



## On Conception of legal policy of the Republic of Kazakhstan for the period from 2010 to 2020

### *Unofficial translation*

The Decree of the President of the Republic of Kazakhstan dated 24 August 2009 No. 858

### Unofficial translation

*Shall be subject to publication in  
Collected Acts of the President and  
the Government of the Republic  
of Kazakhstan and republican press*

In accordance with paragraph 1 of Article 40 of the Constitution of the Republic of Kazakhstan, for the purpose of following determination of principal directions of legal policy of the state, I hereby **ORDER**:

1. To approve an enclosed Conception of legal policy of the Republic of Kazakhstan for the period from 2010 to 2020 (hereinafter – Conception).

2. To establish that this Conception is the basis for development of the relevant programs in the field of legal policy of the state, prospecting and annual plans of law project works of the Government of the Republic of Kazakhstan, projects of regulatory legal acts of the R e p u b l i c .

3. To central and local state bodies of the Republic of Kazakhstan to be governed by provisions of the Conception upon development and implementation of own strategic plans.

4. To assign control of fulfilling the Decree on Administration of the President of the R e p u b l i c of K a z a k h s t a n .

5. The Decree shall be enforced from the date of signing.

*T h e P r e s i d e n t  
of the Republic of Kazakhstan N. Nazarbayev*

*A p p r o v e d  
by the Decree of the President  
of the Republic of Kazakhstan  
dated 24 August 2009 No. 858*

## Conception of legal policy of the Republic of Kazakhstan for the period from 2010 to 2020

### 1. Introduction

**Footnote. Section 1 as amended by the Decree of the President of the Republic of Kazakhstan dated 16.01.2014 No. 731.**

Principal directions of development of legal system of country for the period to 2010 were determined by the Conception of legal policy of the Republic of Kazakhstan adopted in 2002. For the previous years, the range of legislative acts of prime importance enabling progressive advance of state and social institutes ensuring stable social and economic development of Kazakhstan was adopted.

The main result of implementing Conception is essential updating of main branches of the national legislation (constitutional, administrative, civil, banking, tax, financial, customs, environmental, criminal, criminal procedure and penal execution legislation).

New codified acts were developed and adopted: in 2003 – Forest, Land, Customs and Water Codes; in 2007 – Labour, Environmental Codes; in 2008 – Budget, Tax codes.

The state took measures enabled to put a rule-making process into new qualitative level among which there are:

prospecting planning of law project activity; introduction of scientific (legal, anti-corruption, criminological and other) expert examinations of the drafts of regulatory legal acts; full financial security of adopted laws.

The first tenth anniversary of the 21-st century was marked in Kazakhstan as new stage of constitutional development. The Law “On introduction of amendments and supplements into the Constitution of the Republic of Kazakhstan” that enunciated fundamentally important innovations for country, was adopted on 21 May 2007. By this, characteristics of Kazakhstan model of state structure that stood the test of time are preserved essentially.

Within the model, modernizing the power relations system that enhanced the role and influence of the Houses of Parliament that henceforth shall bear more responsibility for conditions of affairs in the state was carried out in the course of constitutional reform.

Owing to the course of detailed development of the civic institutions, harmonization of relations between a state and society, this day the constitutional prohibitions and restrictions were lifted for more active interaction of state and social institutes, the system of local self-government were modernized, fully answering to internal conditions and needs of our country.

Momentum is gained to new stage of judicial and legal reform on a constitutional level oriented to strengthening of independence of courts during the course of justice. Scope of appliance of death penalty is reduced and restricted only with terroristic crimes involving death of people and especially grave crimes committed in war time that in conditions of Kazakhstan means factual cancellation of death penalty. Judicial sanctioning of arrest is introduced; the constitutional prohibition for possibility of conducting investigation by prosecutor’s office and court is excluded.

Reform carried out in such a manner is oriented to further democratization of institutes of the state and society. All the system decisions that gained constitutional recognition shall find

the following implementation in a current legislation of the Republic of Kazakhstan.

With that, fundamental changes occurred in global economics and policy, the processes of globalization, as well as internal dynamic of developing the country doesn't allow satisfying for achieved results. The following improvement of law making and law enforcement activity of state is required for the purpose of ensuring conformance of the national law to new challenges of time, raising of its competitive ability, finally liberating from legal tenets not conforming to perspectives of the 21-st century.

As for Kazakhstan determination of ambitious goal – inclusion into 30 the most developed states in the world by 2050 presents high requirements to the national legal system that shall effectively ensure conducted course of the country for improvement of the quality of life of human, society and strengthening of statehood.

Thus, Kazakhstan legal system shall be capable to compete on equal terms in the issues of ease of using and reliability of protecting rights with the legislation of developed countries of the world. In conditions of universal globalization and expansion of global competition, most countries met with necessity of modernizing legal systems and their maximal approach to needs and necessities of people and interests of investors. It is known that competitive legal system attracts more business and investments under its competence, enables implementation of bold and advanced ideas, the results of which are used in the whole world receiving cash dividends to country in which these ideas are implemented.

Thus, at the modern stage, successful implementation of priority national projects, decision of essential socially significant tasks directly conditioned by conducting balanced legal policy, where it requires the maximal pragmatism that would consider not only own experience and practice, but in case of necessity would borrow the institutes from other legal systems that are traditionally uncharacteristic for us answering to our national interests and proved its effectiveness in practice. Such borrowings upon the processes of convergence of different legal systems occurred in the world may be useful for modernizing the national law.

Previously, a long way was made in case of modernizing Kazakhstan law. For the following competitive growth of national legal system, it is required to continue work on systematization of current legislation, following consolidation in section of the branches of the

l e g i s l a t i o n ;  
its release from outdated and doubling rules, fulfillment of gaps in legal regulation, elimination of internal contradictions in current law; minimization of reference rules in the Laws and expansion of the practice of adopting the Laws of direct effect within the circle of questions on which the legislative acts may be adopted in accordance with the Constitution.

Special attention shall be given to forecasting analytic ensuring of law making activity that shall be based on steady monitoring of tendency of developing the branches of law and legal systems, analysis of a practice of applying regulatory legal acts.

This shall allow creating system being modern on content and methods of regulation visually reflecting all the stages of law making and law enforcement activity on each of the

act – its development, adoption, applying, introduction of amendments and supplements, considering to have lost force or development of new act.

Due to such procedures and mechanisms, the rule making activity of state bodies becomes optimized and system-defined. By this, broad applying sociologic methods upon legal monitoring shall allow maximal consideration of public opinion in the course of carrying out of legal policy.

International standards of valuating regulatory legal acts that shall allow better consideration of interests of citizens, society and state, ensure effectiveness, economical efficiency and rationality of the rules of law shall be introduced.

It is important to assign all the types of scientific expertise of the draft acts by determination of their criteria, tasks, as well as stages of their conducting. Exactly this approach to expertise shall allow ensuring of full accounting of financial and economic, social and political consequences of adopting regulatory legal acts in the course of law making process.

There is necessity in introduction of scientific expertise as to draft international treaties of the Republic of Kazakhstan.

In such a manner, development of scientific expertise system shall assist in solving the task of preparation of draft regulatory legal acts answering to modern condition and perspectives of development of society and the state.

At the present time, 17 branches of the legislation, legal regulation of which shall be carried out by codes are determined at the level of the Law.

With that, codification – is not the only one instrument for systematization of the legislation. It is required to use other instruments, for example consolidation that representing the combination of rules of law regulating particular relations in one legislative act.

In this regard, introduction and legislative assignment of concept “consolidated” or “complex” law shall be prospecting, the subject of regulation of which shall be relations having complex character.

As to codification, this supreme form of systematization shall be used in a balance and quite restrictively, and specifically to the current branches of the law, in those scopes of similar public relations where it is not possible to achieve effective legal regulation without codification.

Adoption of any code shall be preceded by big law making and law enforcement practice, its comprehensive monitoring, analysis and valuation, set on system-defined basis. Branch of the Law shall “maturate” to the level of codification.

Basis of economic liberty laid to the Constitution and legal framework formed on the basis of Basic Law gave powerful momentum for development of creative initiative of people and became a factor of modernizing in all the scopes of social life.

Economic growth and development of entrepreneurship lead to formation of the relevant legislation in country that became legal fundamental of system economic reforms,

dynamically developing, but non-uniform at their nature.

With that, necessity of eliminating multiplicity and unwieldiness in legislative regulation of entrepreneurship activity occurred at the present time, as well as in maximal lightening and availability of applying the Laws in economic scope for business.

Mentioned above dictates necessity of existence of central act – code around which the system would be built regulating entrepreneurship.

In any society there is complicated system of social important interests. Implementation of such interests shall be carried out through the mechanisms of official and non-official lobbying in law making process. Due to this, it is necessary to give attach legal framework to such phenomena as logging, and respectively to regulate relations linked with propaganda of development, discussing and adoption of the draft laws by the Parliament.

It is necessary to engage public representatives, non-governmental organizations and associations representing the interests of private entrepreneurship to engage in law making activity widely and on permanent basis.

It is required to improve and increase the level of legal technique that determines the quality of regulatory legal acts and generally the level of culture of working with documents in a state apparatus.

Perspectives of improving mechanisms of legal regulation are linked to a large extent with broad introduction of information technology in law making and law enforcement process.

In this regard, for the purpose of formation of base components of infrastructure of "electronic government", formation and effective maintenance of bank data of regulatory legal acts, the functioning of standard bank of regulatory legal acts shall be optimal in electronic format. At the same time, it is required to introduce provisions providing electronic type of regulatory legal act into legislation that shall become a serious stage in informatization of the national law.

The following measures on improvement of current practice of law making shall be required.

Content and quality of Laws, equivalent to reforms, conducted in country shall be ensured by effective functioning of the institutes of state power, ensuring of constructive and dynamic interaction of legislative and executive branches of power.

In such a manner, uniform legal policy based on modern tendency of development of society, accumulated experience and scientifically grounded fundamental conceptions on the nearest and distant perspectives of Kazakhstan state and society.

## **2. Principal directions of development of the national Law**

The following implementation of legal ideas and principles of the Constitution of the Republic of Kazakhstan that shall be expressed in legislative, organizational and other measures of the state shall be required.

Efforts of state and public institutes shall be concentrated on realization of creational Basic Law of country that contained in all constitutional establishments.

In the process of improving legislation and course of entrepreneurial activity it is required to follow consistently the principles of supremacy of the Constitution and conformance of regulations of the acts of inferior level to acts of superior level.

System measures ensuring as the mode of legality in country and stability of legal system, so progressive advance of the national law within the current Constitution shall be required. Complex approach to legal policy shall allow modernization of all regulatory legal base in the context of general strategy of development of the state, as well as on forming-up of qualitative new model of state administration on the principles of effectiveness, transparency and accountability ensuring protection of rights and freedoms of citizens, interests of society and state.

**2.1.** The foundation of the national legal system is **constitutional right**. Its progressive development rests on the principles and rules of current Constitution of Kazakhstan that is updated considerably in the result of constitutional reform of 2007 year.

Ideas and principles laid in Basic Law of country shall determine principal directions and mechanisms of developing the national legal system, as well as constitutional right on a long-term perspective. In other words, the most important task is full implementation of the principles and rules of the Constitution, principally in the activity of bodies of state power and their civil servants, ensuring by this as direct force of the Constitution, so implementation of its potential through current legislation and law enforcement.

Compliance and implementation of basic principle activity of republic assigned in the Constitution of our state (this is: public consent and political stability, economic development for the benefit of the entire nation, Kazakhstan patriotism, solving of the most important issues of state life by democratic methods) shall ensure stable social economic and political legal development of the country.

Basis of the constitutional order of the Republic of Kazakhstan, sovereignty and unitariness of the state shall strengthen through improvement of constitutional legislation and practice of its applying.

Perspectives of development of constitutional right are linked with improvement of current constitutional rights determining mechanism of the state, unity of state power, mechanisms of functioning of its branches and their interaction against each other under strategic leadership, control and arbitration from the side of nationally elected President of the Republic of Kazakhstan.

One of the most important mechanisms of ensuring the regime of constitutional legality, accurate interpretation of principles and rules of the Constitution, formation of marks of developing the national law and law enforcement practice is the increase of effectiveness of the activity of the Constitutional Council and exhaustively practical implementation of its regulatory resolutions in legal policy of the state.

In the process of the following approval of principles of legal state in country, it is necessary from the one side to achieve the maximum possible guaranteeing of carrying out the constitutional rights and freedoms of human and citizen, and from other side, unconditional and exhaustively fulfillment of constitutional obligations by all the state bodies, civil servants, citizens and organizations.

Creation of conditions guaranteeing equality of rights and freedoms independently from origin, social, official and property position, gender, race, nationality, language, confession, beliefs, place of residence or other any circumstances, as it is required by our Constitution shall be important for ensuring of rights and freedoms of human and citizen.

In this context, the role of legal mechanisms in preservation and strengthening of interethnic concord, ensuring of unity of multicultural population of Kazakhstan shall be increased.

Kazakhstan is secular state where inter-confessional peace and harmony prevail, the rights as of holders of religious beliefs, so of citizens adhering atheism are respected and observed. The state doesn't interfere to the scope of religious activity, but shall ensure interaction with confessions and protect the right of citizens to freedom of religion, for which effective state policy in this scope may be established.

The following improvement, compliance and uniform applying of the legislation on freedom of religion in the part of regulation of missionary work, distribution of religion products and registration of religion associations shall be required.

In modern conditions, the increasingly larger role shall play the factor of gender equality in the state and social life, ensuring of equal rights and equal opportunities for women and men.

Gradual and sustainable development of Kazakhstan as dynamic, modern state with high quality standards of life is possible only on the basis of activation of human potential, growth of initiative of citizens, strengthening of institutes of civil society.

In this regard, legal instruments giving additional momentum to development of civic institutions and possibility of implementing civil initiatives shall be required.

It is required to improve status of non-governmental organizations; mechanisms of legal regulation shall consider special aspects of the activity of non-governmental organizations, as well as ensuring of state support of public associations.

It is also required to improve regulatory legal regulation of the questions of information. Generally, this activity and mechanisms of its legal regulation shall be oriented to guaranteeing of freedom of speech, free receipt and distribution of information by any method, not prohibited by the Law, in recognition of complying with constitutional rights, personal and family secrecy, secrecy of correspondence, telephone conversations and other conversations, as well as complying with requirements of the legislation on state secrets.

Development of civil initiative is closely linked with the issues of local self-government. This institute being at the junction of state and civil society also requires its strengthening and

development. Particularly, it is necessary to conduct not only differentiation of the functions of state administration and local self-government, but engage widely the bodies of local self-government in participation in implementing state functions having local significance in recognition of accumulated experience.

Results of development of local self-government shall be increase of the role and activity of population in solving the questions of local significance.

By this, for the purpose of construction of effective system of state administration and self-government, this work shall be conducted simultaneously with the following differentiation of the scopes of activity, functions and responsibility between different levels of state power.

Such work shall be accompanied by correction of status of local representative and executive bodies in the point of view of rational distribution of state and self-regulating beginnings.

From these positions in the legislation on administrative and territorial arrangement, it is necessary to give precise definition of the role and designation of each administrative-territorial entity that shall serve as the ground for the relevant determination of the role and designation of each body of state power and local self-government. Also, this shall enable to reflect special aspects of status of different administrative-territorial entities more precisely, as well as one-company towns, and activity of state institutes on ensuring of proper level of life of population in the legislation.

**Footnote. Subsection 2.1 as amended by the Decree of the President of the Republic of Kazakhstan dated 16.01.2014 No. 731.**

**2.2.** Development of the state administration system in Kazakhstan is inseparably linked with legal groundwork of administrative reform oriented to creation of effective and compact state apparatus, introduction of new management technology and improvement of administrative procedures. And this is **scope of regulating such branch of law as administrative**, the most important task of which – is ensuring of effective functioning of state apparatus at the all levels of power. Due to this, in the scope of state administration, the administrative law shall be oriented to:

ensuring of rational and precise distribution of competence between state bodies;  
prevention of excessive state regulation, as well as control and supervisory functions in conditions of market economy;  
regulation of conditions and procedure for implementing state functions by bodies of executive branch of power;  
ensuring and organizing of interaction of bodies of state administration with citizens and organizations.

With that, in modern conditions, when the role of state regulation of economy is increased, it is required to talk on expansion of possibility of administrative law and distribution of its regulative potential to new public relations.

Upon the following development of administrative law, as far as possible it is required to diverge from existing traditional approaches in relations between the state, citizens and non-governmental organizations based on unilaterally power principles. It is not possible to diverge in full from the principles of “power and subordination”, however it is required to expand the scope of applying partnership-promoting, functional-client, strictly protective principles .

In this regard, it is required to continue work on simplifying registration, permissive license procedures, creation of barriers for illegal interference of state bodies into activity of commercial and non-commercial organizations.

It is required to improve mechanisms of applying of citizens to state bodies and civil servants of the state as forms of their participation in state administration and method of protecting own rights and freedoms, as well as to expand the range of services rendered by the state through “electronic government”.

The following modernizing of base components of infrastructure of “electronic government” may be carried out through the introduction of system elements “e-justice” successfully functioning in West European countries. This shall enable to move gradually to paperless document circulation upon applying of citizens and legal entities to state bodies and courts .

At the same time, it is required to regulate relations linked with applying of citizens to non-governmental organizations on the issues of protection of own rights and legal interests including compliance with the terms of consideration, establishment of responsibility of organizations and their civil servants for considering applications of consumers of their services .

In such a manner, in modern conditions, the administrative law shall cover not only the scope of state-power relations. In circle of administrative law, there are relations of state enterprises with citizens and organizations upon rendering of public, i.e state services. By this , legal nature of state services is different from regular state functions, as it was marked in the relevant decision of the Constitutional Council.

actually, a new institute of administrative law regulating relations in the scope of rendering of state services to citizens and organizations is created. There is necessity in the relevant legal base for ensuring of functioning of this institute.

Full introduction of the standards for rendering of state services shall require adequate administrative legal regulation. It is necessary to expand register of state services, introduction of effective external control of their fulfillment with the use of advanced technology. Rendering of several types of state services on the “one stop principle” shall require formation of the relevant legal base regulating the activity of Public Service Centres.

Development of administrative law shall be considered not only through traditional vertical relations of power and subordination, but through the prism of social interests, and frequently differently directed interests.

The rights of citizens and organizations guaranteed by the state shall be implemented with the aid of administrative law, insofar as ensuring and protection of these rights is public interest of the state.

By this, the subjects of administrative law (bodies and civil servants of the state, bodies of local self-government) are the carriers of public interest, the task of which is protection and implementation of rights and legal interests of citizens and organizations.

In other words, protection and implementation of rights and legal interests of citizens and organizations raised to the rank of public interest are modern maintenance of human rights function of administrative law.

In modern conditions conditioned by multiple complication of social life, the mixed relations are created in regard with which the solution of questions on the limits of force of administrative law, its correlation with other branches of law and principally administrative law with civil law upon occurrence of mixed (administrative-civil) legal relations shall be required.

**Control and supervision of state bodies** being the functions of state administration from the one side, and methods of ensuring of legality from the other side shall remain as essential question of administrative law.

The question on correlation of control and supervisory powers of state bodies was solved by the relevant regulation of the Constitution Council. By this, it was approved that there are no constitutional restrictions on granting control and supervisory powers for state bodies within the competence in our country. In other words, supervisory powers may be assigned on other state bodies, except for prosecutor's office.

In such a manner, together with prosecutor's supervision, the administrative supervision carried out by authorized civil servants of executive power in respect of non-subordination of subjects – citizens and organizations for the purpose of ensuring of compliance with legality in the scopes of activity regulated by administrative legislation with the use of measures of administrative compulsion in cases provided by the Law shall be legally qualified.

In other words, the task of administrative supervision is to ensure compliance with administrative legal regime under strict compliance with rights and legal interests of citizens and organizations.

Prospective directions of improving state control and supervision are linked with:  
optimizing the system of control and supervisory bodies;  
adjustment and reduction of the volume of control and supervisory powers not only in respect of entrepreneurs, but other subjects of the Law;  
increase of the level of legal regulation of administrative-supervisory activity.

The subject of regulation of administrative law is **relations in the scope of state service**. In capacity of priority directions of its development it is suggested:  
well-defined differentiation of political and administrative state service;  
formation of new and modernization of current institutes of human resource management

at state service ;  
introduction of new methods of selection at state service on the basis of professional and  
personal characteristics ;  
introduction of new principles of paying for labour and motivation ;  
introduction of modern evaluation system of activity of state servants oriented to final  
result .

Important component part of administrative law is **administrative tort law** , the perspectives of development of which are linked with updating of the legislation on administrative infractions, in which the recognition of constitutional rules on rights and freedoms of human and citizen shall be the basis, immediately acting, determining the sense, content and applying of the Laws .

Legislation on administrative infractions shall be maximally oriented to restoration of laws, prevention of new conflicts in society by administrative legal measures. By this, upon formation of administrative legal sanctions, the principle of their proportionality to the level of social danger and character of infraction shall be complied inviolately.

It is required to develop precise conception of differentiation of powers between a court and non-judicial instances on considering the cases on administrative infractions. By this, updated legislation on administrative infractions shall be simple and effective in applying and shall be oriented to primarily non-judicial protection from the entrenchment on rights and legal interests .

The questions of more precise determination of the circle of legal relations protected by administrative tort legislation and respectively more precise differentiation between administrative legal and criminal legal sanctions are pressing questions for administrative tort law .

Other important direction is development of administrative procedure law, the peak of which would be adoption of **Administrative Procedure Code** . By this, it is required to determine precisely with the subject of regulation of administrative procedure legislation. In this context, the questions of legislative regulation of the procedure for solving particular affairs on administrative infractions shall remain the actuality.

Also, it is required to consider the question on administrative justice in the context of administrative procedure law settling the disputes on right occurred from public legal relations between the state and citizen (organization). In other words, the question of procedural individualization and legitimation of the procedure for settling conflicts of public legal character shall be subject to consideration.

In such a manner, administrative proceeding shall be full form of carrying out of justice, together with criminal and civil proceedings.

**Footnote. Subsection 2.2 as amended by the Decree of the President of the Republic of Kazakhstan dated 16.01.2014 No. 731.**

**2.3. Tax legislation** shall require the following improvement.

Developed, clear tax legislation – one of the most important conditions enabling to form advantageous investment climate, engagement of domestic and foreign investments. In this regard, tax legislation shall be directly linked with industrial and innovative strategy of country: it shall help to develop non-resource sectors and introduce new technology in c o u n t r y .

Global tendency is reduction of pressure of taxation. Upon improvement of tax legislation , it is reasonable to use best international practices that is based on the following generally recognized principles of constructing the taxation system:

- taxes shall be minimal as far as possible;
- expenses for their collecting shall be minimal as well;
- taxes shall not impede business competition;
- taxes shall conform to structural policy of the state in economic scope;
- taxes shall be targeted to fair distribution of incomes;
- tax system shall exclude double taxation.

It is required to develop the question on possibility of introducing institute of consolidated taxation when one or several taxes are paid by “parent” company in the name of a group of interacted enterprises and such group of interacted enterprises is considered as unified tax p a y e r o n t h i s t a x .

It is necessary to continue work on simplifying tax reporting, reforming separate types of taxes, ensuring of tax stimulation of separate categories of tax payers.

**Customs legislation** shall be developed in direction of simplifying and harmonization of customs procedures for the purpose of eliminating differentiations in customs rules and procedures that may impede development of international trade and exchange, as well as stimulate international cooperation.

It is necessary to improve and increase effectiveness of customs rules and procedures constantly for the purpose of reduction of excessive administrative barriers; ensure foreseeability, sequence and openness upon applying customs rules and procedures; interested parties shall be provided by all necessary information; there is necessity in applying modern methods of customs administration, such as control on the basis of risk management and methods of audit; maximal use of information technology; introduction of international c u s t o m s s t a n d a r d s .

One of the most important tasks of the national law is ensuring of modernizing the system of state **financial control**, insofar as the control activity of state in the scope of finance is one of the efficient instruments ensuring effectiveness of the process of state assets management and principally financial resources. By this, it is necessary to strengthen legal, as well as procedural basis of functioning of the activity of state bodies of financial state bodies of f i n a n c i a l c o n t r o l .

Effective state **policy in the scope of natural monopolies and regulated markets** depends

on condition of regulatory legal base to a large extent that shall be oriented to stimulation of financial economic activity of regulated subjects of natural monopolies, creation of conditions for increase of capital (investment) contributions in the assets of such subjects, to motivate them for productivity improvement and reduction in expenditures, improvement of quality of rendered services.

Improvement of legal base determining the basis of state regulation and control of activity related to state monopoly, as well as basis of state protection and support of fair business competition shall be also required.

**2.3.1.** Strategic significance for state development and ensuring of the growth of national economy shall have a wealth of natural resources of our country. In this regard, the legislation on subsoil use and attracting investments in this scope shall be not only attractive for domestic and foreign investors, but shall consider global requirements of careful and rational relation to available resources.

Although Kazakhstan is rich in mineral raw materials resources, this advantage shall be used for ensuring as broad opportunities of modern development so for satisfying the needs of future generations.

Investments in development of “green economy” as it’s called shall be attractive, and stimulus for this are required to be provided in a current law forming thereby legal culture based on resource-saving values.

In such a manner, the legislation in this field shall reflect requirements to: high-technology approach in development of deposits; compliance with high-technology environmental standards upon implementing investment projects;

broad engagement of the national personnel in all the fields and at all the stages of implementing investment projects; extraction of mineral resources by foreign investors, as a rule, upon condition of transfer of technology and creation of the latest productions in the territory of Kazakhstan; transparency of the process of issuing permits for subsoil use.

**Footnote. Conception is supplemented by subsection 2.3.1 in accordance with the Decree of the President of the Republic of Kazakhstan dated 16.01.2014 No. 731.**

**2.4.** Civil law of Kazakhstan passed several stages of its development. The present Civil Code, being the largest codified act of the Republic laid down main principles of regulating commodity-money relations:

equality of the forms of ownership and its inviolability, freedom of contracts, equality of subjects of civil circulation.

At the modern stage of development of private law, the problems of correlating public legal and private legal methods of regulating public relations, and as derived from this, the limits of state interference into private entrepreneurial activity shall be brought to the first place.

It is necessary to optimize correlation between civil law and other branches of the law in recognition with public legal and private legal interests. By this it shall be considered that public legal relations may not be regulated by contractual and legal methods. Especially, this concerns the scope of ensuring the national and public security.

It is required to continue work on extension of optionality of private law that shall mean the opportunity for persons participated in a case to dispose own material and procedural rights at their own discretion inasmuch, as it is not prohibited by the Laws. By this, applying the principle of optionality shall not apply to civil legal relations concerning the public i n t e r e s t s .

It is important to determine general meaning of affiliated transactions, emphasizing that they are not prohibited, but in the cases established by the Law shall be subject to preliminary verification. Establishment of the fact of affiliation shall be the ground for possible recognition of transaction as invalid at the request of a person the legal interests of which are violated by this transaction.

The questions of status of joint stock companies shall require consideration in recognition of their legal nature and complexity of solved questions, as well as in the context of “public corporations” as they are called. It is required to solve conceptually the question on possibility of using the organizational legal form of joint stock company as non-commercial organization.

It is also necessary to consider the question of recording all the spectrum of securities in the Civil Code, participating in civil circulation.

Practice of applying civil legal rules shall express insufficient regulation of determining the losses inflicted by the violation of civil rights. In this regard, establishment of the procedure for determining the real damage and loss profit shall be essential.

Institute for recognizing transactions as invalid shall require improvement.

It is required to develop legislative stimulus of voluntary insuring transactions with participation of citizens, the following recognition of which contain the risk of seizing the subject of transaction from one of the parties.

In such a manner, it is necessary to clarify the meaning of transactions, their structure and consequences of non-fulfillment of transactions.

Practice shows necessity of legislative expansion of the types of proprietary rights, specifically including therein the meaning of easement.

Also, it is necessary to consider the question on expansion of the grounds for occurrence of proprietary rights. By this, it is required to clarify not only the structure of proprietary rights, but regime of using their separate types.

For the purpose of stimulating entrepreneurial activity it is required to consider practicability of including the agents into the number of subjects of civil law and regulation of the questions of agency agreement as widely applied in property turnover of contractual institute.

It is required to take measures on improvement of general and special rules of Civil Code on obligations.

It is necessary to give serious attention to adducing regulatory legal acts determining the right of intellectual property in accordance with international standards in this field, but in respect of national interests.

In the field of copyright law, the most important task is increase of the level of protection of particular copyright laws. Particularly, condition of protecting copyright laws of works posted in the network of Internet shall require deep examination.

Legal protection of engineering decisions – inventions of utility models and industrial patterns shall require improvement. It is necessary to refuse by law from protection documents on invention (innovative patent) issued without verification of engineering decision on the criteria of international novelty.

The following strengthening of protection of rights of foreign patent holders and investors, as well as broad information support of business community on modern character of Kazakhstan patent system shall be required for attracting advanced technology and high-technology investments.

Problem of the legislation on protection of intellectual property is the absence of the Laws on protection of undisclosed information and secrets of production (know-how), as well as secret inventions and firm names. This gap shall be fulfilled.

Question on accessory of objects of intellectual property created at the expense of means of state budget shall require own solution. At the present time, these objects shall belong to developers from among of which there are private persons. It is necessary to solve question by law on state body-owner of the rights of intellectual property.

Legal regulation of procedures for bankruptcy as well, especially the bankruptcy of individual entrepreneurs shall require improvement.

**Footnote. Subsection 2.4 is in the wording of the Decree of the President of the Republic of Kazakhstan dated 16.01.2014 No. 731.**

**2.4.1.** The issues of development of entrepreneurial legislation.

The Civil Code, now serves as the linchpin for all private, as well as entrepreneurial legislation, is not able to reflect the whole variety of basic legal relations in the modern economy, and even more so, to regulate the public relations in the field of entrepreneurship.

One of the consequences of this is the fast growth of the number of specialized laws, regulating entrepreneurial activity, over the last years.

So, some scopes of economy, come within the purview of the Civil code, shall be principally regulated by the special acts, at that not always by the laws, and frequently by the subordinate acts.

Besides, current law does not take into account variety of legal entities. In particular, the solution of the task of efficiency and compactness of the state management in the economic domain leads to regulation of legal status of subjects, vested with public functions. Such legal

entities shall exist in the Kazakhstan legal reality.

In this regard, depending on the resolution of the issue on division to the legal entities of public and private law, effectually adoption of appropriate measures, directed to specification of legal status of legal entities with participation of the state, the resolution of the issues of management and control of legal entities with participation of the state in a charter capital.

An entrepreneurial legislation came in for renewal. It is necessary a new quality legislative act, regulating this scope.

Entrepreneurial code shall become a guarantor of ensuring the balance of public and private interests upon carrying out of entrepreneurial activity by establishing of compulsory rules of conduct (prescriptions).

It is necessary specification and unification of conceptual framework, contained in the legislation, regulating an entrepreneurship, with fixing of unified terminology for this scope of public relations in the Entrepreneurial code.

In fact, this code shall be the main legal obstacle for the growth of administrative barriers in the scope of business, by this reflecting all the best that there is in the domestic and foreign practice of regulation of entrepreneurship.

In the contexts of improvement of business environment, it is necessary to create such conditions, at that the legal culture of business and business ethic would be developed by entrepreneurs themselves.

In such a manner, at the present moment is the pragmatic task of determination of unified basic commencements for the organization, state regulation and functioning of entrepreneurship in the Republic of Kazakhstan.

**Footnote. The conception is supplemented by subsection 2.4.1 in accordance with the decree of the President of the Republic of Kazakhstan dated 16.01.2014 No. 731.**

**2.5. Financial legislation** shall ensure positive environment for development and functioning of domestic financial market, protection of the rights of consumers of financial services and contribute to the creation of equal conditions for activity of financial organizations, support of fair competition in the financial market.

By this, considering the development trends of both the world and domestic economy, priorities of financial legislation shall be related to the improvement of supervisory process, based on the monitoring of financial stability of banks, assessment of potential risks, formation of flexible regulatory regime, dynamic response to the problematic issues in the activity of banks, as well as maximum approaching of the system of supervision of financial organizations to the world standards.

**Legal market regulation of securities** shall be directed to further development and competitive growth of national market of securities, creation of favorable conditions for its participants, base encroachment of issuers and line of financial instruments, development of investors base and ensuring protection of the interests of investors.

In order of contribution to the development of collective investment schemes, upon

simultaneous ensuring of protection of rights and legal interests of holders of stocks and investment trust shares, shall modernize legislation, regulating activity of investment funds.

Another important aspect of the development of the securities market and ensuring protection of the rights and legal interests of investors is the creation of stable and transparent functioning of organized securities market.

The legislation is intended to ensure favorable conditions for the functioning and development of the domestic financial market, protection of the rights of consumers of financial services and contribute to fair competition in the financial market.

Modern system of compulsory and voluntary insurance and a complete **insurance market** are formed and operate in the country. In the meanwhile the global context of the development of this market requires an adequate legal response at the national level, in recognition of existing systems in the world practice of insurance and domestic law enforcement practice. Within decision of legal issues of the insurance system in the conditions of active development of electronic commerce, there is demand for development of Internet - insurance and its normative-legal regulation.

An important instrument of market economy shall be **valuation activity**, the legal regulation of which also requires constant attention and improvement. In this regard, it is necessary a complex of organizational and legal measures, directed to:  
establishment of the state estimation standards;  
bringing of valuation activity in accordance with international requirements;  
improvement of the state system of regulation and self-regulation of valuation activity.

**2.6. Fundamental social rights and principles of building of social state are vested in the Constitution of the Kazakhstan. In this regard, one of the main tasks of the right is further formation of efficient mechanisms of **ensuring of social rights and implementation of modern social policy**.**

Social and legal policy of the state, bearing a complex, multi-industry character, is directed to the solution of whole spectrum of socially important problems. Regulatory matters of education and health care service, ensuring employment and social protection of population, environmental protection and non-admission of emergency situations shall be particularly referred to them.

In the conditions of market economy, existence of labour market and problems of employment of population, the issues of labor relations shall be essential. In this connection, it is necessary improvement of labour legislation on the basis of system analysis of practice of its application and recognition of international practice in this scope.

By this, the issues of further differentiation of labour and social legislation depending on the character of labour activity and working conditions of employees, as well as the issues of expansion scope of application and instruments of social partnership require to be worked out. It is necessary the legal regulation of issues of participation of disabled persons in the labour activity, carrying out by the collectives of national companies, national institutes of

development and other legal entities, the shareholder of which is the state. By this, it is required to provide the special requirements of security and working conditions for such persons in recognition of the state of their health.

Special attention of the state, its bodies and civil servants shall be directed to creation of effective organizational and legal regulators of social attitudes of citizens.

Every state servant shall understand that at his (her) workplace he (she) represents the state power, whereby the most carefully and with interest to relate to every opinion of citizens, prevent or remove any conflicts that arise, wherever and for what reason they did not arise.

The legislation in the social scope shall be mobile in recognition of dynamics of priorities of social policy of the state, expansion of the list and grounds of social benefits, provided by the state, creation of new forms of participation of citizens in determination of sources of funds, directed to the social security. The level of social protection and social security shall be systematically corrected depending on the growth of financial possibilities of the state that proposes continuous standard-setting process in this scope.

One of the prospective lines of development of social legislation shall be: use of existing and creation of new safe financial instruments, used upon placement of benefit assets; improvement of the system of social protection of separate categories of citizens, as well as persons, for which social payments are the sole source of livelihood.

Development and further improvement of **environmental legislation**, as well as in the context of its harmonization with international obligations and standards shall be essential for our country, in some regions of which there is a complicated ecological situation.

In order of improvement of the effectiveness environmental activity, it is required to clearly differentiate the mechanisms of legal regulation of the use of natural resources and their protection.

Environmental legislation shall encourage environmental management and observance of environmental standards, development of net output and environmentally safe behavior of citizens.

Numerous regulatory acts, regulation relations in the field of emergency situations of natural and technogenic character, civil defence, fire and industrial safety that let improve the quality and level of legal regulation in these scopes of public relations shall require improvement and consolidation.

**Footnote. Subsection 2.6 as amended by the Decree of the President of the Republic of Kazakhstan dated 16.01.2014 No. 731.**

**2.7.** Civil procedure law is appealed to ensure an access of justice, maximum enforcement of the right of participants of civil legal proceedings, timely protection and restoration of violated rights and freedom of the individual, interests of society and state.

Regulations of effective civil procedure legislation, with these objects in mind, shall consider the changes being in progress in full measure, subject to the rapid development of economy and necessity of resolution of legal disputes, increasing of legal grammatical

correctness of citizens.

Modern realities require introduction of a new system of protection of the rights of consumers, strengthening property rights protection and contractual obligations, which also provide correction of separate elements of legal proceedings and introduction of accelerated action proceedings.

Introduction of accelerated action proceedings is not possible without maintenance of operational system of legal proceedings.

New code of Civil procedure shall ensure flexibility of civil legal proceedings, having established differentiated terms for civil investigation with possible numerical cancellation of judicial instances in certain cases.

Measures on improvement of civil procedure legislation may be focused on:

1) maximum red tape reduction of the procedure of civil investigation, as well as in relation of entrepreneurs;

2) ruling of jurisdiction over the subject matters to the specialized courts on the basis of transfer from exceptionally subjective principle of ruling of jurisdiction to the subject-substantive principle, in other words, in recognition of categories of subjects, involved to the circle of legal proceedings, depending on character of legal relations;

3) further extension of the scope of simplified procedure civil legal proceedings, as well as by extension of the scope of application of writ proceedings, as well as simplification of legal proceedings on the cases, jurisdictional specialized courts;

4) optimization of the stages of preparation of cases to the proceedings in order of ensuring a rapid consideration and resolution of civil cases;

5) extension of possibilities of implementation of powers by the court of appeals instance on adoption of a new case decision (review of the case on merits) in order advancement of final resolution of the case and ensuring enforcement of the right to appeal of judicial acts;

6) consolidation of different ways and methods of reaching compromise between the parties of civil conflicts (mediation, brokering and other) both in legal and in extrajudicial procedure, as well as obligations of discussion of possibility of use of the measures, conciliation procedures upon preparation of the case to the proceedings, as well as development of non-judicial forms of protection of civil rights;

7) regulation of the procedure of maintenance of electronic legal proceedings and use of information technologies in the activity of courts. The case is optimization of information exchange between the courts and other state bodies without necessity of recovery of information from the parties on the case, on possibility of a series of remote procedural actions by video communication, television and video conferences;

8) ensuring of maximum discipline of participants of legal proceedings, provided the possibility of restriction of their procedural rights and financial interests upon impeding to the rapid and quality consideration of case, suppression of evidences, avoidance of participation in a court.

It is also possible the consideration of the issue of criminal prosecution within the civil legal proceedings on obvious crimes for contempt of a court.

Footnote. Subsection 2.7 is in the wording of the Decree of the President of the Republic of Kazakhstan dated 16.01.2014 No. 731.

2.8. The most important link of the legal policy of the state is **the criminal policy**, improvement of which is carried out by complex, interrelated correction of criminal, criminal-procedural and correctional law, as well as law enforcement.

Assessing the current state of the criminal law, it is possible to state that in general, its progressive development is ensured. Current Criminal code – working instrument of struggle against crime and criminal-legal protection of the rights and freedoms of person, interests of the state and society.

Further development of **criminal law**, as before, shall be carried out in recognition of two-vector criminal policy. Humanization shall principally concern the persons, for the first time committed a crime of little and medium gravity, as well as vulnerable groups – pregnant and single women, having dependent minor children, minors, people of advanced age. With that, it is necessary to conduct a tough criminal policy in future in relation of persons, guilty in commitment of heavy and especially grave crimes, flowing from prosecution, as well as upon repetition of crimes.

The most important development of criminal law is determination of possibilities of phased reduction of the scope of application of criminal repression by extension of conditions of relief from criminal punishment, first of all in relation to the persons, not presenting a big social danger (to the minors, persons, committed negligent crime, to other persons – upon availability of mitigating circumstances).

Adduction of criminal law in accordance with international treaties, ratified by the Kazakhstan is important. The case, in particular, is not only on decriminalization, but on reverse process of criminalization of defined types of infractions, as well as introduction of criminal responsibility of legal entities for some categories of criminal acts, as well as for ecologic, economic and corruption infractions.

It is necessary the new approaches in determination of criterion of classification and categorization of criminal infractions. As it is done in the series of countries of the world, Criminal code may be based in other classification of criminally punishable acts: crimes of relevant categories and criminal infractions. Conviction for the criminal infraction shall not entail a criminal record.

In such a manner, criminal policy of the state shall be directed to:  
introduction of category “criminal infraction” to the criminal law;  
further decriminalization of not presenting a big social danger of infractions in the economic scope, with transfer them to the category of administrative infractions, as well as reevaluation of gravity level of separate criminal infractions by transfer of crimes to the category of criminal infractions or mitigation of punishments (depenalization);

strengthening of criminal responsibility for the crime, encroaching on minors, their rights and legal interests, for terroristic, extremist and corruption crimes, for the crimes, committed as a part of organized crime group or criminal society;  
expansion of the scope of application of criminal penalties, not related with imprisonment, as well as exclusion of imprisonment from separate sanctions or reducing the maximum term of imprisonment;  
determination of a fine as one of effective types of criminal penalties and possibility of expansion of its application;  
establishing of proportionality of penalties in the sanctions of Articles of Criminal code, referred to one of the category of gravity and compliance with the principle of justice of penalty;  
introduction of alternative measures to criminal penalty of public enforcement;  
continuation of the course for the gradual reduction of the scope of application of the death penalty;  
improvement of the institutes of relief from criminal responsibility, service of sentence, conventional pre-schedule relief from serving the punishment.

Further improvement of criminal law related with improvement of quality of the Laws – a Law that restricts the constitutional rights and freedoms, shall conform to requirements of legal accuracy and predictability of consequences, i.e. its regulations shall be formulated with sufficient degree of accuracy and shall be based on clear criteria, allowing unequivocally distinguish a good behavior from illegal, eliminating the possibility of voluntary interpretation of provision of law.

**Footnote. Subsection 2.8 as amended by the Decree of the President of the Republic of Kazakhstan dated 16.01.2014 No. 731.**

**2.9.** Effective criminal policy of the state is not possible without optimal model of **criminal proceedings**. Thus, regarding the development prospects of criminal procedural law, it is necessary to emphasize that the current Criminal Procedure Code of the Republic basically brought the criminal justice system in line with the characteristics of a modern democratic, legal state. The main goal of the legislator was formation of the criminal procedure law, based on the recognition of the constitutional provisions on the rights and freedoms of person and citizen directly acting, defining the meaning, the content and application of the Laws and ensuring by justice.

Therefore, the development priority of criminal procedure law is further gradual implementation of fundamental principles of criminal proceedings, directed to the protection of the rights and freedoms of person.

This requires the development of optimal legal mechanisms, providing effective application of the criminal procedural legislation and the legislation on the operational-search activity, in order of rapid and full detection of crimes, exposure and bringing to the criminal responsibility the persons, committed them, a fair trial and a proper application of the

Procedure on criminal cases, established by the Law shall inviolately provide protection from unfounded accusation and conviction, from illegal restriction of rights and freedoms of person and citizen, in the case of illegal prosecution or conviction of the innocent - immediate and complete his (her) rehabilitation, as well as contribute to strengthening of legality and legal order, crime prevention, formation of respect for the right.

An important task is the strict observance of lawfulness, rights and freedoms of citizens upon implementation of the operational-search activity. In this context, it is necessary to strengthen the safeguards system of the rights and freedoms of citizens, to ensure privacy, responsible for the illegal use of the means and methods of operational - search activity.

In this context, it is necessary to develop scientifically-based legal approaches to the definition of the concept of privacy.

It is required to take measures on further development of adversarial principle of parties of prosecution and defense in criminal proceedings.

In such a manner, the basic directions of improvement of criminal procedure law are as follows :

- legislative regulation of the procedure of criminal proceedings in relation of criminal infractions with the use of the elements of protocol form;
- simplification and improvement of the effectiveness of criminal proceeding, as well as simplification of the procedure of pre-trial procedure;
- legislative exclusion of pre-investigation check;
- creation of conditions for expansion of application of preventive measures, alternative to arrest, as well as a pledge;
- gradual introduction of new institutions of restorative justice, based on conciliation of parties and compensation for damage caused;
- legislative development of the institute of procedural agreement;
- further improvement of mechanisms of provision of competent legal assistance on criminal cases not only to the accused persons and suspects, but also to victims, witnesses.

**Footnote. Subsection 2.9 as amended by the Decree of the President of the Republic of Kazakhstan dated 16.01.2014 No. 731.**

**2.10. In the penal scope** it is necessary to adopt the following set of measures.

In order minimization of involvement of citizens to the scope of criminal justice, criminal repression saving measures, it is necessary to create conditions for a wider application of criminal law measures that are not related to isolation from society. By this, the legislation and judicial practice requires developing approaches, wherein the choice of the type and measures under criminal law would be based primarily on accounting data on the most probable of its effectiveness in relation to a particular individual.

At the same time for more active application of measures by the courts, alternative to imprisonment, it is necessary to improve the effectiveness of their execution, which requires

institutional development of a specialized body responsible for the implementation of such measures .

Considering that imprisonment is still the main type of criminal penalty, it is necessary to take measures to increase the educational component of imprisonment, in which meanwhile prevail the component of penalty. In particular, it is necessary further development of the content, forms and methods of correctional educational impact on convicted on the basis of the principle of individualization of execution of penalty.

Actuality is the solution of problems of employment of convicted persons to imprisonment by engaging them in socially useful labour and / or training, social programs, re-socialization, as well as counter-drugs, anti-alcohol content or other forms of social activity .

Along with preservation and provision of high requirements to the discipline and procedure in the institutions of correctional system, it is necessary to strengthen measures on psychological and pedagogical ensuring of execution process, (service) of criminal penalties, on improvement the status and ensuring of social and legal protection of the personnel of correctional system .

Along with this, for the places of detention is essential to ensure the safety of personality, observance of rights and legal interests of persons, serving this type of penalty. Among the advanced directions in this scope, it is necessary a gradual transition to the celling order of retaining, wherein the convicted person, having possibility of movement and interpersonal communication in the daytime within the institution, at night time would be isolated in a separate room .

Preservation of the balance between the interests of society and the state on the penalty of convicted persons and observance of the rights and legal interests in the period of service of sentence contributes the established mechanisms of social control, to the development of which it is necessary to pay attention.

It is also important to improve the quality of medical care of persons being in the places of detention, particularly of disease prevention of persons serving a criminal sentence.

It is necessary the systematic measures directed to ensuring the purposeful state policy in the scope of re-socialization of citizens, released from places of detention, as a full member of society .

In general, the system of execution of criminal penalties shall be required to hereafter approach to the internationally recognized standards.

### **3. Basic directions of the development of law-enforcement and judicial system and human rights institutions**

**3.1.** In the course of the years of independence of the Kazakhstan, the **law enforcement system**, corresponding with the needs of a democratic and legal state has developed and in

general effectively functions.

At the same time, the law enforcement activity requires further development and improvement. In this regard, the main priorities in this activity shall be: struggle against crime, ensuring legality and public security, protection of rights and freedoms of citizens, ensuring unavailability of reaction of the state to any infractions, strict pursuit to the principle of “zero tolerance (tolerance)” to the infractions, rapid and full detection of crimes, exposure and bringing to the criminal responsibility the persons, committed them, preventive measures of infractions, interaction with the citizens in the struggle against crimes.

To solve these tasks, it is necessary not only to strengthen the law enforcement bodies, improve the forms and methods of their work, but also to ensure the stability of personnel policy, raise the requirements for qualification and discipline of law enforcement officers.

Within the regular phase of modernization of the national legal system, there is a need to reform of criminal, criminal procedural, penal and administrative and tort legislation by development and adoption of new editions of relevant codes that shall serve the interests of the protection of constitutional rights and freedoms of citizens and lead our law enforcement system to the level, permitting to adequately respond to contemporary callings.

Principally new look of criminal proceedings requires a readiness to that law enforcement and judicial systems, in general the state apparatus.

Over the period of two last decades, despite the measures taken, the changes in the law-enforcement coalition generally reduced to modernization measures within the Soviet paradigm.

With introduction of the new criminal and principally the criminal procedure law shall occur the system, fundamental changes in the law enforcement system.

Adaptation to the new conditions and ability to effectively work in the legislative environment, where the leading are the human rights, principally require improvement of activity of procuracy, which is the core of the law enforcement system of the country.

It is necessary to improve efficiency of supervisory activity of procuracy as basis of its function.

Jurisdictional bases of activity of the procuracy bodies, being in need of further improvement. Within this work, it is necessary to enhance the role and responsibility of prosecutor in pre-trial procedure, as well as by investigation of criminal cases by the bodies of procuracy, on crimes, presenting a grave social danger and complexity, as the component part of function of criminal proceedings, carrying out by the prosecutor.

It is required to continue improvement of effectiveness of the coordinating function of the procuracy bodies in relation to law enforcement activity, as well as by appropriate legal regulation of this function.

The main tasks of the internal affairs bodies are protection of public order and public security, the struggle against crimes against person, property and other common crimes.

From the effectiveness of activity of the **internal affairs bodies** depends security and

comfort of the citizens, the state of crime and the level of criminal situation in the country, therefore the process of improving of internal affairs bodies shall be focused on ensuring of rapid and adequate response to the criminal aspects and preventive measures of infractions.

**Bodies of financial police** , performing the tasks, imposed on it, on the struggle with economic and corruption crime, in a full measure justified its purpose.

Moreover, in the conditions of market economy, to the bodies of financial police is necessary to permanently improve the forms and methods of work, to have an opportunity to effectively counter to the economic and corruption criminality, permanently mimic in the modern context. To the financial police is necessary on the systematic basis to counter to the economic and corruption infractions, to identify and eliminate the causes and conditions, contributing to the occurrence of corruption. One of the main tasks of the bodies of financial police is to ensure the safety of the business, exception of unwarranted interference in its activity .

It is necessary to optimize the structure and functions of law enforcement bodies in order to establish of more effective organizational and administrative mechanisms and effective placement of appropriate functions, in connection with the essential meaning still have the issues on release of law enforcement bodies from unusual functions.

By this, upon conducting of administrative reform in the law enforcement bodies, it is necessary to consider peculiarities and specificity of their activity that the measures taken shall not involve reduction of their law enforcement potential, weakening of the possibilities in prevention crime .

The united legal standards and regulations of service are necessary for the law enforcement officers, as well as the special qualifying requirements on analogy with the qualifying requirements to the categories of administrative public positions, a competitive procedure for recruitment to the law-enforcement bodies is required to it.

Simultaneously it is required to pursue a line on a phased basis to the defined demilitarization of law enforcement bodies, maintaining the military and special ranks for military servants and law enforcement bodies, directly performing the basic tasks and functions, assigned to these bodies.

In order to ensure an effective activity of law enforcement bodies, it is necessary to establish the strict assessment criteria of activity, however not only on the quantitative indices , but also in terms of quality assessment parameters. The main performance indicator of law enforcement bodies should be the trust level of the citizens to them.

It is require to permanently work on improvement of the effectiveness and improvement of organization of the activity of the investigative branch, as well as to take measures, directed to the improvement of procedural status of the investigator.

Law enforcement bodies, being in need of the new management technologies. Mandatory standards for the provision of the state services, the implementation of the system " e-government" and service technologies (videoconferencing, electronic digital signatures,

local networks and other means of electronic / digital communications) in their activity, in particular, in their procedural interaction, related with sanctioning of measures of the public enforcement and investigative actions, conducting examinations and other may be approved by the separate measures in this direction. Being in need in improvement and procedure of granting of power of attorney and certification of precinct police inspectors, in which the opinion of population is fully considered.

It is also require to continue the work on the timely introduction and proper application of legal norms, directed to the national security protection, as well as prevention and suppression of the distribution of terrorism, ethnic and religious extremism, illegal migration, drug addiction and trafficking, human trafficking, computer crime, illicit manufacturing of and trafficking of firearms, international crimes of corruption character, as well as relating to the scope of money laundering.

An important task of the law - the determination of the foundations of national system of security information, the principle threats in this scope, mechanisms of implementation of the unified state policy in the scope of information security.

**Footnote. Subsection 3.1 as amended by the Decree of the President of the Republic of Kazakhstan dated 16.01.2014 No. 731.**

**3.2.** In general the **legal system** of the Kazakhstan corresponds with the needs of ensuring effective judicial protection of the rights and freedoms of citizens, legally protected interests of organizations and the state.

Development of judicial and legal system shall be carried out on the basis of continuity and phasing and shall be supposed on the following directions.

The basic vector of its development is the specialization of courts and judges, as well as development of the juvenile courts, creation of specialized courts on investigation of criminal cases, in the prospect, it is possible formation of tax and other specialized courts.

In the future, based on existing administrative courts, it is also necessary to establish a system of administrative justice, considering public disputes with the transfer of cases on administrative infractions in the jurisdiction of the courts of general jurisdiction.

In the results of improvement of legal system shall be excluded duplication of functions by various judicial instances.

According to the Basic Law of the judge upon administration of justice is independent and comply only with the Constitution and the Law (paragraph 1 of Article 77). Judicial act shall maximally exhaust a conflict, and not cause the new conflicts between the parties embroiled in litigation.

Prospects of development of the legal system are also related with the possibility of a phased expansion of the limits of judicial control in the pre-trial proceedings.

A system of arbitral and arbitration courts shall be developed.

Society of interested in the full, objective and impartial coverage of activity of judicial power. For this purpose, it is necessary to raise a level of openness and transparency of legal

system, in particular, by providing greater access to information on activity of the courts.

Introduction of modern means of fixation of judicial information shall contribute to the implementation of the principle of competitiveness in the legal proceedings. Systematic informatization of legal system shall provide operational information and legal support to the lawful process, simplification of procedure and reduction of terms of consideration of the cases, improvement of the effectiveness of enforcement of court decision.

Measures necessary to further improvement of procedure for the selection of judicial personnel, the issues of stiffening of qualifying requirements to the candidates to judges are essential, whereas professionalism and high moral qualities of judges shall be the basis of formation of the quality judiciary establishment. It is also necessary the strict control on the part of community of judges of compliance with the requirements with the Code of judicial ethics by the judges, adequate and prompt response to all violations permitted.

For the strengthening of guarantees of independence of judges, the most important issue is a full implementation of the requirements of the Constitution, that the financing of courts and provision of housing the judges "shall make possible of full and independent administration of justice", which supposes the gradual increasing the level of social protection of judges and logistic support, in recognition of financial possibilities of the state.

At the same time, for interfering in the administration of justice, demonstration a contempt of court, guilty persons shall bear responsibility, established by the Law.

The closing phase of legal proceedings is enforcement of judicial acts, it is therefore necessary to take measures, ensuring their strict implementation. In this regard, introduction of the institution of private officers of justice, along with the state judicial execution, an important measure of improvement of the effectiveness of legal proceedings. Within the mixed model of execution of judgments, only the state officers of justice shall have a right of enforcement documents on recoveries from the state.

It is necessary to get the strict execution of judicial acts, as well as by strengthening of responsibility for avoidance of enforcement of court decision, further expansion of the use of restrictive measures in relation of debtors strengthening of procedural judicial control of enforcement proceedings.

**Footnote. Subsection 3.2 as amended by the Decree of the President of the Republic of Kazakhstan dated 16.01.2014 No. 731.**

**3.3.** Construction of the legal state in Kazakhstan requires further improvement of specialized institutions related to the **protection of the rights and freedoms of citizens.**

An important mechanism in the system of protection of the rights and freedoms of person and citizen became the institute of the human rights Commissioner. Creation of this state human rights institution was a serious step of deepening of democracy in Kazakhstan.

Experience shows that it is required to consider the issue of improvement of the effectiveness of activity of this institution.

Leading role in the system of human rights institutions plays advocacy, which is the core

of the system of rendering of legal assistance to citizens.

Implementation of constitutional law by the citizens to get the competent legal assistance is the condition and guarantee of the access to justice. Mechanisms for the implementation of this law being in need of improvement.

Introduction of trials jury, transfer to the courts of sanctioning arrest positively impacted on the role of advocacy. However, procedural rights of lawyer as an active participant of criminal proceeding require the effective legal mechanisms of implementation.

The system of rendering of legal assistance requires improvement. First of all, it is necessary to improve the system of rendering of legal assistance to the persons with low income level.

It is required to consistently solve the problem of irregularity of provision of advocations in urban and rural areas.

The system of administration of payment for labour of advocates, providing a free legal assistance, is also required to correction. This system is necessary to make a consolidated and transparent that allows more efficiently use the budget funds.

It is also necessary, in recognition of the experience of countries, where the institute of compulsory liability insurance of lawyers is introduced, to consider the possibility of introduction of such insurance in our country.

One of the important task is improvement of the system of notarial activity. It is necessary the regulatory role definition of notaries as part of a legal infrastructure that provides additional stability and legal security of relations in the civil transaction, quality protection of the rights and legal interests of citizens and organizations. National model of notaries shall ensure the availability of notarial assistance over the whole territory of country.

#### **4. Legal groundwork of foreign policy and foreign economic activity**

Legal policy of the state in conditions of globalization shall have increasing international legal aspect. In this regard, one of the most important directions of this policy is legal groundwork of **foreign policy and foreign economic activity**.

Such activity aimed to protection of long-termed national interests in foreign policy scope, ensuring of mutually beneficial cooperation in international arena in bilateral and multilateral formats shall require adequate international legal regulation.

It is required to continue work on bringing of the national legislation into compliance with accepted international obligations and international standards. By this, in this work it is primarily necessary to be governed by internal needs and priorities in development of country

Balanced and weighted approach to conclusion of international agreements and participation in international organizations, to which the serious work on forecasting of social and economic, political and legal and other consequences shall precede, shall be required for

implementing the aims of foreign policy of the state.

International legal institutes and organizations shall be used actively for ensuring of the national interests of Kazakhstan in international arena, as well as for constructing safety, stable Central Asia, increase of attraction of the region.

## **5. Legal education, legal propaganda**

Component part of legal policy is legal regulation of scientific and educational activity that is important condition of ensuring of industrial and innovative development of country, increase of its intellectual potential.

In turn, a component part of scientific educational activity is **legal education, legal propaganda**, in other words the questions of legal culture. In this regard it is required to continue work on increase of legal sense of citizens, as well as legal literacy among state servants. It is necessary to expand volumes and increase quality of legal propaganda among the population through the mass media, including web-sites, to activate scientific investigations on essential problems of the legislation and law enforcement, especially in those branches of law that are the most in demand in daily living of citizens.

One of the questions linked closely with measures of organizational legal nature are the questions of legal education. Society and state are in need of juridical personnel of new formation, patriotically spirited and oriented to protection of rights and freedom of human and citizen, interests of society and the state. Exactly such approach shall form the basis of legal education system.

It is reasonable to go the way of consolidation of possibilities of the state on solving the problems of training of multiprofile legal personnel in modern conditions. Such approach shall allow avoiding dissipation of state resources and improve quality of training of legal personnel.

## **6. Conclusion**

Implementing provisions of the Conception of legal policy shall allow bringing of main ideas and principles of the Constitution of the Republic in the context of new stage of constructing legal state in Kazakhstan.

Effectiveness of implementing the Conception and respectively stability of the national law, efficiency of legal regulation shall depend on constructive interaction of all the branches of state power, quality of decisions adopted by bodies of power and responsibility of civil servants.

Complex development of Kazakhstan legislation and its effective applying in accordance with the principal directions of legal policy of the state established by this Conception shall

enable to the following strengthening of the regime of legality, compliance with constitutional rights and freedom of human and citizen, ensuring of stable social and economic development of the country, strengthening of Kazakhstan statehood.

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