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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

KAZAKHSTAN

THE LAW

**«ON INTRODUCTION OF AMENDMENTS
TO THE CONSTITUTION OF
THE REPUBLIC OF KAZAKHSTAN»^{*}**

^{*} Prepared by the Venice Commission Secretariat.

«On Introduction Of Amendments To The Constitution Of The Republic Of Kazakhstan»

To introduce to the Constitution of the Republic of Kazakhstan, ratified by the Republic's referendum on August 30th 1995 (Legislation of the Parliament of the Republic of Kazakhstan, 1996, No. 4, art. 217; 1998, No. 20, art. 245; 2007, No. 10, art. 68; 2011, No. 3, art. 29), the following amendments:

1. Paragraphs 1 and 2 of article 26 to be amended as follows:

“1. Every individual may privately own any legally obtained property.

2. The right of ownership is absolute and inviolable. Ownership, including the right of inheritance, is guaranteed by law. Adoption of laws or legal acts limiting or constraining the right of legally obtained private ownership is not permitted, unless otherwise provided for by the Constitution.”

2. Within article 44:

(1) to amend sub-paragraph (3) so that it shall read as follows:

“(3) after consultations with factions of the political parties, represented in the Mazhilis of the Parliament, present the candidature of the Prime Minister of the Republic to the Mazhilis for approval; appoint a candidate to the role of the Prime Minister of the Republic with the consent of the Mazhilis of the Parliament; dismiss the Prime Minister of the Republic; following a proposition by the Prime Minister made with the consultations with the Mazhilis of the Parliament, determine the structure of the Government, and to appoint and dismiss members of the Government, except for the ministers of foreign affairs and defence, who are appointed and dismissed by the President alone; accept the oath of the members of the Government; if necessary, chair the sessions of the Government regarding particularly important issues; repeal or suspend entirely or partially the legal authority and validity of the acts of the akims of either the oblasts, cities of significance to the Republic ,or the capital;”;

(2) to remove subparagraphs (8) and (9);

(3) to add subparagraph 10-(1) as follows:

“10-(1) in the interest of protecting human rights, civil liberties and rights of the citizen, and to ensure national security, sovereignty and unity of the state, appeals shall be submitted to the Constitutional Council to determine whether an enforced law or another legal act is constitutional, according to situations specified in article 91, paragraph 3 of the Constitution of the Republic of Kazakhstan;”;

(4) to amend subparagraph (18) to read:

“(18) form an ancillary State Security Service subordinate to him/her;”.

3. To remove article 45, paragraph (2).

4. To remove article 53, subparagraph (3).

5. To amend article 57, subparagraph (6) to read as follows:

“(6) have the right, provided the requisite support of no less than one third of the total number of the representatives in the chamber, to hear reports of the members of the Government of the Republic regarding the issues of their activities. Upon hearing the report, they have the right to authorise an appeal to the President of the Republic, to dismiss the member of the Government in the case of non-compliance with the laws of the Republic, provided that it is supported by a majority that exceeds two thirds of the representatives in the chamber, in a vote. In this instance, the President of the Republic shall discharge the member of the Government from office.”

6. To amend article 61, paragraph 2, to read:

“2. The President of the Republic shall have the right to determine the priority of consideration with bills, which means that relevant bills deemed a priority must be legislated as a matter of urgency during the current session of Parliament.”

7. To amend article 64, paragraph 2, to read:

“2. The Government shall be a collegial body, which in its activities is responsible to the President of the Republic, Mazhilis of the Parliament and to Parliament itself.”

8. To amend article 65, paragraph 2, to read:

“2. Suggestions on the structure and composition of the Government shall be submitted to the President of the Republic by the Prime Minister of the Republic after

consultation with the Mazhilis of the Parliament within ten days of the appointment of the Prime Minister.”

9. To amend article 66 in the following ways:

Amending subparagraphs (1) and (8), to read:

“(1) develop the main socio-economic political agenda and direction of the state, develop its defence capabilities, ensure security and public order by effectively organising their implementation; approving state programmes, and ensuring their successful implementation with the approval of the President of the Republic;”;

“(8) form, abolish and reorganise non-governmental central executive bodies, and appoint and dismiss their heads;”;

to add subparagraph 9-(1) as follows:

“9-(1) establish and approve a single financial system of remuneration for the workers of all bodies financed by the state budget, with the approval of the President of the Republic.”

10. To amend article 67, subparagraph (4), to read:

“(4) report to the President and the Mazhilis of the Parliament, on the key relevant areas of the Government’s activity, including any important decisions.”

11. To amend article 70, paragraph 1, to read:

“1. The Government shall resign its powers to the newly elected Mazhilis of the Parliament of the Republic.”

12. To amend article 72, paragraph 2, to read:

“2. The Constitutional Council shall consider the appeal requests of the President of the Republic in the cases stipulated by Article 44, subparagraph 10-(1) of the Constitution, as well as the appeal requests of courts, in cases stipulated by Article 78 of the Constitution.”

13. Amend article 79 paragraph 3, to read:

“3. The requirements for judges of the courts of the Republic of Kazakhstan shall be established by constitutional law.”

14. Amend article 81 to read:

“Article 81

The Supreme Court of the Republic of Kazakhstan shall be the highest judicial body for civil, criminal, or any other cases, which are under the jurisdiction of local or any other courts, and shall consider cases within its jurisdiction in cases prescribed by the law, providing interpretation on issues of judicial practice.”

15. Amend article 83 paragraph 1, to read:

“1. The prosecutor’s office, acting on behalf of the state, shall under the constraints and limitations prescribed by law, exercise the highest supervision over the lawfulness in the territory of the Republic of Kazakhstan. It shall represent the interests of the state in court, and conduct criminal prosecution on behalf of the state.”

16. Amend article 86 paragraph 5, to read:

“5. The powers of the Maslikhat can be revoked by the President of the Republic of Kazakhstan after consultations with the Prime Minister and Leaders of the Chambers of Parliament, as well as in the case of the Maslikhat taking the decision to dissolve itself”.

17. Amend article 87 paragraph 4, to read:

“4. Akims of oblasts, cities of the republican status and the capital, shall be correspondingly appointed to office by the President of the Republic of Kazakhstan with the consent of the Maslikhat of the oblasts, cities of republican status, and the capital. Akims of other administrative-territorial units shall be appointed or elected to office in the manner defined by the law. The President of the Republic of Kazakhstan shall have the right to release akims from office at his/her own discretion.”

18. In article 91:

(1) amend paragraph 2, to read:

“2. State independence, its unitary status and the territorial integrity of the Republic of Kazakhstan and the structures of government set by the Constitution can not be changed;

(2) to add paragraph 3 as follows:

“3. Amendments and additions to the Constitution of the Republic of Kazakhstan, shall be subject to a referendum in the Republic, or subject to the consideration of the Parliament of the Republic of Kazakhstan upon confirmation by the Constitutional Council of their compliance with the requirements, established by paragraph 2 of this article.”

**Order of the President of the Republic of Kazakhstan
Regarding nationwide discussions of the Republic of Kazakhstan’s bill,
entitled: “On Introduction of Amendments to the Constitution of the Republic of
Kazakhstan”**

1. To present the bill of the Republic of Kazakhstan, entitled “On Introduction of Amendments to the Constitution of the Republic of Kazakhstan” (henceforth nominally referred to as “the Bill”) for nationwide discussions, taking place from January 26th 2017, to February 26th 2017.

2. To publish the Bill in the mass media.

3. The working group responsible for determining the redistribution of powers between the separate branches of the government is responsible for the oversight and provision of a summary and analysis of the proposals put forward during the nationwide discussions. They shall amend and complete the Bill with a consideration of these proposals, before submitting it for consideration to the President of the Republic of Kazakhstan.

President of the Republic of Kazakhstan, N. Nazarbayev

Akorda, Astana

January 25, 2017

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