whose surname, first name, patronymics listed in the document do not match the surname, first name, patronymics of the person or identity card or birth certificate;

6) the presence of documents confirming the ownership, use and (or) disposal of real estate objects, if the applicant had a title deed of ownership of the property, but it has been lost and this fact shall not be established out of court;

7) accident, if it is impossible to confirm in a different order;

8) the death of a person at a certain time under certain circumstances in the event of the failure of the civil registration authorities to register the death;

9) acceptance of the inheritance and place of opening of the inheritance, if the person who performs notarial actions cannot issue the certificate of inheritance to the applicant due to the lack or insufficiency of the relevant documents necessary to confirm the fact of taking possession of the estate.

3. The court shall establish other facts of legal significance, unless a different procedure for their establishment is provided by the legislation of the Republic of Kazakhstan.

Article 306. Conditions necessary for the cases regarding the discovery of legally significant facts

The court shall discover legally significant facts only if it is impossible for the applicant to receive appropriate documents certifying these facts in a different order or if it is impossible to recover the lost documents.

Article 307.Filing in the application

The application for regarding a fact of legal significance shall be filed with the court at the place of residence of the applicant, except for the fact that there are documents confirming the ownership, use and (or) disposal of immovable property that shall be filed with the court at the location of the immovable property.

Article 308.Proceedings in the application

The application shall specify the purpose for the applicant that shall establish this fact, as well as provide evidence confirming the impossibility of obtaining the appropriate documents by the applicant or the impossibility of restoring the lost documents.

Article 309.The court decision on the application

The court's decision on the regarding of a fact of legal significance shall be the basis for the state registration of the relevant right and the issuance of the relevant documents, if such right is subjected to the registration, without replacing the documents issued by these bodies.

Chapter 33. PROCEEDINGS FOR APPLICATION FOR ADOPTION OF A CHILD

Article 310.Filing in the application

The application for the adoption (hereinafter-adoption) of a minor child shall be submitted by citizens wishing to adopt a child to the court at the place of residence (location) of the child according to the rules of jurisdiction established by the Chapter 3 of this Code.

Article 311.Submission of application

The application for the adoption of a child shall include:

1) the surname, first name and patronymics (if it is indicated in the document proving the identity) of the adoptive parents (adoptive parent), their place of residence;

2) the surname, first name and patronymics (if it is indicated in the identity document) and the date of birth of the child to be adopted, his/her place of residence (location), information about the parents of the child to be adopted, his/her brothers and sisters;

3) the circumstances justifying the request of the adoptive parents (adoptive parent) for the adoption of the child and the evidence confirming these circumstances;

4) the request to change the surname, first name, and patronymics (if it is indicated in the identity document) of the child to be adopted, the date of birth, the place of birth of the child to be adopted, the record on the adopters (adopter) in the birth record of the child as the parents (parent)

if desired, the adoptive parents (adoptive parent) shall make the appropriate changes to the birth record of the child if desired.

Article 312.Documents attached to the application for adoption

The following documents shall be attached to the application for adoption:

1) the copy of the marriage certificate of the adoptive parents (adoptive parent) - when the child is adopted by the persons (person) who are married;

2) in case of adoption of a child by one of the spouses - the consent of the other spouse or a document confirming that the spouses have terminated the family relationship. If it is not possible to add the relevant document to the application, the application shall indicate the evidence confirming these facts;

3) the medical report on the health status of the adoptive parents (adoptive parent);

4) the certificate of employment and position or other income document;

5) the document confirming the right to use a dwelling or the right of ownership of a dwelling;

6) other documents stipulated by the laws of the Republic of Kazakhstan.

Article 313.Preparation of the case for the judicial examination

1. The judge shall oblige the bodies in charge of the Child Protective Service at the place of residence or location of the child to be adopted to submit to the court permission to transfer to the adoption on the basis of the commission's conclusion on the reasonableness and relevance of the adoption to the child when preparing the case for the judicial examination.

2. The following documents shall be attached to the conclusion of the Child Protective Service:

1) the adoptive parents (adoptive parent) housing inspection report drawn up by the body performing the functions of the Child Protective Service at the place of residence or location of the child to be adopted or at the place of residence of the adoptive parents (adoptive parent);

2) the birth certificate of the adopted child;

3) the medical report on the state of health, on the physical and mental development of the adopted child;

4) the consent of the adopted child who has reached the age of ten years to the adoption, as well as possible changes in his name, patronymics, surname and record of the adoptive parents (adoptive parent) as his parents (except if such consent is not required under the laws of the Republic of Kazakhstan);

5) the consent to the adoption of the child by parents who are under the age of sixteen, as well as the consent of their legal representatives and in the absence of legal representatives, the consent of the body performing the Child Protective Service, except as provided for in the Code of the Republic of Kazakhstan on Marriage and Family»;

6) consent to the adoption of the child by his/her guardian or curator, foster career or the head of an educational organization, medical and other organizations where the child is left without parental care;

7) when adopting a child by the citizens of the Republic of Kazakhstan permanently residing outside the Republic of Kazakhstan, by foreigners, a document confirming the fact that they are centrally registered in the authorized body in the field of children's rights, as well as documents confirming the implementation of the rights of primary adoption by the authorized body in the field of children's rights this child by relatives regardless of their citizenship and place of residence or by the citizens of the Republic of Kazakhstan.

3. The court shall request information on orphans, children left without parental care, who are in primary, regional, centralized accounting, from the bodies that perform Child Protective Service on the basis of a written request.

4. The court, if necessary, shall also require other documents.

Footnote. Article 314 as amended by the Law of the Republic of Kazakhstan No. 91-VI dated 11.07.2017

Article 314.Submission of application

The court shall consider cases of adoption of a child with the obligatory participation of the adoptive parents (adoptive parent), representatives of the body performing the functions of the Child Protective Service.

If necessary, the court shall involve the parents (parent) or other legal representatives of the adopted child, his relatives and other interested persons, as well as the child who has reached the age of ten to participate in the case.

The court shall consider cases of adoption of a child in a closed court session.

Article 315.Court decision on the application

The court shall decide to satisfy the application or to refuse to satisfy it in full or in part to meet the request of adoptive parents (adoptive parent) to record them as parents (parent) of the child in the act record of his birth, as well as to change the date and place of birth of the child considering the application for adoption of the child.

The mutual rights and obligations of adoptive parents (adoptive parent) and adopted child shall arise from the date of entry into force of the court decision when satisfying the application for adoption.

An extract from the court decision shall be sent to the civil registry office at the location of the court for the state registration of adoption of a child, as well as to the body performing the function of the Child Protective Service, within three business days from the date of entry into force of the decision.

Article 316.The revocation of adoption

The consideration and resolution of the cases on the revocation of adoption shall be carried out according to the rules of the suite proceedings.

Chapter 34. PROCEEDING ON ACKNOWLEDGEMENT OF A PERSON TO BE MISSING OR DEAD

Article 317. Submission of an application

1. 1. An application on acknowledgement of a person to be missing or declaring a citizen to be dead shall be submitted to the court at the place of residence of a plaintiff or at the last known place of residence of the missing person.

2. The case on acknowledgement of a person to be missing or declaring a citizen to be dead may be initiated at the request of his/her family, prosecutor, public associations, guardianship authorities and other interested persons

Article 318. Content of the application

The application shall specify purpose of declaring the person to be missing or dead, and shall have facts, confirming the missing of a citizen, or circumstances threatened to the missing person with death or giving reasons to believe that his/her death was caused by a specific accident. As for military servants and other people, who went missing in connection with military operations, the application shall state the day of ending of military actions.

Article 319. Preparation of a case for proceedings

1. When preparing the case for proceedings the judge finds, who can give information about the missing person and sends requests to the relevant organizations at the last known place of residence and place of work of the missing person.

2. The judge, after accepting of the application, makes a decision on publication of a notification on initiation of a case in local newspaper at the expense of the plaintiff. The publication shall contain:

1) name of the court, received the application on acknowledgement of a person to be missing or dead;

2) name of the applicant and his/her place of residence (location, if the application came from legal entities);

3) surname, first name, patronymic, place of birth and the last work of the missing person;

4) offer to individuals, possessing information about location of the missing person to inform the court about it within three months from the date of publication.

3. After accepting the application, the judge may offer the guardianship authority to appoint a guardian for protection and management of property of the missing person.

Footnote. Article 320 has been excluded by the Law of the Republic of Kazakhstan dated 11.07.2017 No. 91-VI

Article 320. Mandatory participation of a prosecutor

Article 321. Consequences of the decision of the court

1. The decision of the court, which declares the citizen to be missing, shall be the ground for appointment of a guardianship and custody for the property at the location of the property of the missing person.

2. The decision of the court, which declares the citizen to be dead, shall be the ground for making records on citizen's death in the civil status acts by the bodies of civil status acts.

Inheritance in respect of the property of a citizen declared dead shall be considered to be opened since the court decision enters into legal force.

Article 322. Consequences of appearance or discovery of location of the citizen acknowledged being missing or dead

In case of the appearance or discovery of location of the citizen acknowledged to be missing or dead, the court’s new decision shall cancel the earlier rendered decision. This decision shall be the ground to remove trusteeship from the property and cancellation of records about his/her death in the book of acts of civil status 2. Cancellation of a court decision on acknowledgement of a citizen as missing or declaring him as dead is the ground for the restoration of the property rights of the said persons.

Chapter 35. PROCEEDING ON CASES OF CITIZEN INCAPACITATIONY, ON ACKNOWLEDGEMENT OF A CITIZEN TO BE INCAPACITATED, ON LIMITATION OR DEPRIVING OF THE MINOR AGED BETWEEN FOURTEEN AND EIGHTEEN YEARS OLD OF THE RIGHT TO DISPOSE HIS INCOMES INDEPENDENTLY

Article 323. Application procedure

1. Case on recognizing a citizen as partially incapacitated due to the abuse of alcoholic beverages or narcotic drugs, psychotropic substances, their analogues may be initiated at the request of members of his family, close relatives regardless of their joint residence, prosecutor or body responsible for guardianship or trusteeship.

2. Case of the recognition of a citizen as disabled due to a mental illness or mental disorder, dementia or another morbid state of mind may be initiated in court at the request of family members, close relatives, regardless of their joint residence, prosecutor, body responsible for guardianship or trusteeship, psychiatric (psycho-neurological) medical institution.

3. Case on limitation or depriving a minor aged between fourteen and eighteen years of the right to independently dispose his income may be initiated on the basis of an application by parents, adoptive parents, custodian or guardianship or trusteeship body, or prosecutor.

4. Case of recognition a citizen partially incapacitated, incapacitated or depriving a minor aged fourteen to eighteen years of the right to independently dispose his income is initiated in order to protect both the interests of the partially incapacitated, incapacitated by establishing (assignment) of guardianship, and the persons mentioned in parts first and second of this article.

5. Application for acknowledgement of a citizen as partially incapacitated, incapacitated or depriving a minor aged between fourteen and eighteen years of the right to independently dispose his income shall be submitted to the court at the place of residence of the person, and in case if the person is placed into a psychiatric (psycho-neurological) medical institution, it shall be submitted at the location of this institution.

Article 324. Application content

1.The application on the recognition of a citizen as partially incapacitated shall state the circumstances indicating that a person abusing alcoholic beverages or narcotic drugs, psychotropic substances, their analogues, puts his family in a difficult financial situation.

2. The application on the recognition of a citizen as incapacitated shall state the circumstances indicating that the person has a mental illness or mental disorder, dementia or other morbid mental state, as a result of which a person cannot understand the actual nature and significance of his actions or direct them.

3. The application on the limitation or deprivation of a minor aged between fourteen to eighteen years of the right to independently dispose his income, scholarship or other income shall state the circumstances indicating the clearly unreasonable disposal of the minor by his earnings, scholarship or other income.

Footnote. Article 325 as amended by the Law of the Republic of Kazakhstan dated 10.02.2017 No. 45-VI

Article 325. Preparation of a case for trial

1. In preparing a case for trial, the judge shall appoint an official lawyer to represent and protect the interests of the citizen in the case proceedings.

An official lawyer has the authority of a legal representative. In accordance with the law, legal assistance of such an attorney is provided free of charge at the expense of budget funds.

2. If there is sufficient data on a mental illness or mental disorder, dementia, or other morbid state of mind of a citizen, the court shall appoint a forensic psychiatric examination to determine his mental state.

If the person, in respect of whom the case of declaring him in capacitated explicitly evaded a forensic psychiatric examination, the court in a court session with the participation of a psychiatrist can make a decision on the compulsory referral of a citizen to a forensic psychiatric examination.

3. In the cases provided for in part two of this article, the body (person) that appointed the forensic examination is obliged to notify within twenty-four hours about the location of the person forcibly placed in the medical organization for conducting the forensic examination any adult members of his family, other relatives or close persons, and in the absence thereof, Internal Affairs Authority at the place of residence of the said person.

Footnote. Article 326 as amended by the Law of the Republic of Kazakhstan dated 11.07.2017 No. 91-VI

Article 326. Consideration of an application

1. Application for recognition of a citizen as partially incapacitated, incapacitated or depriving a minor aged between fourteen and eighteen years of the right to independently dispose his income, scholarship or other income shall be considered by the court with the participation of the citizen, an applicant, a representative of the body performing guardianship functions or guardianship.

The citizen in respect of whom a case on recognition him incapacitated is being considered shall be summoned to a court session if his presence at the court session does not create a danger to his life or health or to the lives or health of others. A person has the right to state his position personally or through representatives.

If personal participation of a citizen in a court on the case of recognition a person as incapacitated creates a danger to his life or health or to the lives or health of others, the case shall be considered by the court at the place of his location. The case may be considered in a medical organization that provides psychiatric care in inpatient conditions, or inpatient social services for people suffering from mental disorders, with the participation of the citizen.

2. When considering cases of this category, the applicant shall be exempt from payment of court costs. The court, having established that the person who filed the application, acted in bad faith in order to clearly unwarranted restriction or deprivation of the legal capacity of a citizen, shall expose him of all legal costs associated with the proceedings.

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Article 327. Court decision under the application

1. The court passes a decision of refusal to satisfy the application, if it establishes the fact that there are no grounds for recognition a citizen as partially incapacitated or incapacitated, limitation or deprivation a minor aged between fourteen to eighteen years of the right to independently dispose his income, scholarship or other incomes.

2. The decision of the court to limit the legal capacity of a citizen, as well as to limit or deprive a minor aged between fourteen and eighteen years of the right to independently dispose his income, scholarship or other incomes is the ground for appointing a trustee as the body performing guardianship or trusteeship functions.

3. A court decision on recognition a citizen as incapacitated is the ground for appointing a guardian as the body performing functions of guardianship or trusteeship.

4. The body that performs the functions of guardianship or trusteeship shall, within ten days, inform the court of the appointment of a partially incapacitated or incapacitated citizen of a trustee or guardian.

5. A citizen recognized as incapacitated or partially incapacitated is entitled to appeal against a court decision in the manner provided for by this Code. Article 328. Recognition of a citizen as capacitated

Article 328. Acknowledgement of a citizen as legally capable

1. In the cases provided for in the second paragraph of Article 22, the second paragraph of Article 27 of the Civil Code of the Republic of Kazakhstan, the court, at the request of the citizen, a member of his family, a close relative, guardian, body performing the functions of guardianship, the psychiatric dispensary, shall pass a decision on the refusal to satisfy the restrictions on the legal capacity of a citizen, on the refusal to satisfy the limitations or the deprivation of a minor aged between fourteen and eighteen years of the right to independently dispose his income, scholarship or and other incomes. On the basis of a court decision, the guardianship established over him shall be canceled.

2. In the cases provided for by paragraph three of Article 26 of the Civil Code of the Republic of Kazakhstan, the court at the request of a guardian, a psychiatric medical institution, a family member, a close relative, a prosecutor, a psychiatric (psycho-neurological) institution, the body that performs the functions of guardianship or trusteeship according to the conclusion of the forensic psychiatric examination shall pass a decision on the recognition of the recovered or having a significant improvement in the health of the person incapacitated. On the basis of a court decision, the guardianship established over the citizen shall be canceled.

Chapter 36. PROCEEDING ON ACKNOWLEDGEMENT OF A MINOR FULLY CAPABLE (EMANSIPATION)

Article 329. Application on declaring a minor fully capable

1. A minor who has reached the age of sixteen years may apply to the court at his place of residence with an application for declaring him fully capacitated in the case provided for in Article 22-1 of the Civil Code of the Republic of Kazakhstan.

2. An application for declaring a minor fully capacitated is accepted by the court without the consent of the parents (one of the parents), the adoptive parents (adoptive parent) or the guardian to declare the minor fully capacitated.

Footnote Article 330 as amended by the Law of the Republic of Kazakhstan dated 11.07.2017 No. 91-VI

Article 330. Consideration of the application on declaring a minor fully capable

An application for declaring a minor fully capacitated is considered by the court with the participation of the applicant, parents (one of the parents), adoptive parents (adoptive parent), guardian, as well as a representative of the body performing guardianship or trusteeship functions.

Article 331. Court decision on the application on declaring a minor fully capable

1. The court, having considered in essence the application for declaring a minor fully capacitated, shall make a decision with which it satisfies or refuses the applicant's satisfaction.

2. If an application is satisfied, a minor who has attained the age of sixteen years shall be declared fully capacitated (emancipated) from the day the court decision on emancipation enters into legal force.

Chapter 37. Proceedings on cases of sending of under-age persons to special education organizations or organizations with a special regime of detention

Article 332. Receiving a minor into a special education organization for children with deviant behavior og an organization with special regime

1. An application for receiving a minor into a special education organization for children with deviant behavior is submitted by the body that performs the guardianship or guardianship function, or by the Internal Affairs Body, and a special organization with a special detention regime - by the Internal Affairs Body in the specialized inter-district juvenile court for place of residence (location) of the child.

2. In the application for receiving a minor into a special education organization for children with deviant behavior or an organization with a special regime, circumstances shall be stated and documents shall be presented indicating that there are legal grounds for sending to a special education organization for children with deviant behavior or organization with special regime of maintenance and about the absence of a minor disease that prevents its maintenance and training

in the specified organization and education, as well as the decision of the Commission on Juvenile Affairs and the Protection of their Rights.

Article 333. Consideration of the application on placement of a minor into a special education organization for children with deviant behavior or an organization with special regime

1. A minor, his legal representatives, representatives of the body responsible for guardianship or trusteeship, as well as other persons at the discretion of the court, shall be summoned to court.

2. The participation of the prosecutor in the consideration of an application for the receiving a minor into a special education organization for children with deviant behavior or an organization with a special regime is mandatory.

3. The applicant shall be exempt from payment of court costs related to the consideration of the case concerning the receiving a minor into a special education organization for children with deviant behavior or an organization with a special regime.

Article 334. Court decision on the application for placing a minor into a special education organization for children with deviant behavior or an organization with special regime or an institution with a special regime of detention

1. Having considered the application for receiving a minor into a special education organization for children with deviant behavior or an organization with a special regime on the merits, the court makes a decision that shall reject or satisfy the application.

2. The decision to satisfy the application is the ground for receiving a minor into a special education organization for children with deviant behavior or an organization with a special regime.

3. The term of stay of a minor in a special education organization for children with deviant behavior or organizations with a special regime shall be calculated from the day the decision enters into legal force.

Chapter 38. PROCEEDING ON CASES OF COMPULSORY HOSPITALIZATION OF A CITIZEN TO PSYCHIATRIC HOSPITAL

Article 335. Application on compulsory hospitalization of a citizen to psychiatric hospital

1. An application for compulsory hospitalization of a citizen to a psychiatric hospital without his consent shall be submitted by a representative of a medical organization that provides psychiatric assistance under inpatient conditions to the court where the psychiatric organization is located.

2. The application, which must state the grounds for compulsory hospitalization of a citizen into a psychiatric hospital, must include a reasoned opinion of the commission of psychiatrists of a psychiatric organization who decided on the reasonableness of hospitalization of a person into a psychiatric hospital and his treatment.

Footnote. Article 336 as amended by the Law of the Republic of Kazakhstan dated 10.02.2017 No. 45-VI; dated 04.18.2017 No. 58-VI

Article 336. Term of application for compulsory hospitalization of a citizen into psychiatric hospital

1. An application for compulsory hospitalization of a citizen into a psychiatric hospital shall be submitted to the court no later than seventy-two hours after the person was placed into a psychiatric hospital.

Compulsory hospitalization of a citizen into a psychiatric hospital until a court makes a decision is allowed solely for the purpose of avoiding the consequences stipulated in

subparagraphs 2), 3) and 4) paragraph 1 of article 94 of the Code of the Republic of Kazakhstan «On people's health and the health care system.»

For each case of compulsory hospitalization without a court decision, the administration of the psychiatric organization within forty-eight hours after the citizen was placed into a psychiatric hospital shall send a written notification to a prosecutor.

2. Initiating a case, the judge simultaneously extends the stay of a citizen in a psychiatric hospital for the period necessary for the consideration of the application in court.

Footnote. Article 337 as amended by the Law of the Republic of Kazakhstan dated 11.07.2017 No. 91-VI

Article 337. Consideration of the application for compulsory hospitalization of a citizen into psychiatric hospital

1. The judge shall consider the application for the compulsory hospitalization of a citizen into a psychiatric hospital within ten working days from the day of initiation of the case. The court session is held in the court or psychiatric organization in which the person is hospitalized. A citizen has the right to personally participate in a court hearing in the case of his compulsory hospitalization, if, according to information received from a representative of a psychiatric organization, the mental state of this person allows him to personally participate in a court hearing held at the premises of the psychiatric organization.

2. The case is considered with the participation of a representative of a medical organization to which a citizen was hospitalized and on whose initiative a case was initiated, and a representative of a citizen in respect of whom the issue of compulsory hospitalization into a psychiatric hospital is being decided.

Article 338. Court decision on the application for compulsory hospitalization of a citizen into psychiatric hospital

1. Having considered the application on the merits, the court shall make a decision that rejects or satisfies the application.

2. The decision to satisfy the application is the ground for the compulsory hospitalization of a citizen for treatment and further detention in a psychiatric hospital for a period prescribed by law.

Article 339. Submission and consideration of an application for the extension period of compulsory hospitalization and treatment

1. An application for the extension period of compulsory hospitalization and treatment for more than six months shall be submitted to the court by a medical organization that provides psychiatric assistance in inpatient conditions at the location of the psychiatric organization.

2. The statement on the extension period of compulsory hospitalization and treatment, made in the manner prescribed by the legislation of the Republic of Kazakhstan in the field of health, shall be attached to the application for the extension of the period of compulsory hospitalization and treatment.

3. An application for extension period for compulsory hospitalization and treatment shall be considered in the manner provided for in Article 337 of this Code.

Article 340. Court decision on the application for the extension period of compulsory hospitalization and treatment

1. Having considered the application on the merits, the court shall make a decision by which it rejects or satisfies this application.

2. The court's decision to satisfy the application for the extension of the period of compulsory hospitalization and treatment of a citizen is the ground for the extension period of compulsory hospitalization and treatment for a period established by law.

3. The decision of the court to reject an application for the extension period of compulsory hospitalization and treatment of a citizen is ground for discharge him from a psychiatric organization.

Chapter 39. PROCEEDING ON SENDING A CITIZEN SUFFERING FROM ALCOHOLIC, DRUGS, TOXIC SUBSTANCES ADDICTIONS FOR COMPULSORY TREATMENT IN NARCOLOGICAL HOSPITAL

Article 341. Application for sending a citizen suffering from alcoholic, drugs and toxic substances addictions to compulsory treatment in narcological hospital

1. Application for sending a citizen suffering from alcoholic, drugs and toxic substances addictions to compulsory treatment into narcological hospital without his consent shall be submitted by a representative of the state health organization on the initiative of the patient’s relatives, labor collectives, public organizations, internal affairs agencies, the prosecutor’s office, or the body responsible for guardianship or trusteeship, at the place of residence of the patient.

In case of sending a citizen suffering from alcoholic, drugs and toxic substances addictions to compulsory treatment into narcological hospital, who does not have a permanent place of residence, an application shall be submitted by the Internal Affairs bodies at the time the patient is present.

2. The application, which shall specify the grounds provided by law for referral for compulsory treatment to the narcological hospital of a person suffering from alcoholic, drugs or toxic substance addictions, shall be accompanied by a reasoned medical conclusion recognizing a person as alcoholic, drugs and toxic substance addictions and the need to apply compulsory treatment to it.

Article 342. Consideration of an application for sending a citizen suffering from alcoholic, drugs and toxic substances addictions to compulsory treatment into narcological hospital

1. The judge shall consider the application for compulsory treatment of a citizen in a narcological hospital within ten working days from the day the application is received.

2. The case shall be considered with the participation of the patient sent to compulsory treatment, a representative of the health authorities and Internal Affairs, on who the initiative the case was initiated, the patient's relatives, representatives of labor collectives, public associations.

In case of evasion from appearing at the court session of the patient, in respect of whom the case of sending to compulsory treatment in a narcological hospital was initiated, he shall be subjected to a court of compulsory law enforcement by the court.

Article 343. Court decision on the application for compulsory treatment in a narcological hospital organization of a person suffering from alcohol, drug or toxic substance addictions.

1. Having considered the application on the merits, the court makes a decision that shall reject or satisfy the application.

2. The decision to satisfy the application is the ground for sending a citizen for compulsory treatment to a narcological hospital for a period prescribed by law.

Article 344. Submission and consideration of an application for the extension period of compulsory treatment in a narcological hospital of a person with alcohol, drug or toxic substance addiction.

1. In cases stipulated by law, the period of compulsory treatment in a narcological hospital of a patient with alcohol, drug or toxic substance addiction may be extended at the request of the administration of a narcological hospital at the location of the organization.

2. A medical report on the need to extend the period of compulsory treatment shall be attached to the application for the extension of the period of compulsory treatment in a narcological hospital of a patient with alcohol, drug or toxic substance addiction.

Article 345. Court decision on the application for the extension of the period of compulsory treatment in a narcological hospital of a person with alcohol, drug or toxic substance addiction.

1. Having considered the application on the merits, the court makes a decision by which it shall reject or satisfy this application.

2. The court's decision on the satisfaction of the application for the extension of the period of compulsory hospitalization and treatment of a citizen is the ground for the extension of the period of compulsory treatment in a narcological hospital of a person with alcohol, drug or substance addiction for a period established by law.

3. The decision of the court to reject an application for the extension of the period of compulsory hospitalization and treatment of a citizen is grounds for discharge from the narcological hospital.

Chapter 40. PROCEEDING ON CASES OF COMPULSORY TREATMENT OF A CITIZEN, SUFFERING FROM TUBERCULOSIS AND AVOIDING TREATMENT

Article 346. Application for compulsory treatment of a citizen suffering from tuberculosis and avoiding treatment.

1. An application for compulsory treatment of a citizen suffering from tuberculosis, without his consent, shall be submitted by a representative of health care bodies (organizations) at the location of the tuberculosis institution that carries out medical (dispensary) observation of this patient, or in court at the place of residence of the patient.

2. The application, which shall specify the grounds provided by law for the treatment of a citizen with a tuberculosis, without his consent, and shall attach the conclusion of the organization of health care regarding the recognition of a patient with tuberculosis, as well as documents confirming the patient’s refusal of treatment prescribed by the doctor.

Footnote. Article 347 as amended by the Law of the Republic of Kazakhstan dated 11.07.2017 No. 91-VI

Article 347. Consideration of an application for compulsory treatment of a citizen suffering from tuberculosis and avoiding treatment

1. The judge shall consider the application for compulsory treatment of a citizen suffering from tuberculosis and evading treatment, within five working days from the day the application is submitted to the court proceedings.

2. The case is considered with the participation of a citizen who is sent for compulsory treatment in the courtroom, or at the location of the tuberculosis institution that carries out medical (dispensary) monitoring of this patient.

In the case when, according to the data of the specialized anti-tuberculosis organization, a representative of the public health organization or the criminal executive system of the Internal Affairs Authorities who introduced the referral to compulsory treatment, and the prosecutor, the person is a danger to others, due to the threat of the spread of the disease, the case can be considered without the presence of the person or with using video conferencing, if available.

3. The case is considered with the participation of a citizen, a representative of a health organization or the criminal executive system of the internal affairs bodies who submitted a submission on referral to compulsory treatment.

Footnote. Article 348 as amended by the Law of the Republic of Kazakhstan dated 18.04.2017 No. 58-VI

Article 348. Court decision on the application for compulsory treatment of a citizen suffering from tuberculosis and avoiding treatment

1. Having considered the application on the merits, the court makes a decision that shall reject or satisfy the application.

2. The decision to satisfy the application is the ground for sending a citizen with a tuberculosis to compulsory treatment in a specialized anti-tuberculosis organization for a period prescribed by law.

3. Compulsory treatment of a citizen suffering from tuberculosis who is released from a penitentiary system institution who has not completed a full course of treatment while serving a sentence is carried out in specialized tuberculosis organizations at the place of release in the manner established by the Penitentiary Code of the Republic of Kazakhstan.

4. Execution of a court decision on sending of a citizen with a tuberculosis is imposed on compulsory treatment by enforcement authorities.

5. The execution of a court decision on the sending a citizen with a tuberculosis who is released from the institution of the penitentiary system is carried out by the Internal Affairs Authorities on the basis of notification of this institution.

Chapter 41. PROCEEDING ON CASES OF RESTRUCTURIZATION OF FINANCIAL ORGANIZATIONS AND NON FINANCIAL ORGANIZATIONS BELONGING TO A BANK CONGLOMERATE AS PARENT ORGANIZATION

Article 349. Consideration on cases of restructurization of financial organizations and non financial organizations belonging to a bank conglomerate as parent organization

Cases of restructuring financial organizations and non financial organizations belonging to a bank conglomerate as parent organization are considered by a specialized inter-district economic court according to the general rules provided for by this Code, with features established by the legislation of the Republic of Kazakhstan.

The provisions of this chapter apply to the restructuring of a non financial organization belonging to a bank conglomerate as a parent organization in cases provided for by the laws of the Republic of Kazakhstan.

Article 350. Application on restructuring

1. An application for the restructuring of a financial organization shall be filed by a financial organization in a specialized inter-district economic court.

2. The application for restructuring, with the grounds provided by law for restructuring a financial organization shall attach the following:

1) decision of the board of directors of a financial organization to conduct a restructuring;

2) written agreement of the financial organization with the National Bank of the Republic of Kazakhstan on the restructuring of the financial organization;

3) draft restructuring plan for a financial institution containing the following information:

procedure and time limit for restructuring;

list of assets and liabilities restructured;

restructuring activities;

prospective financial results from the restructuring of assets and liabilities;

accepted restrictions on activities.

Article 351. Consideration of an application

The court considers the application for the restructuring of a financial organization within five working days from the date of its acceptance to the court proceedings.

Article 352. Court decision

1. Having considered the application for the restructuring of a financial organization, the court makes a decision on the restructuring of a financial organization, which shall contain:

1) name of the financial organization;

2) indication of the restructuring of the financial organization with the definition of the restructuring date and officials of the financial organization responsible for conducting the restructuring, convening and conducting a meeting of creditors.

2. Since the date of entry into force of a court decision on the restructuring of a financial organization:

1) shall be suspended the following:

previously adopted decision s of courts, arbitration to meet the requirements for obligations to be restructured;

claims of creditors of a financial organization, obligations to which are supposed to be restructured, declared prior to the entry into force of a court decision on the restructuring and during the restructuring of a financial organization;

2) it is not allowed to foreclose on the property of a financial organization.

3. A copy of a court decision that has entered into legal force on the restructuring of a financial organization shall be sent by the court to the financial institution, the National Bank of the Republic of Kazakhstan and the relevant justice authorities on territoriality.

Article 353. Court Approval of the Restructuring Plan

After approval by the creditors of the financial organization restructuring plan, the financial institution is required to submit the restructuring plan to the court for approval. Together with the restructuring plan, a financial institution shall submit to the court the meeting of creditors of a financial organization on the approval of the restructuring plan of a financial organization in the manner prescribed by the legislation of the Republic of Kazakhstan.

Article 354.Court decision on termination of restructuring

1. The decision of the court to terminate the restructuring of a financial organization is taken at the request of the National Bank of the Republic of Kazakhstan for the following reasons:

1) expiration of the restructuring of the financial organization, provided for by a court decision on the restructuring;

2) implementation of a set of measures stipulated by the restructuring plan;

3) early termination of the restructuring of a financial organization in the event of:

sufficient grounds to believe that the restructuring of a financial organization will not lead to an improvement in the financial performance of a financial organization;

lack of approval of creditors of a financial organization, obtained in the manner prescribed by the laws of the Republic of Kazakhstan;

non-fulfillment of measures provided in the restructuring plan;

non-compliance with the instructions of the authorized body applied during the restructuring period.

The implementation of a set of measures envisaged by the restructuring plan entails the termination of obligations, which were previously decided by the courts, arbitration to meet the requirements for obligations that were restructured, their execution.

2. The application of the National Bank of the Republic of Kazakhstan referred to in the first part of this article shall be considered by the court within five working days from the date of its acceptance to the court proceedings.

Chapter 42. PROCEEDING ON CASES OF REHABILITATION AND BANKRUPTCY

Article 355. Consideration of cases on settlement of insolvency, the bankruptcy of individual entrepreneurs and legal entities, accelerated rehabilitation and rehabilitation of legal entities.

Cases on the settlement of insolvency, bankruptcy of individual entrepreneurs and legal entities, accelerated rehabilitation and rehabilitation of legal entities are considered by the court according to the general rules provided for by this Code, with features established by the Law of the Republic of Kazakhstan «On Rehabilitation and Bankruptcy».

Chapter 43. PROCEEDING ON ACHNOWLEDGEMENT OF THE MOVABLE THING AS VACANT AND ACHNOWLEDGEMENT OF THE COMMUNAL OWNERSHIP RIGHT ON IMMOVABLE PROPERTY

Article 356.Filing of application

1. An application for ACHNOWLEDGEMENT of a movable thing as vacant in cases stipulated by the Civil Code of the Republic of Kazakhstan shall be submitted to the court at the place of residence of the individual or location of the organization that took possession of this thing.

2. An application for ACHNOWLEDGEMENT of the communal ownership right of real estate shall be submitted to the court at the location of this property by the body authorized to manage the communal property.

3. The court returns a statement recognizing the communal ownership right of immovable property, if the body authorized to manage the communal property goes to court with a statement before the expiration of one year from the date of acceptance of this property by the body registering the right to immovable property, except for the case referred to in paragraph 3 of Article 242 of the Civil Code of the Republic of Kazakhstan.

Article 357.Content of Application

1. In the application for ACHNOWLEDGEMENT of a movable thing as ownerless, it should be indicated which thing is to be recognized as ownerless, its main distinctive features should be described, as well as evidence indicating that the owner left the thing without the intention to retain ownership of it and evidence indicating that the claimant took possession of the thing should be presented.

2. In the application of the body authorized to manage the communal property, recognizing the communal ownership right of immovable property, it should be indicated which property is to recognized as ownerless, by whom and how it was revealed and when it was registered as ownerless, and also evidence indicating that the property was left by the owner without the intention to preserve the ownership of it should be presented.

Article 358. Preparing a case for the court

In preparing the case for a court proceeding, the court shall find out which persons (owners), actual owners and others can give information about the ownership of the property, shall interrogate the relevant organizations about the information available, and also shall carry out all the procedural actions provided for in Article 165 of this Code.

The preparation of the case for court proceeding is carried out within ten working days from the date of the application to the court. Extension of this period is not allowed.

Article 359.Consideration of application

An application for recognizing a movable thing as ownerless or for recognizing the communal ownership right of real estate is considered by the court with the participation of the applicant and all persons interested in the case.

Article 360.Court decision on the application

1. The court, recognizing that a movable thing has no owner or is left by the owner without the intention to retain ownership of it, shall decide to recognize the movable thing as ownerless and to transfer it to the ownership of the person who took possession of it.

2. The court, recognizing that real estate does not have an owner or is left by owner without the intention to retain the right of ownership and has been registered in the prescribed manner, shall make a decision on recognizing immovable property as ownerless and recognizing the communal property right.

Chapter 44. PROCEEDING ON THE ISSUES CONCERNING ESTABLISHMENT OF INACCURACY OF RECORDS OF CIVIL STATE ACTS

Article 361.Filing of application

The court shall consider cases on the establishment of records inaccuracy of civil status acts, if the civil registry bodies, in the absence of a dispute on the right, refused to make corrections to the record made. An application for establishing the records inaccuracy of civil state acts is filed with the court at the place of residence of the applicant or the location of the civil registry office

The preparation of the case for court proceeding is carried out within ten working days from the date of the application to the court. Extension of this period is not allowed.

Article 362. Content of the application

It must be indicated in the application what the records in accuracy of civil state acts is, when and by which the civil registration body was refused to correct or change the record made.

Article 363.Court decision on application.

The decision of the court, which established the inaccuracy of civil status acts, serves as the basis for correcting or changing such a record by civil registration bodies.

Chapter 45. PROCEEDING ON COMPLAINTS FOR NOTARY ACTIONS OR REFUSAL TO ACCOMPLISH THEM

Article 364. Filing a Complaint

1. An interested person, who considers a notarial act or refusal to accomplish a notarial act to be wrong, has the right to file a complaint with the court at the location of the notary or an official authorized to accomplish notarial acts.

2. Complaints about the inaccurate certification of wills and powers of attorney or about the refusal to certify them by officials listed in the law are submitted to the court at the location of the

hospital, other inpatient medical and preventive institutions, social protection institutions, the appropriate body of social protection, expedition, hospital, military educational institution, military unit, formation, institution, organization, place of detention.

3. Complaints about inaccurate certification of a will or refusal of its certificate by the captain of a marine vessel or an inland navigation vessel flying the flag of the Republic of Kazakhstan shall be filed with the court at the port of registry of the vessel.

4. A complaint shall be filed with the court within ten days, calculated from the day when the applicant became aware of the accomplished notarial act or refusal to accomplish the notarial act.

Article 365.Preparation of the case for court proceeding

In preparing the case for court proceeding, the court shall find out with what kind of notarial act or refusal to do it the applicant does not agree, what expresses a violation of his rights and legitimate interests, shall conduct all the procedural actions provided for in Article 165 of this Code.

The preparation of the case for court proceeding is carried out within ten working days from the date of the application to the court. Extension of this period is not allowed.

Article 366. Consideration of complaint

1. A complaint is considered by a court with the participation of the applicant, a notary or an official authorized to accomplish notarial acts, who accomplished the complained notarial act or refused to accomplish the notarial act. However, their non-appearance is not an obstacle to resolving the case.

2. If, during filing of a complaint or during consideration of a case, a dispute about the right is established between the interested parties, based on the notarial act, the court makes a decision to leave the application without consideration, in which it explains to the applicant and other interested parties their right to resolve the dispute order of claim proceedings.

Article 367. Court decision on complaint

The decision of the court, which satisfied the complaint of the applicant, cancels the notarial act or obliges to perform such an action.

Chapter 46. RESTORATION OF RIGHTS ON LOST BEARER SECURITIES AND ORDERED SECURITIES (PROCEDURE TO DECLARE LOST DOCUMENTS VOID)

Article 368. Filing of application

1. A person who has lost a bearer security or an order security (hereinafter referred to as a document), in the cases specified in the law, has the right to file an application to the court for ACHNOWLEDGEMENT of the lost document as invalid and restoration of rights under it. The rights under the document can be restored even if the document loses the signs of payment due to inadequate storage or for other reasons.

2. An application for ACHNOWLEDGEMENT of a lost document as invalid shall be submitted to the court at the location of the person who issued the document.

Article 369.Content of application

The statement should indicate the distinctive features of the lost document, the name of the person who issued it, and also set out the circumstances in which the document was lost, the applicant's request to prohibit the person who issued the document to make payments or extraditions.

Footnote. Article 370 as amended by the Law of Republic of Kazakhstan dated 11.07.2017 No. 91-VI

Article 370.Preparing the case for a court proceeding

1. In the determination of the preparation of the case for court proceeding, the judge obliges the applicant to make a publication at his own expense in the media (district, regional, republican level, on the Internet, on television) on instituting proceedings on the restoration of rights to the lost bearer securities and order securities.

The publication shall be made in time, established by court, and should contain:

the name of the court in which the application for the loss of the document

was received;

2) an indication of the person who submitted the application, and his address;

3) the name and distinctive features of the document;

4) the proposal to the holder of the document, the loss of which is claimed to submit to the court a statement of his rights to this document within three months from the date of publication.

2. The applicant is obliged to submit a confirmation on publication in the mass media to the court no later than three working days from the date of its publication. Failure to submit a confirmation of publication will result in leaving the application without consideration.

3. The court sends a copy of the determination to the person who issued the document, the registrar and the applicant.

Footnote. The first paragraph of paragraph 4 provides for a change by the Law of the Republic of Kazakhstan dated 02.07.2018 No. 166-VI (shall be enforced from 01.01.2019)

4. After accepting the application, the judge makes a decision on prohibiting the issuer of the document to make payments or issuances on it and sends a copy of the determination to the person who issued the document, the registrar and the enumerator.

A private complaint may be submitted to the determination, and a petition by the prosecutor is brought to the court of appeal, the decision of which is final.

Article 371.Document holder's statement

The holder of the document, the loss of which is claimed before the expiration of the three-month period from the date of publication must submit to the court, which rendered the determination, a statement of his rights to the document and submit the document in the original.

Footnote. Article 372 as amended by the Law of Republic of Kazakhstan dated 11.07.2017 No. 91-VI

Article 372.Actions of the judge after receipt of the application from the document holder

1. If an application is received from the document holder before the expiration of a three-month period from the date of publication, the court leaves the application of the person who lost the document without consideration and establishes the period during which the issuing person is prohibited to make payments and extraditions. This period shall not exceed two months.

2. At the same time, the court clarifies to the applicant his right to sue in a general manner against the holder of the document requesting this document, and the holder of the document his right to recover from the applicant the damages caused by the restraining measures taken.

3. The court's decision is not subject to appeal and revision at the request of the prosecutor on appeal.

Article 373.Consideration of the application for ACHNOWLEDGEMENT of the lost document as invalid

1. The judge considers the case on the ACHNOWLEDGEMENT of the lost document as invalid after three months from the date of publication, if the application referred to in Article 372 of this Code has not been received from the document holder.

2. An application to the court from the holder of the lost document after the expiration of a three-month period, but prior to the consideration of the case on the merits, results in the consequences provided for in Article 372 of this Code.

Article 374.Court decision on the application

1. If the applicant's application is satisfied, the court shall make a decision recognizing the lost document as invalid. This decision is the basis for issuing to the applicant a contribution or a new document to replace the invalid.

2. In case of satisfaction of the application for restoration of the right under the documents that have lost the signs of payment, the court shall make a decision on issuing a new document.

Article 375.The right of the document holder to bring action for unjustified acquisition of property

The holder of the document, who for any reason did not declare his rights to this document in a timely manner, after the court's decision on declaring the document null and void enters into force, may bring action against the person for whom the right to receive a new document to replace the lost document for unjustified acquisition or saving of property.

Chapter 47. PROCEEDING ON APPLICATIONON FOR THE ACHNOWLEDGEMENT OF THE ORGANIZATION, EXTINGUISHING EXTREMISM OR TERRORIST ACTIVITY ON TERRITORY OF THE REPUBLIC OF KAZAKHSTAN AND (OR) OF ANOTHER STATE, AS EXTREMIST OR TERRORIST, INCLUDING CHANGE OF ITS NAME, AS WELL AS ACHNOWLEDGEMENT OF INFORMATION MATERIALS IMPORTED, MANUFACTURED AND (OR) DISTRIBUTED IN THE TERRITORY REPUBLIC OF KAZAKHSTAN, AS EXTREMISTIC OR TERRORISTIC

Article 376.Filing of application

A statement on the ACHNOWLEDGEMENT of an organization carrying out extremism or terrorist activity on the territory of the Republic of Kazakhstan and (or) of another state, as extremist or terrorist, including the change of its name, as well as ACHNOWLEDGEMENT of information materials imported, published, manufactured and (or) distributed on the territory of the Republic of Kazakhstan, extremist or terrorist, shall be filed by the prosecutor to the court at the location of the prosecutor who made such claims, or according to the detection of such materials.

Article 377.Content of application

The statement should state the circumstances confirming the fact that the organization carries out activities in the territory of the Republic of Kazakhstan and (or) another state that could be recognized as extremist or terrorist in accordance with the legislation of the Republic of Kazakhstan, or whether it changes its name or information materials of signs and / or calls for extremism or terrorism.

The materials contained in the statement of the prosecutor about the ACHNOWLEDGEMENT of an organization as extremist or terrorist, including the change of its name, as well as ACHNOWLEDGEMENT of information materials imported, published, manufactured and (or) distributed on the territory of the Republic of Kazakhstan, as extremist or

terrorist, may also include evidence obtained from the competent authorities of foreign states, including judgments of international courts and foreign courts.

Article 378.Court decision on the application

The court, recognizing the organization as extremist or terrorist and (or) informational materials imported, published, manufactured and (or) distributed on the territory of the Republic of Kazakhstan, as extremist or terrorist, decides to prohibit activities and liquidate the organization and (or) to prohibit importation, publication, production and (or) distribution of information materials on the territory of the Republic of Kazakhstan, as well as on confiscation and circulation of the organization’s property into the state’s revenue.

A court decision recognizing an organization carrying out extremism or terrorist activity in the territory of the Republic of Kazakhstan and (or) another state, as extremist or terrorist, including the change of its name, as well as recognizing information materials imported, published, manufactured and (or) distributed on the territory of the Republic of Kazakhstan, as extremist or terrorist, serves as a basis for including this information in the system of special records of state the body which carries out within its competence statistical activities in the field of legal statistics and special accounts.

Chapter 48. PROCEEDINGS ON APPLICATION FOR ACKNOWLEDGEMENT OF INTERNET-CASINO, PRODUCTS OF FOREIGN MASS MEDIA, DISTRIBUTED IN THE TERRITORY OF THE REPUBLIC OF KAZAKHSTAN, CONTAINING INFORMATION CONTRARY TO THE LAW OF THE REPUBLIC OF KAZAKHSTAN, AS ILLEGAL

Article 379. Application

Application for ACKNOWLEDGEMENT of Internet-casino, products of foreign mass media, distributed in the territory of the Republic of Kazakhstan, containing information contrary to the law of the Republic of Kazakhstan, as illegal, shall be submitted by citizens and legal entities, legal interests of which were affected in product of foreign mass media, by prosecutor or competent authority to the court in written or electronic form at the location of the applicant.

Article 380. Application content

Application for ACKNOWLEDGEMENT of Internet-casino, products of foreign mass media, distributed in the territory of the Republic of Kazakhstan, containing information contrary to the law of the Republic of Kazakhstan, as illegal, shall contain facts and attached documents, that evidence illegal activities of an Internet-casino, or specify which information shall be recognized as illegal, and shall contain evidence on non-compliance of information products with the law of the Republic of Kazakhstan, set out facts confirming distribution of information presented in the application.

Article 381. Court decision on application

The court, having recognized that Internet-casino, products of foreign mass media, distributed in the territory of the Republic of Kazakhstan, containing information contrary to the law of the Republic of Kazakhstan, as illegal, shall give a judgement on suspension or termination of activities of such Internet-casino, distribution of foreign mass media products in the territory of the Republic of Kazakhstan. Court decision shall be directed to the relevant state authority.

Chapter 49. PROCEEDINGS ON APPLICATION FOR DEPORTATION OF NON-CITIZENS OR STATELESS PERSONS OUTSIDE THE TERRITORY OF THE

REPUBLIC OF KAZAKHSTAN FOR VIOLATION OF THE LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN

Article 382. Application

Application for deportation of a non-citizen or a stateless person outside of the territory of the Republic of Kazakhstan for violation of the Republic of Kazakhstan shall be submitted by Internal Affairs Agencies to the court at the location and (or) registration of a non-citizen or a stateless person.

Article 383. Application content

1. Application for deportation of a non-citizen or a stateless person outside of the territory of the Republic of Kazakhstan shall contain description of circumstances, that evidence violation of the legislation of the Republic of Kazakhstan.

2. Documents, confirming commitment of violation of the legislation of the Republic of Kazakhstan by a non-citizen or a stateless person, shall be attached to the application for deportation of non-citizen or stateless person outside of the territory of the Republic of Kazakhstan.

Footnote. Article 384 as amended by the Law of the RK dated 11.07.2017 No. 91-VI.

Article 384. Consideration of application

1. The court shall consider an application for deportation of non-citizen or stateless person outside of the territory of the Republic of Kazakhstan within ten days from the moment of initiation of proceedings.

2. Application for deportation of non-citizen or stateless person outside of the territory of the Republic of Kazakhstan shall be processed with mandatory involvement of the non-citizen or the stateless person.

3. Court fees and costs for deportation shall be borne by deported non-citizens or stateless persons, or legal entities or individuals, who invited this person in the Republic of Kazakhstan. In case of lack or insufficiency of funds experienced by stated persons for covering costs for deportation, funding of the relevant activities shall be provided from the budget.

Article 385. Court decision on application

1. Court decision on deportation of a non-citizen or a stateless person outside the territory of the Republic of Kazakhstan shall be enforced from the date of such judgement, and shall be the basis for deportation of a non-citizen or a stateless person outside of the territory of the Republic of Kazakhstan.

2. The judgement shall specify the term within which non-citizen or stateless person must leave the territory of the Republic of Kazakhstan.

3. Court decision shall be directed to Internal Affairs Agencies for execution.

Article 386. Stay of execution of court decision on deportation

In case of appeal or objection prior to expiration of the term stated by the court for deportation of a non-citizen or a stateless person from the Republic of Kazakhstan, execution of the court decision on deportation of non-citizen or stateless person outside of the territory of the Republic of Kazakhstan shall be suspended for consideration of appeal or objection.

SUBSECTION 5. PROCEEDINGS ON RESTORATION OF LOST JUDICIAL OR ENFORCEMENT PROCEEDINGS

Charter 50. PROCEEDINGS ON RESTORATION OF LOST JUDICIAL OR ENFORCEMENT PROCEEDINGS

Article 387. Application

1. Restoration of lost, completely or in part, judicial or enforcement proceedings on a civil case, closed by judgement or discontinuance, shall be carried out by the court in order stipulated by this charter.

2. Application for restoration of judicial proceedings shall be submitted to the court, that has gave judgement on the merits or on discontinuance of proceedings on a case, by involved persons or by a prosecutor.

3. Application for restoration of lost enforcement proceedings shall be submitted to the court by an executor or a prosecutor at the location of enforcement proceedings.

4. The application shall specify: restoration of which proceedings is requested by an applicant, whether the court has made judgement on the merits or discontinuance of proceedings, which procedural status was taken by an applicant, what other parties were involved in a case and their procedural statuses, their places of location or residence, what information is known by an applicant in relation to circumstances of losing of proceedings, on location of copies of proceedings documents or information on such documents, restoration of what documents is deemed to be necessary by an applicant, and the purpose of restoration.

5. The application shall have attached kept and relevant documents or copies, even if they are not properly certified.

6. Application for restoration of lost proceedings shall not be paid by state fee.

Article 388. Consideration of application

1. In case of absence of purpose of initiation of legal action for restoration of lost proceedings in the application, and if the purpose specified by an applicant is not related to protection of his/her rights and legal interests, the court shall dismiss initiation of a case on restoration of proceedings or dismiss without prejudice by reasoned decision, if it has been initiated.

2. Court proceeding, lost prior to consideration on the merits, shall not be subject to restoration in order stipulated in this charter. In this case applicant is entitled to file a new claim. Court determination on initiation of case on new claim related to lost court proceedings shall reflect this fact.

3. During consideration of a case, the court shall use kept parts of proceedings, documents issued prior to losing of proceedings to citizens and legal entities, copies of such documents, other materials related to the case.

4. The court may interview persons, who were present at proceedings, as witnesses, and, if required, persons, involved into composition of the court, which considered the case, as well as persons, executing court judgement.

Article 389. Court decision on application

1. Court decision or ruling on discontinuance of proceedings shall be subject to mandatory restoration, if such judgement has been given.

2. Court decision on restoration of lost court decision or determination on discontinuance of proceedings on the case shall specify certain data, submitted to the court and examined at court session with participation of all involved parties of lost proceedings, that served as a basis for specification of content of restored judicial act.

3. Declaration of intent on case on restoration of lost proceedings shall also include findings of the court on proof of evidences examined by the court and procedural actions executed on lost proceedings.

4. Lost enforcement proceedings shall be restored, if the judgement is executed.

5. Act on execution of court decision shall be restored by court decision with specification of actions executed and reflected in the act by an executor in the execution process.

6. In case of loss of enforcement proceedings prior to execution of judgement, when copy of writ of execution can be issued, the court shall dismiss initiation of a case on restoration of lost enforcement proceedings.

Article 390. Discontinuance of proceedings on a case on restoration of lost proceedings

1. In case of insufficiency of collected materials for accurate restoration of judicial act on lost proceedings, the court shall dismiss proceedings on application for restoration of proceedings and shall explain to involved parties their right to submit a claim in general order.

2. Consideration of application for restoration of judicial act on lost proceedings shall not limited by its period of custody. However, in case of application for restoration of lost proceedings for the purpose of its execution, when term for submission of writ of execution for enforcement expired, and not restored by the court, the court shall discontinue proceedings on the application.

Article 391. Procedure for contest of judicial acts related to restoration of lost proceedings

1. Judicial acts related to restoration of lost judicial proceedings shall be contested in order stipulated by this Code.

2. In case of knowingly false statement, court fees, related to initiation of a case on the application for restoration of lost judicial proceedings, shall be recovered from an applicant.

SUBSECTION 6. PROCEEDINGS ON APPLICATION FOR RETURN OF A CHILD OR FOR EXERCISE OF RIGHTS OF ACCESS IN RELATION TO A CHILD ON THE BASIS OF INTERNATIONAL TREATY OF THE REPUBLIC OF KAZAKHSTAN

Chapter 51: PROCEEDINGS ON APPLICATION FOR RETURN OF A CHILD OR FOR EXERCISE OF RIGHTS OF ACCESS IN RELATION TO A CHILD ON THE BASIS OF INTERNATIONAL TREATY OF THE REPUBLIC OF KAZAKHSTAN

Article 392. Submission of an application for return of a child or for exercise of rights of access in relation to a child on the basis of international treaty ratified by the Republic of Kazakhstan

1. Application for return of a child wrongfully removed to the Republic of Kazakhstan or retained in the Republic of Kazakhstan, or for exercise of rights of access in relation to such child on the basis of international treaty ratified by the Republic of Kazakhstan (hereinafter - application for return of a child or for exercise of rights of access), shall be submitted to the court by a parent or other person, presuming that a defendant violated his/her rights of custody or rights of access, or by a prosecutor.

2. Application for return of a child or for exercise rights of access shall be submitted to a specialized interdistrict juvenile court.

3. If the place of stay of a child in the territory of the Republic of Kazakhstan is unknown, the application for return of a child or for exercise of rights of access shall be submitted to a court stipulated by part 2 of this article at the last known place of stay of a child in the Republic of Kazakhstan, or at the last known place of residence of a defendant in the Republic of Kazakhstan.

4. If the place of stay of a child changes, application for return of a child or for exercise of rights of access shall be considered by the court, that accepted such application into proceedings in compliance with jurisdiction rules set forth by this article.

5. Application for return of a child or for exercise of rights of access shall specify that the relevant demand is made on the basis of international treaty ratified by the Republic of Kazakhstan.

Article 393. Procedure for consideration of applications for return of a child or for exercise of rights of access

Cases on applications for return of a child or for exercise of rights of access on the basis of international treaty ratified by the Republic of Kazakhstan (hereinafter - case on return of a child or on exercise of rights of access) shall be considered and settled under general regulations on action proceedings with specifics set forth by international treaty, ratified by the Republic of Kazakhstan, and this charter.

Article 394. Security of claim

If required, along with other measures for securing a claim in accordance with charter 15 of this Code, a judge may restrain a defendant of changing child's place of stay or restrict his/her right for exit from the Republic of Kazakhstan prior to entry of judgment on case of return of a child or for exercise of rights of access into legal force.

Article 395. Inadmissibility of consolidation of claims and counter-claiming

Consolidation of several claims, other than consolidation of claims by an applicant for return of two or more children, wrongfully removed to the Republic of Kazakhstan or retained in the Republic of Kazakhstan, or for exercise of rights of access in relation to two or more children on the basis of international treaty, ratified by the Republic of Kazakhstan, and counter-claiming on a case for return of a child or for exercise of rights of access shall not be allowed.

Footnote. Article 396 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 396. Consideration of applications for return of a child or for exercise of rights of access

1. Application for return of a child or for exercise of rights of access shall be considered with mandatory involvement of authority providing functions of guardianship or custody.

2. Application for return of a child or for exercise of rights of access shall be considered by the court in term not exceeding forty-two days from the date of acceptance of the application by the court, including term for preparation of a case to court proceedings and preparation of reasoned judgement.

Article 397. Court decision on a case for return of a child or for exercise of rights of access

1. Court decision on a case for return of a child, on the basis of international treaty, ratified by the Republic of Kazakhstan, wrongfully removed to the Republic of Kazakhstan or retained in the Republic of Kazakhstan, shall be compliant with requirements stipulated by article 19 of this Code and shall include rationale of necessity of return of a child in a state of permanent residence in accordance with international treaty, ratified by the Republic of Kazakhstan, procedure for return of a child, specification of distribution of court fees and costs for return of a child, or rationale of denial to return a child into a state of permanent residence in accordance with international treaty of the Republic of Kazakhstan and specification of distribution of court fees.

2. Court decision on a case for exercise of rights of access, on the basis of international treaty, ratified by the Republic of Kazakhstan, in relation to a child, wrongfully removed to the Republic of Kazakhstan or retained in the Republic of Kazakhstan, shall be compliant with requirements stipulated by article 19 of this Code and shall include rationale of exercising rights of access by an applicant in accordance with international treaty ratified by the Republic of Kazakhstan, measures

for enforcement of exercising rights of access by an applicant, specification of distribution of court fees, or rationale of denial for exercise of rights of access in accordance with international treaty, ratified by the Republic of Kazakhstan, and specification of distribution of court fees.

Footnote. Article 398 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 398. Term for filing an appeal, prosecutor's petition in relation to court decision on a case for return of a child or for exercise of rights for access and term for consideration of a case in the court of appeal

1. Appeals, prosecutor's petition in relation to court decision on a case for return of a child or for exercise of rights of access shall be submitted within ten days from the date of the court decision in final form in accordance with regulations set forth by charter 52 of this Code.

2. Received case for return of a child or for exercise of rights of access as an appeal or prosecutor's petition shall be considered within one month from the date of its submission to the court of appeal in accordance with regulations set forth by charter 52 of this Code.

Footnote. Article 399 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 399. Term for filling and consideration of an individual appeal or prosecutor's petition for court decision on application for return of a child or for exercise of rights of access

1. Individual appeal or prosecutor's petition may be submitted in relation to court determination on application for return of a child or for exercise of rights of access within ten working days from the date of such determination in accordance with regulations set forth by charter 52 of this Code.

2. Individual appeal, prosecutor's application, specified in part 1 of this article, shall be considered within ten working days from the date of transfer of a case to the appeal court as per regulations set forth by charter 429 of this Code.

Footnote. Article 400 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 400. Distribution of copies of court orders

1. Copies of court determinations on denial of acceptance, return, reservation of an application for return of a child or for exercise of rights of access without consideration, on suspension or renewal or discontinuance of proceedings on a case on return of a child or for exercise of rights of access, copy of determination of the court of appeal in relation to individual appeal or prosecutor's petition for specified determinations of the court of first instance, shall be sent within one day following the day of relevant determination to the authorized body, appointed in the Republic of Kazakhstan for enforcement of obligations under international treaty of the Republic of Kazakhstan (hereinafter - central authority), as well as to the court processing the case related to dispute on the child, if the determining court has information on such case.

2. Copies of court determinations stipulated by part 2 article 151, part 2 article 152 of this Code, on application for return of a child or for exercise of rights of access shall be presented to an applicant or sent to him/her within one day following the day of the relevant determination.

3. Copies of court determinations, stipulated by article 271 of this Code, on a case on return of a child or for exercise of rights of access shall be sent to parties involved in the case, if they do not attend at the court session, within one day following the day of the relevant determination.

4. Copies of court judgements on a case on return of a child or for exercise of rights of access shall be sent to parties, involved in the case, but not attending the court session, and to the central authority within one day following the day of the court decision in final form. If additional judgement is taken for the case in accordance with article 236 of this Code, the copy of such

decision shall be sent to parties, involved in the case, and to the central authority within one day following the day of such additional judgement.

5. Upon expiration of term for filling an appeal, if court decision on a case on return of a child or for exercise of rights of access is not appealed, copy of final and binding judgements shall be sent to the central authority and to the court, which suspended proceedings on the case related to dispute of such child, if the court is aware of such case.

6. Copy of appellate ruling on a case on return of a child or for exercise of rights of access shall be sent to the central authority and to the court of the first and the second instances, processing the case on dispute of such child, if the court is aware of such case, within three days from the ruling.

4. Copies of court determination in relation to explanation of court decision on a case on return of a child or for exercise of rights of access shall be sent to parties, involved in the case, but not attending the court session, and to the central authority within one day following the day of the relevant determination.

SECTION 3. PROCEEDINGS ON REVISION OF JUDICIAL ACTS

Footnote. Heading of charter 52 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Charter 52. APPEAL, FILING OF APPEALS TO JUDICIAL ACTS BY PROSECUTOR

Footnote. Heading of article 401 as amended by the Law of the RK dated 11.07.2017 No. 91-VI
Footnote. Article 401 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 401. Right for appeal, filing of appeals to court judgements by prosecutors

1. In accordance with regulations specified by this charter, appeal or appeal application of prosecutor may be filled for the court judgements, which have not yet become effective in law, in appellate procedure.

2. Right to appeal court judgements shall belong to parties, other persons involved into the case.

3. Right of filing of appeals shall belong to prosecutor involved in consideration of the case. The Prosecutor General of the Republic of Kazakhstan and his/her deputies, regional prosecutors and equal-status prosecutors, and their deputies, prosecutors of districts and equal-status prosecutors, and their deputies, are entitled to file an appeal to court decision within the relevant competence, regardless of their involvement into consideration of the case.

4. Appeal may also be filed by persons, not involved in the case, but in relation to rights and obligations of which the judgement was given.

Footnote. Article 402 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 402. Courts considering appeals and prosecutor's applications

Appeal and prosecutor's petition to judgements, made by district and equal-status courts, shall be considered by appellate judicial division on civil cases of regional or equal-status court with, at least, three judges in the division.

Appeal, prosecutor's petition to judgements on cases considered under regulations of part 4 article 27 of this Code shall be reviewed by specialized judicial division of the Supreme Court of the Republic of Kazakhstan with, at least, three judges in the division.

The judge shall solely consider an appeal or prosecutor's petition to judgements made by district or equal-status courts in the simplified (written) procedure, and individual appeal or prosecutor's petition in relation to determinations.

Footnote. Article 403 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 403. Procedure and terms of submission for appeals and prosecutor's application

1. Appeal or prosecutor's petition shall be submitted through the court issued the judgement. Appeal or prosecutor's application, received directly by appellate instance, shall be directed to the court, made the relevant judgement, for execution of requirements of part 2 of this article and article 405 of this Code.

2. Appeal or prosecutor's petition shall be submitted to the court with copies corresponding to number of persons participating in the case. If required, the judge may bind over a person, filing an appeal or application, to provide attached copies of written evidence on number of persons participating in the case.

3. Appeal or prosecutor's petition may be submitted within one month from the date of the judgement in final form, other than cases specified by this Code, and from the date of receiving of copies of the judgement by persons, not involved in the proceedings.

4. Appeal or prosecutor's petition on cases in relation to contest of decision s, conclusions, regulations of authorized bodies by results of inspection of state procurement may be submitted within ten days from the date of the judgement.

5. Request for restoration of term for filing an appeal or prosecutor's petition shall be considered by the court of first instance in procedure set forth by article 126 of this Code.

Footnote. Heading of article 404 as amended by the Law of the RK dated 11.07.2017 No. 91-VI
Footnote. Article 404 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 404. Content of appeal and prosecutor's application

1. Appeal and prosecutor's petition shall contain:

1) name of the court, to which appeal or prosecutor's petition are addressed;

2) name of a person filing an appeal or prosecutor's application;

3) judgement, appealed or reviewed by prosecutor's application, and name of the court, made this judgement;

4) specification of matter of illegality or inconsistency of the court judgement, generally, with reference to applicable laws and case files;

5) specification of the part where legality of appealed or reviewed judgement by prosecutor's petition shall be examined, and specification of changes demanded by a person filing appeal or prosecutor's application;

6) list of documents attached to an appeal, prosecutor's application;

7) date of submission of appeal or prosecutor's application, and signature of a person filing appeal or prosecutor's application. Appeal, signed by a representative, shall include attached power of attorney or other document, certifying power of such representative, if the case misses this document.

In case of filing an appeal or prosecutor's petition in electronic form, such documents shall be certified by electronic digital signature of a person, filing such appeal, or his/her representative. Electronic documents shall be attached to appeal or prosecutor's petition in electronic form.

2. Demands, not stated in the court of first instance, shall not be included into an appeal or prosecutor's application.

Reference to new evidence, which were not submitted in the court of first instance, is allowed, if an appeal or prosecutor's petition include rationale of impossibility of submission of such evidence in the court of first instance, including cases when the person was not involved in the case in the court of first instance, as well as cases when application for examination and (or) request of such evidence was presented to the court of first instance, but remained unsatisfied.

Footnote. Article 405 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 405. Actions of the court of first instance upon receipt of an appeal, prosecutor's petition

1. Judge of the court of first instance shall perform the following actions upon receipt of an appeal or prosecutor's petition submitted in term, specified by requirements of articles 403 and 404 of this Code:

1) to send copies of the appeal or prosecutor's petition and attached written evidence or notification on option to get insight of electronic copies through Internet resource of the court to persons participating in the case within five working days upon receipt of the appeal or prosecutor's application.

Parties shall get explanation on their rights to file objections to the appeal or prosecutor's petition in written electronic form with specification of the submission term;

2) to address the case to the court of appeal upon expiration of term for appeal or prosecutor's application.

2. Civil case cannot be evoked upon expiration of the term specified for appeal or prosecutor's application. Persons, involved in the case, and persons, not involved in the case, but in relation to which rights and obligations the court made judgement, are entitled to familiarize with case files and received appeals and objections.

Footnote. Article 406 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 406. Rejection of an appeal or prosecutor's application

1. In case of appeal or prosecutor's petition non-compliant with requirements stipulated by part 2 article 403 and article 404 of this Code, the judge shall provide determination on rejection of the appeal or prosecutor's application, and defines the term for an appealing person or prosecutor to eliminate non-compliances.

2. If an appealing person or prosecutor fulfill instructions specified in the relevant determination, the appeal or prosecutor's petition are considered to be submitted at the initial date of submission.

3. Determination on rejection of an appeal or prosecutor's petition shall not be subject to appeal or review by prosecutor's application.

Footnote. Article 407 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 407. Striking-out of an appeal, prosecutor's application

1. Striking-out of an appeal, prosecutor's petition shall be performed in the following cases:

1) non-execution of instructions of the judge in determination on rejection of appeal or prosecutor's application;

2) request of a person or a prosecutor, that filed an appeal;

3) in case of expiration of term for review, and appeal or prosecutor's petition do not include application for its restoration, or in case of refusal for its restoration;

4) if an appeal or prosecutor's petition are submitted by a person not entitled for submission or signing.

2. Determination on striking-out of an appeal, prosecutor's petition shall be provided by the court within five working days:

1) in case stipulated by subparagraph 1) part 1 of this article - from the date of expiration of the term specified by the court;

2) in other cases - from the date of receipt of an appeal or prosecutor's application.

Individual appeal or prosecutor's petition may be submitted to determination of striking-out of an appeal or prosecutor's application.

Footnote. Heading of article 408 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Footnote. Article 408 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 408. Defence to an appeal, prosecutor's application

1. Person, involved into the case, shall address defence to an appeal, prosecutor's petition to the court of appeal, other persons, involved in the case, with attachment of documents, confirming objections in relation to an appeal or prosecutor's application.

Defence, addressed to the court of appeal, shall include attached document, confirming distribution of the defence to other persons participating in the case.

2. Defence shall be directed prior to commencement of the court session in the court of appeal in term specified by the court and ensuring familiarization of the persons participating in the case with the defence.

3. Defence shall be signed by a person involved in the case or his/her representative. In case of filing a defence in electronic form, such document shall be certified by electronic digital signature of a person, filing such defence, or his/her representative. Defence, signed by a representative, shall include attached power of attorney or other document, confirming his/her powers. Defence in electronic form shall be accompanied by electronic documents specified in this article.

Footnote. Heading of article 409 as amended by the Law of the RK dated 11.07.2017 No. 91-VI
Footnote. Article 409 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 409. Refusal of an appeal, prosecutor's petition and their withdrawal

1. Person, filing an appeal, including prosecutor, filing an appeal as a party in the case, is entitled to refuse from such appeal prior to order of the court of appeal or to withdraw it in the court of first instance during execution of court actions specified by article 405 of this Code.

Prosecutor is entitled to withdraw an application to the court decision prior to order of the court of appeal.

Refusal of an appeal, withdrawal of an appeal, prosecutor's petition are executed by written application to the court of the first or appellate instance.

2. The court of appeal shall provide determination on discontinuance of appellate proceedings in relation to acceptance of the refusal, if the decision is not appealed by other persons or higher-level prosecutor. The determination shall not be subject to appeal or review by prosecutor's application. Re-submission of an appeal is not allowed, and in case of re-submission, such appeal shall be rejected.

3. In case of withdrawal of an appeal, prosecutor's application, the court shall provide determination on rejection, which is not subject to appeal or contest. Appeal or prosecutor's petition may be re-submitted in terms specified by part 3 article 403 of this Code.

4. If an appeal to judgement of the court of first instance is filed by other persons, it shall be considered on the merits in procedure, set forth by this charter.

Article 410. Voluntary settlement by the parties in the court of appeal

1. Refusal of a claim by an applicant, friendly settlement, agreement of the parties on settlement of dispute (conflict) in mediation procedure or agreement on settlement of dispute in participative procedure, occurred upon submission of an appeal, shall be executed in form of applications addressed to the court of appeal.

2. The court of appeal shall consider applications for issues specified in part 1 of this article in procedure, stipulated by article 170 and charter 17 of the Code.

3. In case of acceptance of refusal of claim, the court of appeal shall cancel the court decision and terminate proceedings on the case on the grounds specified by subparagraph 4) article 277 of the Code.

In case of friendly settlement of parties on dispute (conflict) in mediation procedure or agreement on settlement of dispute in participative procedure, the court of appeal shall cancel the court decision and terminate proceedings on the case on the grounds specified by subparagraphs 5), 6) article 277 of the Code.

4. If the court of appeal does not accept refusal of the claim from applicant, do not approve friendly settlement, agreement of parties on settlement of dispute (conflict) in mediation procedure or in participative procedure, an appeal shall be considered on the merits.

Footnote. Article 411 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 411. Stay of execution

The court of appeal is entitled to suspend execution of a judgement, made by the court of first instance and ordered for immediate execution in procedure, specified by article 244 of the Code, other than judgements on cases listed in article 243 of the Code, prior to consideration of the case on appeal, filed by a person or prosecutor.

When stay of execution is no longer needed, the order on stay shall be canceled.

Order on stay of execution or on cancellation of stay shall be directed (delivered) to an executor and parties.

Footnote. Heading of charter 53 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Chapter 53. CONSIDERATION OF CASES ON APPEAL, PROSECUTOR'S PETITION

Footnote. Article 412 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 412. Matter of appellate consideration

Under appeal or prosecutor's application, the court of appeal in accordance with existing materials and materials submitted as per requirements of part 2 article 413 of the Code shall examine correctness of findings, applicability and interpretation of rules of substantive law, as well as compliance with regulations of civil procedural law in consideration and judgement of the case.

Article 413. Limits of appellate consideration

1. The court shall completely examine legality and reasonableness of judgement of the court of first instance during consideration of the case in appellate procedure.

2. The court of appeal shall assess existing evidence and evidence submitted as per part two article 404 of the Code within the stated claim.

New evidence is accepted, if the court of appeal recognizes that impossibility of submission of such evidence in the court of first instance is well-reasoned, including cases when the person was not involved in the case in the court of first instance, as well as cases when application for examination and (or) request of such evidence was presented to the court of first instance, but remained unsatisfied.

Persons, who submit evidence to the court of appeal, shall specify the way of obtaining such evidence, and due to which circumstances necessity of its submission has occurred.

3. Regulations on consolidation and severance of several claims, change of amount of claims, change of matter and ground of claim, replacement of improper defendant and counter-claiming are not applicable in the court of appeal.

The court of appeal may involve into the case third parties, not stating own demands, if the judgement is cancelled on grounds specified in subparagraphs 2) and 4) part 4 article 427 of the Code, and necessity for their involvement into the case for consideration on the merits is stated.

Footnote. Article 414 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 414. Preparation to consideration of the case in the court of appeal

1. Judge of the court of appeal, received the case with appeal or prosecutor's application, shall check adherence of the court of first instance to requirements of article 405 of the Code. In case of non-compliance of the court of first instance with requirements of article 405 of the Code, the case may be returned to the court of first instance for elimination of deficiencies.

2. Judge shall issue determination on acceptance of the case into proceedings of the court of appeal and preparation of the case to consideration, taking into account arguments set out in an appeal or prosecutor's application. Judge shall perform actions stipulated by article 165 of the Code within ten days from the date of acceptance of the case into proceedings.

3. The court of appeal shall notify persons, involved into the case, on time and place of the court session.

Footnote. Article 415 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 415. Term for consideration of the case by the court of appeal

The case is considered within two months from the date of its submission to the court of appeal, excluding cases specified by the Code.

The case on contest of judgements, conclusions, instructions of authorized body by results of state procurement shall be considered within ten working days from the date of its submission to the court.

The case is considered within two months from the date of its submission to the court by the specialized judicial division of the Supreme Court.

Article 416. Proceedings in the court of appeal

1. Prosecutor shall participate in session of the court of appeal in cases, stipulated by part 2 article 54 of the Code, and give his/her conclusion on the case.

The court of appeal shall notify a prosecutor on cases, subject to consideration in the appellate instance, and judgements made on cases, considered in the appellate instance.

2. The court of appeal shall examine additional materials, relevant for proper settlement of the case, provided by parties or requested by applications, and obtained expert reports, and interview persons, called to the session, in accordance with the rules for the court of first instance.

Footnote. Article 417 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 417. Initiation of proceedings

1. Presiding judge shall open a court session of the court of appeal and announce: the case, the person appealed, the judgement of which court is subject to consideration, membership of the court of appeal, secretary of the court session, and a prosecutor, if he/she participates in consideration of the case. Presiding judge shall specify attending persons, involved in the case, and representatives, confirm identities of attending persons, verify powers of officials and representatives, and certify the awareness of persons, involved in the case, of their rights and obligations. The court shall explain rights and obligation to relevant persons, if they are not aware of such rights and obligations. If challenges are stated, they shall be allowed in procedure set forth by article 41 of the Code.

2. The court shall hear explanations of persons, involved into the case, and representatives, that attended the court session. In case of appeal of the judgement by both parties, an applicant shall speak firstly in the court. The court of appeal shall examine evidence upon explanations of appealed person or prosecutor, and other persons, involved into the case, and their representatives.

Article 418. Consequences of failure to appear at court proceedings

1. In case of failure to attend court proceedings in the court of appeal of any persons, involved into the case, who were not properly notified on time and place of the session, the court shall postpone the proceedings.

2. Failure to attend court proceedings of persons, specified in part 1 of this article, who were properly notified on time and place of the court session, shall not imped the proceedings. However, the court is entitled to postpone the proceedings in that case, if such failure to attend is well-reasoned.

3. In case of postponement of the court session, the court of appeal shall properly notify persons, involved into the case, on time and place of the court session. Consideration of the case in the second session shall be continued, if persons, involved in the case, do not insist on proceedings from the beginning.

Article 419. Resolution of applications and motions of persons participating in the case

1. Applications and motions of persons, involved in the case, on all issues related to consideration of the case in the appellate instance, shall be resolved by the court upon hearing of opinions of other persons, involved in the case.

2. Parties are entitled to state motions on examination and (or) request for evidence, satisfaction of which was rejected by the court of first instance.

3. Resolution of applications and motions related to examination of circumstances of the case shall be performed under the regulations of article 195 of the Code. Furthermore, the court of appeal is not entitled to reject satisfaction of a motion on the basis that it was satisfied by the court of first instance.

Footnote. Article 420 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 420. Examination of evidence

1. Procedure and limits of examination of evidence shall be defined by the court, taking into account opinions of persons, involved in the case.

2. The court shall examine existing evidence and evidence submitted as per regulations of part 2 article 413 of the Code upon explanation of parties, other persons, involved in the case.

3. The court is entitled to announce explanations of persons, involved in the case, and who did not attend the court session, as well as statements of witnesses, who were not called to the session of the court of appeal.

4. Parties are entitled to state motions on calling and interviewing of witnesses and on examination and (or) request of evidence, which was rejected by the court of first instance. If statements of witnesses are contested by parties, such persons may be called to the court of appeal.

5. The court shall examine and assess jointly with other evidence, the evidence, which are contested by a person, filing appeal, or by a prosecutor, filing an application, for their relevance, admissibility, reliability.

Footnote. Article 421 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 421. Pleadings

1. Upon consideration of the case on the merits, presiding judge shall question persons participating in the case on presence of any motions. The court shall resolve such motions, and then proceed to pleadings.

2. Pleadings shall be carried out as per regulations, set forth by article 217 of the Code, and appealed person or prosecutor, and(or) his/her representative shall speak firstly in the court. In case of appeal of the judgement by both parties, an applicant shall speak firstly in the court.

3. Upon pleadings and hearing prosecutor's conclusion, the court shall go to the consultation room for consideration of the judgement.

Article 422. Record of the proceedings

In the court of appeal the record shall be maintained in accordance with the regulations of part 3 article 281 of the Code.

Article 423. Performance of judicial act and its announcement

1. Performance of a judicial act and its announcement shall be provided as per rules set forth by articles 222, 223 and 224 of the Code.

2. The court may announce operative part of the judicial act, following the regulations of part 1 of this article, and to specify term of its preparation in final form. Operative part of the judicial act shall be attached to the case files.

Reasoned judicial act shall be prepared and signed by the judge within five working days from the date of proceedings. Copy of reasoned judicial act shall be sent (delivered) to persons, involved in the case, within five working days upon its preparation.

Footnote. Article 424 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 424. Power of the court of appeal

The court of appeal is entitled:

1) to leave the judgements unchanged, and appeal or prosecutor’s petition unsatisfied;

2) to change the judgement of the court of first instance;

3) to cancel the judgement of the court of first instance and to present a new judgement;

4) to cancel the judgement in full or in part, or to terminate the proceedings on the case or to dismiss an application without prejudice on the grounds stipulated by article 277 and subparagraphs 2), 3), 4), 5), 9) and 10) of article 279 of the Code;

5) to cancel the judgement and to direct the case for new consideration to the court of first instance in case of finding of violations of procedural law regulations, set forth by subparagraphs 1), 3), 4) and 5) part 4 article 427 of the Code;

6) to accept the case in its proceedings for consideration on the merits as per rules of the court of first instance in case of cancellation of the court decision on the grounds stipulated by subparagraph 2) part 4 article 427 of the Code.

Article 425. Acts of the court of appeal

The court of appeal shall render the following acts:

1) order in cases stipulated by subparagraphs 1), 2), 3), 5), and 6) article 424 of the Code in case of new judgement upon consideration of the case on the merits as per rules of the court of first instance;

2) determination in cases stipulated by part 2 article 409, subparagraphs 4) and 6) article 424 of the Code in case of cancellation of the court decision and acceptance of the case in proceedings of the court of appeal for consideration on the merits as per rules of the court of first instance, as well as in other cases, requiring a judicial act, when the case was not considered on the merits.

Footnote. Article 426 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 426. Content of appellate order

1. Appellate order shall include the following:

1) date and place of rendering the order;

2) name of the court and structure of the court, made the order;

3) person, filing an appeal, prosecutor’s application, other persons, involved in the case, and representatives;

4) matter of a dispute or claim;

5) facts in the case established by the court of first instance, grounds guiding the court in presenting the judgement or determination; summary of the judgement of the court of first instance;

6) summary of appeal, prosecutor's petition and relevant defences;

7) grounds, on which the court of appeal leaves unchanged or changes the judgement of the court of first instance;

8) reasons of conclusions of the court of appeal, and reference to laws, guiding the court;

9) conclusions of the court of appeal by results of consideration of the case;

10) distribution of court fees;

11) term and procedure for appeal, contest of the court order.

2. In case of unsatisfaction of appeal or prosecutor's petition due to absence of new arguments, the reasoning part of the order shall specify only absence of grounds, stipulated by the Code, for introduction of changes into the judgement of the court of first instance or its cancellation.

If appeal or prosecutor's petition contain reference to arguments, not being matter of consideration in the court of first instance, the reasoning part of the appellate order shall specify grounds, on which such references and arguments are not taken into consideration and examination in the court session.

3. In case and in order, stipulated by articles 235, 237 of the Code, the court of appeal is entitled to consider issue on correction of erratas and obvious arithmetic errors, made in the order of the court of appeal, or on explanation of the order by rendering a determination, not changing the nature of appellate order.

Determination of the court of appeal on stated issues shall be enforced from the date of presentation and may be appealed or contested.

4. The court of appeal is entitled to render additional order in case and in procedure set forth by article 236 of the Code.

Article 427. Grounds for cancellation or change of the court decision on appellate procedure

1. Grounds for cancellation or change of the court decision in appellate procedure are as follows:

1) incorrect determination and clarification of circumstances relevant to the case;

2) failure to prove circumstances, relevant to the case, established by the court of first instance;

3) inconsistency of conclusions of the court of first instance, set out in the judgement, with the circumstances of the case;

4) violation or incorrect application of substantive or procedural law;

5) the case misses records of the proceedings, separate procedural action, while its maintenance is mandatory as per the Code.

2. Regulations of the substantive law are considered to be violated or incorrectly applied, if the court:

1) did not apply applicable law;

2) applied the law, which was not applicable;

3) incorrectly interpreted the law.

3. Court judgement, correct on the merits, shall not be cancelled only due to formal reasons. Violation or incorrect application of substantive or procedural law shall constitute grounds for modification or cancellation of the judgement of the court of first instance, if this violation has caused or might caused to misjudgment.

If the court made the correct judgement, but the stated violations were in place, the order shall contain reasons, regulations of substantive and procedural law, in accordance with which the judgement shall remain unchanged.

4. Judgement of the court of first instance shall be cancelled in the following cases:

1) the case is considered in illegal membership of the court or with violation of rules of jurisdiction;

2) the case is considered in the absence of any persons, involved in the case, not properly notified on time and place of the court session, excluding cases, considered as per regulations of article 133 of the Code;

3) regulations on language of the proceedings were violated;

4) the court resolved issue on rights and obligations of persons, not involved in the case;

5) judgement is not signed by the judge or signed by the judge, who did not review and resolve the case.

5. In case of presence of grounds, stipulated by subparagraph 2) part 4 of this article, the court of appeal shall cancel the judgement of the court of first instance, and shall render the relevant determination. Determination shall state transition to consideration of the case as per regulations on proceedings of the court of first instance, actions, that shall be performed by persons, involved in the case, and terms for such performance. Upon performance of such actions, the case shall be considered by the same court of appeal.

In other cases, including cancellation of the court decision with presentation of new judgement, the court of appeal shall consider the case in one court session with rendering of one judicial act.

6. Failure to resolve or improper resolution of the issue on distribution of court fees shall not serve as a ground for cancellation or modification of the court judgement. Operative part of the order shall contain specification of distribution of court fees.

Article 428. Cancellation of the court decision with discontinuance of proceedings on the case or dismissal of the application.

Judgement of the court of first instance shall be cancelled in the appellate procedure due to discontinuance of proceedings on the case or due to dismissal of the claim on the grounds specified in article 277 and subparagraphs 2), 3), 4), 5), 9) and 10) article 279 of the Code.

Footnote. Article 429 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 429. Procedure and terms for appeal or prosecutor's petition for determinations (orders) of the court of first instance

1. Individual appeal or motion from persons, specified in article 401 of the Code, may be submitted in relation to determination of the court of first instance in cases, stipulated by the Code, and in cases, when court determination impedes further progress of case. Court determination may be appealed by persons, not involved in the case, if such determination relates to their rights and interests.

Individual appeal or prosecutor's petition shall be submitted within ten working days from the date of preparation of the determination in final form.

2. Individual appeal or prosecutor's petitioncan not be submitted in relation to other determinations of the court of first instance, including those rendered at place with entry into records of the proceedings, however, objections may be included into appeal or prosecutor's application.

3. In case of filing individual appeal or prosecutor's petition in relation to determination, rendered during the court proceedings, ended with judgement, the case shall be directed to higher instance only upon expiration of the term set for appeal. Judicial instance, which considers the case in the appellate procedure, shall examine individual appeal or prosecutor's application, if they are filed in relation to the judgement.

4. An individual appeal, a prosecutor's petition shall be filed to the court, which rendered this determination with copies of documents attached relevant to number of persons participating in the case, which judge shall send or present to them. A judge after receiving an individual appeal, a prosecutor's petition shall send a civil case or materials to the court of appeal.

5. An individual appeal, a prosecutor's petition shall be accepted and considered in order prescribed in this chapter for accepting and considering appeals and applications of the prosecutor.

In accordance with procedure stipulated in article 414 of the Code, the court of appeal shall notify persons participating in the case about time and place for consideration of an individual appeal, a prosecutor's application. Non-appearance of persons participating in the case at court session of appellate instance shall not be obstacle to their consideration.

6. According to results of consideration of an individual appeal, a prosecutor's application, the court of appeal shall issue a determination on:

1) remaining a court determination unchanged, and an individual appeal, a prosecutor's petition dismissed;

2) abolition of court determination in full or in part and issue transfer for a new trial to the court of first instance;

3) cancellation of court determination in full or in part and settlement of case on the merits;

4) determination changing.

7. Determinations of the court of appeal made on individual appeal or prosecutor's application regarding of the return of appeal, the suspension of proceedings, the abandonment of appeal without consideration, shall not be a subject to appeal and protest. In events stipulated in the Code, determinations of the court of appeal, blocking a possibility of further case proceeding, may be appealed and protested.

Article 430. Special ruling of the court of appeal

On grounds stipulated in article 270 of the Code, the court of appeal may issue a private determination.

Private determination may be appealed, protested in accordance with the procedure stipulated in article 429 of the Code.

Article 431. Legal force of judicial acts of the court of appeal

Judicial acts of the court of appeal shall enter into force from date of their announcement.

Article 432. Sending a judicial act and returning a case to the court of first instance

Court of appeal after revision of case and sending (delivering) a copy of a judicial act to persons participating in the case, shall return a case to the court of first instance.

Footnote. Article 433 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 433. Procedure for consideration of appeals (individual appeal), prosecutor's petition received after consideration of case in appellate procedure

1. If an appeal (individual appeal), prosecutor's petition filed within prescribed period or after restoring missed period, shall be receipt by court of appeal after revision of case for other appeals, the court must accept such appeal or application of prosecutor to its proceedings.

2. Based on results of consideration of appeals (individual appeal), an application of a prosecutor and, if there will be grounds, the court of appeal shall cancel the previous judicial act and adopt a new order, determination on received an appeal, an application of prosecutor.

In absence of such grounds, the court of appeal shall issue an order, a determination to refuse to satisfy an appeal, an application of a prosecutor.

Chapter 54. PROCEEDINGS IN COURT OF CASSATION

Article 434. Judicial acts which are subject to revision in cassation procedure

1. Entered into legal force, judicial acts of local and other courts in case of compliance with an appeal procedure, as well as judicial acts of a specialized judicial panel of the Supreme Court of the Republic of Kazakhstan may be revised in cassation procedure by the Supreme Court of the Republic of Kazakhstan.

2. Judicial acts which are not subject to revision in cassation procedure in cases:

1) considered in a simplified procedure, stipulated in chapters 12 and 13 of the Code;

2) resulted to a settlement agreement, an agreement on settlement of dispute (conflict) in an order of mediation or an agreement on settlement of dispute in an order of participative procedure;

3) related to property interests of individuals with an amount of claim less than two thousand monthly calculation indicators and legal entities with an amount of claim less than thirty thousand monthly calculation indicators;

4) completed in connection with refusal of claim;

5) on a settlement of insolvency, as well as on disputes arising in within rehabilitation and bankruptcy procedures, including a ACKNOWLEDGEMENT of transactions concluded by a debtor invalid, on a return of a debtor's property, on collection of receivables for bankruptcy or a rehabilitation manager.

3. Entered into legal force judicial acts of local and other courts in case of non-compliance with appeals procedure, as well as in cases specified in part two of this article, may be revised in cassation procedure upon submission by the Chairman of the Supreme Court of the Republic of Kazakhstan and protest by the Prosecutor General of the Republic Kazakhstan with grounds provided for by part six of article 438 of the Code.

4. Entered into legal force judicial acts of local and other courts in case of non-compliance with appeal procedure, with exception of judicial acts in cases specified in sub-paragraphs 1), 2), 3) and 4) of part two of this article, as well as judicial acts the first and appellate instances referred to in sub-paragraph 5) of part two of this article may be revised in cassation procedure after the protest of the General Prosecutor of the Republic of Kazakhstan on grounds provided for by article 427 of the Code.

5. Cassational judgement may be revised within grounds provided for by part six of article 438 of the Code.

Footnote. Article 435 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 435. Persons entitled to file an application, make a submission, protest against judicial acts that have entered into force

1. An application on contest the judicial acts stipulated in part one of article 434 of the Code may be filed by parties, persons involving in a case, other persons whose interests shall be affected by judicial acts, and their representatives.

2. The Chairman of the Supreme Court of the Republic of Kazakhstan shall have a right to make a submission to the judicial acts that have entered into legal force, both on their own initiative and at the request of persons referred to in part one of this article.

The Prosecutor General of the Republic of Kazakhstan shall have a right to bring protests to judicial acts that have entered into legal force, both on their own initiative and at a request of persons specified in part one of this article filed to him in cases provided for in part two of article 54 of the Code.

An application shall be attached to a submission or protest.

3. Person filed application, including the prosecutor, who filed an application as a party to case, shall have a right to refuse or withdraw an application, a prosecutor who brought the protest

shall have a right to withdraw it by submitting an application to court of cassation before considering an application, protest.

Refusal of an application shall entail termination of proceedings at a court of cassation, including at stage of preliminary consideration. Re-submission of an application is not allowed, and in case of re-submission, such application shall be rejected.

In event of withdrawal, an application, protest may be re-submitted in terms specified by part 3 article 403 of the Code.

4.For judicial acts, if an application filed by other persons and it is decided to transfer an application with a case to court of cassation, the case shall be considered on the merits in manner stipulated by this chapter, including the identifying of circumstances specified in part three of this article.

5. Rules stipulated in articles 443 and 444 of the Code shall not be applied to a submission of the Chairman of the Supreme Court of the Republic of Kazakhstan and a protest of the General Prosecutor of the Republic of Kazakhstan and shall be considered by a court of cassation directly.

Article 436. Terms for contest, protesting judicial acts that have entered into force

1. An application, a protest against a determination, order of court of appeal may be filed within six months from date of their entry into force.

2. In case of missing a deadline for appeal of judicial acts on appeal procedure, an application may be filed to court of cassation after revision by the court of first instance of an application to restore an appeal period, and in case of refusal - after consideration of individual appeal, protest, appeal by the court of appeal instance.

3. Rules of part one of this article shall not apply to cases of revision of judicial acts on grounds stipulated in part six of article 438 of the Code.

4. Time limit for protest lodging shall be extended by the court of cassation, if an application on cassational protest lodging was filed to a prosecutor within prescribed time limit, but no decision was made on it. Protest must indicate this.

Article 437. Courts considering the cases in cassation procedure

1. The Supreme Court of the Republic of Kazakhstan shall consider cases at the request of persons specified in part one of article 435 of the Code, as well as on submission and protest of persons specified in part two of article 435 of the Code, in a collegial composition of at least three judges.

2. The Supreme Court of the Republic of Kazakhstan shall consider cases on submission and protest of persons specified in part two of article 435 of the Code submitted for cassational judgement on grounds specified in part six of article 438 of the Code, in a collegial composition of at least seven judges.

Article 438. Reasons and grounds for requesting cases and for revision of judicial acts, which entered into force

1. Civil case may be requested from a relevant court for verification in cassation procedure by the Chairman of the Supreme Court of the Republic of Kazakhstan, the judges of the Supreme Court of the Republic of Kazakhstan, as well as by the General Prosecutor of the Republic of Kazakhstan or, on his behalf, by the Deputy Prosecutors General of the Republic of Kazakhstan, prosecutors of regions and prosecutors equated to them.

2. Reasons for requesting cases shall be applications of persons specified in part one of article 435 of the Code, as well as the initiative of the Chairman of the Supreme Court of the Republic of Kazakhstan, the General Prosecutor of the Republic of Kazakhstan within their competence.

3. In case of requesting a case, an application for revision of judicial acts shall be a subject to revision by the court of cassation within thirty working days from date of case receipt.

4. Request for requesting a case shall be executed by a court no later than five working days from date of its receipt in a court.

If case requested by prosecutor, an application on cassational protest lodging shall be a subject to consideration by a prosecutor within thirty working days from day of case receipt in prosecutor's office.

5. Grounds for revision in cassation procedure of judicial acts entered into force, specified in part one of article 434 of the Code, shall be significant violations of norms of substantive and procedural laws stipulated in article 427 of the Code, which led to unlawful judicial act.

6. The grounds for a revision the judicial act in cassation entered into force and specified in parts three and four of article 434 of the Code shall be:

1) cases if execution of adopted order may lead to serious irreversible consequences for life, health of people or for economy and security of the Republic of Kazakhstan;

2) cases if adopted order shall violate rights and legitimate interests of an indefinite number of persons or other public interests;

3) cases if adopted order shall violate uniformity in interpretation and application of the law by courts.

Article 439. Lodging a protest

1. If there shall be reasons and grounds, the General Prosecutor of the Republic of Kazakhstan shall lodge a protest and send it along with case and application to the Supreme Court of the Republic of Kazakhstan.

2. Copies of protest shall be sent by the General Prosecutor of the Republic of Kazakhstan to persons participating in the case.

Article 440. Protest content

Protest must include:

1) name of a court to which the protest is brought;

2) reference to judicial acts that are appealed;

3) merits statement of case for which judicial acts were issued;

4) indication of substantial violation of the norms of substantive or procedural laws that led to issuance of an unlawful judicial act;

5) proposal or conclusions of the official who brought the protest;

6) in cases of lodging a protest on grounds stipulated in part six of article 438 of the Code, a protest must indicate basis exclusivity for a revision of judicial acts;

7) document confirming fulfillment of requirements of part two of article 439 of the Code shall be attached to a protest.

Article 441. Content of application for revision of judicial act in cassation procedure and on cassational protest lodging

1. Application for revision a judicial act in cassation procedure filed to the Supreme Court of the Republic of Kazakhstan and on cassational protest lodging filed to the General Prosecutor’s Office of the Republic of Kazakhstan, shall include:

1) name of a court or official to whom the application shall be addressed;

2) name of person filing an application and person in whose interests it shall be filed, his residence place or location and the procedural status in case;

3) list of persons involved in a case with an indication of their residence place or location;

4) indication of courts considered a case in the first, appellate instances, and a content of their judgements;

5) indication of judicial act subject to revision, protest;

6) indication of a violation of norms of substantive and procedural laws and essence of request of person filing an application;

7) in case of filing an application on grounds stipulated in part six of article 438 of the Code, an application must indicate the exclusivity of grounds for revision of judicial acts.

2. If an application shall be filed in the interests of a person who shall not participate in a case, it must indicate person's rights violated by a contested judicial act.

3. If an application was previously submitted to court of cassation and was returned, an application shall indicate a ground for a return.

4. An application shall be signed by a person submitting it. With filing an application in electronic form, it shall be certified by a digital signature of a person submitting it. Copies of documents specified in this article shall be attached to an electronic application submitted in electronic form as electronic document.

5. An application on contest of judicial act shall be accompanied by a document confirming payment of state duty in an amount specified in the Code of the Republic of Kazakhstan «On Taxes And Other Mandatory Payments To The Budget» (Tax Code).

Article 442. Return of application or protest of a prosecutor

1. Application or protest of prosecutor shall be returned to persons who submitted them, on following grounds:

1) application or protest of prosecutor shall not comply with requirements of articles 440, 441 of the Code;

2) In accordance with article 435 of the Code, application or protest of prosecutor filed by persons who not entitled to contest or protest the judicial act entered into legal force;

3) application or protest of prosecutor filed after an expiration of period specified in part one of article 436 of the Code, and there are no valid reasons for its restoration;

4) they were withdrawn prior to consideration of application or protest of prosecutor;

5) in event of termination of cassation proceedings in court of cassation in connection with refusal of an application;

6) application or protest of prosecutor filed to a court of cassation with violation of an appeal procedure stipulated by the Code;

7) there is a order on refuse to transfer an application with case for consideration at the court session of cassation instance under aplication of the same participant;

8) an application on contest of judicial act shall not include a document confirming payment of state duty.

2. On return of an application or protest on grounds stipulated in sub-paragraphs 3), 4) and 5) of part one of this article, an order shall be issued, respectively, by a court of cassation or by judge participating in a preliminary revision. In other cases, application shall be returned with letter within three working days.

3. In error recovery that served as basis for return of application or protest of prosecutor, they may be resubmitted on general basis, except refusal of application stipulated in part three of article 435 of the Code.

4. Prosecutor shall have a right to return to an applicant an application on cassational protest lodging for filing an application for reconsideration of a judicial act in a cassation procedure directly to court of cassation, if this right has not been exercised by him/her, except if an application, met the requirements stipulated in article 441 of the Code, has been filed by persons listed in part one of article 112 of the Code.

Article 443. Preliminary consideration of an application

An application for revision of judicial act in cassation procedure shall be examined by judge of the cassation instance, who shall resolve within a ten-day period the followings:

1) on presence or absence of grounds for return of application stipulated in part one of article 442 of the Code;

2) on presence or absence of grounds for requesting a lawsuit.

An Application shall be considered within thirty working days from date of its receipt, and in case of requesting case - within thirty working days from date of case receipt.

Article 444. Decision s made on basis of preliminary consideration of application

1. According to results of preliminary consideration of application, the judge shall issue an order:

1) to transfer an application with the case for consideration at court session of cassation instance, if there are grounds for revising judicial acts;

2) to refuse to transfer an application with the case for consideration at court session of cassation instance, if there are no grounds for revising judicial acts;

3) on return of an application for grounds specified in sub-paragraphs 3), 4) and 5) of part one of Article 442 of the Code.

2. Order shall indicate:

1) date and place of issuance;

2) last name and initials of judge who considered an application;

3) case of order issued indicating the judicial act, a revision of which was filed in an application;

4) last name, first name and patronymic name (if available in identification document) or name of person who submitted an application;

5) reasons given in an application;

6) motives of a procedural decision;

7) conclusions on results of consideration of an application.

3. If there shall be grounds for revision of judicial acts, the order, an application and documents attached thereto, together with a case, shall be submitted to court of cassation not later than five working days from date of the preliminary consideration.

4. Copy of order made on basis of results of preliminary consideration of an application shall be sent to person who submitted an application. In case of return of an application, the documents attached to it shall be returned.

Article 445. Appointment of a judicial session of court of cassation instance

1. Court of cassation after receiving a case with an order of judge, with the submission of the Chairman of the Supreme Court of the Republic of Kazakhstan, with a protest from the Prosecutor General of the Republic of Kazakhstan within three working days, shall send to parties the copies of specified documents, a notice of case consideration at court of cassation indicating a date, time and place of court session or with notification about the possibility of familiarization with their electronic copies through the Internet resource of the Supreme Court of the Republic of Kazakhstan.

2. Case should be considered within thirty working days from date of its transfer to court of cassation or receipt of a submission, protest.

3. Non-appearance of persons participating in the case, duly notified about time and place of court session by court of cassation, shall not be an obstacle to case consideration.

Article 446. Defence on an application, submission or protest for revision of judicial act

1. Person involved in the case, or his/her representative, shall send a defence on an application, submission or protest for revision of judicial act with attachment of documents confirming objections in respect of revision to other persons participating in the case and to the Supreme Court of the Republic of Kazakhstan.

Document confirming distribution of copies of response to other persons participating in the case shall be also attached to defence.

2. Defence shall be sent within the time limit, stipulated by a court, which shall provide an opportunity to get acquainted with it prior revision an application or protest by court of cassation.

3. Defence shall be signed by a person involved in the case or his/her representative. Defence shall include an power of attorney confirming rights of a representative.

Article 447. Settlement agreement, an agreement on settlement of dispute (conflict) in an order of mediation and an agreement on settlement of dispute in an order of participative procedure

1. A settlement agreement of parties, an agreement on settlement of dispute (conflict) of parties in mediation procedure or an agreement on settlement of dispute in order of participation procedure, made after the filing of application, submission or protest, shall be submitted to a court of cassation in writing form.

An agreement of parties on settlement of dispute (conflict) in order of mediation or an agreement on settlement of dispute in order of participative procedure shall be adopted by court in accordance with the rules of articles 179 and 181 of the Code.

At court session, before an approval of settlement agreement of parties, an agreement of parties on settlement of dispute (conflict) in a order of mediation or an agreement on settlement of dispute in a order of participative procedure, a court shall explain to the parties the consequences of their procedural actions.

2. At approving a settlement of parties, an agreement of parties on settlement of dispute (conflict) in order of mediation or an agreement on settlement of dispute in a order of participative procedure, a court of cassation shall cancel judicial acts and terminate the proceedings.

Article 448. Suspension of judicial act execution

Simultaneously with requesting case, the Chairman of the Supreme Court of the Republic of Kazakhstan, the Prosecutor General of the Republic of Kazakhstan shall have the right to suspend execution of judicial act for verification in cassation procedure for a period not exceeding three months.

Upon elimination of a need to suspend execution of judicial act, an order of suspension shall be canceled.

Order on judicial act execution suspension or on abolition of suspension shall be sent (handed over) to judicial body and parties.

Article 449. Subject and limits of consideration of case in cassation procedure

1. During a consideration of case in the cassation procedure, a court shall check the legality of judicial acts issued by courts among materials in a case within arguments of an application, submission, protest.

2. Court of cassation in interests of legality shall have the right to go beyond limits of an application, submission or protest and verify the legality of appealed, protested judicial act in full.

Article 450. Procedure for consideration of the case by the court of cassation

1. Presiding judge shall open a court session and announce a case under consideration, procedural document which served as the basis for it, bench and persons participating in a case, present in court session room, whom shall be explained with their rights and obligations.

2. Absence of a person who appealed, prosecutor, duly notified of time and place of consideration of case, shall not exclude the possibility of trial continuing.

3. Upon resolution of their applications, the court shall hear the person, who submitted the application, protest.

4. Cassation court shall promptly notify the prosecutor of all cases to be considered at the cassation instance.

5. Person who submit an application, prosecutor shall state the reasons and arguments by virtue of which, in their opinion, the contested judicial act is illegal. Then presiding judge shall give a floor to other persons participating in the case in manner determined by court. After their speech, prosecutor shall give an opinion on case, if he shall participate in court session.

Article 451. Powers of the cassation court

1. Based on results of application consideration, submission, protest, the cassation court shall make a judgement.

2. In deliberation room, cassation court shall give one of the following judgements:

1) shall leave the determination, the appellate order in force, and the application or protest without satisfaction;

2) shall cancel the determination, the appellate order and leave in force the determination, the court decision of first instance;

3) shall cancel the appellate order and send the case for retrial to the court of appeal with a different bench composition if violations were founded, provided for by subparagraph 2) of part four of article 427 of the Code;

4) shall cancel the court decision of first instance, the appellate order and send the case for retrial to appropriate court of first or appeal instance with a different bench composition if violations were found provided for in sub-paragraphs 1), 3), 4) and 5) of part four of article 427 of the Code;

5) shall cancel the determination, the court decision of the first instance, the determination and appellate order in full or in part, and send the case for retrial to the court of appeal or, if the case was not considered at the court of appeal or on the merits, to the court of first instance;

6) shall cancel the court judgement, order and determination of the courts of first or appeal instance in full or in part, and terminate the proceedings on the grounds stipulated in article 277 of the Code in connection with an approval of amicable agreement, agreement on settlement of a dispute (conflict) in order of mediation or agreement on the settlement of dispute in accordance with a participative procedure, or leave application without consideration due to grounds stipulated in sub-paragraphs 2), 3), 4), 5), 9) and 10) of article 279 of the Code;

7) shall cancel the determination of the courts of first and appeal instances regarding the restoration of the procedural time limits for appeal, and send the case for consideration of the appeal to the appellate court;

8) shall change the court judgement, determination, order of the courts of first or appeal instance, or, canceling the court judgement, determination, order of the court of first instance or the determination, order of the court of appeal, in full or in part, without transferring the case for retrial, give a new judicial act if circumstances in cases shall be established fully and correctly by the court of first or appeal instance, but an error shall be made in the application of rules of substantive law;

9) shall leave unchanged, cancel or change the cassational judgement in cases of its revision on the grounds stipulated by part six of article 438 of the Code, with the approval of one of the procedural decisions stipulated in sub-paragraphs 1) - 8) of part two of this article.

3. With judicial acts cancellation and sending the case to retrial, court of cassation shall not have the right to prejudge issues such as authenticity or inaccuracy of any evidence, superiority of some evidence over others, what rule of substantive law should be applied, and what court decision should be made in new case consideration.

4. Court of cassation shall not have the right to identify or consider as proven circumstances not specified in the judicial acts or not disproved by it.

5. If court shall give correct judgement, but commit violations stipulated in parts one and two of article 427 of the Code, order shall reflect the motives, norms of substantive and procedural law, in accordance with which the judicial acts remain unchanged.

6. Operative part of order shall be announced after leaving deliberation room.

7. Order in final form shall be made within five working days.

Article 452. Content of cassational judgement

1. Cassational judgement must comply with the requirements stipulated by this Code for order of court of appellate instance. Cassational judgement shall be signed by all the judges who approved the court judgement.

2. In cases and in manner provided for in articles 235 and 237 of the Code, court of cassation shall have the right to consider the issue of correcting misprints and obvious arithmetic errors, to clarify the cassational judgement made by the court of the cassation instance, that shall be a subject of issuance of determination, and in the case stipulated in article 236 of the Code, an additional cassational judgement shall be issued.

Article 453. Entry into force of cassational judgement

Cassational judgement shall be enforced from date of its announcement.

Footnote. Article 454 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 454. Proceedings after the cancellation of the court judgement, determination, court order

1. After cancellation of judicial acts in the cassation procedure, the case shall be considered in a general manner.

2. Application, submission, protest, prosecutor’s petition to new judicial acts, issued after cancellation in appeal or cassation order of previously held judicial acts, may be appealed, brought on general grounds, regardless of the reasons for their cancellation.

Chapter 55. PROCEEDINGS ON REVISION OF JUDICIAL ACTS IN NEWLY DISCOVERED OR NEW FACTS

Article 455. Ground for revision

1. Judgements, determinations and orders have entered into force may be revised due to newly defined or new circumstances.

For revision of judgements, determination and orders under newly defined or new circumstances, grounds shall be legal facts, essentials for the correct resolution of a previously considered case that arose or occurred, but they became known after the judicial act entered into legal force.

2. For revision of judgements, determination and orders under newly defined or new circumstances, grounds shall be:

1) knowingly false testimony of a witness, knowingly false expert opinion, knowingly incorrect translation, forgery of documents or physical evidence, established by court sentence, order, resolutions of state bodies and officials carrying out the functions of criminal prosecution, entered into legal force, and resulted in an illegal decision or unreasonable decision;

2) criminal offense of parties, other persons participating in case, or their representatives or a criminal offense of judges during case trial, established by court sentence, order, resolutions of state bodies and officials carrying out the functions of criminal prosecution, entered into legal force;

3) cancellation of judgement, sentence, determination or order of the court or order of another state body that served as basis for judgement, determination or order.

3. New circumstances include:

1) cancellation of judicial act, which had a prejudicial value in proceeding;

2) court decision entered into legal force on invalidating the transaction on the basis of which judicial act was issued;

3) if the Constitutional Council of the Republic of Kazakhstan shall recognize laws and other regulatory legal acts as unconstitutional with use of which a judicial act was issued.

Article 456. Courts reviewing judicial acts due to newly discovered or new circumstances

1. court decision of the first instance entered into legal force shall be revised according to newly discovered or new circumstances by court that made the judgement.

2. Revision under newly discovered or new circumstances of determinations, court judgements, orders of the appeal and cassation instances changing the court decision of first instance or deciding a new order, shall be made by court that changing court decision or making a new one.

Article 457. Application

1. Application for revision of court judgement, determination or order on newly discovered or new circumstances shall be filed by parties, other persons participating in the case, or prosecutor in the court that made the court judgement, determination or order within three months from day of circumstances discovering that serve as basis for revision.

2. Application must be considered within fifteen working days from date of its receipt, and in courts of appeal and cassation instances within specified period from date of case receipt in the relevant court.

Article 458. Application form and content

1. Application shall be signed by person submitting application or his/her authorized representative.

2. In application for revision of the judicial act due to newly discovered or new circumstances the following should be indicated:

1) name of court to which the application is submitted;

2) name of person submitting the application and other persons participating in the case, their location or residence place;

3) date of judicial act, subject of dispute, name of the court that adopted judicial act requested for revision on newly discovered or new circumstances by an applicant;

4) requirement of person submitting the application; newly discovered or new circumstances stipulated by article 455 of the Code and which, and by the applicant's opinion, are may be basis for revising a judicial act for newly discovered or new circumstances, with reference to documents confirming discovering or identifying of this circumstance;

5) list of attached documents.

Application may also include phone numbers, fax numbers, e-mail addresses of persons participating in the case, and other information.

3. Person submitting application shall be obliged to send copies of the application and attached documents to other persons participating in the case.

4. Following documents must be attached to an application:

1) copies of documents confirming newly discovered or new circumstances;

2) copy of judicial act, which shall be revised under an applicant;

3) document confirming a referral other persons participating in the case, copies of application and documents;

4) power of attorney or other document confirming authority of person to sign application.

Article 459. Submitting date calculating for application

Submitting date for application shall be calculated:

1) in cases stipulated in sub-paragraphs 1) and 2) of part two of article 455 of the Code - from day a sentence, court judgement, decision s of state bodies and officials carrying out functions of criminal prosecution in a criminal case shall come into force;

2) in cases stipulated in sub-paragraph 3) of part two of article 455 of the Code - from date the court judgement, sentence, determination, court order or decision of another state body shall come into force, by which said acts shall be annulled and served as basis for the decision;

3) in cases stipulated in sub-paragraph 1) of part three of article 455 of the Code, from date the judicial act shall enter into legal force by which judicial act of prejudicial significance were canceled;

4) in cases stipulated in sub-paragraph 2) of part three of article 455 of the Code - from date the judicial act shall enter into legal force by which a transaction shall be declared invalid;

5) in cases stipulated in sub-paragraph 3) of part three of article 455 of the Code - from date of publication in mass media of a normative resolution of the Constitutional Council of the Republic of Kazakhstan.

Article 460. Application acceptance to proceeding in court

1. Application for revision of judicial act on newly discovered or new circumstances, submitted in compliance with requirements for its form and content, shall be accepted to proceedings by a relevant court.

2. Application acceptance issue for the court proceedings shall be decided individually by a judge of the relevant court within five working days from date of its receipt by the court.

3. Judge of the relevant court shall make a determination on application acceptance to proceedings.

4. In determination, date and place of court session on consideration of application shall be indicated.

5. Copies of determination shall be sent to persons participating in the case.

Footnote. Article 461 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 461. Application return

1. Judge of the relevant court shall return to an applicant his/her application for revision of judicial act due to newly discovered or new circumstances, if shall determine, prior to acceptance of it for the proceedings, that:

1) application is submitted in violation of rules stipulated by articles 456 and 457 of the Code;

2) application is submitted after the expiration of specified period and there is no application for its restoration or the restoration of missed deadline for application submission is denied;

3) requirements for a form and content of an application are not met.

Application may be returned for other reasons stipulated by the Code.

2. determination shall be made on return of an application. Copy of determination shall be sent to an applicant along with an application and documents attached within a day following the day of its issuance.

3. Court’s determination to return application may be appealed and revised after prosecutor’s petition submission in accordance with the Code.

Article 462. Consideration of application

Court shall consider application for review of judgement, determination or order on newly discovered or new circumstances at court session.

Applicant and persons participating in the case shall be notified about time and place of consideration of application, but their non-appearance shall not be an obstacle to consideration of application.

Footnote. Article 463 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 463. Court ruling on the retrial

1. Court considered the application for revision of judgement, determination or order on newly discovered or new circumstances, shall satisfy an application and cancel a judgement, determination or order, or refuse to revise.

2. Determination of courts of the first, appellate and cassation instances on cancellation of judicial act for newly discovered or new circumstances cannot be appealed, protested, revised at prosecutor's request. Arguments of disagreement with determination may be included in appeal and cassation complaints, appeal petition and protest of prosecutor.

3. Determination of courts of the first, appellate and cassation instances on refusal to satisfy an application for revising of judicial act on newly discovered or new circumstances may be appealed, protested and revised at prosecutor's request in accordance with the Code.

4. In case of cancellation of judgement, determination or order, case shall be considered by court according to rules specified by the Code.

Chapter 56. PROCEEDINGS ON APPLICATIONS FOR CANCELLATION OF ARBITRATION AWARDS

Article 464. Application submission for cancellation of arbitration award

1. Application for cancellation of arbitration award may be filed by parties in arbitration proceedings, by third parties not involved in the case, but with regard to rights and obligations of which the arbitration made a decision on the grounds provided by law, within one month from day of receiving arbitration award.

2. Application to cancellation of arbitration award shall be submitted to the relevant court of the Republic of Kazakhstan:

1) at place of dispute consideration by arbitration, if arbitration award shall be made in territory of the Republic of Kazakhstan;

2) at location of permanent arbitration, if arbitration award shall be made under law of the Republic of Kazakhstan in a foreign state;

3) at place of arbitration formation in the Republic of Kazakhstan, if arbitration award shall be made under law of the Republic of Kazakhstan in a foreign state.

3. Judge shall return application, if court decision cancellation deadline specified in part one of this article has expired and there are no grounds for its restoration in accordance with the Code.

Footnote. Article 465 as amended by the Law of the RK dated 11.07.2017 No. 91-VI

Article 465. Application consideration

1. Application for cancellation of arbitration award shall be considered by court within ten working days from the moment of initiation of proceedings according to rules provided for by the Code.

With application submission by a third party, judge shall have right to extend case proceedings for up to one month, if it is necessary to submit additional evidence.

2. Parties to arbitration proceedings, as well as third parties, if they appealed to cancel the arbitration award, shall be notified by court of time and place of court session. Non-appearance of these persons, who were duly notified of time and place of court session, shall not impede case consideration.

3. During case consideration, court shall identify presence or absence of grounds for arbitration award cancellation, provided for by law, by examining evidence submitted to court in support of stated claims and objections.

4. Court, on findings after consideration of cancellation application on arbitration award, shall give determination on cancellation of arbitration award or refusal to satisfy application. Individual appeal or prosecutor’s petition may be submitted in relation to court determination in accordance with the Code.

SECTION 4. INTERNATIONAL PROCESS

Chapter 57. PROCEEDINGS ON CASES WITH PARTICIPATION OF FOREIGN PERSONS

Article 466. Competence of courts of the Republic of Kazakhstan on cases involving foreign persons

1. Courts of the Republic of Kazakhstan shall consider cases involving foreign persons, if respondent organization is located or citizen-respondent has a residence in territory of the Republic of Kazakhstan.

2. Courts of the Republic of Kazakhstan shall also consider cases involving foreign persons, if:

1) management body, branch or representative office of a foreign person shall be located in the territory of the Republic of Kazakhstan;

2) defendant shall have property in the Republic of Kazakhstan;

3) in case of collecting alimony and establishing paternity, an applicant shall have a place of residence in the Republic of Kazakhstan;

4) in case of compensation for damage caused by injury, other damage to health or breadwinner's death, the damage shall be caused in the Republic of Kazakhstan or the claimant shall have a place of residence in the Republic of Kazakhstan;

5) in case of compensation for damage caused to property, an action or other circumstance afforded the claim for compensation for damage shall take place in the territory of the Republic of Kazakhstan;

6) claim shall arise under a contract which full or partial execution shall take place or took place in the territory of the Republic of Kazakhstan;

7) claim shall arise from unjust enrichment happened in the territory of the Republic of Kazakhstan;

8) in case of divorce, applicant shall be a resident of the Republic of Kazakhstan or at least one of spouses shall be a citizen of the Republic of Kazakhstan;

9) in defamation case of honor, dignity and business reputation, applicant shall be a resident of the Republic of Kazakhstan;

10) in case of rights protection of personal data subjects, including compensation for damages and (or) compensation for moral harm, the applicant shall be a resident of the Republic of Kazakhstan.

3. Courts of the Republic of Kazakhstan shall consider other cases, which shall be felt within their competence by law and (or) an international treaty ratified by the Republic of Kazakhstan.

Article 467. Exclusive competence of the courts of the Republic of Kazakhstan with participation of foreign persons

Exclusive competence of the courts of the Republic of Kazakhstan shall include:

1) cases related to right on real estate located in the Republic of Kazakhstan;

2) cases involving claims against carriers arising from contracts of carriage, if carriers are located in the territory of the Republic of Kazakhstan;

3) cases of divorce of citizens of the Republic of Kazakhstan with non-citizens or stateless persons, if both spouses have a place of residence in the Republic of Kazakhstan;

4) cases of special proceedings, provided for by Chapters 27-30 of the Code.

2. Courts of the Republic of Kazakhstan shall consider cases of special proceedings, if:

1) applicant in affirmative proceeding is a resident of the Republic of Kazakhstan, or an affirmative fact had or is taking place in the territory of the Republic of Kazakhstan;

2) citizen in respect of whom an application is being submitted for adoption, for restricting legal capacity or for declaring him incapable, for declaring a minor fully capable (emancipation), for forced hospitalization in a psychiatric hospital, for extending the period of forced hospitalization for a citizen suffering from a mental disorder, forced treatment of tuberculosis, alcoholism, drug addiction and substance abuse, is a citizen or resident of the Republic of Kazakhstan;

3) citizen related to issue of ACKNOWLEDGEMENT of being a missing person or declaring of his/her dead is a citizen of the Republic of Kazakhstan or had the last known place of residence in the territory of the Republic of Kazakhstan, and determination of rights and obligations of citizens and organizations residing or located in the Republic of Kazakhstan depends on resolution of this issue;

4) property related to application for ACKNOWLEDGEMENT of its ownerless is located in the territory of the Republic of Kazakhstan;

5) security in respect of which an application was submitted for ACKNOWLEDGEMENT of loss of rights and restoration of corresponding rights to it (procedure to declare lost documents void), issued by a citizen or organization residing or located in the territory of the Republic of Kazakhstan;

6) if application was submitted for incorrectness ACKNOWLEDGEMENT of records of acts of civil status made by authorities of civil status acts of the Republic of Kazakhstan;

7) notarial actions under appeal (refusal to commit them) were committed by a notary or another body of the Republic of Kazakhstan.

Article 468. Contractual jurisdiction

Competence of a foreign court may be considered under a written agreement of parties, except the cases provided for by article 31 of the Code. If there is such an agreement, court leaves application without consideration by petition from defendant, if such one is submitted before start proceedings of case on the merits.

Article 469. Competence invariability

Case accepted by the court of the Republic of Kazakhstan in accordance with regulation of competence stipulated by legislation of the Republic of Kazakhstan shall be allowed essentially,

at least later due to changes in citizenship, place of residence of the parties and other circumstances affecting the competence, it became jurisdiction of court of another state.

Article 470. Effect of proceedings in a foreign court

1. Court of the Republic of Kazakhstan shall leave application without consideration, and terminate the proceedings, if court decision have already been given in a dispute between the same parties, on the same subject and for the same reasons by a court of a foreign state with which the Republic of Kazakhstan has concluded an international treaty on mutual ACKNOWLEDGEMENT and execution court judgements.

2. Court of the Republic of Kazakhstan shall leave application without consideration, and terminate the proceedings, if court of a foreign state has a previously opened case on a dispute between the same parties, on the same subject and on the same reasons, the decision on which is subject to ACKNOWLEDGEMENT in the Republic of Kazakhstan according to the legislation of the Republic of Kazakhstan.

3. Provisions of this article shall not affect cases if case shall be covered within exclusive competence of courts of the Republic of Kazakhstan.

Article 471. Jurisdiction

Jurisdiction referred by the legislation of the Republic of Kazakhstan to the competence of courts of the Republic of Kazakhstan is determined according to the jurisdiction rules stipulated in Chapter 3 of the Code.

Article 472. Procedural rights and obligations of foreign persons

1. Non-citizens and stateless persons, foreign and international organizations (hereinafter referred to as foreign persons) shall have the right to appeal to the courts of the Republic of Kazakhstan to protect their violated or disputed rights, freedoms and legally protected interests.

2. Foreign persons shall apply the procedural rights and perform procedural duties on an equal basis with citizens and legal entities of the Republic of Kazakhstan, unless otherwise provided for by an international treaty ratified by the Republic of Kazakhstan.

3. In courts, judicial proceedings involving foreign persons shall be carried out in accordance with the Code, other laws and international treaties ratified by the Republic of Kazakhstan.

4. The Republic of Kazakhstan may establish reciprocal restrictions (retortion) in relation to foreign persons of those states in which special restrictions on procedural rights of citizens and organizations of the Republic of Kazakhstan are allowed.

Article 473. Civil legal capacity of foreign and stateless persons

1. Civil legal capacity of foreign and stateless persons shall be determined by their personal law.

2. Personal law of foreign person shall be law of state to which person is belong.

3. If citizen has several foreign citizenships, the personal law shall be a law of state with which person shall be closely connected, including residence place location.

4. Personal law of a stateless person shall be the law of state in which the person has a permanent residence, and if such one shall be absent then the law of state of his usual residence.

5. Person who is not procedurally capable under his personal law may be recognized as capable in the territory of the Republic of Kazakhstan, if shall have legal capacity in accordance with the law of the Republic of Kazakhstan.

Article 474. Legal standing of foreign and international organization

1. Legal standing of foreign organization shall be the law of foreign state, in accordance with which was established. Foreign organization without legal standing under this law may be recognized as legal standing in the territory of the Republic of Kazakhstan in accordance with the law of the Republic of Kazakhstan.

2. Legal standing of international organization shall be stipulated on basis of an international treaty in accordance with which it is established, or other international treaties of the Republic of Kazakhstan.

Article 475. ACKNOWLEDGEMENT of documents issued by foreign authorities

1. Documents issued, compiled or certified in prescribed form by foreign regulatory authorities, performed outside the Republic of Kazakhstan under the laws of foreign countries in relation to organizations of the Republic of Kazakhstan or foreign persons shall be accepted by courts of the Republic of Kazakhstan with consular legalization or apostille, unless otherwise provided for by legislation and (or) international treaty of the Republic of Kazakhstan.

2. Upon submission to the courts of the Republic of Kazakhstan, documents compiled in a foreign language shall be provided with a properly certified translation into language of judicial proceedings.

Article 476. Legal assistance instructions

1. Courts of the Republic of Kazakhstan shall provide legal assistance in scope stipulated in legislation and (or) international treaties ratified by the Republic of Kazakhstan.

Provision of legal assistance shall include delivery and forwarding of notices and other documents, as well as other procedural actions, in particular, hearing of parties, witnesses, examination, on-site inspection, other procedural actions, implementation of which in a framework of legal assistance is provided by law or international treaty ratified by the Republic of Kazakhstan, or on a basis of reciprocity.

2. Courts of the Republic of Kazakhstan shall execute submitted them in order prescribed by law or international treaty ratified by the Republic of Kazakhstan, or on a basis of reciprocity of foreign courts to execute specific procedural actions, except in cases, if:

1) execution of instruction may lead to damage the sovereignty of the Republic of Kazakhstan or threaten the security of the Republic of Kazakhstan;

2) competence of court shall not include execution of instruction;

3) in other cases stipulated by international treaties of the Republic of Kazakhstan.

3. Execution of instructions of foreign courts on implementation of certain procedural actions shall be carried out in order prescribed by the Code, unless otherwise provided for by international treaties of the Republic of Kazakhstan.

4. Courts of the Republic of Kazakhstan may address to foreign courts with instructions on implementation procedural actions.

5. Procedure for relations of courts of the Republic of Kazakhstan with foreign courts shall be determined by law and international treaties ratified by the Republic of Kazakhstan, or on a basis of reciprocity.

6. Instruction detailing application of the legislation on provision of legal assistance by courts of the Republic of Kazakhstan and seeking legal assistance from courts of foreign states shall be approved by the body providing organizational and material and technical support to courts.

Article 477. Immunity of foreign state

Foreign state shall apply jurisdictional immunity in the Republic of Kazakhstan, including judicial immunity, immunity from security for claim and immunity from forced execution of a judicial act, except in cases stipulate in the Code.

Article 478. Judicial immunity

In accordance with provisions of the Code, foreign state shall not apply judicial immunity in the Republic of Kazakhstan if it shall waive judicial immunity or immunity shall not be applied to foreign state in accordance with article 484 of the Code, as well as if it shall carry out activities other than state sovereignty implementation, including in cases specified in articles 484, 485, 486, 487, 488, 489, 490 and 491 of the Code.

Article 479. Immunity refusal of foreign state in respect of counterclaim

1. Foreign state commenced a suit in court of the Republic of Kazakhstan shall be deemed to have agreed to waive of judicial immunity in respect of any counterclaim based on the same legal relations or facts as original lawsuit of this state.

2. Foreign state commenced a suit in a court of the Republic of Kazakhstan shall be deemed to have agreed to waive of judicial immunity in relation to original claim.

Article 480. Foreign state consent on jurisdiction of court of the Republic of Kazakhstan and judicial immunity refusal

1. It is recognized that foreign state has agreed to waive judicial immunity if it expressly consented on jurisdiction of court of the Republic of Kazakhstan regarding relevant issue or case, in particular:

1) in international treaty;

2) in written agreement that is not an international treaty of the Republic of Kazakhstan;

3) by an application to court of the Republic of Kazakhstan or written notification in under of specific proceeding.

2. Consent of foreign state to waive judicial immunity shall not be considered as its consent to waive immunity from security for claim and immunity from forced execution of a judicial act.

3. Consent of foreign state to that application of the legislation of the Republic of Kazakhstan shall not be considered as consent to waive judicial immunity.

Article 481. Participation of foreign state in court proceeding

1. It is recognized that foreign state has agreed to waive judicial immunity if that state was a party to proceedings opened on its initiative in court of the Republic of Kazakhstan, or entered into merits proceedings in court of the Republic of Kazakhstan, or took any other action on merits of case. However, if state shall prove in court that prior it took such actions, it could not have known the facts giving grounds to declare immunity, it shall invoke immunity on basis of these facts immediately after they became known.

2. Foreign state is not considered as renounced judicial immunity if it shall enter into proceedings in court of the Republic of Kazakhstan or take any other action in order to refer to immunity or provide evidence of its right to property that is a subject of proceedings.

3. Appearance of representative of foreign state in court of the Republic of Kazakhstan to give testimony is not considered as consent of this state to waive judicial immunity.

4. If a foreign state shall not participate in court proceedings of the Republic of Kazakhstan, this circumstance in itself cannot be interpreted as its consent to waive judicial immunity.

Article 482. Refusal of a foreign state from immunity in relation to arbitration proceeding

If a foreign state consented in writing to arbitration of disputes with its participation resulted or may arise in the future, it is recognized that, in relation to these disputes, it voluntarily agreed

to waive judicial immunity on matters relating to execute functions of arbitration by court of the Republic Kazakhstan.

Article 483. Withdrawal of consent to waive immunity

1. Consent of a foreign state to waive judicial immunity, immunity from security for claim and immunity from forced execution of judicial act cannot be revoked, except if withdrawal such consent shall be expressly provided by agreement with another party in dispute.

2. Consent of foreign state to waive judicial immunity shall be applied to all stages of proceedings.

Article 484. Non-application of foreign state immunity in case of jurisdictional immunity violation of the Republic of Kazakhstan

Foreign state shall not apply judicial immunity in the Republic of Kazakhstan, as well as immunity from security for claim and from forced execution of judicial act in case of violation by such foreign state of jurisdictional immunity of the Republic of Kazakhstan and its property.

Article 485. Non-application of judicial immunity of foreign state in business-specific disputes

1. In the Republic of Kazakhstan, foreign state shall not use judicial immunity in disputes arising from business activities carried out by this state in the territory of the Republic of Kazakhstan.

2. In the Republic of Kazakhstan, foreign state shall not use judicial immunity in disputes arising from civil law transactions of non-entrepreneurial activity that this state has committed or with which connected in a different way than in state sovereignty implementation.

3. In decision whether a transaction connected with or executed by foreign state is recognised as activity related with state sovereignty implementation, the court of the Republic of Kazakhstan shall take into account nature and purpose of such transaction.

Article 486. Non-application of judicial immunity of a foreign state in disputes related to participation in legal entities

In the Republic of Kazakhstan, foreign state shall not use judicial immunity in disputes concerning its participation in commercial and non-commercial legal entities established or having a principal place of business in the territory of the Republic of Kazakhstan.

Article 487. Non-application of judicial immunity of a foreign state in disputes relating to property rights

In the Republic of Kazakhstan, foreign state shall not use judicial immunity in disputes concerning:

1) its rights to real estate located in the territory of the Republic of Kazakhstan, as well as its obligations related to such property;

2) its real estate rights arising on grounds not related to state sovereignty implementation by this state.

Article 488. Non-application of judicial immunity of a foreign state in disputes on compensation for damage (damnification)

In the Republic of Kazakhstan, foreign state shall not use judicial immunity in disputes on compensation for damage to life and (or) health, property by this state if the claim arose from causing damage (damnification) by action (inaction) or a circumstance had taken place in full or partly in the territory of the Republic of Kazakhstan.

Article 489. Non-application of judicial immunity of a foreign state in disputes relating to objects with intellectual property rights

1. In the Republic of Kazakhstan, foreign state shall not use judicial immunity in disputes concerning identification and execution of its rights to intellectual property.

2. In the Republic of Kazakhstan, foreign state shall not use judicial immunity in disputes concerning an alleged violation of other persons rights for intellectual property by this state.

Article 490. Non-application of judicial immunity of foreign state on disputes under labour legislation

1. In the Republic of Kazakhstan, foreign state shall not use judicial immunity in disputes under labour legislation arising between this state and an employee regarding work that was or should be performed in whole or in part in the territory of the Republic of Kazakhstan.

2. Regulation of part one of this article shall not be applied if:

1) employee is a citizen of state that recruited him/her as of the moment initiating proceedings, except for case if employee has a permanent residence in the Republic of Kazakhstan;

2) employee was recruited to perform duties on state sovereignty implementation;

3) subject for dispute is a conclusion or renewal of an employment contract.

Article 491. Foreign state Immunity in disputes relating to operation of marine vessels and inland navigation vessels

1. In the Republic of Kazakhstan, foreign state, that owns or operates marine vessel or inland navigation vessel, shall not use judicial immunity in disputes concerning operation of this vessel or carriage of cargo by this vessel, if the vessel was operated for other than state non-commercial purposes at the moment of occurrence of basis leaded the claim.

2. Regulation of part one of this article shall not be applied to:

1) military ships and military auxiliary vessels, as well as cargo transported by such ships and vessels;

2) cargo owned by state and used or intended for use solely for state non-commercial purposes, regardless to vessel transported the cargo.

3. For purposes of this article application, disputes relating to vessel operation shall be understood as, in particular, disputes in relation to:

1) ship collisions, port and hydraulic structures damage or other shipping accidents;

2) assistance, rescue and general average;

3) supplies, repairs and other works, services related to vessel;

4) effects of marine pollution;

5) lifting a property, sunken.

Article 492. Immunity of foreign state from security for claim and forced execution of a judicial act

Foreign state shall use immunity from security for claim and forced execution of a judicial act, except cases if:

1) foreign state expressly consented to waive the types of jurisdictional immunity specified in this article in one of the ways provided in part one of article 480 of the Code;

2) foreign state has reserved or otherwise designated property in discharge of claims which is a subject of proceedings in court of the Republic of Kazakhstan;

3) property of a foreign state located in the territory of the Republic of Kazakhstan shall be used and (or) intended for use by a foreign state for purposes other than state sovereignty implementation.

Article 493. Property used for purposes of state sovereignty implementation

Property of a foreign state shall not considered as property used and / or intended for use by foreign state for purposes other than state sovereignty implementation (sub-paragraph 3) article 492 of the Code), in particular, the followings:

1) property (including money on bank account) used or intended to perform functions of diplomatic missions of foreign state or its consular agencies, special missions, representative offices of international organizations, delegations of foreign state in bodies of international organizations or at international conferences;

2) military property and (or) used in peacekeeping operations recognized by the Republic of Kazakhstan;

3) cultural valuables or archival documents, not for sale or not intended for sale.

Article 494. Judicial proceedings involving foreign state

Cases involving a foreign state shall be considered according to rules of courts of the Republic of Kazakhstan, including jurisdiction rules applicable to legal entities, in particular foreign legal entities, unless otherwise provided for by the Code or other laws.

Article 495. Resolving procedure for issue of judicial immunity of foreign state

1. Issue whether a foreign state shall use judicial immunity shall be considered during court session with call of parties by the court of the Republic of Kazakhstan.

2. If the court of the Republic of Kazakhstan determines that foreign state has judicial immunity, the proceedings shall be terminated insofar as dispute shall not be a subject to court proceeding.

Article 496. Court decision of the Republic of Kazakhstan on security for claim and forced execution of a judicial act under disputes with participation of a foreign state

1. Issues on security for claim and forced execution of a judicial act in respect of foreign state shall be considered by court of the Republic of Kazakhstan depending on presence or absence of immunity from security for claim and forced execution of a judicial act of foreign state, respectively.

2. In cases if failure to take immediate measures may make it difficult or impossible to execute the judicial act, in particular, due to high degree of probability of destruction, damage, transfer of property or other order to prevent execution of judicial act, the court of the Republic of Kazakhstan, in the absence of sufficient grounds for acknowledgement that foreign state shall use an immunity, shall have a right, at the request of party, to take measures on security for claim, and to foreclose on the property of a foreign state at the stage of enforcement proceedings. Court of the Republic of Kazakhstan shall issue determination on imposing arrest on property of foreign state, other measures implementation related with security for claim, and also on levying a penalty on property of foreign state, which can be appealed in order stipulated by the Code.

3. Decision shall not deprive a foreign state of right to appeal it with reference to appropriate immunity.

Article 497. Legislative reciprocity application

1. With considering a lawsuit brought against a foreign state in a court of the Republic of Kazakhstan, court shall apply reciprocity principle at request of a claimant or another person involved in case.

2. For disputes related to business activities, as well as for disputes arising from civil law transactions in non-business activities, proving the scope of jurisdictional immunity granted to the

Republic of Kazakhstan in respective foreign state may be entrusted to a person presented an application on reciprocity principle.

3. If it is proved that in a foreign state in respect of which jurisdictional immunity has arisen, the Republic of Kazakhstan shall be granted jurisdictional immunity to a more limited extent than that granted to a foreign state by virtue of the Code, therefore court of the Republic of Kazakhstan in solving this issue on the basis of reciprocity, shall be entitled to proceed from the same scope of jurisdictional immunity as the Republic of Kazakhstan shall have in the relevant foreign state.

Article 498. Assistance to court of the Republic of Kazakhstan in application of the Code

1. At request of the court of the Republic of Kazakhstan or on own initiative, the Ministry of Foreign Affairs of the Republic of Kazakhstan shall provide an conclusion connected with application of this Code in relation to a foreign state, in particular, whether party is a foreign state within issue of jurisdictional immunity, whether there has been an activity connected with state sovereignty implementation, to what extent the jurisdictional immunity of the Republic of Kazakhstan in a foreign state shall be granted.

2. In accordance with the established procedure, the court of the Republic of Kazakhstan may request for assistance and clarification under issues that are a subject of a dispute also to other bodies and organizations in the Republic of Kazakhstan and abroad or to involve experts. Findings and explanations shall be evaluated by the court of the Republic of Kazakhstan, taking into account all evidences in case.

Article 499. Notification and delivery of procedural documents to a foreign state

1. Notification and other judicial documents about case initiation in the court of the Republic of Kazakhstan shall be sent to foreign state through diplomatic channels. Date of delivery of these documents shall be a date of receipt by executive authority in charge of foreign affairs of relevant state.

2. In the court of the Republic of Kazakhstan, instructions on documents delivery to foreign state and other procedural actions in connection with case initiated against it shall be executed in order prescribed by law and (or) international treaties ratified by the Republic of Kazakhstan regulating the provision of legal assistance.

Article 500. Default judgement

Court decision with respect to foreign state non participated in proceedings in the court of the Republic of Kazakhstan shall be made, provided that court shall determine that:

1) requirements of article 499 of the Code are met;

2) not less than six months have passed since date of sending instruction to deliver documents on initiation of proceedings against foreign state;

3) in accordance with provisions of the Code, state shall not use judicial immunity.

Article 501. Acknowledgement and execution of foreign court judgement, arbitration awards of foreign arbitrations

1. Court judgements, resolutions and rulings on approval of settlement agreements, foreign judicial orders, as well as arbitration awards of foreign arbitrations shall be recognized and executed by the courts of the Republic of Kazakhstan, if ACKNOWLEDGEMENT and execution of such acts shall be provided for by legislation and (or) international treaty ratified by Republic of Kazakhstan, either on basis of reciprocity.

2. Conditions and procedure for acknowledgement and execution of acts specified in part one of this article shall be determined by law, unless otherwise provided by an international treaty ratified by the Republic of Kazakhstan.

3. Acts specified in part one of this article may be appealed for enforced execution within three years from date of their entry into force. Period missed for a good reason may be restored by court of the Republic of Kazakhstan in order stipulated in article 126 of the Code.

Article 502. ACKNOWLEDGEMENT of foreign court decision not required of execution

In the Republic of Kazakhstan, foreign court decision shall be recognized as not required execution by their nature, following:

1) affecting the personal status of exclusively citizens of the state where court issued a judgement;

2) on divorce or invalidation ACKNOWLEDGEMENT of marriages between citizens of the Republic of Kazakhstan and foreign persons, if at time of divorce, at least one of spouses lived outside the Republic of Kazakhstan;

3) on termination or invalidation ACKNOWLEDGEMENT of marriages between citizens of the Republic of Kazakhstan, if at the time of divorce, both spouses lived outside the Republic of Kazakhstan.

Footnote. Article 503 as amended by the Law of the Republic of Kazakhstan dated 11.07.2017 No. 91-VI

Article 503. Forced execution of foreign court judgements, arbitration awards of foreign arbitrations

1. If acts specified in part one of article 501 of the Code are not executed voluntarily within time limits stipulated in them, party of judicial and arbitration proceeding in whose favor these acts shall be issued shall be entitled to appeal for their forced execution to court consideration or at debtor's residence place or at location of body of legal entity, otherwise at property location of debtor, if residence place or location shall be unknown.

2. Applications for issuance of writ of execution shall be supplemented with duly certified authentic acts specified in part one of article 501 of the Code, or duly certified copies thereof, and if available, a true arbitration agreement or duly certified copy thereof. If specified acts or arbitration agreements shall be stated in a foreign language, party must submit a duly certified translation into Kazakh or Russian.

3. Applications for issuance of a writ of execution may be filed no later than three years from date of expiration of period for voluntary execution of acts specified in part one of article 501 of the Code.

4. Application for issuance of writ of execution, which was filed with omission of prescribed period or to which the necessary documents were not attached, shall be returned by court without consideration, and there for a determination shall be made for which a private complaint or a petition by prosecutor may be filed in order stipulated in the Code.

5. Court shall have a right to restore time limit for filing an application for issuance of a writ of execution if it shall find reasons for missing the specified term valid.

6. Application for issuance of writ of execution shall be considered by judge individually within fifteen working days from the date of receipt of an application to court.

7. Court shall notify a debtor of applications received from recoverer about forced execution of acts specified in part one of article 501 of the Code, as well as time and place of their consideration at a court session. Recoverer shall be also notified of place and time of consideration of application. Non-appearance of debtor or recoverer at the court session shall not an obstacle to consideration of application, if debtor shall not submit a petition to postpone consideration of application with indicating appropriate reasons for not being able to appear at court session.

8. During considering applications for issuing a writ of execution to forced execution of a judicial acts specified in part one of article 501 of the Code, court shall not be entitled to revise them on the merits.

9. According to results of application consideration, court shall determine whether to issue a writ of execution or to refuse in its issuance.

Court determination on issuance of writ of execution is subject to immediate implementation.

Article 504. Refusal to issue and issuance of writ of execution

Refusal to issue and issuance of writs of execution shall be carried out according to the regulations stipulated in Chapter 20 of the Code.

Chapter 58. FINAL PROVISIONS

Footnote. Article 505 as amended by the Law of the RK dated 08.04.2016 No.489-V; dated 11.07.2017 No.91-VI

Article 505. Bringing into force of the Civil Procedure Code of the Republic of Kazakhstan

1. This Code comes into force on January 1, 2016.

2. To recognize as invalid the following legislative acts from January 1, 2016:

1) Civil Procedure Code of the Republic of Kazakhstan dated July 13, 1999 (Gazette of the Parliament of the Republic of Kazakhstan, 1999, No. 18, Article 644; 2000, No. 3-4, Article 66; No. 10, Article 244; 2001 No. 8, Article 52, No. 15-16, Article 239, No. 21-22, Article 281, No. 24, Article 338, 2002, No. 17, Article 155, 2003, No. 10, Article 49; No. 14, Article 109; No. 15, Article 138; 2004, No. 5, Article 25; No. 17, Article 97; No. 23, Article 140; No. 24, Article 153; 2005, No. 5, Article 5; No. 13, Article 53; No. 24, Article 123; 2006, No. 2, Article 19; No. 10, Article 52; No. 11, Article 55; No. 12, Article 72; No. 13, Article 86; 2007, No. 3, Article 20, No. 4, Article 28, No. 9, Article 67, No. 10, Article 69, No. 13, Article 99; 2008, No. 13-14, Article 56; No. 15-16, Article 62; 2009, No. 15-16, Article 74, No. 17, Article 81, No. 24, Article 127, 130; 2010, No. 1-2, Article 4; No. 3-4, Article 12; No. 7, Article 28, 32; No. 17-18, Article 111; No. 22, Article 130, No. 24, Article 151; 2011, No. 1, Article 9; No. 2, Article 28; No. 5, Article 43, No. 6, Article 50, No. 14, Article 117, No. 16, Article 128, 129, No. 23, Article 179; 2012, No. 2, Article 14, No. 6, Article 43, 44; No. 8, Article 64; No. 13, Article 91; No. 14, Article 93; No. 21-22, Article 124; 2013, No. 9, Article 51; No. 10-11, Article 56; No. 13, Article 64; No. 14, Article 72, 74; No. 15, Article 76; 2014, No. 1, Article 6, 9; No. 4-5, Article 24; No. 11, Article 67; No. 14, Article 84; No. 16, Article 90; No. 19-I, 19-II, Article 94, 96; No. 21, Article 118, 122; No. 22, Article 128; No. 23, Article 143; 2015, No. 8, Article 42, 44);

2) Law of the Republic of Kazakhstan dated July 13, 1999 «On Bringing Into Force Of The Civil Procedure Code Of The Republic Of Kazakhstan» (Gazette of the Parliament of the Republic of Kazakhstan, 1999, No.18, Article 645; 2000, No. 6, Article 141; 2001 No.15-16, Article 239; 2006, No.10, Article 52).

3. Judgement of arbitration courts issued prior to legislative act comes into force on arbitration may be reversed in order provided by chapter 56 of this Code, and writs of execution may be issued for them in manner stipulated by chapter 20 of this Code

4. Judicial acts issued prior to date the Code comes into force may be appealed, protested and reviewed under prosecutor’s petition in order as provided for by the Code.

Judicial acts in cases provided in part two of article 434 of the Code, issued prior to January 1, 2016, may be appealed or protested to cassational instance of Supreme Court of the Republic of Kazakhstan within six months from date the Code comes into force.

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President of the
Republic of Kazakhstan **N. NAZARBAYEV**