

On some issues of application by courts of regulations of the General part of the Code of the Republic of Kazakhstan on Administrative Infractions

Unofficial translation

Normative decision of the Supreme Court of the Republic of Kazakhstan dated December 22, 2016 № 12.

Unofficial translation

For the purpose of uniform application in court practice of certain regulations of the General Provisions and the General Part of the Code of the Republic of Kazakhstan on Administrative Infractions, the plenary session of the Supreme Court of the Republic of Kazakhstan

resolves:

1. The legislation on administrative infractions consists in the Code of the Republic of Kazakhstan on Administrative Infractions (hereinafter - the CAI), which is based on the Constitution of the Republic of Kazakhstan (hereinafter - the Constitution), generally recognized principles and regulations of the international law, defines conditions and grounds for administrative liability, types of administrative penalties, legal proceedings on administrative infractions, including the jurisdiction and judicature of these cases.

When administering justice, courts shall proceed from the fact that the international treaty and other obligations of the Republic of Kazakhstan are, in accordance with paragraph 1 of Article 4 of the Constitution, an integral part of its current law. In the consideration of a case, the court shall not have the right to apply the norms of the legislation of the Republic of Kazakhstan on administrative infractions, if other rules are established by an international treaty, resolution on the consent of which is binding on the Republic of Kazakhstan through ratification or accession. In these cases, the rules of the international treaty shall apply.

Resolutions of international organizations and their bodies that violate provisions of the Constitution on the sovereignty of the country, inadmissibility of changing the unitarity and territorial integrity of the state, the form of government of the Republic, and infringing on the constitutional rights and freedoms of a person and citizen cannot be recognized as binding on Kazakhstan (paragraph 4 of normative resolution № 6 of the Constitutional Council of the Republic of Kazakhstan dated November 5, 2009 "On official interpretation of regulations of Article 4 of the Constitution of the Republic of Kazakhstan in relation to procedure for execution of decisions of the international organizations and their bodies ").

Subparagraph 5) of paragraph 3 of Article 77 of the Constitution establishes that the laws that establish or strengthen responsibility, impose new duties on citizens or worsen their situation are not retroactive.

According to article 4 of the Administrative Code, a person who has committed an administrative offense is liable on the basis of the legislation in force at the time of the commission of this offense. The time of commission of an administrative offense is the time of the commission of an act provided for in the Special Part of the Administrative Code, regardless of the time of the onset of consequences.

A person whose act is classified by the new law as a criminal offense, by virtue of the requirements of part three of Article 6 of the Criminal Code of the Republic of Kazakhstan, is subject to administrative liability under the article of the Special Part of the Administrative Code in force before the new law came into force, which increased liability.

Footnote. Paragraph 1 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 29.11.2024 № 7 (effective from the date of the first official publication).

2. To implement the tasks of protecting the rights, freedoms and legitimate interests of man and citizen, public order and security, and other tasks, listed in part 1 of Article 6 of the CAI, from administrative offenses, and preventing their commission, the legislation on administrative infractions establishes the grounds and principles of administrative liability, violation of which, depending on the nature and materiality, entails recognition of the proceedings on the case as invalid, cancellation of the resolutions passed in these proceedings or recognition of collected evidence on them as ineffective.

If there are gaps in the procedural provisions of the CAI, the courts shall be guided by constitutional provisions on the principles of justice and on human and civil rights, principles of legislation on administrative infractions.

3. When considering cases of administrative infractions, the principle of the presumption of innocence enshrined in Article 10 of the CAI shall be strictly observed.

Any doubts about guilt, including the arising doubts in application of the legislation on administrative infractions, shall be interpreted and resolved in favor of the person in respect of whom the administrative case has been initiated.

Footnote. Paragraph 3 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.05.2019 № 3 (effective from the date of the first official publication).

4. Appointment of a new penalty after the cancellation or change of an unlawful decision in an administrative offense case in which the penalty has already been executed shall not be considered a renewal of administrative proceedings.

5. The courts shall create enabling conditions for openness and publicity of the administrative case and the exercise of the right of citizens and organizations to receive information about such activity of courts and bodies (officials).

In accordance with paragraph 1 of Article 14 of the International Covenant on Civil and Political Rights (New York, December 16, 1966, ratified by the Law of the Republic of Kazakhstan dated November 28, 2005 № 91-III, enforced for the Republic of Kazakhstan on

April 24, 2006) restriction of publicity of the trial, or part thereof, shall be permissible “for reasons of morality, public order or state security in a democratic society, or when the interests of the private life of the parties so require, or - to the extent that, in the opinion of the court, is strictly necessary - in special circumstances where publicity would prejudice interests of the justice.”

Trial in closed proceedings with the aim of safeguarding state secrets shall be carried out only in the presence of information in the case materials classified as state secrets. Requests of the parties to the proceedings to ensure secrecy protected by law, information about the intimate aspects of the lives of individuals, if they are satisfied by the court, shall also be the grounds for holding closed proceedings.

The conduct of the closed proceedings shall be indicated in the minutes, if they are being taken during the session, and in the introductory part of the resolution adopted in the case.

6. A warning can be applied only as a main administrative penalty (part 1 of Article 42 of the CAI) and it shall be appointed separately without any additional penalties. In cases on administrative infractions for which a penalty is envisaged in the form of a warning or a fine with confiscation of an object that was an instrument or subject of an administrative infraction, or with suspension of activity, an additional administrative penalty shall be levied only together with an administrative fine.

6-1. In accordance with parts one and two of Article 45 of the Code of Administrative Infractions, confiscation of an instrument or subject of an administrative infraction, as well as property obtained through the commission of an administrative infraction, consists in their forced gratuitous conversion into state ownership in the manner prescribed by law. Items that are the property of the offender may only be confiscated, unless otherwise provided by the Special Part of the Code of Administrative Infractions.

Courts shall bear in mind that confiscation may only be applied in cases where the sanction of the article of the Code of Administrative Infractions, under which a person is brought to administrative liability, provides for it as an additional administrative penalty.

Footnote. The regulatory resolution is intended to be supplemented with paragraph 6-1 pursuant to the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 07.12.2023 № 5 (shall be enforced from the date of its first official publication).

6-2. It shall be borne in mind that the attribution of an instrument or subject of an administrative infraction, as well as property obtained through the commission of an administrative infraction, to the subject of confiscation under subparagraph 7) of Article 766 of the Code of Administrative Infractions shall mean its connection with the circumstances included in the fact in proof of corpus delicti of the administrative offense. When deciding on the confiscation of an item that was an instrument or subject of an administrative infraction, as well as property obtained as a result of the commission of an administrative infraction, the courts must necessarily check the evidence that substantiate the ownership of this property by the person held administratively liable, the origin of these items, property and the funds with

which it was acquired. Contraband articles, regardless of their origin, shall be subject to confiscation. If the instruments or objects of an administrative infraction, or property obtained as a result of the commission of an administrative offense are not established in the case, confiscation shall not be applied, including under the articles of the Special Part of the Code of Administrative Infractions, which provides for mandatory imposition of this type of additional penalty.

When deciding on the confiscation of objects or property that do not belong to the person brought to administrative liability, the court must determine their ownership, the owner's awareness of the use of his property for illegal purposes and, depending on what is established, make a decision. If the owner of the property did not know and was not meant to know about the illegal purposes of using his property by other persons, then such property shall not be subject to confiscation.

Footnote. The regulatory resolution is intended to be supplemented with paragraph 6-2 pursuant to the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 07.12.2023 № 5 (shall be enforced from the date of its first official publication).

7. According to part 1 of Article 44 of the CAI, when determining the size of the fine as a percentage of the amount of operation carried out in violation of the financial legislation in foreign currency, the sum of the fine shall be calculated in tenge at the official rate established by the National Bank of the Republic of Kazakhstan at the time the administrative protocol on the offense was drawn up.

Part 2 of Article 44 of the CAI provides for the maximum amount of fines levied on individuals, officials and other persons. As applicable to part 2 of Article 58 of the CAI, three-fold maximum penalty limit means the three-fold limit established by part 2 of Article 44 of the CAI.

Footnote. Paragraph 7 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.05.2019 № 3 (effective from the date of the first official publication); dated 07.12.2023 № 5 (shall be enforced from the date of its first official publication).

8. Deprivation of a permit for a certain type of activity or performance of certain actions as a form of administrative penalty shall be applied by a judge for an administrative infraction committed while carrying out the activity or performing actions indicated in the license, special permit, qualification certificate (attestation).

Deprivation of a license, special permit, qualification certificate (attestation) for an offense unrelated to the activity, specified in the license, special permit, qualification certificate (attestation) for a certain type of activity shall not be allowed.

If a person is held administratively liable for carrying out a licensed type of activity in violation of the requirements for such activities, the court shall have the right to decide on suspension or prohibition of such activity. If a person is held administratively liable for carrying out a licensed type of activity without an appropriate license or for carrying out an

activity requiring a different special permit, without such a special permit, the court has the right to impose an additional administrative penalty in the form of a ban on such activity for the period specified in the sanction of the Article of the Special part of the CAI. Such a court ruling does not allow a person to obtain an appropriate license or other special permit during the period of the ban.

9. The length of deprivation of a special right granted to a specific individual or legal entity, or deprivation of permission or suspension of its validity in the sanction of most articles of the Special Part of the CAI shall be indicated in months or years, but in accordance with article 60 of the CAI can also be calculated in calendar days.

10. Suspension or prohibition of the activity of an individual entrepreneur or legal entity can be applied both as a basic and additional administrative penalty (part 2 of Article 42 of the CAI).

Suspension of activity shall be applied as a measure of administrative sanction, when the infraction is removable by carrying out the necessary actions (measures) within the time period established by the court for their elimination.

Operation of only those objects that are used in violation of the law (buildings and structures, plants) shall be subject to suspension or prohibition. Similarly, suspension or prohibition shall be applied only to the activity of those branches, representative offices, structural units of a legal entity, production sites in which violations are discovered, for which administrative liability is imposed in the form of such a penalty (part 1 of Article 48 of the CAI).

Indication of a specific period of suspension of the activity of an individual entrepreneur or legal entity is mandatory and shall not exceed three months (part 3 of Article 48 of the CAI).

In cases where the sanction of the article of the Special Part of the Administrative Code provides for such a penalty, the case is subject to consideration by the court in the order of proceedings on an administrative offense within ten days.

If the sanction of the article of the Special Part of the CAI does not provide for specified penalty, the authorized body (official) with the appropriate powers has the right to take civil legal proceedings to court.

For particularly important or categorized civil defense organizations (paragraph 3 of Article 20 of the Law of the Republic of Kazakhstan dated April 11, 2014 № 188-V On Civil Protection), including strategic facilities (military unit, international airport and others), suspension of activity shall not apply if malfunctioning of such an organization poses a threat to national security, risk of emergency situations or may lead to significant socioeconomic consequences.

Footnote. Paragraph 10 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 07.12.2023 № 5 (shall be enforced from the date of its first

official publication); dated 29.11.2024 № 7 (effective from the date of the first official publication).

11. In accordance with part three of Article 33 of the Code of Administrative Infractions, structural units of a legal entity that have committed administrative offenses and are independent taxpayers (with the exception of financial organizations) shall be held administratively liable on general grounds as legal entities for committing offenses under the corresponding articles of the Special Part of the Code of Administrative Infractions, which envisages liability of legal entities.

Courts shall bear in mind that the Tax Code on certain types of taxes provides for the right of a legal entity, by its decision, to recognize a structural unit as an independent tax payer, subject to the conditions and procedures envisaged by tax legislation.

In accordance with paragraph 1 of Article 490 of the Tax Code, payers of tax on vehicles are individuals who have objects of taxation on the ownership right, and legal entities who have objects of taxation on the right of ownership, economic management or operational management, unless otherwise established by Article 490 of the Tax Code. By its decision, a legal entity has the right to recognize its structural subdivision for vehicles registered with such a structural subdivision as an independent payer of vehicle tax in accordance with the legislation of the Republic of Kazakhstan on transport.

Given the stated norm, a structural subdivision of a legal entity shall be subject to administrative liability for committing an administrative infraction on vehicle tax, provided that the legal entity, by its decision, recognized this structural subdivision as a payer of vehicle tax registered with the structural subdivision in the manner prescribed by law. The entry into force of such a decision in accordance with the requirements of tax legislation shall also have legal effect.

At the same time, for certain types of taxes, only a legal entity shall bear administrative responsibility by force of the provisions of the Tax Code defining the taxpayer, so according to paragraph 1 of Article 222 of the Tax Code, corporate income tax payers are legal entities.

The commission of an unlawful act by a structural subdivision of a legal entity that is not an independent taxpayer shall be considered repeated if earlier, during the period provided for in Article 61 of the Code of Administrative Infractions, the legal entity was held accountable for the commission of the same unlawful act by another of its structural units.

Footnote. Paragraph 11 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 07.12.2023 № 5 (shall be enforced from the date of its first official publication).

12. Administrative arrest in accordance with Article 50 of the CAI shall be appointed by the judge in exceptional cases to the extent provided for in the articles of the Special Part of the CAI. When considering cases of administrative offenses for which an administrative

penalty is envisaged in the form of administrative arrest, judges shall carefully investigate the presence or absence of circumstances reflected in part 2 of Articles 32 and 50 of the CAI, which exclude the use of administrative arrest.

12-1. Servicemen and military conscripts who are on military training camps shall be held liable for committing administrative offenses in the performance of official duties under the disciplinary regulations, with the exception of cases provided for in part one of Article 32 of the Code of Administrative Infractions. If these persons committed an offense not in the performance of official duties (while on leave, on a pass from a military unit, etc.), such persons shall be held administratively liable on general grounds, with restrictions on the imposition of an administrative penalty provided for in parts two and three of Article 32 of the Code of Administrative Infractions.

The responsibility of servicemen of special state and law enforcement bodies for administrative infractions committed in the performance of official duties shall be determined in accordance with regulatory legal acts regulating the procedure of service in the relevant bodies.

In the presence of circumstances provided for in part two of Article 32 of the Code of Administrative Infractions, also when an offense is committed outside of service, the above persons shall be held liable on general grounds, subject to the prohibition of imposing administrative penalties on them in the form of deprivation of the right to carry and store firearms and cold weapons and administrative arrest.

It shall be borne in mind that when considering an administrative offense case, if the sanction of an article of the Special Part of the Code of Administrative Infractions provides for the application of only a non-alternative penalty in the form of administrative arrest (with the exception of Article 652 of the Code of Administrative Infractions), then the court shall terminate the proceedings on the case in respect of the person indicated in part one Article 32 of the Code of Administrative Infractions.

Materials on the offense in respect of this person shall be directed to the relevant authorities to resolve on bringing him to disciplinary liability, as indicated in the operative part of the court resolution.

Footnote. The regulatory resolution is intended to be supplemented with paragraph 12-1 pursuant to the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 07.12.2023 № 5 (shall be enforced from the date of its first official publication).

13. For one administrative offense, one main or a main and additional administrative penalty may be imposed (part 6 of Article 55 of the CAI).

The sanctions of some articles of the Code of Administrative Infractions provide for several additional administrative penalties. Courts shall take into account the priority of the norms of the General Part over the provisions of the Special Part of the Code of

Administrative Infractions and motivate in the resolution the choice of one additional administrative penalty, subject to the provisions of parts three and four of Article 55 of the Code of Administrative Infractions.

If the sanction of an article of the Special Part of the CAI provides for an arrest with an additional penalty (for example, expulsion or deprivation of the right to drive vehicles), then the courts shall exempt persons to whom an administrative arrest cannot be applied from the penalty of arrest with reference to Article 50 of the CAI and appoint a second penalty provided for by the sanction of the article of the Special Part of the CAI, if part 2 of Article 42 of the CAI allows application of such a penalty as the main administrative penalty.

Footnote. Paragraph 13 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.05.2019 № 3 (effective from the date of the first official publication); dated 07.12.2023 № 5 (shall be enforced from the date of its first official publication).

14. An administrative penalty for a committed administrative offense shall be imposed within the limits provided for in the article of the Special Part of the CAI for this administrative offense, in strict accordance with provisions of the CAI (part 1 of Article 55 of the CAI). Imposition of a penalty below the lower limit of the sanction provided for in the relevant article of the Special Part of the CAI shall not be allowed. Proceeding from the circumstances specified in part 1 of Article 829-11 of the CAI, the court shall have the right to reduce the amount of administrative fine levied on the person against whom the administrative case was instituted, and calculated in accordance with paragraph 1 of part 1 of Article 44 of the CAI, but not more than thirty percent of the total fine (part 2 of Article 829-11 of the CAI).

Footnote. Paragraph 14 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.05.2019 № 3 (effective from the date of the first official publication).

14-1. When an administrative penalty is imposed on individual entrepreneurs and legal entities engaged in production and (or) wholesale of excisable goods, or other types of activities listed in paragraph 4 of Article 24 of the Entrepreneur Code of the Republic of Kazakhstan (hereinafter -EC), the courts in assessing the information of the authorized body on the category of a business entity shall bear in mind that this norm prohibits recognition of such persons as small-size and micro-business entities.

When imposing an administrative penalty on non-profit organizations, information from the authorized body on the category of a business entity in accordance with Article 24 of the PC shall not be taken into account.

Footnote. Paragraph 14-1 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.05.2019 № 3 (effective from the date of the first official publication); as amended by the regulatory resolution of the Supreme Court of the

Republic of Kazakhstan dated 07.12.2023 № 5 (shall be enforced from the date of its first official publication).

15. Expiry of limitation period for administrative liability for committing administrative infractions in taxation is provided for in part 2 of Article 62 of the CAI. Calculation of limitation period for imposing an administrative penalty for such offenses is not permitted by part 3 of Article 62 of the CAI.

16. The time limit for imposing an administrative penalty for an administrative infraction in accordance with part five of Article 62 of the Code of Administrative Infractions shall be suspended from the moment the case is sent to the court or to an official of a government body authorized to consider cases of administrative infractions. This provision shall also apply when an administrative infraction case is not referred for consideration to another state body under jurisdiction. The beginning of the suspension of the statute of limitations shall be determined by the date of actual sending of the case to the court or to an official for merits hearing (date of delivery by mail, receipt by courier, electronically, date of registration in the register of relevant correspondence, etc.).

When an examination is appointed by the body handling the administrative infraction case, the duration of imposed administrative penalty shall be suspended from the date of the actual appointment of the examination. When an examination is appointed or the court issues a writ on bringing in the respondent of the proceedings, the court shall suspend the duration of the proceedings.

The running of the time limit for imposing an administrative penalty for an administrative infraction shall be suspended from the moment of issuing a ruling compelling the appearance of the person, who is the object of proceedings. The calculation of this time duration shall be resumed from the moment of actual delivery of the person held administratively liable to the body (official) executing the ruling on the appearance in court.

The body (official) carrying out the proceedings on the administrative infraction case, by force of part one of Article 785 of the Code of Administrative Infractions, before referring the case to the court, in order to ensure timely and correct consideration of the case, shall issue a ruling on bringing of the persons evading appearance specified in part 3 of Article 744 of the Code of Administrative Infractions (with the exception of minors), in respect of whom a case of an administrative infraction was initiated if the body (official) is entitled to issue a ruling on bringing to court. In a case being in proceedings of a body (official), the time limit for imposing an administrative penalty for an administrative infraction shall be suspended from the moment the ruling is issued on bringing these persons. From the moment of actual delivery of the persons specified in part three of Article 744 of the Code of Administrative Infractions to the authority (to the official), the calculation of this period shall be resumed and the case shall be referred to court.

Footnote. Paragraph 16 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.05.2019 № 3 (effective from the date of the first official

publication); dated 07.12.2023 № 5 (shall be enforced from the date of its first official publication).

17. Incorrect qualification of an administrative infraction as a criminal offense shall not mean absence of occurrence of an administrative infraction. In this regard, when resolving on bringing a person to administrative responsibility after a ruling to terminate the criminal case has been issued in respect of him, the courts must apply the provisions on calculating the statute of limitations for bringing to administrative responsibility.

According to part six of Article 62 of the Code of Administrative Infractions, in the event of termination of a criminal case in the presence of elements of an administrative infraction in the actions of the offender, the person may be brought to administrative responsibility no later than three months from the date of receipt of the resolution to terminate it.

The calculation of this period shall be started from the moment the ruling to terminate the criminal case is received by the body (official) who has the right to draw up a protocol on the administrative infraction (the date of registration in the register of the relevant correspondence of the body).

Footnote. Paragraph 17 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 07.12.2023 № 5 (shall be enforced from the date of its first official publication).

18. Upon termination of proceedings in the administrative infraction case due to expiry of the limitation period for administrative liability (subparagraph 5) of part 1 of Article 741 of the CAI), the courts, by virtue of subparagraph 6) of part 1 of Article 822 of the CAI, shall indicate in the resolution all the circumstances established during consideration of the case, also conclusions on the guilt or innocence of a person in committing an offense. Findings of guilt are relevant in resolving the issue of compensation for harm caused by the offense, and by virtue of part 5 of Article 76 of the Civil Procedure Code of the Republic of Kazakhstan do not have to be proved again when considering the case of civil law consequences of the same offense committed by that person.

Compliance with the statutory limitation period established by Article 62 of the CAI shall be verified at the time of resolving the issue of imposing an administrative penalty. In reconsideration of decisions on imposing an administrative penalty, compliance with this deadline is subject to verification at the time of issuing the decision on imposing a penalty.

Footnote. Paragraph 18 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.05.2019 № 3 (effective from the date of the first official publication).

18-1. In accordance with the note to Article 62 of the CAI, an offense is recognized as continuing which is characterized by continuous commission of a certain single wrongdoing provided for in the article of the Special Part of the CAI and which lasts at the time of its

detection. At the same time, detection of an offense by an official of the authorized state body entitled to draw up protocols on administrative offenses in accordance with Article 804 of CAI shall be considered the moment of detection.

Footnote. The regulatory resolution was supplemented by paragraph 18-1 in accordance with the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.05.2019 № 3 (effective from the date of the first official publication).

18-2. One of the institutions for exemption from administrative liability, in addition to the circumstances provided for in Articles 741 and 742 of the Code of Administrative Infractions is insignificance of the administrative infraction.

The application of this ground for exemption from administrative liability is not limited only to the material corpus delicti of administrative infractions and is possible not only in respect of individuals, but also in respect of legal entities.

When releasing a person from administrative liability if the violation is of minor significance, one should proceed from the criteria defined by the legislator in the note to Article 64-1 of the Code of Administrative Infractions, namely: take into account the circumstances of the commission of the administrative infraction, including the identity of the offender, the object of encroachment, and in the presence of harm - its size.

Footnote. The regulatory resolution is intended to be supplemented with paragraph 18-2 pursuant to the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 07.12.2023 № 5 (shall be enforced from the date of its first official publication).

19. Excluded by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.05.2019 № 3 (effective from the date of the first official publication).

20. Involvement of a minor in an administrative offense in accordance with Subparagraph 3) of Article 57 of CAI shall be taken into account as an aggravating circumstance if the guilty person is not brought to administrative liability under Article 128 of the CAI.

20-1. If the circumstance specified in Article 57 of the Code of Administrative Infractions is provided for by the corresponding article of the Special Part of the Code of Administrative Infractions as a qualifying factor of an administrative infraction, it may not be repeatedly taken into account as an aggravating circumstance.

Footnote. The regulatory resolution is intended to be supplemented with paragraph 20-1 pursuant to the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 07.12.2023 № 5 (shall be enforced from the date of its first official publication).

21. A protocol on an administrative offense committed by a minor between the ages of sixteen and eighteen years old shall be drawn up in respect of such a person, indicating information about his parents or persons replacing them, who are to be involved in the consideration of the case as legal representatives.

A protocol on an administrative offense committed by a person between the ages of fourteen and sixteen, in cases where the norms of the Administrative Code provide for the responsibility of parents or persons replacing them, is drawn up in relation to these persons.

The decision issued in the case of an administrative offense against such persons should indicate how their guilt in the offense is expressed.

An administrative penalty in the form of a fine may be applied to minors who have reached the age of sixteen at the time of the commission of an administrative offense, if they have independent earnings or property that can be levied. The amount of the fine imposed on a minor may not exceed ten monthly calculation indices. If the minor does not have such earnings or property, a fine is imposed on the parents or persons replacing them, in compliance with the requirements of Article 66 of the Administrative Code, which must be indicated in the resolution.

Information about the presence or absence of independent earnings or property from which a minor can pay a fine is submitted together with the case of an administrative offense by the official who drew up the protocol on the administrative offense.

Footnote. Paragraph 21 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 29.11.2024 № 7 (effective from the date of the first official publication).

22. Educational influence measures in accordance with Article 68 of the CAI may be applied to a minor who has committed an administrative infraction for the first time by a court, body (official) authorized to consider cases of administrative offenses, with release from administrative liability or from execution of the prescribed administrative penalty. Alongside this, restriction of leisure and establishment of special requirements for the behavior of a minor in accordance with part 3 of Article 69 of the CAI shall be three to six months in duration.

The prohibition for minors to visit certain places or travel to other areas provided for in subparagraph 3) of part one of Article 54 of the Code of Administrative Infractions without the permission of the commission for minors' rights protection may be imposed by a court for a term of three months to one year only at the request of the parties to the proceedings on the administrative infraction case or internal affairs authorities when considering a case. Such a prohibition shall be established as a special requirement for the behavior of a person who has committed an administrative infraction, provided for in Articles 73, 127, 128, 131, 434, 435, 436, 440 (part three), 442 (part three), 448, 461, 482, 485 (part two) of the Code of Administrative Infractions, is applied regardless of the imposition of the penalty.

Footnote. Paragraph 22 as amended by the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated 31.05.2019 № 3 (effective from the date of the first official publication); dated 07.12.2023 № 5 (shall be enforced from the date of its first official publication); dated 29.11.2024 № 7 (effective from the date of the first official publication).

23. Reduction by half of the limitation period provided for in Article 71 of the CAI established by Article 62 of the CAI shall be applicable in the exemption from administrative liability or enforcement of the administrative penalty of minors only.

In cases on administrative infractions for the commission of which the parents of juvenile offenders or persons replacing them are to be held liable, when resolving the issue of applying the time limits for the administrative liability, provided by Article 62 of the CAI, provisions of article 71 of the CAI shall not be applied.

24. According to article 4 of the Constitution, this regulatory resolution is included in the law in force, is generally binding and shall come into effect from the day of its first official publication.

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of the Republic of Kazakhstan
Judge
of the Supreme Court
of the Republic of Kazakhstan,
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of the plenary session*

K. MAMI