



## **On Prosecutor's office**

### *Unofficial translation*

Law of the Republic of Kazakhstan of June 30, 2017 No. 81-VI.

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This Law shall determine the status, competence, organization and procedure for the activity of Prosecutor's office of the Republic of Kazakhstan.

## **Chapter 1. GENERAL PROVISIONS**

### **Article 1. Purpose of Prosecutor's office**

Prosecutor's office on behalf of the state shall carry out, within the limits and forms established by the Law, supreme supervision over the observance of legality on the territory of the Republic of Kazakhstan, represent the interests of the state in court and on behalf of the state carry out criminal prosecution.

### **Article 2. Legal basis of activity of Prosecutor's office**

The competence, organization and procedure for the activity of Prosecutor's office shall be determined by the Constitution and the Law.

### **Article 3. Principles of organization and activity of prosecution bodies**

1. Prosecutor's office shall be a unified centralized system with subordination of inferior prosecutors to superior ones and the General Prosecutor.

2. Prosecutor's office shall carry out its powers on the principles of legality, independence from other state bodies, officials and accountability only to the President of the Republic of Kazakhstan.

3. Interference in activity of prosecution bodies in carrying out their functions and powers shall be prohibited.

4. Prosecutor's office shall not have the right to interfere in the activity of entrepreneurial entities, organizations and state bodies, to assign inspections of their activity, to request information or documents on the grounds not provided for by the Law.

5. Prosecution bodies shall act publicly to the extent that this does not contradict the requirements of the legislation on protection of rights and freedoms of a human and a citizen, on protection of state secrets and other secrets protected by the Law.

### **Article 4. Tasks of Prosecutor's office**

Prosecutor's office, within the limits established by the Law, shall carry out the following tasks:

1) protection and restoration of rights and freedoms of a human and a citizen, legitimate interests of legal entities, society and the state;

2) identification and elimination of violations of the Law, causes and conditions contributing to them, as well as their consequences;

3) coordination of activity of law enforcement and other state bodies on ensuring legality, law and order and struggle against criminality;

4) other tasks determined by the Law and acts of the President of the Republic of Kazakhstan.

## **Chapter 2. SPHERES OF PROSECUTOR'S SUPERVISION**

### **Article 5. Main directions of Prosecutor's supervision**

Within the limits and in accordance with the procedure established by the Law, prosecutor's office shall carry out supreme supervision (hereinafter - supervision) of the legality of:

1) the activity of state, local representative and executive bodies, local self-government bodies and their officials, other organizations, regardless of the form of ownership, as well as acts and decisions adopted by them;

2) judicial acts that have been enforced;

3) executive proceedings and proceedings on administrative offenses;

4) the activity of law enforcement and special state bodies in the spheres of: pre-trial investigation, operational-search and counterintelligence activity; execution of criminal sentences and use of other measures of state coercion; compliance with international treaties of the Republic of Kazakhstan;

5) state legal statistics and special accountings;

6) other directions determined by the Law.

### **Article 6. Subject, forms and limits of supervision**

1. Prosecutor's office shall carry out supervision over the legality of acts, actions (inactions) of state, local representative and executive bodies, local self-government bodies and their officials, and in exceptional cases, on behalf of the President of the Republic of Kazakhstan or the General Prosecutor, other organizations regardless of their form of ownership.

2. Supervision shall be carried out by conducting inspections and analysis of the state of legality, as well as evaluation of acts that have been enforced.

3. Inspection of compliance with the legality shall be assigned and conducted by the prosecutor within his (her) competence on the basis of instructions of:

1) the President of the Republic of Kazakhstan;

2) the General Prosecutor of the Republic of Kazakhstan.

4. Decisions of the deputies of the General Prosecutor, regional prosecutors and prosecutors equated to them, district prosecutors and prosecutors equated to them on assignment and conduct of inspections of the activity of state, local representative and

executive bodies, local self-government bodies and their officials shall be taken to protect rights, freedoms and legitimate interests of:

- 1) persons who, due to physical, mental and other circumstances, cannot independently carry out their protection;
- 2) unlimited circle of persons;
- 3) persons, society and the state, if it is necessary to prevent irreversible consequences for the life, health, or safety of the Republic of Kazakhstan.

5. Inspections, except for those conducted on the basis of paragraph 3 of this Article or when carrying out supervision over the observance of legality in the activity of law enforcement and special state bodies, may be assigned only in cases of establishing the fact of non-fulfillment or improper fulfillment of their powers by other authorized state bodies of control and supervision, the competence of which includes the relevant issues.

6. When carrying out supervision, prosecution bodies shall not replace the functions of other state bodies.

#### **Article 7. The procedure of conducting inspections**

1. The prosecutor shall entrust the inspection to an authorized state body, whose competence includes its conduct, except in the following cases:

- 1) provided for by subparagraph 1) of paragraph 3 of Article 6 of this Law, as well as inspections conducted in carrying out supervision over the observance of legality in the activity of law enforcement and special state bodies;
- 2) conflict of interests in the activity of this body or its officials;
- 3) when the reason for assignment of inspection was a complaint against the decisions and actions (inactions) of this body or its officials.

The competent body shall be obliged to inform the prosecutor about the results of inspection within the period established by the Law.

2. In the cases provided for in subparagraph 1), 2) and 3) of paragraph 1 of this Article, the inspection shall be carried out by the prosecutor.

3. A resolution on conducting an inspection shall be issued, which is registered with the authorized state body on legal statistics and special accountings.

Inspection of compliance with the Law shall be carried out within not more than thirty calendar days.

If it is necessary to request additional materials, as well as due to significant amount of inspection, the period of its conduct in exceptional cases may be extended for no more than thirty days and only in agreement with the General Prosecutor.

An inspection may be suspended in cases of assignment of expertise, as well as the need to obtain information and documents from foreign countries – before they are received, as well as in other cases that prevent an inspection.

Calculation of term of conducting the suspended inspection proceeds from the date of its renewal.

This order of registration of resolutions on assignment of inspections and terms of their conduct shall not apply to inspections carried out within the framework of criminal procedure, criminal enforcement legislation, legislation on enforcement proceedings, administrative offenses, operational-search and counterintelligence activity.

4. An inspection may be carried out only by those persons who are indicated in the resolution on assignment of inspection.

5. When carrying out an inspection, the prosecutor shall not have the right to:

1) require the provision of documents, information, if they are not the objects of inspection or do not relate to the subject of inspection;

2) exceed the established terms for inspection;

3) interfere with normal functioning of the subject under inspection.

### **Article 8. Analysis of the state of legality**

1. The procedure for conducting analysis of the state of legality, including using access to information systems and resources integrated with the information exchange system of law enforcement, special state and other bodies, shall be determined by this Law, other legislative acts and acts of the General Prosecutor.

2. The analysis shall be carried out without a visit by prosecutors of subjects (objects) by studying statistical data, information from state and international organizations, the media, materials of civil and criminal cases, cases of administrative offenses, as well as other sources of information.

The results of the analysis shall be issued in the form of a certificate. According to the results of analysis, measures of prosecution supervision or response shall be taken in accordance with this Law.

### **Article 9. Rights and obligations of inspected subjects**

1. The inspected subjects or their authorized representatives at carrying out inspections by prosecutors shall have the right:

1) not to allow persons who arrived to conduct an inspection to the object, in the following cases:

non-provision the resolution on assignment an inspection to the subject under inspection;

conducting an inspection without registration with the bodies of legal statistics and special accountings, when such registration is obligatory;

expiration of the terms specified in paragraph 3 of Article 7 of this Law;

conducting an inspection by the persons not specified in the resolution on assignment of the inspection;

absence of a document confirming permission to access to state secrets, when this is provided for by legislation;

2) not to provide information and documents:

not related to the subject of conducted inspection or the period specified in the resolution on assignment of inspection;

containing state secrets or other secrets protected by the Law in the absence of an appropriate permit or a document giving the right to acquaintance with such information and documents;

3) to appeal against the resolution on assignment an inspection, as well as actions (inactions) of officials of the prosecution bodies in the manner prescribed by the Law.

2. The inspected subjects or their authorized representatives during the inspections by prosecutors shall be obliged to:

1) ensure unhindered access of officials of prosecution bodies to the territory and premises of the inspected subject.

Access of officials of prosecution bodies to the territory and premises of secure objects shall be provided taking into account the requirements for access control and intra-site regimes established in the inspected organization;

2) in compliance with the requirements for protection of state secrets or other secrets protected by the Law, to provide officials of prosecution bodies with documents (information) on paper and electronic carriers or their copies to be submitted to the certificate of inspection results, as well as access to information systems and resources of bodies and organizations integrated with the information exchange system of law enforcement, special state and other bodies, within the scope of inspection;

3) to familiarize and receive, under signature, the resolution on assignment an inspection and a certificate of its results;

4) to provide necessary conditions for the persons carrying out an inspection in accordance with the requirements of safety and labor protection.

**Article 10. Supervision over compliance with the Constitution, laws and acts of the President of the Republic of Kazakhstan, acts and decisions of the Government, other state, local representative and executive bodies, local self-government bodies and their officials, as well as other organizations**

1. Prosecutor's office shall carry out supervision over compliance with the Constitution, laws and acts of the President of the Republic of Kazakhstan:

1) acts and decisions of the Government, other state, local representative and executive bodies, local self-government bodies and their officials, with the exception of acts specified in paragraph 2 of Article 24 of this Law;

2) acts and decisions of other organizations regardless of the form of ownership, if these acts and decisions concern an unlimited number of persons or are of a public nature.

2. The supervision provided for in this Article shall be carried out by prosecutor's office by assessing the adopted acts and decisions in the manner determined by the act of the General Prosecutor.

**Article 11. Supervision over the observance of legality in pre-trial investigation**

Prosecutor's office shall carry out supervision over the observance of legality during pre-trial investigation in accordance with the powers determined by criminal procedure legislation.

#### **Article 12. Supervision over the observance of legality of operational-search, counterintelligence activity and secret investigative actions**

1. Supervision over the observance of legality of operational-search activity and secret investigative actions shall be carried out in the manner prescribed by criminal procedure legislation, this Law, the Law of the Republic of Kazakhstan "On Operational Investigations", acts of the General Prosecutor and regulatory legal acts of law enforcement and special state bodies coordinated with it.

Supervision over the observance of legality of counterintelligence activity shall be carried out in the manner prescribed by the Law of the Republic of Kazakhstan "On Counterintelligence Activity", joint regulatory legal acts of the General Prosecutor and bodies engaged in counterintelligence activity.

2. In carrying out supervision the prosecutor shall:

1) sanction conducting operational-search, counterintelligence activities, check the legality of their conduct, as well as the legality of conducting secret investigations in the cases established by legislation;

2) initiate conducting of operational-search activities;

3) terminate operational-search activities when revealing violations of legality, rights and freedoms of a human and a citizen;

4) perform other powers provided by the Law.

**Footnote. Article 12 as amended by the Law of the Republic of Kazakhstan dated 21.12.2017 No. 118-VI (shall be enforced from 01.03.2018).**

#### **Article 13. Supervision over the legality of judicial acts in criminal, civil and administrative offenses that have entered into legal force**

When carrying out supervision over the legality of judicial acts that have entered into force, the prosecutor in the manner and limits established by the Law shall:

1) request from the court criminal, civil cases and cases on administrative offenses in which judicial acts have entered into legal force, as well as materials concerning execution of the sentence, study legality of the adopted acts and, if there are grounds, protest them;

2) consider petitions for protest against judicial acts that have entered into legal force;

3) perform other powers provided by the Law.

#### **Article 14. Supervision over the legality of enforcement proceedings**

When carrying out supervision over the legality of enforcement proceedings, the prosecutor shall:

1) check the legality of actions of the bailiff in the cases provided for by paragraphs 3 and 4 of Article 6 of this Law;

1-1) in the cases established by law, authorize decisions of bailiffs;

2) withdraw an executive document from the production of a private bailiff and transfer it to a state bailiff in the cases established by the Law;

3) perform other powers provided by the Law.

**Footnote. Article 14 as amended by the Law of the Republic of Kazakhstan dated 21.01.2019 № 217-VI (shall be enforced upon the expiry of three months from the date of its first official publication).**

### **Article 15. Supervision over the legality of execution of punishments and the use of other measures of state coercion**

1. When carrying out supervision of the legality of execution of punishments and the use of other measures of state coercion, the prosecutor, in accordance with the procedure established by legislation, shall check:

1) the legality of arrest, detention of persons in penitentiary system institutions, special institutions and the guardhouses;

2) observance of the rights of detainees, persons in custody and serving criminal sentences, conditions of their detention, as well as performance by these persons of the duties assigned to them by the Law;

3) the legality of execution of a punishment not related to deprivation of liberty.

2. When carrying out supervision, the prosecutor shall have the right to:

1) visit the places of deprivation of liberty and other institutions executing punishments and other measures of state coercion for the purpose of inspection at any time;

2) coordinate the acts of administration of institutions executing punishments in cases established by the Law;

3) abolish disciplinary sanctions and incentives applied in violation of the Law to persons in custody serving a sentence in the places of deprivation of liberty, release them from disciplinary detention facility, a solitary confinement by his (her) resolution;

4) carry out other powers provided by the Law.

### **Article 16. Supervision over the compliance with international treaties of the Republic of Kazakhstan**

When carrying out supervision over the compliance with international treaties of the Republic of Kazakhstan, the prosecutor shall have the right to:

1) participate in the development of drafts of international treaties of the Republic of Kazakhstan;

2) conclude international treaties of the Republic of Kazakhstan on extradition, legal assistance in criminal matters, transfer of the convicted and persons suffering from mental disorders, as well as on interaction and cooperation with the competent bodies of foreign states and international organizations in accordance with the procedure established by the Law;

3) consider petitions for extradition, transfer of convicted persons to imprisonment for further serving of punishment, as well as the persons suffering from mental disorders (

diseases), for compulsory treatment, transit of persons, sending and execution of instructions for conducting procedural actions;

4) represent the interests of the Republic of Kazakhstan in the competent bodies of foreign states on criminal prosecution issues;

5) perform other powers stipulated by the Law and international treaties of the Republic of Kazakhstan.

### **Article 17. Supervision over the legality in the sphere of state legal statistics and special accountings**

Prosecutor's office shall carry out supervision over the legality in the sphere of state legal statistics and special accountings in accordance with the procedure established by the Law of the Republic of Kazakhstan "On State Legal Statistics and Special Accounts", this Law and other legislation.

## **Chapter 3. REPRESENTATION OF INTERESTS OF THE STATE IN THE COURT AND CRIMINAL PERSECUTION**

### **Article 18. Representation of interests of the state in the court**

Prosecutor's office shall represent interests of the state in the court on the basis of and in the manner prescribed by the criminal procedure, civil procedure legislation and legislation on administrative offenses.

### **Article 19. Criminal Prosecution**

Prosecutor's office on behalf of the state shall carry out criminal prosecution in accordance with the criminal, criminal procedure legislation.

## **Chapter 4. OTHER DIRECTIONS OF PROSECUTOR'S ACTIVITY**

### **Article 20. Coordination of activity on ensuring the legality, law and order and struggle against criminality**

1. Coordination of activity of law enforcement and other state bodies on ensuring the legality, law and order and struggle against criminality shall be carried out by the prosecution bodies in order to ensure interaction of these bodies, mutual exchange of information and coordination of their actions in implementation of common tasks. This activity shall be carried out by the prosecution bodies in the framework of permanent acting coordination councils, which are created under the General Prosecutor's office, prosecutor's offices of the regions and prosecutor's offices equated to them.

2. Coordination councils shall carry out their activity in accordance with the Constitution, laws, the Provision on the Coordination council for ensuring the legality, law and order and struggle against criminality.

3. The provision on the Coordination council for ensuring the legality, law and order and struggle against criminality shall be approved by the President of the Republic of Kazakhstan.



## **Article 21. Consideration of appeals**

1. The prosecution bodies shall consider appeals in cases provided for by subparagraph 1) of paragraph 3 of Article 6 of this Law, as well as violations of legality or the threat of their occurrence in cases provided for by paragraph 4 of Article 6 and subparagraphs 1), 2) and 3) of paragraph 1 of Article 7 of this Law.

2. Appeals shall be considered by prosecutors in the terms established by the Law of the Republic of Kazakhstan "On the procedure for considering appeals of individuals and legal entities" and other laws.

In the case of assignment of inspection in connection with consideration of the appeal, the procedure and terms of its conduct shall be determined by Article 7 of this Law.

3. The requirements of paragraphs 1 and 2 of this Article shall not apply to the appeals, the procedure for consideration of which is established by criminal procedure, civil procedural legislation, legislation on administrative offenses, as well as in the sphere of operational-search and counterintelligence activity.

4. Anonymous appeals to the prosecution bodies shall not be subjects to consideration, except in the cases provided for by the Law. The prosecutor shall have the right not to disclose the source of information in the interests of the applicant.

## **Article 22. Activity of departments, institutions and educational organizations of the prosecutor's office**

Departments, institutions and educational organizations of the prosecutor's office shall:

1) form state legal statistics and keep special accountings, automate processes in order to ensure integrity, objectivity and sufficiency of statistical indicators;

2) organize and carry out professional training of persons entering the law enforcement service for the first time, with the exception of employees of internal affairs bodies, professional retraining, advanced training of law enforcement officers, including those in the Presidential reserve of the leadership of law enforcement bodies of the Republic of Kazakhstan, implementation of postgraduate education programs, as well as coordination and conduct of interdepartmental scientific research in the sphere of law enforcement in cases provided for by the legislation;

3) perform other powers provided by the Law.

## **Chapter 5. LEGAL ACTS OF PROSECUTOR'S OFFICE**

### **Article 23. System of legal acts of Prosecutor's office**

1. The system of legal acts of Prosecutor's office shall consist of acts of:

1) prosecutor's supervision: protest, sanction, instruction, presentation, resolution;

2) prosecutor's response: petition, application, appeal, explanation of the Law;

3) regulating issues of organization and activity of Prosecutor's office: orders, arrangements, regulations, instructions, reglaments and others.

2. Acts of prosecutor's supervision made on the basis, in the manner and within the limits established by the Law, shall be obligatory for consideration by the bodies, organizations and officials to whom they are addressed. No consideration of acts of Prosecutor's supervision shall entail responsibility established by the Law.

#### **Article 24. Protest**

1. Prosecutor shall bring a protest on regulatory and other legal acts and actions (inaction) of state bodies and officials contradicting the Constitution, laws, acts of the President of the Republic of Kazakhstan and international treaties ratified by the Republic.

2. Legislative acts, acts of the President of the Republic of Kazakhstan, the Administration of the President of the Republic of Kazakhstan, the constitutional Council, normative resolutions of the Supreme Court, acts of the Supreme Judicial Council, the accounts Committee for control over execution of the Republican budget (based on the results of inspections), regulatory acts of a technical nature shall not be subjects to protest by prosecutors.

3. Protest shall be brought to the body or official who adopted illegal act, decision, or to a superior body or superior official. The illegal actions (inaction) of the body or official shall be appealed in the same procedure.

4. Protest of a prosecutor shall be subject to consideration by the relevant body or official within ten calendar days.

Prosecutor shall have the right to establish other term of consideration of the protest, provided by necessity of preparation and adoption of decision on it, but not less than ten calendar days.

The body or official shall be obliged to notify a prosecutor about the time and place of consideration of the protest.

5. In the protest, a prosecutor shall demand the abolition of illegal act or bringing it into compliance with the Constitution, laws, acts of the President of the Republic of Kazakhstan and international treaties ratified by the Republic, as well as termination of illegal action (inaction) of the official and restoration of violated right.

6. Before making a decision on the protest, the General Prosecutor, deputies of the General Prosecutor, regional prosecutors and prosecutors equated to them shall have the right to suspend execution of a protested legal act or action, if their execution has led or may lead to irreversible consequences for the life and health of people or for the security of the Republic of Kazakhstan.

7. The grounds, procedure and terms for bringing protests against legally effective judicial acts, as well as suspension of their execution shall be determined by the criminal procedure, civil procedure legislation and the legislation on administrative offences.

#### **Article 25. Sanction**

1. Prosecutor, in cases established by the Law, shall give a sanction (consent) on performing certain actions of a law-limiting nature, obtaining information containing a secret protected by the Law.

2. The sanction (consent) or refusal of its giving shall be formed by a prosecutor in the form of resolution and signature on regulation of official after studying materials on the basis of which the sanction is requested.

In case of refusal to give a sanction (consent), its reasons and grounds shall be indicated. The sanction (consent) may also be certified by means of electronic digital signature in accordance with the legislation on electronic document and electronic digital signature.

#### **Article 26. Instruction**

1. Prosecutor shall give written instructions on the issues of:

- 1) pre-trial investigation;
- 2) operational-search activity and secret investigative actions;
- 3) in other cases established by the Law.

2. Instructions of a prosecutor given within its competence shall be obligatory for execution by the heads and the staff of the bodies performing pre-trial investigation, operational-search activity, secret investigative actions.

#### **Article 27. Submission**

1. Prosecutor shall make a submission within the limits of his (her) competence:

- 1) on elimination of violations of legality;
- 2) on elimination of the reasons and conditions contributing the commitment of criminal and other offences;
- 3) on the issues of deprivation of immunity of persons having this right in accordance with the Constitution of the Republic of Kazakhstan;
- 4) in other cases established by the Law.

2. Submission shall be subject to consideration by an official or body within thirty calendar days, and in cases if there may be irreversible consequences for the life and health of a human and a citizen, security of the state, within the period established by a prosecutor.

Prosecutor shall have the right to participate in consideration of submission. Prosecutor shall be informed about the time and place of consideration of submission by a state body or official not later than three working days before the date of consideration of submission.

The results of consideration of submission and adopted measures shall be reported to the Prosecutor's office within three working days from the date of its consideration.

#### **Article 28. Resolution**

1. Prosecutor shall make resolutions provided for by the criminal procedure legislation, the legislation on administrative offences, on initiation of disciplinary proceedings, conducting inspection, delivery, suspension of the legal act, as well as in other cases provided for by the Law.

2. The resolution of a prosecutor shall be subject to obligatory execution by the authorized body or official.

#### **Article 29. Petition**

In the manner prescribed by the criminal procedure, civil procedural legislation and the legislation on administrative offenses, a prosecutor shall have the right to bring a petition for review of judicial acts that have not entered into legal force.

#### **Article 30. Application**

1. Prosecutor shall have the right to file an application (claim) with the court in the manner and on the grounds established by the Law.

2. In case of rejection of the acts of prosecutor's supervision or leaving them without consideration, a prosecutor shall apply to the court for recognition of the acts, decisions and actions (inaction) of the bodies and officials as illegal.

#### **Article 31. Appeal**

The General Prosecutor, deputies of the General Prosecutor, regional prosecutors and prosecutors equated to them shall have the right to address officials, state bodies, legal entities and individuals in order to ensure legality and public safety, prevent offenses, and protect the rights and freedoms of a human and a citizen.

The appeal shall be distributed using the mass media or other public means.

#### **Article 32. Interpretation of the Law**

In order to ensure public safety, prevent offenses or if there is information about imminent acts being prepared, a prosecutor in written and (or) verbally shall explain the individuals and legal entities about the inadmissibility of violations of the legality and responsibility established by the Law.

#### **Article 33. Publication of acts of prosecutor's supervision and acts of prosecutor's response**

To ensure the publicity of its activity, the prosecution bodies shall have the right to publish acts of prosecutor's supervision and response to illegal actions (inaction) and decisions of bodies and officials violating the rights, freedoms and legitimate interests of a human and a citizen, society and the state, subject to restrictions, established by legislation in the mass media.

#### **Article 34. Appeal against actions (inaction) and acts of a prosecutor**

1. Actions (inaction) and acts of a prosecutor may be appealed to a superior prosecutor or to the court in the manner prescribed by the Law.

2. The court or a superior prosecutor may, prior to making a decision on the application (complaint) on actions or acts of a prosecutor, suspend their execution.

3. A superior prosecutor may cancel, withdraw, suspend or change the acts of an inferior prosecutor on the appeals of interested persons or on his (her) own initiative.

### **Chapter 6. THE SYSTEM OF BODIES OF PROSECUTOR'S OFFICE**

### **Article 35. The system of bodies of Prosecutor's office**

1. The unified system of bodies of Prosecutor's office of the Republic of Kazakhstan shall be formed by the General prosecutor's office, regional prosecutor's offices and equated to them (prosecutor's offices of cities of republican significance and the capital city of the Republic of Kazakhstan, main military and transport prosecutor's offices), district and equivalent to them city, interdistrict, as well as specialized prosecutor's offices (military, environmental, transport, prosecutor's offices of special objects).

2. Departments, institutions, educational organizations that are part of a unified system of prosecution bodies may be formed under the prosecutor's office.

3. Prosecution bodies have their own symbols, the description of which shall be approved by the General Prosecutor.

4. Education, reorganization and liquidation of bodies, institutions, departments, educational organizations of the prosecutor's office, determination of their status and competence shall be carried out in the manner prescribed by the Law.

### **Article 36. The General Prosecutor and his (her) deputies**

1. The General Prosecutor shall be:

1) appointed by the President of the Republic of Kazakhstan with the consent of the Senate of Parliament for a period of five years;

2) dismissed by the President of the Republic of Kazakhstan;

3) accountable to the President of the Republic of Kazakhstan;

4) during his (her) term of office cannot be subjected to arrest, detention, house arrest, delivery, administrative measures imposed in the court, brought to criminal responsibility without the consent of the Senate of Parliament, except in cases of detention at the crime scene or committing grave or especially grave crimes.

2. The first deputy and deputies of the General Prosecutor shall be appointed and dismissed by the President of the Republic of Kazakhstan.

### **Article 37. Powers of the General Prosecutor**

The General Prosecutor shall:

1) carry out the highest supervision over the observance of legality on the territory of the Republic of Kazakhstan, protest regulatory and other legal acts contradicting the Constitution, laws, acts of the President of the Republic of Kazakhstan and international treaties ratified by the Republic within the limits and forms established by the Law;

2) manage the activity of the subordinate prosecutor's offices;

3) be the chairman of the Coordination council for ensuring legality, law and order and struggle against criminality under the General prosecutor's office;

4) issue orders and instructions obligatory for execution by all employees and workers of bodies, departments, institutions and educational organizations of a prosecutor's office;

5) determine officials in the system of prosecution bodies, to whom he (she) delegates his (her) powers, except for the powers of the General Prosecutor, directly provided by legislative acts and acts of the President of the Republic of Kazakhstan;

6) adopt regulatory legal acts within his (her) competence:

on the issues of application of the norms of criminal procedure legislation, legislation on operational-search activity;

on the issues of legal statistics and special accountings, obligatory for all subjects of legal statistics;

on the issues of formation, access, use, storage, protection and destruction of information from the information exchange system of law enforcement, special state and other bodies;

determining the procedure for personal appointment of individuals and representatives of legal entities by officials of the prosecution bodies;

determining the procedure for admission to study at educational organization of a prosecutor's office;

determining the procedure for conducting interdepartmental scientific research in the sphere of law enforcement, their coordination and monitoring;

other regulatory legal acts in accordance with legislation;

7) in cases stipulated by the Law, coordinate regulatory legal acts on the issues of pre-trial investigation, operational-search and counterintelligence activity;

8) make proposals to the President of the Republic of Kazakhstan on approval of the position, structure and total staff number of a prosecutor's office;

9) approve the provision (charter) of prosecutor's offices of regions, districts, prosecutor's offices equated to them, institutions and educational organizations of a prosecutor's office;

10) make a submission to the President of the Republic of Kazakhstan on appointment and dismissal of the heads of departments and educational organizations of a prosecutor's office;

11) with the consent of the President of the Republic of Kazakhstan, appoint and dismiss prosecutors of regions and prosecutors equated to them;

12) with the exception of employees whose labor relations in accordance with the Law are within the competence of superior officials, appoint and dismiss the heads of institutions, deputy heads of departments, institutions and educational organizations, deputy prosecutors of regions and equated to them prosecutors, as well as district prosecutors and prosecutors equated to them. When appointing these persons, have the right to establish them a probationary period of up to three months;

13) recommend candidacies to the President of the Republic of Kazakhstan for the assignment of ranks of superior commanding officers and military ranks of superior officers;

14) in the procedure established by the legislation on law enforcement service, assign class ranks and military ranks to the employees of a prosecutor's office bodies;

15) report to the President of the Republic of Kazakhstan on the state of legality in the country and the activity of prosecution bodies;

16) recommend to awarding with state awards and assigning honorary titles of the Republic of Kazakhstan of employees and workers of prosecution bodies, award with departmental awards;

17) determine the procedure for acquiring, recording, storing, carrying, transferring, transporting weapons, ammunition and special means in bodies, departments, institutions and educational organizations of a prosecutor's office;

18) perform other powers granted to him(her) by the Law and acts of the President of the Republic of Kazakhstan.

### **Article 38. General prosecutor's office**

1. General prosecutor's office shall be headed by the General Prosecutor.

2. General prosecutor's office shall:

1) ensure control, coordination and consistency of actions of prosecution bodies in the directions of their activity;

2) analyze the practice of supervision over the application of laws, the state of legality, including the use of information contained in information systems integrated with the information exchange system of law enforcement, special state and other bodies;

3) improve the activity of prosecution bodies;

4) interact with the bodies carrying out operational-search, counterintelligence activity, secret investigative actions, pre-trial investigation within the limits established by the Law;

5) organize and conduct professional development of employees of prosecution bodies;

6) participate in rule-making activity;

7) represent the prosecution bodies in the field of international cooperation and develop drafts of international treaties in the sphere of criminal procedure, as well as coordinate the drafts of international treaties initiated by other state bodies relating to the activity of a prosecutor's office.

### **Article 39. Regional and equated to them prosecutors and prosecutor's offices**

1. Prosecutor's offices of regions and prosecutor's offices equated to them shall be headed by relevant prosecutors.

2. Regional prosecutors and prosecutors equated to them shall:

1) supervise the activity of regional, district and other prosecutor's offices equated to them;

2) issue orders, instructions, obligatory for all subordinate employees and workers;

3) lead relevant coordination councils on ensuring legality, law and order and the struggle against criminality.

### **Article 40. District and other prosecutors and prosecutor's offices equated to them**

1. District and equated to them prosecutor's offices shall be headed by relevant prosecutors appointed by the General Prosecutor.

2. District and equated to them prosecutors shall:

- 1) manage the activity of district and other prosecutor's offices equated to them;
- 2) issue orders obligatory for all subordinate employees and workers.

#### **Article 41. Subordination of inferior prosecutors to superior ones**

1. The subordination of prosecutors includes:

- 1) obligatoriness of instructions of superior prosecutors on the issues of organization and activity for inferior prosecutors;
- 2) responsibility of inferior prosecutors to superior ones for the performance of official duties;
- 3) performing by superior prosecutors, in necessary cases, of the powers of inferior ones;
- 4) abolition, revocation, suspension or amendment of acts of inferior prosecutors by superior ones;
- 5) resolution of complaints about actions (inaction) and acts of inferior prosecutors by superior ones.

2. The General Prosecutor may establish other forms of subordination of inferior prosecutors in accordance with the procedure established by this Law.

#### **Article 42. Collegiums in prosecution bodies**

1. The decision on formation of the collegium of General prosecutor's office, departments, prosecutor's offices of regions and equated to them prosecutor's offices shall be taken by the General Prosecutor.

2. At the meetings of the collegium, issues of activity of prosecution bodies, as well as other issues related to identified violations of legality, requiring, at the discretion of the General Prosecutor, the head of the department, the prosecutor of the region or a prosecutor equated to him (her), shall be considered with participation of interested persons.

3. The decisions of the collegiums shall be taken by a majority of votes from the total number of its members and shall be obligatory for subordinate employees and workers of prosecution bodies.

4. The work reglament of the collegiums and its composition in the General prosecutor's office, departments, prosecutor's offices of regions and prosecutor's offices equated to them shall be determined by their first leaders.

### **Chapter 7. STATUS, POWERS AND WARRANTIES OF THE ACTIVITY OF THE PROSECUTOR**

#### **Article 43. Prosecutor**

1. A prosecutor is an employee of prosecutor's office performing the powers established by this Law in order to exercise the functions of prosecutor's office.

Prosecutors shall be: the General Prosecutor, his (her) first deputy and deputies, senior assistants and assistants, senior assistants on special instructions, heads of services,



departments, and divisions of prosecution bodies, their deputies, the chief military prosecutor, the chief transport prosecutor, prosecutors of regions, districts and equated to them, their deputies, senior prosecutors and prosecutors of departments and divisions, senior assistants and assistants of prosecutors of regions and equated to them, senior prosecutors and prosecutors of districts prosecutor's offices and equated to them prosecutor's offices, as well as military, authorized and special prosecutors.

2. The list of posts of prosecutor's office system to which class ranks or military ranks are assigned, as well as corresponding to them limit class ranks or military ranks shall be approved by the President of the Republic of Kazakhstan.

3. Military service employees of the prosecutor's office shall be on a special account in the prosecution bodies.

#### **Article 44. Powers of the prosecutor**

1. Prosecutor, in accordance with his (her) competence, shall have the right to:

1) carry out actions and make procedural decisions on the grounds and in the manner established by the criminal procedure law;

2) in cases and in the manner prescribed by legislation, request the materials of operational-search activity, cases of administrative offenses, receive from the heads and other officials the necessary documents, materials, statistical information and other information about the state of legality and measures taken to ensure it;

3) on the grounds and in accordance with the procedure established by the Law, participate in the court session and give an opinion on the case, request judicial cases from the court, bring petitions and protests about the revision of judicial acts;

4) in the manner prescribed by the Law, conduct inspections, involve specialists to participate in them and give opinions, as well as involve employees of other law enforcement agencies in carrying out inspections to ensure security and supervisory activity;

5) appoint examinations, demand proceeding of inspections on materials and appeals received by the prosecutor's office and oblige to report on their results from the authorized bodies;

6) on the grounds and in accordance with the procedure established by legislation, receive access to information contained in information systems and resources integrated with the information exchange system of law enforcement, special state and other bodies;

7) on the issues of conducted inspection and considered appeal, call officials, individuals and representatives of legal entities to get explanations;

8) demand the abolition of prohibitive or restrictive measures imposed by officials, suspend in whole or in part the effect of an illegal act if there are grounds and in the manner provided by the Law;

9) initiate and terminate the proceedings on the case of an administrative offense in the manner prescribed by the legislation on administrative offenses;

10) in accordance with the procedure established by legislation, get access to documents and materials related to the conduct of inspections;

11) participate in the development and consideration of drafts of regulatory legal acts;

12) cooperate with institutions of other states and international organizations;

13) participate in creation and improvement of information systems in the sphere of legal statistics and special accountings in order to ensure legality, law and order, and struggle against criminality;

14) perform other actions provided for by the Law.

2. The prosecutor shall be obliged to:

1) comply with the Constitution and legislation of the Republic of Kazakhstan;

2) comply with ethical standards of behavior;

3) protect the rights, freedoms and legitimate interests of a human and a citizen, society and the state in accordance with his (her) competence;

4) within the limits provided for by legislation, submit for familiarization to individuals and legal entities the documents and materials related to consideration of their appeals;

5) in accordance with the procedure established by the Law for prevention and detection of violations of legality, causes and conditions contributing to them, as well as bringing to justice the guilty persons, adopt acts of prosecutor's response and acts of prosecutor's supervision;

6) prevent actions (inaction) and adoption of acts that create obstacles to normal functioning of the inspected entities;

7) ensure safety of documents and information obtained during the inspection, compliance with the requirements of legislation on state secrets and other secrets protected by the Law;

8) immediately release persons illegally arrested and illegally detained in places of deprivation of liberty, special institutions, institutions executing coercive measures, official premises;

9) improve their activity with the priority of increasing public confidence;

10) perform other powers provided by the Law.

#### **Article 45. Legal guarantees of prosecutor's activity**

1. Influence in any form on a prosecutor in order to prevent him (her) from performing his (her) powers or making an illegal decision shall entail the responsibility established by the Law. 2. At the request of a prosecutor, bodies, organizations and officials shall be obliged to:

1) provide the necessary materials and information on the issues of inspection and considered in accordance with Article 21 of this Law in compliance with established by the Law requirements and restrictions on disclosure of state secrets, information constituting commercial, banking and other secrets protected by the Law.

A prosecutor shall bear responsibility established by the Law for disclosing state secrets, information constituting commercial, banking and other secrets protected by the Law;

2) allocate specialists for participating in the inspection and giving an opinion.

Employees of non-governmental organizations and other persons shall be involved in the inspection as specialists on a contractual basis.

3. The requirements of a prosecutor stipulated in paragraph 2 of this Article regarding the issues of conducted inspection or considered appeal shall be obligatory for execution by bodies, organizations and officials.

4. The requested information shall be provided to prosecution bodies in the forms, procedure and terms established by the Law.

5. Officials and citizens shall be obliged to appear at the invitation of a prosecutor at the time fixed by him (her) to give explanations on the issues of conducted inspection or considered appeal.

Officials and citizens shall be summoned to the prosecutor's office in compliance with the status and competence of a prosecutor so that the summoned person has a sufficient period of time to appear and prepare in time for giving explanations, except in cases of emergencies or unavoidable circumstances under the given conditions.

The summoned person shall be obliged to notify the calling prosecutor of the reasons preventing the attendance on the call at the appointed time.

In case of failure to appear without valid reasons, officials and citizens may be subjected to forced delivery by the reasoned decision of the General Prosecutor, his (her) deputies, regional and equated to them prosecutors, their deputies, district and equated to them prosecutors.

The decision of a prosecutor on delivery shall be executed by internal affairs body.

Delivery cannot be performed at night.

Minors under the age of fourteen years old and persons under the age of eighteen without notifying their legal representative, pregnant women, as well as persons who, due to health reasons, cannot or should not leave their place of stay, that must be certified by a doctor shall not be subjected to delivery.

6. Failure to comply with legal requirements of a prosecutor or failure to appear at the request of a prosecutor without good reasons shall entail responsibility established by the Law

Specifying requirements in the course of inspections not provided for by laws by prosecutors shall entail responsibility established by the Law.

7. Prosecutor shall not be obliged to give any explanations on the merits of cases and materials in his proceedings, and also to submit them to anyone as well as to present them to anyone for information, except in the cases and in the manner prescribed by the Law. No one has the right to disclose the materials of inspections and cases without permission of a prosecutor in whose proceedings they are.

#### **Article 46. Responsibility of prosecution bodies**

1. Employees of a prosecutor's office in performing their activity shall bear responsibility established by the Law.

2. The damage caused by the actions of prosecution bodies shall be compensated in the manner prescribed by legislation.

#### **Article 47. Legal regulation of labor in prosecution bodies**

Labor relations of:

1) employees of a prosecutor's office shall be regulated by the Labor code of the Republic of Kazakhstan and the Law of the Republic of Kazakhstan "On State Service of the Republic of Kazakhstan" with peculiarities stipulated by the Law of the Republic of Kazakhstan "On Law Enforcement Service";

2) military servants of a prosecutor's office shall be regulated by the Labor code of the Republic of Kazakhstan and the Law of the Republic of Kazakhstan "On Military Service and Status of Military Servants";

3) other employees of a prosecutor's office shall be regulated by the Labor code of the Republic of Kazakhstan, the Law of the Republic of Kazakhstan "On State Service of the Republic of Kazakhstan".

#### **Article 48. Service in prosecution bodies**

Service in prosecution bodies is a type of law enforcement service carried out by prosecutors in accordance with the Constitution, this Law and other legislation.

The procedure and peculiarities of service in prosecution bodies shall be determined by the Law of the Republic of Kazakhstan "On Law Enforcement Service".

#### **Article 49. Service certificates and seal**

1. Service certificates of the established sample shall be issued to the General Prosecutor, deputies of the General Prosecutor by the Administration of the President of the Republic of Kazakhstan.

2. The General Prosecutor, heads of departments, institutions and educational organizations of prosecutor's office, prosecutors of regions and equated to them prosecutors shall issue service certificates of the established sample to subordinate employees.

3. General prosecutor's office, its subordinate prosecutor's offices and departments, institutions and educational organizations of a prosecutor's office have seals depicting the State Emblem of the Republic of Kazakhstan and their name in the Kazakh and Russian languages.

#### **Article 50. Financial support of prosecution bodies**

Financial support of prosecution bodies system shall be carried out at the expense of budget funds.

Prosecution bodies may have appropriate accounts in the treasury bodies.

#### **Article 51. Material and social support of employees of prosecution bodies**

1. Remuneration of employees of prosecution bodies shall be established on the basis of a unified remuneration system for employees of bodies held at the expense of the state budget, approved in accordance with the procedure established by subparagraph 9-1) of Article 66 of the Constitution of the Republic of Kazakhstan.

2. Pension support of employees of prosecution bodies, payment of state social allowances for disability and on the occasion of loss of the breadwinner shall be carried out in accordance with the legislation.

## **Chapter 8. FINAL PROVISION**

### **Article 52. The procedure for enforcement of this Law**

1. This Law shall be enforced upon expiry of ten calendar days after its first official publication.

2. To recognize invalid the Law of Republic of Kazakhstan dated December 21, 1995 "On Prosecutor's Office" (Vedomosti of the Supreme Council of the Republic of Kazakhstan, 1995, No. 24, Article 156; Vedomosti of the Parliament of the Republic of Kazakhstan, 1997, No. 12, Article 184; 1998, No. 15, Article 208; 1999, № 8, p. 247; No. 21, Article 774; 2000, No. 3-4, Article 66; No. 6, p. 142; 2001, № 20, Article 257; 2002, No. 17, Article 155; 2003, No. 15, Article 139; 2004, No. 23, Article 142; 2007, № 9, Article 67; № 10, Article 69; № 20, Article 152; 2008, № 15-16, Article 63; No. 23, Article 114; 2009, No. 18, Article 84; No. 24, Article 121; 2010, № 5, Article 23; No. 7, Article 28; No. 24, Article 151; 2011, No. 1, Article 3; No. 16, Article 128; No. 19, Article 145; 2012, No. 8, Article 64; No. 13, Article 91; No. 15, Article 97; 2014, No. 16, Article 90; 2015, No. 20-I, Article 111; No. 20-VII, Article 115; No. 22-V, Article 156; 2016, No. 7-I, Article 47; No. 24, Article 126).

*The President  
of the Republic of Kazakhstan*

*N. NAZARBAYEV*