

Civil Procedure Code of the Republic of Kazakhstan

Invalidated Unofficial translation

Code of the Republic of Kazakhstan dated July 13, 1999 № 411. Expired by the Code of the Republic of Kazakhstan dated October 31, 2015 № 377-V.

Unofficial translation

Footnote. The Code of the Republic of Kazakhstan dated 31.10.2015 № 377-V became invalid (effective from 01.01.2016).

Footnote. See the Law of the Republic of Kazakhstan dated 13.07.1999 № 412 "On Introduction of the Civil Procedure Code of the Republic of Kazakhstan".

Section 1. General Provisions

Chapter 1. Civil procedure legislation of the Republic of Kazakhstan

Article 1. Relations regulated by the civil procedure legislation

Civil procedure legislation of the Republic of Kazakhstan regulates public relations arising in the process of administration of justice by courts in the course of consideration and adjudication of claims and other cases assigned to their competence by this Code and other laws.

Article 2. Legislation on civil proceedings of the Republic of Kazakhstan

1. The order of legal proceedings on civil cases in the Republic of Kazakhstan is determined by Constitutional Laws, Civil Procedure Code of the Republic of Kazakhstan based on the Constitution of the Republic of Kazakhstan and generally recognized principles and norms of International Law. Provisions of other laws regulating civil proceedings shall be included in this Code.

2. International contractual and other obligations of the Republic of Kazakhstan, as well as regulatory resolutions of the Constitutional Council and the Supreme Court of the Republic of Kazakhstan are integral part of the civil procedure law.

3. Legislation on civil proceedings establishes the order of legal proceedings on disputes arising from civil, marital, employment, housing, administrative, financial, economic, land relationships, relations on use of natural resources and environmental protection and other legal relations, as well as special proceeding cases.

4. If in the course of civil proceedings the necessity to consider an issue subject to resolving under the administrative law arises, it shall be resolved in the civil proceeding in accordance with provisions of the Article 26 of this Code.

Article 3. Application of prevailing legal rules in civil proceedings

1. The Constitution of the Republic of Kazakhstan shall have the supreme legal force and direct effect over the entire territory of the Republic. In case of conflict between provisions of this Code and the Constitution of the Republic of Kazakhstan, the provisions of the Constitution shall prevail.

2. In case of conflict between provisions of this Code and the constitutional law of the Republic of Kazakhstan, provisions of the constitutional law shall prevail. In case of conflict between provisions of this Code and other laws, the provisions of this Code shall prevail.

3. International treaties ratified by the Republic of Kazakhstan shall prevail over this Code and shall be applied directly, except to the extent that an international treaty requires an enactment.

Article 4. Operation of the civil procedure legislation in time

1. Civil proceedings are conducted in accordance with the civil procedure law effective at the moment of implementing procedural action and making procedural decisions.

2. Civil procedure law imposing new duties, abolishing or diminishing rights belonging to the process participants, abridging use of the rights based on additional terms and conditions shall not have retroactive effect.

3. Admissibility of evidences shall be determined in accordance with the law in effect at the time of their obtaining.

Chapter 2. Objectives and principles of civil proceedings

Article 5. Objectives of civil proceedings

Objectives of civil proceedings are a protection of violated or disputed rights, liberties and legally protected interests of citizens, the state and organizations, a strengthening of the rule of law and a prevention of offenses.

Article 6. Legality

1. The court in resolving cases in the course of civil proceedings must strictly observe requirements of the Constitution of the Republic of Kazakhstan, the present Code and other regulatory legal acts.

2. The courts shall not be entitled to apply laws and other regulatory legal acts infringing on human and civil rights and liberties enshrined in the Constitution. If the court finds that a law or other regulatory legal act subject to application infringes on human and civil rights and liberties enshrined in the Constitution, the court shall

suspend the legal proceedings on the case and apply to the Constitutional Council of the Republic of Kazakhstan with a submission to acknowledge this act as unconstitutional. Upon receiving a final resolution of the Constitutional Council the proceedings on the case shall be revived.

3. Violation of law by the court in the course of case adjudication shall be unacceptable and shall result in cancellation of illegal judicial acts. A judge guilty of the violation of law shall bear full responsibility stipulated by the law.

4. Should the court in the course of the case adjudication establish noncompliance of an act issued by a state agency or another agency with a law, or that the act was issued with the excess of powers, the court shall apply the prevailing legal acts.

5. In the event of lack of legislation regulating legal relations in dispute, the court shall apply rules of law regulating similar relations; in case of lack of such rules of law the court shall settle the dispute based on common principles and meaning of the law.

6. If legislation acts or an agreement of parties to a dispute stipulate resolution of relevant issues by the court, the court must settle these issues based on requirement of equity and reasonableness.

Footnote. Article 6 as amended by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 32-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 7. Exclusiveness of administration of justice by the court

1. Justice on civil cases shall be administered only by court and under the rules, established by the civil procedure legislation. Appropriation of the court powers by whosoever shall be punishable as provided by the law.

2. Resolutions of emergency courts or other illegally constituted courts have no legal force and are not subject to enforcement.

3. Decision of a court which conducted the civil proceeding on a case being out of its jurisdiction and exceeded its authority or otherwise substantially violated principles stipulated by this Code shall be illegal and subject to cancellation.

4. Decisions of a court on a civil case may be audited and revised only by relevant courts in the order defined by this Code.

Article 8. Judicial remedy of rights, liberties and legitimate interests of a person

1. Everyone is entitled, in the order prescribed by this Code, to apply to the court for defense of violated or disputed constitutional rights, liberties or legitimate interests protected by the law. State agencies, legal entities or citizens have the right to apply to the court for defense of rights and legally protected interests of other persons or unspecified persons in cases provided by the law.

2. A prosecutor is entitled to apply to a court with a suit (a petition) for the purposes of fulfillment of the entrusted duties and for defense of rights of citizens, legal entities, public and state interests.

3. Jurisdiction stipulated by the law for a person may not be changed without consent of that person. A court of superior jurisdiction may not withdraw a case from proceedings of a lower court and take over it without consent of the parties.

4. Abandonment of the right to appeal to the court shall not be valid if it contravenes the law or violates someone's rights and interests protected by the law.

Article 9. Respect of person's honor and dignity

1. In the course of civil case proceeding, decisions and actions humiliating honor or diminishing dignity of a person involved in the civil process shall be prohibited.

2. Moral damage caused to a person in the course of civil proceedings by unlawful actions of state agencies and officials shall be compensated in accordance with procedures established by the law.

Article 10. Privacy. Secrecy of correspondence, telephone conversations, postal, telegraph and other messages

Private life of citizens, personal and family secrets are protected by the law. Everyone has a right to confidentiality of personal deposits and savings, correspondence, telephone conversations, postal, telegraph and other messages. Limitations of these rights in the course of civil process shall be admitted only in cases and pursuant to procedures directly established by the law.

11. Inviolability of property

1. Property is guaranteed by the law. No one may be deprived of his/her property except by a court decision.

2. Seizure of bank deposits and other property of persons as well as the property withdrawal in the course of the civil proceedings may be implemented in cases and pursuant to procedures stipulated by this Code.

Article 12. Independence of judges

1. A judge in the course of administering justice shall be independent and shall be subject only to the Constitution of the Republic of Kazakhstan and the law.

2. Judges and courts settle civil cases in such conditions that shall exclude any outside influence on them. Any interference in court's activity on administration of justice shall be prohibited and shall be subject to legal liability. Judges shall not be accountable on specific cases.

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

Article 13. Equality before the law and the court

1. Justice in civil cases shall be administrated based on equality before the law and the courts.

2. In the course of civil proceedings none of:

the citizens may be given preference and none of them may be discriminated on the basis of their origin, official capacity, property status, sex, race, nationality, language, religion, beliefs, place of residence or on any other circumstances;

the legal entities may be given preference, and none of them may be discriminated on the basis of their location, legal form of organization, affiliation, ownership or other circumstances.

3. Conditions of civil proceedings with regard to persons with civil immunity shall be determined by the Constitution of the Republic of Kazakhstan, by the present Code, by the laws and international treaties ratified by the Republic of Kazakhstan.

Article 14. Language of the proceedings

1. Legal proceedings on civil cases shall be implemented in the official language; Russian and other languages may be applied in legal proceedings on an equal basis with the official language, if necessary.

2. Language of legal proceedings shall be established by a decision of the court depending on the language of a lawsuit (a petition). Proceedings on any one civil case shall be implemented in the initially established language of the proceeding of that case

3. To persons participating in the case with no knowledge or poor knowledge of the language of the proceedings, it will be explained that they have the right to, and the right shall be provided to make statements, to give explanations and testimony, to present petitions, to lodge an appeal, to get acquainted with the case materials and to speak in the court in their native language or in any other language they speak and to use services of an interpreter free of charge pursuant to the procedures established by this Code.

4. Persons participating in civil proceedings shall be provided by the court with free translation to the language of the proceedings of the materials in another language that they require by operation of law. Persons participating in civil proceedings shall be provided with free translation into the language of the legal proceedings of the part of the trial pleadings which is performed in another language.

5. Court documents shall be handed to persons participating in a case as translated into their native language or another language they speak.

Article 15. Competitiveness and equality of the parties

1. Civil proceedings shall be implemented on the basis of competitiveness and equality of the parties. The parties shall have equal procedural rights and shall bear equal procedural duties.

2. In the course of civil proceedings the parties choose their position and the ways and means of maintaining their case on their own and independently from the court or other bodies and entities. The court shall be fully absolved of collecting evidences on its own initiative for the purposes of substantiation of the facts on the case; however, on a reasoned request of any party the court shall provide assistance in obtaining necessary materials pursuant to the procedures established by this Code.

3. The judging court, maintaining objectivity and impartiality, shall create necessary conditions for fulfillment of the parties' rights for full and objective investigation of circumstances of the case, shall explain to the parties participating in the case their rights and responsibilities, shall warn about consequences for committing and failing to commit procedural actions and in the cases stipulated by this Code shall assist them in implementing their rights. The court shall base its procedural decision only on those evidences which each Party had equal access to participate in examination of.

4. The court shall demonstrate equal and respectful attitude towards the parties.

Article 16. Evaluation of evidence by inner conviction

1. A judge shall evaluate evidences based on his/her own inner conviction, based on an impartial, in-depth and full consideration of all the available evidences in the whole, therewith guided by the law and conscience.

2. No evidence has a predetermined significance for the court.

Article 17. Exemption from duty to testify

1. No one shall be obliged to testify against himself/herself, his/her spouse and close relatives determined by the law.

2. Members of the clergy are not obliged to testify against persons who confessed to them.

3. In the cases stipulated by the first and the second paragraphs of this Article the aforementioned persons shall have the right to refuse to testify and cannot be subjected to any responsibility for that.

Article 18. Securing rights for qualified legal assistance

1. Everyone is entitled to receive qualified legal assistance in the course of civil proceeding in accordance with provisions of this Code.
2. Legal assistance may be provided free of charge in the cases stipulated by the law.

Article 19. Transparency of legal proceeding

1. Case proceedings in all courts and all judicial authorities shall be conducted openly.
2. A trial shall be conducted in closed judicial session in accordance with the law, including if it involves announcement of judgments containing state secrets, as well as if the court grants a plea of a case participant for the need to preserve confidentiality of adoption or preservation of personal, family, commercial or any other secret protected by law or information related to the intimate aspects of the citizens' lives or any other circumstances preventing a public trial, as well as in the case stipulated by paragraph six of the Article 179 of this Code.
3. Personal correspondence and private telegraph messages of citizens may be read in open court only with consent of persons involved in these conversations and telegraph messages. Otherwise, personal correspondence and private telegraph messages of these individuals shall be read and examined in a closed judicial session. The aforementioned rules shall be applied also in the course of examination of photo- and film documents, audiotapes and videotapes as well as messages received through other technical devices containing private information.
4. If the trial is conducted in a closed judicial session, it will be attended by persons participating in the case and their representatives, as well as witnesses, experts, specialists and interpreters, if necessary.
5. A decision to conduct a trial in a closed judicial session shall be made by court by way of a reasoned ruling.
6. Citizens under sixteen years old shall not be admitted to a courtroom unless they are persons participating in the case or witnesses.
7. A trial in a closed judicial session shall be conducted in accordance with all rules of the civil procedure.
8. Persons participating in the case and citizens in presence in open court proceedings have the right to document the trial process either in writing or with use of audio recording from their seat in a courtroom. Any camera and photo camera recording, video recording, direct radio and TV broadcasting in the course of a trial shall be permitted upon approval of the court with taking into account opinions of persons participating in the case. These actions should not interfere with a regular process of the trial and may be time-limited by the court.

Article 20. Ensuring security at trial

A trial shall take place under conditions ensuring regular operation of the court and safety of the process participants. For the purposes of ensuring safety of a judge and citizens in presence in a courtroom, a chairperson may order to inspect persons willing to attend the trial including verification of their identity documents, personal inspection and inspection of things they bring to the courtroom.

Article 21. Obligatory force of judicial acts

1. A court shall issue judicial acts on civil cases in the form of decisions, rulings, regulations and orders.

2. Effective court decisions, rulings, decrees and orders, as well as lawful prescriptions, requirements, instructions, summons and other form of address of courts and judges shall be obligatory for any and all state agencies, local government authorities, public associations and other legal entities, officials and citizens, and shall be subject to mandatory implementation over the entire territory of the Republic of Kazakhstan.

Judicial acts based on a law or any regulatory legal act held unconstitutional by the Constitutional Council of the Republic of Kazakhstan shall not be subject to enforcement.

3. Obligatory force of a judicial act shall not deprive concerned parties that did not participate in case of the opportunity to apply to court for protection of violated or disputed rights, liberties and interests protected by the law.

4. Failure to enforce judicial acts and equally any other demonstration of contempt of court shall be punishable in accordance with the law.

Footnote. Article 21 as amended by the Law of the Republic of Kazakhstan dated 10.07.2012 No. 32-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 22. Right of appeal of procedural actions and decisions

1. Actions and decisions of a court may be appealed pursuant to procedures established by this Code.

2. Persons participating in the case have the right to appeal to a court of superior jurisdiction pursuant to procedures established by this Code.

Article 23. Value of civil procedure principles

Violation of civil procedure principles entails cancellation of court decisions, depending on their nature and essence.

Chapter 3. Jurisdiction and cognizance

Article 24. Court jurisdiction over civil cases

1. Courts adjudicate cases on protection of violated or disputed rights, liberties and interests protected by the law in accordance with civil procedure, unless pursuant to this Code and other laws their protection is to be enforced under another court procedure.

2. Courts adjudge cases on disputes arising from civil (including corporate disputes), marital, employment, housing, administrative, financial, economic, land relations, relations on use of natural resources and environment protection and other legal relations, including relations based on authoritative subordination of one party to another.

Corporate disputes include disputes where one party is a commercial organization, an association (a union) of commercial organizations, an association (a union) of commercial organizations and (or) individual entrepreneurs, a non-profit organization with a status of a self-regulatory organization in accordance with the laws of the Republic of Kazakhstan and (or) its shareholders (participants, members) (hereinafter referred to as corporate disputes):

- 1) associated with establishment, reorganization and liquidation of a legal entity;
- 2) associated with ownership of shares of joint stock companies, shares in the authorized capital of economic partnerships, shares of cooperative members, establishment of their encumbrances and fulfillment of the relevant resulting rights, except for disputes arising in relation with partition of inherited property or division of marital property containing shares of a joint stock company, shares in authorized capital of business companies and stockholdings of economic partnerships, shares of cooperative members;
- 3) on the demand of founders, shareholders, participants and members of legal entities (hereinafter as participants of a legal entity) for compensation of losses, caused to a legal person, invalidation of transactions conducted by a legal entity, and (or) application of the consequences of such transactions invalidity;
- 4) related to appointment or election, termination or suspension of authorities and responsibility of individuals, current or former members of legal entity management bodies, as well as disputes arising from civil relations between such individuals and the legal entity on fulfillment, termination or suspension of their authorities;
- 5) associated with issue of securities;
- 6) arising in connection with administering a register of holders of securities, taking into account the rights for shares and other securities, as well as disputes related to placement and (or) circulation of securities;
- 7) associated with invalidation of the state registration of shares issue;

- 8) on convocation of a general meeting of the legal entity participants;
- 9) on contestation of decisions, actions (inaction) of management bodies of the legal entity.
3. An act adopted by the state agency or its official may be disputed in court.
4. Courts adjudge cases of special action proceedings listed in Chapters 25 - 29 of this Code.
5. Courts adjudge cases of special proceedings listed in the Article 289 of this Code
6. Courts also adjudge cases involving foreign citizens, stateless persons and foreign organizations, foreign legal entities, companies with foreign participation as well as international organizations, unless otherwise provided by an international treaty, the law of the Republic of Kazakhstan or the parties' agreement.
7. Other cases referred to courts competence by the law shall be under the court's jurisdiction.

Footnote. Article 24 as amended by the Law of the Republic of Kazakhstan dated 11.01.2011 No. 385-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 25. Transfer of disputes to arbitration court

Property dispute under jurisdiction of a court may be transferred for resolution to arbitration court upon mutual agreement of the parties unless it is prohibited by legislative acts, and in accordance with subparagraph 4) of the Article 170 and Article 192 of this Code.

Article 26. Priority of jurisdiction of a court

1. When combining several associated claims, some of which are under jurisdiction of the court, and others are under jurisdiction of non-judicial bodies, all of the claims shall be adjudged in court.
2. If there is a doubt or conflict of the laws in force in regard of jurisdiction over a particular dispute, it shall be adjudged in court.

Article 27. Civil cases within jurisdiction of a district (municipal) court and other equal courts

Civil cases shall be considered and resolved by district (municipal) courts and other equivalent courts, except the cases envisaged in paragraph 8 of the Article 59 and in paragraph 3 of the Article 66 of the Constitutional Law of the Republic of Kazakhstan

"On Elections in the Republic of Kazakhstan", as well as in paragraph 5 of the Article 13 of the Constitutional Law of the Republic Kazakhstan "On the national referendum"

Footnote. Article 27 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 28. Civil cases within jurisdiction of regional courts and equivalent courts

Footnote. Article 28 is excluded by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 29. Civil cases within jurisdiction of the Supreme Court of the Republic of Kazakhstan

Footnote. Article 29 is excluded by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 30. Jurisdiction of specialized courts over civil cases

1. Specialized inter-district economic courts shall adjudge civil cases on property and other non-property disputes where related parties are citizens executing entrepreneurship without registering a legal entity, legal entities and on other corporate disputes.

1-1. Specialized district and equivalent administrative courts shall judge cases on contestation of rules of bodies (officials) authorized to judge cases on administrative offenses.

1-2. Military courts shall adjudge civil cases on appeal by military servants of the Armed Forces, other forces and military formations, by citizens undergoing reserve training of actions (inaction) of officials and military authorities. Military courts may adjudge other civil cases if either party is represented by a military servant, a military authority or a military unit.

1-3. Specialized inter-district juvenile courts shall adjudge civil cases on disputes for defining a place of residence of a child; on deprivation (restriction) and restoration of parental rights; on adoption of a son (adoption of a daughter); on forwarding minors to special educational organization or organizations with particular treatment; on disputes arising from tutorship and guardianship (patronage) of the minors in accordance with the matrimonial law of the Republic of Kazakhstan.

1-4. Specialized financial court shall adjudge civil cases on property and non-property disputes of a regional financial center participant as well as civil cases on

restructuring of financial institutions and organizations, members of a banking conglomerate having status of a parent organization and non-financial institution, in cases stipulated by the laws of the Republic of Kazakhstan.

2. Jurisdiction of civil cases to other specialized courts shall be defined by this Code.

Notice: If a specialized inter-district juvenile court is not formed in a respective administrative-territorial unit, cases referred under its jurisdiction may be adjudged by a regional (municipal) court.

Footnote. Article 30 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2001 No. 238; as amended by the Laws of the Republic of Kazakhstan dated 02.07.2003 No. 451, dated 30.12.2005 No. 111 (the order of enforcement see Article 2); dated 05.06.2006 No. 146 (the order of enforcement see Article); dated 05.07.2008 No.58-IV (the order of enforcement see Article 2); dated 05.07.2008 No. 64-IV (the order of enforcement see Article 2); dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 23.11.2010 No.354-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 01.03.2011 No. 414-IV (shall be enforced from 01.01.2010), dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 31. Filing suit at location of a defendant

A suit shall be filed to a court at the place of residence of a defendant. A suit against a legal entity shall be filed to a court at the place of a legal entity's registration.

Article 32. Jurisdiction at the choice of a plaintiff

1. A suit against a respondent with unknown place of residence or without a residence in the Republic of Kazakhstan may be filed to a court at respondent's property location or at respondent's place of residence last known.

2. A suit against a legal entity may be also filed to a court at its property location.

3. A suit resulting from activities of a branch or a representative office of a legal entity may be also filed to a court according at location of the registered branch or representative office.

4. Suits for alimony and paternity establishment may be filed by a plaintiff to a court at plaintiff's place of residence.

5. Suits for compensation of damage caused by injury or other harm to health, as well as death of a breadwinner may be filed by a plaintiff to a court at plaintiff's place of residence or at place of the injury.

6. Suits arising from contracts indicating a place of implementation may be filed a court at place of implementing the contract.

7. Divorce suits may be filed to a court at plaintiff's place of residence also when the plaintiff has minors, or when a plaintiff due to disability cannot be present at respondent's place of residence.

8. Suits for recovery of wages, pensions and benefits as well as suits for recovery of labor, pension and housing rights related to compensation of damages, caused to a citizen by unlawful conviction, unlawful criminal charges, unlawful use of a preventive measure or illegal imposition of an administrative penalty in the form of administrative arrest, may be brought at plaintiff's place of residence. Suits on contestation of rules on administrative penalties may be also filed to a court at plaintiff's place of residence.

9. Suits for protection of consumer rights can be filed to a court at plaintiff's place of residence or at place of contract fulfillment.

10. Suits for damages caused by collision of vessels as well as for recovery of compensations for assistance and rescue at sea may be filed also to a court according to plaintiff's location or vessel's home port location.

11. Selection of a court among other courts under which jurisdiction a case may be judged pursuant to the Article shall belong to a plaintiff except jurisdiction established by Article 33 of this Code.

Article 33. Exclusive jurisdiction

1. Claims for rights for land plots, buildings, facilities, and other objects permanently attached to land (real estate), release of property from the seizure, may be brought to the court according to the location of objects or the seized property.

2. Claims of creditors of a testator, brought to the court before acceptance of an inheritance by inheritors, are subject to the jurisdiction of the court according to the location of the inherited property or its main part.

3. Claims to the carriers, arising from contracts on transportation of goods, passengers or luggage, may be brought to the court according to the permanent location of the transport organization's office.

4. Claims for damages, caused by violation of jurisdictional immunity of the Republic of Kazakhstan and its property by a foreign state, are imposed to the court according to the location of a petitioner, unless otherwise stipulated by an international treaty of the Republic of Kazakhstan.

Footnote. Article 33 as amended by the Law of the Republic of Kazakhstan dated 05.02.2010 No. 249-IV.

Article 34. Agreed jurisdiction

The parties may agree mutually to change a territorial jurisdiction for a case. Jurisdiction provided by Article 33 of this Code shall not be changed by an agreement of the parties.

Article 35. Jurisdiction of several inter-connected cases

1. A suit against several defendants residing or located in different places shall be brought according to the place of residence or location of one of the defendants on the plaintiff's choice.

Requirements combined in one application subject to the jurisdiction of different courts shall be considered by a higher court to the jurisdiction of which one of the claims is related, provided that in accordance with the Article 171 of this Code a judge of the superior court shall make a decision on separation of these requirements.

2. A suit of a third party declaring an independent claim and a counter-claim, regardless of its jurisdiction may be brought to the court according to the place of consideration of the initial claim.

3. A lawsuit arising from a criminal case if it was not declared or not resolved as a civil proceeding in a criminal case, shall be presented for consideration in civil proceedings under the rules of jurisdiction, defined by this Code.

Footnote. Article 35 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 36. Transfer of cases from procedure of one court to another court

1. A case accepted by a court in accordance with the rules of jurisdiction shall be resolved effectively, even if in the future, it would fall under jurisdiction of another court.

2. A court sends the case to another court if:

1) a defendant, whose place of residence was not previously known, shall make an application to transfer the case to the court according to his place of residence;

2) after recusal of one or more judges, as well as based on other noteworthy circumstances, the change of judges or consideration of the case in this court becomes impossible;

3) during proceedings in this court it turned out that it has been accepted for production with violation of the jurisdiction rules;

4) a suit is brought to the court.

3. The parties' applications on lack of jurisdiction of the case to this court shall be resolved by this court. As for the matter concerning transfer of the case to another court a ruling shall be made. In cases stipulated by subparagraphs 2) and 4) of this Article, the ruling on transfer of this case shall be made by a judge of the superior court. The

court ruling on abandonment of the application on lack of jurisdiction of the case may be appealed to a higher court, decision of which shall be final and not subject to appeal. Transfer of cases from one court to another court shall be made after the term to appeal this ruling expires and in case of filing a petition - after making a decision on abandonment of the petition.

4. Disputes over jurisdiction between the courts shall be resolved by a higher court, decision of which shall be final and not subject to appeal.

Chapter 4. Composition of the court, recusals

Article 37. Composition of the Court

1. Civil cases in first-instance appellate courts shall be considered by a single judge acting on behalf of the court.

2. Civil cases stipulated by paragraph 8 of the Article 59 and paragraph 3 of the Article 66 of Constitutional Law of the Republic of Kazakhstan "On Elections in the Republic of Kazakhstan", as well as paragraph 5 of the Article 13 of the Constitutional Law of the Republic of Kazakhstan "On Republic Referendum", shall be considered by the judge acting on behalf of the court at his/her sole discretion.

3. Cases in cassation instance court or courts of appeal shall be considered by a collegial court. The collegial court shall include an odd (at least three) number of judges, one of whom shall be a chairperson, whose duties are performed by correspondingly performed by chairperson of regional court or chairperson of the relevant panel of Supreme Court of the Republic of Kazakhstan or one of the judges upon their instructions.

Footnote. Article 37 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 38. Procedure for resolving issues by collegial composition of the court

1. All judges have equal rights in consideration and resolution of cases by collegial composition of the court. All questions arising during consideration and resolution of the case by a collegial composition of the court shall be solved by the judges by a majority of votes. In addressing each question, none of the judges have a right to abstain from voting.

2. The chairperson shall make proposals, express his opinions and be the last to vote.

3. A judge who disagrees with the decision of the majority shall sign his decision and may write his dissenting opinion to be given to the chairperson and attached to the

case in a sealed envelope. A supervising instance court is enabled to read the opinion during consideration of the case. Persons participating in the case shall not be informed about presence of the opinion; the opinion is not disclosed in the courtroom.

Footnote. Article 38 as amended by the Laws of the Republic of Kazakhstan dated 11.07.2001 No. 238; dated 10.12.2009 No.227-IV (shall be enforced from 01.01.2010).

Article 39. Inadmissibility of second participation of a judge in consideration of a case

1. The judge who took part in consideration of a civil case in the first instance court cannot participate in consideration of the same case in the appeal, cassation or supervisory instance courts, as well as participate in a new consideration of the case in the first instance court, court of appeal in case of cancellation of the decision adopted by his participation.

2. The judge who took part in consideration of the case in the appeal court may not participate in consideration of the same case in the courts of first, cassation instance courts or courts of appeal, as well as participate in a new consideration of the case in the court of appeal in case of cancellation of the judicial act adopted by his participation.

3. The judge who took part in consideration of the case in the cassation instance court, cannot participate in consideration of the same case in first, cassation instance courts or courts of appeal.

4. The judge who took part in consideration of the case in the cassation or supervisory instance court cannot participate in consideration of the same case in mentioned instances in case of cancelation of the resolution adopted with his/her participation.

5. The judge who took part in consideration of the case in the supervisory instance court cannot participate at reconsideration of this case in appeal or cassation instance courts.

Footnote. Article 39 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 40. Grounds for recusal of judge

1. A judge may not participate in the proceedings and shall be subject to recusal if he:

1) in previous consideration of this case was involved as a witness, expert, specialist, interpreter, representative, court session secretary, law-enforcement official, bailiff;

2) is a relative of any of the persons participating in the case or their representatives ;

3) is personally, directly or indirectly interested in the outcome of the case or if there are other circumstances giving rise to reasonable doubts in his impartiality.

2. Composition of a court considering the case cannot include persons who are relatives to each other.

Footnote. Article 40 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 41. Grounds for recusal of prosecutor, expert, specialist, interpreter, secretary of a judicial session

Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

1. Grounds for recusal stipulated in the first part of the Article 40 of this Code shall also apply to prosecutor, expert, specialist, interpreter, and secretary of a judicial session.

2. Expert or specialist or interpreter also cannot participate in the proceedings, if:

1) he/she is or was in subordination or any other dependency on persons participating in the proceedings, or their representatives;

2) he/she audited materials, which formed a basis for referring to the court or are used in consideration of the civil case;

3) their incompetence was revealed.

3. Participation of a public prosecutor, expert, interpreter, secretary of a court session in a previous consideration of this case as a prosecutor, expert, interpreter, secretary of a court session shall not be a ground for their recusal. Previous participation in the case as an expert shall not be a circumstance disabling assigning to him/her to conduct an expertise upon the case, unless it is assigned again after the expertise conducted by him/her.

Footnote. Article 41 as amended by the Laws of the Republic of Kazakhstan dated 04.07.2006 No 151; dated 10.12.2009 No.227-IV (shall be enforced from 01.01.2010); dated 20.01.2010 No. 241-IV.

Article 42. Applications for recusal (self-recusal) and procedure of their settlement

1. In case of circumstances specified in Articles 40 and 41 of this Code, judge, prosecutor, expert, interpreter, secretary of the judicial session shall recuse himself/herself from a case. On the same grounds, recusal may be claimed by persons participating in the case.

2. Self-recusal and recusal shall be motivated and announced prior to the consideration of the case on its merits. During the proceedings a statement on self-recusal (recusal) shall be permitted only when the grounds for self-recusal (recusal)

) have become known to the court or a person, who claims for recusal, after commencement of the proceedings.

3. Recusal (self-recusal) declared to the judge, considering the case at his/her sole discretion, shall be considered by the chairperson of this court or another judge of this court, and in case of their absence - by a judge of the superior court.

4. When considering the case by court in collegial constitution, in case of application for self-recusal (recusal) of one of the judges, the court shall hear opinions of persons participating in the case, opinion of the recused judge, if he/she wishes to give explanations, and makes a decision on his/her recusal in absence of the recused judge. The judge shall be considered to be recused if the number of votes for and against recusal is equal. Recusal, claimed to several judges or the entire court shall be considered by the same court by a simple majority of votes.

5. Decision on rejection or satisfaction of recusal shall not be subject to protest. Arguments on disagreement with the court decision can be included in the appeal, cassation petitions or motions for reconsideration of the judicial act in procedure of judicial supervision, protests.

6. An issue on self-recusal (recusal) of prosecutor, expert, specialist, interpreter, secretary of the judicial session shall be settled by the court, considering the case.

7. An issue on self-recusal (recusal) shall be settled by the court decision.

Footnote. Article 42 as amended by the Laws of the Republic of Kazakhstan dated 11.07.2001 No. 238; dated 04.07.2006 No. 151; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 43. Consequences of granting the application for recusal (self-recusal)

1. In case of recusal (self-recusal) of the judges considering the case single-handedly in a regional or equivalent court, the same case shall be considered in the same court by another judge. The case shall be transferred to another court of the first instance by a higher court, if in the court considering the case the judge cannot be replaced.

2. In case of self-recusal or recusal of a judge or recusal of the entire composition of the court during the proceedings in the regional or equivalent court, Supreme Court of the Republic of Kazakhstan, the case shall be considered in the same court by another judge or other composition of judges.

3. The case shall be transferred to the Supreme Court of the Republic of Kazakhstan to define the court where it will be considered, if in the regional or equivalent court, after granting recusals and self-recusals or on the grounds specified in Article 39 of this Code, it is impossible to create a new composition of the court for consideration of this case, if the regional or equivalent court is a party to the court proceedings.

Footnote. Article 43 as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Chapter 5. Persons participating in the case

Article 44. Composition of persons participating in the case

Persons participating in the case shall be: third parties raising claims on the subject of the dispute; third parties not raising claims on the subject of the dispute; a prosecutor, state bodies, local government bodies, organizations or individual citizens entering the proceedings on the grounds prescribed by Articles 56 and 57 of this Code; applicants and other parties interested in cases, considered by the court in procedure of special proceedings (Article 289 of this Code).

Article 45. Civil procedure legal capacity

Ability to have civil procedure rights and obligations (civil procedure legal capacity) is equally recognized for all citizens and organizations being subjects of substantive law.

Article 46. Civil procedure legal capability

1. Ability to fulfill rights and perform duties in a court, assign conduction of a case to a representative (civil procedure legal capability) fully belongs to citizens over 18 and organizations.

2. Rights, freedoms and legitimate interests of underage persons from fourteen to eighteen year old, as well as citizens with limited legal capability, shall be protected in court by their parents or other legal representatives, but in such cases the court shall be obliged to involve the underage persons themselves or persons recognized to be the persons with limited legal capability, and prosecutor.

3. Rights, freedoms and legitimate interests of persons under fourteen years old, as well as citizens recognized to be incapable, shall be protected in court by their legal representatives, the prosecutor.

4. In cases stipulated by the law, upon the cases arising from civil, family, labor, cooperative, administrative and other legal relations and from transactions, related to distribution of salary or income received from business activities, the underage persons from fourteen to eighteen years old have right to defend their rights and legitimate interests in the court by themselves. Involvement of legal representatives of the underage persons to render support to them depends on the court discretion.

Footnote. Article 46 as amended by the Law of the Republic of Kazakhstan dated 29.12.2010 No. 374-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 47. Rights and obligations of persons participating in the case

1. Persons participating in the case have a right to get familiarized with the case files, make extracts from them and copy them; claim for recusals; present evidences and participate in their study; put questions to other persons participating in the case, witnesses, experts and specialists; make petitions, including ones requiring additional evidences; give oral and written explanations to the court; present their arguments on all issues arising in the case; oppose against motions and arguments of other persons participating in the case; participate in the judicial pleadings; get familiarized with the minutes of judicial session and submit written comments on it; appeal decision and rulings of the court; use other procedural rights stipulated by the law on civil proceedings. They shall conscientiously use all their procedural rights.

2. Persons participating in the case fulfill their procedural obligations, in case of non-fulfillment of which the consequences, stipulated by the laws on civil proceedings shall occur.

Article 48. The parties

1. The parties in civil proceedings are a plaintiff and a defendant. The plaintiffs are citizens and legal entities bringing suit to the court to defend their own interests or interests of other persons on behalf of whom the suit is brought. Defendants are citizens and legal entities against whom the suit is brought.

2. The parties may be organizations that are not legal entities in cases stipulated by the law.

3. A person in whose interests a suit is brought by persons legally entitled to apply to the court to protect rights, freedoms and interests of other persons, shall be informed by the court about the process and shall participate in it as a plaintiff.

4. The state can be a party to a civil proceeding.

5. The parties have equal procedural rights and take equal procedural duties

Article 49. Changing of grounds or subject of claim, abandonment of claim, admission of claim, settlement agreement, settlement of disputes in mediation procedures

Footnote. The title of the Article 49 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 08.05.2011).

1. A plaintiff has a right to change ground or subject of a claim, increase or decrease number of claims or abandon the claim. Changing of the ground for or the subject of the claim, increase or decrease of the scope of the stated claim or abandonment of the claim shall be made by filing a written application and are permitted prior to a decision of the first instance court. The defendant may admit the

claim; a receipt is taken from him/her to that extent. The parties may end the case with a settlement agreement or an agreement, settling a dispute in mediation procedure to be signed by the parties and approved by the court.

2. The court has no right to change the subject or the grounds of the claim on its own initiative. The court does not accept abandonment of the plaintiff's claim, admission of the claim by the defendant and does not approve a settlement agreement of the parties or the parties' agreement to settle the dispute in mediation procedure, if these actions contradict to the law or violate anyone's rights, freedom and legitimate interests.

Footnote. Article 49 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 08.05.2011).

Article 50. Participation of several plaintiffs or defendants in the proceedings

A claim can be made by several plaintiffs or several defendants. Each of the plaintiffs or defendants acts on an independent basis in relation to the other party. The parties may entrust the case to one of co-plaintiffs or co-defendants respectively.

Article 51. Replacement of improper defendant

1. The court, having found during preparation of a case or proceedings in the first instance court, that the claim has been made not to the person to be held liable upon the claim, upon the petition of the plaintiff, may allow replacement of an improper defendant by a proper one. After the replacement preparation and consideration of the case shall be conducted from the beginning.

2. If the plaintiff does not agree to replace the improper defendant by another person, the court considers the case according to the made claim.

Article 52. Third parties claiming own demands on the subject of dispute

Third parties claiming own demands to the subject of the dispute may enter the process prior to a decision of the first instance court by making a claim to one or both parties. They shall have all rights and obligations of a plaintiff.

Article 53. Third parties not claiming own demands on the subject of dispute

Third parties not claiming own demands on the subject of dispute may join the proceedings either on the part of plaintiff or defendant before the first instance court makes a decision on the case, if it may affect their rights or responsibilities with regard to either party. They may be involved to the proceedings at the request of the parties and other persons participating in the case or under the court's initiative. Third parties not claiming own demands shall have procedural rights and bear procedural obligations

of the party, except for the right to change the grounds and subject of the claim, increase or decrease the scope of the stated claim, as well as abandonment of the claim, admission of claim or settlement agreement, mediation procedure, filing a counterclaim, a requirement to enforce the court decision.

Footnote. Article 53 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No.402-IV (shall be enforced from 05.08.2011).

Article 54. Procedural legal succession

1. In case if either party leaves the disputable or legal relationship established by the court (death of a citizen, reorganization, liquidation of a legal entity, assignment, transfer of obligations and other cases of changing individuals in a material legal relations), the court allows replacement of the party by its successor. The succession shall be possible at any stage of the process.

2. All actions committed before the successor's joining the proceedings shall be obligatory to him/her/it to the same degree as they were obligatory to the replaced person.

Article 55. Prosecutor's participation in civil proceedings

1. On behalf of the state the General Prosecutor of the Republic of Kazakhstan directly and through subordinate prosecutors conducts the highest supervision over exact application of the law in civil proceedings.

2. The prosecutor's participation in civil proceedings is necessary when it is required by the law, when the need for his involvement in the case is recognized by the court, as well as in cases, initiated by the prosecutor, related to the state interests, reinstatement, recovery of wages, eviction of citizens from dwellings without giving alternative accommodation, compensation for harm, caused to life and health.

The prosecutor shall have right to enter the process on his own initiative or at the initiative of the court to give opinion on the case in order to perform his duties and to protect the rights, freedom and lawful interests of citizens, rights and legitimate interests of organizations, public or state interests.

The stated prosecutor's authorities shall be provided by timely notice of the prosecutor by the court about all claims assigned for consideration.

3. The prosecutor shall have right to initiate a claim and a statement on protection of rights, freedom and lawful interests of citizens, rights and legitimate interests of organizations, public or state interests. The prosecutor shall have right to make a claim regardless of requests and statements of interested persons to protect labor, housing and other rights and freedom of people in social area, as well as protection of interests of disabled citizens.

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

5. The prosecutor who made a claim shall have the same procedural rights and take all the procedural obligations of a plaintiff, except for the right for settlement agreement and a settlement agreement in mediation procedure. The prosecutor's renunciation of the claim made to defend interests of another person, does not deprive the person of the right to require consideration of the case.

6. The prosecutor representing interests of prosecutor bodies in the dispute as a plaintiff or a defendant shall use procedural rights and obligations of the party.

Footnote. Article 55 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 29.12.2010 No. 374-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Article 56. Judicial recourse to protect rights of other individuals, public and state interests

1. In cases stipulated by the law, state bodies and local governments, organizations or individuals shall have right to apply to the court to protect the rights, freedom and lawful interests of other persons at their request, as well as public or state interests. A claim on protection of interests of disabled citizens may be brought regardless of the request of the interested person.

2. The persons who made a claim to protect another person's interests shall have all procedural rights and obligations of a plaintiff, except for the right for a settlement agreement and a settlement agreement in mediation procedure. These bodies and individuals' renunciation of claim does not deprive a person (for whose interest the case was initiated) of the right to require consideration of the claim. If the person for interest of whom the case was initiated, does not support the stated claims, the court leaves the claim (application) without consideration, if it does not infringe the rights of third parties.

Footnote. Article 56 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Article 57. Participation of state and local self-government bodies to provide an opinion on the case

1. In cases stipulated by the law, state bodies and local self-government structures prior to the first instance court's decision shall have right to join the process on their own initiative, at the initiative of the parties participating in the case, as well as on the initiative of the court to provide an opinion on the case in order to fulfill their

obligations and to protect the rights, freedom and lawful interests of citizens' interests, public and state interests.

2. The bodies mentioned in this Article through their representatives shall have all rights of persons participating in case and provided in the Article 47 of this Code.

Chapter 6. Representation in the court

Article 58. Conducting of a case by representatives

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

2. Cases of organizations shall be conducted by their bodies, acting within their powers, provided by the law, other regulations or foundation documents, and their representatives, vested with appropriate powers. Heads of entities shall submit documents to the court, proving their official position or authority. The body of the legal entity shall have right to participate in the case along with another representative with appropriate powers.

Any competent person who has a duly executed authority to conduct the case in the court, based on the power of attorney, law, court decision or administrative act may be a representative in the court.

Article 59. Representation under instructions

Representatives under instructions in the court can be the following persons:

- 1) lawyers;
- 2) employees of legal entities - upon the cases of those legal entities;
- 3) authorized representatives of labor organizations upon the affairs of workers, employees and other persons, rights and interests of whom are protected by these labor organizations;
- 4) authorized representatives of the organizations, which are vested by the law, articles of association or regulation, to protect the rights and interests of the members of these organizations,
- 5) authorized representatives of the organizations which are vested by the law, articles of association or regulation, to protect the rights and interests of other persons;
- 6) one of the participants under instructions of other co-participants;
- 7) other persons, admitted by the court at the request of the persons participating in the case.

Article 60. Persons who cannot be representatives in the court

1. Judges, investigation officers, prosecutors and deputies of representative bodies cannot be representatives in the court, unless they participate in the process as the authorized representatives of the relevant organizations or legal representatives.

2. The lawyers accepted an instruction to render legal assistance with violation of requirements of legislation of the Republic of Kazakhstan on advocacy, may not be representatives in the court.

3. A person may not be a representative if upon this case he/she renders or earlier rendered legal assistance to persons whose interests contradict to the interests of the represented person, or if he/she took part in the case as a judge, prosecutor, expert, specialist, interpreter, witness, and if he/she is a relative to the official, participating in the proceedings.

Footnote. Article 60 as amended by the Law of the Republic of Kazakhstan dated 11.12.2009 No. 230-IV (shall be enforced from 01.01.2010).

Article 61. Powers of a representative

1. Authorities to conduct a case in the court provide a representative with a right to conduct all proceedings on behalf of the person he/she represents, except for signing of statement of claim, transfer of the case to intermediate or arbitration court, making an agreement on mediation or settlement agreement in the procedure of mediation, a full or partial abandonment of the claim and admission of the claim, changes in the subject or the grounds for a claim, a settlement agreement, transfer of authorities to another person (substitution), appeal of the court order, requirements for enforcement of court orders, receiving property or money.

2. The representative's authorities, mentioned in the first part of this Article shall be specifically specified in power of attorney, given by the person, he/she represents.

Footnote. Article 61 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011); dated 17.02.2012 No. 565 -IV (shall be enforced from 01.07.2012).

Article 62. Registration of a representative's authorities

1. The representative's authorities shall be expressed in a power of attorney and executed in accordance with the law.

2. The authorized representatives of labor organizations and other organizations shall provide the court with the documents verifying assignment to conduct representation upon this case (subparagraphs 3), 4) and 5) of the Article 59 of this Code).

3. The attorney's powers to conduct a particular case shall be certified by an order issued by a legal counsel or law firm, and by the presidium of the Bar Council if he/she works individually without registration of a legal entity.

4. A power of attorney on behalf of an entity shall be given by the head of the legal entity or by other authorized person.

5. The representative's powers, defined in subparagraphs 6) and 7) of the Article 59 of this Code shall have right to be expressed in the power of attorney or in an oral statement of a trustee during the proceedings, recorded in the minutes of the judicial proceeding.

Footnote. Article 62 as amended by the Law of the Republic of Kazakhstan dated 28.12.2011 No. 523-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 63. Legal representatives

1. Rights, freedoms and legitimate interests of the disabled people, people who do not have full legal capacity or those recognized to be impaired shall be protected in the court by their parents, adoptive parents, foster parents or other persons replacing them submitted the documents proving their authorities to the court.

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

3. As for the case in which a heir of a person died or declared to be dead in the prescribed manner shall have to participate, in case if his/her inheritance is not yet adopted, a holder or a trustee, appointed for protection and management of the inherited property acts as a representative of the heir.

4. The legal representatives on behalf of the represented persons shall conduct all proceedings, the right for which belongs to the represented persons with the limitations prescribed by the law. Legal representatives shall have right to entrust the case to another representative.

Footnote. Article 63 as amended by the Law of the Republic of Kazakhstan dated 25.03.2011 No. 421-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 7. Evidence and proof

Article 64. Evidence

1. Evidences in the case are actual data received on a legal basis, on the basis of which the court determines presence or absence of circumstances justifying

requirements and objections of the parties and other circumstances important for proper resolution of the case.

2. These actual data are established by explanations of the parties and third parties, witnesses, material evidence, expert opinions, minutes of proceedings, minutes of court sessions, reflecting progress and results of legal proceedings and other documents.

Footnote. Article 64 is amended by the Law of the Republic of Kazakhstan dated July 4, 2006 No. 151.

Article 65. Obligation to prove

Each party shall prove the circumstances they use as grounds for their claims and objections.

Article 66. Introduction of evidences

1. The evidences shall be submitted by the parties and other persons participating in the case.

2. Circumstances required for proper solution of the case shall be defined by the court on the basis of requirements and objections of the parties, other persons participating in the case, taking into account application of substantive and procedural law.

3. The court shall have right to offer to the parties and others persons participating in the case to provide additional evidence, required for proper solution of the case.

4. In case if presentation of evidence to the parties and other persons participating in the case is difficult, the court provides assistance in taking evidence upon their petition.

5. The petition for requiring an evidence shall state the evidence and indicate what circumstances related to the case may be established or refuted by this evidence, reasons preventing obtaining of independent evidence and its location.

6. If necessary, the court shall issue to the person, who made the petition, relevant letter of inquiry to receive an evidence. The person possessing the proof, sends it directly to the court or gives it to the person having an appropriate petition to submit it to the court. Evidence of corporate disputes should be requested only by the court and be sent directly to the court.

7. Officials or other persons from whom the court requires to submit the evidence, unable to provide evidence to the court at all or during the period set by the court, shall notify the court outlining the reasons within five days from the day the court request is received.

8. In case of failure to notify and if the court's requirement to submit the evidence to the court is not satisfied for reasons, found by the court to be disrespectful, the guilty

officials or other persons not participating in the case shall be subject to administrative penalties in accordance with legislation on administrative offenses.

9. Imposition of an administrative penalty shall not release the person possessing the evidence from the obligation to submit it to the court. In case of willful failure to execute the court's requirements those persons shall be subject to criminal liability.

10. If a party holds evidence, required by the court and does not submit it at the court's request, it is assumed that the contained information is directed against the interests of this party and shall be deemed to be acknowledged by it.

Footnote. Article 66 as amended by the Law of the Republic of Kazakhstan dated 05.07.2008 No. 58-IV (the order of enforcement see Article 2).

Article 67. Relevance of evidence

The evidence shall be recognized to be relevant by the court, if it is the actual data confirming, refuting or discrediting conclusions on existence of circumstances relevant to the case.

Article 68. Admissibility of evidence

1. The evidence shall be considered valid if it is received in accordance with this Code.

2. Circumstances of the case to be proved by certain evidence according to the law, cannot be proved by any other evidence.

Article 69. Actual data inadmissible as evidence

1. Actual data shall be recognized by the court to be inadmissible as evidence, if they are received with violation of the law by deprivation or constraint of legal rights of persons participating in the case, or with violation of other rules of civil procedure during preparation of the case for the proceedings or during the proceedings, that have affected or could affect reliability of the data received, including:

- 1) use of violence, threats, deception, as well as other illegal actions;
- 2) use of wrong belief of a person participating in the case about his/her rights and obligations arising out of incomplete or incorrect interpretation to the person;
- 3) in connection with of a procedural action conducted by a person with no right to conduct the civil case;
- 4) in connection with participation in the proceeding of a person, subject to recusal;
- 5) with considerable violation of the proceedings order;
- 6) from an unknown source or from a source that cannot be discovered in the court;
- 7) use of methods that contradicting to modern scientific knowledge.

2. Inadmissibility of using of actual data as evidence, as well as possibility of their limited use during the case proceedings shall be established by the court under its own initiative or upon petition of the persons participating in the case.

3. Evidence received with violation of the law shall be deemed invalid and may not be used as a ground for judgment and as an evidence relevant to the case.

4. Actual data received with violations, specified in the part one of this Article may be used as evidence of the fact of violation and culpability of the persons committed them.

Article 70. Credibility of evidence

The evidence shall be considered reliable if an examination shows that it is true.

Article 71. Grounds to release from proving

1. Circumstances recognized by the court to be publicly known, do not need to be proved.

2. Circumstances established by the resolution of the court came into legal force upon the previously considered civil case, shall be binding for the court and do not need to be proved again in the proceedings of other civil cases where the same persons participate.

3. The judgment of the court came into legal force, which recognizes the right to satisfy the claim shall be obligatory for the court considering the case on the civil and legal consequences of the person's actions, against whom the judgment of the court has been enforced. The judgment of the court came into legal force shall be obligatory for the court considering such civil case, as well as for the issues whether these actions took place and whether they have been committed by this person, as well as regarding other circumstances established by the judgment and their legal evaluation.

4. Facts assumed to be established according to the law shall not be proved in the proceedings of a civil case. Such assumption can be refuted by the general procedure.

5. Circumstances shall also be deemed established without evidence, if within the frames of the proper legal procedures the contrary is proved:

1) correctness of the methods generally accepted in modern science, technology, art and craft;

2) persons' knowledge of the law;

3) knowledge of his or her official and professional obligations;

4) lack of specialized training or education of a person not submitted documents to confirm it and not specified educational institution or any other institution where he/she had received special training or education.

Article 72. Court orders

1. The court considering the case, in the event if the petition of the person participating in the case concerning necessity to gather evidences in another city or region has been satisfied, assigns to a relevant court to conduct certain procedures.

2. The court considering the case, in the event if the petition of the person participating in the case concerning necessity to gather evidences in another country with which the Republic of Kazakhstan has an agreement on legal assistance, has been satisfied sends a request in accordance with the provisions of this agreement.

3. The court order contains the essence of the case, information about the parties, circumstances to be clarified, evidence that the court, implementing the order shall collect. This letter is obligatory for the court, to which it was sent and shall be completed within ten days from the moment it is received.

Article 73. Procedure for enforcing the court order

1. Enforcement of the court order shall be performed in the proceedings in accordance with the rules established by this Code. Persons participating in the case shall be notified of the time and place of the proceedings, but their absence shall not be an obstacle to enforce the order.

2. Minutes and all the collected materials shall be immediately sent to the court considering the case.

3. If the persons participating in the case or witnesses, who shall have given explanations or testimony to the court that enforced the order, come to the court considering the case, they shall provide explanations and evidence in a general procedure.

Article 74. Perpetuation of evidence

1. Persons participating in the case, having reasons to apprehend that presentation of evidence necessary for them will become impossible or difficult, can requests the court to perpetuate this evidence.

2. Perpetuation of evidence shall be provided by examination of witnesses, expertise, inspection on the spot and other methods.

Article 75. Application on perpetuation of evidence

1. Application on perpetuation of the evidence shall be brought to the court based on territorial principle, where perpetuation of evidence should be provided.

2. The application on perpetuation of evidence shall contain evidence to be perpetuated, circumstances to confirm which these evidences are required, reasons impelling the applicant to apply for perpetuation of evidence, as well as the case for which the evidence is required for.

3. Upon the results of the consideration of the application on perpetuation of evidence the court renders a ruling. A private petition may be filed in case if the judge refuses to accept the application.

Article 76. Procedure for perpetuating the evidence

1. Perpetuation of evidence is provided by the judge in accordance with the rules established by this Code.

2. Perpetuation of evidence prior to the proceedings shall be conducted by a public notary or consular officials in procedure stipulated by the law.

3. The applicant and other persons participating in the case shall be notified of the time and place of perpetuating the evidence, but their absence shall not be an obstacle to consider the application for perpetuating the evidence.

4. Minutes and all data collected in order to provide evidence shall be submitted to the court considering the case, with notification of the persons participating in the case.

Article 77. Evaluation of evidences

1. Each proof shall be subject to evaluation in terms of relevance, admissibility, reliability and all the evidence jointly - sufficiency to settle the civil case.

2. In accordance with Article 16 of this Code, the judge evaluates the evidence by his/her inner conviction.

3. Cumulative evidence shall be recognized to be sufficient to settle the civil case, if relevant, admissible and credible evidence is collected, establishing the truth conclusively of all and each of the circumstances, subject to proof or not refuted by a party.

Article 78. Explanations of the parties and third persons

1. Explanations of the parties and third persons about circumstances, relevant to the case, shall be subject to investigation and evaluation, along with other evidences.

2. Explanations of these persons may be oral or written.

3. Recognition of facts upon which the other party bases its claims or defenses, releases the latter party from necessity to further prove these facts. Recognition of the fact shall be entered into the records of the proceedings and signed by the party recognized the fact. If the recognition is in a written statement, it shall be attached to the case.

4. If the court has doubts that recognition of the facts has been committed to conceal real facts of the case or under the fraud, violence, threats or confusion, the court shall not accept the recognition and renders a ruling on it. In this case, these facts are subject to proving on general grounds.

Article 79. Testimony

1. Witness can be anyone who knows any information about circumstances relevant to the case. The testimony of a person shall not be deemed proof if he/she cannot specify the source of information.

2. The following persons cannot be examined as a witness:

1) Persons who due to their young age, physical or mental disabilities, are not able to perceive facts and provide accurate testimony about them, except for cases on childbearing;

2) representatives upon the civil case or criminal defense lawyers - concerning the circumstances disclosed to them when performing duties as a representative or defense lawyer;

3) a judge - about the issues arising in the conference room during discussion of the facts when making a decision or judgment;

3-1) adjudicator or arbitrator - about the circumstances disclosed when performing duties as an adjudicator or arbitrator;

3-2) mediator - about the circumstances became known to him/her during mediation procedures except for cases stipulated by the law;

4) clergy - about the circumstances became known from persons made a confession ;

5) other persons specified by the law.

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

4. An applicant, motioning to summon witness shall be obliged to tell his last name , first name and place of residence or place of work, and justify the need for this witness's examination.

Footnote. Article 79 as amended by the Laws of the Republic of Kazakhstan dated 28.12.2004 No. 24; dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Article 80. Obligations and rights of a witness

1. A person summoned as a witness shall have to come to the court at the fixed time and give truthful testimony.

2. A witness shall have right to be questioned by the court in the place of his stay, if due to illness, old age, disability or other reasonable excuse he/she is unable to come to the court.

3. Perjury and refusal or avoidance to testify on the grounds not stipulated by the law, brings responsibility in accordance with the Articles 352, 353 of the Criminal Code of the Republic of Kazakhstan.

4. A witness shall have right for reimbursement of expenditures related to summons to the court and may receive financial compensation for loss of time. The size of expenditures and compensations is determined by the legislation of the Republic of Kazakhstan.

Article 81. Written evidence

Written evidence is the acts, documents, business or personal letters containing data on circumstances relevant to the case.

Article 82. Procedure of collecting written evidence

1. Written evidence may be submitted by the parties and other persons participating in the case and demanded by the court at their request.

2. Documents shall be deemed to be the evidence, if the information, provided and certified by organizations and officials, is relevant to the civil proceedings. The documents may include materials containing computer information, photos, film, sound and video recordings, obtained, claimed or submitted in the order, provided in Article 66 of this Code.

3. A person motioning to the court to require written evidence from the persons participating or not participating in the case shall define the proof, indicate obstacles to get the evidence by themselves and the reasons why he/she thinks that this person shall have this evidence.

4. Written evidences demanded by the court from citizens or legal persons shall be sent directly to the court.

5. The court may issue a request for the right to receive written evidence for its subsequent submission to the court to the applicant, applying for demanding of written evidence.

Article 83. Obligation to submit written evidence to the court

1. Persons, unable to provide the required written evidence or to present it in terms, set by the court, shall notify the court, stating the reasons.

2. In case of failure to notify the court, and if the court's demand to submit the written evidence is not satisfied for unreasonable excuse, the persons, participating in the case, are subject to a fine amounting to ten monthly calculation index (MCI) and in case of non-fulfillment of subsequent court claims - a fine amounting to 20 MCI (monthly calculation index). Imposition of a fine does not relieve a person, restraining the written evidence, from the obligation to submit the claimed things to the court.

3. Written evidence is usually presented in original version. If a copy of the document is provided, the court may, if necessary, require submission of the original version.

Electronic documents, certified by digital signatures, are equivalent to written documents in the original, except for cases when the law of the Republic of Kazakhstan does not allow the use of an electronic document only.

Footnote. Article 83 as amended by the Law of the Republic of Kazakhstan dated 15.07.2010 No. 337-IV (the order of enforcement see Article 2).

Article 84. Inspection and study of written evidence at the storage area

In case if it is difficult to submit the written evidence to the court, the court shall have right to require to submit duly attested copies and extracts, or to inspect and study written evidence at the place of their storage.

Article 85. Return of original written evidence

1. Original written evidence, as well as personal letters, available in the case, at the request of those, submitting them, can be returned to them after the court decision enters into legal force. An attested copy of the written evidence, certified by the judge is left in the case.

2. Prior to the decision's entry into legal force, the written evidence may be returned to the persons submitted them, if the court finds it to be possible.

Article 86. Physical evidence

Items shall be recognized as material evidence, if there are reasons to believe that they their appearance, properties or other characteristics may help to establish circumstances relevant to the case.

Article 87. Storage and inspection of material evidence

1. Physical evidence is stored in the case or on a special inventory list may be submitted to the locker of material evidence. The court takes measures to preserve evidence in the same state.

2. Items that cannot be delivered to the court shall be kept in their place of location. They shall be inspected by the court, described in the minutes, and, if necessary, photographed and sealed. Minutes of the inspection of physical evidence shall be attached to the case.

3. Expenditures for storing of physical evidence can be distributed between the parties in accordance with Article 110 of this Code.

Article 88. Inspection of physical evidence subject to rapid deterioration

1. Evidence, subject to rapid deterioration, shall be immediately inspected and examined by the court, and then returned to the person submitted them for examination

2. Place and time of the inspection and investigation of such evidence shall be informed to the persons participating in the case if they can arrive at the place of the physical evidence's location at the time of inspection. Absence of the persons participating in the case does not preclude examination and investigation of the physical evidence. Data on inspection and investigation is recorded in the minutes.

3. Inspection of perishable physical evidence and recording of the results shall be conducted in procedure stipulated by second and third parts of the Article 87 of this Code

Article 89. Disposal of material evidence

1. Material evidence, except for the evidence stipulated by part one of the Article 88 of this Code, shall be returned to the persons from whom they were received or transferred to persons, who has right to possess these items or shall be exercised in the procedure determined by the court.

2. Items that in accordance with the law cannot be in citizens' possession shall be submitted to the relevant organizations.

3. Material evidence after its inspection and investigation by the court may be returned to the persons from whom they were received before the end of the case, if they request about it and if its satisfaction does not preclude proper settlement of the case.

4. The court makes a decision concerning disposal of material evidence.

Footnote. Article 89 as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 90. Scientific and technological facilities in proving process

1. Scientific and technological facilities in the process of proving upon the case may be used by the court, the parties, as well as experts and specialists in performing their procedural obligations stipulated by this Code.

2. The court may invite an expert to facilitate use of scientific and technological facilities.

3. Application of scientific and technical facilities considered acceptable if they are :

- 1) stipulated by the law and do not contradict to the norms and principles;
- 2) scientifically valid;
- 3) provides efficiency of the case proceedings;

4) safe.

4. Results of covert use of scientific and technical facilities, except for those cases, when such use is permitted by the law, cannot be used as evidence.

5. Use of scientific and technical facilities shall be fixed by a certificate, stipulated by the party or by a minutes of relevant procedural action, conducted by the court or the records of the proceedings, stating the data of scientific and technical facilities, conditions and procedures of their application, and objects to which these facilities were applied and results of their application.

6. Study, storage of documents and other materials, received with the help of scientific and technical facilities and their disposal shall be implemented in accordance with Articles 87 and 89 of this Code.

Footnote. Article 90 as amended by the Law of the Republic of Kazakhstan dated 20.01.2010 No. 241-IV.

Article 91. Appointment of expertise

1. An expertise shall be appointed in cases if the circumstances significant for the case may be established as a result of investigating its facilities, conducted by the expert on the basis of special scientific knowledge. Availability of such knowledge at other persons participating in civil proceedings does not release the court from appointment of an appropriate expertise, if necessary.

2. Presence of acts of audits, inspections, conclusions of departmental inspections, as well as written consultations of specialists, appraiser's report shall not replace the expert's opinion and shall not exclude the possibility to appoint a judicial examination on the same issues.

3. The court shall appoint the expertise upon the petition of the party or under its own initiative.

4. A person not interested in the case with special scientific knowledge can be involved in the case as an expert. A judicial expertise can be conducted by:

- 1) specialists of judicial expertise bodies;
- 2) persons, conducting forensic activity on the basis of a license;
- 3) other persons on one-time basis in accordance with the requirements of the law.

5. Persons participating in the case may request the court to assign conduction of an expertise to a specific person, possessing necessary scientific knowledge.

6. Conduction of the expertise can be assigned to a person among other persons proposed by the persons participating in the case. The court's requirement to summon the person, charged with fulfillment of the expertise is obligatory for the head of the organization, where the person works.

7. Each person participating in the case, shall have right to submit to the court questions to be put to the expert. Scope of questions upon which the expert should

make a conclusion shall be finally determined by the court. Rejection of the proposed questions shall be motivated by the court. The court's ruling on appointment of an expertise may be appealed or protested.

8. If a party evades participating in conduction of the expertise or obstructs its conduction (does not come to expertise, does not provide the experts with necessary materials, does not provide possibility to examine the facilities owned by him/her that are impossible or difficult to present to the court), and under circumstances of the case it is impossible to conduct expertise without participation of such party, the court, depending on which party is evading the expertise, as well as its value for it, shall have right to recognize the fact to clarify which the expertise has been appointed, to be established or refuted.

9. The court makes a ruling to appoint an expertise.

10. The ruling on appointment of the expertise shall include: name of the court, time, location of the expertise; names of the parties upon the case considered; of examination; grounds for expertise; objects sent for examination and information about their origin, as well as permission for a possible full or partial destruction of these objects, changing of their appearance or basic properties during the expertise; name of the judicial expertise body and (or) the name of the person, entrusted with conduction of the judicial expertise. The court ruling on appointment of the expertise is obligatory to authorities or persons to whom it is addressed and is included in their competence.

Footnote. Article 91 as amended by the Laws of the Republic of Kazakhstan dated 06.11.2001 No. 251; dated 20.01.2010 No. 241-IV.

Article 91-1. Obtaining of samples

1. The judge shall have right to obtain samples, including those, reflecting properties of an alive person, a corpse, animal, substance, a thing, if their examination is important for the case.

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

3. A motivated determination shall be made on receipt of samples, which shall include: a person who will obtain the samples; a person (organization) who should give the samples; kinds of samples and number of samples; when and to whom should come a person to obtain the samples; and when and to whom the samples should be submitted after their obtaining.

4. The samples can be obtained by the judge personally and if necessary with participation of a physician or another healthcare professional, unless it requires baring of a person of opposite sex, from whom the samples are taken, and if it does not require special skills. In other cases, samples can be obtained by a doctor or other medical specialist at the request of the judge.

5. The judge, expert, doctor or other specialist shall have right to obtain samples.
6. In cases when obtaining of samples is a part of the expert study, it can be conducted by an expert.
7. Samples may be obtained from the parties, as well as from third persons.
8. The judge summons a person, familiarize him with the decision on receiving the samples, explains him/her and other persons participation in the proceedings, their rights and responsibilities.
9. The judge personally or with participation of specialists conducts the necessary actions, obtains the samples, packs and seals them.
10. The results of obtaining samples shall be recorded in the minutes of the proceedings (judicial session), describing actions taken to obtain the samples in a consequence in which they were made, applied research and other methods and procedures, as well as the samples themselves.

Footnote. The Chapter is supplemented by Article 91-1 by the Law of the Republic of Kazakhstan dated July 4, 2006 No. 151.

Article 91-2. Obtaining samples by a physician or other specialist, as well as expert

1. The judge sends a person, from whom the samples shall be obtained, to a doctor or other specialist with a ruling containing the relevant instruction. The ruling shall specify the rights and responsibilities of all participants of the action in the proceedings.
2. A doctor or other specialist upon the judge's instructions shall make necessary actions and obtain the samples. The samples shall be packed and sealed and then sent to the judge jointly with an official document, drawn up by the doctor or other specialist.
3. During the study experimental samples can be made by the expert to be informed by him/her in his/her conclusion.
4. The judge shall have right to be present during preparation of such samples, that shall be recorded in the minutes, drawn up by him/her.
5. After the study is conducted the expert attaches the samples to his/her conclusion in a packed and sealed form.
6. If the samples are obtained upon the judge's instruction by a specialist or an expert, he/she is to issue an official document to be signed by all participants of the action in the proceedings and submitted to the judge for attaching to the case.
7. The sealed and packed samples shall be attached to the minutes.

Footnote. The Chapter is supplemented by Article 91-2 by the Law of the Republic of Kazakhstan dated July 4, 2006 No. 151.

Article 91-3. Protection of individual rights in obtaining samples

Methods and scientific-technical facilities of obtaining the samples should be safe for human life and health. Use of complex medical procedures or methods that cause severe pain shall be permitted only with written consent of the person from whom the samples should be obtained, and if he/she is underage and has mental illness, written consent of his/her legal representatives shall be received.

Footnote. The Chapter is amended by Article 91-3 by the Law of the Republic of Kazakhstan dated July 4, 2006 No. 151.

Article 92. Rights and obligations of the expert

1. The expert shall have right: to get familiarized with the case related to the subject of the expertise; to make petitions on submission of additional materials to him/her required to give an opinion; to participate in proceedings and the court session under the court's permission and ask questions to the participating persons with regard to the subject of the expertise; to get familiarized with the minutes of the procedure, in which he/she participated, and in the relevant part with the records of the court session and make notes to be included in the minutes regarding completeness and correctness of recording of his actions and statements; upon agreement with the court appointed the judicial expertise, to give opinion on circumstances, identified during the forensic investigation relevant to the civil case going beyond the issues on appointment of the judicial expertise; to submit opinion and to testify in his/her own language or language that he/she speaks; to use an interpreter's assistance free of charge; to state recusal of the interpreter; to appeal decisions and actions of the court and other persons participating in the proceedings infringing his rights during the expertise; to get reimbursement of the expenses incurred during the expertise and receive compensation for the work done if conducting of forensic examination is not a part of his/her official obligations.

2. The expert shall have not rights: apart from the court to negotiate with persons participating in the case on issues related to the expertise; collect materials independently for an expert study; conduct research that could lead to total or partial destruction of objects, changing of their appearance or basic properties unless it is specially permitted by the court appointed the expertise.

3. The expert shall be obliged: to come to the court's summon to appear, to conduct a comprehensive, full and objective investigation of the objects presented to him/her, to give a justified written conclusion on the questions put to him/her; to refuse to give an conclusion and make a motivated written notice concerning impossibility to give the conclusion and send it to the court in cases stipulated by Article 97 of this Code; to testify on issues related to the conducted expertise and the conclusion; to ensure safety of the examined objects; not to disclose information about circumstances of the case

and any other information that he/she might have learnt in connection with the conducted expertise.

4. The expert shall be brought to criminal responsibility for giving a false conclusion.

5. The expert who is an employee of a judicial expertise body shall be deemed to be familiar with his/her rights and obligations and warned of criminal liability for giving knowingly false conclusion.

Footnote. Article 92 is in the wording of the Law of the Republic of Kazakhstan dated 20.01.2010 No. 241-IV.

Article 93. Procedure of conducting an expertise

1. The expertise shall be conducted in the court or out of the court depending on nature of the study or impossibility or difficulty to deliver the objects for studying at the court session. During the expertise its objects under permission of the court appointed the expertise may be damaged or used only to the extent that is necessary to conduct the studies and provide an opinion. The stated permission shall be contained in the ruling on appointment of the judicial expertise or motivated ruling on satisfaction of the judicial expert's petition or a partial rejection of his/her petition.

2. Reliability and admissibility of the objects of the expert conclusion shall be guaranteed by the court.

3. The objects of the expert studies, if their dimensions and properties allow, shall be submitted to the expert in the packed and sealed form. In other cases, the court appointed the expertise, shall ensure transfer of the expert to the place of the objects expertise, easy access to them and conditions necessary to study.

4. The persons participating in the case shall be entitled to be present during the expertise, except for the cases when the presence in the out of the court examination can encumber normal work of the experts. In case if the court satisfied the request concerning participation of the persons participating in the case, the stated persons shall be notified of the location and time of the expertise. Absence of the notified persons shall not encumber the expertise.

5. In case if the persons participating in the case are present during the off-court expertise, mandatory participation of a court bailiff shall be determined by the court.

6. When assigning the expertise to a forensic body the court shall send a ruling concerning appointment of the expertise and necessary materials to its head. The expertise shall be performed by a specialist of judicial forensic body specified in the ruling. If a particular expert is not specified in the ruling, the choice shall be made by the head of the judicial forensic body, and the court appointed the expertise shall be informed to that extent.

7. A head of the judicial forensic body may: return to the court the facilities presented for expertise by specifying the reasons of failure to perform the ruling on appointment of the expertise without its execution in the following cases: if this body has no forensic expert with specialized scientific knowledge, material and technical tools and conditions to solve specific problems; if questions put to the expert, are beyond his/her competence; if materials for the expertise have been provided with violation of the provisions of this Code; present petition to the court concerning inclusion of persons not working in the forensic expertise to the commission of forensic experts, if their special scientific knowledge is needed to give the conclusion.

A head of the forensic body shall have other rights stipulated by the law.

8. Head of the judicial forensic body may not: require objects necessary for its fulfillment without ruling on appointment of the expertise; under his/her own initiative and without the court's consent to involve the persons not working in this institution; to give instructions to the expert predetermining content of specific conclusions of the expertise.

9. Head of judicial forensic body shall have to: once a ruling on appointment of the judicial expertise and objects to be examined are received, to entrust production of the expertise to a particular expert or a commission of legal experts of judicial forensic body in accordance with the law requirements; without violating the principle of independency of the expert, to ensure control over compliance with the expertise terms, completeness and objectivity of the research, preservation of forensic facilities; not to disclose information became known to him/her in connection with organization of the expertise.

10. If an expertise is to be conducted by a person who is not a member of the judicial forensic body, the court shall ascertain his/her identity and absence of grounds for his/her disqualification in accordance with the Article 41 of this Code.

11. The court makes a ruling on appointment of the expertise, hands it over to an expert, explains him/her his/her rights and obligations under Article 92 of this Code and warns of criminal liability for giving knowingly false conclusion. After fulfilling these actions the court makes a note in the ruling on appointment of the expertise to be certified by the expert's signature. Likewise, statements made by the expert and his/her petition shall be recorded. The court makes a motivated decision on rejection of the expert's petition.

12. Reimbursement of expenses related to the expertise, as well as payment of the expert's work shall be conducted in accordance with the Article 108 of this Code.

Footnote. Article 93 is in the wording of the Law of the Republic of Kazakhstan dated 20.01.2010 No. 241-IV.

Article 94. Individual and commission expertise

1. Production of an expertise shall be carried out individually or by a commission of experts.

2. A commission expertise shall be appointed in cases of necessity of complex expert examinations and shall be conducted by at least two experts of the same specialty.

3. During a commission forensic expertise, each of the court experts independently conducts a forensic expert study in full. Members of the expert commission jointly analyze the results and by coming to a consensus, sign a conclusion or a note on impossibility to make a conclusion. In case of disagreement between the experts, each of them or a part of the experts gives a separate conclusion, or an expert, whose conclusion is opposite to the conclusions of other members of the commission, gives his/her own conclusion to be recorded separately.

4. The court's ruling on conduction of the commission examination is mandatory for the head of the judicial forensic body. The head of the judicial forensic body shall have right to make a decision on conducting of a commission expertise on the submitted materials and organize its fulfillment.

Footnote. Article 94 as amended by the Law of the Republic of Kazakhstan dated 20.01.2010 No. 241-IV.

Article 95. Comprehensive expert examination

1. A comprehensive expert examination shall be appointed in cases when to establish the circumstances relevant to the case, studies on different branches of knowledge are required, and shall be conducted by experts of various specialties within their competence.

2. Conclusion of the expert examination shall specify what studies have been done by each expert and scope of their work and his/her conclusions. Each expert signs that part of the conclusion which contains his/her studies.

3. Taking into account results of the studies conducted by each expert, they have to make a general conclusion (conclusions) about the circumstance to establish which the expertise has been appointed. The general conclusion (conclusions) shall be made and signed by the experts competent in assessing the results. If the grounds of a final conclusion or its part are the facts, established by one of the experts (individual experts), it shall be stated in the conclusion.

4. In case of disagreement between the experts their conclusions shall be made in accordance with the part three of the Article 94 of this Code.

5. Organization of an expert examination, assigned to the judicial forensic body shall be entrusted on its head. The head of the judicial forensic body shall have right to make a decision on conducting of a commission expertise on the submitted materials and organize its fulfillment.

Article 96. Expert conclusion

1. An expert's conclusion is findings submitted in written form stipulated by this Code upon issues put to the expert by the court or the parties, based on the studying of expertise objects, conducted with the use of special scientific knowledge.

2. The conclusion shall be drawn up by the expert (experts) on his/her(their) behalf after necessary studies have been conducted, taking into account its results, certified by his/her (their) signature and a personal seal and sent to the court appointed the expertise. In case of conducting the expertise by a forensic body, a signature of expert (s) is sealed by the body.

3. The expert's conclusion shall include: date of registration, terms and place of the expertise; grounds for judicial expertise; data on the court, data on a judicial forensic body and (or) expert(s), to whom conduction of the expertise has been assigned (name, first name, education, specialty, job experience, academic degree and academic title, position); a report, signed by the expert that he/she has been warned about criminal liability for giving knowingly false conclusion; questions put to the expert (experts); data on the process participants attended the expertise and their explanations; study objects; content and results of studies indicating the methods used; evaluation of the study results, study and formulation of conclusions on questions put to the expert (experts).

4. Conclusion shall contain the reasons for inability to answer some or all of these questions, if the circumstances specified in Article 97 of this Code were identified during the expertise.

5. Materials, illustrating the expert's conclusion (photo-tables, charts, graphs, tables and other materials), certified in the order, stipulated by the part two of this Article shall be attached to the conclusion and shall be its integral part. The conclusion shall also be accompanied with objects remained after the study, including samples.

6. Expert's testimony, given by him/her during interrogation, conducted in the order prescribed by Article 98-1 of this Code shall be evidence only in part of explanations, additions or rectification of his/her previous conclusion.

7. The expert's conclusion is not binding to the court, but his disagreement with the conclusion shall be motivated.

Footnote. Article 96 is in the wording of the Law of the Republic of Kazakhstan dated 20.01.2010 No. 241-IV.

Article 97. Notice of inability to give a conclusion

If before an expertise the expert made sure that questions put to him/her were beyond his/her special knowledge or the submitted materials are improper or

insufficient to provide a conclusion and cannot be fulfilled, or science and practice do not allow the expert to answer these questions, he/she draws up a motivated notice on impossibility to give the conclusion and sends it to the court.

Article 98. Additional and repeated expertise

1. Additional expertise shall be appointed when the conclusion is not clear or full enough, as well as, as well as when necessity to solve additional issues related to the previous study is needed.

2. An additional expertise may be assigned to the same or another expert.

3. Repeated expertise shall be appointed to study the same objects and solve the same issues when previous expert's conclusion is not justified enough or his/her conclusions are questionable or violated procedural rules of the expertise.

4. The ruling on appointment of the repeated expertise shall contain reasons for disagreeing with the results of the previous expertise.

5. The repeated expertise shall be assigned to the commission experts. The experts conducted the previous expertise may attend the repeated expertise and give their explanations to the commission however they do not participate in the expert study and drawing up a conclusion.

6. When conduction of the additional expertise and repeated expertise is assigned to an expert(s) previous conclusions of experts shall be provided.

7. In cases when a second or subsequent examination is appointed for several reasons, some of which are related to additional expertise, and others - to the repeated expertise, such expertise shall be conducted in accordance with the rules of the repeated expertise.

Footnote. Article 98 as amended by the Law of the Republic of Kazakhstan dated 20.01.2010 No. 241-IV.

Article 98-1. Interrogation of expert

1. Interrogation of an expert may be made only after announcement of his/her conclusion, only if it is not clear enough or it has gaps, which do not require additional study, or the expert's techniques and terms are needed to be clarified.

2. The expert cannot be interrogated about the circumstances not related to his/her conclusion, which have become known to him/her in connection with forensic psychiatry and forensic examination of live persons.

3. The party that requested the expertise interrogates the expert first.

4. If the expertise was conducted by agreement between the parties or under the court's initiative, a plaintiff shall be the first to ask questions to the expert, then a defendant asks.

5. The court may ask questions to the expert at any time of the interrogation.

Footnote. The Code is supplemented by Article 98-1 in accordance with the Law of the Republic of Kazakhstan dated 20.01.2010 No. 241-IV.

Article 99. Involvement of a specialist into action in the proceedings

1. The court may involve an adult (over 18) expert not interested in the case outcome with special knowledge to participate in the judicial proceedings or actions in the proceedings in order to assist in collection, study and evaluation of evidence by consulting (explaining) and assisting in applying scientific and technological facilities.

The court may involve experts at the parties' petitions as well. Persons participating in the case, may request the court to involve a particular person as an expert with special knowledge.

2. Appointment of an expert shall be fixed by the court ruling.

3. A person summoned as an expert, shall have right: to know the purpose of the summon; to refuse to participate in the proceedings, if he/she does not have relevant knowledge and skills; under the court's permission to ask questions to the process participants; to pay attention to the circumstances, related to his/her actions in assisting collection, study and evaluation of evidence, application of scientific and technical tools, preparation of materials for the expertise; to study the minutes of the proceeding and corresponding part of the minutes of the court sessions, and make notes to be included to the minutes, regarding completeness and correctness of the recording process and results of the actions made with his/her involvement; to appeal the court actions; to receive reimbursement of expenses, incurred in connection with his/her participation in the proceedings and compensation for the work performed, if participation in the proceedings is beyond his/her official obligations.

4. A person appointed as a specialist shall: appear when summoned by the court; participate in the proceedings using special knowledge, skills, and scientific and technological facilities; to consult and give explanations concerning his/her actions.

Footnote. Article 99 is amended by the Law of Republic of Kazakhstan dated July 4, 2006 No. 151.

Chapter 8. Judicial expenses

Article 100. Concept and structure of judicial expenses

Judicial expenses consist of the state fee and other expenses, related to the proceedings.

Article 101. State fee

The order of payment and amount of the state fee shall be determined by the Tax Code of the Republic of Kazakhstan.

Footnote. Article 101 as amended by the Law of the Republic of Kazakhstan dated December 24, 2001 No. 276.

Article 102. Amount of a claim

1. Amount of a claim shall be determined:

1) in claims concerning recovery of monetary funds - by the amount to be recovered;

2) in claims concerning reclamation of property - by the value of the recovered property, estimated at market prices, formed at the location of the property at the time of reclamation;

3) in claims on alimony - by total amount of payments within a year;

4) in claims on immediate payments and allowances - by total amount of all payments and allowances, but not more than for three years;

5) in claims for perpetual or lifetime payments and benefits - by total amount of payments and allowances for three years;

6) in claims on reduction or increase of payments or benefits - by total amount, increase or decrease of which is claimed by a plaintiff, but not more than for one year;

7) in claims on termination of payments and benefits - by accumulation of remaining payments or benefits, but not more than for one year;

8) in claims on early termination of a tenancy (rent) agreement - by accumulation of payments for property use on remaining period of agreement (contract) terms, but not more than for three years;

9) in claims on ownership for buildings, belonging to citizens and legal entities - by cost of the building estimated at market prices in the building's location on the day of bringing the claim, but not lower than inventory valuation, or in its absence - not lower than estimation of an insurance contract, and for the buildings, owned by organizations, not lower than balance valuation of the building;

10) in claims consisting of several independent claims - by the total amount of all claims.

2. Amount of the claim shall be indicated by the plaintiff. In case of apparent inconsistency of the amount and real value of the property, the amount of the claim shall be determined by the judge when accepting the claim.

Article 103. Extra state fees

1. If there is a difficulty in determining the amount of the claim at the time of submitting the claim, the amount of the claim shall be preliminarily established by the

judge with subsequent extra recovery of the state fee, according to the amount of the claim, defined by the court at settling the case.

2. If the amount of the claim is increased during the proceedings, shortfall fees shall be paid by a plaintiff in accordance with the increased cost of the claim.

Article 104. Release from payment of state fees

1. Release from payment of state fees is based on the grounds stipulated by the Tax Code of the Republic of Kazakhstan.

2. *(Excluded)*

3. In case if persons specified in Articles 55 and 56 of this Code, abandon the claim, the plaintiff, for whose benefit this case was brought shall pay state fees in a general way, if he/she insists on consideration of the claim and is not released from paying the state fees.

Footnote. Article 104 as amended by the Law of the Republic of Kazakhstan dated December 24, 2001 No. 276; dated December 13, 2004 No. 11 (shall be enforced from January 1, 2005).

Article 105. (Is excluded by the Law of the Republic of Kazakhstan dated December 13, 2004 No. 11 (shall be enforced from January 1, 2005))

Article 106. State tax refund

Procedure for refunding of state fees is determined by the Tax Code of the Republic of Kazakhstan.

Footnote. Article 106 is in the wording of the Law of the Republic of Kazakhstan dated 21.07.2011 No. 467-IV (shall be enforced from 01.07.2011).

Article 107. Expenses related to proceedings

Expenses, related to proceedings are as follows:

- 1) Amounts payable to witnesses, experts and specialists;
- 2) expenses related to production of inspection on spot;
- 3) expenses related to storage of material evidence;
- 4) expenses for search of a defendant;
- 5) expenses for publication of announces and notification of the case;
- 6) expenses for notification and summons to the court;
- 7) travel expenses of the parties and third parties and rent of housing, incurred in connection with attendance in the court;
- 8) expenses for representatives' assistance;
- 9) expenses associated with enforcement of decisions, judgments;
- 10) other expenses deemed to be necessary by the court.

Article 108. Amounts payable to witnesses, experts, specialists and interpreters

1. Witnesses, experts, specialists and interpreters' expenses incurred by them due to attendance in the court, travel expenditures, room rent shall be reimbursed to them and a daily allowance in the amount, established for the persons sent to business trips shall be paid. Expert and specialist shall be refunded costs of chemical reagents and other consumables belonging to them, used by them during performance of the assigned work, as well as payment made by them for use of equipment, housing utilities and consumption of computer time.

2. Working individuals, summoned to the court as a witness shall have right to retain their average earnings in their workplace during their absence in connection with summoning to the court. Witnesses, who are not in labor relations, shall receive compensation for diverting from their ordinary activities, taking into account factual time spent and minimum monthly salary established by law.

3. Experts and specialists shall be paid for work, performed in accordance with the court instruction, if the work is not included in the scope of their official obligations. The amount of payment shall be determined by the court as agreed by the parties.

4. Payment for conduction of the expertise to the judicial forensic bodies shall be conducted in accordance with the laws of the Republic of Kazakhstan.

5. Payments to witnesses, experts, specialists, as well as payment for conduction of the judicial expertise shall be made by a party brought the request. If such request is brought by both parties or if summon of a witness, appointment of examination involving of a specialist is initiated by the court, the required amounts shall be paid by the parties in equal parts.

6. The amounts payable to the experts and specialists for the work conducted upon the court instruction shall be preliminarily entered to the court deposit by the party, which brought the request, if the work is not included in the scope of their official obligations. The amount of payment shall be determined by the court as agreed by the parties.

7. The amounts payable for the expertise to the forensic bodies shall be made to the appropriate budget in advance by the party brought a request, or by the party charged with such duty by the court.

8. Payment of sums to experts and specialists, in case when one or both parties are released from paying the fees, shall be made at the expense of the republican budget.

Footnote. Article 108 is amended by the Law of the Republic of Kazakhstan dated July 5, 2006 No. 165 (the order of enforcement see Article 2).

Article 109. Payment of sums payable to witnesses, experts, specialists and interpreters

1. Sums payable to witnesses, experts and specialists shall be paid by the court from an account opened in accordance with the budget laws of the Republic of Kazakhstan, after their obligations are performed.

2. Payment of amounts due to interpreters shall be made at the expense of the republican budget. The amount of payment shall be determined by the court taking into account existing norms of payments for relevant work.

Footnote. Article 109 is amended by the Law of the Republic of Kazakhstan dated July 5, 2006 No.165 (the order of enforcement see Article 2).

Article 110. Distribution of judicial expenses between the parties

1. The party, in whose favor the decision was made, pays all the judicial expenses even if that party was released from paying the court expenditures. If a claim is satisfied partially, the expenses shall be paid in proportion to the plaintiff's claims satisfied by the court, and the defendant - in proportion to that part of the claim, in which the plaintiff was rejected.

2. *(excluded by the Law of the Republic of Kazakhstan dated 11.07.2001)*

3. If a higher court changes the decision made or makes a new decision without submitting the case to the new proceedings, the court correspondingly changes distribution of expenses.

Footnote. Article 110 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 111. Reimbursement for payment for representative's assistance

1. The court adjudges to the party in whose favor the decision was delivered reimbursement by other party of expenditures incurred for payment of a representative assistance participated in the process, in the amount of expenses actually incurred by the party. Upon the money requirements these expenses shall not exceed ten percent of the satisfied part of the claim.

2. In case if a legal assistance has been rendered to the party by lawyers free of charge on the basis of the judge (court) ruling, the court charges expenses, defined in this Article, in favor of the lawyer rendered legal assistance free of charge.

Footnote. Article 111 as amended by the Law of the Republic of Kazakhstan dated 28.12.2011 No. 523-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 112. Recovery of civil damages for loss of time

The court may charge compensation for actual loss of time to the party that brought a knowingly unjustified claim or dispute against the claim or systematically opposed to

correct and rapid resolution of the case, in favor of other party. The amount of compensation shall be determined by the court, taking into account specific circumstances, based on acting payment standards for relevant work in the area.

Article 113. Distribution of expenses in case of abandonment of the claim, settlement agreement or settlement agreement on mediation procedures.

Footnote. The title of the Article 113 is in the wording of the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 08.05.2011).

1. In case of abandonment of a claim, a plaintiff's expenses shall not be reimbursed by a defendant. If the plaintiff refused to support his/her claims as a result of voluntary satisfaction of his/her claims by the defendant after bringing the claim, at the request of the plaintiff, the court charges the defendant to cover all the judicial expenses including a representative's assistance, incurred by the plaintiff.

2. If the parties when entering into a settlement agreement or a settlement agreement on mediation procedure do not agree about distribution of the judicial expenses including payment of representatives' assistance, the court settles these issues according to the rules defined in the Articles 111, 115 of this Code.

Footnote. Article 113 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Article 114. Providing free legal assistance to citizens

1. During the consideration of a case, taking into account a material status of a citizen, the judge shall have right to release him/her fully or partially from paying of legal assistance, reimbursement of expenses, related to representatives and charge payment of the expenses to the budget means. At the person's request the judge (court) shall release him/her fully or partially from paying of legal assistance and compensation of expenses, related to representation, and take them through the budget in the following cases stipulated by the law:

1) in consideration of disputes about damages, caused by the death of a breadwinner, and other injuries or damages to health, related to work;

2) in consideration of cases, not related to business activities, for plaintiffs and defendants, who are members of the Great Patriotic War and persons equated to them, compulsory military service conscripts, disabled people of I and II groups of disability, age pensioners.

2. Payment of legal assistance, stipulated by a lawyer, and reimbursement of expenses related to representation, shall be made in the procedure and amount, specified by the legislation of the Republic of Kazakhstan.

3. An application for release from paying of legal assistance and compensation of expenses for representation should be attached with the documents and other evidence, supporting the right to receive legal assistance free of charge.

4. After consideration of the petition a judge or a court shall issue a motivated ruling on full or partial release from payment of legal assistance and compensation of expenses, related to representation, or refuse to satisfy the petition.

5. The court's or judge's decision on full or partial release from payment of legal assistance and compensation of expenses for representation, shall be immediately sent to a professional organization of lawyers, which within the terms, prescribed by the court, shall be obliged to ensure the lawyers' participation in the proceedings.

Footnote. Article 114 is in the wording of the Law of the Republic of Kazakhstan dated 11.12.2009 No. 230-IV (shall be enforced from 01.01.2010).

Article 115. Reimbursement of judicial expenses to the parties

1. In case if a court denies a claim fully or partially, the person who has applied to the court to protect the rights, freedoms and lawful interests of other persons and the State (Articles 55 and 56 of this Code), or the defendant shall receive a full or partial reimbursement of judicial expenses from the national budget in proportion to that part of the claim which was denied to the plaintiff.

2. In case of satisfaction of the claim on release of seized property, the plaintiff shall receive reimbursement of judicial expenses from the national budget.

Article 116. Reimbursement of judicial expenses to the state

1. The expenses, related to the proceedings, and the state obligations, from the payment of which the plaintiff was released, shall be covered by the defendant, not released from paying the judicial expenses, to the state budget fully or in proportion to the satisfied part of the claim.

2. In case of dismissal of a claim, the expenses shall be covered by a plaintiff, not released from paying the judicial expenses to the state.

3. If a claim is satisfied partially and the defendant is released from paying the judicial expenses, the expenditures, related to the proceeding shall be paid by the plaintiff to the state from the person not released from paying the judicial expenses in proportion to that part of the claim, in satisfaction of which he/she was denied.

4. If both parties are released from paying the judicial expenses, the expenditures shall be paid by the national budget.

5. In case if a person was put on a wanted list for evading payment of the judicial expenses, the expenditures for his/her search shall be paid by this he person to the state

Article 117. Appealing and protesting of court rulings upon the issues related to the judicial expenses

A private petition and a protest can be brought to the court's ruling related to the judicial expenses.

Chapter 9. Enforcement and liability for contempt of court

Footnote. The Chapter 9 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 118. Coercive measures for contempt of court

1. The purpose of coercive measures to the persons, participating in the case and other participants of the process is implementing objectives of justice.

2. As a coercion measure the court applies attachment and removal from a courtroom.

Article 119. Attachment

1. Attachment - a compulsory delivery of a defendant, witness, expert, specialist, interpreter to the court for failure to appear in the court without a reasonable excuse.

2. Attachment shall be applied by court bailiffs and enforcement agencies on the court's ruling.

Article 120. Removal from a courtroom

Removal from a courtroom shall be applied by the court against violators of order in the courtroom in cases provided in the Article 179 of this Code.

Article 121. Penalties for contempt of court

1. Penalties for contempt of a court shall be applied by the court in order to implement constitutional principle of equality of everybody before the court and justice tasks.

2. Violators shall be brought to administrative responsibility in order stipulated by paragraph 1.1 of the Article 648 of the Code of the Republic of Kazakhstan on administrative violations, for actions (or inaction), specified in the Article 513 of the Code of the Republic of Kazakhstan on administrative violations.

3. If there are criminal signs in violator's actions, the court shall send the materials to the prosecutor to make a decision on initiation of criminal proceedings against the offender.

Article 122. Use of coercive measures and responsibilities for contempt of court. Procedure of their appealing and protesting

1. Only one coercive measure and (or) one kind of responsibility can be applied for the committed illegal actions (inaction).

2. A private petition and a protest may be brought to the court's ruling on application of coercive measures and responsibilities.

Chapter 10. Procedural terms

Article 123. Terms of proceedings

1. Proceedings shall be conducted within the terms prescribed by the law.

2. In case if a deadline for the proceedings is not defined by the law, it shall be established by the court.

Article 124. Calculation of procedural deadlines

1. Terms for conducting proceedings shall be determined by the exact calendar date, referring to the event which shall inevitably come, or a period of time, which can be calculated in years, months or days. In the latter case, the action can be committed during the whole period.

2. The procedural terms, determined by the period, shall begin the day after the calendar date or the event, defining its beginning.

Article 125. Expiry of procedural deadlines

1. The time period, calculated in years shall expire in the corresponding month and date of the last year of the period. The period, calculated in months shall expire on the corresponding month and day of the last month of the period. If the end of the period, calculated in months, ends in the month, which does not have the appropriate number, the period shall expire on the last day of the month. The period, calculated in days, expires on the last day of the prescribed period. In cases when the last day falls on a non-working day, the deadline goes to the next working day.

2. A procedural action, which shall have a deadline, can be conducted before midnight of the last day of the period. If a petition, documents, or money were sent via post office, telegraph, or any other means of communication until midnight of the last day of the period, the period shall not be deemed expired.

3. If a procedural action shall be made directly in the court or other organization, the period expires at the hour when these organizations stop working according to the established rules or when corresponding operations are ceased.

Article 126. Consequences of missing the procedural terms

1. The right to conduct actions in proceedings shall be terminated upon expiration of the deadline defined by the law of the term set by the court. Petitions and documents filed upon expiration of the deadline of the procedural terms, unless a petition on restoration of the missed period is not stated, shall not be considered by the court and are returned to the person filed them.

2. Expiration of procedural period shall not release from performance of procedural obligations.

Article 127. Suspension of procedural deadlines

1. All non-expired procedural deadlines shall be suspended with suspension of the proceedings upon the case. The suspended period begins from the moment the circumstances giving rise to the suspension of proceedings occur.

2. Procedural period continues from the date the proceeding retrieve.

Article 128. Prolongation and restoration of procedural deadlines

1. Periods defined by the court may be prolonged by the court.

2. Deadlines prescribed by the law can be restored by the court if they were missed for excuse recognized by the court to be justified. The deadline for an appeal can be restored by the court, provided that the application for restoration of the term was filed not later than three months from the date of the decision.

3. The application for restoration of the missed term shall be brought to the court which is to perform a procedural action. This application shall be considered by the court in the presence of persons, participating in the case, who shall be notified of the time and place of the consideration, but their absence shall not be an obstacle to settle the question put to the court.

4. Simultaneously with filing the application for restoration of the term, a necessary action in the proceedings (a claim for protection of rights, bringing of a petition or a document, etc.) shall be taken, for which the term was missed.

4.1. The court stated in part three of this Article shall be obliged to restore the missed term to apply an appeal (private) petition, bring a protest when law is violated, restricting possibility of the process participant upon protection of his/her rights and legal interests (untimely preparation of the minutes of court session, handing over of a copy of legal act to the person participating in case, not speaking language of the proceedings without translation, imprecision of the term of the appeal in resolution part of the judicial act), as well as in case of other circumstances reasonably restricting him to bring petition, protest in time.

5. A private petition or a protest can be brought to the court's decision to deny the prolongation or restoration of the missed period.

Footnote. Article 128 as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010), dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012)

Chapter 11. Judicial notices and summons

Article 129. Judicial notices and summons

1. Persons, participating in the case, their representatives, as well as witnesses, experts, specialists and interpreters shall be notified of the time and place of the proceeding or conducting of certain legal actions and are summoned to the court.

2. If necessary, the persons participating in the case, as well as witnesses, experts, specialists and interpreters can be summoned or notified by a registered letter with a delivery confirmation, by a telephoned message or a telegram, short message on the subscriber number of cellular communication or electronic address, and other means of communication recording the notification or the summon.

3. Notifications and summons shall be sent in a way to give to the called person time for timely appearance in the court and preparation for the case.

4. Notification or summon shall be sent to the summoned person at the address, subscriber number of cellular communication or electronic address, specified by the party or another person participating in the case. If the person does not reside at the reported address, the notification or summon shall be posted to his/her place of work. Notifications or summons addressed to the organization shall be sent to its location.

Footnote. Article 129 as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012)

Article 130. Content of subpoena, notification and summons

1. Subpoena or other notification, summons shall include:
- 1) specification of a person summoned to the court (full name, place of residence of the person or name of the organization and its location);
 - 2) name and address of the court;
 - 3) place and time of appearance;
 - 4) name of the case the person is notified or summoned for;
 - 5) indication of status of the summoned and notified person in the case;
 - 6) offer to the persons participating in the case, to present all evidence they have;
 - 7) indication of obligation of a person received the subpoena or other notification, summon in case of absence of the addressee, to hand it over to the addressee as promptly as possible;

8) consequences of the notified and called person's failure to appear in the court and his/her obligation to inform the court about the reasons for failure to appear in the court;

9) signature of the person submitted the subpoena, or other notification, summons. A person sent the telephone message on notification or summon, shall certify it with his/her signature with indication to whom and when it has been submitted.

2. Simultaneously with the notification, the judge sends to the defendant a copy of the claim and copies of all attached documents. Jointly with the summons, addressed to the plaintiff, the judge sends copies of the defendant's written explanations and copies of the attached documents, if they came to the court.

3. A message sent to subscriber number of cellular communication or electronic address shall contain:

1) Indication of a person notified or summoned to the court (surname, name, patronymic of the person it is addressed to or name of the organization);

2) name and precise address of the court;

3) indication of place and time of appearance;

4) brief name of the case upon which notification or summon of the addressee is made;

5) indication status of the notified or summoned person in the case;

6) name and surname of the person sent the notification; The document confirming sending of the message shall be attached to the case.

Footnote. Article 130 as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

Article 131. Delivery of notification

1. Subpoenas shall be delivered via a registered letter with a delivery confirmation or by persons, to whom it was instructed by the court. Time of delivery is noted on a counterfoil of the subpoena to be returned to the court.

2. With the consent of a person participating in the case, the judge may hand him/her a subpoena to be submitted to another summoned or notified person.

3. The person in charge to deliver the subpoena shall return the counterfoil, indicating the date of its delivery and the recipient's signature, confirming the delivery.

Article 132. Handing of subpoenas

1. A subpoena shall be handed over to a citizen, to whom it is addressed. He/she shall sign it personally and the counterfoil shall be returned to the court. A subpoena

addressed to the organization, is handed to its representative or a corresponding person, performing managerial functions, who puts his/her signature on the counterfoil, indicating his/her position, name and initials.

2. If a person delivered the subpoena does not find a summoned and notified citizen upon the case at his/her place of residence or work, the subpoena shall be handed to an adult member of the family who lives with the summoned person under their consent, and in case of their absence - to a housing organization, local authority or relevant enforcement body of the recipient's place of residence, or to the administration at his/her place of work. In these cases, the person received the subpoena shall indicate his/her last name, first name, relationship to the addressee or his/her position on the counterfoil of the notification. The person received the subpoena shall delivery the notice to the addressee as soon as possible and without delay.

3. During temporary absence of the addressee, the person delivered the subpoena, writes where the addressee went away and when he/she is expected to return. This information shall be confirmed and certified by a housing organization, local authority or local relevant enforcement body, or administration at his/her place of work and if they have no such information - by any adult member of his/her family.

Article 133. Consequences of refusal to accept the subpoena or other notifications, summons

1. If the addressee refuses to accept the subpoena or a notification, summons, the person who delivers the notice makes an appropriate note on the subpoena or notification. The note of refusal to accept the notification shall be certified by a housing organization, local authority or local relevant enforcement body or the administration at his/her place of work.

2. Refusal of the addressee to accept the notification or subpoena shall not be an obstacle to consider the case or conduct individual proceedings.

Article 134. Change of address, subscriber number of cellular communication and electronic address during the case proceedings

Persons participating in the case and their representatives shall be obliged to inform the court of a change of address, subscriber number of cellular communication and electronic address during the case proceedings during the proceedings. In case of absence of such information, the subpoena or other notifications, summons shall be send to the last known address, subscriber number of cellular communication and electronic address and shall be deemed delivered, even if the addressee is no longer living or present at that address, does not use the subscriber number or electronic address.

Footnote. Article 134 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012)

Article 135. Uncertainty of a defendant's location and search for him/her

1. When the actual location of a defendant is unknown, the court shall consider the case after receiving a subpoena or other notification, summons with a note certifying their receipt by a housing organization, local authority or the relevant enforcement body upon the last known place of residence of the defendant, or the administration upon last known place of work.

2. When the location of the defendant is unknown upon the claims brought to protect the state interests, as well as alimony, compensation for harm, injuries or other harm to health or death of a breadwinner, the court shall declare the search of the defendant through the internal affairs or financial police bodies. The court's decision to put the defendant on the wanted list shall not be an obstacle to consider the case.

Once defendant's location is established, he/she is handed over subpoena to the court.

3. Recovery of the expenses upon searching the defendant shall be conducted at the request of internal bodies or financial police by issuing a judicial order.

Footnote. Article 135 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Chapter 12. Pre-judicial settlement of property disputes, parties of which are legal entities, citizens engaged in entrepreneurial activities without registering a legal entity

Footnote. The Chapter 12 is excluded by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Section 2. Proceeding in the first instance court

Sub-section 1. Writ proceedings

Chapter 13. Writ proceedings

Article 139. Debt collection on the basis of the court order

1. The court order is the judge's acts issued at the request of a claimant to recover money funds or for reclamation of a property from a debtor by uncontested reclamation without summoning the debtor and the claimant to the court and without proceedings.

Footnote. Paragraph 1 as amended by the Law of the Republic of Kazakhstan dated July 5, 2000 No. 75.

2. Content of the court order is defined by the Article 146 of this Code.

3. The court order shall have a force of an enforcement document. Recovery upon it shall be made after issuing the order and in the manner prescribed for enforcement of the court decisions.

Article 140. Requirements imposed to the court order

The court order shall be issued:

- 1) If the claim is based on the notarized transaction;
- 2) If the claim is based on writing transaction and is recognized by a defendant;
- 3) If the claim is based on the protest of a bill on non-payment, non-acceptance and non-dating of acceptance, committed by a public notary;
- 4) If the stated claim for alimony for underage children (under 18) is not related to establishment of paternity or need to involve third parties;
- 5) If the claim on recovery from individuals and legal entities of arrears in respect of taxes and other obligatory payments is brought;
- 6) If the claim is brought on recovery of accrued but unpaid employee salaries and other payments;
- 7) If the claim is brought by an interior body or by a financial police to recover the expenses for search of a defendant or a debtor;
- 7-1) if the claim is brought on uncontested reclamation of a leased thing in accordance with the laws of the Republic of Kazakhstan;
- 8) *(excluded by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238);*
- 9) *(excluded by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238);*
- 10) If the claim is brought by a pawnshop against a debtor-mortgagor on recovery of a subject of the pledge;
- 11) If the claim is brought on recovery of debts from owners of premises (apartments), evading mandatory paying of expenses for maintaining common property of condominium object.

Footnote. Article 140 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2000 No. 75; dated 02.03.2001 No. 162; dated 11.07.2001 No. 238; dated 10.03.2004 No. 532; dated 22.07.2011 No. 479-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 141. Form and content of application on issuance of the court order

1. The application on issuance of the court order shall be brought to the court in accordance with the general rules of jurisdiction specified in the Chapter 3 of this Code

2. The application shall be submitted in a written form and shall contain:
 - 1) name of the court in which the application is submitted;
 - 2) name of the claimant, his/her date of birth, place of residence or location, details of a legal entity;
 - 3) name of the debtor, his/her date of birth, place of residence or location, details of a legal entity;
 - 4) requirements of the claimant and circumstances on which the application is based;
 - 5) a list of supporting documents, confirming the claim.
3. In case of reclamation of property the application shall specify the value of the property.
4. The petition is signed by the claimant or his/her representative. The application brought by a representative shall be attached by a document certifying his/her authority.

Footnote. Article 141 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2000 No. 75; dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).

Article 142. State fee

1. (The paragraph is excluded by the Law of the Republic of Kazakhstan dated December 24, 2001 No. 276)
2. In case of denial to accept the application, the state fee paid by the claimant shall be refunded.
3. In case if the court order is cancelled, the state fee paid by the claimant shall not be refunded.
4. In case of bringing a claim against a debtor by a claimant in the order of the action proceedings, it will be counted towards the state fees paid by the claimant.

Article 143. Grounds for refusal to accept and returning the application on issuance of the court order

1. Judge refuses to accept or returns the application on issuance of the court order on the grounds specified by the Articles 153 and 154 of this Code. Besides, the judge returns the applications in the following cases:
 - 1) the stated requirement is not stipulated by the Article 140 of this Code;
 - 2) the debtor is outside the jurisdiction of the courts of the Republic of Kazakhstan;
 - 3) no documents are provided to prove the stated requirement;
 - 4) there is a dispute about the right which cannot be settled taking into account the submitted documents;

5) the form and content of the application do not meet requirements of the Article 141 of this Code;

6) the state fee is not paid.

2. The judge makes a decision on refusal to accept the application within three days after its receipt to the court.

3. Refusal to accept the application does not hamper an opportunity to bring the same claim in the manner of action in the proceedings.

Article 144. Removal of deficiencies in the application

1. A judge may accept an application on a court order and by his/her decision to set not more than three-day term to a claimant to correct deficiencies or pay the state fees, if the application does not meet the requirements of the Article 141 of this Code or the state fee is not paid.

2. If the claimant, in compliance with the judge's instructions, eliminates the deficiencies within the specified period of time or pays the state fee, the application shall be considered filed on the day of its initial submission to the court. Otherwise, the judge makes a decision to refuse to accept the application in accordance with the second part of the Article 143 of this Code.

Article 145. Procedure and terms of issuance of the court order

The court order on the merits of the claimed requirements shall be issued by the judge within three days from the date the application is received by the court.

Article 146. Contents of court order

1. The court order shall have:

1) number of proceeding and date of the order;

2) name of the court, surname and initials of the judge, who issued the order;

Note of the RCLI (Republican Centre of Legal Information)!

Sub-paragraph 3) is amended by the Law of the Republic of Kazakhstan dated 12.01.2012 No. 538-IV (shall be enforced from 01.01.2013).

3) surname, name, patronymic (if it is in an identity document), date of birth of the claimant, his/her place of residence or location, information on his/her registration by place of residence and tax identification number or if a claimant is a legal entity, its name, place of actual location or information from a single state register, bank details and taxpayer registration number;

Note of the RCLI !

Sub-paragraph 4) is amended by the Law of the Republic of Kazakhstan dated 12.01.2012 No. 538-IV (shall be enforced from 01.01.2013).

4) Surname, name, patronymic (if it is in an identity document), date of birth of a debtor, his/her place of residence or location, information on his/her registration by place of residence, information about his/her place of work and bank details of the place of work (if specified in the application on the court order), his/her bank account and taxpayer identification number (if indicated in the claim on the court order) or if a debtor is a legal entity, its name, place of actual location or information from a single state register (if indicated in the claim on the court order), bank details and taxpayer registration number;

5) law on the grounds of which the claim is satisfied;

6) amount of money funds to be recovered or specification of property subject to reclamation with indication of its value;

7) amount of forfeit, if its recovery is stipulated by the law or a contract;

8) amount of the state fee subject to recovery from the debtor in favor of the claimant or to the corresponding budget.

9) term and procedure to appeal the court order.

2. The court order on recovery of alimony for underage children (under 18), apart from information required by subparagraphs 1) -5), 8) of this Article shall include: date and place of birth of a debtor, place of work, name and date of birth of each child to support which alimony has been adjudged, amount of allowances paid by the debtor on a monthly basis and terms of payment.

3. The court order shall be signed by the judge.

Footnote. Article 146 as amended by the Laws of the Republic of Kazakhstan dated 05.07.2000 No. 75; dated 22.06.2006 No. 147; dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010); dated 12.01.2007 No. 224 (shall be enforced from 01.01.2012); dated 12.01.2012 No. 538-IV (shall be enforced from 01.07.2012); dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 147. Sending of a copy of the court order to the debtor

1. After issuing the court order the judge immediately sends a copy of the order to the debtor with a delivery confirmation.

2. Within ten days from the date of receiving the copy of the court order, the debtor may send objections on the claims to the court by any means of communication.

Article 148. Canceling of a court order

1. The judge cancels the court order, if a debtor submits objections to the claim within the prescribed period, and issues a ruling on it. The ruling contains the judge's

explanations that the claimant's claim may be brought in the manner of an action in the proceeding. Copies of the ruling on cancellation of the court order shall be sent to the parties within three days after its issuance.

1-1. The judge cancels the court order, if in the absence of a debtor, a claim on non-compliance of the court order with the law is brought from a person, rights and obligations of whom are affected by the court order.

2. A ruling on cancellation of the court order shall not be subject to appeal.

Footnote. Article 148 as amended by the Laws of the Republic of Kazakhstan dated 11.07.2001 No. 238; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010)

Article 149. Handing over of the court order to a claimant

1. If, within the specified period, a debtor does not bring objections to the court, the judge issues the court order to the claimant with a certified seal of the court for its further fulfillment.

2. At the request of the claimant, the court order may be sent directly to the court for its fulfillment.

3. To recover the state fee from a debtor in favor of the respective budget, a copy of the court order, certified with the court seal shall be sent directly to the court for its implementation.

4. A copy of the court order, given to the claimant remains in the proceedings of the court.

Footnote. Article 149 as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

Sub-section 2. Action proceedings

Chapter 14. Bringing of a claim

Article 150. Form and content of statement of claim

1. A statement of claim shall be brought to the court in written or in electronic form

2. The statement of a claim shall include:

1) name of the court in which the claim is brought;

Note of the RCLI!

Sub-paragraph 2) is amended by the Law of the Republic of Kazakhstan dated 12.01.2012 No. 538-IV (shall be enforced from 01.01.2013);

2) name of a plaintiff, his/her date of birth, place of residence, information on registration by the place of residence, or if a plaintiff is an organization, its address, taxpayer identification number and bank details, and name and address of the

representative if the claim is brought by a representative, as well as details of subscriber number of cellular communication and electronic address of the plaintiff and representative, if any;

3) surname, name, patronymic (if it is specified in an identity document), date of birth of a defendant, his/her place of residence or location, subscriber number of cellular communication and electronic address (if any), and if a defendant is a legal entity, its name, location, as well as additionally identification number, electronic address, if these data are known to the plaintiff;

4) essence of violation or threat of violation of rights, freedoms or legitimate interests of a plaintiff and his/her claims;

5) circumstances in which the plaintiff bases his/her claims and evidence, confirming these circumstances;

6) cost of the claim if the claim is subject to estimation;

7) *(excluded by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238);*

8) list of documents attached to the application.

3. The application can also contain other information, relevant to the dispute's settlement and the plaintiff's petitions.

4. The application brought by a prosecutor to protect state or public interests shall contain a justification of what the state or the public interest is, what right has been violated, as well as a reference to the law or other legal act. In case if the prosecutor applies to protect a citizen's interests, it shall contain justification of impossibility reasons of bringing by the citizen of the claim himself/herself; the application shall be attached with a document, certifying the citizen's consent to appeal to the court, except for an application to protect the disabled person's interests.

5. The application shall be signed by a plaintiff or his/her representative if he/she is authorized to sign it and bring the statement of the claim.

When the application is submitted in electronic form, it shall be certified by a digital signature of the plaintiff. It can be certified by the representative's digital signature if he/she is authorized for that.

Footnote. Article 150 as amended by the Laws of the Republic of Kazakhstan dated 11.07.2001 No. 238; dated 22.06.2006 No. 147; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 15.07.2010 No. 337-IV (the order of enforcement see Article 2); dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010); dated 12.01.2007 No. 224 (shall be enforced from 01.01.2012); dated 12.01.2012 No. 538 -IV (shall be enforced from 01.01.2012), dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 151. Documents attached to the statement of claim

1. The statement of claim shall be attached with:
 - 1) copies of the statement of claim equal to the number of defendants and third persons;
 - 2) a document confirming payment of the state duty;
 - 3) a letter of attorney or any other document, confirming the representative's authority;
 - 4) documents, confirming the circumstances on which the plaintiff bases his claims , copies of these documents for defendants and third parties, if they are not provided with them;
 - 5) *(excluded by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238);*
 - 6) text of the legal act in case of its contestation;
 - 7) the plaintiff's petition on deferment, deferral, release from payment of judicial expenses or reduction of their amount, security of the claim, reclamation of evidence and others, if they are not specified in the statement of claim.

2. The statement of claim in electronic format shall be attached with copies of the documents, defined in the first part of this Article, in electronic format.

At that the document confirming payment of the state fees shall be an electronic document that certifies payment via E-government.

Footnote. Article 151 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No. 238; dated 15.07.2010 No. 337-IV (the order of enforcement see Article 2).

Article 152. Acceptance of the statement of claim

1. The judge shall make a decision to accept the statement of claim to the court proceeding within five days from the date of its receipt.

2. By accepting the statement of claim the judge makes a decision to initiate a civil case.

Article 153. Denial to accept the statement of claim

1. Judge denies to accept the claim if:
 - 1) The statement is not subject to consideration and settlement in civil proceedings;
 - 2) there is a court decision on the same subject and on the same grounds came into legal force or there is a court decision on termination of the proceedings in connection with the plaintiff's abandonment of the claim or a mediation settlement agreement of the parties or a settlement on mediation procedure.

2. The judge shall issue a reasoned decision on denial to accept the application, specifying what agency the plaintiff should address if the case cannot be considered and settled in civil proceedings.

3. Decision on denial to accept the application shall be made within five days from the date of its receipt to the Court and handed or sent to the plaintiff with all the documents, attached to the application.

4. Denial to accept the application hampers the plaintiff's repeated applying to the court against the same defendant, on the same subject and on the same grounds.

5. Private petition or protest against the judge's decision on denial to accept the application may be brought to the court.

Footnote. Article 153 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Article 154. Return of the statement of claim

1. The judge returns the statement of claim if:

1) the plaintiff did not observe the procedure established by legislation for this category of cases of preliminary pre-judicial settlement of dispute and possibility to apply this procedure is not lost;

2) the case is not subject to jurisdiction of this court;

3) the application has been brought by an incapable person;

4) the statement is signed by a person not authorized to sign it;

5) this or another court considers a dispute between the same parties, on the same subject and on the same grounds;

6) body, empowered to manage municipal property, applied to the court for recognition of right of communal property to immovable thing prior to expiration of one year from the date of the thing's registration in a state body executing state registration of rights for immovable property, except for the cases specified in the second part of paragraph 3 of the Article 242 of the Civil Code of the Republic of Kazakhstan;

7) the plaintiff made a request to that extent.

2. The judge shall issue a reasoned decision to return the application specifying which court a plaintiff should contact, if the case is not within the jurisdiction of this court, or how to remove obstacles hampering initiation of the case. The decision to return the statement of claim shall be made within five days from the date of its receipt to the Court and delivered or sent to the plaintiff with all documents attached to the application.

3. Returning of the application allows the plaintiff to bring the same claim to the same defendant, on the same subject and on the same grounds, if he/she eliminates all violations.

4. Private petition or protest may be filed against the judge's decision to return the application. (See regulation of the Constitutional Council of the Republic of Kazakhstan dated 01.11.2000 No. 19/2).

Footnote. Article 154 as amended by the Law of the Republic of Kazakhstan dated 22.07.2011 No. 479-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 155. Leaving of the statement of claim without action

1. The judge in case of inconsistency of the statement of claim to the requirements of the Article 150 and sub-paragraphs 1) -3) of the Article 151 of this Code shall make a decision on leaving of the statement of claim without action and notify the person filed the statement of claim to that extent and give him/her time to correct deficiencies.

2. If the plaintiff, in compliance with the judge's instructions, within a specified time, fulfills all the requirements, the claim shall be deemed to be filed on the day of its initial submission to the court. Otherwise, the application shall be deemed not filed and upon the judge's ruling, shall be returned to the plaintiff with all documents attached to it.

3. Returning of the application allows the plaintiff to bring the same claim to the same defendant, on the same subject and on the same grounds, if he/she corrects the violation.

4. Private petition or protest may be filed against the judge's ruling on returning of the statement of claim.

Article 156. Counter-claiming

A defendant shall have right, prior to the first instance court's decision, to bring a counter-claim to the plaintiff for its joint consideration with the initial statement of claim. Filing a counterclaim shall be made in compliance with the general rules for filing a claim.

Article 157. Conditions to accept the counter-claim

The judge accepts the counter-claim, if:

- 1) the counter-claim is directed to offset of the initial requirement;
- 2) satisfaction of the counter-claim excludes fully or partially satisfaction of the initial statement of claim;
- 3) there is a mutual relationship between the counter and initial claims and their joint consideration will lead to more rapid and proper consideration of disputes.

Chapter 15. Security

Article 158. Grounds for securing of a claim

Upon the application of persons participating in the case of adjudicatory or arbitral proceedings, the court may take steps to secure the claim. Security for a claim shall be allowed in any state of the case, if the failure to take such steps may make it difficult or impossible to fulfill the court decision.

Taking measures to secure the claim in relation to a financial institution and any other organization, being a part of a banking conglomerate as its parent organization and not being a financial institution, and (or) their property during restructuring in cases specified by the laws of the Republic of Kazakhstan, shall not be allowed.

Taking measures to secure the claim in relation to suspension of challenged 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.

Footnote. Article 158 as amended by the Laws of the Republic of Kazakhstan dated 28.12.2004 No. 24; dated 11.07.2009 No. 185-IV (shall be enforced from 30.08.2009); dated 01.03.2011 No. 414-IV (shall be enforced from 01.01.2010); dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 159. Measures for securing the claim

1. Measures for securing the claim can 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).

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) prohibiting 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;

4) suspension of sale of property in case if the claim on release of property from seizure is brought;

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;

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.

Footnote. Article 159 as amended by the Laws of the Republic of Kazakhstan dated 09.07.2003 No. 482; dated 19.02.2007 No. 230 (the order of enforcement see Article 2) ; dated 05.07.2008 No. 58-IV (the order of enforcement see Article 2); dated 11.07.2009 No. 185-IV (shall be enforced from 30.08.2009); dated 05.02.2010 No. 249 -IV; dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 160. Consideration of application on security of a claim

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.

Footnote. Article 160 is amended by the Law of the Republic of Kazakhstan dated December 28, 2004 No. 24.

Article 161. Enforcement of the decision on security of a claim

The ruling on security of a claim shall be enforced immediately in the manner prescribed for fulfillment of the court rulings.

Article 162. Replacement of one of security of a claim by another one

1. Upon the application of a person participating in the case of arbitrary and adjudicatory proceedings, one of security of a claim may be replaced by another one. The application on replacement shall be considered by the court with the notice of

persons participating in the case, of the time and place of the consideration, but their absence shall not hamper consideration of this case. The judge makes a ruling on replacement of one of security of a claim by another one.

2. 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.

Footnote. Article 162 is amended by the Law of the Republic of Kazakhstan dated December 28, 2004 No. 24.

Article 163. 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. The issue concerning cancellation of security of a claim shall be settled at the court session. 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.

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.

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. Article 163 as amended by the Laws of the Republic of Kazakhstan dated 11.07.2009 N 185 (shall be enforced from 30.08.2009); dated 01.03.2011 No. 414-IV (shall be enforced from 01.01.2010).

Article 164. Appeal of decisions concerning the issues of security of a claim

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.

Article 165. Compensation of damages to a defendant caused by security of a claim

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.

Chapter 16. Preparation of a case for proceedings

Article 166. Tasks of preparation of the case

1. 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.

Article 167. Terms of preparation of the case for court proceedings

Preparation of civil cases for court proceedings shall be held not later than seven business days after the date of application's acceptance, unless otherwise stipulated by legislative acts. 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.

Footnote. Article 167 is in the wording of the Law of Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 168. Ruling on preparation of the case for court proceedings

The judge makes a decision on preparation of the case for court proceedings and specifies actions to be taken.

Article 169. Sending of copies of an application and documents attached to it to the defendant

1. A judge sends or gives the defendant copies of the statement of claim and attached documents, substantiating the claims of the plaintiff, and binds the defendant to provide, within a specified period, a statement of defense (objection) on the statement of claim and evidence, supporting his statement (objection).

2. Failure to provide a statement of defense and evidence does not hamper consideration of the case, taking into account the available evidence.

Footnote. Article 169 as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 169-1. Statement of defense to the statement of claim

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 to the plaintiff and other persons participating in the case.

2. Statement of defense shall be submitted to the court and its copies - to the persons participating in the case, within the period set by the court, providing opportunity to get familiarized with it before the proceeding.

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) name of the plaintiff, its location or place of residence;
- 2) name of the defendant, its location; if the defendant is a citizen - his/her place of residence;
- 3) objection to the claim with reference to the laws and regulations, as well as evidence, justifying the objection;
- 4) a list of documents attached to the statement of defense.

The statement of defense may have telephone numbers, fax numbers, electronic address addresses and other information necessary for proper and timely consideration of the case.

5. The statement of defense shall be signed by the defendant or his/her representative. The statement of defense, signed by the representative shall be attached with a letter of attorney or any other document, confirming his/her authority.

Footnote. The Code is supplemented by Article 169-1 by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 170. Judge's actions on preparation of the case for court proceedings

In order to prepare a case for court proceedings, taking into account circumstances of the case, the judge performs the following:

1) asks the plaintiff on the merits of his/her claims, clarifies objections possible on the part of the defendant, offers, if necessary, to submit additional evidence and explains to the plaintiff his/her procedural rights and obligations;

2) if necessary, calls a defendant, examines him/her on circumstances of the case, figures out what objections there are to the claim and what evidence can prove these objections; in especially complex cases the defendant is offered to provide a written explanation on the case; explains to the defendant his/her rights and responsibilities;

3) settles the issue concerning entering into the case of co-plaintiffs, co-defendants, and third parties without independent claims, as well as settles the issue on replacement of an improper defendant;

4) explains to the parties their rights to apply to an arbitration court to settle their dispute, and consequences of such action or to settle the dispute in a mediation procedure;

5) notifies of the time and place of hearing of the case to the persons or organizations interested in its outcome;

6) settles the issue concerning summoning witnesses to the court;

7) upon petition of the parties or under its own initiative appoints an expertise and makes a decision on involvement of a specialist, interpreter to the case;

8) upon petition of the parties, demands evidence from organizations or citizens;

9) in urgent cases, with notification of persons, participating in the case, conducts an on-site examination of written and physical evidence;

10) sends the court instructions;

11) makes a decision on security of a claim;

12) at the request of the plaintiff, makes a decision on returning of application;

13) takes other necessary procedural actions.

Footnote. Article 170 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Article 171. 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.

Article 172. 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 specified in the Articles 242, 243, subparagraphs 1) -5) of the Article 247 and subparagraphs 1) -5), 8), 9) of the Article 249 of this Code, the preparation of a case for proceedings may be suspended or terminated or left without consideration.

2. The parties shall be explained about consequences of such procedural action.

Article 173. Assignment of the case for judicial proceedings

The judge, having found the case to be ready, issues a ruling on assignment of the case for judicial proceedings, notifies the parties and other participants of the time and place of the case consideration.

Chapter 17. Court proceedings

Article 174. Terms of consideration and settlement of civil cases

1. Civil cases shall be considered and settled within two months from the final date of preparing the case for proceeding. The cases on reinstatement, alimony and contestation of decisions, actions (inaction) of state bodies, local authorities, officials, state servants shall be considered and settled within one month.

2. For certain categories of civil cases the law may establish other terms.

Footnote. Article 174 is amended by the Law of the Republic of Kazakhstan dated December 30, 2005 No. 111 (the order of enforcement see Article 2 of the Law No. 111).

Article 175. Court session

The court session of a civil case shall be conducted in a court with compulsory notification of persons, participating in the case.

Article 176. 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 be obligatory for all participants, as well as for people, sitting in the court room.

Article 177. Directness and oral nature of judicial proceedings

1. During the proceedings the judge shall directly investigate evidence of the case: 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.

Article 178. Order in a 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 participants are turning to the judge and give their testimony and explanations while standing. The chairperson alone can permit deviation from the rules.

3. The parties, as well as all citizens, sitting in the courtroom shall be obliged to keep order in the court room.

Article 179. 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. For a second violation of the court order, the person participating in the case, can be expelled from the courtroom upon the court ruling for the whole proceeding or a part of it. In the latter case, the chairperson introduces the person, re-admitted to the courtroom, with proceedings took place in his/her absence.

3. Citizens not participating in the case and present in a proceeding shall be expelled from the courtroom on the chairperson's order for a second violation of the court order.

4. *Excluded by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).*

5. *Excluded by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).*

6. In case of a mass violation of the court order, the court may expel all citizens from the courtroom, not participating in the case, and consider the case in a closed session or postpone the hearing.

Footnote. Article 179 as amended by the Laws of the Republic of Kazakhstan dated 29.06.2007 No. 270 (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010)

Article 180. 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.

2. When using audio or video materials, the chairperson shall declare it.

Footnote. Article 180 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 181. 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 182. 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 decisions.

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.

Article 183. Expelling of witnesses from the courtroom

Witnesses appeared in the court shall to be expelled from the courtroom. The chairperson shall take measures to ensure that the questioned witnesses do not communicate with the unquestioned witnesses.

Article 184. 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 40-43 of this Code.

Footnote. Article 184 as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 185. Explanation of rights and responsibilities to the persons participating in the case

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.

Footnote. Article 185 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Article 186. 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.

Article 187. Consequences of failure to appear at the court session of persons participating in the case and their representatives

1. Persons participating in the case shall 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. 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, if there is no information on the reasons of absence, or the court finds the reasons for his/her failure to appear to be unjustified or recognizes that the defendant delays the proceedings intentionally.

5. The parties may request the court in written form to consider the case in their absence and send them copies of the court decision. The court may declare mandatory participation of the parties in the court proceeding, if necessary.

6. 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 188. 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 Article 119 of this Code.

4. A witness shall be brought to criminal responsibility for refusal or failure to take the stand in accordance with Article 353 of the Criminal Code of the Republic of Kazakhstan, except for cases provided in the Article 17 of this Code.

Footnote. Article 188 as amended by the Law of the Republic of Kazakhstan dated 25.03.2011 No. 421-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 189. Postponement of hearing of the case

1. Postponement of a hearing of the case shall be allowed in cases, prescribed by this Code, and if the court finds it impossible to consider the case in this court due to absence of any of the participants of the process, bringing of a counterclaim, necessity to submit additional evidence, involvement of other persons, necessity to perform any other actions.

2. 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 190. 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 191. 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.

Article 192. 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 mediation procedures.

Footnote. Article 192 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Article 193. Abandonment of a claim by the plaintiff, acknowledgment of a claim by a defendant, a settlement agreement of the parties and an agreement on mediation procedure

Footnote. The title of the Article 193 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

1. Application of the plaintiff on abandonment of a claim, acknowledgment of a claim by a defendant, provision of settlement agreement of the parties and an agreement on mediation procedure shall be entered in the minutes of the court session and are signed accordingly by the plaintiff, defendant or both parties. If abandonment of a claim, acknowledgment of a claim by a defendant, a settlement agreement of the parties and an agreement on mediation procedure are reflected in written applications to the court, these applications shall be attached to the case, the fact of which shall be recorded in the minutes of the court session.

2. Prior to acceptance of abandonment of the claim or acknowledgment of the claim by a defendant, the settlement agreement of the parties and the agreement on mediation procedure, the court explains consequences of corresponding actions in proceedings to the plaintiff, defendant or the parties.

3. The court issues a ruling on abandonment of the claim, settlement agreement of the parties and agreement on mediation procedure and terminates the proceedings. The ruling shall have conditions of the settlement agreement, approved by the court or of the settlement agreement in mediation procedure.

4. In case if the defendant acknowledges the claim and the court accepts it, a decision shall be issued to satisfy the stated requirements.

5. In case if the court rejects abandonment of the claim, acknowledgment of the claim, disapproves the settlement agreement or the parties' agreement on mediation procedures, the courts issues a relevant ruling and continues considering the case on its merits.

Footnote. Article 193 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Article 194. Explanation of persons participating in the case

1. The court shall listen to explanations of the plaintiff and a third party participating in the case on the part of the plaintiff, a defendant and a third party participating in the case on the part of the defendant, as well as other persons participating in the case. The prosecutor, representatives of state bodies, local authorities, organizations and citizens brought the claim to the court to protect rights and interests of others, shall be the first to give explanations. Persons participating in the case are entitled to ask questions to each other.

2. Written explanations of the persons participating in the case, as well as explanations received by the court in accordance with Articles 73 and 76 of this Code shall be announced by the chairperson.

Article 195. Establishment of order of studying the evidence

The court, after listening to the explanations of the persons participating in the case and taking into account their views, establishes procedure of studying other evidence.

Article 196. 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 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. The witness takes an oath as follows: "I swear to tell the court everything known to me on the case, tell the truth, the whole truth and nothing but the truth". The witness gives a hand receipt, proving that his/her obligations and responsibilities were explained to him/her. The hand receipt shall be attached to the minutes of the court session.

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.

Footnote. Article as amended by the Law of the Republic of Kazakhstan dated June 29, 2007 No. 270 (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 197. 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 that, 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 198. 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 upon the ruling of the court.

2. The witness shall be permitted to read available documents related to his/her testimony. These documents shall be presented to the court and can be attached to the case.

Article 199. 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. If necessary, legal representatives of under-age witness shall also be 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. 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 200. Disclosure of witness's testimony

Testimony of witnesses, collected in accordance with Articles 73, 74, 190 of this Code, shall be disclosed at the court session, after which the persons, participating in the case shall be entitled to express their opinions on these evidences and give their explanations.

Article 201. Inspection of documents

Documents or records of inspections, prepared in accordance with Articles 73, 74, 75, 76 and subparagraph 9) of the Article 170 of this Code shall be announced at the court session and presented to the persons participating in the case, representatives, and experts, specialists and other witnesses, if necessary. After that, the persons, participating in the case, may give their explanations.

Article 202. 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 203. Studying of material evidence

1. Material evidence shall be studied by the court and presented to the persons participating in the case, representatives, and experts, specialists and witnesses, if necessary. 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 73, 76, 88, 89 and subparagraph 9) of the Article 170 of this Code, shall be announced at the court session, after which the persons, participating in the case, may give their explanations.

Article 204. 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.

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 205. 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 the Article 202 of this Code shall be applied. 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.

2. Audio and video materials can be replayed fully or partially if necessary.

3. In order to elucidate the information, contained in audio and video recordings, the court may involve a specialist and appoint an expertise.

Article 206. 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 provided in part 1 of the Article 98 of this Code, the court may appoint an additional expertise.

4. In cases specified in part 3 of the Article 98 of this Code, the court may appoint a repeated expertise.

5. Additional expertise shall be carried out in the procedure stipulated by part 2 and 6 of the Article 98 of this Code, the repeated expertise - by parts 4, 5, 6 of the Article 98 of this Code.

Article 207. Consultation (explanations) of a specialist

1. In cases, when there is no need for special studies, the expert gives consultation either orally or in written form.

2. The expert's consultation, given in written form, shall be attached to the minutes of the court session (appropriate procedural action) and read out in the court. Oral consultation shall be recorded into the minute of the court session (action in the proceedings).

3. 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.

Footnote. Article 207 is amended by the Law of the Republic of Kazakhstan dated July 4, 2006 No. 151.

Article 208. Statement on falsified evidence

1. In case if there is a statement that the available evidence is false, the person, submitting evidence of this, may request the court to exclude it from the list of evidences and settle the case, taking into account other evidences.

2. To verify the statement on falsified evidence, the court may appoint an expertise and offer the parties to submit other evidence.

3. If there are elements of crime in the actions of the person submitted falsified evidence, the judge shall send materials to the relevant bodies to initiate a criminal case or a preliminary investigation with notification of the prosecutor.

Article 209. Conclusions of state bodies and local self-government bodies

Conclusions of the state bodies and local self-governments, accepted by the court for participation in the case under the Article 57 of this Code, shall be announced at the court session. The court, as well as those, participating in the case and representatives may ask questions to the authorized representatives of these bodies in order to clarify the conclusions.

Article 210. 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 211. Court pleadings

1. Pleadings consist of speeches of persons participating in the case and their representatives.

2. The plaintiff and his/her representative shall appear first and then the defendant and his/her representative come. 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.

3. 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 212. 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 213. Conclusion of the prosecutor

The prosecutor not being a party in the case and joining the process in the manner stipulated by the Article 55 of this Code gives his/her opinion on the case after the pleadings.

Article 214. Resumption of consideration of the case on its merits

1. Participants of the pleadings are not authorized to refer to circumstances not established by the court, as well as other evidence not studied at the court session, if they did not use these facts and evidence in their applications before the completion of considering the case.

2. 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. After completion of considering the case, the court pleadings shall be conducted in general procedure.

Article 215. Court's leaving to render a decision

After the pleadings and after the prosecutor's conclusion in the case, provided in Article 213 of this Code, the court leaves to the deliberations room to render a decision . The chairperson shall announce it to the persons sitting in the courtroom.

Article 216. Announcement of the decision

1. After making and signing the judgment, the judge in the courtroom announces resolution part of judgment, explains procedure and terms of appealing the decision.

2. When the decision is made, the judge shall announce 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.

Footnote. Article 216 in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Chapter 18. Court's decision and procedure of its enforcement

Article 217. 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.

Article 218. 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 studied at the court session.

Article 219. 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 be applied to this case and whether the claim can be satisfied.

2. The court settles the case within the plaintiff's requirements. However, under consent of the plaintiff, the court may go beyond the stated requirements, if it is necessary to protect the rights, freedoms and legitimate interests, as well as in other cases, stipulated by the law.

3. The court renders a decision on resumption of case if it is necessary to discover new facts, relevant to the case or additionally study the evidence. After completion of considering the case, the court re-listens the pleadings and the prosecutor's conclusion in cases provided in Article 213 of this Code.

Article 220.s and structure of the decision

Footnote. Article 220 is excluded by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 221. Content of the decision

1. The decision shall be rendered in the name of the Republic of Kazakhstan.

2. The decision consists of introduction, description, declaration and resolute parts.

3. The introduction of the decision shall include: date and place of judgment, name of the court rendered the decision, the court composition, the court secretary, the parties, other persons participating in the case and representatives; subject of the dispute or the claim.

4. The description part of the decision shall contain the plaintiff's claim, the defendant's objections and explanations of other persons participating in the case.

5. The declaration part of the decision shall have circumstances of the case established by the court; the evidence taken into account in the court's conclusions on rights and obligations; arguments used by the court to reject certain evidences and the laws applied by the court. In case if the defendant acknowledges the claim, the declaration part can contain acknowledgment of the claim and its acceptance by the court.

6. The resolute part shall contain the court's conclusion on satisfaction of the claim or on dismissal of the claim fully or partially, indication concerning distribution of the judicial expenses, terms and procedures for appealing the decision, as well as other conclusions.

7. In case if the court sets a certain procedure and terms of enforcement of the decision or sends the decision to immediate enforcement or takes measures for its enforcement, it shall be indicated in the decision.

8. The decision shall be drawn up in written form and signed by a judge. Corrections in the decision shall be specified before signing by the judge.

Footnote. Article 221 as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 222. Decision on recognition of actions (inaction) and decisions of the state bodies, local self-government bodies, organizations and officials as illegal

1. When satisfying a claim on recognition of actions (inaction) and decisions of the state bodies, local self-governments, organizations and officials as illegal, the court recognizes the contested actions (inaction) or decisions to be illegal, obliges to satisfy the citizen's claims, abolishes liability measures applied to him/her or otherwise recovers his/her violated rights and freedoms. The resolute part of the decision on recognition of the normative act as illegal shall contain data that this act shall be deemed invalid from the moment of its adoption.

2. The court's decision on recognition of a normative act as illegal or information about such decision shall be published in mass media where that normative legal act had been published.

Article 223. Decision on recovery of money

The court by when rendering a decision on recovery of money shall specify the amount of the recovered sum of money and the currency in figures and words.

Article 224. Decision on recognition of enforcement or any other document to be invalid

When satisfying the claim on recognition of enforcement or any other document to be invalid on which the recovery is made in an uncontested (without acceptance) procedure, including on the grounds of a notary signature, the resolute part of the decision shall contain the name, number and date of the document which is not subject to enforcement and the amount of money, which is not subject to withdrawal.

Article 225. Decision on conclusion or changing of the contract

Upon the dispute occurred while concluding or changing the contract, the resolute part of the decision shall specify the decision on each disputable provisions 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 226. 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 227. Decision obliging the defendant to take certain actions

1. At rendering a decision obliging the defendant to perform certain actions not related to the transfer of property or sums of money, the court in the same decision may indicate that if the defendant does not perform the decision within the prescribed period, the claimant shall be entitled to perform these actions stipulated by the court ruling at the expense of the defendant with recovering necessary expenses from him/her.

2. If the stated actions can be committed only by the defendant, the court sets the timeframe within which the decision must be performed.

Article 228. 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 229. Drawing up a decision

The decision shall be rendered immediately after the hearing of the case. Drawing up the motivated decision can be delayed for not more than five days, but a short (abbreviated) decision shall be announced by the court at the same court session in

which the case consideration was completed. The announced decision shall be signed by the judge and attached to the case.

Footnote. Article 229 is in the wording of the Law dated 17.02.2012 No.565-IV (shall be enforced from 07.01.2012).

Article 230. Correction of misprints and obvious arithmetic errors in the decision

1. After the decision is announced, the court rendered the decision shall not have 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 issue on making corrections shall be settled 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 hamper consideration of the issue on making corrections.

3. A private petition or a protest may be brought against the court's decision on the issue concerning making the corrections.

Article 231. 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 additional decision shall be issued by the court after considering the issue at the court session and may be appealed or protested. The persons participating in the case shall be notified of the time and place of the court session, however their absence shall not hamper consideration of the issue on rendering of an additional decision.

3. A private petition or a protest may be filed against the court's decision on refusal to render an additional decision.

Footnote. Article 231 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 232 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 days after receipt of the application.

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 232 is amended by the Law of the Republic of Kazakhstan dated June 22, 2006 No. 147.

Article 233 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.

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.

3. 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.

Article 234. 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. A private petition or a protest may be filed against the court ruling on indexation of the adjudicated sums of money.

Footnote. Article 234 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 235. Entry of court decision into legal force

1. Decisions of the first instance court shall enter into legal force upon expiration of terms for their appeal and protest, unless they are appealed or protested.

1-1. Decisions of the specialized financial 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.

1-2. 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.

2. Excluded by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

3. In case of an appeal or protest brought in an appeal procedure, the decision, unless it is cancelled, shall enter into legal force from the moment of the announcement of the decree by the court of appeal.

4. Once the decision enters into legal force, the parties and other persons participating in the case, as well as their successors may not re-bring the claims on the same claim, on the same grounds, as well as to protest facts and legal relations, established by the court, in another proceeding.

5. If, after the decision obliging the defendant to pay periodic payments enters into legal force, the circumstances affecting the size of payments or their duration are changed, each party shall be entitled to bring a new claim and require changing of the size and terms of payments.

Footnote. Article 235 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No. 238; dated 11.07.2009 No. 185-IV (shall be enforced from 30.08.2009) ; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 01.03.2011 No. 414-IV (shall be enforced from 01.01.2010); dated 22.07.2011 No. 478-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

Article 236. Enforcement of the decision

1. The decision, in the manner prescribed by the law, 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 an enforcement order shall be issued, which is given to the claimant or at his/her written request is sent by the court to the territoriality relevant enforcement body.

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 for its further enforcement.

3. Upon the court decisions subject to immediate enforcement, an enforcement order shall be issued and sent immediately after the decision is rendered.

4. Enforcement orders (hereinafter - enforcement documents) shall be issued by the first instance court within three days after the decision enters into legal force or after return of the case from a superior court and they shall specify:

name of the court issued the enforcement document;

number of the case and date of the decision;

the resolute part of the decision (verbatim);

time of the decision's entry into legal force;

date of issuance of the document;

Note of the RCL!

The paragraph is amended by the Law of the Republic of Kazakhstan dated 12.01.2012 No. 538-IV (shall be enforced from 01.01.2013).

surname, first name and patronymic (if it is specified in the identity document), date of birth of the claimant, his/her place of residence or location, information on his/her registration by place of residence and tax identification number or if the claimant is a legal entity, its name, place of actual location or information from a united State register, bank details and taxpayer registration number;

Note of the RCL!

The paragraph is amended by the Law of the Republic of Kazakhstan dated 12.01.2012 No. 538-IV (shall be enforced from 01.01.2013).

surname, first name and patronymic (if it is specified in the identity document), date of birth of the debtor, his/her place of residence or location, information on his/her registration by place of residence, information about his/her place of work and bank details of his/her employer (if available in the case file), his/her bank details and taxpayer identification number (if available in the case file), or if the debtor is a legal entity, its name, place of actual location or information from a single State register (if available in the file), bank details and registration number of the taxpayer.

Form of the enforcement order shall be approved by the authorized body, providing enforcement of the enforcement documents.

5. Upon each decision of the court one enforcement document shall be issued. If the court has taken measures to secure the claim, the enforcement document shall be attached with copies of documents on the measures taken to secure the claim, including , if any, copies of the documents, containing information about the location of the arrested property and persons, responsible for its safety. If the enforcement should be carried out in different locations or if the decision was made in favor of several plaintiffs or against several defendants, the court, at the request of the claimants, issues several enforcement documents, indicating the exact place of enforcement, or that part of the decision subject to enforcement upon this enforcement document. The court attaches a copy of the judicial act or an extract from it, certified by the court's seal, to the enforcement document.

6. Bodies of enforcement proceedings in case of enforcement of the court decision shall notify the court rendered the decision within ten working days, or upon expiry of the deadline for the decision enforcement they shall present written information, containing the reasons of failure to enforce the decision.

Footnote. Article 236 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No. 238; dated 05.05.2003 No. 409; dated 22.06.2006 No. 147; dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010); dated 12.01.2007 No. 224 (shall be enforced from 01.01.2012); dated 12.01.2012 No. 538-IV (shall be enforced from 01.01.2012).

Article 237. Decisions subject to immediate enforcement

The following decisions shall be subject to immediate enforcement:

- a. on adjudication of alimony;
- b. on adjudication of salary to employee, but not more than for three months;
- c. on reinstatement;
- d. 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;
- e. on recognition of a strike to be illegal;
- f. on restructuring financial institutions and organizations within a bank conglomerate as a parent organization and non-financial institutions.

Footnote. Article 237 as amended by the Law of the Republic of Kazakhstan dated 15.05.2007 No. 253; dated 11.07.2009 No. 185-IV (shall be enforced from 30.08.2009) ; dated 01.03.2011 No. 414-IV (shall be enforced from 01.01.2010).

Article 238. 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 239. Ensuring the decision enforcement

The court may ensure the enforcement of the decision that is not brought to immediate enforcement in accordance with the rules established by the law.

These actions shall be performed by the court before sending of the enforcement documents to the body, authorized to enforce the judicial decrees.

Article 240. Suspension and deferral of the court decision enforcement, changes in method and order of its enforcement, approval of settlement agreement

Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).

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 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. The petition of the enforcement agent or application of the parties in the enforcement proceedings 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 case.

3. A private petition or a protest may be filed against the court's decision on deferral or suspension of enforcing the decision, and change of the method and procedure of its enforcement.

4. In accordance with the rules of this Article, deferral, suspension or change of the method of a settlement agreement of the parties may be conducted in a mediation procedure approved by the court.

Footnote. Article 240 as amended by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010); dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Article 240-1. Restitution of enforcement of the court decision

In case of cancellation of the court decision came into legal force, which is enforced fully or partially, and the court's new decision on dismissal of the claim fully or partially, or rendering of a ruling on termination of proceedings or on leaving the claim without consideration, the plaintiff shall reimburse everything received by him/her upon the cancelled decision (restitution of the decision's enforcement).

Footnote. Supplemented by Article 240-1 by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 240-2. 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, at the written application of the defendant, considers the issue concerning restitution of enforcement and settles this issue in a new decision.

2. If the court while re-considering the case did not settle the issue on restitution of enforcement of the court decision, the defendant's claim on restitution of enforcement of the court decision shall be considered at a separate court session with notification of the persons participating in the case and the body enforced the cancelled decision, if necessary. These persons shall be notified of the place and time of considering the claim on restitution of enforcement of the court decision, but their failure to appear in the court shall not be an obstacle to settle the case on restitution of enforcement of the court decision.

3. A private petition or an appeal may be filed against the court's decision on restitution of enforcement of the court decision.

Footnote. Supplemented by Article 240-2 by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 240-3. Settlement of the issue on restitution of enforcement of the court decision by appeal, cassation or supervisory instance court

Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

When considering the case in which the first instance court had not settle the issue on restitution of enforcement of the recalled decision, the court of appeal, cassation or supervisory instance shall settle the issue only if the case has reliable data on enforcement of the cancelled decision of the first instance court. Otherwise, the issue on restitution of enforcement of the court decision shall be settled in the manner stipulated by part 2 of the Article 240-2 of this Code.

Footnote. The Code is supplemented by Article 240-3 in accordance with the Law of the Republic of Kazakhstan dated 11.07.2001 No. 238; as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 240-4. Consideration of petitions of enforcement agent

1. Submission of an enforcement agent shall be admitted by the judge within ten days from the date of its receipt to the court. The court shall notify the defendant and the claimant of the received submission and of the time and place of the court session. Absence of the defendant or the claimant duly notified of the time and place of the court session shall not be an obstacle to consider the case. Having considered the submission of the enforcement agent, the judge renders a ruling.

A copy of the court ruling shall be sent to the defendant and the claimant within three days.

2. The court ruling may be appealed or protested in the manner, prescribed by this Code.

Footnote. The Code is supplemented by Article 240-4 in accordance with the Law of the Republic of Kazakhstan dated 22.06.2006 No. 147; is in the wording of the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).

Article 240-5. Appeal against actions (inaction) of an enforcement agent when enforcing the decision

1. The claimant or the debtor may bring a petition against actions (inaction) of an enforcement agent in enforcement proceedings or a refusal to perform such actions. The petition shall be brought to the district court 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.

Preliminary appeal to superior bodies and to the superior officer by way of subordination shall not be an obligatory provision to bring the petition to the court and its acceptance by the court for consideration.

2. The petition shall be considered by the court within ten days. The claimant, debtor and enforcement agent shall be notified by the court of the time and place of the court session, but their absence shall not be an obstacle to settle the petition.

3. The court recognized the petition to be justified, renders a decision on cancellation or invalidation of the enforcement agent's actions or on enforcement agent's obligation to eliminate the violation or on restoration of the violated rights and freedoms of the claimant or the debtor in any other way.

If these actions can be conducted by the enforcement agent only, the court may set a deadline for the decision enforcement.

4. The court rejects the appeal, if establishes that the appealed actions (or inactions) had been conducted in accordance with the law within the powers of the enforcement agent and the rights, freedoms and lawful interests of the debtor and the claimant had not been violated.

5. The court's decision to dismiss the petition may be appealed in the manner prescribed by this Code.

6. The court, the claimant or the debtor shall be notified of the enforcement of the decision no later than one month from the date of receiving the decision if the court has not set other terms to enforce the decision.

Footnote. Supplemented by Article 240-5 by the Law of the Republic of Kazakhstan dated June 22, 2006 No. 147.

Article 240-6. Protecting rights of other persons when enforcing the decision

1. In case if the enforcement agent commits violations of law during arresting the property, which is a ground for cancellation of the seizure, regardless whether the property belongs to the debtor or other persons, the debtor's claim on withdrawal of the property seizure shall be considered by the court in the manner, specified by Article 240-5 of this Code. Such claim can be brought prior to sale of the seized property.

The dispute concerning civil law, brought by other persons, related to ownership of the property to be recovered, shall be considered by the court according to the rules of actions in proceedings.

2. Claims to release property from seizure may be brought by owners or persons, owning the property on the right of economic management, operational management, regular land use or on other grounds, specified by legislation or a contract.

3. Claims to release the property from seizure shall be brought to a debtor and a claimant.

4. If the seizure is made in connection with confiscation of property, a convict and a relevant body, authorized to register, keep, evaluate and use the property, brought (received) to the republican property shall be involved as defendants. In case of recognizing the claims valid, if the body, authorized to register, keep, evaluate and use the property, has the property which is subjected to confiscation and which is transferred to him/her by trade or other organizations for sale, processing or gratuitously, the very property shall be returned in kind. In this case, apart from the body, authorized to register, keep, evaluate and use the property, brought (received) to the republican property the mentioned organizations shall be involved in the proceedings and be obliged to return the property.

If the property, seized in connection with confiscation of property, shall have already been sold or processed, the plaintiff receives money, raised from the sale of the property.

5. The judge shall be obliged to cancel seizure of property if he/she finds out circumstances, specified in the part 1 of this Article.

Footnote. Supplemented by Article 240-6 by the Law of the Republic of Kazakhstan dated June 22, 2006 No. 147.

Article 240-7. Sanctioning the enforcement agent's decree

1. In cases, prescribed by the law, the enforcement agent issues a decree to conduct enforcement actions subject to sanctioning by the court. The decree shall contain reasons and grounds due to which necessity to accept the sanctioned actions occurred.

2. The decree to conduct enforcement actions subject to sanctioning shall be submitted to the court by the enforcement agent. The decree shall be attached with documents of enforcement production confirming validity of the sanctioned activities.

3. The enforcement agent's decree shall be considered by the court on the day of its entry to the court.

4. Having considered the enforcement agent's decree and the attached materials of enforcement proceedings, the court shall issue a sanction to conduct enforcement actions or refuses to give it.

Issue of sanction shall be confirmed by putting the "sanction" stamp on the enforcement agent's decree and shall be signed by a judge.

In case of refusal to give the sanction, the judge shall issue a reasoned ruling on refusal to give sanction to conduct enforcement actions.

5. The court ruling may be appealed or protested in the manner, prescribed by this Code.

Footnote. The Code is supplemented by Article 240-7 in accordance with the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).

Article 241. Sending and handing of copies of the court's decision to the persons participating in the case

Copies of the court decision shall be sent or handed to the parties and other persons participating in the case, who did not appear at the court session, not later than five days from the date of rendering of the decision in its final form.

Chapter 18-1. Enforcement of arbitral court's decisions

Footnote. Supplemented by Chapter 18-1 by the Law of the Republic of Kazakhstan dated December 28, 2004 No. 24.

Article 241-1. Compulsory enforcement of arbitral court decisions

1. In case if the arbitration decision is not enforced voluntarily within a specified period, the party, in whose favor the arbitration decision was rendered (claimant), may bring a claim to the court at the place of arbitral tribunal on compulsory enforcement of the arbitral court decisions in accordance with the rules provided in this Article.

2. The application on issuance of the enforcement order shall be attached with the following documents:

1) original version or a copy of the arbitral court decision. The copy of the decision of a permanent arbitration court shall be certified by the chairperson of the arbitral court; the copy of the decision of the arbitral court on settling a particular dispute shall be notarized;

2) original version or a notarized copy of the arbitration agreement, signed in the manner, prescribed by the law.

3. An application to issue of the enforcement order may be filed not later than three years upon expiry of the deadline for voluntary enforcement of the arbitral decision.

4. The application to issue of the enforcement order filed with omission of the deadline, or which was not attached with necessary documents, shall be returned by the court without consideration; the court shall make a decision on it and it can be appealed in the manner, prescribed by this Code.

5. The court shall be entitled to revive the deadline to submit an application to issue the enforcement order, if it finds the reasons for omission of the deadline to be reasonable.

6. The application to issue the enforcement order shall be considered by a judge personally within fifteen days from the date of receipt of the application by the court.

7. The court shall notify the debtor of the received application of the claimant on compulsory enforcement of arbitral decision, as well as place and time of the court sessions. The claimant shall also be notified of the place and time of considering his/

her application. Absence of the debtor or the claimant at the court session shall not be an obstacle to consider the application, if the debtor had not submitted a request to postpone consideration of the application by indicating reasons of failure appear at the court session.

8. The court, while considering the application on issuance of the enforcement order for compulsory enforcement of the decision of the arbitral court, shall be entitled not to reconsider the decision, rendered by the arbitral court.

9. After considering the application, the court shall render a ruling on issuing the enforcement order or refusal to issue the document.

The court ruling to issue the enforcement order shall be performed immediately.

Article 241-2. Issuance of an enforcement order

1. While rendering of the court ruling to issue the enforcement order on compulsory enforcement of the arbitral court decision, the enforcement order shall be issued in accordance with the rules of the Article 236 of this Code.

2. The court ruling rendered upon the application on issuance of the enforcement order for compulsory enforcement of the arbitral decision, may be appealed in the manner, prescribed by this Code for appeals against judicial acts.

Article 241-3. Refusal to issue an enforcement order

The court renders a ruling on refusal to issue an enforcement order for compulsory enforcement of the arbitral decision if:

1) the party, against which the decision was rendered, submits evidence to the court, containing data proving that:

the arbitration agreement is invalid;

the decision of arbitral court was taken upon a dispute, not stipulated by the arbitration agreement or not falling within its terms, or containing decisions on matters beyond the limits of the arbitration agreement, as well as due to non-jurisdiction of the dispute to the arbitral court. If decrees of arbitral court upon the issues, covered by the arbitration agreement can be separated from those not covered by the agreement, the issuance of the enforcement order on compulsory enforcement of the arbitral decision, containing the issues, covered by the arbitration decision, cannot be rejected;

composition of the arbitral court or the arbitration proceeding did not meet requirements of the legislation of the Republic of Kazakhstan on the arbitration courts;

the party, against which the arbitration decision was made, was not properly notified of the appointment of arbitration judges or time and place of court session, or if the party could not submit its explanations to the court;

one of the parties at the making of the arbitration agreement was completely incapable or partially capable;

there is a court or arbitral court decision, came into legal force, issued upon a dispute between the same parties, on the same subject and on the same grounds an court or arbitral court decision on termination of the proceedings in connection with the plaintiff's abandonment of the claim;

rendering of the decision by the court became possible as a result of committing crime, proved by the court sentence;

2) The court establishes that:

the dispute cannot be subjected to the arbitration court jurisdiction in accordance with the legislation of the Republic of Kazakhstan or other right to which the parties have subjected the arbitration agreement on the dispute;

the arbitration decision contradicts to the requirements, specified in subparagraphs 1) and 2) of this Article and the public policy of the Republic of Kazakhstan.

Chapter 19. Suspension of case proceedings

Article 242. Obligation of the court to suspend the proceedings

The court shall suspend the proceedings in the following cases:

1) death of a citizen or reorganization or liquidation of a legal entity, that is a party in the proceedings, if the controversial relationship allows succession;

2) loss of capability by the party;

3) the defendant's presence in fighting units of the Armed Forces, other troops and military formations of the Republic of Kazakhstan or the plaintiff's request, being involved in the fighting units of the Armed Forces, other troops and military formations of the Republic of Kazakhstan;

4) impossibility to consider this case before settlement of another case, considered in a civil, criminal or administrative proceedings;

5) if the court finds that a law or another normative act to be applied in the case, infringes constitutional rights and freedoms of a citizen and appeals to the Constitutional Council of the Republic of Kazakhstan with a proposal to declare the act to be unconstitutional, as well as if it becomes known that the Constitutional Council, under the initiative of another court, checks constitutionality of the normative legal act to be applied to the case;

6) appeal to the court of a foreign state for legal assistance;

7) The parties' agreement to conduct the mediation procedure. When the term for mediation procedure is extended, the parties shall inform the court by joint written notification.

Footnote. Article 242 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 28.01.2011 No.402-IV (shall be enforced from 05.08.2011); dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 243. Right of the court to suspend proceedings

The court may, upon application of the persons participating in the case or under its own initiative to suspend the proceedings in the cases as follows:

1) the party's involvement in military service by conscription in the Armed Forces, other troops and military formations of the Republic of Kazakhstan and the party's involvement into other state obligations;

2) the party's business trip exceeding the terms of the case, except the cases when the representatives of the legal entities participate in the case;

3) if the party is in a hospital or if it has a disease that prevents the party's appearance in the court and is confirmed by a document from the medical institution, except the cases when the representatives of the legal entities participate in the case;

4) search of the defendant in cases, provided in the Article 135 of this Code;

5) appointment of an expertise by the court;

6) an appeal to the court with the request to provide legal assistance on the case;

7) guardianship and custody bodies' investigation of living conditions of adoptive parents for adoption cases.

Footnote. Article 243 as amended by the Law of the Republic of Kazakhstan dated May 22, 2007 No. 255 (shall be enforced from the date of its official publication); dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

Article 244. Terms of suspension of proceedings

The proceedings shall be suspended:

1) in cases, provided in subparagraphs 1) and 2) of the Article 242 of this Code, - prior to determination of successor of the left person or an appointment of a representative to the legally incapable person;

2) in cases, stipulated in subparagraph 3) of the Article 242 and Article 243 of this Code, - before the end of the party's stay in the Armed Forces of the Republic of Kazakhstan, before the end of its state obligations, before the party's return from a business trip, discharge from the hospital or termination of the disease, before finding of the defendant or before submission of an expert's conclusion to the court or the conclusion of the guardianship and custody bodies;

3) in the case, specified in the paragraph 4) of the Article 242 of this Code, - prior to the decision, sentence or the court order enters into legal force;

4) in cases, provided in subparagraph 5) of the Article 242 of this Code, - prior to entry into legal force of the decision of the Constitutional Council of the Republic of Kazakhstan;

5) in cases, specified in subparagraph 6) of the Article 242, subparagraph 6) of the Article 243 of this Code, - before providing of the legal assistance by the court;

6) in cases, stipulated by subparagraph 7) of the Article 242 of this Code, - before termination of the mediation procedures.

Footnote. Article 244 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No. 238; dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011)

Article 245. Appealing or protesting of the court ruling to suspend proceedings.

A private petition or a protest can be brought against the court ruling to suspend the proceedings.

Article 246. Resumption of proceedings

The proceedings shall be resumed after elimination of the circumstances suspended the case, at the request of the persons participating in the case or under the court's initiative. The court shall notify the parties participating in the case of resumption of the proceedings upon the general rules of civil procedure.

Chapter 20. Termination of case proceedings

Article 247. Grounds for termination of proceedings

The court shall terminate the proceedings if:

- 1) it is not subject to civil proceedings;
- 2) there is a court decision entered into legal force, issued upon a dispute between the same parties, on the same subject and on the same grounds, or the court ruling on termination of the proceedings in connection with the plaintiff's abandonment of the claim or a settlement agreement of the parties or the parties' agreement on mediation procedure;
- 3) the plaintiff abandoned the claim and the court admitted the abandonment;
- 4) the parties entered into a settlement agreement and it was approved by the court;
- 4-1) the parties entered into an agreement on the mediation procedure and it was approved by the court;
- 5) after the death of a citizen, who was one of the party on the case, the controversial relationship does not allow succession;
- 6) an organization, being a party in the proceedings, is liquidated with termination of its activity and absence of successors.

Footnote. Article 247 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Article 248. Procedure and consequences of termination of the proceedings

1. The proceedings of the court shall be terminated by the court ruling.
2. In case of terminating the proceedings, a re-bringing of the claim to the court on the same parties, on the same subject and on the same grounds shall not be permitted.
3. By terminating the proceedings on the grounds specified in subparagraphs 1) and 2) of the Article 247 of this Code, the the court in its ruling shall specify return of state taxes and abolition of the measures, taken to secure the claim.
4. A private petition or a protest can be brought against the court ruling to terminate the proceedings.

Chapter 21. Leaving the claim without consideration

Article 249. Grounds for leaving the claim without consideration

The court leaves the claim without consideration if:

- 1) the plaintiff did not observe the procedure for preliminary pre-judicial settlement of the dispute, specified by the law for this category of cases and the opportunity to apply this procedure has not been lost;
- 2) the claim was brought by an incapable person;
- 3) the claim was brought or signed by a person with no powers to sign and bring it;
- 4) this or another court have an earlier initiated case on the dispute between the same parties, on the same subject and on the same grounds;
- 5) in accordance with the law, the parties had made an agreement on transference of the dispute to the arbitral court or an international commercial trial and before the beginning of considering the case, the defendant had brought a protest against settlement of the case in the court, unless other cases provided by the legislative acts;
- 6) the parties, who did not ask to consider the case at their absence, had not appeared in the court after the second summoning;
- 7) the plaintiff, who did not ask to consider the case at his/her absence, had not appeared in the court after the second summoning and the defendant does not require to continue considering the case;
- 8) the person, for whom the case was initiated, did not support the claimed requirement;
- 9) a claim on returning of a claim was brought and the defendant does not require to continue considering the case;

10) a claim on recovery of rights for the lost securities for a plaintiff and order securities was brought before expiry of the three-month term from the day of its publication;

Footnote. Article 249 as amended by the Law of the Republic of Kazakhstan dated 28.12.2004 No. 24; dated 05.02.2010 No. 249-IV.

Article 250. Procedure and consequences of leaving the claim without consideration

1. In case of leaving the claim without consideration, the proceeding is ended with the court ruling. In this ruling the court shall be obliged to specify how to eliminate the circumstances, mentioned in the Article 249 of this Code, hampering consideration of the case. By leaving the claim without consideration on the grounds, stipulated by subparagraphs 1) and 2) of the Article 249 of this Code, the court indicates returning the state taxes and cancellation of the measures taken to secure the claim.

2. A private petition or a protest may be brought against the court ruling on leaving the claim without consideration.

3. After elimination of circumstances caused leaving the claim without consideration, the interested person may re-bring the claim to the court in general manner.

4. The court, upon petition of the plaintiff, cancels its ruling on leaving the claim without consideration on the grounds, specified in subparagraphs 6) and 7) of the Article 249 of this Code, if the parties submit an evidence, proving justification of the reasons for their absence at the court session;

5. A private petition may be brought to the court against the court ruling on rejection of such petition.

Chapter 22. Court ruling

Article 251. Court ruling and procedure of its rendering

1. The first instance court's act that does not settle the case on its merits shall be rendered in the form of ruling.

2. The ruling shall be rendered in the form of an independent procedural document in the manner stipulated by the Article 217 of this Code.

3. When settling not difficult cases, the court may render a ruling without leaving the court-room. Such ruling shall be recorded in the minutes of the court session.

4. The decision shall be read out immediately after its rendering.

Article 252. Content of the ruling

1. The ruling shall contain:

1) date and place of rendering the ruling;

2) name of the court rendered the ruling, surnames and names of the judges and the secretary of the proceeding;

3) persons participating in the case, subject of the dispute and the claimed requirement;

4) issue on which the ruling is rendered;

5) grounds on which the court rendered a ruling and a reference to the laws applied by the court;

6) court decree;

7) procedure and terms of appealing the ruling if it is subject to appeal.

2. The ruling, rendered by the court in the court-room, shall contain data, specified in subparagraphs 4)-6) of this Article.

Footnote. Article 252 as amended by the Laws of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 253. Separate rulings of the court

1. If, in the court proceeding, the court finds out that violations were made, it shall have the right to render a separate ruling and send it to corresponding organizations, officials and other persons, conducting managing functions, who shall inform on the actions taken by them within a month.

2. If the bodies do not inform about the measures taken, they shall bear administrative responsibility in accordance with the law. Imposition of the administrative liability does not release the corresponding persons from the obligations to inform of the measures taken on the separate ruling of the court.

3. If, when considering the case, the court finds characteristics of crime in the actions of the party, other persons, an official or any other person, it informs the prosecutor about it.

4. The separate ruling of the court may be appealed by those, whose interests are touched, in the manner, prescribed by the part 4 of the Article 344 of this Code.

Footnote. Article 253 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 254. Sending of copies of the court ruling to the persons participating in the case

Copies of the court ruling on suspension or termination of the proceeding, or on leaving the claim without consideration shall be sent to the parties and other persons participating in the case and who did not appear at the court session, not later than 5 days after the day from the day the ruling is rendered.

Chapter 23. Minutes

Article 255. Obligation to keep a minute

A minute shall be kept at every court session of the first instance court and in every independent proceeding conducted out of the court room.

Article 256. Content of a minute

1. A minute of the proceedings or independent procedural action, conducted out of the court room, shall contain all important aspects of the proceeding or the independent procedural action.

2. The minute of the proceeding shall contain:

- 1) year, month, date and place of the court session;
- 2) time of the beginning and ending of the court session;
- 3) name of the court, considering the case, surnames and names of the judges and secretary of the proceeding;
- 4) name of the case;
- 4-1) data on applying audio and video materials and/or stenography;
- 5) information on appearance in the court of the persons participating in the case, representatives, witnesses, experts, specialists and interpreters;
- 6) information on explanation of their procedural rights and obligations to the persons participating in the case, representatives, interpreter, experts and specialists;
- 7) chairperson's instruction and ruling, rendered in the court room;
- 8) claims, petitions and explanations of the persons participating in the case and representatives;
- 9) testimonies of witnesses, experts' oral explanations of their conclusions, specialists' explanations;
- 10) information on announcement of documents, data on inspection of material evidence, listening to audio materials, watching of video and film materials;
- 11) data on conclusions of the state bodies and local self-management bodies, participating in the case in accordance with the Article 57 of this Code;
- 12) content of questions and answers took place at the court session;
- 13) content of the pleadings;
- 13-1) conclusion of the prosecutor, participating in the case in compliance with the Article 55 of this Code;
- 14) data on announcement and explanation of content of the ruling, explanation of the procedure and terms for its appealing;
- 15) data on explaining the rights to the persons participating in the case to get familiarized with the minutes and giving notes for them;
- 16) date of drawing up the minute.

Footnote. Article 256 as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 29.12.2010 No. 374-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 257. Drawing up of the minutes

1. The minutes shall be drawn up by a secretary of the court session.
2. Independent minutes shall be drawn up at every court session or in every procedural action.
3. The minutes shall be drawn up in computer, electronic (including digital audio and video recordings), written or forms. Additional materials of recording of the court session shall be attached to the minutes of the court session and kept with the case materials.
4. The persons participating in the case and representatives shall have right to make a petition for announcement of any part of the minutes, on recording of circumstances into the minutes, which are important for the case.
5. The minutes shall be prepared and signed not later than 3 days after completion of the court session, and the minutes on an independent procedural action - not later than the next day after its enforcement. In difficult cases, recording and signing of the minutes may be fulfilled within a longer period of time, but not later than 10 days after completion of the court session.
6. The minutes shall be signed by the chairperson and the secretary. All changes, corrections and additions shall be specified in the minutes and certified by their signatures.
7. Upon petition of the persons participating in the case or their representatives, the court shall submit the minutes in an electronic form, certified by digital signature of the chairperson and the secretary.

Footnote. Article 257 as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 15.07.2010 No. 337-IV (the order of enforcement see Article 2); dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

Article 258. Comments to the minutes

Persons participating in the case or their representatives may get familiarized with the minutes of the court session within five days from the day of its preparation and signing, and submit comments on the minutes in written or electronic form, certified by a digital signature, by indicating mistakes or incompleteness of the committed actions in proceedings and recording (reflecting) of their results.

Footnote. Article 258 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); as amended by the Law of the Republic of Kazakhstan dated 15.07.2010 No. 337-IV (the order of enforcement see Article 2).

Article 259. Consideration of comments to the minutes

1. Comments to the minute shall be considered by a chairperson, who certifies its correctness in case if he/she agrees with the comments.

2. In case if the chairperson disagrees with the submitted comments, the comments shall be considered in the court with the notice to the persons participated in the case proceeding. Absence of the persons participated in the case proceeding shall not be a preclusion for considering the comments to the minutes. After considering the comments, the chairperson makes a ruling on certification of their accuracy or their complete or partial rejection. The court ruling shall not be subject to appeal or protest, however, objections on the ruling can be included in the appealation petition or protest. All the comments shall be attached to the case.

3. Comments to the minutes shall be considered within five days from the day of their submission.

4. In case if the chairperson, for some objective reasons, cannot consider the comments to the minutes, they shall be attached to the case.

Footnote. Article 259 is in the wording of the Law of Republic of Kazakhstan dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

Chapter 24. Proceedings in absentia and ruling by default

Article 260. Grounds for proceedings in absentia

1. In case of non-appearance of a defendant at the court session, who was properly notified of the time and place of the court session, and who did not inform the court about the failure to appear in the court and did not ask to consider the case in his/her absence, the case may be considered in proceedings in absentia, if the plaintiff is not against it.

2. In case if several defendants are participating in the case, consideration of the case in absentia is possible if all the defendants failed to appear at the court session.

3. If the plaintiff appeared at the court session, does not agree to consider the case in proceeding in absentia in absence of the defendant, the court suspends the court session and sends a notice of the time and place of a new proceeding to the defendant. In case of the repeated non-appearance of the properly notified defendant, the court shall consider the case in proceedings in absentia.

4. The court renders a ruling on considering the case in proceeding in absentia.

5. If the plaintiff changes the subject or the grounds for the claim, the court may not consider the case in proceeding in absentia at this court session.

Article 261. Procedure of proceedings in absentia

When considering the case in procedure of proceedings in absentia, the court considers evidence, submitted by the persons, participating in the case, taking into account their testimony and renders a ruling, which is called a ruling by default.

Article 262. Content of a ruling by default

1. The content of the ruling by default shall be determined by the rules of the Article 221 of this Code.
2. Suspension of making of a reasoned ruling by default shall not be allowed.
3. The resolute part of the default ruling shall contain terms and procedure for the defendant's application to cancel the ruling.

Article 263. Sending copies of the ruling by default

1. A copy of the ruling by default shall be sent to the defendant no later than three days from the date of its rendering with notification of receipt.
2. A copy of the ruling by default shall be sent to the plaintiff, who was not present at the court session, within three days from the date of its rendering with notification of its handing over.

Article 264. Appealing a ruling by default

1. A defendant shall have right to bring a claim to the court rendered a ruling by default, on cancellation of the ruling within five days from receiving the copy of the ruling.
2. A ruling by default may be appealed by the parties or challenged by a public prosecutor in appeal manner after expiring of the terms for bringing a claim on cancellation of the ruling, and in case if the application is brought - within fifteen days from rendering the ruling by the first instance court on rejection to satisfy the application.

Footnote. Article 264 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 265. Content of an application on cancellation of a ruling by default

1. Application on cancellation of a ruling by default shall contain:
 - 1) name of the court issued the ruling by default;
 - 2) name of the party brought the application;

3) information on circumstances, proving validity of reasons of the defendant's absence in the court, and evidences, supporting the circumstances and the evidence, which may influence the content of the ruling;

4) request of the party, bringing the application;

5) a list of the materials, attached to the application.

2. An application on cancellation of a ruling by default shall be signed by the party or its authorized representative and be submitted to the court with copies, equal to the number of persons, participating in the case.

3. *(Paragraph is excluded by the Law of the Republic of Kazakhstan dated December 24, 2001 No. 276).*

Article 266. Actions of the court after acceptance of the application

The court shall notify the persons, participating in the case, of the time and place of considering the application on cancellation of the ruling by default, send them copies of the application and materials, attached to it.

Article 267. Considering the application

The application on cancellation of a ruling by default shall be considered by the court at the court session within ten days since its receipt. Absence of the persons, participating in the case and noticed of the time and place of the court session properly, shall not hamper consideration of the application.

Article 268. Authorities of the court

The court that considered the application on cancellation of a ruling by default, renders a ruling on rejection to satisfy the application or on cancellation of a ruling by default and resumption of the case on its merits in the same or another court composition.

Article 269. Grounds for cancellation of a ruling by default

A ruling by default shall be cancelled, if the court finds out that the defendant's failure to appear at the court session is justified, of which he/she was not able to inform the court timely and presented evidence that can affect the content of the ruling.

Article 270. Resumption of a case

If the ruling by default is cancelled, the court resumes the case. In case of non-appearance of the defendant, properly notified of the time and place of the court

session, the newly rendered court's ruling shall be not acknowledged to be the ruling by default. The defendant shall have not right to re-bring the claim on reconsideration of the ruling by default in proceedings in absentia.

Article 271. Legal validity of a ruling by default

A ruling by default shall enter into legal force in accordance with the rules of the Article 235 of this Code.

Sub-section 3. Special action proceeding

Chapter 25. Proceeding on applications on protection of citizens' electoral rights and public associations, participating in elections and referenda

Article 272. Submission of an application

A citizen, a public organization, a member of an election commission, who are sure that a decision, an action (or inaction) of a state body, local government, electoral commission, an official violated the right to elect or be elected, to participate in elections, referendum, have right to apply to court with the jurisdiction, specified in the Chapter 3 of this Code and other laws.

Article 273. Consideration of an application

1. An application, received during preparation and conduction of elections, and during a month from the day of voting, shall be considered within five days, and those, which were received five days before the vote, on the election day and before the announcement of the election results, shall be considered immediately.

An application on appeal of decision of the election commission on necessity to correct voters (electors) in the list shall be considered on the day of its receipt.

2. The application shall be considered by the court with participation of the plaintiff, a representative of relevant election commission or state body, local self-government body. Non-appearance of the persons, duly notified of the time and place of the court session, at the court, does not hamper considering and settling the case.

Footnote. Article 273 is amended by the Law of the Republic of Kazakhstan dated July 9, 2004 No. 583; dated July 8, 2005 No. 67 (the order of enforcement see Article 2).

Article 274. Decision of the court and its enforcement

1. The decision of the court that recognized the application as justified shall be the ground for restoration of the violated electoral right.

2. The decision of the court enters into legal force immediately and shall not be subject to appeal and cassation appeal. It shall be sent to appropriate state body, local

government or the chairperson of the election commission. Officials guilty in non-enforcement of the decision of the court shall bear responsibility established by the law.

Footnote. Article 274 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No. 238; dated 09.07.2004 No. 583; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Chapter 25-1. 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

Footnote. The Section is supplemented by Chapter 25-1 by the Law of the Republic of Kazakhstan dated January 16, 2006 No. 122 (shall be enforced from 1 January, 2007).

Article 274-1. Submission of an application

1. A citizen believing that the decision, action (inaction) of a local enforcement body, violates the right of a citizen to be selected for participation in a criminal proceeding as a juror, shall have right to submit an application to the court upon jurisdiction specified in the Chapter 3 of this Code.

2. The application may be submitted to the court within seven days after completion of familiarization of citizens with a preliminary list of potential jurors in accordance with the laws of the Republic of Kazakhstan on jurors.

Article 274-2. Consideration of an application

1. The application received within the period specified in the Article 274-1 of this Code, shall be considered within two days, and the application, received on the last day of that period, shall be considered immediately.

2. The application shall be considered by the court with participation of a plaintiff, a representative of a local enforcement body. Non-appearance of persons in the court, duly notified of the time and place of the court session, shall not hamper consideration and settlement of the case.

Article 274-3. Decision of the court on the application and its enforcement

1. The decision of the court established a violation of a citizen's right to participate in a criminal proceeding as a juror shall be the ground for make corrections in a preliminary list of potential jurors.

2. The decision of the court shall be sent to the appropriate local enforcement body. Officials guilty for non-fulfillment of the decision of the court, shall bear responsibility established by the law.

Chapter 26. Proceeding upon the cases on appealing of decrees of bodies (officials), authorized to consider cases on administrative offenses

Footnote. The title of the Chapter is in the wording of the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 275. Submission of petition

1. Decrees upon the cases of administrative violations rendered by the bodies (officials), listed in subparagraphs 2) and 3) of the Article 538 of the Code of the Republic of Kazakhstan on administrative offences, may be appealed by the persons, brought to administrative liability, complainants and their legal representatives, lawyers and a prosecutor.

2. A person suffered from an administrative offense, shall have right to challenge a decree on administrative punishment in the court.

3. *(Excluded by the Law of the Republic of Kazakhstan of July 11, 2001 No. 238).*

4. The petition shall have the data, specified in the Article 150 of this Code, as well as the information about exact decree to be appealed, the date of its issuance, the date of sending copies and notification of a citizen.

5. Submission of a petition to the court suspends enforcement of the decree on administrative punishment.

6. Preliminary reference of the interested persons to the higher-level agency or higher-level official in the procedure of subordination shall not be an obligatory condition to submit a petition to the court and its acceptance for considering and resolving by the court.

7. Termination of deadline for making a petition, expiry of terms for administrative punishment, as well as the terms for enforcement of a ruling shall not be a ground for refusal to accept a petition by the court for consideration. Terms and their importance for proper settlement of cases shall be checked by the court, regardless of the content of the petition.

Footnote. Article 275 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 275-1. Procedure of appeal and challenge against a decree on administrative offence in the court

1. Persons specified in the Article 275 of this Code, may appeal directly to the court against a decree of a body (an official), authorized to consider cases on administrative offenses, within ten days after handing over of the copy of the decree.

2. The petition against the decree of the higher-level body (an official), authorized to consider cases on administrative violations, may be submitted within the terms and by the persons specified in paragraph 1 of this Article.

3. If a petition against the decree on administrative offense came to a higher-level body (a higher-level official) and the court at the same time, the petition shall be considered by the court.

4. The decree on administrative violation may be appealed by a prosecutor within ten days after receiving the copy of the decree.

Footnote. Supplemented by Article 275-1 by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 276. Consideration of the petition

1. The petition shall be considered by the court within ten days.

2. A prosecutor, a complainant, an administrative body or an official, whose actions are appealed, shall be notified by the court of the time and place of the court session, but their absence shall not hamper consideration and settlement of the case.

3. When considering the case, the court examines legality and validity of the decree on administrative punishment, finds whether it is conducted in accordance with the law and by the authorized body or official, the prescribed procedure for bringing a person to administrative liability or performance of his/her obligations, whether a citizen committed an administrative offense for which the law shall have set an appropriate responsibility, whether he is guilty of committing violation.

Footnote. Article 276 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No. 238; dated 29.12.2010 No. 374-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 277. Decision of the court

1. In case if the court recognizes unreasonable a citizen's bringing to administrative responsibility for absence of administrative offense, as well as in other cases, listed in the Code of administrative offences, excluding a proceeding on administrative offense, the court rendered a ruling to cancel the decree and terminate the proceeding on administrative offense.

2. The court may change the measure of punishment, taking into account the nature of the administrative offense, the identity of the offender, degree of guilt, social status,

and other circumstances, mitigating the responsibility. Strengthening of administrative punishment by the court shall not be allowed.

3. If the court finds that actions of an administrative body, an official on administrative punishment to be legal and valid, the court leaves the decree unchanged, and the application - without satisfaction.

4. If the court finds that the decree on administrative violation was issued by an administrative body or official with violation of their jurisdiction, the court cancels the decree and sends the case on administrative violation to the higher-level agency or an official, if the terms of administrative punishment are not expired, or terminates proceedings if the terms for administrative punishment are expired.

5. Challenging of the entered and not entered into legal force court rulings, rendered at the appeal (protest) of the body (an official), authorized to consider cases on administrative offenses, shall be conducted in the manner, specified by the Code on administrative offences.

Footnote. Article 277 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 278. Submission of an application

1. A citizen or a legal person shall have right to challenge a decision, an action (or inaction) of a state body, local self-government body, public association, organization, an official, state servant directly in the court. Preliminary appealing to the higher-level authorities and organizations, or an official is not an obligatory condition for submitting application to the court and its admission by the court for considering and settling.

2. The application shall be submitted to the court by the rules of jurisdiction specified in the Chapter 3 of this Code. The application consideration of which was related to jurisdiction of the district courts, may be submitted to the court at the place of residence of the person or the court at the location of the state body, local self-government, public association, organization, an official, state servant, actions of which are challenged.

3. Refusal to permit leaving the Republic of Kazakhstan on the grounds that the applicant is aware of information, containing a state secret, shall be challenged in the relevant district and equal court at the place of issuing the request on leaving the request unsatisfied.

4. *(Excluded by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238)*

Footnote. Article 278 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No. 238.

Article 279. Decisions, actions (or inaction) of state bodies, local self-governments, public associations, organizations, officials, state servants, subjected to judicial challenging

1. Decisions, actions (or inaction) of state bodies, local authorities, associations, organizations, officials, civil servants, challenged in the court, are collegial and individual decisions and actions (or inaction), resulting in:

1) violation of rights, freedoms and legitimate interests of citizens and legal entities ;

2) obstacles to enforce citizen's rights and freedoms and the entity's rights and interests, protected by the law, are created;

3) a citizen or a legal entity was illegally imposed by any obligation or they are illegally hold liable.

2. In accordance with this Chapter the following decisions and actions of the state bodies, public associations and officials cannot be challenged in the court:

1) normative legal acts, verification of which is within the exclusive jurisdiction of the Constitutional Council of the Republic of Kazakhstan;

2) individual and normative legal acts, in respect of which the law provides another procedure for judicial challenge.

Footnote. Article 279 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 N 238.

Article 280. Deadline for submitting an application to the court

1. A citizen and a legal entity apply to the court within three months from the date when they became aware of violation of their rights, freedoms and legitimate interests.

2. A missed three-month deadline for submitting of an application shall not be a ground for the court to refuse to admit the application. The reasons for missing the deadline are investigated at the court session and may be one of the grounds to reject the application.

Footnote. Article 280 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 281. Consideration of an application

1. The application shall be considered by the court within a month with participation of a prosecutor, a citizen, a representative of a legal entity, a head of a state body, local self-government, public association, organization, an official or public employee, whose decisions and actions are challenged.

2. Failure to appear at the court session of any of the listed persons, duly notified of the time and place of the court session, shall be an obstacle to consider the application.

However, the court may acknowledge the appearance of the listed persons at the court session to be obligatory.

Footnote. Article 281 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 29.12.2010 No. 374-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 282. Decision of the court and its enforcement

1. The court, having recognized the application to be justified, shall render a decision on obligation of a corresponding state body, local self-government, public association, organization, an official or public employee to eliminate violation of rights, freedoms and legitimate interests of citizens and legal entities.

2. The court rejects the application, if finds that the challenged decisions and actions were rendered and enforced in accordance with the law, within the authorities of the state body, local self-government, public association, organization, an official or state servant and the rights, freedoms and legitimate interests of citizens and legal persons were not violated.

3. The decision of the court on elimination of violations is to be sent to the head of the state agency, local self-government, public association, organization, an official, public employee, whose decisions and actions have been challenged or to a higher-level body, authority, organization or an official in the chain of command within three days after the decision of the court enters into legal force.

4. The court, a citizen or a legal entity shall be informed on enforcement of the decision not later than a month from the date of receiving the decision of the court. Guilty officials shall be brought to responsibility, stipulated by the law, for non-enforcement of the decision of the court.

Footnote. Article 282 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Chapter 28. Proceedings on challenging legitimacy of normative legal acts

Footnote. The title is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 283. Submission of an application

1. A citizen or a legal entity, subjected to the legal act, believing that the normative act, adopted and published in accordance with the law by a state body or the official, violates the rights and legitimate interests of citizens and legal entities, guaranteed by

the Constitution of the Republic of Kazakhstan, the laws and decrees of the President of the Republic of Kazakhstan, may submit an application to the court on recognizing the act contradictory to the law fully or partially.

2. Applications on challenging legitimacy of normative legal acts, verification of which is within the competence of the Constitutional Council of the Republic of Kazakhstan are not subjected to consideration in the court.

3. An application shall be submitted to the court, the jurisdiction of which is specified in the Chapter 3 of this Code.

4. Application of a citizen and a legal person shall meet requirements, provided in Article 150 of this Code, and contain additional information about the name of the state body or the person, adopted the legal act, the date of its adoption, indication of what rights, freedoms and legitimate interests of the citizen and the legal person were violated by this act or its individual paragraphs, what articles of the Constitution of the Republic of Kazakhstan, the provisions of the laws, decrees of the President of the Republic of Kazakhstan, the challenged act contradicts to.

5. A copy of the challenged act or its part, containing the data on what media and when published the normative act shall be attached to the application.

6. Submission of the application to the court shall not suspend the action of the normative legal act.

Footnote. Article 283 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 284. Consideration of an application

1. A citizen or a legal entity submitted an application to the court, and the state body (an official), who adopted the legal act shall be notified of the time and place of the court session.

2. The case shall be considered within ten days from the date of submitting the application with the mandatory participation of the citizen or a representative of the legal person, a prosecutor, a representative of the state body or the official, adopted the legal act. However, depending on the circumstances of the case, the court may hear the case in absence of any of those, who failed to appear at the court session.

3. When considering the case, the court verifies competence of the state body or the person adopted the legal act, compliance of the legal act or its part with the Constitution of the Republic of Kazakhstan, the laws and decrees of the President of the Republic of Kazakhstan.

4. When considering the application on recognition of the normative legal act to be contradictory to the law, the obligation to prove circumstances, that have become the grounds for adoption of the act, shall be imposed on the state body or the official, adopted the act.

Footnote. Article 284 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 285. Decision of the court upon the application

1. The court, having recognized the application to be unreasonable, issues a decision on rejection to satisfy it.

2. When the application is justified, the court, in its decision, acknowledges the legal act to be invalid fully or in separate parts from the date of its adoption, as stated in the resolute part of the decision.

3. In case of satisfying the application, the court points in the resolute part of the decision that the media shall publish a notification of the decision of the court during the set time limits, if the invalid legal act was earlier published by this media.

4. The court decision acknowledged the legal act to be invalid fully or in separate parts, is obligatory for the state body or the person, adopted the act, for a citizen and an indefinite number of persons, rights and freedoms of whom were covered by the disputed legal act. It shall have a prejudicial force, and the legitimacy of the normative legal act can be challenged again by other citizens only in the part, which was not inspected by the court.

Chapter 29. Prosecutor's application on recognition of acts and actions of state bodies and official to be illegal

Footnote. The title of the Chapter is in the wording of the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 286. Prosecutor's application in connection with dismissal of a protest

1. In case of dismissal of the prosecutor's protest against the legal act, non-appropriate to the law and the legal act of individual application, as well as against the actions of a state body or an official issued the unlawful act or committed illegal acts, of a higher-level body or the official, the prosecutor appeals to the court to acknowledge the contested act or action to be illegal. The application shall be submitted within ten days after receiving the notification of the results of the protest or after expiry of the deadline for its consideration.

2. The prosecutor's appeal to the court suspends the action of the protested act before its consideration by the court.

Footnote. Article 286 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 287. Consideration of the prosecutor's application by the court

1. The prosecutor's application shall be considered by the court within ten days.
2. The prosecutor's application shall be considered with his/her participation and with participation of the body, the official rendered a decision to reject the protest, or his/her representative.
3. Non-appearance of the head of the body, the officer rendered the decision to reject the protest, or his/her representative, shall not hamper consideration of the prosecutor's application, but the court may acknowledge the person's appearance in the court to be obligatory.

Article 288. Decision of the court upon the prosecutor's application

1. The court, having found the prosecutor's application to be justified, renders a decision to satisfy the application and acknowledge the legal act, a legal act of individual application or action to be invalid.
2. If the court finds that the protested act or action comply with the law and the powers of the body or the official, it shall render a decision to reject the application.

Footnote. Article 288 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Sub-section 4. Special proceedings

Chapter 30. General provisions

Article 289. Cases considered by the court in the manner of special proceedings

1. The cases, considered by the court in the manner of special proceedings are the following:
 - 1) on establishment of the facts of legal significance;
 - 2) on recognition of a person to be missing and declaring a citizen to be dead;
 - 3) on recognition of a person partially incapable or incapable;
 - 3-1) on sending juveniles to special educational institutions or organizations with a special regime;
 - 4) on compulsory placement of a citizen in a psychiatric hospital;
 - 4-1) on restructuring of financial institutions and organizations of the banking conglomerate as parent organizations and not being financial institutions;
 - 5) on bankruptcy of legal entities and individual entrepreneurs;
 - 5-1) on rehabilitation of legal entities;
 - 5-2) on accelerated recovery of legal entities;
 - 6) on recognition of a movable property ownerless and recognition of the right of communal ownership for real property;
 - 7) on finding mistakes in the acts of a civil status;
 - 8) on petitions against notary acts or rejection to perform actions;

9) on reclamation of a bearer's rights for the lost securities for and warrant securities (summon proceeding);

10) on adoption of a child;

11) on acknowledgement of a foreign or international organization, conducting extremist or terrorist activities on the territory of the Republic of Kazakhstan and (or) another state to be extremist or terrorist, including on finding of changing of its name, and on acknowledgement of information materials, distributed in the territory of the Republic of Kazakhstan to be extremist;

11-1) on deportation of a foreigner or a stateless person from the Republic of Kazakhstan for violation of the legislature of the Republic of Kazakhstan;

12) on acknowledgement of a foreign media information, distributed in the territory of the Republic of Kazakhstan, containing information, contradicting legislative acts of the Republic of Kazakhstan, to be illegal.

2. The law may provide for considering of other cases in the manner of a special proceeding.

Footnote. Article 289 as amended by the Laws of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 23.02.2005 No.33; dated 08.07.2005 No.67 (the order of enforcement see Article 2); dated 10.07.2009 No.178-IV; dated 11.07.2009 No.185-IV (shall be enforced from 30.08.2009); dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 08.04.2010 No.266-IV (the order of enforcement see Article 2); dated 23.11.2010 No. 354-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 01.03.2011 No. 414-IV (shall be enforced from 01.01.2010); dated 22.07. 2011 No. 478-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.02.2012 No. 564-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 290. Procedure for considering the cases of special proceeding

1. Cases of special proceedings shall be considered by the court in accordance with the rules of action proceeding with exceptions and additions, specified in the Chapters 31-38 of this Code. The cases of special proceeding shall be considered with participation of the plaintiff and the interested parties.

2. If, during considering the case in the manner of a special proceeding, a dispute on right arises, the court renders a decision on considering the case in the manner of action proceeding. In the manner of the action proceeding, the case shall be considered at the place of its initiation. The plaintiff and other interested parties shall be explained the necessity for meeting requirements, provided in the Articles 150, 151 of this Code, within the terms, set by the court. In case of objections of the involved persons, the court may submit the case to another court under the rules of territorial jurisdiction.

3. In case of failure to enforce the decision of the court with the time limits, the applications shall be left without consideration, and the interested people are explained about their rights for bringing a claim in general procedure.

Chapter 31. Establishment of facts of legal significance

Article 291. Cases on establishment of facts of legal significance

1. The court shall establish facts, influencing appearance, modification or termination of personal or property rights of citizens or organizations.

2. The court considers the cases on establishment of facts:

1) on blood relations between persons;

2) on a person's being a dependent;

3) on registration of birth, adoption, marriage, divorce and death;

4) on belonging of legal documents (except for military documents, passport, identity card and certificates, issued by the authorities of civil status) to the person, whose name, last name or patronymic, mentioned in the document, do not comply with the name, last name and patronymic of the person, written in the passport, identity card or birth certificate;

5) on possession, use and (or) disposal of property in accordance with the right of ownership, economic and operational management;

6) on accident;

7) on death of a person at a certain time under certain circumstances in case of failure of the bodies of a civil status to register the death;

8) on inheritance and place of opening of the inheritance;

9) other facts of legal significance, unless the law provides for a different order of their establishment.

Article 292. Conditions necessary to establish facts of having legal significance

The court shall establish the facts, having legal significance, only if the plaintiff cannot receive, in a different manner, the required documents, proving the facts, or if it is impossible to restore the lost documents.

Article 293. Submission of an application

An application on establishment of the fact, having legal value, shall be submitted to the court at the place of residence of the applicant, except for the fact of possession, enjoyment and (or) disposal of real estate in accordance with the right of ownership, economic management, operational management to be submitted to the court at the location of the real property.

Article 294. Content of the application

The application shall specify what fact and what for it shall be established and it shall give evidence, supporting the impossibility to receive the required documentation by the applicant or impossibility to recover the lost documents.

Article 295. Decision of the court on the application

The decision of the court is a document, confirming the fact, and regarding the fact subject to registration by state bodies, it shall be the ground for such registration or certification without replacing of documents, issued by these bodies.

Chapter 32. Acknowledgement of a person to be missing or dead

Article 296. Submission of an application

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 297. 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 298. Judge's actions after accepting the application

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.

Article 299. Mandatory participation of a prosecutor

Cases on acknowledgement of a person to be missing or declaring a citizen to be dead shall be considered by the court with the mandatory participation of the prosecutor.

Article 300. 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.

Article 301. 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.

Chapter 33. Acknowledgement of an individual to be impaired or incapable

Article 302. Submission of an application

1. The case on acknowledgement of a person to be impaired due to alcohol abuse or narcotic drugs, psychotropic substances or their analogues may be initiated at the request of his/her family, the prosecutor, the guardianship authority.

2. The case on acknowledgement of a person to be incapable due to mental illness or mental disorder, dementia or other mental condition, may be initiated in court upon

application of family members, close relatives (parents, children, brothers, sisters), regardless of living with him/her, public prosecutor, guardianship, psychiatric (psycho-neurological) hospital.

3. The case on acknowledgement of a person to be impaired or incapable shall be initiated in order to protect interests of the impaired, incapable person via establishment (appointment) of care, as well as the persons, mentioned in paragraphs one and two of this Article.

4. The application on acknowledgement of a citizen to be impaired or incapable shall be brought to the court at the place of residence of the citizen, and if the person is in a psychiatric (psycho-neurological) hospital, the application is brought the court at the location of the hospital.

Article 303. Content of the application

1. The application on acknowledgement of a citizen to be impaired shall contain circumstances, proving that the person abusing alcohol or drugs, psychotropic substances or their analogues, puts his/her family in a difficult financial situation.

2. The application on acknowledgement of the individual to be incapable shall have circumstances, proving that the citizen suffers mental illness or mental disorder, dementia or other mental condition, so that the person cannot understand the actual nature and significance of his/her actions or control them.

Article 304. Appointment by the judge of an official lawyer-representative

1. After accepting the application on acknowledgement of the individual to be incapable the judge appoints an official lawyer-representative to represent and protect interests of the citizen in the process, initiated by the case.

2. The official representative - lawyer shall have authorities of a legal representative. In accordance with the law, his/her assistance shall be free of charge.

Footnote. Article 304 as amended by the Law of the Republic of Kazakhstan dated 11.12.2009 No. 230-IV (shall be enforced from 01.01.2010).

Article 305. Appoint of an expertise to define mental status of a citizen

1. When preparing the case for proceedings, the judge appoints a forensic psychiatric expertise, if there is sufficient evidence of mental illness or mental disorder, dementia or other mental condition of a citizen, to define his/her mental status.

2. If a person is explicitly avoiding the expertise on recognizing him/her incompetent, the court, during the court session with participation of a psychiatrist, may render a decision on compulsory sending of the citizen to the forensic psychiatric expertise.

3. Procedure of judicial psychiatric expertise in psychiatric hospitals is established by the legislation of the Republic of Kazakhstan on forensic expertise.

Footnote. Article 305 as amended by the Law of the Republic of Kazakhstan dated 20.01.2010 No. 241-IV.

Article 306. Consideration of the application

1. The case on acknowledgement of a citizen to be impaired shall be considered by the court with participation of the citizen, if it is possible taking into account the state of his/her health, prosecutors and the guardianship authority.

2. The case on recognizing the citizen to be incapable shall be considered by the court with mandatory participation of a representative of the guardianship body and the prosecutor. The citizen, the case on acknowledging of whom to be incapable is being considered, can be called at the court session, if it is possible taking in account the state of his/her health.

3. The plaintiff shall be released from paying of judicial expenses, related to considering the case on acknowledging a person to be incapable.

4. The court, having found that the family members, close relatives, submitted the application, acted unfairly in order to unwarranted acknowledgement of the individual incapable, makes them to cover all judicial expenses.

Footnote. Article 306 as amended by the Law of the Republic of Kazakhstan dated 29.12.2010 No. 374-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 307. Decision of the court upon the application

1. The court decides to reject the application if it finds out that there are no grounds to declare a citizen to be impaired or incapable.

2. The decision of the court, which acknowledges the citizen to be impaired, shall be the ground to appoint guardianship and trustee for the impaired person.

3. The decision of the court, which declares the citizen to be incapable, shall be the ground to appoint the guardianship and custody guardian to the incapable person.

4. Guardianship authority shall inform the court on appointment of a trustee or a guardian respectively to the impaired or incapable citizen within ten days.

Article 308. Acknowledgement of a citizen as capable

1. In case, specified in paragraph 2 of the Article 27 of the Civil Code of the Republic of Kazakhstan, the court, upon application of the citizen, a family member,

guardian, the guardianship authority, psychiatric clinic, decides to cancel incapacitation of the citizen. Taking into account the decision of the court, the custody, set over him/her, shall be canceled.

2. In cases, provided in paragraph 3 of the Article 26 of the Civil Code of the Republic of Kazakhstan, the court, upon application of the guardian, mental hospital, a family member, a prosecutor, psychiatric (psycho-neurological) institution, the guardianship authority, taking into account the relevant conclusion of forensic psychiatric expertise, shall render a decision on acknowledgement of the recovered or person significantly improved his/her health, to be capable. Taking into account the decision of the court, the custody, set over the person, shall be canceled.

Chapter 33-1. Proceedings on cases of sending of under-age persons to special education organizations or organizations with a special regime of detention

Footnote. The Code is supplemented by Chapter 33-1 in accordance with the Law of the Republic of Kazakhstan dated 23.11.2010 No. 354-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 308-1. Placement of an under-age person in a special education organization or an organization with a special regime of detention

1. An application on putting an under-age person to a special education organization or an institution with a special regime of detention shall be submitted by the guardianship and custody bodies, or the bodies of internal affairs to the specialized inter-district court on cases of under-age persons at the place of residence (location) of the child.

2. The application on putting an under-age person to a special education organization or an institution with a special regime of detention shall contain circumstances and documents, proving presence of the grounds for putting the under-age person to a special education organization or an institution with a special regime of detention and absence of disease, preventing his/her putting and training in these educational institutions.

Article 308-2. Consideration of the application on putting an under-age person to a special education organization or an institution with a special regime of detention

1. The court summons the under-age person, his/her legal representatives, representatives of the guardianship and custody bodies, and other persons at the discretion of the court.

2. Prosecutor's participation in consideration of the application on putting the under-age person to a special education organization or an institution with a special regime of detention is obligatory.

3. The plaintiff shall be released from paying the judicial expenses, related to considering the case on putting the under-age person to a special education organization or an institution with a special regime of detention.

Article 308-3. Decision of the court on the application on putting an under-age person to a special education organization or an institution with a special regime of detention

1. Having considered the application on putting an under-age person to a special education organization or an institution with a special regime of detention, the judge renders a decision to reject or satisfy the application.

2. The decision on satisfaction of the application shall be the ground for putting an under-age person to a special education organization or an institution with a special regime of detention.

3. The terms of stay of the under-age person in a special education organization or an institution with a special regime of detention is calculated from the date when the decision enters into legal force.

Chapter 34. Proceedings on compulsory hospitalization to a psychiatric hospital

Article 309. Compulsory hospitalization

1. An application on compulsory hospitalization of a citizen is brought by a prosecutor to the court at the location of the psychiatric institution.

2. The application, containing grounds for compulsory psychiatric hospitalization, is attached with a reasoned opinion of the commission of psychiatrists about the need to stay in a psychiatric hospital.

Article 310. Deadline for submitting an application

1. An application on compulsory hospitalization of a citizen shall be brought within 72 hours of making the psychiatrist commission's conclusion about the necessity to put the citizen to a psychiatric hospital.

2. When initiating the case, the judge prolongs the citizen's stay in a psychiatric hospital for the time, necessary to consider the application in the court.

Article 311. Consideration of an application

1. The judge considers the application on compulsory hospitalization of a citizen to a psychiatric hospital within five days from the date of the case's initiation. A citizen shall have right to personally participate in the court session on the case of his/her

involuntary commitment if the information received from a representative of the mental health facility, the mental state of the person allows him/her to personally participate in the court session, which is held in the premises of psychiatric institutions.

2. Participation of a representative of a psychiatric hospital initiated the case and the representative of the person, whose hospitalization is under consideration, is obligatory.

Article 312. Decision of the court upon the application

1. Having considered the application, the judge renders a decision which rejects or satisfies the application.

2. The decision on satisfaction of the application shall be the ground for compulsory hospitalization and further detention of a citizen in a psychiatric hospital for the time, determined by the law.

Chapter 34-1. Consideration of cases on restructuring of financial institutions and organizations, being a part of a banking conglomerate as a parent organization and not being financial institutions

Footnote. The Code is supplemented by Chapter 34-1 in accordance with the Law of the Republic of Kazakhstan dated 11.07.2009 No.185-IV (shall be enforced from 30.08.2009). The title of the Chapter is in the wording of the Law of the Republic of Kazakhstan dated 01.03.2011 No. 414-IV (shall be enforced from 01.01.2010).

Article 312-1. Consideration of cases on restructuring of financial institutions and organizations, being a part of a banking conglomerate as a parent organization and not being financial institutions

Cases on restructuring of financial institutions and organizations, being a part of a banking conglomerate as a parent organization and not being financial institutions shall be considered in specialized financial court in compliance upon the general rules, specified in this Code, with the features, stipulated by the legislation of the Republic of Kazakhstan.

This Chapter shall be applied to the restructuring of the organization, a member of the banking conglomerate as a parent organization and not a financial institution.

Footnote. Article 312-1 is in the wording of the Law of the Republic of Kazakhstan dated 01.03.2011 No. 414-IV (shall be enforced from 01.01.2010).

Article 312-2. Submission of an application on restructuring

1. An application on restructuring of a financial organization shall be submitted by a financial organization to the specialized financial court.

2. The application on restructuring which shall indicate a statutory ground for restructuring of a financial institution, shall be attached with:

- 1) the decision of the board of directors of the financial institution on restructuring;
- 2) a written agreement of the financial institution with National Bank of the Republic of Kazakhstan upon the issues of restructuring of the financial institution;
- 3) a draft plan for restructuring of the financial institution with the following information:
 - order and duration of the restructuring;
 - a list of the restructured assets and liabilities;
 - actions, carried out in the frames of the restructuring;
 - estimated financial results of the restructuring of assets and liabilities;
 - adopted limitations in activity.

Footnote. Article 312-2 as amended by the Law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 312-3. Consideration of an application

The court shall consider the application on restructuring of a financial organization within five days from its acceptance to the court proceedings.

Footnote. Article 312-2 as amended by the Law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 312-4. Decision of the court upon application

1. Having considered the application on restructuring of a financial organization, the court renders a decision to restructure the financial institution, which shall contain:

- 1) name of the financial institution;
- 2) instructions on restructuring of the financial institution with the definition of the terms for restructuring and officials of the financial institution, responsible for the restructuring, convocation and conduction of the meeting of creditors.

2. From the moment decision of the court on restructuring of the financial institution enters into legal force:

- 1) enforcement of the following actions shall be suspended:
 - previously rendered decisions of the courts and arbitration courts on satisfaction of the requirements for obligations expected to be restructured;
 - requirements of the creditors of the financial institution, submitted prior to the decision's entry into legal force with effect from restructuring and during the restructuring of the financial institution;

2) recovery on the property of the financial organization is not allowed.

3. A copy of the taken legal effect judgment on restructuring of the financial institution shall be sent by the specialized financial court to the financial institution, National Bank of the Republic of Kazakhstan and to territorial bodies of enforcement procedure.

Footnote. Article 312-4 as amended by the Law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 312-5. Approval of the restructuring plan by the court

After approval of the restructuring plan by the creditors, the financial institution shall submit the restructuring plan for approval to the court. Along with the restructuring plan, the financial institution submits to the court the minutes of the meeting of creditors of the financial institution on approval of the restructuring plan of the financial institution in accordance with the laws of the Republic of Kazakhstan.

Article 312-6. Decision of the court on termination of restructuring

1. The decision of the court on termination of restructuring of the financial institution shall be rendered upon application of National Bank of the Republic of Kazakhstan on the following grounds:

1) expiration of the terms for restructuring of the financial organization, stipulated by the decision of the court on restructuring;

2) implementation of measures, stipulated by the restructuring plan;

3) early termination of the restructuring of financial institution if:

there are sufficient grounds to believe that the restructuring of the financial institution will not improve financial results of the financial institution's work;

absence of approval of the creditors of the financial institution, received in the manner, prescribed by the laws of the Republic of Kazakhstan;

failure to fulfill actions, stipulated by the restructuring plan;

non-fulfillment of instructions of the authorized body, applied during the restructuring.

Implementation of the measures, stipulated by the restructuring plan, entails termination of obligations taken into account in the previous decisions of the court and arbitration courts on satisfaction of the obligations that have been restructured, and their enforcement.

2. The application of National Bank of the Republic of Kazakhstan, specified in part 1 of this Article, shall be considered by the court within five days from the date of its acceptance to the court proceedings.

Footnote. Article 312-6 as amended by the Law of the Republic of Kazakhstan dated 05.07.2012 No. 30-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Chapter 35. Consideration of cases on bankruptcy of individual entrepreneurs and legal entities, accelerated rehabilitation and recovery of legal entities

Footnote. The Chapter 35 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 564-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 313. Consideration of cases on bankruptcy of individual entrepreneurs and legal entities, accelerated rehabilitation and recovery of legal entities

Cases on bankruptcy of individual entrepreneurs and legal entities, accelerated rehabilitation and recovery of legal entities shall be considered by the court by the general rules, specified by this Code, with the specifications, established by the law on bankruptcy.

Chapter 36. Acknowledgement of a movable property to be ownerless and acknowledgement of the right for communal ownership of a real property

Article 314. Submission of an application

1. The application for acknowledgement of a movable property to be ownerless in cases, specified by the Civil Code of the Republic of Kazakhstan, shall be submitted to the court at the place of residence of the individual or the location of the organization took possession of the thing.

2. The application on acknowledgement of the right of communal ownership for a real property shall be submitted to the court at the location of the property by the body, authorized to manage municipal property.

3. The court shall return the application on acknowledgement of communal ownership for a real property, if the body, authorized to administer communal property, comes to the court before expiration of one year from the date of taking the property to the balance of the body, conducting the state registration of rights for a real property, except for the cases, specified in the second part of paragraph 3 of the Article 242 of the Civil Code of the Republic of Kazakhstan.

Footnote. Article 314 as amended by the Law of the Republic of Kazakhstan dated 22.07.2011 No. 479-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 315. Content of the application

1. The application on acknowledgement of a movable property to be ownerless shall specify what thing is subject to be acknowledged to be ownerless, describe its main distinguishing features, and contain evidence, proving that the thing was left by the owner with no intention of keeping the right of ownership to it, and the evidence, showing the applicant's taking possession of the thing.

2. The application of the body, empowered to manage communal property, on acknowledgement of the rights of communal ownership for a real property, shall specify what property shall be acknowledged to be ownerless, by whom and how it is detected and when it was put on record as an ownerless, and provide evidence, proving leaving the property by the owner without the intention to save the right of ownership to it.

Article 316. Consideration of an application

The application for acknowledgement of a movable property to be ownerless or acknowledgement of the rights of communal ownership for a real property shall be considered by the court with participation of the plaintiff and all interested parties.

Article 317. Decision of the court upon the application

1. The court, having acknowledged that a movable property shall have no an owner or was left by the owner with no intention of keeping ownership of it, renders a decision on acknowledgement of the movable property ownerless and transfer it to the property of the person, who took possession of it.

2. The court, having acknowledged that the property has no owner or was left by the owner with no intention of keeping ownership to it and was recorded in the prescribed manner, renders a decision on acknowledgement of the real estate ownerless and acknowledging the right of communal ownership.

Chapter 36-1. Proceedings on applications for adoption of a child

Footnote. Supplemented by Chapter 36-1 by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 317-1. Submission of an application

The application on adoption (hereinafter - the adoption) of a child shall be submitted by citizens, willing to adopt a child to a specialized inter-district under-age person court at the place of residence (location) of the child.

Note. If there is no a specialized inter-district court upon the cases of under-age persons in the territory of the administrative-territorial unit, the district (city) court

shall have the right to consider the cases within its jurisdiction at the place of residence (location) of the child.

Footnote. Article 317-1 as amended by the Law of the Republic of Kazakhstan dated 05.07.2008 No.64-IV (the order of enforcement see Article 2).

Article 317-2. Content of the application

The application on adoption of a child shall include:

1) surname, name, patronymic of the adoptive parents (parent), their place of residence;

2) surname, first name and the date of birth of the adopted child, his/her place of residence (location), information about the parents of the adopted child, presence of brothers and sisters;

3) the circumstances, supporting the adoptive parents (parent) request on adopting the child and the evidence, confirming these circumstances;

4) request for a change of surname, name and patronymic of the adopted child, the date of his/her birth (when a child is adopted at the age of about one year), place of birth of the adopted child, record of the adoptive parents (parent) in the birth record of the child as the parent (parents) if the adoptive parents (parent) are willing to make a record in the birth records.

Article 317-3. The judge's actions after accepting the application

When preparing the case for proceedings, the judge compels the guardianship and custodianship agency at the place of residence (location) of the adopted child to submit a conclusion on validity and on compliance of the adoption with the child's interests to the court.

Article 317-4. Consideration of the applications

The case on adoption of a child shall be considered by the court with obligatory participation of the adoptive parents (parent), representatives of the guardianship agency, and the prosecutor.

If necessary, the court may bring into proceedings the parent (s) or other legal representatives of the adopted child, his/her relatives and other interested parties, as well as the child him/herself, who shall have reached the age of ten years.

The case for adoption of the child shall be considered in a close proceeding.

Article 317-5. Decision of the court on the application

Having considered the application on adoption of a child, the court shall render a decision to satisfy or refuse the application fully or partially in the part of satisfying the

request of the adoptive parents (parent) to record them as the parent (s) of the child in the birth record act, as well as a change of the date and place of birth.

After satisfaction of the application on adoption, mutual rights and obligations of the adoptive parents (parent) and the adopted child start from the date of the decision of the court's entry into legal force.

The decision of the court entered into legal force shall be sent to the body of civil status at the location of the court for registration of the child adoption, as well as to the guardianship and custodianship agency.

Chapter 36-2. Proceeding on applications on acknowledgement of a foreign or international organization, making extremist or terrorist activities on the territory of the Republic of Kazakhstan and (or) another state, extremist or terrorist, including discovery that the organization changed its name

Footnote. The Code is supplemented by Chapter 36-2 in accordance with the Law of the Republic of Kazakhstan dated 23.02.2005 No.33; the title of the Chapter is in the wording of the Law of the Republic of Kazakhstan dated 08.07.2005 No.67 (the order of enforcement see Article 2); as amended by the Law of the Republic of Kazakhstan dated 08.04.2010 No.266-IV.

Article 317-6. Submission of an application

The application on acknowledgement of a foreign or international organization, making extremist activities on the territory of the Republic of Kazakhstan and (or) another state, to be extremist or terrorist, including the discovery that the organization changed its name and on acknowledgement of information materials, distributed in the territory of the Republic of Kazakhstan, to be extremist, shall be brought by the prosecutor to the courts at the location of the prosecutor submitted such requirements, or at the place of discovering such materials.

The application on acknowledgement of an international organization, making terrorist activities on the territory of the Republic of Kazakhstan and (or) another state, terrorist, including the discovery that the organization changed its name, shall be brought by the prosecutor to the court at the location of the prosecutor declared such requirements.

Footnote. Article 317-6 as amended by the Laws of the Republic of Kazakhstan dated 08.07.2005 No.67 (the order of enforcement see Article 2); dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 08.04.2010 No.266-IV.

Article 317-7. Content of the application

The application shall contain circumstances, confirming the fact that a foreign or international organization conducted actions in the territory of the Republic of Kazakhstan and (or) other state, that could be considered extremist or terrorist in compliance with the laws of the Republic of Kazakhstan, or the fact that it changed its name.

The materials, contained in the prosecutor's application on acknowledgement of a foreign or an international organization to be extremist or terrorist, including discovery that it changed its name, may also contain the actual data, received from the competent authorities of foreign countries, including the judgments of international and foreign courts.

Footnote. Article 317-7 is amended by the Law of the Republic of Kazakhstan dated July 8, 2005 No.67 (the order of enforcement see Article 2); dated 08.04.2010 No.266-IV (the order of enforcement see Article 2).

Article 317-8. Decision of the court on the application

The decision of the court shall be the ground for inclusion of information about a foreign or an international organization, making extremist or terrorist activity on the territory of the Republic of Kazakhstan and (or) another state, in a special account of a state body, conducting statistical work in the field of legal statistics and special accounts within its competence.

Prosecution bodies shall be released from paying the judicial expenses, related to the proceedings on acknowledgement of a foreign or an international organization, making extremist or terrorist activity in the territory of the Republic of Kazakhstan and (or) another state, extremist or terrorist, including the discovery that it changed its name.

Footnote. Article 317-8 as amended by the Laws of the Republic of Kazakhstan dated 08.07.2005 No.67 (the order of enforcement see Article 2); dated 08.04.2010 No .266-IV (the order of enforcement see Article 2).

Chapter 36-3. Proceeding on applications on acknowledgement of a foreign media production, disseminated in the territory of the Republic of Kazakhstan, containing information contradicting to the legislative acts of the Republic of Kazakhstan, illegal

Footnote. The Code is supplemented by Chapter 36-3 in accordance with the Law of the Republic of Kazakhstan dated 10.07.2009 No.178-IV.

Article 317-9. Submission of an application

The application on acknowledgement of a foreign media production, disseminated in the territory of the Republic of Kazakhstan, containing information contradicting to

the legislative acts of the Republic of Kazakhstan, to be illegal, shall be submitted by the prosecutor or an authorized body at the location of the applicant.

Article 317-10. Content of the application

The application on acknowledgement of a foreign media production, disseminated in the territory of the Republic of Kazakhstan, containing information contradicting to the legislative acts of the Republic of Kazakhstan, to be illegal, shall specify what information is subject to that acknowledgement, and provide evidence, proving non-compliance of the information products with the legislative acts of the Republic of Kazakhstan. The application shall contain facts, supporting the spread of the information, written in the application.

Article 317-11. The decision of the court upon the application

The court, having acknowledged that the production of the foreign media, distributed in the Republic of Kazakhstan, containing information that contradicts the legislative acts of the Republic of Kazakhstan, is illegal, shall render a decision on suspension or termination of the distribution of the foreign media products in the territory of the Republic of Kazakhstan.

The decision of the court shall be sent to the appropriate state body.

Chapter 36-4. Proceeding on an application on deportation of a foreign national or a stateless person from the Republic of Kazakhstan for violation of the legislation of the Republic of Kazakhstan

Footnote. The Code is supplemented by Chapter 36-4 in accordance with the Law of the Republic of Kazakhstan dated 22.07.2011 No. 478-IV (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 317-12. Submission of an application

The application on deportation of a foreign person or a stateless person from the Republic of Kazakhstan for violation of Kazakhstan legislature is submitted by an authorized body for migration to the court at the place of residence and (or) registration of the foreign person or the stateless person.

Article 317-13. Content of the application

1. The application on deportation of a foreign person or a stateless person from the Republic of Kazakhstan shall contain circumstances, proving violation of the legislation of the Republic of Kazakhstan.

2. The application on deportation of a foreign person or a stateless person from the Republic Kazakhstan shall be attached with documents, proving that a foreigner or a stateless person violated the laws of the Republic of Kazakhstan.

Article 317-14. Consideration of the application

1. The application on deportation of a foreigner or stateless persons from the republic of Kazakhstan shall be considered by the court within ten days from the date of the case's initiation.

2. The application on deportation of a foreigner or a stateless person from the Republic of Kazakhstan shall be considered by the court with obligatory participation of the foreigner or the stateless person, as well as the prosecutor.

3. The judicial expenses and expenditures for deportation are covered by the deported foreigners or the stateless persons or by organizations or individuals invited the foreigner or the stateless person to the Republic of Kazakhstan. In case of absence or insufficiency of funds of these persons to cover the expenses for deportation, the funding of the corresponding actions is stipulated by the budget.

Article 317-15. Decision of the court upon the application

1. The decision of the court on deportation of a foreigner or a stateless person from the Republic of Kazakhstan enters into legal force with effect from the date of its rendering and is a ground for deportation of the foreigner or the stateless person out of the Republic of Kazakhstan.

2. The decision shall specify the period within which the foreigner or the stateless person shall leave the territory of the Republic of Kazakhstan.

The decision of the court shall be sent to the authorized body on migration for further enforcement.

Chapter 37. Establishment of incorrectness in the entries of civil status

Article 318. Submission of an application

The court considers the case on establishment of incorrect entries in the books of civil status if the bodies, registering civil status, in the absence of a dispute about the right, refused to correct the record in the book. The application on establishment of incorrect entries in the books of civil status shall be submitted to the court at the place of residence of the applicant or at the location of the body of civil status registration.

Article 319. Content of the application

The application shall specify what entry is wrong in the books of civil status, when and what body of civil status registration denied to correct or change the entry.

Article 320. Decision of the court on the application

The decision of the court established incorrectness of the entry in the books of civil status shall be the ground for correction or changing of the record by the bodies of civil status registration.

Chapter 38. Petitions about the notary actions or failure to perform the actions

Article 321. Submission of a petition

1. An interested person, who considers a notary action or a notary's refusal to act to be improper, may submit a petition about it to the district court at the location of the notary or the body, which conducts notary actions.

2. The petitions about incorrect verification of wills and authorities of attorney or a denial of their certification by officials, listed in the law, shall be submitted to the court at the location of the hospital, other medical-care institution, social welfare organization, the relevant body of social protection, expedition, hospital, military educational institution, military units, association, institution, organization, places of detention and imprisonment.

3. The petitions about incorrect verification of a will or denial of its certification by a captain of a sea boat or of an inland vessel, sailing under the flag of the Republic of Kazakhstan, shall be submitted to the court at the home port of the vessel.

4. The petition shall be submitted to the court within ten days, calculated from the date, when the applicant has learnt about the committed notary action or refusal to perform a notary action.

Article 322. Consideration of the petition

A petition shall be considered by the court with participation of the applicant, a notary or other officer, who has committed the complained notary action or refused to conduct a notary action, but their absence shall not be an obstacle to settle the case.

Article 323. Decision of the court upon the petition

The decision of the court satisfied the applicant's petition, cancels the committed notary action or obliges to perform the action.

Chapter 39. Restoration of rights for the lost securities for a bearer and the warrant securities and order securities (procedure to declare lost documents void)

Article 324. Submission of an application

1. A person lost a security to a bearer or an order security (hereinafter - the document), in cases, specified in the law, may request the court on acknowledgement of the lost document to be void and to restore the rights for it. The right on the document can be restored and if the document lost the attribute of solvency due to improper storage or for other reasons.

2. The application on acknowledging the lost document to be void shall be submitted to the court at the location of the body (person), which (who) issued the document.

Article 325. Content of the application

The application shall specify the distinguishing features of the lost document, the name of the institution (person), who issued it, and the circumstances in which the document was lost.

Article 326. Judge's actions after rendering a decision

1. The judge, after accepting the application, renders a decision on prohibition of making payments or issues on the document by the body (person) that issued the document and sends a copy of the decision to the institution (person) that issued the document, a register holder or a registrar.

2. The judge renders a decision on publication of a notification in a local newspaper at the expense of the applicant.

3. The publication shall contain:

- 1) name of the court received an application on the loss of the document;
- 2) identification of the person submitted the application and his/her address;
- 3) name and characteristics of the document;
- 4) an offer to the holder of the document, the loss of which is claimed, within three months from the date of the publication to submit an application on his/her rights for the documents to the court.

4. A private petition or a protest can be submitted against the refusal to render a decision, as well as against the decision itself.

Article 327. An application of the holder of the document

The holder of the document, the loss of which was announced, within three months from the date of publication, shall submit an application on his/her rights for the document and provide the original of the document to the court rendered a decision.

Article 328. Judge's actions after receiving an application from the holder of the document

1. In case of receiving an application from the holder of the document prior to the expiration of three-month terms from the date of publication, the court leaves the application of the person, who has lost the document, without consideration and fixes the deadline, within which an organization (a person) issued the document, is not allowed to make payments or other transactions on it. This period shall not exceed two months.

2. Simultaneously, the court shall explain to the applicant his/her right to file a claim in a general way to the holder of the document for recovery of this document, and to the holder of the document - his/her right to recover damages from the applicant for the taken prohibitive measures.

3. A private petition or a protest may be brought against the decision of the court.

Article 329. Consideration of an application for acknowledgement of the lost document void

The case on acknowledgement of the lost document to be void shall be considered by the court after three months from the date of publication, unless the holder of the document submitted an application, specified in the Article 328 of this Code.

Article 330. The decision of the court upon the application

1. In case of satisfying the applicant's request, the court renders a decision, which acknowledges the lost document to be void. This decision shall be a ground for issuing of a deposit or a new document instead of the document declared invalid.

2. In case of satisfying the request to restore the right for documents, that lost the signs of solvency, the court renders a decision to issue a new document.

Article 331. A holder's right to bring a claim on unjustified acquisition of property

The holder of the document not claimed his/her rights for this document for any reasons, after the decision of the court entry into legal force with effect from acknowledgement of the document invalid, may bring a claim on unjustified acquisition of property or holding of property against the person, whose right to receive a new document instead of the lost one was acknowledged.

Section 3. Proceedings on reconsideration of judicial acts

Chapter 39-1. Proceedings on appeal of arbitration court decisions

Footnote. Supplemented by Chapter 39-1 by the Law of the Republic of Kazakhstan dated December 28, 2004 No.24.

Article 331-1. Submission of an application

An application on appeal against the arbitration decision of the court may be submitted by the parties of the arbitration proceedings, third parties, not participating in the case, but in regard to the rights and obligations of whom the court rendered a decision, taking into account the grounds, stipulated by the law, within thirty days from the date when the party has found out the grounds for appeal of the decision of the court, at the place of considering the case in the arbitration court in accordance with the rules stipulated by this Chapter.

Article 331-2. Consideration of the application

1. An application on appeal of the arbitration decision of the court shall be considered by the court within ten days from the case's initiation.

2. After considering the case on appeal against the arbitral decision of the court the court may render a decision to cancel the arbitration decision of the court or to refuse satisfaction of the application. The decision of the court can be appealed by the interested persons.

Chapter 40. An appeal, a protest against the court decisions

Footnote. The title of the Section and Chapter are in the wording of the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 332. The right of appeal and protest against the court decision

1. In compliance with the rules provided in this Chapter, the court decisions that have not enter into legal force, may be appealed or challenged.

2. The right for appeal of the court decision belongs to the parties and other persons , participating in the case.

3. The right for lodging a protest belongs to the prosecutor took part in the proceedings. The Attorney General of the Republic of Kazakhstan and his/her deputies, prosecutors of oblasts and equivalent prosecutors, deputy prosecutors, prosecutors of districts and equivalent prosecutors and their deputies have right to challenge the decision of the court, regardless their involvement in the proceedings, within their jurisdiction.

4. Persons, not participating in the case, but with respect to the rights and obligations of whom the court rendered a decision, may bring an appeal.

Footnote. Article 332 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 333. Courts, considering appeal petition and protests against the decisions that have not entered into legal force

Appeals and protests against the decisions, rendered by district and equivalent courts, shall be considered by a judge of the regional and equal court individually.

Footnote. Article 333 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 334. Procedure and time limits for (bringing) appeals petition and protests

1. Petitions and protests shall be brought to the court rendered the decision. Petitions, protests, brought directly to the appellate court, shall be sent to the court rendered the decision, to implement the requirements of the part 2 of this Article and Article 338 of this Code.

2. Petitions and protests shall be brought to the court with the copies, equal to the number of persons, participating in the case. If necessary, the judge may oblige the person bringing the appeal or protest, to submit copies, attached to the appeals or protests, of written evidence, equal to the number of persons, participating in the case.

3. Petition, a protest may be filed (brought) within fifteen days from the date of delivery of a copy of the court decision, rendered by the court.

4. Decisions, rendered during the second proceeding, can be appealed or challenged in the general procedure.

Footnote. Article 334 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 335. The content of the appeal petition or the protest

1. Appeal petition or protest shall contain:

- 1) name of the court, to which the appeal petition or protest are sent;
- 2) name of the person, bringing the appeal petition or protest;
- 3) challenged or appealed decision and the name of the court rendered the decision;
- 4) reason, indicating incorrectness of the proceedings;
- 5) ground for illegality or invalidity of the decision with reference to the laws, other normative legal acts and materials of the case;
- 6) instructions, whether the decision is appealed or challenged fully or partially and what changes the person, making the petition or protest, requires;
- 7) the list of documents, attached to the appeal petition or protest;
- 8) date of submitting (bringing) appeal petition, protests and signature of the person, submitting (bringing) the petition or protest. The petition submitted by the representative, shall be attached with a power of attorney or other document, certifying the authority of the representative, if there is no such authority in the case.

2. Appeal petition or protest may also contain a request to call witnesses, whose evidence is challenged on appeal petition or protest.

3. Reference of the person, submitting (bringing) the appeal petition or protest, to the new evidence that was not presented to the first instance court, shall be allowed only in case of explanation of the impossibility to submit them to the first instance court.

4. *Excluded by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238.*

Footnote. Article 335 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 336. Leaving of an appeal petition or a protest without action

1. When bringing the appeal petition or protest, not meeting requirements of the second part of the Article 334 and Article 335 of this Code, the judge shall render a ruling to leave the petition or protest without action and sets a deadline for the person submitted (brought) the petition or protest, to correct the mistakes.

2. If the person submitted (brought) the petition or protest, follows the instructions of the order within the prescribed period of time, the petition or protest shall be considered submitted on the day of the initial submission to the court. A private petition or a protest may be submitted against the first instance court order on leaving of the appeal or the protest without action.

Footnote. Article 336 as amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238; dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 337. Return of an appeal or a protest

The appeal or the protest shall be returned to the person submitted (brought) it by the judge's order, in the following cases:

- 1) failure to fulfill the judge's instructions within the deadline, set by the judge in the order on leaving the petition or the protest without action;
- 2) upon application of the applicant submitted (brought) the petition or the protest;
- 3) expiration of the deadline for appeal or protest and the petition or the protest has no a request for its restoration or there is a rejection to recover it;
- 4) if the petition or appeal was submitted (brought) by a person not entitled to submit (bring) the appeal or protest.

Footnote. Article 337 as amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238; dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 338. Actions of the first instance court after receiving an appeal or protest

1. The judge after receiving the appeal or protest, submitted timely and meeting the requirements of the second part of the Article 334 and Article 335 of this Code, shall:

1) not later than the next day, send copies of the petition, protest and attached written evidence to the persons, participating in the case;

2) after expiration of the deadline, set for submitting the appeal of the protest, the case shall be sent to the court of appeal;

3) *Excluded by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).*

2. Before expiration of the deadline for appeal or protest, nobody can evoke the case from the court. The persons, participating in the case, have the right to be familiarized with the materials of the case, as well as petitions and protests to them.

Footnote. Article 338 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 339. Joining the appeal

Co-participants and third persons, participating in the case on the same party, as the person submitted the appeal, have the right to join the petition via submitting of a written application.

Footnote. Article 339 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238; by the Law of the Republic of Kazakhstan dated December 24, 2001 No.276.

Article 340. Revocation of the appeal or protest

1. A person, participating in the case, sends a statement of defense to the appeal or the protest to the court of appeal, other people, participating in the case, and attaches the documents, confirming objections to the appeal or the protest.

The statement of defense, submitted to the court of appeal, shall be attached with the document, proving sending of the statement of defense to other persons, participating in the case.

2. The statement of defense shall be sent within the terms, set by the court, providing the opportunity to study it before the proceedings.

3. The statement of defense shall be signed by the person, participating in the case, or by his/her representative. The statement of defense shall be signed by the representative, is attached with a power of attorney or other document, confirming his/her authorities.

Footnote. Article 340 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 341. Abandonment of the appeal and withdrawal of protest

1. The person submitted the appeal, shall have right to withdraw it in the court of appeal before rendering the decision. The prosecutor brought the appeal, or a superior prosecutor may withdraw the protest before the court of appeal renders a decision. The court shall notify the persons, participating in the case, on withdrawal of the protest.

2. The court renders a decision on admission of the abandonment of the appeal and withdrawal of the protest and stops the appeal proceeding, unless the decision is challenged by other persons or by a senior prosecutor.

Footnote. Article 341 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 342. Abandonment of a claim, a settlement agreement of the parties and the settlement agreement on mediation procedure

Footnote. The title of the Article 342 is in the wording of the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

1. Abandonment of a claim, a settlement agreement of the parties or the parties' agreement on the settlement of dispute on mediation procedure, made after submitting the appeal, shall be fixed in the written statements, sent to the appellate court.

2. The procedure for considering the applications from the plaintiff or the parties and consequences of admission or rejection of a abandonment of a claim, approval or non-approval of the settlement agreement and the settlement agreement for mediation shall be determined by the provisions of the Article 193 of this Code. When accepting the abandonment of a claim or approval of the settlement agreement and the settlement agreement for mediation procedures, the appellate court cancels the decision, rendered by the first instance court and terminates the proceedings in accordance with subparagraphs 3) and 4) of the Article 247 of this Code.

Footnote. Article 342 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Article 343. Suspension of enforcement of decision, decree

The judge of the appellate court shall have right to suspend enforcement of the decision, rendered by the first instance court, upon the petition of the person, submitted the appeal or the protest, except for the decisions on the cases, listed in Article 237 of this Code.

Footnote. Article 343 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 344. Appeal, protest against the ruling of the first instance court

1. A private petition or a protest may be submitted (brought) by the persons, specified in the Article 332 of this Code, against the ruling of first instance courts stipulated by this Code, and in cases when the ruling obstructs the possibility for further development of the case. Other persons, not participating in the case, may appeal the ruling of the court if the ruling affects their interests.

2. Individual petitions and protests may not be submitted against the other rulings of the first instance court, but the appeals against these rulings may be included in the appeal or protest.

3. In case of appeal or protest of the ruling rendered during the court proceedings, ended by making a decision, the case shall be sent to a higher-level court only after the deadline for appealing the decision. At that, if appeals or protests are brought against the decision, the inspection of the private petition or protest is conducted by the court, considering the case in the appellation ruling.

4. Private petition or protests against the ruling of first instance court shall be submitted to the court made this ruling. The judge upon the receipt of private petition or protest shall submit the case to the court of appeal.

After considering the case the following ruling is rendered:

- 1) on leaving the ruling unchanged and petitions, protests unsatisfied;
- 2) on cancellation of the ruling fully or partially and submission of the case for the new consideration to the first instance court;
- 3) on cancellation of the ruling fully or partially;
- 4) on changing of the ruling.

5. The ruling of the appellate court, rendered on a private petition or a protest, shall not be subject to appeal and shall enter into legal force immediately after its rendering.

Footnote. Article 344 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

Article 345. Limits for considering the case in appealing procedure

1. When considering the case on appeal, the court inspects legality and validity of the decision of the first instance court in full.

2. The court of appeal may establish new facts within the claim and examine new evidence that the party could not present to the first instance court.

Footnote. Article 345 is in the wording of the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 346. Separate ruling of the court of appeal

The court of appeal may render a separate decision in the case and in accordance with the rules, provided in the Article 253 of this Code.

Footnote. Article 346 is in the wording of the Law of the Republic of Kazakhstan dated 17.12.2012 No. 565-IV (shall be enforced from 01.07.2012).

Chapter 41. Consideration of the cases on appeal petition or protest

Article 347. Subject of the appellate consideration

On appeal petition or protest the court of appeal, taking into account the available additional materials of the case inspects the facts of the case, application and interpretation of the rules of substantive law, and observation of the rules of civil procedure law when considering the case.

Article 348. Preparing for the case proceedings

1. A judge of the court of appeal who received the case on appeal petition or protest , inspects execution of the requirements of the Article 338 of this Code by the first instance court and taking into account the requirements and motions stated in the appeal petition or the protest, within ten days the court conducts actions provided in the Article 170 of this Code and appoints the case for consideration.

2. The appellate court shall notify the parties, participating in the case, of the time and place of the court session.

Footnote. Article 348 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 349. Terms of consideration of the case

The case on appeal shall be considered within one month from the date of its coming to the court.

If there is a necessity to inspect new materials, proofs and rendering of a new decision, then the case in appeal instance shall be considered in terms up to two month from the day of its receipt to court.

Footnote. Article 349 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 350. Proceeding in the court of appeal

1. The court of appeal conducts proceedings in accordance with the rules, stipulated by Chapter 41 of this Code.

2. A prosecutor who gives a conclusion on the case shall take part in the proceedings in cases specified by paragraph 2 of the Article 55 of this Code.

The court of appeal shall notify the prosecutor of:

- 1) the cases to be considered in the court of appeal;
- 2) the decisions, rendered on the cases, considered in the court of appeal;

3. The court of appeal in compliance with the rules, established for the first instance court, examines additional materials, important for proper settlement of the case, submitted by the parties or demanded at their petitions, the received opinions and asks questions to the summoned persons.

Footnote. Article 350 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 351. Beginning of proceedings

The chairperson of the court opens the court session and announces: what case, at whose appeal petition and (or) protest and the decision of which court are to be considered. The chairperson checks out who of the persons, participating in the case, and representatives have come, establishes the identity of those, who have come to the court session, as well as authorities of representatives and officials.

Footnote. Article 351 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 352. Consequences of failure to appear at the court session of the persons, participating in the case

1. In case of non-appearance at the court session of any of the persons, participating in the case, not notified of the time and place of the court session properly, the court suspends the court session.

2. Failure to appear of those, specified in this Article, notified of the time and place of the court session, shall not be an obstacle to consider the case. However, the court shall have right to suspend the court session, if acknowledges the causes of absence reasonable.

3. When suspending the proceedings, the court of appeal notifies the persons, participating in the case of the time and place of the repeated court session. The proceedings in this case shall be conducted from the beginning.

Footnote. Article 352 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 353. Settling of applications of persons, participating in the case, by the court

1. Applications and motions of persons, participating in the case, in all matters, related to the proceedings in the court of appeal, shall be settled by the court after listening to the opinions of other persons, participating in the case.

2. The parties have right to submit motions on calling evidence, study of which was rejected by the first instance court.

3. Settling of the application shall be conducted in accordance with the rules of the Article 186 of this Code, at that the court of appeal may not reject satisfaction of the motion taking into account that it was not satisfied by the first instance court.

Article 354. Explanations of the persons participating in the case

The court shall hear explanations of those, participating in the case, and the representatives. The person submitted the appeal petition or the protest and his/her representative speak in the court first. In case of submitting the appeal against the decision by the two parties, the plaintiff speaks first.

Article 355. Studying of evidence

1. Procedure and limits of studying the evidence shall be determined by the court of appeal, taking into account the opinions of persons participating in the case.

2. After explanations of the parties, the court checks out the present and the newly-submitted evidence not presented to the first instance court for justified reasons. The individuals, representing additional evidence to the court, shall specify how they received the additional evidence and why it is necessary to present the additional evidence.

3. The court of appeal may announce the explanations of the persons, participating in the case, but who did not appear at the court session, as well as the testimony of witnesses, not summoned to the court of appeal.

3-1. The parties shall have right to bring petitions concerning summoning and questioning of witnesses and concerning requirement of evidences in questioning and studying which rejected by the first instance court.

4. If these explanations and evidence are challenged by the parties, they may be summoned to the court of appeal.

Footnote. Article 355 as amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238; dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 356. Pleadings

1. After completion of the proceedings on the merits, the chairperson asks the parties and representatives about their motions and additions. The court resolves these motions and then starts pleadings.

2. Pleadings shall be held in accordance with the rules provided in Article 211 of this Code, and the person submitted the appeal petition or protest speaks first. In case of appeal against the decision is brought by the two parties, the plaintiff starts first.

3. Upon completion of pleadings and hearing the prosecutor's conclusions, the judge retires to the deliberation room to make a decision.

Footnote. Article 356 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 356-1. The court session minutes

1. The court of appeal, when considering the case in compliance with the rules established for the first instance court, keeps the minutes of the court session if necessary when investigating the additional materials, important for the proper settling of the case, the expert assessment, questioning of the persons, summoned to the court.

2. The court of appeal may also keep the minutes of the court session on its own initiative or upon application of the parties.

Footnote. The Code is supplemented by Article 356-1 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 357. Rendering of a judicial act and its announcement

Footnote. The title is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

1. Rendering of the judicial act of court of appeal and its announcement shall be conducted in accordance with the rules of the Articles 216, 217 and 218 of this Code.

2. The court may render a resolute part of the judicial act, taking into account the requirements of the part 1 of this Article. In this case, motivated judicial act shall be made and signed by the judge within five days from the day of the court session.

Footnote. Article 357 is in the wording of the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; as amended by the Laws of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010), dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 358. Authorities of the court of appeal

The court of appeal shall have right:

- 1) leave the decision unchanged, and the petition or protest without satisfaction;
- 2) change the decision of the first instance court;
- 3) cancel the decision of the first instance court and render a new decision;
- 4) *excluded by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).*

5) cancel the decision and send the case to the first instance court for a new consideration in case of discovering violation of procedural rules, provided for in the Article 366 of this Code.

Footnote. Article 358 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 359. Judicial acts of the court of appeal

1. The court of appeal shall render the following judicial acts:
 - 1) a decree in cases, specified by second part of the Article 341 and sub-paragraph 1), 2), 5) of the Article 358 of this Code;
 - 2) a decision in cases stipulated by sub-paragraph 3) of the Article 358 of this Code ;
 - 3) a ruling.
2. A motivated act of the court of appeal shall be rendered within five days from its adoption.

Footnote. Article 359 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 360. Content of an appellate decree, decision

1. The decision of the court of appeal shall contain: date and place of rendering the appellate decree; name of the court rendered the appellate decree; composition of the court; the parties; other persons, participating in the case and the representatives; subject of the dispute or the claimed requirement; essence of the claims and objections to them; circumstances of the case, established by the first instance court; motives, used by the first instance court when rendering the decision or decree.
2. Besides, the decision of the first instance court shall contain:
 - 1) name of the person submitted the appellate petition or protest;
 - 2) requirements of the person brought the complainant or protest, their explanation;
 - 3) grounds on which the court of appeal leaves the decision unchanged, annuls or alters the decision of the first instance court;
 - 4) reasons for which the court of appeal came to its conclusions and a reference to the laws applied by the court;
 - 5) findings of the court of appeal.
3. When the petition, protest is left without satisfaction in connection with absence of new reasons the declaration part of the appellate decree shall indicate only absence of the grounds stipulated by this Code to alter or cancel the judicial act.

In case of bringing the appellate petition the appellate petition shall contain the grounds upon which the new reasons have been acknowledged to be unjustified.

4. Content of the appellate decision adopted in cases stipulated by sub-paragraph 3) of the Article 358 of this Code shall comply with requirements of the Article 221 of this code.

5. In cases and procedure stipulated by Articles 230-232 of this Code the court of appeal may consider the issue on correction of mistakes and obvious arithmetic errors, render an additional decision, decree or explain the rendered decision, decree without changing its substance. The decision, decree of the court of appeal on these issues enters into legal force from the date of its rendering.

Footnote. Article 360 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 361. Content of an appellate decision

Footnote. Article 361 is excluded by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 362. Procedure for considering an appeal petition or a protest, received after considering the case in appellate procedure

1. In case, when an appeal petition or a protest, filed within the set terms or after restoration of the missed deadline, come to the court of appeal after being considered on other petitions, the court shall accept the petition or the protest to its proceedings.

2. The court of appeal cancels its previous act and re-considers the case in full scope, if the mentioned petition or protest shall have the reason to cancel it.

Article 363. Bindingness of the directions of the court of appeal

Footnote. Article 363 is excluded by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 364. Grounds to cancel or change the decision of the court of appeal

1. The grounds for cancellation or change the decision of the court of appeal are:

- 1) incorrect establishment or investigation of circumstances relevant to the case;
- 2) failure of evidence, established by the first instance court, relevant to the case;
- 3) incompliance of the first instance court's findings, stated in the decision, with the circumstances of the case;

4) violation or incorrect application of substantive or procedural law.

2. The correct decision may not be canceled, taking into account formal considerations only.

Article 365. Violation or incorrect application of substantive law

Substantive law shall be considered to be violated or misused if the court:

- 1) did not apply the law, which is to be applied;
- 2) applied the law, which is not subject to application;
- 3) interpreted the law incorrectly;
- 4) applied legal analogy or the analogy of law incorrectly.

Article 366. Violation or incorrect application of procedural law

1. The decision of the first instance court shall be revoked, regardless of the petitions and protests, in the following cases:

- 1) the case was considered by the judge, not entitled to consider the case;
- 2) the case was considered by the court in the absence of any of the persons, participating in the case not notified of the time and place of the court session;
- 3) during the proceedings, the rules on the language of the proceedings were violated;
- 4) the court resolved the question on the rights and obligations of persons, not participating in the case;
- 5) the decision is not signed by the judge or not signed by the judge stated in the decision;
- 6) the case is not provided with the minutes of the court session;
- 7) the case has no minutes of a separate procedural action, drawing up of which was obligatory in accordance with the Article 255 of this Code.

2. The decision is to be cancelled if there are other procedural offenses led or could lead to an incorrect settling of the case.

Article 367. Cancellation of the decision with termination of the proceedings or leaving the application without consideration

The decision of the court is to be cancelled in an appeal procedure with termination of the proceedings or leaving the application without consideration on the grounds specified in the Articles 247, 249 of this Code.

Article 368. Entry into legal force of judicial acts of the court of appeal

The judicial acts of the court of appeal shall enter into legal force from the moment of their announcement.

Article 368 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 369. Return of the case to the first instance court

After considering the case the court of appeal returns it to the first instance court.

Chapter 42. Production of the court of cassation

Footnote. The Chapter 42 is excluded by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238.

Chapter 42-1. Appeal and protest of decisions, rulings and decrees of the first instance court and court of appeal in cassation procedure that has entered into legal force

Footnote. The title of the Chapter 42-1 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Footnote. The Code is supplemented by Chapter 42-1 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2009 No.227-IV (shall be enforced from 01.01.2010).

Article 383-1. Right for cassation appeal and protest of decisions, rulings and decrees of the first instance court and the court of appeal in cassation procedure that has entered into legal force

1. The right for cassation appeal and protest of decisions, rulings and decrees of the first instance court and the court of appeal that has entered into legal force belongs to the parties and other persons, participating in the case.

2. A cassation appeal may be brought by the persons, not participating in the case, but with respect to the rights and obligations of whom the courts rendered a decision, a decree or a ruling.

3. The right for cassation appeal against decisions, rulings and decrees of the first instance court and court of appeal that has entered into legal force belongs to the prosecutor participated in consideration of the case in these courts. The General Prosecutor of the Republic of Kazakhstan and his deputies, oblast prosecutors and the equivalent prosecutors may challenge the decisions, rulings and decrees of the first instance courts and courts of appeal that has entered into legal force regardless participation in the case consideration.

Footnote. Article 383-1 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 383-2. Courts, considering the cassation petitions and protests

A cassation petition or protest against the decisions, rulings and decrees of the first instance court and court of appeal that has entered into legal force shall be considered by the oblast or equated court, composed of at least three judges.

Footnote. Article 383-2 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 383-3. Procedure for evocation, submitting a cassation petition or protest

Cassation petitions and protests shall be re addressed and submitted directly to the court of cassation with the copies, equal to the number of persons, participating in the case. The cassation protest, petition of the prosecutor shall be sent to the court of cassation along with the civil case.

If necessary, the court may oblige the person submitted the petition or protest, to submit copies of written evidence, attached to the petition or protest, equal to the number of persons, participating in the case.

The civil case may be evoked from the corresponding case for inspection in cassation procedure by prosecutors possessing rights to bring cassation protests. The request of the prosecutor on evocation of the case shall be executed by the court only after performance of the procedural actions to enact the judicial acts that have entered into legal force.

Footnote. Article 383-3 is in the wording of the Law of the Republic of Kazakhstan dated 27.04.2012 No.15-V (shall be enforced from 01.07.2012).

Article 383-4. Deadline to submit a cassation petition or protest

1. A cassation petition or protest may be submitted within six months from the day the decision, decree or ruling of the first instance court or court of appeal enters into legal force.

2. A petition or protest, submitted after the stated deadline, will be left without consideration and returned to the person submitted the petition or the protest.

Footnote. Article 383-4 as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 383-5. Content of the cassation petition or protest

1. A cassation petition or protest shall contain:
 - 1) name of the court, which is to receive the petition or protest;
 - 2) name of the person, bringing the petition or protest;
 - 3) a reference to the decision, decree or ruling appealed or challenged;
 - 4) indication of what is incorrect in the decision, decree and ruling of the, as well as the request of a person submitted the petition or protest;
 - 5) list of written materials, attached to the petition or protest. A cassation petition shall be signed by the complainant or his/her representative. A cassation appeal (protest) shall be signed by the prosecutor.

2. The cassation petition submitted by the representative, if the right for cassation petition is not specifically stated in the power of attorney to conduct the proceedings or if he/she did not participate in the proceedings in the first instance court, shall be attached with the power of attorney or any other document, proving the representative's authority.

Footnote. Article 383-5 as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 383-6. Leaving a cassation petition or protest without action

1. When submitting a cassation petition or protest not signed by the persons submitted it, without indication of the decree, decision or ruling appealed or protested, or without the attachment of all the necessary copies, the judge and the equal court shall render a decision, which leaves the appeal or protest without action, and sets the deadline to correct deficiencies to the person submitted the petition or protest.

2. If the person submitted the petition or protest fulfills the instructions within the set period, the petition or protest shall be considered submitted on the day of the initial submission to the court. Otherwise, the petition or protest deemed not submitted and the court renders a decision to return it to the person submitted the petition or protest.

Footnote. Article 383-6 as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 383-7. Actions of the judge after receiving a cassation petition or protest

The judge of the oblast or equal court shall:

- 1) demand the materials of the civil case;
- 2) send the copies of the petition or protest and the attached written materials to the persons, participating in the case, and set the deadline to submit the statement of defense;
- 3) notify the persons, participating in the case, of the time and place of consideration of the cassation petition or protest.
- 4) notify the prosecutor of the cases appointed for consideration

Footnote. Article 383-7 as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012)

Article 383-8. Joining a cassation petition

The parties and third persons, participating in the case on the same side as the person submitted the appeal, may join the submitted petition via bringing a written application.

Article 383-9. A statement of defense to the cassation petition or protest

1. A person, participating in the case, sends a statement of defense to the cassation petition of protest and attaches the documents, confirming the objections to the petitions to the other persons, participating in the case, and to the court of cassation. The statement of defense, sent to the court of cassation, shall be attached with the document, confirming sending of the statement of defense to the other persons, participating in the case.

2. The statement of defense shall be sent within the terms, set by the court, providing an opportunity to study the statement of defense before the proceedings.

3. The statement of defense shall be signed by the person, participating in the case, or his/her representative. The statement of defense, signed by the representative, shall be attached with the power of attorney or other documents, proving his/her authorities.

Article 383-10. Abandonment of a cassation petition and withdrawal of a cassation protest

1. The person submitted the appeal, shall have right to abandon it. However, the court may reject the abandonment on the grounds, set in the part 4 of the Article 8 of this Code, and consider the case in cassation procedure.

2. The prosecutor brought the cassation petition, as well as the higher-level prosecutor may withdraw the protest before the proceeding begins. The court shall notify the persons, participating in the case, of withdrawal of the protest.

3. The court renders a ruling on termination of the cassation proceedings, if the decision is not appealed or challenged by other persons.

Article 383-11. Abandonment of a claim, a settlement agreement of the parties and a settlement agreement on mediation

Footnote. The title of the Article 383-11 is in the wording of the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

1. Abandonment of the claim by a plaintiff, a settlement agreement of the parties or the parties' agreement on a settlement of the dispute in mediation procedure executed after submitting of a cassation petition or protest, shall be submitted to the court of cassation in written form. Before acceptance of the abandonment of a claim, approval of the settlement agreement or the agreement between the parties on mediation procedure, the court shall explain consequences of their procedural actions to the plaintiff or the parties.

2. When accepting a plaintiff's abandonment of a claim, approval of a settlement agreement between the parties or the parties' settlement agreement on mediation procedure, the court of cassation cancels the rendered decision and terminates the proceedings. If the court rejects the abandonment of a claim, a settlement agreement or

the agreement on mediation procedure, taking into account the provisions of the part 2 of the Article 49 of this Code, it shall consider the case on cassation procedure.

Footnote. Article 383-11 as amended by the Law of the Republic of Kazakhstan dated 28.01.2011 No. 402-IV (shall be enforced from 05.08.2011).

Chapter 42-2. Proceeding in the court of cassation

Footnote. The Code is supplemented by Chapter 42-2 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 383-12. Subject of cassation consideration

Upon the cassation petition or a protest, the court of cassation verifies legality and validity of the decisions, decrees and ruling that have entered into legal force, rendered by the court of first instance and the court of appeal.

Footnote. Article 383-12 in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 383-13. Limits for considering the case

1. When considering the case on cassation, the court verifies legality and validity of the judicial acts of the first instance court and the court of appeal, taking into account the available materials within the arguments of the petition or the protest.

2. The court of cassation, within the stated claim, investigates the new evidence not presented to the first instance and the court of appeal for good reasons.

Article 383-14. Terms for considering the case in the court of cassation

The court of cassation shall consider the case on a cassation petition or protest within one month from the date of its receipt.

Article 383-15. Procedure for considering a cassation petition or a protest

1. The chairperson opens the court session and announces what case, on whose petition or protest, the decree, ruling of which court are subject to consideration. In the preparatory part of the court proceedings, the court applies Articles 180 and 189 of this Code.

2. A prosecutor who gives a conclusion on the case shall take part in the court session of the court of cassation in the cases as provided for by the second part of the Article 55 of this Code.

Footnote. Article 383-5 as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 383-16. Consequences of the failure to appear at the court session of the persons, participating in the case, and representatives

Failure to appear at the court session of the persons, participating in the case and representatives, duly notified of the time and place of the court session, shall not be an obstacle to consider the case.

Article 383-17. Report of case

Consideration of the case in the court of cassation starts with the report of one of the judges. The speaker recites the circumstances of the case, the content of the decision, decrees and rulings of first instance court and the court of appeal, reasons of the cassation petition, protest and the received statement of defenses to them, as well as other data to be considered by the court to verify the decision.

Footnote. Article 383-17 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 383-18. Explanations of the persons, participating in the case

After the report, the court shall hear the explanations of the persons, participating in the case, and representatives. The person, submitted the cassation petition or protest, and his/her representative speak first. In case of challenging the decision by the two parties, the plaintiff speaks first.

Article 383-19. Settling of applications of persons, participating in the case by the court

Applications and petitions of persons, participating in the case, in all the issues, related to the proceedings in the court of cassation shall be settled by the court after hearing the opinions of other persons, participating in the case.

Article 383-20. Authorities of the court of cassation

Having considered the case on cassation, the court shall be entitled to:

- 1) leave the decision, decree and ruling of the first instance court and court of appeal unchanged, and the petition or protest - without satisfaction;
- 2) cancel the decision, decree and ruling of the first instance court and court of appeal fully or partially and send the case for a new consideration to the first instance court, if the case has not been considered in appeal procedure or in a court of appeal with another composition of judges, if the mistakes, made by the first instance court or court of appeal, cannot be corrected by the court of cassation. The court of cassation

may not preliminarily decide the question on credibility or non-credibility of certain evidence, on the superiority of one evidence over the other, as well as what decision shall be rendered in the new consideration of the case;

3) cancel the decision, decree and ruling of the first instance court or court of appeal fully or partially and terminate the proceedings or leave the application without consideration, taking into account the grounds specified in the Articles 247 and 249 of this Code;

4) cancel the decision, decree and ruling of the court of appeal by leaving the decision of the first instance court in force;

5) change the decision, decree and ruling and render a new judicial act, by canceling the decision of the first instance or decision, decree of the court of appeal, by not submitting the case to the new consideration, if the case shall not need additional collecting and testing of evidence, the facts of the case were established fully and correctly by the first instance or the court of appeal, but a mistake was made in application of the substantive law norms.

Footnote. Article 383-20 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 383-21. Grounds to cancel the decisions, decrees and rulings of the first instance court and court of appeal in cassation procedure

Decisions, decrees and rulings of the courts that have entered into legal force shall be subject to cancellation in cassation procedure on the grounds stipulated by part one of the Article 364 of this Code.

Footnote. Article 383-21 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 383-22. Judicial acts of the court of cassation

1. Judicial acts of the court of cassation shall be rendered in the form of decrees.
2. The decree of the court of cassation shall contain:
 - 1) date and place of rendering the decree;
 - 2) name and composition of the court, rendered the decree;
 - 3) the person submitted a cassation petition or protest;
 - 4) summary of the challenged judicial act of first or appeal instance, the cassation petition or protest and written statement of defenses to them, explanations of the persons, participating in the case in the court of cassation;
 - 5) reasons upon which the court came to its conclusions, and the reference to the laws, applied by the court;
 - 6) findings upon the results of considering the cassation petition or protest.

3. When petition, protest is left without satisfaction due to absence of new reasons in the declaration part of the cassation decree shall be stated only the absence of grounds stipulated by this Code for amending the judicial act or its cancellation.

In case of bringing of new reasons in the cassation petition, protest which were not subject of consideration in courts of first instance court and court of appeal, the declaration part shall state the grounds upon which the new reasons were found to be unjustified.

4. The decree of the court of cassation shall be prepared in its final form within five days. Announcement of the resolute part of the decision attached to the case materials shall be allowed.

5. In cases and procedure stipulated by the Articles 230-232 of this Code the court of cassation shall have right to consider the issue concerning correction of errors and clear arithmetic mistakes, render an additional decree or explain the rendered decree without changing its essence. The decree of the court of cassation upon the stated issues shall enter into legal force from the day it is rendered.

Footnote. Article 383-22 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 383-23. Legal validity of the decision of the court of cassation

The decree of the court of cassation shall enter into legal force from the day of its announcement.

Footnote. Article 383-23 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 383-24. Procedure for considering a cassation petition, received after considering the case in cassation procedure

1. In case, when a cassation petition, brought within the set period of time or after restoration of the missed deadline, comes to the court of cassation after considering the case on other petitions, the court shall admit the petition for its production.

2. If, after considering the petition, the court of cassation comes to the conclusion on illegality or invalidity of the previously rendered cassation act, it shall be canceled and a new judicial act shall be rendered.

Chapter 43. Proceedings in the order of supervision

Article 384. Judicial acts, subject to review by way of judicial supervision

1. Judicial acts of local and other courts that came into legal force may be reviewed in the procedure of supervision, provided that the cassation procedure of their appeal is fulfilled, by the Supreme Court of the Republic of Kazakhstan upon petitions of the

persons, participating in the case and protest of the General Prosecutor of the Republic of Kazakhstan.

In exceptional cases stipulated in third part of this Article the decision of the first instance court, decision or decree of the court of appeal that came into legal force, may be reviewed in procedure of court supervision upon a protest of the General Prosecutor of the Republic of Kazakhstan.

2. Judicial acts of the local and other courts that came into legal force and not appealed in cassation procedure are not subject to inspection in procedure of the judicial supervision.

3. The decree of the supervising court panel of the Supreme Court of the Republic of Kazakhstan may be inspected in a procedure of the court supervision in exceptional cases, if the adopted decree can lead to serious irreversible consequences for human life and health or to the economy and security of the Republic of Kazakhstan.

Footnote. Article 384 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 385. Persons entitled to submit a petition, protest against judicial acts that entered into legal force

Footnote. The title is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

1. Petitions on challenging the judicial acts stipulated by the Article 384 of this Code can be submitted by parties and their representatives, other persons participating in the case to supervisory judicial panel of the Supreme Court of the Republic of Kazakhstan.

2. A protest against a judicial act, that came into legal force, may be brought by the General Prosecutor of the Republic of Kazakhstan to the Supreme Court of the Republic of Kazakhstan.

3. A protest may be brought upon own initiative or upon application of the persons, specified in the part 1 of this Article. The petition shall be attached to the protest.

4. Before the proceedings in the court of supervision, a petition and a protest can be withdrawn by the person submitted it via bringing an appropriate application to the court. The court shall notify the persons, participating in the case, on withdrawal of the protest. Withdrawal of the petition and protest leads to termination of proceeding in the court of supervision.

4-1. *(Excluded by the Law of the Republic of Kazakhstan of December 30, 2005 No.111 (the order of enforcement see Article 2 of the Law No.111)).*

5. The rules, provided for in the Articles 393-395 of this Code, shall not be applied to the prosecutor's protests and shall be considered by the supervisory authority itself. The court in a deliberations room, decides whether there are grounds for reviewing the

case by way of supervision, provided for in the Article 387 of this Code, after that the court considers the prosecutor's protest on its merits. In the absence of these grounds, the court shall deliver a decision on rejection to review the case by way of judicial supervision.

Footnote. Article 385 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 30.12.2005 No.111 (the order of enforcement see Article 2); dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

Article 386. Courts considering the cases in procedure of supervision

1. The Supreme Court of the Republic of Kazakhstan considers the cases on petitions of the persons stated in the first part of the Article 385 of this Code and protests of the Prosecutor General of the Republic of Kazakhstan on the decrees of the cassation courts that entered into legal force, as well as on the acts of the first instance courts and courts of appeal in the cases stipulated in the first part of the Article 384 of this Code, comprised of at least five judges.

2. Plenary session of the Supreme Court of the Republic of Kazakhstan, taking into account the grounds, specified in the part 3 of the Article 384 of this Code, shall consider cases upon the recommendation of the Chairperson of the Supreme Court of the Republic of Kazakhstan or the protest of the Prosecutor General of the Republic of Kazakhstan against the decision of the Supreme Court of the Republic of Kazakhstan.

Footnote. Article 386 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); as amended by the Law of the Republic of Kazakhstan dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

Article 387. Reasons and grounds for demand of the cases and review of the judicial acts that entered into legal force

1. A civil case can be requested from the appropriate court for inspection in the procedure of supervision by the Prosecutor General of the Republic of Kazakhstan or on his instructions by the deputies of the General Prosecutor of the Republic of Kazakhstan, the oblast prosecutors and equivalent prosecutors, and judges of the Supreme Court of the Republic of Kazakhstan.

2. The reasons for demand of the cases shall be petitions of the persons, specified in the part 1 of the Article 385 of this Code, as well as the initiative of prosecutors, mentioned in the part 2 of the same article of this Code within their jurisdiction.

2-1. A prosecutor's request on certiorari shall be executed by the court within seven calendar days from the date of its receipt to the court. Requests may be sent via communication channels.

In case of certiorari, the petition on bringing of a supervisory protest shall be considered by the prosecutor within thirty calendar days from the date of its receipt to the prosecutor office.

3. A significant breach of substantive or procedural law that caused the issuance of illegal judicial act shall be the ground for review of the court decision, decree and ruling that came into legal force in the procedure of supervision.

4. Decisions, rulings, cassation decrees may be reviewed in the order of supervision in case if the Constitutional Council of the Republic of Kazakhstan declared the act, on the basis of which they were rendered to be unconstitutional.

Footnote. Article 387 as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 29.12.2010 No. 374 -IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

Article 388. Terms of appeal and challenge of judicial acts that have enter into legal force

1. A petition, a protest may be submitted within one year after the court decision, ruling, decree enter into legal force.

2. The rules of the part 1 of this Article shall not be applied to cases of revision of the court decisions, rulings, decrees infringing the rights and freedoms of a citizen stipulated by the Constitution of the Republic of Kazakhstan, on the grounds, specified in part 4 of the Article 387 of this Code.

3. Terms for bringing a protest shall be prolonged by the court, if a petition on bringing a supervisory protest was submitted to the prosecutor in accordance with the time limit, but the decision on it was not rendered. The protest shall indicate it.

Footnote. Article 388 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 389. Brining a protest

1. If there are reasons and grounds, the General Prosecutor of the Republic of Kazakhstan shall bring a protest and send it to the Supreme Court of the Republic of Kazakhstan along with the case and the petition.

2. Copies of the protest shall be sent by the Prosecutor General of the Republic of Kazakhstan to the persons, participating in the case.

Footnote. Article 389 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 390. Content of the protest

The protest shall contain:

- 1) name the court to which the protest is brought;
- 2) reference to the legal acts, that are challenged;
- 3) description of the subject of the case for which the judicial acts were rendered;
- 4) description of the violation of the substantive or procedural law resulted in rendering of an illegal judicial act or acknowledgement of the normative legal act to be unconstitutional by the Constitutional Council of the Republic of Kazakhstan on the basis of which the judicial act was rendered;
- 5) an offer or findings of an official brought the protest.

Footnote. Article 390 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 391. Content of the petitions on challenging a judicial act and bringing of a supervisory protest

Footnote. The title of the Article 391 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

1. Petitions on challenging of a judicial act, submitted to the Supreme Court of the Republic of Kazakhstan and brining of the supervisory protest submitted to General Prosecutor's Office shall contain:

- 1) name of the court to which the petition is addressed, name of the official to whom the petition is addressed;
- 2) name of the person, submitting the petition, and his/her place of residence or location, and the procedural position in the case;
- 3) description of the content of the decision, ruling, decree, as well as names of the persons, participating in the case, place of their residence or location;
- 4) description of the courts considered the case in the first instance court, the court of appeal and cassation, and the content of the rendered decisions;
- 5) description of the decision, which is disputed or challenged;
- 6) description of the violation of the norms of the substantive or procedural law and the request of the person, submitting the petition.

2. If the application is submitted by the person, not participating in the case, it shall specify what rights of that person are violated by the challenged decision, ruling, decree.

3. If the challenged judicial act was not challenged in the appropriate court, the applicant shall state the reasons of failure to submit an appeal or a cassation petition.

4. If the petition previously was submitted to the supervisory authority, it shall contain data about it and about the decision of the court, rendered on the petition.

5. The petition shall be signed by the person, submitting the petition or his/her representative. The application, brought by a representative, shall be attached with a power of attorney or other document, confirming the representative's authority.

6. The application shall be attached with the copies of the rendered court decisions, rulings, decrees certified by the court.

Footnote. Article 391 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 17.02.012 No .565-IV (shall be enforced from 01.07.2012).

Article 392. Return of a petition or a prosecutor's protest

Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

1. A petition or a prosecutor's protest shall be returned to persons submitted them, on the following grounds:

1) the petition or the prosecutor's protest do not meet requirements of the Article 390 and 391 of this Code;

2) the prosecutor's petition or protest are brought by the persons, who do not have the right to appeal and protest the judicial act, that came into legal force, in accordance with the Article 385 of this Code;

3) the prosecutor's petition or protest are submitted after expiration of the deadline, defined in the part 1 of the Article 388 of this Code, and there is no good reason for its recovery;

4) they were withdrawn before considering the prosecutor's petition and protest;

5) the prosecutor's petition or protest were submitted to the supervisory authority with violation of the rules of jurisdiction;

6) there is a decision on rejection of initiation of a supervisory proceeding upon application of the same participant of the process.

2. After elimination of deficiencies led to return of the prosecutor's petition or protest, they can be re-submitted on the general grounds.

Footnote. Article 392 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2005 No.111 (the order of enforcement see Article 2); as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 393. Preliminary consideration of a petition

Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

1. A petition of appeal of a judicial act in a judicial supervision procedure shall be previously studied and considered by three judges, one of whom is a speaker, appointed by the Chairperson of the Supreme Court of the Republic of Kazakhstan. If necessary, the civil case can be claimed.

2. The petition shall be reviewed within one month from the date of receipt, and in case of certiorari - within one month from the date of receipt of the case.

3. The prosecutor, as well as the person submitted the petition, shall be notified of the date of the preliminary review, but their absence shall not hamper settling of the issue on presence or absence of grounds to initiate proceedings for judicial review.

Footnote. Article 393 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2005 No.111 (the order of enforcement see Article 2); as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 17.02.2012 No.656-IV (shall be enforced from 01.07.2012).

Article 394. Decisions accepted upon the results of preliminary review of a petition

Footnote. The title as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

1. After a preliminary review of the petition, the judges shall render a decree:

1) on initiation of supervisory review or reconsideration of the challenged court decision and consideration of the petition in the supervisory authorities with certiorari of a civil case;

2) on rejection to initiate a supervisory review on reconsideration of the challenged judicial act;

3) on return of the petition.

2. The decree, rendered by the court on a preliminary review of the petition, shall contain:

1) date and place of rendering the decree;

2) name and initials of the judges of the corresponding court considered the petition and rendered the decision;

3) the case on which the decision is rendered and description of the challenged judicial act;

4) name of the person, bringing the petition;

5) reasons, given in the petition;

6) grounds for initiation of a supervisory review or rejection of the petition or return of the petitions to the persons, who submitted them;

7) resolute part of the decision shall have one of the solutions, mentioned in part 1 of this Article.

3. A copy of the decree, rendered on a preliminary review of the petition, is sent to the person submitted it.

Footnote. Article 394 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2005 No.111 (the order of enforcement see Article 2); as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 395. Appointment of a court session of a supervisory authority

1. A supervisory authority after receiving the court decision on initiation of a supervisory review on reconsideration of the challenged judicial act, protest, shall send the copies of the petition, decision to the parties on initiation of the supervisory proceeding, notification of considering the case in the supervisory authority with indication of time and place of the court session.

2. The case in the supervisory authority shall be considered within one month from the date of submitting the case to the supervisory authority with the decision on initiation of the supervisory review or receipt of the prosecutor's protest.

Footnote. Article 395 is in the wording of the Law of the Republic of Kazakhstan dated 30.12.2005 No.111 (the order of enforcement see Article 2); as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 395-1. Statement of defense to the petition or protest on review of a judicial act

1. A person, participating in the case, sends a statement of defense to the petition or protest on review of a judicial act in a supervision procedure with the documents, confirming objections to the revision, to the other persons, participating in the case and to the Supreme Court of the Republic of Kazakhstan.

The statement of defense, sent to the Supreme Court of the Republic of Kazakhstan shall be attached with a document, confirming sending of the copies of the statement of defense to other persons, participating in the case.

2. The statement of defense shall be sent within the terms, set by the court, providing an opportunity to study statement of defense before consideration of the petition or the protest by the Supreme Court of the Republic of Kazakhstan.

3. The statement of defense shall be signed by the person, participating in the case, or his/her representative. The statement of defense, signed by the representative, shall be attached with the power of attorney or other document confirming his/her authority.

Footnote. The Code is supplemented by Article 395-1 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 396. Suspension of enforcement of a judicial act

The Chairperson of the Supreme Court, the Prosecutor General of the Republic of Kazakhstan concurrently with the certiorari may suspend enforcement of judicial act for expertise in supervisory procedure for a period not exceeding three months.

Footnote. Article 396 is in the wording of the Law of the Republic of Kazakhstan dated August 9, 2002 No.346; is amended by the Law of the Republic of Kazakhstan dated December 30, 2005 No.111 (the order of enforcement see Article 2 of the Law No.111).

Article 397. Limits for considering a case

1. When considering a case in a supervisory procedure, the court verifies legality of the judicial acts, rendered by the first instance court, the court of appeal and cassation in the available materials within the limits of the arguments of a petition of a protest.

2. A supervisory review court in the interest of the rule of law may go beyond the petition or protest, and verify legality of the appealed and challenged decision in full. The court examines legality of the decisions, rendered by the first instance court, the court of appeal and cassation in cases, provided for in Chapter 25-29 of this Code, at large.

Footnote. Article 397 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010); dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

Article 398. The order of considering a case by the supervisory authority, the decision of the supervisory court

1. The supervisory court's session shall be opened by announcement of the chairperson of the court about what decision and on whose petition (protest) is reviewed, the members of the court composition and who of the persons, participating in the case, are present in the court room. Absence of the person submitted the petition (protest) and duly notified of the time and place of the court session, shall not exclude the possibility to continue the court session. Participation of the prosecutor in the supervisory court when considering the case is obligatory.

2. After settling of the stated objections and petitions, the court renders a decision to continue the proceedings or to suspend it. When rendering a decision to continue the proceedings the chairperson shall call upon the person brought the petition (protest). If there are several persons, they tell the court the order of their speeches. If they do not reach agreement, the order shall be determined by the court.

3. The person brought the petition (protest), give reasons and arguments, by which, in his/her opinion, the challenged decision is unlawful, unreasonable. Then, the

chairperson calls upon the other persons, participating in the case, in the order, defined by the court.

After the speeches are delivered the prosecutor gives the conclusion on the case.

4. After considering the case in a supervisory procedure, the court renders one of the following decisions in a deliberation room:

1) to leave the decision of the first instance court, the court of appeal and cassation without change, and the petition, protest - without satisfaction;

1-1) to reject review of the case in supervisory procedure in view of absence of grounds, specified in the Article 387 of this Code;

2) to cancel the decision of the first instance court, the court of appeal and cassation fully or partially and to send the case to the new consideration to the court of appeal or court of cassation or to the first instance court, if the case was not considered in the court of appeal. Supervisory review court may not set or deem proven the circumstances, which were not specified in the decision or denied by it, to decide the question on credibility or non-credibility of evidence, advantage of one evidence over the other, about which norm of the substantive law to be applied, and what decision shall be rendered in a new case;

3) to cancel the decision of the first instance court, the court of appeal and cassation fully or partially and leave the claim without consideration or terminate the proceedings;

4) to leave one of the rendered decisions in force;

5) to change the decision of the first instance court, the court of appeal or cassation or cancel and render a new decision without submitting the case for a new proceeding, if there was a mistake in application and interpretation of the substantive law.

Footnote. Article 398 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 30.12.2005 No.111 (the order of enforcement see Article 2); dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010), dated 17.02.2012 No. 565-IV (shall be enforced from 01.07.2012).

Article 399. The content of the decision of a supervisory court

1. The decision of the supervisory authorities shall meet the requirements of this Code for the appeal decrees. The decision of the supervisory authority is signed by all judges, who rendered the decision on the case.

2. In case and order, stipulated by the Articles 230-232 of this Code, the supervisory review court may consider the question on correction of errors and obvious arithmetic mistakes, render an additional decision or explain previously rendered decision of the supervisory authority.

Footnote. Article 399 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012)

Article 400. Entry into legal force of the decision of the supervisory authority

Decrees of the supervisory authority shall enter into legal force soon once they are adopted.

Article 401. Compulsion of the court orders, considering the case in supervisory procedure

Footnote. Article 401 is excluded by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 402. Challenging and review of the court decision in supervisory procedure

(Excluded by the Law of the Republic of Kazakhstan dated December 30, 2005 No .111 (the order of enforcement see Article 2 of the Law No.111).

Article 403. Consideration of the case after cancellation of the decision of the court, decree and order

1. After cancellation of the judicial acts the case shall be considered in the general procedure.

2. A petition, protest for the new judicial acts rendered after cancellation of the previous judicial acts in appellate, cassation or supervisory procedure, may be submitted, brought on the general grounds regardless of the motives of their cancellation.

Footnote. Article 403 is in the wording of the Law of the Republic of Kazakhstan dated 17.02.2012 No.565-IV (shall be enforced from 01.07.2012).

Article 403-1. Appointment of a plenary session of the Supreme Court of the Republic of Kazakhstan

Upon receipt of a representation from the Chairperson of the Supreme Court of the Republic of Kazakhstan or a protest from the Prosecutor General of the Republic of Kazakhstan, the Chairperson of the Supreme Court shall convene a plenary meeting. The Secretary of the plenary meeting shall notify the members of the plenary session and the Prosecutor General of the Republic of Kazakhstan of the date, time and place of the plenary session.

Footnote. The Code is supplemented by Article 403-1 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 403-2. The order of considering of the presentation or the protest by the plenary session of the Supreme Court of the Republic of Kazakhstan

1. A plenary Session of the Supreme Court of the Republic of Kazakhstan shall consider the presentation or the protest at the presence of at least two-thirds of the judges of the Supreme Court of the Republic of Kazakhstan.

2. The chairperson of the Supreme Court of the Republic of Kazakhstan or the Prosecutor General of the Republic of Kazakhstan report on the grounds for bringing the presentation or protest, provided in the part 3 of the Article 384 of this Code.

3. A plenary session of the Supreme Court in absence of the mentioned reasons renders a decision to reject reconsideration of the case, and if there are corresponding grounds, the session appoints a court session for consideration of the case on the merits

4. Consideration of the merits of the case starts from the judge's report on the circumstances and the grounds of the presentation or from the prosecutor's report on the circumstances and the reasons for the protest. Further consideration of the case is conducted in compliance with the rules, stipulated by Article 398 of this Code.

Footnote. The Code is supplemented by Article 403-2 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Chapter 44. Proceeding on reconsideration of decisions, rulings and decrees that entered into legal force, in light of newly discovered circumstances

Article 404. Grounds for review

Decisions, rulings and decrees that have enter into legal force, may be reviewed in light of newly discovered evidence. The grounds for review of decisions, decrees and orders in light of the newly discovered circumstances are:

- 1) important circumstances that were not and could not be known to the applicant;
- 2) false testimony, false expert opinion, deliberately incorrect translation, forgery of documents or physical evidence, which led to rendering of an unlawful or unreasonable decision, which were identified by the court decision, that came into legal force;
- 3) criminal actions of the parties and other persons, participating in the case, or their representatives, or criminal actions of judges, committed during consideration of the case identified by the court decision, that came into legal force;
- 4) cancellation of the decision, judgment, decree or order of the court or decisions of other authority, which was a ground for rendering the decisions, rulings and decrees;
- 5) acknowledgement of law or other normative legal act unconstitutional by the Constitutional Council of the Republic of Kazakhstan applied by the court in rendering the a judicial act.

Footnote. Article 404 is amended by the Law of the Republic of Kazakhstan dated December 30, 2005 No.111 (the order of enforcement see Article 2 of the Law No.111)

Article 405. Courts, reconsidering the court decisions, rulings and decrees in the light of newly discovered circumstances

1. A decision of the first instance court that came into legal force shall be reviewed in light of newly discovered evidence by the court that rendered the decision.

2. In light of the newly discovered circumstances, reconsideration of decisions, rulings and decrees of the appellate, cassation and supervisory court, which changed the decision of the first instance court or rendered a new decisions, is conducted by the court, which changed the decision or rendered the new decision.

Footnote. Article 405 as amended by the Law of the Republic of Kazakhstan dated 11.07.2001 No.238; dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 406. Submission of an application

1. An application on review of the decisions, rulings and decrees in light of newly discovered evidence, shall be submitted by the persons participating in the case or by other interested persons, the rights and legitimate interests of whom were affected by the rendered judicial act, or by the prosecutor to the court, that rendered the decisions, rulings and decrees.

2. The persons, participating in the case, may bring such application within three months from the date of discovering of the circumstances, being the grounds for reconsideration.

Footnote. Article 406 as amended by the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 406-1. Form and content of the application

1. An application for review of the judicial act in the light of newly discovered evidence shall be submitted to the court in a written form. The application is signed by the person, submitting the application, or his/her authorized representative.

2. The application for reconsideration of the judicial act in light of newly discovered evidence shall include:

- 1) name of the court to which the application shall be submitted;
- 2) name of the person, who brings the application and other persons, participating in the case, their location or place of residence;

3) name of the court, that rendered the judicial act, reconsideration of which is requested by the applicant; the date of rendering of the judicial act, the subject of the dispute;

4) requirements of the person, bringing the application, the newly discovered fact, specified in the Article 404 of this Code and which is, according to the applicant, the ground for reconsideration of the judicial act in light of the newly discovered circumstances, with the reference to the documents, confirming discovery or establishment of this fact;

5) the list of attached documents.

3. The application can also have phone numbers, fax numbers, e-mail addresses of the persons, participating in the case, and other information.

4. The person, who submits the application, shall send copies of the applications and other attached documents to the other persons, participating in the case.

5. The application shall be attached with:

1) copies of documents, confirming the newly discovered facts;

2) a copy of the court decision, the reconsideration of which is requested by the applicant;

3) a document, confirming sending of copies of the application and other documents to the other persons, participating in the case;

4) power of attorney or other document, confirming the authority of the person to sign the application.

Footnote. The Code is supplemented by Article 406-1 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 406-2. Acceptance of an application by the court for consideration

1. An application for reconsideration of a judicial act in light of the newly discovered evidence, submitted in compliance with the requirements of the form and content, is admitted by the court for relevant proceedings.

2. The question on admission of the application to the court production is resolved by the judge of the corresponding court individually within five days from the date of its receipt to the court.

3. The judge of the corresponding court shall deliver a decision on admission of the application for the proceeding.

4. The decision shall have the date and place of the consideration of the application.

5. Copies of the decision are sent to the persons, participating in the case.

Footnote. The Code is supplemented by Article 406-2 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 406-3. Return of an application on reconsideration of a judicial act in the light of the newly discovered circumstances

1. The judge of the corresponding court returns to the applicant the submitted application for reconsideration of a judicial act in light of the newly discovered evidence, if the judge finds that:

1) the application was submitted in violation of the rules, established by Article 405 of this Code;

2) the application shall be submitted after the deadline and there is no a request for its restoration or restoration of the missed deadline was rejected;

3) requirements for the form and content of the application are not observed.

2. A decision is rendered on return of the application.

A copy of the decision is sent to applicant together with the application and the attached documents no later than the day following the date of its rendering.

3. The decision of the court on return of the application may be challenged, protested.

Footnote. The Code is supplemented by Article 406-3 in accordance with the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Article 407. Calculation of the term for submitting an application

The term for submission of the application shall be calculated:

1) in cases, specified in subparagraph 1) of the Article 404 of this Code, - from the day of discovering the circumstances, that are material to the case;

2) in cases, specified in subparagraphs 2) and 3) of the Article 404 of this Code, - from the day of entry into legal force of the sentence on a criminal case;

3) in cases, specified in subparagraph 4) of the Article 404 of this Code, - from the date of entry into legal force of the sentence, decision, decree, order of the court or rendering of the decision by the state body or other body, contradictory to the content of the sentence, decision, ruling or decree on which the reconsidered decision, ruling or decree are based.

Article 408. Consideration of the application

An application on reconsideration of the decision, ruling or decree in the light of the newly discovered circumstances shall be considered by the court in a judicial session. The applicant and the persons, participating in the case, shall be notified of the time and place of the court session, but their absence shall not hamper consideration of the application.

Article 409. Ruling of the court on review of the case

1. The court, having considered the application on review of the decision, ruling or decree in light of newly discovered evidence, satisfies the request and cancels the decision, decree, order or rejects to review the case.

2. The decisions of the courts of first instance, appeal and cassation on cancellation of a judicial act in light of the newly discovered evidence and on refusal to satisfy the application on reconsideration of a judicial act in light of the newly discovered circumstances may be appealed and challenged in the established procedure.

3. In case of cancellation of the decision, ruling or decree, the case is considered by the court in the order, specified by this Code.

Footnote. Article 409 is in the wording of the Law of the Republic of Kazakhstan dated 10.12.2009 No. 227-IV (shall be enforced from 01.01.2010).

Section 4. Recovering of the lost judicial or enforcement proceeding

Article 410. Submission of an application

1. Restoration of a lost judicial or enforcement proceeding on a civil case fully or partially, completed by delivering of a decision or termination shall be conducted by the court in the manner, prescribed in this Section.

2. The case on restoration of the lost judicial or enforcement proceeding is initiated upon application of the persons, participating in the case, or the prosecutor.

3. Request for restoration of a lost legal proceeding shall be brought to the court delivered the decision on the merits of the case or a ruling on termination of the proceedings.

4. Request for restoration of the lost enforcement production shall be brought to the court of the place of enforcement.

5. The application shall specify: restoration of what proceeding is claimed by the applicant, whether the decision of the court on the merits or the proceedings were terminated, what is the procedural position of the applicant, who else was participating in the case and in which procedural position, their location or residence, what the applicant knows about the circumstances of the loss of production, location of the copies of the production documents or information about them, restoration of which documents is requested, and why these documents shall be restored.

6. The application shall be attached with the preserved and related to the case documents, or copies of them, even if they are not certified in the prescribed manner.

7. The application on restoration of lost production is not paid with the state obligation.

Article 411. Consideration of an application

1. If the application shall not specify the purpose of the bringing a claim to the court on restoration of a lost production, the court leaves the application without action and provides the time, necessary for its presentation by the applicant.

2. In case if the goal of the application is not related to the protection of rights and legitimate interests of the applicant, the court refuses to initiate the case on restoration of the proceeding or leaves it without consideration by rendering a reasoned decision, if it was initiated.

3. A judicial proceeding, lost before considering on the merits, cannot be restored in compliance with the manner, specified in this Chapter. The plaintiff in this case shall have the right to submit a new claim. The decision of the court on initiation of a new claim for the loss of the judicial proceeding shall have this fact.

4. When considering the case, the court uses the preserved parts of the production, the documents, taken from the case before the loss of production and given to the citizens and organizations, copies of these documents, and other materials, related to the case.

5. The court may put questions to persons-witnesses, who were present at the proceedings, and if necessary - the people, who were the members of the court composition, which considered the case on which the production was lost, as well as those, who enforced the decision of the court.

Article 412. The decision of the court on the application

1. The decision of the court or ruling on termination of production shall be subject to compulsory restoration if they were rendered on the case.

2. The decision of the court on restoration of the lost court decision or the ruling on termination of the proceedings specifies on the ground of what specific data, provided to the court, and studied at the court session with involvement of all participants of the case on the lost production, the court considers the content of the restored judicial act established.

3. The motivated part of the decision in the case on restoration of the lost production also specifies the court's findings on proof of what evidence was examined by the court, and what procedural actions were conducted on the lost production.

4. In case of insufficiency of the collected materials for accurate restoration of the court decision on the lost production, the court shall render a decision on termination of the proceedings on the application on restoration of the production and explains the right to bring a claim in general procedure to the persons, participating in the case.

5. Consideration of the application for restoration of the judicial decree on the lost production is not limited by the period of storage. However, in case of bringing an application on restoration of the lost production in order to enforce it, when the

deadline for submission of the enforcement order has expired and cannot be restored by the court, the court also terminates the proceeding on the application.

6. The lost enforcement production is restored, if the enforcement of the decision was performed.

7. An act on enforcement of the court decision is restored by the decision of the court with indication of the actions conducted and reflected in the act by the enforcement agent during the enforcement.

8. With the loss of enforcement proceeding before enforcement of the decision, when a duplicate of the enforcement order can be issued, the court renders a reasoned decision on rejection to initiate the case on restoration of the lost enforcement proceeding.

9. The court decisions on restoration of the lost production are appealed in compliance with the procedure, specified by the law.

10. In case of submitting a knowingly false application, the judicial expenses, related to initiation of the case on restoration of lost production, shall be covered by the applicant.

Section 5. International process

Chapter 45. Proceedings, involving foreign persons

Article 413. Procedural rights and obligations of foreign persons

1. Foreign citizens and stateless persons, foreign organizations and international organizations (hereinafter - foreign entity) have right to appeal to the courts of the Republic of Kazakhstan to protect their violated or disputed rights, freedoms and legitimate interests.

2. Foreign persons use procedural rights and fulfill procedural obligations equally with citizens and organizations of the Republic of Kazakhstan.

3. Proceedings in courts on the cases, involving foreign parties, shall be conducted in compliance with this Code and other laws.

4. The Republic of Kazakhstan may establish reciprocal restrictions to foreign entities of the states, where special restrictions of procedural rights of citizens and organizations of the Republic of Kazakhstan are permitted.

Article 414. Civil procedural legal capacity of foreign citizens and stateless persons

1. Civil procedural legal capacity of foreign citizens and stateless persons shall be defined by their own law.

2. The own law of the citizen is the law of the state, the citizen of which he/she is. If a citizen, along with foreign citizenship, has citizenship of Kazakhstan, his/her personal law is the law of the Republic of Kazakhstan. Membership of such person to

citizenship of a foreign state is not acknowledged by the courts of the Republic of Kazakhstan.

3. In the presence of several foreign citizenships, the person's personal law is the law of the country with which he is most closely connected.

4. The personal law of a stateless person is the law of the state where the person has a permanent place of residence, and in its absence - the law of the state of his/her usual residence.

5. A person not procedurally capable in his/her personal law may be considered to be capable in the territory of the Republic of Kazakhstan, if he has the procedural capacity in compliance with the law of the Republic of Kazakhstan.

Article 415. Legal capacity of a foreign international organization

1. A legal capacity of a foreign organization is determined by the law of a foreign state, in compliance with which it was established. A foreign company, that has not a legal capacity in compliance with this law, can be acknowledged to be capable in the Republic of Kazakhstan in accordance with the law of the Republic of Kazakhstan.

2. A legal capacity of an international organization is determined by an international treaty, by which it was established, its constituent documents or agreements with the competent state body of the Republic of Kazakhstan.

Article 416. Competence of the courts of the Republic of Kazakhstan upon the cases involving foreign persons

1. The courts of the Republic of Kazakhstan consider the cases with involvement of foreign entities, if the organization - defendant or the person-defendant have a place of residence in the territory of the Republic of Kazakhstan.

2. The courts of the Republic of Kazakhstan also consider the cases, involving foreign persons in the following cases:

1) a management body, a branch or a representation of a foreign entity is located in the territory of the Republic of Kazakhstan;

2) the defendant has property in the Republic of Kazakhstan;

3) in the case on alimony and paternity, the claimant has a place of residence in the Republic of Kazakhstan;

4) in the case on reimbursement of damages, caused by injury, other health impairment or death of the breadwinner, the harm is caused in the territory of the Republic of Kazakhstan or the plaintiff shall have a place of residence in the Republic of Kazakhstan;

5) in the case on compensation for damage of property, the action or other circumstance, giving rise for a request to compensate damages, took place in the territory of the Republic of Kazakhstan;

6) a claim comes from a contract, according to which the total or partial enforcement shall take place or took place in the territory of the Republic of Kazakhstan;

7) a claim comes from an unjustified enrichment, which took place in the territory of the Republic of Kazakhstan;

8) in the case of divorce, the plaintiff has a place of residence in the Republic of Kazakhstan, or at least one spouse is a citizen of the Republic of Kazakhstan;

9) in the case of protection of honor, dignity and business reputation, the plaintiff has a place of residence in the Republic of Kazakhstan.

3. The courts of the Republic of Kazakhstan consider other cases too, if the legislation of the Republic of Kazakhstan assigned the cases to their jurisdiction.

Footnote. Article 416 is amended by the Law of the Republic of Kazakhstan dated July 11, 2001 No.238.

Article 417. Exclusive jurisdiction

1. Exclusive jurisdiction of the courts of the Republic of Kazakhstan includes:

1) cases, related to the right for immovable property, situated in the Republic of Kazakhstan;

2) cases on the claims to the carriers, arising from contracts of carriage;

3) case on divorce of Kazakhstan citizens and foreign citizens or stateless persons, if both spouses have a place of residence in the Republic of Kazakhstan;

4) cases specified in the Chapters 25-29 of this Code.

2. The courts of the Republic of Kazakhstan consider the cases of special proceedings if:

1) the applicant of the case on establishment of a fact has a place of residence in the territory of the Republic of Kazakhstan or the fact, that shall be established, that he/she had or shall have the place of residence in the territory of the Republic of Kazakhstan;

2) a citizen, in respect of whom there is a question on acknowledgement of him/her incapable or incapable, on involuntary hospitalization to a psychiatric hospital, is a citizen of the Republic of Kazakhstan, or shall have a place of residence in the Republic of Kazakhstan;

3) a citizen in respect of whom there is a question on acknowledgement of him/her to be missing or deceased, is a citizen of the Republic of Kazakhstan or had his/her last known place of residence in the territory of the Republic of Kazakhstan and at that,

settling of this question influences the establishment of rights and obligations of citizens and organizations, that have a place of residence or location in the Republic of Kazakhstan;

4) a thing, in respect of which an application is brought on acknowledging it as ownerless, is in the territory of the Republic of Kazakhstan;

5) a security, in respect of which an application is made to acknowledge it lost and on restoration of the rights to it (voiding production), issued by a citizen or organization, residing or located in the Republic of Kazakhstan;

6) registration of the civil status, in respect of which an application on correction of irregularities was brought, was made by the bodies of the civil status of the Republic of Kazakhstan;

7) the appealed notary actions (denial to conduct the actions) have been committed by a notary or other body of the Republic of Kazakhstan.

Article 418. Jurisdiction

Jurisdiction of cases, referred by the legislation of the Republic of Kazakhstan to the competence of the courts of the Republic of Kazakhstan, is determined by the rules of jurisdiction specified in the Chapter 3 of this Code.

Article 419. Contractual jurisdiction

Competence of a foreign court may be stipulated by a written contract between the parties, except for as provided in the Article 33 of this Code. Under the presence of such a contract, the court upon application of the defendant leaves the application without consideration if such application was brought prior to the consideration of the case on its merits.

Article 420. Immutability of competence

A case, taken by the court of the Republic of Kazakhstan for production in compliance with the rules of competence of the legislation of the Republic of Kazakhstan, shall be considered by the court on the merits, even if later in connection with the change of nationality, place of residence of the parties and other circumstances, affecting the competence, it was under the jurisdiction of the court of another state.

Article 421. Value of production in a foreign court

1. A court of the Republic of Kazakhstan leaves the application without consideration and terminates the proceedings, if a decision has been already rendered on the dispute between the same parties on the same subject and on the same ground by a court of a foreign country with which the Republic of Kazakhstan has an

international treaty, providing mutual recognition and enforcement of the court decisions.

2. A court of the Republic of Kazakhstan leaves the application without consideration and terminates the proceedings, if a court of a foreign state has an earlier initiated case on a dispute between the same parties, on the same subject and on the same grounds, the decision on which shall be recognized in the Republic of Kazakhstan in compliance with the legislation of Republic of Kazakhstan.

3. The provisions of paragraphs 1 and 2 of this Article shall not affect cases, when this case is under the exclusive jurisdiction of the courts of the Republic of Kazakhstan .

Article 422. Claims against foreign states. Judicial immunity

Footnote. Article 422 is excluded by the Law of the Republic of Kazakhstan dated 05.02.2010 No. 249-IV.

Article 423. Letters of request

1. The courts of the Republic of Kazakhstan execute the letters of request in the manner, stipulated by the law or the international agreement of the Republic of Kazakhstan, submitted by the foreign courts on production of certain legal proceedings (delivery of notices and other documents, receipt of explanations of the parties, witnesses, making of expertise and on-site inspection, etc.), except for the cases, when:

1) enforcement of the request would contradict the sovereignty of the Republic of Kazakhstan or would threaten the security of the Republic of Kazakhstan;

2) enforcement of the order is not under jurisdiction of the court.

2. Enforcement of requests of foreign courts on implementation of individual procedural actions shall be conducted in the manner, specified by the law, unless otherwise stipulated by an international agreement of the Republic of Kazakhstan.

3. The courts of the Republic of Kazakhstan may apply to the foreign courts with requests on enforcement of certain legal proceedings.

4. Procedures for communications between the courts of the Republic of Kazakhstan and the foreign courts are defined by the law and international treaties of the Republic of Kazakhstan.

Article 424. Recognition of documents issued by bodies of foreign states

The documents, issued, made or certified in the prescribed form by the competent bodies of foreign countries, conducted outside the Republic of Kazakhstan under the laws of foreign countries against citizens and organizations of the Republic of Kazakhstan or foreign entities, are admitted by the courts of the Republic of

Kazakhstan with a consular legalization, unless otherwise stipulated by the law or the international treaty of the Republic of Kazakhstan

Article 425. Recognition and enforcement of decisions of foreign courts and arbitrations

1. Decisions of foreign courts and arbitrations are recognized and enforced in the Republic of Kazakhstan, if it is stipulated by the law or an international treaty of the Republic of Kazakhstan on the basis of reciprocity.

2. Conditions and procedure for recognition and enforcement of decisions of foreign courts and arbitral courts are determined by the law, unless otherwise is established by an international agreement of the Republic of Kazakhstan.

3. A decision of a foreign court or arbitration may be submitted for compulsory enforcement within three years from the date of the decision's entry into legal force. A missed period for a valid reason can be restored by the court of the Republic of Kazakhstan in the manner, provided in the Article 128 of this Code.

Article 425-1. Enforcement of the arbitral decision

1. If the arbitration decision is not enforced voluntarily in a set deadline, the party, in favor of which the arbitration decision (a claimant) was rendered, may apply to the court in the place of the considering the dispute with the application on enforcement of the arbitration decision in compliance with the rules, established by this Article.

2. The application on issuance of an enforcement order is attached with the duly authenticated original decision or a duly certified copy of it, and the original arbitration agreement or a duly certified copy thereof. If the decision or agreement is in a foreign language, the party shall provide a duly certified translation of the document into the State or Russian languages.

3. The application for issuance of an enforcement order may be submitted no later than three years after the deadline for voluntary enforcement of the arbitration decision

4. The application for issuance of an enforcement order, which was submitted with the omission of the deadline or which was not attached with the necessary documents, is returned by the court without consideration; a court decision, rendered on it, can be appealed in the manner, specified by this Code.

5. The court may restore the terms for bringing the application for issuance of an enforcement order, if it finds the reasons for to be missing the deadline reasonable.

6. The application for issuance of an enforcement order shall be considered by a judge solely within fifteen days from the date of its coming to the court.

7. The court shall notify the debtor about the received application (from a claimant) on enforcement of arbitration decision, as well as the place and time of the court

session. The claimant shall also be notified of the place and time of considering his/her application. Failure of the debtor or the claimant to appear at the court session shall not be an obstacle to consider the application, if the debtor did not bring a petition on suspension of consideration of the application, indicating reasonable excuses for failure to appear in the court.

8. The court, when considering the application on issuance of an enforcement order for enforcement of arbitration decision may not review the arbitration decision on its merits.

9. Upon review of the application, the court renders a decision on issuance of an enforcement order or on rejection to issue it.

The decision of the court to issue an enforcement order shall be enforced immediately.

Footnote. Supplemented by Article 425-1 by the Law of the Republic of Kazakhstan dated December 28, 2004 No.24.

Article 425-2. Issuance of an enforcement order

1. When the court renders a decision on issuance of an enforcement order to enforce arbitration decision, the order shall be issued in compliance with the rules of the Article 236 of this Code.

2. The court decision, rendered at the application on issuance of an enforcement order to enforce arbitration decision, may be appealed in the manner, stipulated by this Code to appeal the court decisions.

Footnote. Supplemented by Article 425-2 by the Law of the Republic of Kazakhstan dated December 28, 2004 No.24.

Article 425-3. Refusal to issue an enforcement order

The court renders a decision to reject issuance of an enforcement order to enforce arbitration decision, if:

1) that party will bring proof to the court that:

one of the parties of the arbitration agreement was acknowledged incapable or specially capable or the arbitration agreement is not valid under the law, to which the parties have subject it, or, at the absence of this instruction - in compliance with the legislation of the Republic of Kazakhstan;

it was not duly notified of appointment of the arbitrator or of the arbitral proceedings or other reasons, deemed valid by the court, and could not present its explanations;

an arbitration decision is rendered in a dispute, not stipulated by the arbitration agreement or not coming under its terms, or contains decisions on the questions,

beyond the scope of the arbitration agreement, and due to non-jurisdiction of the dispute to the arbitration court.

If the arbitration decision on the questions, covered by the arbitration decision, can be separated from decisions on issues that are not covered by the agreement, that part of the arbitration decision, containing decisions on questions, which are not covered by the arbitration decision, may be canceled;

the arbitral court's composition or an arbitral procedure of the proceedings did not meet the agreement of the parties and the rules of arbitration;

2) the court determines that the arbitral decision is contrary to public policy of the Republic of Kazakhstan or the dispute, on which the decision is rendered, cannot be a subject of an arbitration proceeding under the law of the Republic of Kazakhstan.

Footnote. Supplemented by Article 425-3 by the Law of the Republic of Kazakhstan dated December 28, 2004 No.24.

Article 426. Recognition of decision of foreign courts that do not require enforcement

The Republic of Kazakhstan recognizes the following decisions of foreign courts that do not require enforcement:

1) related to personal status of citizens of the state, the court of which rendered the decision;

2) dissolution or annulment of marriage between Kazakhstan and foreign nationals, if one of the spouses lived outside the Republic of Kazakhstan at the time of divorce;

3) dissolution or annulment of marriage between Kazakh nationals, if both spouses lived outside the republic of Kazakhstan at the time of divorce.

Chapter 45-1. Proceedings on appeal of an arbitration decision

Footnote. Supplemented by Chapter 45-1 by the Law of the Republic of Kazakhstan dated December 28, 2004 No.24.

Article 426-1. Submission of a motion

A motion on cancellation of arbitral decision may be submitted by the parties of the arbitration proceeding, third parties, not participating in the case, but in respect of the rights and obligations of whom the arbitration decision was rendered, within three months from the date on which the party, submitting the motion received the arbitration decision to the court at the place of considering the dispute.

Article 426-2. Consideration of a motion

1. A motion on challenging of the arbitral decision shall be considered by the court within ten days.

2. The court, after considering the motion on challenging of arbitral decision, may render a decree to cancel the arbitral decision or to reject to satisfy the petition. The court decree may be appealed by the concerned persons.

Chapter 46. Jurisdictional immunity of a foreign state and its property

Footnote. The Code is supplemented by Chapter 46 in accordance with the Law of the Republic of Kazakhstan dated 05.02.2010 No. 249-IV.

Article 427. Immunity of a foreign state

A foreign state enjoys jurisdictional immunity in Kazakhstan, including immunity from legal process, immunity from claim and immunity from enforcement of a judicial act, except for the cases, provided for in this Code.

Article 428. Judicial immunity

In compliance with the provisions of this Code, a foreign state shall not enjoy a judicial immunity in the Republic of Kazakhstan if it agreed to waive any judicial immunity or the immunity is not applied to a foreign state in accordance with Article 434 of this Code, as well as if it carried out activity other than implementation of sovereign power of the state, including in the cases, specified in Articles 435 - 441 of this Code.

Article 429. Consent of a foreign state for jurisdiction of a court of the Republic of Kazakhstan

1. It is acknowledged that a foreign state shall have agreed to waive the judicial immunity if it is directly expressed its consent to the jurisdiction of the court of the Republic of Kazakhstan in respect of an issue or a case, in particular:

- 1) in an international treaty of the Republic of Kazakhstan;
- 2) in a written agreement, which is not an international treaty of the Republic of Kazakhstan;
- 3) upon application to the court of the Republic of Kazakhstan or a written notice in the frames of a specific proceeding.

2. The consent of a foreign state to refuse from a judicial immunity is not considered as its consent to waive immunity for security of a claim and immunity from enforcement of a judicial act.

3. The consent of a foreign state on application of the legislation of the Republic of Kazakhstan is not considered as its consent to reject from judicial immunity.

Article 430. Participation of a foreign state in judicial proceedings

1. It is acknowledged that a foreign state has agreed to reject from a judicial immunity, if the state was a party in proceedings, instituted at its initiative in the court of the Republic of Kazakhstan, or entered the proceeding in the court of the Republic of Kazakhstan, or took any other action on its merits. However, if the state proves in the court that it did not know facts, giving rise to state about the immunity, before it conducted such action, it can refer to the immunity, based on those facts immediately after they became known to it.

2. A foreign state shall not be considered to have waived judicial immunity, if it enters the proceedings in the court of the Republic of Kazakhstan, or takes any other action to invoke immunity or provides evidence of its right for property, which is the subject of the proceedings.

3. Appearance of a representative of a foreign state in the court of the Republic of Kazakhstan as a witness is not considered as a consent of the state to refuse from judicial immunity.

4. If a foreign state is not involved in the proceedings in the court of the Republic of Kazakhstan, this fact alone cannot be interpreted as consent to reject from judicial immunity.

Article 431. Waiver of immunity in respect of a counterclaim

1. A foreign state submitted a claim to the court of the Republic of Kazakhstan shall be acknowledged to be agreed to waive the judicial immunity in respect of any counter-claim, based on the same legal relationship or facts as the initial claim of the state.

2. A foreign country submitted a counter-claim to the court of the Republic of Kazakhstan, shall be acknowledged to be agreed to waive the judicial immunity in respect of the initial claim.

Article 432. Waiver of immunity in respect of an arbitration proceeding

If a foreign state in a written form expressed consent to arbitration proceeding of disputes with its participation, which have arisen or may arise in the future, it is acknowledged that in relation to these disputes the state shall have voluntarily agreed to waive jurisdictional immunity on issues, related to implementation of functions by the court of the Republic of Kazakhstan for arbitration proceeding.

Article 433. Withdrawal of consent to the waiver of immunity

1. The consent of a foreign state to refuse from judicial immunity, immunity from security of claim, and immunity from enforcement of a judicial act, may not be

withdrawn, except for the cases when validity of withdrawal of such consent is stipulated by the agreement with the other party, participating in the case.

2. The consent of a foreign state to waive the legal immunity is extended to all stages of the proceedings.

Article 434. Non-application of immunity for disputes related to violation of the jurisdictional immunity of the Republic of Kazakhstan

A foreign country shall not enjoy a judicial immunity in the Republic of Kazakhstan, as well as the immunity from security of claim and from enforcement of a judicial act on disputes, related to violation of a jurisdictional immunity of the Republic of Kazakhstan by a foreign state and its property, unless otherwise stipulated by an international treaty of the Republic of Kazakhstan.

Article 435. Non-application of immunity on disputes related to business activity

1. A foreign country shall not use legal immunity for disputes in the Republic of Kazakhstan arising in the result of business activity, fulfilled by the country in the Republic of Kazakhstan.

2. A foreign country shall not use judicial immunity in the Republic of Kazakhstan for disputes, arising from civil-law transactions out of business, which was conducted by the country or with which it is connected otherwise than in conducting a sovereign power of the state.

3. When deciding whether a transaction, made by a foreign state or with which it is associated, is the activity, related to the exercise of its sovereign power, the court of the Republic of Kazakhstan takes into account the nature and purpose of the transaction.

Article 436. Non-application of immunity for disputes related to participation in legal entities

A foreign country shall not use a judicial immunity in the Republic of Kazakhstan in disputes, related to its participation in commercial and non-profit legal entities, established or having the main place of business location in the Republic of Kazakhstan.

Article 437. Non-application of immunity in disputes related to the rights to property

A foreign country shall not use judicial immunity in the Republic of Kazakhstan in disputes, related to:

1) its rights to real property located in the territory of the Republic of Kazakhstan, as well as its obligations, related to such property;

2) its rights to the property, which arise for reasons, not related to fulfillment of sovereign power by that country.

Article 438. Non-application of immunity in disputes for recovery of damage (damages)

In the Republic of Kazakhstan a foreign country shall not use a judicial immunity for disputes on recovery by the country of damage to life and (or) health, and damage to property, if the claim arose from damage to property via action (or inaction), or other circumstance, that took place fully or partially in the Republic of Kazakhstan.

Article 439. Non-application of immunity in disputes, related to intellectual property rights

1. In the Republic of Kazakhstan a foreign country shall not use judicial immunity in disputes, related to establishment and enforcement of its rights to intellectual property.

2. In the Republic of Kazakhstan a foreign country shall not use judicial immunity in disputes, related to probable infringement by the state of the other parties' rights to intellectual property.

Article 440. Non-application of immunity for labor disputes

1. In the Republic of Kazakhstan a foreign country shall not use legal immunity for labor disputes, arising between the country and the employee for the work that was or shall be performed fully or partially in the territory of the Republic of Kazakhstan.

2. A provision of the part 1 of this Article shall not be applied in cases, when:

1) the employee is a citizen of the state, that hired him/her at the time of initiation of the proceedings, except for when the employee shall have a permanent residence in the Republic of Kazakhstan;

2) the employee was hired to perform obligations for implementation of the sovereign power of the state;

3) the subject of the dispute is the conclusion or renewal of an employment contract.

Article 441. Immunity for disputes arising from operation of ships and inland navigation vessels

1. In the Republic of Kazakhstan, a foreign country - the owner of a navigation ship or an inland navigation vessel or the operator of such ship - shall not use immunity in disputes, related to the operation of that ship or cargo transportation by this ship, if, at the time of arising the fact, which was the ground for the claim, the ship was used for other purposes, rather than in state non-commercial purposes.

2. The provision of the part 1 of this Article shall not be applied to:

- 1) warships and naval auxiliary vessels, and cargo, carried on such ships;
- 2) goods, cargo, belonging to the state and used or intended to be used exclusively for the state non-commercial purposes, no matter what ship carried this cargo.

3. In order to apply this Article, the disputes, related to the ship's operation are the following:

- 1) collision of vessels, damage of port and water supply facilities or other shipping accidents;
- 2) assistance, rescue works and general average;
- 3) delivery, repair and other services, works on the ship;
- 4) consequences of marine pollution;
- 5) lifting of drowned property.

Article 442. Immunity from security of a claim and from enforcement of a court decision

A foreign state enjoys immunity from securing a claim and from enforcement of a court decision except for the cases when:

- 1) a foreign state has expressed consent to reject the specifieds of jurisdictional immunity provided in this Article by one of the methods as defined in part 1 of the Article 429 of the Code;

- 2) a foreign state shall have reserved or otherwise identified property in case of satisfying the requirement which is the subject of the proceedings in the court of the Republic of Kazakhstan;

- 3) property of a foreign state is used and (or) is intended for use by a foreign state for any purpose other than the exercise of sovereign power of the state in the territory of the Republic of Kazakhstan.

Article 443. Property used for exercise of sovereign power

The following property of a foreign state shall not be considered as property used and (or) appropriated for use by a foreign country for purposes other than the exercise of the sovereign power of the state (subparagraph 3) of the Article 442 of the Code):

- 1) property (including money in a bank account), used or appropriated for work of diplomatic missions of the foreign state or its consular offices, special missions, representations in international organizations, foreign delegations in international organizations or international conferences;

- 2) military property and (or) property, used in peacekeeping operations, acknowledged by the Republic of Kazakhstan;

- 3) cultural values ??or archival documents, not displayed for sale or not for sale.

Article 444. Proceedings in cases involving a foreign state

Cases, involving a foreign state, shall be considered by the courts of the Republic of Kazakhstan on judicial procedures of the Republic of Kazakhstan, including the rules on jurisdiction, applicable to legal entities, in particular, foreign legal entities, unless otherwise stipulated by this Code or other laws.

Article 445. Procedure for settlement of issue on judicial immunity of a foreign state

The issue of using or not using of immunity by a foreign state shall be decided by the court of the Republic of Kazakhstan at the proceeding with summoning of the parties.

Article 446. Court decision of the Republic of Kazakhstan on security of a claim and enforcement of a judicial act on disputes, involving a foreign state

1. Issues on security of a claim and on enforcement of a judicial act, rendered in respect of a foreign state, shall be considered by the court of the Republic of Kazakhstan, taking into account presence or absence of a foreign state's immunity, respectively from security of a claim, and from enforcement of a judicial act.

2. In cases, when a failure to take immediate actions may impede or make impossible enforcement of a judicial act, in particular, due to the high probability of destruction, damage, movement of property or other disposition of it in order to prevent enforcement of a judicial act, the court of the Republic of Kazakhstan, in the absence of a sufficient reason to believe that a foreign state uses corresponding immunity, shall have the right to render a decision upon application of the party on security of a claim and on enforcement of the judicial act. Such a decision shall not deprive the foreign country the right to challenge it with a reference to the presence of an appropriate immunity.

3. Enforcement of judicial acts, rendered in respect of a foreign state, is conducted in compliance with the laws of the Republic of Kazakhstan on enforcement proceedings.

Article 447. Application of the principle of reciprocity

1. When the court of the Republic Kazakhstan considers a claim, brought to a foreign state, the court shall apply the principle of reciprocity, at the petition of the plaintiff or any other person, participating in the case.

2. Proof of jurisdictional immunity, which is provided to the Republic of Kazakhstan in a corresponding foreign state, may be imposed to a person, who submitted a petition for reciprocity, on the disputes, related to business activity, as well as the disputes, arising from civil law transactions out of business activity.

3. If it is proved, that a foreign country, in respect of which there was a question on jurisdictional immunity, provides a limited jurisdictional immunity to the Republic of Kazakhstan, rather than that, provided to the foreign country in compliance with this Code, the court of the Republic of Kazakhstan on the basis of reciprocity when settling the issue, shall have the right to apply the same amount of jurisdictional immunity, which is used by the Republic of Kazakhstan in the foreign country.

Article 448. Assistance to the court of the Republic of Kazakhstan in application of this Code

1. The Ministry of Foreign Affairs of the Republic of Kazakhstan, upon application of the court of the Republic of Kazakhstan or at its own initiative, shall make recommendations, related to application of this Code in respect to a foreign country, in particular, whether the party, against which the question on jurisdictional immunity risen, is a foreign state, whether there was a fulfillment of a sovereign power of the state, to what extent a jurisdictional immunity of the Republic of Kazakhstan is provided in the foreign country.

2. The court of the Republic of Kazakhstan may apply in the prescribed manner on the issues, that are the subjects of dispute, for assistance and explanation to other authorities and organizations in the Republic of Kazakhstan and abroad and invite experts. The resulting conclusions and explanations are to be evaluated by the court of the Republic of Kazakhstan taking into account the accumulation of the evidence in the case.

Article 449. Sending and delivery of procedural documents to a foreign state

1. Sending of a notification to a foreign state on initiation of a case against it in the court of the Republic of Kazakhstan and other court documents shall be conducted through diplomatic channels. The date of delivery of the documents shall be the date of receipt of the documents by an enforcement authority, implementing foreign affairs of the corresponding state.

2. Orders of the courts of the Republic of Kazakhstan on handing of documents to the foreign state and conducting other procedural actions in connection with the initiation of the case in the court of the Republic of Kazakhstan shall be made in the manner as prescribed by the normative legal acts of the Republic of Kazakhstan and international treaties of the Republic of Kazakhstan, regulating provision of legal assistance.

Article 450. Decision in absentia

A decision in respect of a foreign country that did not participate in the proceedings in the court of the Republic of Kazakhstan may be rendered provided that the court establishes that:

- 1) the requirements of the Article 449 of this Code have been observed;
- 2) Not less than six months have passed since the date of sending to the foreign state the documents on institution of the case against it;
- 3) in compliance with the provisions of the Code, the state shall not use a legal immunity.

*President of
the Republic of Kazakhstan*
Annex

List of the property which may not be seized under enforcement documents

Footnote. The Code is supplemented by the Annex in accordance with the Law of the Republic of Kazakhstan dated 22.06.2006 No.147; is excluded by the Law of the Republic of Kazakhstan dated 02.04.2010 No. 262-IV (shall be enforced from 21.10.2010).